

Laws 2019
First Session, Fifty-Fourth Legislature
Certificate of Authentication

CERTIFICATE OF AUTHENTICATION

STATE OF NEW MEXICO)
) SS:
OFFICE OF THE SECRETARY OF STATE)

I, **MAGGIE TOULOUSE OLIVER**, Secretary of State of the State of New Mexico, do hereby certify that the printed laws contained herein are the true and correct copies of the **ENROLLED AND ENGROSSED LAWS** that were passed by the Fifty-Fourth State Legislature of New Mexico in its First Session, which convened on the 15th day of January, 2019, and adjourned on the 16th day of March, 2019, in Santa Fe, the Capital of the State, as said copies appear on file in my office.

I further certify that in preparing the following laws for publication, the texts of the **ORIGINAL ENROLLED AND ENGROSSED ACTS** have been photographically reproduced without changes and that any errors must be attributed to the original, as certified by the Enrolling and Engrossing and Judiciary Committees of the Fifty-Fourth Legislature of the State of New Mexico, First Session.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the Great Seal of the State of New Mexico.



Done in the City of Santa Fe,
the State Capital, this 15th day of
April, 2019.

A handwritten signature in cursive script, reading "Maggie Toulouse Oliver".

Maggie Toulouse Oliver
Secretary of State

LAWS 2019, CONSTITUTIONAL AMENDMENT 1

A JOINT RESOLUTION

PROPOSING TO AMEND THE CONSTITUTION OF NEW MEXICO TO PROVIDE THAT THE PUBLIC REGULATION COMMISSION CONSIST OF THREE MEMBERS APPOINTED BY THE GOVERNOR FROM A LIST OF PROFESSIONALLY QUALIFIED NOMINEES SUBMITTED TO THE GOVERNOR BY A NOMINATING COMMITTEE AS PROVIDED BY LAW AND THAT THE COMMISSION IS REQUIRED TO REGULATE PUBLIC UTILITIES AND MAY BE REQUIRED TO REGULATE OTHER PUBLIC SERVICE COMPANIES.

Constitutional Amendment 1 Section 1 Laws 2019

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

SECTION 1. It is proposed to amend Article 11, Section 1 of the constitution of New Mexico to read:

"A. The "public regulation commission" is created. Until January 1, 2023, the commission shall consist of five members elected from districts provided by law for staggered four-year terms beginning on January 1 of the year following their election; provided that after serving two terms, members shall be ineligible to hold office as a commission member until one full term has intervened; and provided further that commission members elected for terms beginning January 1, 2021 shall hold office for two years.

B. Beginning January 1, 2023, the commission shall consist of three members. The governor shall nominate members from a list of qualified nominees submitted to the governor by the public regulation commission nominating committee, as provided by law, and by and with the consent of the senate shall appoint members to fill positions and vacancies on the commission; provided that no more than two commissioners shall be members of the same political party. Members so appointed shall serve six-year staggered terms; provided that, after serving two consecutive six-year terms, members shall be ineligible to hold office as commissioner until one full term has intervened. A person appointed to fill a vacancy on the commission shall serve for the remainder of the unexpired term.

C. A six-year term for a commission position shall begin on January 1 of the year following the expiration of the prior term for that position; provided that in January 2023, one member shall be appointed for an initial term of two years, one member for an initial term of four years and one member for a six-year term.

D. The legislature shall provide, by law, for professional qualifications and continuing education requirements for commissioners and for the creation of and procedures for the public regulation commission nominating committee.

E. A commission member may be removed by impeachment for accepting anything of value from a person or entity whose charges for services to the public are regulated by the commission, malfeasance, misfeasance or neglect of duty."

Constitutional Amendment 1 Section 2 Laws 2019

SECTION 2. It is proposed to amend Article 11, Section 2 of the constitution of New Mexico to read:

"The public regulation commission shall have responsibility for regulating public utilities as provided by law. The public regulation commission may have responsibility for regulation of other public service companies in such manner as the legislature shall provide."

Constitutional Amendment 1 Section 3 Laws 2019

SECTION 3. The amendment proposed by this resolution shall be submitted to the people for their approval or rejection at the next general election or at any special election prior to that date that may be called for that purpose. _____

SJC/SJR/Senate Joint Resolutions 1 and 4, aa

LAWS 2019, CHAPTER 1

AN ACT

RELATING TO THE LEGISLATIVE BRANCH OF GOVERNMENT; APPROPRIATING FUNDS FOR THE EXPENSE OF THE FIFTY-FOURTH LEGISLATURE, FIRST SESSION, 2019, AND FOR OTHER LEGISLATIVE EXPENSES, INCLUDING THE LEGISLATIVE COUNCIL SERVICE, THE LEGISLATIVE FINANCE COMMITTEE, THE LEGISLATIVE EDUCATION STUDY COMMITTEE, THE SENATE RULES COMMITTEE, THE HOUSE CHIEF CLERK'S OFFICE, THE SENATE CHIEF CLERK'S

OFFICE AND OTHER EXPENSES OF THE LEGISLATURE; DECLARING AN EMERGENCY.

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

Chapter 1 Section 1 Laws 2019

SECTION 1. SESSION EXPENSES.--

A. There is appropriated from the general fund for the expense of the legislative department of the state of New Mexico for the first session of the fifty-fourth legislature for per diem and mileage of its members, for salaries of employees and for other expenses of the legislature, nine million one hundred sixty-one thousand nine hundred dollars (\$9,161,900) or so much thereof as may be necessary for such purposes.

B. The expenditures referred to in Subsection A of this section are as follows:

- (1) per diem for senators \$ 421,176;
- (2) per diem for members of the house of representatives \$ 703,570;
- (3) mileage traveled by members of the senate going to and returning from the seat of government by the usually traveled route, one round trip.....\$ 6,817;
- (4) mileage traveled by members of the house of representatives going to and returning from the seat of government by the usually traveled route, one round trip\$ 10,695;
- (5) salaries and employee benefits of senate employees..... \$ 2,841,394;
- (6) salaries and employee benefits of house of representatives employees \$ 2,699,000;
- (7) for expense of the senate not itemized above, six hundred twenty-four thousand two hundred thirteen dollars (\$624,213). No part of this item may be transferred to salaries or employee benefits;
- (8) for expense of the house of representatives not itemized above, six hundred forty-two thousand six hundred thirty-five dollars (\$642,635). No part of this item may be transferred to salaries or employee benefits; and

(9) for session expenses of the legislative council service, the joint billroom and mailroom and joint legislative switchboard, one million two hundred twelve thousand four hundred dollars (\$1,212,400) to be disbursed upon vouchers signed by the director of the legislative council service or the director's designee.

C. The expenditures for the senate shall be disbursed on vouchers signed by the chair of the committees' committee and the chief clerk of the senate or the chief clerk's designee. The expenditures for the house of representatives shall be disbursed on vouchers signed by the speaker and chief clerk of the house or the chief clerk's designee. Following adjournment of the session, expenditures authorized pursuant to Paragraphs (1) through (8) of Subsection B of this section shall be disbursed upon vouchers signed by the director of the legislative council service or the director's designee.

D. Under the printing contracts entered into for the first session of the fifty-fourth legislature, the chair of the committees' committee of the senate, subject to the approval of the committee, and the speaker of the house of representatives are authorized and directed to provide for the printing of all bills, resolutions, joint resolutions, memorials and joint memorials introduced in the senate or house, the printing of the bill locator and the printing of all necessary stationery required for use in the respective houses. They are further directed to provide for the purchase of all supplies necessary for use in the respective houses within the appropriation provided. The orders for printing, stationery and supplies shall be approved by the chair of the committees' committee in the senate or by the speaker of the house.

Chapter 1 Section 2 Laws 2019

SECTION 2. BILLS AND OTHER PRINTED MATERIALS.--

A. For the first session of the fifty-fourth legislature, bills, resolutions, joint resolutions, memorials and joint memorials delivered to the printer shall be returned by the printer to the joint billroom within forty-two hours after they are ordered to be printed. The billroom personnel shall supply a complete file of bills, resolutions, joint resolutions, memorials, joint memorials and other printed distribution materials to the following:

(1) upon request, one copy to each member of the house of representatives and the senate;

(2) upon written request, one copy to each county clerk, district judge, radio or television station and newspaper and to the general library of each state-supported institution of higher learning; and

(3) upon written request, one copy to each state department, commission, board, institution or agency, each elected state official, each incorporated municipality, each district attorney, each ex-governor, each member of the New Mexico congressional delegation and each school district in the state.

B. Any person not listed in Subsection A of this section may secure a complete file of the bills, resolutions, joint resolutions, memorials and joint memorials of the legislature by depositing with the legislative council service the amount of seven hundred fifty dollars (\$750), which deposit shall be paid to the state treasurer to the credit of the legislative expense fund. Additional single copies of items of legislation shall be sold for two dollars (\$2.00) unless the director of the legislative council service shall, because of its length, assign a higher price not to exceed ten cents (\$.10) per page. Copies of a daily bill locator, other than those copies furnished to each member of the respective houses, shall be supplied by the legislative council service at a charge of two hundred sixty dollars (\$260) for the entire session.

Chapter 1 Section 3 Laws 2019

SECTION 3. LEGISLATIVE COUNCIL SERVICE.--There is appropriated from the general fund to the legislative council service for fiscal year 2020, to be disbursed on vouchers signed by the director of the legislative council service or the director's designee, the following:

Personal Services & Employee Benefits	\$4,526,000
Contractual Services	384,800
Other Costs	1,021,800
Total	\$5,932,600.

Chapter 1 Section 4 Laws 2019

SECTION 4. LEGISLATURE.--There is appropriated from the general fund for the expense of the legislative department, not provided for in Section 1 of this act, for fiscal year 2020 unless otherwise indicated, to be disbursed on vouchers signed by the director of the legislative council service or the director's designee, the following:

A. for travel expenses of legislators other than New Mexico legislative council members, on legislative council business, for committee travel, staff and other necessary expenses for other interim committees and for other necessary legislative

expenses, one million dollars (\$1,000,000); provided that the New Mexico legislative council may transfer amounts from the appropriation in this subsection, during the fiscal year for which appropriated, to any other legislative appropriation where they may be needed;

B. for pre-session expenditures and for necessary contracts, supplies and personnel for interim session preparation, four hundred fifteen thousand dollars (\$415,000);

C. for a statewide legislative intern program, forty-six thousand six hundred dollars (\$46,600);

D. for dues and fees of national organizations of which the legislature is a member, three hundred thirty thousand dollars (\$330,000);

E. for the legislative information system, for fiscal years 2019 and 2020, eight hundred thirty-five thousand five hundred dollars (\$835,500); and

F. for the interim duties of the senate rules committee, nineteen thousand one hundred dollars (\$19,100).

Chapter 1 Section 5 Laws 2019

SECTION 5. LEGISLATIVE FINANCE COMMITTEE.--There is appropriated from the general fund to the legislative finance committee for fiscal year 2020, to be disbursed on vouchers signed by the chair of the committee or the chair's designated representative, the following:

Personal Services & Employee Benefits	\$3,805,000
Contractual Services	220,000
Other Costs	345,400
Total	\$4,370,400.

Chapter 1 Section 6 Laws 2019

SECTION 6. LEGISLATIVE EDUCATION STUDY COMMITTEE.--There is appropriated from the general fund to the legislative education study committee for

fiscal year 2020, to be disbursed on vouchers signed by the chair of the committee or the chair's designated representative, the following:

Personal Services & Employee Benefits	\$1,122,500
Contractual Services	52,300
Other Costs	196,300
Total	\$1,371,100.

Chapter 1 Section 7 Laws 2019

SECTION 7. HOUSE CHIEF CLERK.--There is appropriated from the general fund to the legislative council service for expenditure in fiscal year 2020 for the operation of the house chief clerk's office, to be disbursed on vouchers signed by the director of the legislative council service, the following:

Personal Services & Employee Benefits	\$ 938,500
Contractual Services	158,900
Other Costs	32,400
Total	\$1,129,800.

Chapter 1 Section 8 Laws 2019

SECTION 8. SENATE CHIEF CLERK.--There is appropriated from the general fund to the legislative council service for expenditure in fiscal year 2020 for the operation of the senate chief clerk's office, to be disbursed on vouchers signed by the director of the legislative council service, the following:

Personal Services & Employee Benefits	\$987,200
Contractual Services	150,200
Other Costs	44,600
Total	\$1,182,000.

Chapter 1 Section 9 Laws 2019

SECTION 9. EXTENSIBLE MARKUP LANGUAGE DATABASE--SELF-PUBLICATION--TRANSITION TO NEW DATABASE TECHNOLOGY.--There is appropriated from the legislative cash balances for the legislative department's share of the continued development required for the extensible markup language database, extensible markup language tagging and its use for legislative document systems and an integrated tagged database of the session laws and for the costs associated in collaborating with the New Mexico compilation commission on the ongoing development and expanding partnership role with the New Mexico compilation commission in the self-publication of the *New Mexico Statutes Annotated 1978*, including the transition to new database technology for online and hard-copy publication, four hundred thousand dollars (\$400,000) for expenditure during fiscal years 2019 and 2020.

Chapter 1 Section 10 Laws 2019

SECTION 10. CATEGORY TRANSFER.--Amounts set out in Sections 3 through 8 of this act are provided for informational purposes only and may be transferred among categories.

Chapter 1 Section 11 Laws 2019

SECTION 11. PERFORMANCE MEASURES.--Each legislative agency shall adhere to the performance measures specified in its strategic plan and shall make reports as required in that plan.

Chapter 1 Section 12 Laws 2019

SECTION 12. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately. _____

House Bill 1, aa, w/ec

Approved January 25, 2019

LAWS 2019, CHAPTER 2

AN ACT

RELATING TO SCHOOL PERSONNEL; REQUIRING PROFESSIONAL DEVELOPMENT FOR CAREER-TECHNICAL TEACHERS AND EDUCATIONAL ASSISTANTS IN THE SAME MANNER AS TEACHERS OF OTHER SUBJECTS FOR WHICH THE PUBLIC EDUCATION DEPARTMENT HAS PROMULGATED STANDARDS AND BENCHMARKS; REQUIRING THE USE OF FEDERAL EVERY STUDENT SUCCEEDS ACT TITLE 2 FUNDING FOR CAREER-TECHNICAL PROFESSIONAL DEVELOPMENT.

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

Chapter 2 Section 1 Laws 2019

SECTION 1. Section 22-10A-19.1 NMSA 1978 (being Laws 2004, Chapter 27, Section 25) is amended to read:

"22-10A-19.1. PROFESSIONAL DEVELOPMENT--SYSTEMIC FRAMEWORK--REQUIREMENTS--DEPARTMENT DUTIES.--

A. The department shall develop a systemic framework for professional development that provides training to ensure quality teachers, school principals and instructional support providers and that improves and enhances student achievement. The department shall work with licensed school employees, the higher education department and institutions of higher education to establish the framework.

B. The framework shall include:

(1) the criteria for school districts to apply for professional development funds, including an evaluation component that will be used by the department in approving school district professional development plans;

(2) guidelines for developing extensive professional development activities for school districts that:

(a) improve teachers' knowledge of the subjects they teach and their ability to teach those subjects to all of their students;

(b) are an integral part of the public school and school district plans for improving student achievement;

(c) provide teachers, school administrators and instructional support providers with the strategies, support, knowledge and skills to help all students meet New Mexico academic standards;

"ANNUAL FINANCIAL AUDIT REPORT--STATE BOARD OF FINANCE REVIEW.--Within six months after the report is due to the state auditor, each of the educational retirement board, the office of the state treasurer, the public employees retirement association and the state investment council shall present the agency's current annual financial audit report to the state board of finance for review. _____

House Bill 50

Approved February 4, 2019

LAWS 2019, CHAPTER 4

AN ACT

RELATING TO HEALTH; REQUIRING HEALTH FACILITIES THAT PERFORM MAMMOGRAMS TO PROVIDE CERTAIN INFORMATION RELATING TO BREAST DENSITY TO PATIENTS.

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

Chapter 4 Section 1 Laws 2019

SECTION 1. MAMMOGRAMS--HEALTH FACILITIES--BREAST DENSITY DISCLOSURE.--

A. A health facility that performs a mammogram examination shall include in the summary of the mammography report that is required pursuant to federal law to be provided to a patient information that identifies the patient's individual breast density classification based on the breast imaging reporting and data system established by the American college of radiology. If the health facility determines that a patient has heterogeneously dense or extremely dense breast tissue, the summary of the mammography report shall include the following notice:

"Your mammogram indicates that you have dense breast tissue. Dense breast tissue is common and is not abnormal. However, dense breast tissue may make it harder to evaluate the results of your mammogram. It may also be associated with an increased risk of breast cancer. This information is being provided to raise your awareness and to inform your conversation with your health care provider. Together, you can decide if additional screening options may be right for you. A report of your results was sent to your health care provider."

B. A health facility may direct a patient who receives a diagnostic or screening mammogram to information about breast density, which may include:

(1) the American college of radiology's most current brochure on the subject of breast density available on the American college of radiology's website;

(2) materials related to cancer or mammography produced by an educational institution; or

(3) materials related to cancer or mammography produced by an advocacy organization.

C. Nothing in this section shall be deemed to create a duty of care or other legal obligation beyond the duty to provide notice as set forth in Subsection A of this section. Nothing in this section shall be deemed to require a notice that is inconsistent with the provisions of the federal Mammography Quality Standards Act of 1992 or any regulations promulgated pursuant to that act. _____

House Bill 66

Approved February 4, 2019

LAWS 2019, CHAPTER 5

AN ACT

RELATING TO PROFESSIONAL LICENSURE; AMENDING SECTIONS OF THE OCCUPATIONAL THERAPY ACT TO MAKE SCOPE OF PRACTICE CHANGES.

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

Chapter 5 Section 1 Laws 2019

SECTION 1. Section 61-12A-3 NMSA 1978 (being Laws 1996, Chapter 55, Section 3, as amended) is amended to read:

"61-12A-3. DEFINITIONS.--As used in the Occupational Therapy Act:

A. "board" means the board of examiners for occupational therapy;

B. "censure" means a formal expression of disapproval that is publicly announced;

C. "denial of license" means that a person is barred from becoming licensed to practice in accordance with the provisions of the Occupational Therapy Act either indefinitely or for a certain period;

D. "licensee" means an occupational therapist or occupational therapy assistant, as appropriate;

E. "occupational therapist" means a person who holds an active license to practice occupational therapy in New Mexico in accordance with board rules;

F. "occupational therapy" means the therapeutic use of occupations, including everyday life activities with persons across the life span, including groups, populations or organizations, to enhance or enable participation, performance or function in roles, habits and routines in home, school, workplace, community and other settings. Occupational therapy services are provided for habilitation, rehabilitation and the promotion of health and wellness to those clients who have or are at risk for developing an illness, injury, disease, disorder, condition, impairment, disability, activity limitation or participation restriction. "Occupational therapy" includes addressing the physical, cognitive, psychosocial, sensory-perceptual and other aspects of performance in a variety of contexts and environments to support engagement in occupations that affect physical and mental health, well-being and quality of life. Occupational therapy uses everyday life activities to promote mental health and support functioning in people with or at risk of experiencing a range of mental health disorders, including psychiatric, behavioral, emotional and substance abuse disorders;

G. "occupational therapy assistant" means a person having no less than an associate degree in occupational therapy and holding an active license to practice occupational therapy in New Mexico who assists in the practice of occupational therapy under the supervision of the occupational therapist in accordance with board rules;

H. "person" means an individual, association, partnership, unincorporated organization or corporate body;

I. "probation" means that continued licensure is subject to fulfillment of specified conditions such as monitoring, education, supervision or counseling;

J. "reprimand" means a formal expression of disapproval that is retained in the licensee's file but not publicly announced;

K. "revocation" means permanent loss of licensure; and

L. "suspension" means the loss of licensure for a certain period, after which the person may be required to apply for reinstatement."

Chapter 5 Section 2 Laws 2019

SECTION 2. Section 61-12A-4 NMSA 1978 (being Laws 1996, Chapter 55, Section 4, as amended) is amended to read:

"61-12A-4. OCCUPATIONAL THERAPY SERVICES.--The practice of occupational therapy includes the following processes and services:

A. evaluation of factors affecting all areas of occupation, including activities of daily living, instrumental activities of daily living, rest and sleep, education, work, productivity, play, leisure and social participation; including:

(1) client factors, including neuromuscular, sensory, visual, mental, cognitive and pain factors and body structures, including cardiovascular, digestive, intermentary and genitourinary systems and structures related to movement;

(2) habits, routines, roles and behavior patterns;

(3) cultural, physical, environmental, social and spiritual contexts and activity demands that affect performance; and

(4) performance skills, including motor process and communication and interaction skills;

B. activity analysis to determine activity demands of occupations performed;

C. design, implementation and modification of therapeutic interventions, including the following activities related to selection of intervention strategies to direct the process of interventions:

(1) establishment, remediation or restoration of a skill or ability that has not yet developed, is impaired or is in decline;

(2) compensation, modification or adaptation of activity or environment to enhance performance or to prevent injuries, disorders or other conditions;

(3) retention, maintenance and enhancement of skills and capabilities without which performance in everyday life activities would decline;

(4) promotion of health and wellness, including the use of self-management strategies to enable or enhance performance in everyday life activities;

(5) prevention of barriers to performance, including injury and disability prevention; and

(6) interventions and procedures to promote or enhance safety and performance in areas of occupation, including:

(a) therapeutic use of occupations, exercises and activities;

(b) training in self-care, self-management, health management and maintenance, home management, community-work reintegration, school activities and work performance;

(c) development, remediation or compensation of neuromusculoskeletal, sensory-perceptual, sensory-integrative and modulation, visual, mental and cognitive functions, pain tolerance and management, developmental skills and behavioral skills;

(d) therapeutic use of self, including one's personality, insights, perceptions and judgments, as part of the therapeutic process;

(e) education and training of persons, including family members, caregivers, groups, populations and others;

(f) care coordination, case management and transition services;

(g) consultative services to groups, programs, organizations or communities;

(h) modification of home, work, school and community environments and adaptation of processes, including the application of ergonomic principles;

(i) assessment, design, fabrication, application, fitting and training in seating and positioning, assistive technology, adaptive devices and orthotic devices and training in the use of prosthetic devices;

(j) assessment, recommendation and training in techniques to enhance functional mobility, including management of wheelchairs and other mobility devices;

(k) low-vision rehabilitation;

(l) driver rehabilitation and community mobility;

(m) management of feeding, eating and swallowing;

(n) application of physical agent modalities and use of a range of specific therapeutic procedures such as wound care management; techniques to enhance sensory, perceptual and cognitive processing; and manual therapy techniques to enhance performance skills;

(o) facilitating the occupational performance of groups, populations or organizations; and

(p) management of a client's mental health, functioning and performance; and

D. use of means to measure the outcomes and effects of interventions to reflect the attainment of treatment goals, including:

(1) improved quality of life;

(2) the degree of participation;

(3) role competence;

(4) well-being;

(5) improved life function;

(6) enhanced performance; and

(7) prevention criteria."

Chapter 5 Section 3 Laws 2019

SECTION 3. Section 61-12A-5 NMSA 1978 (being Laws 1996, Chapter 55, Section 5, as amended) is amended to read:

historic community shall not be considered urbanized territory and shall not be annexed by a municipality unless it is considered for annexation pursuant to a petition requesting annexation signed by a majority of the registered voters within the traditional historic community.

B. No territory within an urbanized territory shall be incorporated as a municipality unless the:

(1) municipality or municipalities causing the urbanized territory approve, by resolution, the incorporation of the territory as a municipality;

(2) residents of the territory proposed to be incorporated have filed with the municipality a valid petition to annex the territory proposed to be incorporated and the municipality fails, within one hundred twenty days after the filing of the annexation petition, to annex the territory proposed to be incorporated; or

(3) residents of the territory proposed to be annexed conclusively prove that the municipality is unable to provide municipal services within the territory proposed to be incorporated within the same period of time that the proposed municipality could provide municipal service.

C. A traditional historic community may become incorporated even though it is located within what is defined as urbanized territory pursuant to Subsection A of this section, by following the procedures set forth in Sections 3-2-5 through 3-2-9 NMSA 1978."

Chapter 6 Section 2 Laws 2019

SECTION 2. Section 3-7-1.1 NMSA 1978 (being Laws 1995, Chapter 170, Section 5 and Laws 1995, Chapter 211, Section 4) is amended to read:

"3-7-1.1. TRADITIONAL HISTORIC COMMUNITY--QUALIFICATIONS--ANNEXATION RESTRICTIONS.--

A. To qualify as a traditional historic community, an area shall:

(1) be an unincorporated area of a county;

(2) be an identifiable village, community, neighborhood or district that can be documented as having existed for more than one hundred years;

(3) include structures or landmarks that are associated with the identity of the specific village, community, neighborhood or district seeking designation as a traditional historic community;

(4) have a distinctive character or traditional quality that can be distinguished from surrounding areas or new developments in the vicinity; and

(5) be declared a traditional historic community by an ordinance of the board of county commissioners of the county in which the petitioning village, community, neighborhood or district is located.

B. A traditional historic community may be annexed by a municipality only by petition of a majority of the registered voters of the territory within the traditional historic community proposed to be annexed by the municipality or by the arbitration method of annexation only upon petition of a majority of the registered qualified electors of the territory within the traditional historic community."

Chapter 6 Section 3 Laws 2019

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.

House Bill 74, aa

Approved February 4, 2019

LAWS 2019, CHAPTER 7

AN ACT

RELATING TO PUBLIC FINANCE; CLARIFYING THAT THE EDUCATIONAL RETIREMENT BOARD, THE PUBLIC EMPLOYEES RETIREMENT ASSOCIATION AND THE STATE INVESTMENT COUNCIL MAY PARTICIPATE IN THE LOCAL GOVERNMENT INVESTMENT POOL.

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

Chapter 7 Section 1 Laws 2019

SECTION 1. Section 6-10-10.1 NMSA 1978 (being Laws 1988, Chapter 61, Section 2, as amended) is amended to read:

"6-10-10.1. LOCAL GOVERNMENT INVESTMENT POOL CREATED--
DISTRIBUTION OF EARNINGS--REPORT OF INVESTMENTS.--

A. There is created in the state treasury the "local government investment pool". The fund shall consist of all deposits from participating governments, including revenues dedicated to repaying bonds, that are placed in the custody of the state treasurer for investment purposes pursuant to this section. The state treasurer shall maintain one or more separate accounts for each participating government having deposits in the local government investment pool and may divide the fund into two or more subfunds, as the state treasurer deems appropriate, for short-term and medium-term investment purposes, including one or more subfunds for bond proceeds deposited by participating governments.

B. If an eligible governing body is unable to receive payment on public money at the rate of interest as set forth in Section 6-10-36 NMSA 1978 from financial institutions within the geographic boundaries of the eligible governing body, or if the eligible governing body is not bound by the terms of Section 6-10-36 NMSA 1978, the finance officer having control of the money of that eligible governing body not required for current expenditure may, with the consent of the board of finance of the eligible governing body if consent is required by the laws or rules of the eligible governing body, remit some or all of the money to the state treasurer for deposit for the purpose of investment as allowed by this section.

C. Before funds are invested or reinvested pursuant to this section, a finance officer shall notify and make the funds available for investment to banks, savings and loan associations and credit unions located within the geographical boundaries of the participating government or the eligible governing body, subject to the limitation on credit union accounts. To be eligible for deposit of the government funds, the financial institution shall pay to the participating government or eligible governing body the rate established by the state treasurer pursuant to a policy adopted by the state board of finance for the investments.

D. A finance officer shall specify the length of time a deposit shall be in the local government investment pool. The state treasurer through the use of the state fiscal agent shall separately track each deposit and shall make information regarding the deposit available to the public upon written request.

E. The state treasurer shall invest the local government investment pool as provided in Section 6-10-10 NMSA 1978 regarding the investment of state funds in

investments with a maturity at the time of purchase that does not exceed three years. The state treasurer may elect to have the local government investment pool consolidated for investment purposes with the state funds under the control of the state treasurer; provided that accurate and detailed accounting records are maintained for the account of each participating government and that a proportionate amount of interest earned is credited to each of the separate accounts of a participating government. The fund shall be invested to achieve its objective, which is to realize the maximum return consistent with safe and prudent management.

F. At the end of each month, all net investment income or losses from investment of the local government investment pool shall be distributed by the state treasurer to the accounts of participating governments in amounts directly proportionate to the respective amounts deposited by them in the local government investment pool and the length of time the amounts in each account were invested.

G. The state treasurer shall charge participating governments reasonable audit, administrative and investment expenses and shall deduct those expenses directly from the net investment income for the investment and administrative services provided pursuant to this subsection. The amount of the charges, the manner of the use by the state treasurer and the nature of bond-related services to be offered shall be established in rules adopted and promulgated by the state treasurer subject to approval by the state board of finance.

H. Subject to appropriation by the legislature, amounts deducted from the accounts of participating governments for charges permitted pursuant to this section shall be expended by the state treasurer in fiscal year 2008 and in subsequent fiscal years for the administration and management of the local government investment pool, services provided to participating governments related to investment of their money in that fund and other services authorized by this section. Balances remaining at the end of a fiscal year from the amounts deducted pursuant to this section shall revert to the general fund. Balances in the state treasurer's operating account resulting from deductions taken pursuant to this section in excess of the amount required to provide administration, management and related services required by this subsection or other services authorized by this section shall be offset by reductions in the charges made by the state treasurer to the accounts of participating governments in subsequent deductions from participating governments' accounts.

I. Each fiscal year, the state treasurer shall cause to have the short-term investment portion of the local government investment pool rated by a nationally recognized statistical rating organization. If the rating received by the short-term investment portion of the fund is lower than "AA", the state treasurer shall immediately

submit a plan to the state board of finance detailing the steps that will be taken to obtain an "AA" or higher rating.

J. The state treasurer may offer to provide to participating governments services related to requirements of the federal income tax laws applicable to the investment of bond proceeds.

K. A tribe or quasi-governmental body created pursuant to New Mexico statute may become a participating government only if the governing authority of the tribe or quasi-governmental body has adopted a resolution authorizing the tribe or quasi-governmental body to remit money to the state treasurer for investment in the local government investment pool.

L. Deposits by the state treasurer on behalf of the general fund and bond proceeds investment pools shall, in aggregate, be no more than thirty-five percent of the total amount in the local government investment pool at any time.

M. The educational retirement board, the public employees retirement association and the state investment council may remit money to the state treasurer for investment in the local government investment pool." _____

House Bill 97

Approved February 4, 2019

LAWS 2019, CHAPTER 8

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; EXPANDING THE STATEWIDE ECONOMIC DEVELOPMENT FINANCE ACT TO INCLUDE AGRICULTURAL ENTERPRISES.

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

Chapter 8 Section 1 Laws 2019

SECTION 1. Section 6-25-3 NMSA 1978 (being Laws 2003, Chapter 349, Section 3, as amended) is amended to read:

"6-25-3. DEFINITIONS.--As used in the Statewide Economic Development Finance Act:

- A. "authority" means the New Mexico finance authority;
- B. "department" means the economic development department;
- C. "community development entity" means an entity designed to take advantage of the federal new markets tax credit program;
- D. "economic development assistance provisions" means the economic development assistance provisions of Subsection D of Article 9, Section 14 of the constitution of New Mexico;
- E. "project revenue bonds" means bonds, notes or other instruments authorized in Section 6-25-7 NMSA 1978 and issued by the authority pursuant to the Statewide Economic Development Finance Act on behalf of eligible entities;
- F. "economic development goal" means:
 - (1) assistance to rural and underserved areas designed to increase business activity, including agricultural enterprises, such as new or ongoing agricultural projects that add value to New Mexico agricultural products;
 - (2) retention and expansion of existing business, including agricultural enterprises, such as new or ongoing agricultural projects that add value to New Mexico agricultural products;
 - (3) attraction of new business, including agricultural enterprises, such as new or ongoing agricultural projects that add value to New Mexico agricultural products;
or
 - (4) creation and promotion of an environment suitable for the support of start-up and emerging business, including agricultural enterprises, such as new or ongoing agricultural projects that add value to New Mexico agricultural products within the state;
- G. "economic development revolving fund bonds" means bonds, notes or other instruments payable from the fund and issued by the authority pursuant to the Statewide Economic Development Finance Act;

H. "eligible entity" means a for-profit or not-for-profit business, including an agricultural enterprise, such as new or ongoing agricultural projects that add value to New Mexico agricultural products and including a corporation, limited liability company, partnership or other entity, determined by the department to be engaged in an enterprise that serves an economic development goal and is suitable for financing assistance;

I. "federal new markets tax credit program" means the tax credit program codified as Section 45D of the Internal Revenue Code of 1986, as that section may be amended or renumbered, and regulations issued pursuant to that section;

J. "financing assistance" means project revenue bonds, loans, loan participations or loan guarantees provided by the authority to or for eligible entities pursuant to the Statewide Economic Development Finance Act;

K. "fund" means the economic development revolving fund;

L. "mortgage" means a mortgage, deed of trust or pledge of any assets as a collateral security;

M. "opt-in agreement" means an agreement entered into between the department and a qualifying county, a school district and, if applicable, a qualifying municipality that provides for county, school district and, if applicable, municipal approval of a project, subject to compliance with all local zoning, permitting and other land use rules, and for payments in lieu of taxes to the qualifying county, school district and, if applicable, qualifying municipality as provided by the Statewide Economic Development Finance Act;

N. "payment in lieu of taxes" means the total annual payment, including any state in-lieu payment, paid as compensation for the tax impact of a project, in an amount negotiated and determined in the opt-in agreement between the department and the qualifying county, the school district and, if applicable, the qualifying municipality, which payment shall be distributed to the county, municipality and school district in the same proportion as property tax revenues are normally distributed to those recipients;

O. "standard project" means land, buildings, improvements, machinery and equipment, operating capital and other personal property for which financing assistance is provided for adequate consideration, taking into account the anticipated quantifiable benefits of the standard project, for use by an eligible entity as:

- (1) industrial or manufacturing facilities;

(2) commercial facilities, including facilities for wholesale sales and services;

(3) health care facilities, including hospitals, clinics, laboratory facilities and related office facilities;

(4) educational facilities, including schools;

(5) arts, entertainment or cultural facilities, including museums, theaters, arenas or assembly halls;

(6) recreational and tourism facilities, including parks, pools, trails, open space and equestrian facilities; and

(7) agricultural enterprises, including new or ongoing agricultural projects and projects that add value to New Mexico agricultural products;

P. "project" means a standard project or a state project;

Q. "qualifying municipality or county" means a municipality or county that enters into an opt-in agreement;

R. "quantifiable benefits" means a project's advancement of an economic development goal as measured by a variety of factors, including:

(1) the benefits an eligible entity contracts to provide, such as local hiring quotas, job training commitments and installation of public facilities or infrastructure; and

(2) other benefits such as the total number of direct and indirect jobs created by the project, total amount of annual salaries to be paid as a result of the project, total gross receipts and occupancy tax collections, total property tax collections, total state corporate and personal income tax collections and other fee and revenue collections resulting from the project;

S. "school district" means a school district where a project is located that is exempt from property taxes pursuant to the Statewide Economic Development Finance Act;

T. "state in-lieu payment" means an annual payment, in an amount determined by the department, that will be distributed to a qualifying county, a school district and, if applicable, a qualifying municipality in the same proportion as property tax revenues are normally distributed to those recipients;

U. "state project" means land, buildings or infrastructure for facilities to support new or expanding eligible entities for which financing assistance is provided pursuant to the economic development assistance provisions; and

V. "tax impact of a project" means the annual reduction in property tax revenue to affected property tax revenue recipients directly resulting from the conveyance of a project to the department." _____

House Bill 203

Approved February 4, 2019

LAWS 2019, CHAPTER 9

AN ACT

RELATING TO COUNTY GOVERNANCE; REMOVING THE REQUIREMENT THAT COUNTY SUBDIVISION ORDINANCES BE FILED WITH THE STATE RECORDS ADMINISTRATOR.

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

Chapter 9 Section 1 Laws 2019

SECTION 1. Section 47-6-10 NMSA 1978 (being Laws 1973, Chapter 348, Section 10, as amended) is amended to read:

"47-6-10. COUNTY SUBDIVISION REGULATIONS--HEARINGS-- APPEAL.--In promulgating subdivision regulations, the board of county commissioners shall adhere to the following procedures.

A. Prior to adopting, amending or repealing any regulation, the board of county commissioners shall consult with representatives of the office of the state engineer, the department of environment, the cultural affairs department, all soil and water conservation districts within the county, the department of transportation and the attorney general about the subjects within their respective expertise for which the board of county commissioners is considering promulgating a regulation. In the process of the consultation, the representatives of each of the state agencies shall give consideration to the conditions peculiar to the county and shall submit written guidelines

to the board of county commissioners for its consideration in formulating regulations. The guidelines:

(1) shall be given consideration by the board of county commissioners in the formulation of the county's subdivision regulations;

(2) shall become a part of the record of any hearing in which regulations are adopted, amended or repealed; and

(3) may be in such detail as the agency involved desires.

B. A regulation may not be adopted, amended or repealed until after a public hearing held by the board of county commissioners. Notice of the hearing shall be given at least thirty days prior to the hearing date and shall state:

(1) the subject of the regulation;

(2) the time and place of the hearing;

(3) the manner in which interested persons may present their views; and

(4) the place and manner in which interested persons may secure copies of any proposed regulation. The board of county commissioners may impose a reasonable charge for the costs of reproducing and mailing of the proposed regulations.

C. The notice shall be published in a newspaper of general circulation in the county.

D. Reasonable effort shall be made to give notice to all persons who have made a written request to the board of county commissioners for advance notice of its hearings.

E. The board of county commissioners shall give the state engineer, the department of environment, the cultural affairs department, the department of transportation, all soil and water conservation districts within the county and the attorney general thirty days' notice of its regulation hearings.

F. At the hearing, the board of county commissioners shall allow all interested persons reasonable opportunity to submit data, views or arguments, orally or in writing, and to examine witnesses testifying at the hearing. The board shall keep a complete record of the hearing proceedings.

G. Representatives from the office of the state engineer, the department of environment, the cultural affairs department, all soil and water conservation districts within the county, the department of transportation and the attorney general shall be given the opportunity to make an oral statement at the hearing and to enter into the record of the hearing a written statement setting forth any comments that they may have about the proposed regulation, whether favorable or unfavorable, when the proposed regulation relates to an issue that is within the agencies' respective areas of expertise.

H. A regulation is not invalid because of the failure of a state agency to submit a guideline prior to the promulgation of the regulation or because the representative of a state agency did not appear at a public hearing on the regulation or did not make any comment for entry in the hearing record.

I. The board of county commissioners shall act on the proposed regulations at the regulation hearings or at a public meeting to be held within thirty days of the hearing on the proposed regulations. Upon adopting, amending or repealing the regulations, the board of county commissioners shall include in the record a short statement setting forth the board's reasoning and the basis of the board's decision, including the facts and circumstances considered and the weight given to those facts and circumstances.

J. Any person heard or represented at the hearing shall be given written notice of the board's decision, including the facts and circumstances considered, if the person makes a written request to the board for notice of its decision.

K. A regulation, amendment or repeal is not effective until thirty days after it is filed with the county clerk.

L. Any person who is or may be adversely affected by a decision of the board of county commissioners to adopt, amend or repeal a regulation may appeal that decision to the district court. All appeals shall be upon the record made at the hearing and shall be filed in the district court within thirty days after the board of county commissioners votes to adopt, amend or repeal the regulation.

M. An appeal is perfected by filing a notice of appeal in the district court of the county that has adopted, amended or repealed the regulation. The appellant shall certify in the notice of appeal that arrangements have been made with the board of county commissioners for preparation of a sufficient number of transcripts of the record of the hearing to support the appeal, including one copy that the appellant shall furnish at the appellant's own expense to the board of county commissioners. A copy of the notice of appeal shall also be served upon the board of county commissioners.

N. Upon appeal, the district court shall set aside the regulation only if it is found to be:

- (1) arbitrary, capricious or an abuse of discretion;
- (2) not supported by substantial evidence; or
- (3) otherwise not in accordance with law.

O. Any party to the action in district court may appeal to the court of appeals for further relief."

Chapter 9 Section 2 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.

House Bill 216

Approved February 4, 2019

LAWS 2019, CHAPTER 10

AN ACT

RELATING TO SPECIAL DISTRICTS; REQUIRING NOTIFICATIONS FOR PUBLIC MEETINGS REQUIRED BY THE INFRASTRUCTURE DEVELOPMENT ZONE ACT BE SENT BY FIRST CLASS MAIL AND ALLOWING NOTIFICATIONS TO ALSO BE SENT BY ELECTRONIC MAIL.

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

Chapter 10 Section 1 Laws 2019

SECTION 1. Section 5-17-1 NMSA 1978 (being Laws 2009, Chapter 136, Section 1) is amended to read:

"5-17-1. SHORT TITLE.--Chapter 5, Article 17 NMSA 1978 may be cited as the "Infrastructure Development Zone Act"."

Chapter 10 Section 2 Laws 2019

SECTION 2. Section 5-17-4 NMSA 1978 (being Laws 2009, Chapter 136, Section 4) is amended to read:

"5-17-4. PUBLIC HEARING REQUIRED.--

A. After receiving a petition and a service plan, the governing body shall set a date within ninety days for a public hearing on the petition and service plan of the proposed infrastructure development zone. The governing body, at the petitioners' expense, shall provide written notice of the date, time and location of the hearing to the petitioners, each resident or property owner of record within the boundaries of the proposed infrastructure development zone and the governing body of any existing county, municipality, school district or other political subdivision that has levied an ad valorem tax within the next preceding tax year and that has boundaries within a radius of three miles of the proposed infrastructure development zone boundaries, which governmental units shall be interested parties for the purposes of Subsection C of this section. Notice shall also be given to any person who has requested that notice be given for any petition filed pursuant to the Infrastructure Development Zone Act. The governing body shall make publication of the date, time, location and purpose of the hearing, the first of which shall be at least twenty days prior to the hearing date. The notice shall also include:

(1) a general description of the land contained within the boundaries of the proposed infrastructure development zone;

(2) information outlining methods and procedures for excluding territory from the proposed infrastructure development zone; and

(3) places, including websites, where interested persons may obtain a copy of the petition and the service plan.

B. Not more than thirty days nor less than twenty days prior to the hearing held pursuant to this section, the petitioners for the organization of the proposed infrastructure development zone shall send notification by first class mail of the hearing to the property owners within the proposed infrastructure development zone as listed on the records of the county clerk on the date requested unless the petitioners represent one hundred percent of the property owners. Notification of the hearing may also be sent by electronic mail to property owners that have an electronic mail address. The

notification shall indicate that it is a notice of a hearing for the organization of an infrastructure development zone and shall indicate the date, time, location and purpose of the hearing, a general description of the type of services that are included in the service plan, the maximum mill levy, if any, or stating that there is no maximum that may be imposed by the proposed infrastructure development zone, and procedures for the filing of a request for exclusion pursuant to Section 5-17-6 NMSA 1978. The mailing of the notification by first class mail to all addresses within the proposed infrastructure development zone shall constitute a good-faith effort to comply with this subsection. Failure to notify all property owners by first class mail shall not provide grounds for a challenge to the hearing being held.

C. The hearing held by the governing body shall be open to the public, and a record of the proceedings shall be made at the expense of the petitioners. All interested parties shall be afforded an opportunity to be heard under such rules of procedure as may be established by the governing body. Any testimony or evidence that in the discretion of the governing body is relevant to the organization of the proposed infrastructure development zone shall be considered."

Chapter 10 Section 3 Laws 2019

SECTION 3. Section 5-17-15 NMSA 1978 (being Laws 2009, Chapter 136, Section 15) is amended to read:

"5-17-15. INCLUSION OF TERRITORY--PROCEDURE.--

A. Additional territory may be added to an infrastructure development zone without an election pursuant to the following provisions:

(1) the boundaries of an infrastructure development zone may be altered by the inclusion of additional real property by the fee owners of one hundred percent of any real property capable of being served with facilities of the infrastructure development zone filing with the board a petition in writing requesting that the property be included in the infrastructure development zone. The petition shall include a legal description of the property, shall state that assent to the inclusion of the property in the infrastructure development zone is given by the fee owners thereof and shall be acknowledged by the fee owners in the same manner as required for conveyance of land;

(2) the board shall hear the petition at a public meeting after publication of notice of the filing of the petition, the place, time and date of the meeting, the names and addresses of the petitioners and notice that all persons interested shall appear at the time and place and show cause in writing why the petition should not be granted.

There shall be no withdrawal from a petition after publication of notice by the board without the consent of the board. The failure of any municipality or county that may be able to provide service to the real property described in the petition, or of any person in the existing infrastructure development zone to file a written objection, shall be taken as an assent to the inclusion of the area described in the notice;

(3) the board shall grant or deny the petition, in whole or in part, with or without conditions, and the action of the board shall be final and conclusive, except as provided in Paragraph (4) of this subsection. If a municipality or county has filed a written objection to the inclusion, the board shall not grant the petition as to any of the real property to which adequate service is, or will be, available from the municipality or county within a reasonable time and on a comparable basis. If a petition is granted as to all or any of the real property, the board shall make an order to that effect and file the order with the county clerk of each county in which any part of the infrastructure development zone is located, and the property shall thereafter be included in the infrastructure development zone; and

(4) a municipality or county that has filed a written objection to the inclusion and that can provide adequate service to the real property described in the petition within a reasonable time and on a comparable basis may bring an action in the district court for the county in which the land proposed to be included is located, commenced within thirty days after entry of the order of the board, to determine whether the action of the board granting the inclusion was arbitrary, capricious or unreasonable.

B. In addition to the procedures specified in Subsection A of this section, additional territory may also be added to an infrastructure development zone pursuant to the following provisions:

(1) either:

(a) not less than twenty percent or two hundred, whichever number is smaller, of the taxpaying electors of an area that contains twenty-five thousand or more square feet of land may file a petition with the board in writing requesting that the area be included within the infrastructure development zone; except that no single tract of property constituting more than fifty percent of the total area to be included may be included in any infrastructure development zone without the consent of the owner thereof. The petition shall set forth a legal and a general description of the area to be included and shall be acknowledged in the same manner as required for conveyance of land; or

(b) the board may adopt a resolution proposing the inclusion of a specifically described area; but no single tract or parcel of property constituting more

than fifty percent of the total area to be included may be included in an infrastructure development zone without the consent of the owner thereof;

(2) nothing in this subsection shall permit the inclusion in an infrastructure development zone of any property if a petition that objects to the inclusion and that is signed by the owners of taxable real and personal property, which property equals more than fifty percent of the total assessed value of all taxable real and personal property to be included, is filed with the board no later than ten days prior to the public meeting held under Paragraph (3) of this subsection;

(3) upon the filing of a petition or the adoption of a resolution pursuant to Paragraph (1) of this subsection, the board shall hear the petition or resolution at a public meeting after publication of notice of the filing of the petition or adoption of the resolution, the place, time and date of the meeting, the names and addresses of the petitioners, if applicable, the description of the area proposed for inclusion and notice that all persons interested and any municipality or county that may be able to provide service to the real property therein described shall appear at the time and place stated and show cause in writing why the petition should not be granted or the resolution not finally adopted. There shall be no withdrawal from a petition after publication of notice by the board without the consent of the board. The failure of any person in the existing infrastructure development zone to file a written objection shall be taken as an assent on that person's part to the inclusion of the area described in the notice;

(4) after a hearing pursuant to Paragraph (3) of this subsection, the board shall grant or deny the petition or finally adopt the resolution, in whole or in part, with or without conditions, and, subject to an election conducted pursuant to Paragraph (6) of this subsection, the action of the board shall be final and conclusive, except as provided in Paragraph (5) of this subsection. If a municipality or county has filed a written objection to the inclusion, the board shall not grant the petition or finally adopt the resolution as to any of the real property to which adequate service is, or will be, available from the municipality or county within a reasonable time and on a comparable basis;

(5) a municipality or county that has filed a written objection to the inclusion and that can provide adequate service to the real property described in the petition within a reasonable time and on a comparable basis may bring an action in the district court for the county in which the area proposed to be included is located, commenced within thirty days after entry of the order of the board, to determine whether the action of the board granting the inclusion was arbitrary, capricious or unreasonable;

(6) upon final action by a board pursuant to Paragraph (4) of this subsection or affirmation by a district court pursuant to Paragraph (5) of this subsection,

an election shall be held within the area sought to be included. The secretary shall give published notice of the time and place of the election and of the question to be submitted, together with a summary of any conditions attached to the proposed inclusion. The ballot shall be prepared by the board and shall substantially contain the following words:

"Shall the following described area become a part of the infrastructure development zone upon the following conditions, if any?

(Insert description of area)

(Insert accurate summary of conditions)

For inclusion

Against inclusion"

(7) if the majority of the votes cast at the election are in favor of inclusion, the election official shall enter an order including any conditions so prescribed and making the area a part of the infrastructure development zone. The validity of the inclusion shall not be questioned directly or indirectly in any suit, action or proceeding; and

(8) nothing in this subsection shall permit the inclusion in an infrastructure development zone of any property that could not be included in the infrastructure development zone at the time of its organization without the written consent of the owners thereof, unless the owners of the property consent in writing to the inclusion of the property in the infrastructure development zone in a petition filed pursuant to this section or unless the property is no longer excludable pursuant to the provisions of Paragraph (4) of this subsection.

C. Nothing in this section shall be construed to permit the inclusion in an infrastructure development zone of any real property located in a municipality or a county outside a municipality unless the governing body of the municipality or county has adopted a resolution authorizing the inclusion or waives its right to require the resolution in its sole discretion. Any resolution of approval so adopted or waiver so given shall be appended to any petition filed pursuant to Paragraph (1) of Subsection A of this section or Subparagraph (a) of Paragraph (1) of Subsection B of this section.

D. Not more than thirty days nor less than twenty days prior to a meeting of the board held pursuant to Paragraph (2) of Subsection A of this section or Paragraph (3) of Subsection B of this section, the secretary shall send notification by first class mail of

B. "person" includes an individual, partnership, corporation, association, institution or establishment;

C. "biological product" means any of the following that is applicable to the prevention, treatment or cure of a disease or condition of human beings:

- (1) a virus;
- (2) a therapeutic serum;
- (3) a toxin;
- (4) an antitoxin;
- (5) a vaccine;
- (6) blood;
- (7) a blood component or derivative;
- (8) an allergenic product;
- (9) a protein, except any chemically synthesized polypeptide;

(10) a product that is analogous to any of the products listed in Paragraphs (1) through (9) of this subsection; or

(11) arsphenamine, a derivative of arsphenamine or any other trivalent organic arsenic compound;

D. "biosimilar" or "biosimilarity" means, in reference to a biological product that the federal food and drug administration has licensed, that:

(1) the biological product is highly similar to the reference product notwithstanding minor differences in clinically inactive components; and

(2) there are no clinically meaningful differences between the biological product and the reference product in terms of the safety, purity and potency of the product;

E. "controlled substance" means a drug, substance or immediate precursor enumerated in Schedules I through V of the Controlled Substances Act;

F. "drug" means articles:

(1) recognized in an official compendium;

(2) intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or other animals and includes the domestic animal biological products regulated under the federal Animal Virus, Serum, Toxin, Antitoxin Act, 37 Stat 832-833, 21 U.S.C. 151-158, and the biological products applicable to humans regulated under Federal 58 Stat 690, as amended, 42 U.S.C. 216, Section 351, 58 Stat 702, as amended, and 42 U.S.C. 262;

(3) other than food, that affect the structure or any function of the human body or the bodies of other animals; and

(4) intended for use as a component of Paragraph (1), (2) or (3) of this subsection, but "drug" does not include devices or their component parts or accessories;

G. "dangerous drug" means a drug, other than a controlled substance enumerated in Schedule I of the Controlled Substances Act, that because of a potentiality for harmful effect or the method of its use or the collateral measures necessary to its use is not safe except under the supervision of a practitioner licensed by law to direct the use of such drug and hence for which adequate directions for use cannot be prepared. "Adequate directions for use" means directions under which the layperson can use a drug or device safely and for the purposes for which it is intended. A drug shall be dispensed only upon the prescription or drug order of a practitioner licensed by law to administer or prescribe the drug if it:

(1) is a habit-forming drug and contains any quantity of a narcotic or hypnotic substance or a chemical derivative of such substance that has been found under the federal act and the board to be habit forming;

(2) because of its toxicity or other potential for harmful effect or the method of its use or the collateral measures necessary to its use is not safe for use except under the supervision of a practitioner licensed by law to administer or prescribe the drug;

(3) is limited by an approved application by Section 505 of the federal act to the use under the professional supervision of a practitioner licensed by law to administer or prescribe the drug;

(4) bears the legend: "Caution: federal law prohibits dispensing without prescription.";

(5) bears the legend: "Caution: federal law restricts this drug to use by or on the order of a licensed veterinarian."; or

(6) bears the legend "RX only";

H. "counterfeit drug" means a drug that is deliberately and fraudulently mislabeled with respect to its identity, ingredients or sources. Types of such pharmaceutical counterfeits may include:

(1) "identical copies", which are counterfeits made with the same ingredients, formulas and packaging as the originals but not made by the original manufacturer;

(2) "look-alikes", which are products that feature high-quality packaging and convincing appearances but contain little or no active ingredients and may contain harmful substances;

(3) "rejects", which are drugs that have been rejected by the manufacturer for not meeting quality standards; and

(4) "relabels", which are drugs that have passed their expiration dates or have been distributed by unauthorized foreign sources and may include placebos created for late-phase clinical trials;

I. "device", except when used in Subsection R of this section and in Subsection G of Section 26-1-3, Subsection L and Paragraph (4) of Subsection A of Section 26-1-11 and Subsection C of Section 26-1-24 NMSA 1978, means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar or related article, including any component, part or accessory, that is:

(1) recognized in an official compendium;

(2) intended for use in the diagnosis of disease or other conditions or in the cure, mitigation, treatment or prevention of disease in humans or other animals; or

(3) intended to affect the structure or a function of the human body or the bodies of other animals and that does not achieve any of its principal intended purposes through chemical action within or on the human body or the bodies of other animals and

that is not dependent on being metabolized for achievement of any of its principal intended purposes;

J. "prescription" means an order given individually for the person for whom prescribed, either directly from a licensed practitioner or the practitioner's agent to the pharmacist, including by means of electronic transmission, or indirectly by means of a written order signed by the prescriber, and bearing the name and address of the prescriber, the prescriber's license classification, the name and address of the patient, the name and quantity of the drug prescribed, directions for use and the date of issue;

K. "practitioner" means a certified advanced practice chiropractic physician, physician, doctor of oriental medicine, dentist, veterinarian, euthanasia technician, certified nurse practitioner, clinical nurse specialist, pharmacist, pharmacist clinician, certified nurse-midwife, physician assistant, prescribing psychologist, dental hygienist, optometrist or other person licensed or certified to prescribe and administer drugs that are subject to the New Mexico Drug, Device and Cosmetic Act. "Practitioner" also means a registered lay midwife licensed by the department of health who is certified or licensed in accordance with department of health rules to procure, carry and administer drugs that are subject to the New Mexico Drug, Device and Cosmetic Act;

L. "cosmetic" means:

(1) articles intended to be rubbed, poured, sprinkled or sprayed on, introduced into or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness or altering the appearance; and

(2) articles intended for use as a component of any articles enumerated in Paragraph (1) of this subsection, except that the term shall not include soap;

M. "interchangeable biological product" means a biological product that the federal food and drug administration has licensed and:

(1) has determined that the biological product is biosimilar to the reference product and can be expected to produce the same clinical result as the reference product in any given patient;

(2) for a biological product that is administered more than once to an individual and:

(a) has determined to have been administered more than once to the individual; or

(b) for which the risk in terms of safety or diminished efficacy of alternating or switching between use of the biological product and the reference product is not greater than the risk of using the reference product without alternation or switching; or

(3) has determined to be therapeutically equivalent as set forth in the latest edition or supplement to the federal food and drug administration's approved drug products with therapeutic equivalence evaluations;

N. "official compendium" means the official United States pharmacopeia and national formulary or the official homeopathic pharmacopoeia of the United States or any supplement to either of them;

O. "label" means a display of written, printed or graphic matter upon the immediate container of an article. A requirement made by or under the authority of the New Mexico Drug, Device and Cosmetic Act that any word, statement or other information appear on the label shall not be considered to be complied with unless the word, statement or other information also appears on the outside container or wrapper, if any, of the retail package of the article or is easily legible through the outside container or wrapper;

P. "immediate container" does not include package liners;

Q. "labeling" means all labels and other written, printed or graphic matter:

(1) on an article or its containers or wrappers; or

(2) accompanying an article;

R. "misbranded" means a label to an article that is misleading. In determining whether the label is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device or any combination of the foregoing, but also the extent to which the label fails to reveal facts material in the light of such representations or material with respect to consequences that may result from the use of the article to which the label relates under the conditions of use prescribed in the label or under such conditions of use as are customary or usual;

S. "advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or that are likely to induce, directly or indirectly, the purchase of drugs, devices or cosmetics;

T. "antiseptic", when used in the labeling or advertisement of an antiseptic, shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be or represented as an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder or such other use as involves prolonged contact with the body;

U. "new drug" means a drug:

(1) the composition of which is such that the drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and efficacy of drugs, as safe and effective for use under the conditions prescribed, recommended or suggested in the labeling thereof; or

(2) the composition of which is such that the drug, as a result of investigation to determine its safety and efficacy for use under such conditions, has become so recognized, but that has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions;

V. "contaminated with filth" applies to a drug, device or cosmetic not securely protected from dirt, dust and, as far as may be necessary by all reasonable means, from all foreign or injurious contaminations, or a drug, device or cosmetic found to contain dirt, dust, foreign or injurious contamination or infestation;

W. "selling of drugs, devices or cosmetics" shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession and holding of any such article for sale and the sale and the supplying or applying of any such article in the conduct of a drug or cosmetic establishment;

X. "color additive" means a material that:

(1) is a dye, pigment or other substance made by a process of synthesis or similar artifice or extracted, isolated or otherwise derived, with or without intermediate or final change of identity, from a vegetable, mineral, animal or other source; or

(2) when added or applied to a drug or cosmetic or to the human body or a part thereof, is capable, alone or through reaction with other substances, of imparting color thereto; except that such term does not include any material that has been or hereafter is exempted under the federal act;

Y. "federal act" means the Federal Food, Drug, and Cosmetic Act;

Z. "restricted device" means a device for which the sale, distribution or use is lawful only upon the written or oral authorization of a practitioner licensed by law to administer, prescribe or use the device and for which the federal food and drug administration requires special training or skills of the practitioner to use or prescribe. This definition does not include custom devices defined in the federal act and exempt from performance standards or premarket approval requirements under Section 520(b) of the federal act;

AA. "prescription device" means a device that, because of its potential for harm, the method of its use or the collateral measures necessary to its use, is not safe except under the supervision of a practitioner licensed in this state to direct the use of such device and for which "adequate directions for use" cannot be prepared, but that bears the label: "Caution: federal law restricts this device to sale by or on the order of a _____", the blank to be filled with the word "physician", "physician assistant", "certified advanced practice chiropractic physician", "doctor of oriental medicine", "dentist", "veterinarian", "euthanasia technician", "certified nurse practitioner", "clinical nurse specialist", "pharmacist", "pharmacist clinician", "certified nurse-midwife", "dental hygienist", "registered lay midwife" or "optometrist" or with the descriptive designation of any other practitioner licensed in this state to use or order the use of the device;

BB. "valid practitioner-patient relationship" means a professional relationship, as defined by the practitioner's licensing board, between the practitioner and the patient;

CC. "pedigree" means the recorded history of a drug;

DD. "drug order" means an order either directly from a licensed practitioner or the practitioner's agent to the pharmacist, including by means of electronic transmission or indirectly by means of a written order signed by the licensed practitioner or the practitioner's agent, and bearing the name and address of the practitioner and the practitioner's license classification and the name and quantity of the drug or device ordered for use at an inpatient or outpatient facility; and

EE. "reference product" means the single biological product against which a biosimilar was evaluated in its marketing application to the federal food and drug administration." _____

HouseBill 226

Approved February 4, 2019

LAWS 2019, CHAPTER 12

AN ACT

RELATING TO PUBLIC SCHOOL PERSONNEL; RESTRICTING THE USE OF
TEACHER ATTENDANCE IN TEACHER EVALUATIONS.

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

Chapter 12 Section 1 Laws 2019

SECTION 1. Section 22-10A-19 NMSA 1978 (being Laws 2003, Chapter 153, Section 50, as amended) is amended to read:

"22-10A-19. TEACHERS AND SCHOOL PRINCIPALS-- ACCOUNTABILITY--
EVALUATIONS--SICK LEAVE--PROFESSIONAL DEVELOPMENT--PEER
INTERVENTION--MENTORING.--

A. The department shall adopt criteria and minimum highly objective uniform statewide standards of evaluation for the annual performance evaluation of licensed school employees. The professional development plan for teachers shall include documentation on how a teacher who receives professional development that has been required or offered by the state or a school district or charter school incorporates the results of that professional development in the classroom.

B. The local superintendent shall adopt policies, guidelines and procedures for the performance evaluation process. Evaluation by other school employees shall be one component of the evaluation tool for school administrators. A teacher's use of personal leave and up to ten days of sick leave shall not affect that teacher's annual performance evaluation; provided that the leave is used consistently with the policy of the local school board or the governing body of the charter school that employs that teacher. An annual performance evaluation may reflect the lowest score with respect to teacher attendance for a teacher who is determined by a school district or charter school to be using sick leave days in a manner inconsistent with a local school board policy, charter school governing council policy, administrative regulation or an applicable collective bargaining agreement.

C. As part of the highly objective uniform statewide standard of evaluation for teachers, the school principal shall observe each teacher's classroom practice to determine the teacher's ability to demonstrate state-adopted competencies.

SECTION 2. DEFINITIONS.--As used in the Regional Air Center Special Economic District Act:

- A. "authority" means the governing body of a district; and
- B. "district" means an industrial air center special economic district governed by an authority.

Chapter 13 Section 3 Laws 2019

SECTION 3. CREATION OF A DISTRICT.--A municipality and the county in which the municipality is located may agree to form a district:

- A. the initial boundaries of which lie within the jurisdiction of the municipality, the county or both;
- B. that includes an industrial air center composed of infrastructure associated with a former United States military base; and
- C. that consists of land and real property formerly associated with the former United States military base and other land and real property made part of the district.

Chapter 13 Section 4 Laws 2019

SECTION 4. CREATION OF AN AUTHORITY--MEMBERS--TERMS--QUALIFICATIONS.--

- A. A municipality and county that form a district shall create an authority to govern the district that consists of an odd number of members, but not fewer than five or more than nine in number.
- B. The terms of the members shall be reasonably staggered. Of the members initially appointed, that number of members closest to, but not more than, one-half of the membership shall serve for two years. The term of all other members shall be four years.
- C. A member shall not serve more than two consecutive four-year terms on the authority. A member who has served two consecutive four-year terms on the authority shall not serve another term until after four years following the second term have elapsed.

D. The authority may authorize a county that borders the county that created the district or a municipality or an Indian nation, tribe or pueblo in a county that borders the county that created the district to become part of the authority. The municipality and county that created the district and any subsequently accepted entities, as set forth in this subsection, may change the membership of the authority, up to the maximum allowed by Subsection A of this section, and change the terms of the members to allow the newly accepted entity to appoint one or more members to the authority.

E. An elected official shall not serve on the authority. A member of the authority shall not receive a salary or other compensation from the authority, but the authority may reimburse any reasonable expenses incurred by a member in conducting the business of the authority.

F. Before appointing a person to the authority, an appointing entity shall first determine that the person:

(1) has experience in the field of aviation, business, economic development, finance, commercial real estate investment or accounting; or

(2) possesses other qualifications that the entity determines are necessary or appropriate for carrying out the duties of the authority; and

(3) has no direct substantial conflict of interest in the business or operation of the authority.

G. An authority member shall abstain from an authority vote if the matter voted on poses a conflict of interest for the member. A member or employee of the authority shall not:

(1) acquire a financial interest in a new or existing business venture or business property if the member or employee believes or has reason to believe that the financial interest will be directly affected by an official act conducted in that membership or employment capacity;

(2) use confidential information acquired by virtue of membership on or employment by the authority for the member's or employee's or another person's private gain; or

(3) as a person with a financial or other interest in a business that is party to a contract, enter into a contract with the authority without there being public notice of the contract, a competitive bidding process for entry into the contract and full disclosure of that financial or other interest.

H. The governing body that appoints a member to an authority may remove the member if it determines that the member:

- (1) willfully neglected or refused to perform an official duty;
- (2) has violated the policies or procedures adopted by the authority; or
- (3) has developed a direct, substantial conflict of interest in the business of the authority.

Chapter 13 Section 5 Laws 2019

SECTION 5. AUTHORITY--POWERS--DUTIES.--

A. An authority is a political subdivision of the state that may, in accordance with law and to effectuate the purposes of the district it governs:

- (1) have perpetual existence;
- (2) sue and be sued;
- (3) adopt bylaws, policies and procedures;
- (4) employ a director, who may employ staff as necessary to administer the authority;
- (5) fix the time and place of meetings and the method of providing notice of the meetings;
- (6) make and pass orders and resolutions necessary for governing and managing the authority and executing the powers of the authority;
- (7) adopt and use a seal;
- (8) create and define the duties of advisory committees;
- (9) enter into contracts and agreements;
- (10) borrow money and issue bonds;
- (11) pledge all or a portion of its revenue to the payment of its bonds;

(12) issue refunding revenue bonds to refinance, pay or discharge all or part of its outstanding revenue bonds;

(13) impose liens;

(14) acquire, dispose of or encumber real or personal property or interests in real or personal property, including leases and easements;

(15) manage the land and property constituting and associated with the district, including by imposing rental charges and fees for the use of that land and property;

(16) sixty days after delivering written notice to the municipality and county that formed the district, exercise the power of eminent domain within the boundaries of the district as provided by law for the condemnation of private property for public use with just compensation;

(17) sell, transfer or convey real or personal property or interests in real or personal property acquired by the authority;

(18) alter the boundaries of the district with the approval of the affected municipality or county;

(19) construct and maintain airport facilities;

(20) establish standards and long-term development plans;

(21) apply to a public or private source for a loan, grant, guarantee or other type of financial assistance;

(22) exercise the rights and powers necessary or incidental to or implied by the specific powers granted by this section; and

(23) by resolution, delegate to a member or agent of the authority any of its powers, except the power to:

(a) adopt authority policies or procedures;

(b) initiate or continue legal action;

(c) establish policies on the use of revenue;

(d) acquire real or personal property or interests in real or personal property;

(e) expand the district; or

(f) issue bonds.

B. An authority shall:

(1) govern the district;

(2) adopt rules to govern its conduct, including standards and procedures for calling emergency meetings and a conflicts-of-interest policy;

(3) provide meaningful opportunities for public input on its policymaking;

(4) accept title to the real and personal property within the area constituting the district's initial boundaries;

(5) use district property to manage airport operations, create jobs and foster economic development in all areas it deems appropriate and in the public welfare; and

(6) comply with all applicable laws, ordinances or rules enacted by the municipality or county having jurisdiction over the district's land or real property.

Chapter 13 Section 6 Laws 2019

SECTION 6. REVENUE BONDS--EXEMPTION FROM TAXATION.--

A. To effectuate the purposes of the district it governs, an authority may issue revenue bonds to:

(1) encourage the location of commercial, research or industrial or other enterprises to a district; or

(2) acquire, purchase, lease, construct or improve commercial, research or industrial sites or buildings or make other capital improvements, including the construction or maintenance of energy or pollution abatement or control facilities, as necessary.

B. An authority may issue special facility revenue bonds backed by a long-term lease of the facility to finance a specific tenant facility.

C. The bonds authorized by the Regional Air Center Special Economic District Act, the income from those bonds, mortgages or other security instruments executed as security for those bonds, lease agreements authorized by the Regional Air Center Special Economic District Act and revenue derived from a lease or sale by an authority are exempt from taxation by the state and its subdivisions.

Chapter 13 Section 7 Laws 2019

SECTION 7. BONDING AUTHORITY.--

A. A district may issue revenue bonds, the pledged revenue for which shall be fees, charges, lease payments, installment sale payments or other revenue sources by a project for any one or more of the purposes authorized by the Regional Air Center Special Economic District Act.

B. A district may pledge irrevocably any or all of the revenue received by the district to the payment of the interest on and principal of revenue bonds for any of the purposes authorized in the Regional Air Center Special Economic District Act.

C. Revenues in excess of the annual principal and interest due on revenue bonds secured by a pledge of revenue may be accumulated in a debt service reserve account. The district may appoint a commercial bank trust department to act as paying agent or trustee of the revenues and to administer the payment of principal of and interest on the bonds.

D. Except as otherwise provided in the Regional Air Center Special Economic District Act, revenue bonds:

(1) may have interest, principal value or any part thereof payable at intervals or at maturity as may be determined by the authority;

(2) may be subject to a prior redemption at the district's option at a time and upon terms and conditions, with or without the payment of a premium, as determined by the authority;

(3) may mature at any time not exceeding thirty years after the date of issuance;

(4) may be serial in form and maturity, may consist of one bond payable at one time or in installments or may be in another form determined by the authority;

(5) shall be sold for cash at, above or below par and at a price that results in a net effective interest rate that does not exceed the maximum permitted by the Public Securities Act and the Public Securities Short-Term Interest Rate Act; and

(6) may be sold at public or negotiated sale.

E. At a regular or special meeting, the authority may adopt a resolution that:

(1) declares the necessity for issuing revenue bonds;

(2) authorizes the issuance of revenue bonds by an affirmative vote of a majority of all the members of the authority; and

(3) designates the sources of revenues to be pledged to the repayment of the revenue bonds.

Chapter 13 Section 8 Laws 2019

SECTION 8. REFUNDING BONDS.--

A. A district that has issued bonds in accordance with the Regional Air Center Special Economic District Act may issue refunding bonds for the purpose of refinancing, paying and discharging all or any part of outstanding bonds for the:

(1) acceleration, deceleration or other modification of the payment of the outstanding bonds, including, without limitation, any capitalization of any interest thereon in arrears or about to become due for any period not exceeding two years from the date of the refunding bonds;

(2) purpose of reducing interest costs or effecting other economies; or

(3) purpose of modifying or eliminating restrictive contractual limitations:

(a) pertaining to the issuance of additional bonds; or

(b) concerning the outstanding bonds or facilities relating to the outstanding bonds.

B. A district may pledge irrevocably for the payment of interest, principal and premium, if any, on refunding bonds the appropriate pledged revenues, which may be pledged to an original issue of bonds.

C. Refunding bonds may be issued separately or in combination in one series or more.

D. Refunding bonds shall be authorized by resolution. Bonds that are refunded shall be paid at maturity or on any permitted prior redemption date in the amounts, at the time and places and, if called prior to maturity, in accordance with any applicable notice provisions, all as provided in the proceedings authorizing the issuance of the refunded bonds or otherwise appertaining thereto, except for any such bond that is voluntarily surrendered for exchange or payment by the holder or owner.

E. The principal amount of the refunding bonds may exceed the principal amount of the refunded bonds and may also be less than or the same as the principal amount of the bonds being refunded if provision is duly and sufficiently made for the payment of the refunded bonds.

F. The proceeds of refunding bonds, including accrued interest and premiums appertaining to the sale of refunding bonds, shall be immediately applied to the retirement of the bonds being refunded or placed in escrow in a commercial bank or trust company that possesses and exercises trust powers and that is a member of the federal deposit insurance corporation. The proceeds shall be applied to the principal of, interest on and any prior redemption premium due in connection with the bonds being refunded; provided that the refunding bond proceeds, including accrued interest and premiums appertaining to a sale of refunding bonds, may be applied to the establishment and maintenance of a reserve fund and to the payment of expenses incidental to the refunding and the issuance of the refunding bonds, the interest on those bonds and the principal of those bonds, or both interest and principal as the authority determines. This section does not require the establishment of an escrow if the refunded bonds and the amounts necessary to retire the refunded bonds within that time are deposited with the paying agent for the refunded bonds. Any such escrow shall not necessarily be limited to proceeds of refunding bonds but may include other money available for its purpose. Proceeds in escrow pending such use may be invested or reinvested in bills, certificates of indebtedness, notes or bonds that are direct obligations of, or the principal and interest of which obligations are unconditionally guaranteed by, the United States or in certificates of deposit of banks that are members of the federal deposit insurance corporation; provided that the par value of the certificates of deposit is collateralized by a pledge of obligations or by a pledge of payment that is unconditionally guaranteed by the United States; and further provided that the par value of those obligations is at least seventy-five percent of the par value of

the certificates of deposit. Such proceeds and investments in escrow, together with any interest or other income to be derived from any such investment, shall be in an amount at all times sufficient as to principal, interest, any prior redemption premium due and any charges of the escrow agent payable therefrom to pay the bonds being refunded as they become due at their respective maturities or at any designated prior redemption date or dates in connection with which the municipality shall exercise a prior redemption option. A purchaser of a refunding bond issued is not responsible for the application of the proceeds by the district or any of its officers, agents or employees.

G. Refunding bonds may bear additional terms and provisions as determined by the district subject to the limitations in this section relating to original bond issues. Refunding bonds are not subject to the provisions of any other statute.

H. District refunding bonds:

(1) may have interest, principal value or any part thereof payable at intervals or at maturity, as determined by the authority;

(2) may be subject to prior redemption at the district's option at a time or times and upon terms and conditions with or without payment of premium or premiums, as determined by the authority;

(3) may be serial in form and maturity or may consist of a single bond payable in one or more installments or may be in another form, as determined by the authority; and

(4) shall be exchanged for the bonds and any matured unpaid interest being refunded at not less than par or sold at public or negotiated sale at, above or below par and at a price that results in a net effective interest rate that does not exceed the maximum permitted by the Public Securities Act.

I. At a regular or special meeting, an authority may adopt a resolution by majority vote to authorize the issuance of the refunding bonds.

Chapter 13 Section 9 Laws 2019

SECTION 9. BONDS NOT OBLIGATION OF THE STATE.--Except as otherwise provided in the Regional Air Center Special Economic District Act, all bonds or other obligations issued pursuant to that act are payable solely from the revenues of the district that may be pledged to the payment of such obligations, and the bonds or other obligations shall not create an obligation, debt or liability of the state or any other of its political subdivisions. No breach of any pledge, obligation or agreement or a

district shall impose a pecuniary liability or a charge upon the general credit or taxing power of the state or any other of its political subdivisions.

Chapter 13 Section 10 Laws 2019

SECTION 10. DISSOLUTION.--The municipality and county that formed the district and any counties, municipalities, Indian nations, tribes or pueblos that have become part of the district may, by unanimous vote, agree to unwind and dissolve the district and dismiss the authority members if they find the district is not meeting the needs of the community in managing airport operations, creating jobs or fostering economic development. The assets and all debts and obligations of the district shall be transferred to and assumed by the county or municipality as set forth in the unwinding or dissolution agreement.

Chapter 13 Section 11 Laws 2019

SECTION 11. Section 7-36-3 NMSA 1978 (being Laws 1975, Chapter 218, Section 1, as amended by Laws 2006, Chapter 90, Section 1 and by Laws 2006, Chapter 92, Section 1) is amended to read:

"7-36-3. INDUSTRIAL REVENUE BOND, POLLUTION CONTROL BOND, ECONOMIC DEVELOPMENT BOND AND REGIONAL AIR CENTER SPECIAL ECONOMIC DISTRICT BOND PROJECT PROPERTY--HEALTH-RELATED EQUIPMENT--TAX STATUS.--

A. Property interests of a lessee in project property held under a lease from a county or a municipality under authority of an industrial revenue bond or pollution control revenue bond act, the Statewide Economic Development Finance Act or the Regional Air Center Special Economic District Act are exempt from property taxation for as long as there is an outstanding bonded indebtedness under the terms of the revenue bonds issued for the acquisition of the project property, but in no event for a period of more than thirty years from the date of execution of the first lease of the project to the lessee by the county or municipality.

B. Property interests of a person, other than a public utility, arising out of the purchase of a project authorized by the Industrial Revenue Bond Act, the County Industrial Revenue Bond Act, the Pollution Control Revenue Bond Act, the Statewide Economic Development Finance Act or the Regional Air Center Special Economic District Act are exempt from property taxation for as long as the project purchaser remains liable to the project seller for any part of the purchase price, but not to exceed thirty years from the date of execution of the sale agreement.

C. Property interests of a participating health facility in health-related equipment purchased, acquired, leased, financed or refinanced with the proceeds of bonds issued under the Hospital Equipment Loan Act are exempt from property taxation for as long as the participating health facility remains liable for any amount under any lease, loan or other agreement securing the bonds, but not to exceed thirty years from the date the bonds were issued for the health-related equipment.

D. The exemptions from property taxation under this section are not cumulative; provided, however, that the exemptions may be applied consecutively if subsequent exemptions relate to the financing of a new project or new health-related equipment." _____

House Bill 229, aa

Approved February 4, 2019

LAWS 2019, CHAPTER 14

AN ACT

RELATING TO UNIVERSITY POLICE OFFICERS; EXTENDING THE AUTHORITY OF UNIVERSITY POLICE OFFICERS TO IMMEDIATELY ADJACENT ROADWAYS.

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

Chapter 14 Section 1 Laws 2019

SECTION 1. Section 29-5-2 NMSA 1978 (being Laws 1968, Chapter 62, Section 154, as amended) is amended to read:

"29-5-2. EDUCATIONAL INSTITUTIONS--UNIVERSITY POLICE OFFICERS.--

A. The board of regents of each state educational institution designated in Article 12, Section 11 of the constitution of New Mexico may employ and assign duties of university police officers for the institution.

B. At all times while on duty, university police officers shall carry commissions of office issued by the board of regents. University police officers have the powers of peace officers within the exterior boundaries of lands under control of the board of regents employing them, including public streets and highways within the boundaries, or

immediately adjacent to a campus where students are educated. Within this territory, a university police officer may enforce all applicable laws, ordinances and campus traffic regulations, but no arrest for violation of any law, ordinance or campus traffic regulation relating to motor vehicles is valid unless, at the time of arrest, the university police officer is wearing:

(1) a distinctive badge bearing the name of the institution, issued to the officer by the board of regents; or

(2) a distinctive uniform prescribed and issued to the officer by the board of regents."

Chapter 14 Section 2 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

House Bill 237

Approved February 4, 2019

LAWS 2019, CHAPTER 15

AN ACT

RELATING TO HEALTH CARE; LIMITING PRESCRIBING POWER FOR CONTACT LENSES AND SPECTACLES; PROVIDING FOR CRIMINAL PENALTIES AND CIVIL REMEDY.

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

Chapter 15 Section 1 Laws 2019

SECTION 1. CONTACT LENSES--SPECTACLES--LIMITATIONS ON PRESCRIPTIONS--CRIMINAL PENALTY--CIVIL REMEDY--EXCEPTIONS.--

A. Unless the person is licensed pursuant to the Optometry Act, the Medical Practice Act or the Osteopathic Medicine Act, a person shall not:

(1) perform an eye examination on an individual physically located in the state at the time of the eye examination; or

(2) write a prescription for contact lenses or spectacles.

B. A person shall not write a prescription for contact lenses or spectacles unless an eye examination is performed before writing the prescription. The prescription shall take into consideration any medical findings and any refractive error determined during the eye examination.

C. A person who violates a provision of this section is guilty of a misdemeanor and shall be sentenced pursuant to Section 31-19-1 NMSA 1978.

D. The board of optometry, the New Mexico medical board, the board of osteopathic medicine or any other person potentially aggrieved by a violation of this section may bring a suit in a court of competent jurisdiction to enjoin a violation of a provision of this section.

E. Nothing in this section shall be construed to prohibit:

(1) a health care provider from using telehealth in accordance with the provisions of the New Mexico Telehealth Act for ocular diseases;

(2) a vision screening performed in a school by a nurse, physician assistant, osteopathic physician assistant or another provider otherwise authorized pursuant to state law;

(3) an optician from completing a prescription for spectacles or contact lenses in accordance with the provisions of the Optometry Act;

(4) a technician from providing an eye care screening program at a health fair, not-for-profit event, not-for-profit public vision van service, public health event or other similar event;

(5) a physician assistant licensed pursuant to the Medical Practice Act, or an osteopathic physician assistant licensed pursuant to the Osteopathic Medicine Act, working under the supervision of an ophthalmologist licensed pursuant to the Medical Practice Act or the Osteopathic Medicine Act, from performing an eye examination on an individual physically located in the state at the time of the eye examination; or

(6) a vision screening performed by another provider otherwise authorized pursuant to state law.

F. As used in this section:

(1) "autorefractor" means any electronic computer or automated testing device used remotely, in person or through any other communication interface to provide an objective or subjective measurement of an individual's refractive error;

(2) "contact lens" means any lens placed directly on the surface of the eye, regardless of whether or not it is intended to correct a visual defect, including any cosmetic, therapeutic or corrective lens;

(3) "eye examination" means an in-person assessment at a physician's office or an optometrist's office, in a hospital setting or in a hospital health system setting that:

(a) is performed in accordance with the applicable standard of care;

(b) consists of an assessment of the ocular health and visual status of an individual;

(c) does not consist of solely objective or subjective refractive data or information generated by an automated testing device, including an autorefractor or kiosk, in order to establish a medical diagnosis or for the determination of refractive error; and

(d) is performed on an individual who is physically located in this state at the time of the assessment;

(4) "kiosk" means any automatic or electronic equipment, application or computer software designed to be used on a telephone, teleconference device, computer, virtual reality device or internet-based device that can be used remotely, in person or through any other communication interface to conduct an eye examination or determine refractive error;

(5) "prescription" means an optometrist's or ophthalmologist's handwritten or electronic order for spectacle lenses or contact lenses based on an eye examination that corrects refractive error; and

(6) "spectacles" means an optical instrument or device worn or used by an individual that has one or more lenses designed to correct or enhance vision addressing the visual needs of the individual wearer, commonly known as "glasses" or "eyeglasses", including spectacles that may be adjusted by the wearer to achieve different types of visual correction or enhancement. "Spectacles" does not mean:

(a) an optical instrument or device that is not intended to correct or enhance vision or that does not require consideration of the visual status of the individual who will use the optical instrument or device; or

(b) eyewear that is sold without a prescription. _____

House Bill 242, aa

Approved February 4, 2019

LAWS 2019, CHAPTER 16

AN ACT

RELATING TO INDIAN EDUCATION; REQUIRING NEEDS ASSESSMENTS TO DETERMINE WHAT SERVICES SCHOOL DISTRICTS NEED TO PROVIDE TO INDIAN STUDENTS TO HELP THEM GRADUATE AND BE READY FOR COLLEGE AND CAREERS; REQUIRING A SYSTEMIC FRAMEWORK THAT FOCUSES ON MEASURES TO CLOSE THE ACHIEVEMENT GAP BETWEEN INDIANS AND ALL OTHER STUDENT GROUPS IN NEW MEXICO; REQUIRING ACCOUNTABILITY.

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

Chapter 16 Section 1 Laws 2019

SECTION 1. A new section of the Indian Education Act is enacted to read:

"INDIAN EDUCATION--SCHOOL DISTRICT RESPONSIBILITIES--NEEDS ASSESSMENTS--USE OF DATA--PRIORITIZING BUDGETS--REPORTS.--

A. As used in Sections 1 through 3 of this 2019 act, "school district" includes charter schools.

B. Historically defined Indian impacted school districts are required to conduct a needs assessment to determine what supports are needed in public school, at home and in the community to help Indian students succeed in school, graduate with a diploma of excellence and be prepared to enter post-secondary education or the workplace.

C. After the needs assessment, the school district shall meet with the local tribes to prioritize the needs to be addressed. The school district shall make meeting the needs of Indian students and closing the achievement gap between Indian students and all other student groups a priority in the school district budget, including applying state and federal funding for Indian students, disadvantaged students, at-risk students, students in poverty and other categories of state and federal funding to help disadvantaged students.

D. The school district shall apply for appropriate state, federal and private grants to help it carry out the provisions of Sections 1 through 3 of this 2019 act. When approving budgets, the department shall consider whether a school district's budget accomplishes the prioritized needs from the Indian students needs assessment.

E. The school district shall develop an accountability tool that measures public school efforts pursuant to the systemic framework provided for in Sections 2 and 3 of this 2019 act and the success or failure of those efforts.

F. The school district shall hold a public meeting with members of the Indian students' tribal leaders, parents and the Indian education division at least twice in the school year to report on the needs assessment and the school district's evaluation of progress."

Chapter 16 Section 2 Laws 2019

SECTION 2. A new section of the Indian Education Act is enacted to read:

"SYSTEMIC FRAMEWORK FOR IMPROVING EDUCATIONAL OUTCOMES FOR INDIAN STUDENTS.--Historically defined Indian impacted school districts shall develop and publish a systemic framework for improving educational outcomes for Indian students. The school district shall develop the framework in collaboration with school employees, tribal leaders, Indian students and families, social service providers and community and civic organizations. The Indian education division shall assist the school district as required during the development and implementation of the framework. The school district may request assistance from schools of education at state educational institutions to identify best practices in collecting and using student-

centered data to inform teaching strategies and schoolwide efforts to close the achievement gap between Indian students and all other student demographic groups."

Chapter 16 Section 3 Laws 2019

SECTION 3. A new section of the Indian Education Act is enacted to read:

"SYSTEMIC FRAMEWORK ELEMENTS.--

A. The systemic framework shall include programs, services, culturally relevant activities and professional development that need to be provided to improve Indian education in the state. Based on the priorities developed through the needs assessment and the priorities set in the budget for the school year, the systemic framework may include some or all of the elements provided in this section.

B. Academic and other programs may include, within the context of the Indian education division's development or selection of culturally relevant curricula and instructional materials as provided in Subsection E of Section 22-23A-5 NMSA 1978:

(1) innovative programs designed to meet the educational needs of educationally disadvantaged Indian students;

(2) high-quality professional development for teaching professionals and paraprofessionals;

(3) the identification of early childhood, pre-kindergarten and family programs in the school district that emphasize school readiness and that are effective in preparing young children to make sufficient academic growth by the end of grade three, including family-based early childhood programs that provide screening and referral and provide services to Indian children with developmental delays or disabilities;

(4) educational programs that are not usually available in sufficient quantity or quality, including remedial instruction, to raise the achievement of Indian students in one or more of the subjects of English, mathematics, science, foreign languages, art, history and geography;

(5) bilingual and bicultural programs and projects;

(6) enrichment programs that focus on problem solving and cognitive skills development and directly support the attainment of challenging state academic standards;

(7) programs designed to encourage and assist Indian students to work toward, and gain entrance into, institutions of higher education;

(8) special compensatory and other programs and projects that are designed to assist and encourage Indian students to enter, remain in or reenter school and to increase the rate of high school graduation for Indian students;

(9) career preparation activities that enable Indian students to participate in programs such as the programs supported by the federal Carl D. Perkins Career and Technical Education Act of 2006, including programs for technology preparatory education, mentoring and apprenticeship;

(10) partnership projects between public schools and local businesses for career preparation programs designed to provide Indian students with the knowledge and skills needed to make an effective transition from school to a high-skill career; and

(11) rigorous and meaningful curricula and educational opportunities that will lead to lifelong success for all students.

C. Culturally related activities may include:

(1) culturally related activities that support the academic program of the public school;

(2) activities that support Indian language programs and Indian language restoration programs that may be taught by traditional leaders and that qualify for the state seal of bilingualism-biliteracy on a student's diploma of excellence as provided in Section 22-1-9.1 NMSA 1978;

(3) activities that promote the incorporation of culturally responsive teaching and learning strategies into the public school's educational program; and

(4) activities to educate students about the prevention of violence, suicide and substance abuse.

D. Services to be provided may include:

(1) early interventions to help struggling students, such as after-school programs, tutoring and mentoring and school and community interventions to prevent truancy and reduce dropout rates;

(2) comprehensive guidance and counseling services;

(3) integrated educational services in combination with other programs that meet the needs of Indian students and their families, including programs that promote parental involvement in school activities and increase student achievement;

(4) special health- and nutrition-related services and other related activities that address the special health, social and psychological problems of Indian students and their families; and

(5) family literacy services, including New Mexico even start and adult basic education programs." _____

House Bill 250

Approved February 4, 2019

LAWS 2019, CHAPTER 17

AN ACT

RELATING TO TAXATION; EXPANDING THE PERMISSIBLE USES OF REVENUE FROM THE MUNICIPAL ENVIRONMENTAL SERVICES GROSS RECEIPTS TAX; CHANGING THE ELIGIBILITY CRITERIA FOR IMPOSING THAT TAX.

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

Chapter 17 Section 1 Laws 2019

SECTION 1. Section 7-19D-10 NMSA 1978 (being Laws 1990, Chapter 99, Section 51, as amended) is amended to read:

"7-19D-10. MUNICIPAL ENVIRONMENTAL SERVICES GROSS RECEIPTS TAX--AUTHORITY TO IMPOSE--ORDINANCE REQUIREMENTS.--

A. The majority of the members of the governing body of a municipality may enact an ordinance imposing an excise tax on any person engaging in business in the municipality for the privilege of engaging in business. Except as otherwise provided in this section, the rate of the tax shall be one-sixteenth of one percent of the gross receipts of the person engaging in business.

B. The tax imposed in accordance with Subsection A of this section may be referred to as the "municipal environmental services gross receipts tax". The imposition of a municipal environmental services gross receipts tax is not subject to referendum.

C. The governing body of a municipality shall, at the time of enacting an ordinance imposing the rate of the tax authorized in Subsection A of this section, dedicate the revenue for the acquisition, construction, operation and maintenance of solid waste facilities, which includes the collection of solid waste and disposal of demolition debris, water facilities, wastewater facilities, sewer systems, infrastructure necessary for storm water runoff control or related facilities.

D. The governing body of a municipality in a class B county with a net taxable value used for rate-setting purposes for the 2008 property tax year of greater than six hundred million dollars (\$600,000,000) and with a population, according to the most recent federal decennial census, of less than twenty-five thousand may enact an ordinance imposing a municipal environmental services gross receipts tax on persons engaging in business in the municipality for the privilege of engaging in business; provided that:

(1) the rate of the tax imposed does not exceed one-half of one percent of the gross receipts of the person engaging in business;

(2) the tax is imposed in one-fourth of one percent increments; and

(3) the population, according to the most recent federal decennial census, of the municipality imposing the tax is:

(a) more than six thousand five hundred but less than seven thousand eight hundred; or

(b) more than one thousand five hundred but less than two thousand." _____

House Bill 257

Approved February 4, 2019

LAWS 2019, CHAPTER 18

AN ACT

RELATING TO WATER; ESTABLISHING THE ADVANCED MAPPING FUND;
PROVIDING FOR ADVANCED MAPPING BY THE STATE ENGINEER.

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

Chapter 18 Section 1 Laws 2019

SECTION 1. ADVANCED MAPPING FUND--CREATED.--

A. The "advanced mapping fund" is created in the state treasury. The fund consists of appropriations and donations from the state and federal governments, political subdivisions of the state or private entities, income from investment of the fund and money otherwise accruing to the fund. Money in the fund shall not revert to any other fund at the end of a fiscal year. The office of the state engineer shall administer the fund, and money in the fund is subject to appropriation by the legislature for advanced mapping by the state engineer. Money in the fund shall be disbursed on warrants signed by the secretary of finance and administration pursuant to vouchers signed by the state engineer or the state engineer's authorized representative.

B. As used in this section, "advanced mapping" means mapping that uses technologies such as light detection and ranging; underground aquifer mapping; high-resolution aerial photography; and three-dimensional mapping. _____

House Bill 276

Approved February 4, 2019

LAWS 2019, CHAPTER 19

AN ACT

RELATING TO HEALTH CARE; UPDATING PROVISIONS OF THE PROFESSIONAL
PSYCHOLOGIST ACT RELATING TO PRESCRIBING PSYCHOLOGISTS AND
PSYCHOLOGISTS WITH A CONDITIONAL PRESCRIPTION CERTIFICATE;
REPEALING A SECTION OF THE PROFESSIONAL PSYCHOLOGIST ACT TO
ELIMINATE THE PURPOSE SECTION; DECLARING AN EMERGENCY.

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

Chapter 19 Section 1 Laws 2019

SECTION 1. Section 61-9-3 NMSA 1978 (being Laws 1963, Chapter 92, Section 3, as amended) is amended to read:

"61-9-3. DEFINITIONS.--As used in the Professional Psychologist Act:

- A. "board" means the New Mexico state board of psychologist examiners;
- B. "conditional prescription certificate" means a document issued by the board to a licensed psychologist that permits the holder to prescribe psychotropic medication under the supervision of a supervising clinician pursuant to the Professional Psychologist Act;
- C. "independently licensed prescribing clinician" means a licensed physician, osteopathic physician, nurse practitioner, psychiatric nurse practitioner or clinical nurse specialist;
- D. "person" includes an individual, firm, partnership, association or corporation;
- E. "prescribing psychologist" means a licensed psychologist who holds a valid prescription certificate;
- F. "prescription certificate" means a document issued by the board to a licensed psychologist that permits the holder to prescribe psychotropic medication pursuant to the Professional Psychologist Act;
- G. "psychotropic medication" means a controlled substance or dangerous drug that may not be dispensed or administered without a prescription and whose primary indication for use has been approved by the federal food and drug administration for the treatment of mental disorders or is listed as a psychotherapeutic agent in *Drug Facts and Comparisons 2017*, or the most recent edition of that book, or in *American Hospital Formulary Service Drug Information*;
- H. "psychologist" means a person who engages in the practice of psychology or holds the person's self out to the public by any title or description of services representing the person as a psychologist, which incorporates the words "psychological", "psychologist", "psychology", or when a person describes the person's self as above and, under such title or description, offers to render or renders services involving the application of principles, methods and procedures of the science and profession of psychology to persons for compensation or other personal gain;

I. "practice of psychology" means the observation, description, evaluation, interpretation and modification of human behavior by the application of psychological principles, methods and procedures for the purpose of preventing or eliminating symptomatic, maladaptive or undesired behavior and of enhancing interpersonal relationships, work and life adjustment, personal effectiveness, behavioral health and mental health, and further means the rendering of such psychological services to individuals, families or groups regardless of whether payment is received for services rendered. The practice of psychology includes psychological testing or neuropsychological testing and the evaluation or assessment of personal characteristics such as intelligence, personality, abilities, interests, aptitudes and neuropsychological functioning; counseling, psychoanalysis, psychotherapy, hypnosis, biofeedback, behavior analysis and therapy; diagnosis and treatment of a mental and emotional disorder or disability, alcoholism and substance abuse, disorders of habit or conduct and the psychological aspects of physical illness, accident, injury and disability; and psychoeducational evaluation, therapy, remediation and consultation;

J. "school" or "college" means a university or other institution of higher education that is regionally accredited and that offers a full-time graduate course of study in psychology as defined by rule of the board or that is approved by the American psychological association; and

K. "supervising clinician" means a licensed physician, osteopathic physician, nurse practitioner, psychiatric nurse practitioner or clinical nurse specialist who is supervising a psychologist in the prescribing of psychotropic medication."

Chapter 19 Section 2 Laws 2019

SECTION 2. Section 61-9-10 NMSA 1978 (being Laws 1963, Chapter 92, Section 9, as amended) is amended to read:

"61-9-10. LICENSURE OF PSYCHOLOGISTS FROM OTHER AREAS--RECIPROCITY.--Subject to the provisions of Section 61-9-10.1 NMSA 1978, upon application accompanied by a fee as required by the Professional Psychologist Act, the board may, without written or oral examination, issue a license to a person who furnishes, upon a form and in such manner as the board prescribes, evidence satisfactory to the board that the person has been licensed or certified as a psychologist or prescribing psychologist by another state, a territorial possession of the United States, the District of Columbia or another country for a minimum of five years. An applicant seeking reciprocity shall demonstrate to the satisfaction of the board that the training and education received by the applicant is equivalent to the requirements for a doctoral degree in psychology as provided in the Professional Psychologist Act."

Chapter 19 Section 3 Laws 2019

SECTION 3. Section 61-9-13 NMSA 1978 (being Laws 1963, Chapter 92, Section 12, as amended) is amended to read:

"61-9-13. DENIAL, REVOCATION OR SUSPENSION OF LICENSE.--

A. The board, by an affirmative vote of at least five of its eight members, shall withhold, deny, revoke or suspend a psychologist or psychologist associate license issued or applied for in accordance with the provisions of the Professional Psychologist Act or otherwise discipline a licensed psychologist or psychologist associate upon proof that the applicant, licensed psychologist or psychologist associate:

(1) has been convicted of a felony or an offense involving moral turpitude, the record of conviction being conclusive evidence thereof;

(2) is using a drug, substance or alcoholic beverage to an extent or in a manner dangerous to the psychologist or psychologist associate, any other person or the public or to an extent that the use impairs the psychologist's or psychologist associate's ability to perform the work of a professional psychologist or psychologist associate with safety to the public;

(3) has impersonated another person holding a psychologist or psychologist associate license or allowed another person to use the psychologist's or psychologist associate's license;

(4) has used fraud or deception in applying for a license or in taking an examination provided for in the Professional Psychologist Act;

(5) has accepted commissions or rebates or other forms of remuneration for referring clients to other professional persons;

(6) has allowed the psychologist's or psychologist associate's name or license issued under the Professional Psychologist Act to be used in connection with a person who performs psychological services outside of the area of that person's training, experience or competence;

(7) is legally adjudicated insane or mentally incompetent, the record of such adjudication being conclusive evidence thereof;

(8) has willfully or negligently violated the provisions of the Professional Psychologist Act;

(9) has violated any code of conduct adopted by the board;

(10) has been disciplined by another state for acts similar to acts described in this subsection, and a certified copy of the record of discipline of the state imposing the discipline is conclusive evidence;

(11) is incompetent to practice psychology;

(12) has failed to furnish to the board or its representative information requested by the board;

(13) has abandoned patients or clients;

(14) has failed to report to the board adverse action taken against the licensee by:

(a) another licensing jurisdiction;

(b) a professional psychologist association of which the psychologist or psychologist associate is or has been a member;

(c) a government agency; or

(d) a court for actions or conduct similar to acts or conduct that would constitute grounds for action as described in this subsection;

(15) has failed to report to the board surrender of a license or other authorization to practice psychology in another jurisdiction or surrender of membership on a health care staff or in a professional association following a disciplinary investigation, or in lieu of or while under a disciplinary investigation, by any of those authorities for acts or conduct that would constitute grounds for action as defined in this subsection;

(16) has failed to adequately supervise a psychologist associate or a licensed psychologist holding a conditional prescription certificate;

(17) has employed abusive billing practices;

(18) has aided or abetted the practice of psychology by a person not licensed by the board; or

(19) uses conversion therapy on a minor.

B. A person who has been refused a license or whose license has been restricted or suspended under the provisions of this section may reapply for licensure after more than two years have elapsed from the date the restriction or suspension is terminated.

C. As used in this section:

(1) "conversion therapy" means any practice or treatment that seeks to change a person's sexual orientation or gender identity, including any effort to change behaviors or gender expressions or to eliminate or reduce sexual or romantic attractions or feelings toward persons of the same sex. "Conversion therapy" does not mean:

(a) counseling or mental health services that provide acceptance, support and understanding of a person without seeking to change gender identity or sexual orientation; or

(b) mental health services that facilitate a person's coping, social support, sexual orientation or gender identity exploration and development, including an intervention to prevent or address unlawful conduct or unsafe sexual practices, without seeking to change gender identity or sexual orientation;

(2) "gender identity" means a person's

self-perception, or perception of that person by another, of the person's identity as a male or female based upon the person's appearance, behavior or physical characteristics that are in accord with or opposed to the person's physical anatomy, chromosomal sex or sex at birth;

(3) "minor" means a person under eighteen years of age; and

(4) "sexual orientation" means heterosexuality, homosexuality or bisexuality, whether actual or perceived."

Chapter 19 Section 4 Laws 2019

SECTION 4. Section 61-9-17 NMSA 1978 (being Laws 1963, Chapter 92, Section 16, as amended) is amended to read:

"61-9-17. DRUGS--MEDICINES.--

A. Except as provided in Subsections B and C of this section, psychologists or psychologist associates shall not administer or prescribe drugs or medicine or in any manner engage in the practice of medicine as defined by the laws of this state.

B. A licensed psychologist holding a conditional prescription certificate may prescribe psychotropic medication under the supervision of a supervising clinician pursuant to the Professional Psychologist Act.

C. A prescribing psychologist may prescribe psychotropic medication pursuant to the Professional Psychologist Act."

Chapter 19 Section 5 Laws 2019

SECTION 5. Section 61-9-17.1 NMSA 1978 (being Laws 2002, Chapter 100, Section 6) is amended to read:

"61-9-17.1. ~~CONDITIONAL PRESCRIPTION CERTIFICATE--PRESCRIPTION CERTIFICATE--APPLICATION--REQUIREMENTS--RULEMAKING BY BOARD--ISSUANCE, DENIAL, RENEWAL AND REVOCATION OF CERTIFICATION.--~~

A. A psychologist may apply to the board for a conditional prescription certificate. The application shall be made on a form approved by the board and be accompanied by evidence satisfactory to the board that the applicant:

(1) has completed a doctoral program in psychology from an accredited institution of higher education or professional school, or, if the program was not accredited at the time of the applicant's graduation, that the program meets professional standards determined acceptable by the board;

(2) holds a current license to practice psychology in New Mexico;

(3) has successfully completed pharmacological training from an institution of higher education approved by the board and the New Mexico medical board or from a provider of continuing education approved by the board and the New Mexico medical board;

(4) has passed a national certification examination approved by the board and the New Mexico medical board that tests the applicant's knowledge of pharmacology in the diagnosis, care and treatment of mental disorders;

(5) within the five years immediately preceding the date of application, has successfully completed an organized program of education approved by the board

and the New Mexico medical board and consisting of didactic instruction of no fewer than four hundred fifty classroom hours in at least the following core areas of instruction:

- (a) neuroscience;
- (b) pharmacology;
- (c) psychopharmacology;
- (d) physiology;
- (e) pathophysiology;
- (f) appropriate and relevant physical and laboratory assessment;

and

- (g) clinical pharmacotherapeutics;

(6) within the five years immediately preceding the date of application, has been certified by each of the applicant's supervising independently licensed prescribing clinicians as having successfully completed a supervised and relevant clinical experience, approved by the board and the New Mexico medical board, of:

(a) no less than an eighty-hour practicum in clinical assessment and pathophysiology under the supervision of an independently licensed prescribing physician; and

(b) an additional supervised practicum of at least four hundred hours treating no fewer than one hundred patients with mental disorders, the practica to have been supervised by any one or a combination of a psychiatrist or other appropriately trained independently licensed prescribing physician and determined by the board and the New Mexico medical board to be sufficient to competently train the applicant in the treatment of a diverse patient population. One-to-one supervision shall be provided either face-to-face, telephonically or by video conference;

(7) has malpractice insurance in place, sufficient to satisfy the rules adopted by the board and the New Mexico medical board, that will cover the applicant during the period the conditional prescription certificate is in effect; and

(8) meets all other requirements, as determined by rule of the board, for obtaining a conditional prescription certificate.

B. The board shall issue a conditional prescription certificate if it finds that the applicant has met the requirements of Subsection A of this section. The certificate shall be valid for a period of two years, at the end of which the holder may again apply pursuant to the provisions of Subsection A of this section. A psychologist with a conditional prescription certificate may prescribe psychotropic medication under the supervision of a supervising clinician subject to the following conditions:

(1) the psychologist shall continue to hold a current license to practice psychology in New Mexico and continue to maintain malpractice insurance;

(2) the psychologist shall notify the board of the name of the psychologist's supervising clinician; and

(3) a supervising clinician shall notify the supervising clinician's own licensing board of the name of each psychologist under the supervising clinician's supervision.

C. A supervising clinician shall not be liable for the acts of a psychologist under the supervising clinician's supervision unless the injury or loss arises from those acts under the direction and control of the supervising clinician.

D. A psychologist may apply to the board for a prescription certificate. The application shall be made on a form approved by the board and be accompanied by evidence satisfactory to the board that the applicant:

(1) has been issued a conditional prescription certificate and has successfully completed two years of prescribing psychotropic medication as certified by the supervising clinician;

(2) has successfully undergone a process of independent peer review approved by the board and the New Mexico medical board;

(3) holds a current license to practice psychology in New Mexico;

(4) has malpractice insurance in place, sufficient to satisfy the rules adopted by the board, that will cover the applicant as a prescribing psychologist; and

(5) meets all other requirements, as determined by rule of the board, for obtaining a prescription certificate.

E. The board shall issue a prescription certificate if it finds that the applicant has met the requirements of Subsection D of this section. A psychologist with a

prescription certificate may prescribe psychotropic medication pursuant to the provisions of the Professional Psychologist Act if the psychologist:

(1) continues to hold a current license to practice psychology in New Mexico and continues to maintain malpractice insurance; and

(2) annually satisfies the continuing education requirements for prescribing psychologists, as set by the board, which shall be no fewer than twenty hours each year.

F. The board shall promulgate rules providing for the procedures to be followed in obtaining a conditional prescription certificate, a prescription certificate and renewals of a prescription certificate. The board may set reasonable application and renewal fees.

G. The board shall promulgate rules establishing the grounds for denial, suspension or revocation of conditional prescription certificates and prescription certificates authorized to be issued pursuant to this section, including a provision for suspension or revocation of a license to practice psychology upon suspension or revocation of a certificate. Actions of denial, suspension or revocation of a certificate shall be in accordance with the Uniform Licensing Act."

Chapter 19 Section 6 Laws 2019

SECTION 6. Section 61-9-17.2 NMSA 1978 (being Laws 2002, Chapter 100, Section 7) is amended to read:

"61-9-17.2. PRESCRIBING PRACTICES.--

A. A prescribing psychologist or a psychologist with a conditional prescription certificate may administer and prescribe psychotropic medication within the recognized scope of the profession, including the ordering and review of laboratory tests in conjunction with the prescription, for the treatment of mental disorders.

B. When prescribing psychotropic medication for a patient, the prescribing psychologist or the psychologist with a conditional prescription certificate shall maintain an ongoing collaborative relationship with the health care practitioner who oversees the patient's general medical care to ensure that necessary medical examinations are conducted, the psychotropic medication is appropriate for the patient's medical condition and significant changes in the patient's medical or psychological condition are discussed.

C. The ongoing collaborative relationship shall be maintained pursuant to guidelines developed by the board and the New Mexico medical board, which shall optimize patient care.

D. The guidelines shall ensure that the prescribing psychologist or the psychologist with a conditional prescription certificate and the health care practitioner coordinate, and collaborate on, the care of the patient to provide optimal care. Nothing in this subsection shall require a prescribing psychologist or psychologist with a conditional prescription certificate to give prior notice to or obtain prior approval from a health care practitioner to prescribe psychotropic medication to a patient with whom the prescribing psychologist has established a psychologist-patient relationship; provided that the psychologist provides written notice of the prescription to the health care practitioner within twenty-four hours of its issuance to such patient.

E. A committee composed of members of the board and the New Mexico medical board shall be established and, pursuant to the guidelines, shall evaluate complaints. The committee shall report its findings and recommendations to each board for each board's appropriate actions.

F. A prescription written by a prescribing psychologist or a psychologist with a conditional prescription certificate shall:

- (1) comply with applicable state and federal laws;
- (2) be identified as issued by the psychologist as "psychologist certified to prescribe"; and
- (3) include the psychologist's board-assigned identification number.

G. A prescribing psychologist or a psychologist with a conditional prescription certificate shall not delegate prescriptive authority to any other person. Records of all prescriptions shall be maintained in patient records.

H. When authorized to prescribe controlled substances, a prescribing psychologist or a psychologist with a conditional prescription certificate shall file with the board in a timely manner all individual federal drug enforcement administration registrations and numbers. The board and the New Mexico medical board shall maintain current records on every psychologist, including federal registrations and numbers.

I. The board shall provide to the board of pharmacy and the New Mexico medical board an annual list of prescribing psychologists and psychologists with

conditional prescription certificates that contains the information agreed upon between the board, the New Mexico medical board and the board of pharmacy. The board shall promptly notify the board of pharmacy of psychologists who are added to or deleted from the list.

J. For the purpose of this section:

(1) "collaborative relationship" means a cooperative working relationship between a prescribing psychologist or a psychologist with a conditional prescription certificate and a health care practitioner in the provision of patient care, including diagnosis and cooperation in the management and delivery of physical and mental health care; and

(2) "health care practitioner" means a physician, osteopathic physician, nurse practitioner, physician assistant or clinical nurse specialist."

Chapter 19 Section 7 Laws 2019

SECTION 7. A new section of the Nursing Practice Act is enacted to read:

"SUPERVISION OF PSYCHOLOGIST IN THE PRESCRIBING OF PSYCHOTROPIC MEDICATION BY NURSE PRACTITIONER OR CLINICAL NURSE SPECIALIST.--

A. Subject to rules promulgated by the board, a nurse practitioner or clinical nurse specialist may supervise a psychologist in the prescribing of psychotropic medication pursuant to the Professional Psychologist Act.

B. No later than January 1, 2020, the board shall promulgate regulations for a nurse practitioner or clinical nurse specialist who supervises a psychologist in the prescribing of psychotropic medication pursuant to the Professional Psychologist Act."

Chapter 19 Section 8 Laws 2019

SECTION 8. A new section of the Professional Psychologist Act is enacted to read:

"PRESCRIPTION MONITORING PROGRAM--BOARD TO PROMULGATE RULES.--By January 1, 2020, the board shall promulgate rules to carry out the provisions of the prescription monitoring program established by Section 26-1-16.1 NMSA 1978 insofar as that program applies to prescribing psychologists."

Chapter 19 Section 9 Laws 2019

SECTION 9. A new section of the Osteopathic Medicine Act is enacted to read:

"SUPERVISION OF PSYCHOLOGIST IN THE PRESCRIBING OF PSYCHOTROPIC MEDICATION BY OSTEOPATHIC PHYSICIAN.--

A. Subject to rules promulgated by the board, an osteopathic physician may supervise a psychologist in the prescribing of psychotropic medication pursuant to the Professional Psychologist Act.

B. No later than January 1, 2020, the board shall promulgate regulations for an osteopathic physician who supervises a psychologist in the prescribing of psychotropic medication pursuant to the Professional Psychologist Act."

Chapter 19 Section 10 Laws 2019

SECTION 10. REPEAL.--Section 61-9-2 NMSA 1978 (being Laws 1989, Chapter 41, Section 2) is repealed.

Chapter 19 Section 11 Laws 2019

SECTION 11. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately. _____

Senate Bill 9, w/ec

Approved February 4, 2019

LAWS 2019, CHAPTER 20

AN ACT

MAKING AN APPROPRIATION TO THE LOCAL GOVERNMENT PLANNING FUND.

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

Chapter 20 Section 1 Laws 2019

SECTION 1. APPROPRIATION.--Three million dollars (\$3,000,000) is appropriated from the public project revolving fund to the local government planning fund administered by the New Mexico finance authority for expenditure in fiscal year 2020 and subsequent fiscal years to make grants to qualified entities to evaluate and estimate the costs of implementing the most feasible alternatives for infrastructure, water or wastewater public projects or to develop water conservation plans, long-term master plans, economic development plans or energy audits and to pay the administrative costs of the local government planning program. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the public project revolving fund.

Chapter 20 Section 2 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.

Senate Bill 18

Approved February 4, 2019

LAWS 2019, CHAPTER 21

AN ACT

RELATING TO FOSTER CARE; REQUIRING A CHILD TAKEN INTO PROTECTIVE CUSTODY BY THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT TO BE PLACED WITH A RELATIVE OF THE CHILD WHEN A RELATIVE IS AVAILABLE TO PROVIDE FOSTER CARE; REQUIRING THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT TO MAKE REASONABLE EFFORTS TO LOCATE A RELATIVE OF THE CHILD TO PROVIDE FOSTER CARE; REQUIRING RELATIVES PROVIDING FOSTER CARE TO INITIATE LICENSING PROCEDURES WITHIN THREE DAYS OF ACCEPTING CUSTODY OF A CHILD.

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

Chapter 21 Section 1 Laws 2019

SECTION 1. Section 32A-3B-6 NMSA 1978 (being Laws 1993, Chapter 77, Section 78) is amended to read:

"32A-3B-6. PLACE OF CUSTODY.--

A. Unless a child from a family in need of services who has been placed in department custody is also alleged or adjudicated delinquent:

(1) the child shall not be held in a jail or other facility intended or used for the incarceration of adults charged with criminal offenses or for the detention of children alleged to be delinquent children; and

(2) there shall be a preference that the child be placed in the home of a relative of the child when a relative is available to provide foster care; provided that:

(a) placement with a relative is in the best interest of the child;

(b) the relative signs a sworn statement that the relative will not return the child to or allow unsupervised visits with the parent, guardian or custodian who is alleged to have committed the abuse or neglect until otherwise directed by the department or the court; and

(c) within three days of accepting custody of the child, the relative completes an application form for licensure to operate a foster home pursuant to the Children's Code.

B. The department shall make reasonable efforts to locate a relative of the child to provide foster care. If a relative is not available to provide foster care, the child may be placed in:

(1) a licensed foster home or any home authorized under the law for the provision of foster care or group care or use as a protective residence;

(2) a facility operated by a licensed child welfare services agency; or

(3) a facility provided for in the Children's Shelter Care Act."

Chapter 21 Section 2 Laws 2019

SECTION 2. Section 32A-4-8 NMSA 1978 (being Laws 1993, Chapter 77, Section 102) is amended to read:

"32A-4-8. PLACE OF TEMPORARY CUSTODY.--

A. Unless a child alleged to be neglected or abused is also alleged or adjudicated delinquent:

(1) the child shall not be held in a jail or other facility intended or used for the incarceration of adults charged with criminal offenses or for the detention of children alleged to be delinquent children; and

(2) there shall be a preference that the child be placed in the home of a relative of the child when a relative is available to provide foster care; provided that:

(a) placement with a relative is in the best interest of the child;

(b) the relative signs a sworn statement that the relative will not return the child to or allow unsupervised visits with the parent, guardian or custodian who is alleged to have committed the abuse or neglect, unless otherwise directed by the department or the court; and

(c) within three days of accepting custody of the child, the relative completes an application form for licensure to operate a foster home pursuant to the Children's Code.

B. The department shall make reasonable efforts to locate a relative of the child to provide foster care. If a relative is not available to provide foster care, the child may be placed in:

(1) a licensed foster home or any home authorized under the law for the provision of foster care or group care or use as a protective residence;

(2) a facility operated by a licensed child welfare services agency; or

(3) a facility provided for in the Children's Shelter Care

Act." _____

Senate Bill 28

Approved February 4, 2019

LAWS 2019, CHAPTER 22

AN ACT

RELATING TO HEALTH; ENACTING THE STUDENT DIABETES MANAGEMENT ACT TO PROVIDE FOR DIABETES MANAGEMENT BY STUDENTS AND SCHOOL PERSONNEL; PROVIDING FOR RULEMAKING, ENFORCEMENT AND PENALTIES.

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

Chapter 22 Section 1 Laws 2019

SECTION 1. SHORT TITLE.--This act may be cited as the "Student Diabetes Management Act".

Chapter 22 Section 2 Laws 2019

SECTION 2. DEFINITIONS.--As used in the Student Diabetes Management Act:

A. "diabetes" means type one or type two diabetes mellitus; complications related to diabetes mellitus; or prediabetes;

B. "diabetes care personnel" means a school employee who volunteers to be trained and is trained in accordance with Section 3 of the Student Diabetes Management Act;

C. "diabetes medical management plan" means a document that a student's personal health care practitioner and parent or guardian develops that sets out the health services that the student needs at school and that is signed by the student's health care practitioner and parent or guardian;

D. "governing body" means:

- (1) the school board of a school district;
- (2) the entity that governs a

state-chartered or locally chartered charter school; or

- (3) the entity that governs a private school;

E. "health care practitioner" means a person licensed to provide health care in the ordinary course of business;

F. "school" means an elementary, secondary, middle, junior high or high school or any combination of those, including a public school, state-chartered or locally chartered charter school or private school that students attend in person;

G. "school employee" means a person employed by a school, a person employed by the department of health or a local health department or by the public education department who is assigned to a school or a contractor designated to provide diabetes management services at a school pursuant to the Student Diabetes Management Act; and

H. "school nurse" means a person who:

(1) is a nurse who is authorized pursuant to the Nursing Practice Act to practice as a professional registered nurse;

(2) is licensed by the public education department and the board of nursing as a school nurse; and

(3) provides services as a school nurse at a school.

Chapter 22 Section 3 Laws 2019

SECTION 3. DIABETES CARE--DIABETES CARE PERSONNEL--TRAINING--IMMUNITY.--

A. By December 31, 2019 and in consultation with the American diabetes association, the department of health, the New Mexico school nurse's association and the juvenile diabetes research foundation, the secretary of public education shall adopt and promulgate rules for the training of school employees for the care of students with diabetes. These rules shall require each governing body to ensure that annual diabetes training programs are provided for all school nurses and diabetes care personnel. At a minimum, the training guidelines shall address:

(1) recognition and treatment of hypoglycemia and hyperglycemia;

(2) understanding the appropriate actions to take when blood glucose levels are outside of the target ranges indicated by a student's diabetes medical management plan;

(3) understanding health care practitioner instructions regarding diabetes medication drug dosage, frequency and manner of administration;

(4) performance of finger stick blood glucose testing and ketone testing and recording of results;

(5) the administration of glucagon and insulin and the recording of results;

(6) understanding how to administer glucagon and insulin through the insulin delivery system;

(7) recognizing diabetes-related complications that require emergency assistance; and

(8) as relates to students with diabetes, understanding recommended schedules and food intake for meals and snacks, the effect of physical activity upon blood glucose levels and actions to be implemented in the case of schedule disruption.

B. A governing body shall not require that diabetes care personnel be health care practitioners.

C. Each governing body shall ensure that the training established pursuant to Subsection A of this section is provided to a minimum of two school employees at each school attended by a student with diabetes. If at any time fewer than two school employees are available to be trained at a school, the principal or other school administrator shall distribute to all staff a written notice stating that the school is seeking volunteers to serve as diabetes care personnel. The notice shall inform staff of the following:

(1) the school is required to provide diabetes care to one or more students with diabetes and is seeking personnel willing to be trained to provide that care;

(2) the tasks to be performed by diabetes care personnel;

(3) that participation is voluntary and no school, school district or governing body will take action against any staff member who does not volunteer to be designated;

(4) that training will be provided to employees who volunteer to provide care; and

(5) the identity of the person whom staff should contact in order to volunteer to be diabetes care personnel.

D. The training required pursuant to Subsection A of this section shall be provided by:

- (1) a school nurse if the school has a school nurse; or
- (2) a health care practitioner with expertise in diabetes.

E. Each governing body shall ensure that the following training is provided on an annual basis to all school personnel who have primary responsibility for supervising a student with diabetes during some portion of the school day and to bus drivers responsible for the transportation of a student with diabetes:

- (1) recognition of hypoglycemia;
- (2) recognition of hyperglycemia; and
- (3) actions to take in response to diabetes related emergency situations.

Chapter 22 Section 4 Laws 2019

SECTION 4. DIABETES MEDICAL MANAGEMENT PLAN.--

A. The parent or guardian of each student with diabetes who seeks diabetes care while at school shall submit to the school a diabetes medical management plan.

B. Each school that receives a diabetes medical management plan shall review and implement the diabetes medical management plan.

Chapter 22 Section 5 Laws 2019

SECTION 5. SCHOOL DIABETES CARE.--

A. A governing body shall ensure that all students with diabetes receive appropriate and needed diabetes care as specified in students' diabetes medical management plans. In accordance with the request of a parent or guardian of a student with diabetes and the student's diabetes medical management plan, a school nurse or, in the absence of a school nurse, diabetes care personnel shall perform diabetes care functions that shall include, at a minimum:

- (1) checking and recording the student's blood glucose levels and ketone levels or assisting the student with checking and recording these levels;

- (2) responding to blood glucose levels that are outside of the student's target range;
- (3) administering glucagon and other emergency treatments as prescribed;
- (4) administering insulin or assisting a student in administering insulin through the insulin delivery system that the student uses;
- (5) providing oral diabetes medications; and
- (6) following instructions regarding meals, snacks and physical activity.

B. A school nurse or at least one diabetes care personnel shall be at each school where a student with diabetes is attending and shall be available to provide care to each student with diabetes as provided pursuant to Subsection A of this section during regular school hours and during all school-sponsored activities, trips, extended offsite excursions and extracurricular activities in which a student with diabetes is a participant and on buses where the bus driver has not been trained in diabetes care and a student with diabetes is a passenger.

Chapter 22 Section 6 Laws 2019

SECTION 6. APPLICATION OF OTHER LAWS.--

A. The provisions of Subsection A of Section 5 of the Student Diabetes Management Act shall not constitute the practice of nursing and shall be exempted from all applicable statutory or regulatory provisions that restrict what activities can be delegated to or performed by a person who is not a health care practitioner.

B. Nothing in the Student Diabetes Management Act shall diminish the rights of eligible students or the obligations of school districts under the federal Individuals with Disabilities Education Act, Section 504 of the federal Rehabilitation Act or the federal Americans with Disabilities Act of 1990.

Chapter 22 Section 7 Laws 2019

SECTION 7. SCHOOL ASSIGNMENT--DIABETES CARE PROVISION.--

A. Students with diabetes shall attend the school they would otherwise attend if they did not have diabetes, and the diabetes care specified in Subsection A of Section 5 of the Student Diabetes Management Act shall be provided at the student's school. A

governing body shall not restrict a student who has diabetes from attending any school on the basis that the student has diabetes, that the school does not have a full-time school nurse or that the school does not have trained diabetes care personnel.

B. A school shall not require or pressure parents or guardians to provide diabetes care for a student with diabetes at school or school-related activities.

Chapter 22 Section 8 Laws 2019

SECTION 8. DIABETES SELF-MANAGEMENT.--Upon the written request of a parent or guardian of a student with diabetes and authorization by the student's diabetes medical management plan, a student with diabetes shall be permitted to perform blood glucose checks, administer insulin through the insulin delivery system that the student uses, treat hypoglycemia and hyperglycemia and otherwise attend to the care and management of the student's diabetes in the classroom, in any area of the school or school grounds and at any school-related activity. A student with diabetes shall be permitted to possess on the student's person at all times all necessary supplies and equipment to perform these monitoring and treatment functions. If the student's parent or guardian or the student requests, the student shall have access to a private area for performing diabetes care tasks.

Chapter 22 Section 9 Laws 2019

SECTION 9. ENFORCEMENT.--

A. Governing bodies shall provide a report to the public education department by October 15, 2020 and by each October 15 thereafter. The report shall:

(1) state how many students with diabetes are attending schools in each school district; and

(2) provide documentation regarding the compliance of the school district with the provisions of the Student Diabetes Management Act.

B. By December 31, 2019, the secretary of public education shall establish by rule the format of the report required pursuant to Subsection A of this section and the criteria for documentation.

C. The public education department shall publish each report required pursuant to Subsection A of this section on its website by November 15, 2020 and by each November 15 thereafter.

D. Students with diabetes and their parents or guardians may bring an administrative complaint with the public education department against any school or governing body that fails to meet its obligations to train school personnel to provide diabetes care as provided in Section 3 of the Student Diabetes Management Act, to provide the diabetes care described in Section 5 of the Student Diabetes Management Act or to permit self-management of diabetes as outlined in Section 8 of the Student Diabetes Management Act. This right of action shall not alter or limit the remedies available under any other state or federal law, including Section 504 of the federal Rehabilitation Act, the federal Americans with Disabilities Act of 1990 and the federal Individuals with Disabilities Education Act.

Senate Bill 48, aa

Approved February 4, 2019

LAWS 2019, CHAPTER 23

AN ACT

RELATING TO STATE BUDGETS; PROVIDING THAT AN AGENCY SHALL IDENTIFY AND PRIORITIZE EVIDENCE-BASED, RESEARCH-BASED AND PROMISING SUB-PROGRAMS WITHIN ITS PERFORMANCE-BASED BUDGET REQUEST; PROVIDING THAT A BUDGET RECOMMENDATION SHALL IDENTIFY THE AMOUNT OF FUNDING THAT IS INTENDED FOR EVIDENCE-BASED, RESEARCH-BASED AND PROMISING SUB-PROGRAMS; ESTABLISHING A PROGRAM INVENTORY PROCEDURE.

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

Chapter 23 Section 1 Laws 2019

SECTION 1. Section 6-3A-1 NMSA 1978 (being Laws 1999, Chapter 5, Section 1 and Laws 1999, Chapter 15, Section 1) is amended to read:

"6-3A-1. SHORT TITLE.--Chapter 6, Article 3A NMSA 1978 may be cited as the "Accountability in Government Act"."

Chapter 23 Section 2 Laws 2019

SECTION 2. Section 6-3A-3 NMSA 1978 (being Laws 1999, Chapter 5, Section 3 and Laws 1999, Chapter 15, Section 3, as amended) is amended to read:

"6-3A-3. DEFINITIONS.--As used in the Accountability in Government Act:

- A. "agency" means a branch, department, institution, board, bureau, commission, district or committee of the state;
- B. "approved program" means a program included in an approved list of programs issued by the division pursuant to Section 6-3A-4 NMSA 1978;
- C. "baseline data" means the current level of a program's performance measures established pursuant to guidelines established by the division in consultation with the committee;
- D. "committee" means the legislative finance committee;
- E. "cost beneficial" means that the cost savings and benefits realized over a reasonable period of time are greater than the costs of implementation;
- F. "division" means the state budget division of the department of finance and administration;
- G. "evidence-based" means that a program or practice:
 - (1) incorporates methods demonstrated to be effective for the intended population through scientifically based research, including statistically controlled evaluations or randomized trials;
 - (2) can be implemented with a set of procedures to allow successful replication in New Mexico; and
 - (3) when possible, has been determined to be cost beneficial;
- H. "outcome" means the measurement of the actual impact or public benefit of a program;
- I. "output" means the measure of the volume of work completed or the level of actual services or products delivered by a program;

J. "performance-based program budget" means a budget that identifies a total allowed expenditure for a program and includes performance measures, performance standards and program evaluations;

K. "performance measure" means a quantitative or qualitative indicator used to assess the output or outcome of an approved program;

L. "performance target" means the expected level of performance of a program's performance measures;

M. "program" means a set of activities undertaken in accordance with a plan of action organized to realize identifiable goals and objectives based on legislative authorization;

N. "promising" means that a program or practice, based on statistical analyses or preliminary research, presents potential for becoming research-based or evidence-based;

O. "research-based" means that a program or practice has some research demonstrating effectiveness, but does not yet meet the standard of evidence-based; and

P. "sub-program" means a set of discrete uniquely identifiable activities undertaken in accordance with a plan of action organized to realize identifiable goals within an approved program."

Chapter 23 Section 3 Laws 2019

SECTION 3. Section 6-3A-7 NMSA 1978 (being Laws 1999, Chapter 5, Section 7 and Laws 1999, Chapter 15, Section 7, as amended) is amended to read:

"6-3A-7. PERFORMANCE-BASED PROGRAM BUDGET REQUESTS.--

A. The division, in consultation with the committee, shall develop instructions for those agencies required to submit performance-based program budget requests. The instructions shall be sent to the agencies on or before June 15 of each year and shall be in addition to any other forms required by Section 6-3-18 NMSA 1978. The instructions shall require that performance-based program budget requests contain the following:

(1) a summary of each approved program, including a justification for the program;

(2) for each approved program, an evaluation of the agency's progress in meeting the performance targets. The evaluation shall be developed as prescribed in the budget instructions;

(3) for each approved program, the outputs, outcomes, baseline data, performance measures and historic and proposed performance targets;

(4) if a performance audit has been conducted on an approved program during either the present or any of the immediately preceding two fiscal years, any responses that the agency may have to the audit and any actions that the agency has taken as a result of the audit;

(5) the results of the program inventory pursuant to Section 5 of this 2019 act and a summary of how the agency has prioritized evidence-based, research-based or promising sub-programs within its performance-based program budget request; and

(6) any other information that the division believes may be useful to the division or the legislature in developing a budget for the agency.

B. On or before September 1 of each year, each agency shall submit a performance-based program budget request to the division and the committee in the form and manner prescribed in the budget instructions. Budget requests submitted pursuant to this section shall be in lieu of those required by Section 6-3-19 NMSA 1978."

Chapter 23 Section 4 Laws 2019

SECTION 4. Section 6-3A-8 NMSA 1978 (being Laws 1999, Chapter 5, Section 8 and Laws 1999, Chapter 15, Section 8, as amended) is amended to read:

"6-3A-8. PERFORMANCE-BASED PROGRAM BUDGETS.--

A. For each agency, the governor's proposed budget submitted pursuant to Section 6-3-21 NMSA 1978 and the committee's budget recommendation pursuant to Section 2-5-4 NMSA 1978 shall contain:

- (1) a budget recommendation for each approved program;
- (2) a summary, including the outputs and outcomes, of each approved program;

- (3) performance measures and performance targets for each approved program;
- (4) an evaluation of the performance of each approved program;
- (5) the amount of the budget recommendation that is intended for evidence-based, research-based and promising sub-programs; and
- (6) any other criteria deemed relevant by the governor or the committee.

B. For each agency, the governor's proposed budget submitted pursuant to Section 6-3-21 NMSA 1978 and the committee's budget recommendation pursuant to Section 2-5-4 NMSA 1978 may contain recommendations regarding incentives or disincentives for agency performance and implementation of evidence-based, research-based or promising sub-programs. Incentives or disincentives may apply to all or part of an agency and may apply to any or all of an agency's approved programs.

C. Pursuant to Section 6-3-7 NMSA 1978, the division shall prescribe forms and approve operating budgets for agencies funded by performance-based program budgets; however, the division shall not take any action that hinders an agency from operating under a performance-based appropriation or that is otherwise inconsistent with the purposes of the Accountability in Government Act. Notwithstanding the provisions of Sections 6-3-23 through 6-3-25 NMSA 1978, and absent specific authorization in the general appropriation act or other act of the legislature, no funds may be transferred either into or out of a performance-based program budget.

D. Each agency shall develop, in consultation with the division, a plan for monitoring and reviewing the agency's programs to ensure that performance data are maintained and supported by agency records."

Chapter 23 Section 5 Laws 2019

SECTION 5. A new section of the Accountability in Government Act is enacted to read:

"PROGRAM INVENTORY.--The division and the committee shall approve a list of programs to inventory on or before June 15 of each year. The division shall send to each agency required to submit a performance-based program budget request a notification identifying the programs that have been selected for the inventory. The notification shall set forth the process for completing and submitting the program inventory and shall direct each agency to:

A. identify each sub-program as evidence-based, research-based, promising or lacking evidence of effectiveness; and

B. compile an inventory that includes for each sub-program:

- (1) the goals and objectives of the sub-program;
- (2) current and historical budget and spending data;
- (3) the target population to be served;
- (4) the number of persons served annually;
- (5) any outcome data that demonstrate efficiency and effectiveness;
- (6) any data demonstrating that the

sub-program has proven cost beneficial in New Mexico or that the sub-program is likely to be cost beneficial in New Mexico; and

(7) the results of any evaluations or audits of the sub-program." _____

Senate Bill 58

Approved February 4, 2019

LAWS 2019, CHAPTER 24

AN ACT

RELATING TO LANDOWNER LIABILITY; LIMITING LIABILITY OF LANDOWNERS PERMITTING PERSONS TO EXPLORE CAVES ON PRIVATE PROPERTY.

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

Chapter 24 Section 1 Laws 2019

SECTION 1. Section 17-4-7 NMSA 1978 (being Laws 1967, Chapter 6, Section 1, as amended) is amended to read:

"17-4-7. LIABILITY OF LANDOWNER PERMITTING PERSONS TO HUNT, FISH OR USE LANDS FOR RECREATION--DUTY OF CARE--EXCEPTIONS.--

A. Any owner, lessee or person in control of lands who, without charge or other consideration, other than a consideration paid to the landowner by the state, the federal government or any other governmental agency, grants permission to any person or group to use the owner's, lessee's or land controller's lands for the purpose of hunting, fishing, trapping, camping, hiking, sightseeing, the operation of aircraft, cave exploring or any other recreational use does not thereby:

- (1) extend any assurance that the premises are safe for such purpose;
- (2) assume any duty of care to keep such lands safe for entry or use;
- (3) assume responsibility or liability for any injury or damage to or caused by such person or group; or
- (4) assume any greater responsibility, duty of care or liability to such person or group than if permission had not been granted and the person or group were trespassers.

B. This section shall not limit the liability of any landowner, lessee or person in control of lands that may otherwise exist by law for injuries to any person granted permission to hunt, fish, trap, camp, hike, sightsee, operate aircraft, explore caves or use the land for recreation in exchange for a consideration, other than a consideration paid to the landowner by the state, the federal government or any other governmental agency.

C. For the purposes of this section, "cave" means a natural, geologically formed void or cavity beneath the surface of the earth, but does not mean a mine, tunnel, aqueduct or other manmade excavation." _____

Senate Bill 77

Approved February 4, 2019

LAWS 2019, CHAPTER 25

AN ACT

RELATING TO TAXATION; REMOVING AN EXEMPTION FOR CERTAIN SHORT-TERM OCCUPANCY RENTALS FROM THE OCCUPANCY TAX.

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

Chapter 25 Section 1 Laws 2019

SECTION 1. Section 3-38-16 NMSA 1978 (being Laws 1969, Chapter 199, Section 4, as amended) is amended to read:

"3-38-16. EXEMPTIONS.--The occupancy tax shall not apply:

A. if a vendee:

(1) has been a permanent resident of the taxable premises for a period of at least thirty consecutive days; or

(2) enters into or has entered into a written agreement for lodgings at the taxable premises for a period of at least thirty consecutive days;

B. if the rent paid by a vendee is less than two dollars (\$2.00) a day;

C. to lodging accommodations at institutions of the federal government, the state or any political subdivision thereof;

D. to lodging accommodations at religious, charitable, educational or philanthropic institutions, including accommodations at summer camps operated by such institutions;

E. to clinics, hospitals or other medical facilities; or

F. to privately owned and operated convalescent homes or homes for the aged, infirm, indigent or chronically ill."

Chapter 25 Section 2 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2020. _____

Senate Bill 106, aa

Approved February 4, 2019

LAWS 2019, CHAPTER 26

AN ACT

MAKING AN APPROPRIATION FOR WASTEWATER SYSTEM FINANCING.

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

Chapter 26 Section 1 Laws 2019

SECTION 1. APPROPRIATION.--One million five hundred thousand dollars (\$1,500,000) is appropriated from the public project revolving fund to the wastewater facility construction loan fund for expenditure in fiscal year 2020 and subsequent fiscal years to provide state matching funds for federal Clean Water Act of 1977 projects and to carry out the purposes of the Wastewater Facility Construction Loan Act. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the public project revolving fund.

Chapter 26 Section 2 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

Senate Bill 117

Approved February 4, 2019

LAWS 2019, CHAPTER 27

AN ACT

RELATING TO PUBLIC RECORDS; PROTECTING THE CONFIDENTIALITY OF CERTAIN VICTIMS OF AND WITNESSES TO CERTAIN CRIMES.

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

Chapter 27 Section 1 Laws 2019

SECTION 1. Section 14-2-1 NMSA 1978 (being Laws 1947, Chapter 130, Section 1, as amended) is amended to read:

"14-2-1. RIGHT TO INSPECT PUBLIC RECORDS--EXCEPTIONS.-- Every person has a right to inspect public records of this state except:

A. records pertaining to physical or mental examinations and medical treatment of persons confined to an institution;

B. letters of reference concerning employment, licensing or permits;

C. letters or memoranda that are matters of opinion in personnel files or students' cumulative files;

D. portions of law enforcement records that reveal:

(1) confidential sources, methods or information; or

(2) before charges are filed, names of individuals who are:

(a) accused but not charged with a crime; or

(b) victims of or non-law-enforcement witnesses to an alleged crime of: 1) assault with intent to commit a violent felony pursuant to Section 30-3-3 NMSA 1978 when the violent felony is criminal sexual penetration; 2) assault against a household member with intent to commit a violent felony pursuant to Section 30-3-14 NMSA 1978 when the violent felony is criminal sexual penetration; 3) stalking pursuant to Section 30-3A-3 NMSA 1978; 4) aggravated stalking pursuant to Section 30-3A-3.1 NMSA 1978; 5) criminal sexual penetration pursuant to Section 30-9-11 NMSA 1978; or 6) criminal sexual contact pursuant to Section 30-9-12 NMSA 1978.

Law enforcement records include evidence in any form received or compiled in connection with a criminal investigation or prosecution by a law enforcement or prosecuting agency, including inactive matters or closed investigations to the extent that they contain the information listed in this subsection; provided that the presence of such information on a law enforcement record does not exempt the record from inspection;

E. as provided by the Confidential Materials Act;

F. trade secrets, attorney-client privileged information and long-range or strategic business plans of public hospitals discussed in a properly closed meeting;

G. tactical response plans or procedures prepared for or by the state or a political subdivision of the state, the publication of which could reveal specific vulnerabilities, risk assessments or tactical emergency security procedures that could be used to facilitate the planning or execution of a terrorist attack; and

H. as otherwise provided by law."

Chapter 27 Section 2 Laws 2019

SECTION 2. A new section of the Inspection of Public Records Act, Section 14-2-1.1 NMSA 1978, is enacted to read:

"14-2-1.1. PERSONAL IDENTIFIER INFORMATION.--Protected personal identifier information contained in public records may be redacted by a public body before inspection or copying of a record. The presence of protected personal identifier information on a record does not exempt the record from inspection. Unredacted records that contain protected personal identifier information shall not be made available on publicly accessible websites operated by or managed on behalf of a public body." _____

Senate Bill 118, aa

Approved February 4, 2018

LAWS 2019, CHAPTER 28

AN ACT

RELATING TO HEALTH CARE; AMENDING A SECTION OF THE EMERGENCY MEDICAL SERVICES ACT TO REQUIRE COORDINATION WITH LOCAL AND REGIONAL EMERGENCY MEDICAL SERVICES ON THE DEVELOPMENT AND IMPLEMENTATION OF ST SEGMENT ELEVATION MYOCARDIAL INFARCTION TRIAGE AND TRANSPORT PLANS.

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

Chapter 28 Section 1 Laws 2019

SECTION 1. Section 24-10B-13 NMSA 1978 (being Laws 2013, Chapter 6, Section 1) is amended to read:

"24-10B-13. CERTIFICATION OF STEMI RECEIVING AND REFERRING CENTERS.--

A. As used in this section, "STEMI" means ST segment elevation myocardial infarction.

B. In accordance with department rules, the department shall certify an acute care hospital as a STEMI receiving center or STEMI referring center if that hospital has been accredited as a STEMI receiving center or STEMI referring center by a nationally recognized organization that provides STEMI receiving or referring accreditation.

C. The department shall post information regarding certification on the department's website. The department shall coordinate with local and regional emergency medical services on the development and implementation of triage and transport plans for STEMI patients.

D. If a hospital loses its national accreditation as a STEMI receiving center or STEMI referring center, the secretary shall revoke the hospital's certification.

E. The secretary may adopt rules:

(1) relating to STEMI certification and revocation of certification by the department; and

(2) to assist and encourage STEMI receiving centers to enter into coordinated STEMI care agreements with STEMI referring centers and other health care facilities throughout the state to provide appropriate access to care for acute heart attack patients." _____

Senate Bill 145, aa

Approved February 4, 2019

LAWS 2019, CHAPTER 29

AN ACT

RELATING TO EXECUTIVE REORGANIZATION; RENAMING THE ALCOHOL AND GAMING DIVISION; UPDATING STATUTORY REFERENCES; PROVIDING FOR TRANSFERS.

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

Chapter 29 Section 1 Laws 2019

SECTION 1. Section 9-16-4 NMSA 1978 (being Laws 1983, Chapter 297, Section 20, as amended) is amended to read:

"9-16-4. DEPARTMENT ESTABLISHED.--The "regulation and licensing department" is created in the executive branch. The department shall not be a cabinet department. The department shall consist of but not be limited to the following divisions:

- A. the administrative services division;
- B. the construction industries division;
- C. the financial institutions division;
- D. the securities division;
- E. the manufactured housing division; and
- F. the alcoholic beverage control division."

Chapter 29 Section 2 Laws 2019

SECTION 2. Section 60-3A-3 NMSA 1978 (being Laws 1981, Chapter 39, Section 3, as amended by Laws 2016, Chapter 73, Section 1 and by Laws 2016, Chapter 76, Section 1) is amended to read:

"60-3A-3. DEFINITIONS.--As used in the Liquor Control Act:

A. "alcoholic beverages" means distilled or rectified spirits, potable alcohol, powdered alcohol, frozen or freeze-dried alcohol, brandy, whiskey, rum, gin and aromatic bitters bearing the federal internal revenue strip stamps or any similar alcoholic beverage, including blended or fermented beverages, dilutions or mixtures of one or

more of the foregoing containing more than one-half percent alcohol, but excluding medicinal bitters;

B. "beer" means an alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt and hops or other cereals in water, and includes porter, beer, ale and stout;

C. "brewer" means a person who owns or operates a business for the manufacture of beer;

D. "cider" means an alcoholic beverage made from the normal alcoholic fermentation of the juice of sound, ripe apples that contains not less than one-half of one percent alcohol by volume and not more than seven percent alcohol by volume;

E. "club" means:

(1) any nonprofit group, including an auxiliary or subsidiary group, organized and operated under the laws of this state, with a membership of not less than fifty members who pay membership dues at the rate of not less than five dollars (\$5.00) per year and who, under the constitution and bylaws of the club, have all voting rights and full membership privileges, and which group is the owner, lessee or occupant of premises used exclusively for club purposes and which group the director finds:

(a) is operated solely for recreation, social, patriotic, political, benevolent or athletic purposes; and

(b) has been granted an exemption by the United States from the payment of the federal income tax as a club under the provisions of Section 501(a) of the Internal Revenue Code of 1986, as amended, or, if the applicant has not operated as a club for a sufficient time to be eligible for the income tax exemption, it must execute and file with the director a sworn letter of intent declaring that it will, in good faith, apply for an income tax exemption as soon as it is eligible; or

(2) an airline passenger membership club operated by an air common carrier that maintains or operates a clubroom at an international airport terminal. As used in this paragraph, "air common carrier" means a person engaged in regularly scheduled air transportation between fixed termini under a certificate of public convenience and necessity issued by the federal aviation administration;

F. "commission" means the secretary of public safety when the term is used in reference to the enforcement and investigatory provisions of the Liquor Control Act and

means the superintendent of regulation and licensing when the term is used in reference to the licensing provisions of the Liquor Control Act;

G. "department" means the New Mexico state police division of the department of public safety when the term is used in reference to the enforcement and investigatory provisions of the Liquor Control Act and means the director of the alcoholic beverage control division of the regulation and licensing department when the term is used in reference to the licensing provisions of the Liquor Control Act;

H. "director" means the chief of the New Mexico state police division of the department of public safety when the term is used in reference to the enforcement and investigatory provisions of the Liquor Control Act and means the director of the alcoholic beverage control division of the regulation and licensing department when the term is used in reference to the licensing provisions of the Liquor Control Act;

I. "dispenser" means a person licensed under the provisions of the Liquor Control Act selling, offering for sale or having in the person's possession with the intent to sell alcoholic beverages both by the drink for consumption on the licensed premises and in unbroken packages, including growlers, for consumption and not for resale off the licensed premises;

J. "distiller" means a person engaged in manufacturing spirituous liquors;

K. "golf course" means a tract of land and facilities used for playing golf and other recreational activities that includes tees, fairways, greens, hazards, putting greens, driving ranges, recreational facilities, patios, pro shops, cart paths and public and private roads that are located within the tract of land;

L. "governing body" means the board of county commissioners of a county or the city council or city commissioners of a municipality;

M. "growler" means a clean, refillable, resealable container that has a liquid capacity that does not exceed one gallon and that is intended and used for the sale of beer, wine or cider for consumption off premises;

N. "hotel" means an establishment or complex having a resident of New Mexico as a proprietor or manager and where, in consideration of payment, meals and lodging are regularly furnished to the general public. The establishment or complex must maintain for the use of its guests a minimum of twenty-five sleeping rooms;

O. "licensed premises" means the contiguous areas or areas connected by indoor passageways of a structure and the outside dining, recreation and lounge areas

of the structure and the grounds and vineyards of a structure that is a winery that are under the direct control of the licensee and from which the licensee is authorized to sell, serve or allow the consumption of alcoholic beverages under the provisions of its license; provided that in the case of a restaurant, "licensed premises" includes a restaurant that has operated continuously in two separate structures since July 1, 1987 and that is located in a local option district that has voted to disapprove the transfer of liquor licenses into that local option district, hotel, golf course, ski area or racetrack and all public and private rooms, facilities and areas in which alcoholic beverages are sold or served in the customary operating procedures of the restaurant, hotel, golf course, ski area or racetrack. "Licensed premises" also includes rural dispenser licenses located in the unincorporated areas of a county with a population of less than thirty thousand, located in buildings in existence as of January 1, 2012, that are within one hundred fifty feet of one another and that are under the direct control of the license holder;

P. "local option district" means a county that has voted to approve the sale, serving or public consumption of alcoholic beverages, or an incorporated municipality that falls within a county that has voted to approve the sale, serving or public consumption of alcoholic beverages, or an incorporated municipality of over five thousand population that has independently voted to approve the sale, serving or public consumption of alcoholic beverages under the terms of the Liquor Control Act or any former act;

Q. "manufacturer" means a distiller, rectifier, brewer or winer;

R. "minor" means a person under twenty-one years of age;

S. "package" means an immediate container of alcoholic beverages that is filled or packed by a manufacturer or wine bottler for sale by the manufacturer or wine bottler to wholesalers;

T. "person" means an individual, corporation, firm, partnership, copartnership, association or other legal entity;

U. "rectifier" means a person who blends, mixes or distills alcohol with other liquids or substances for the purpose of making an alcoholic beverage for the purpose of sale other than to the consumer by the drink, and includes all bottlers of spirituous liquors;

V. "restaurant" means an establishment having a New Mexico resident as a proprietor or manager that is held out to the public as a place where meals are prepared and served primarily for on-premises consumption to the general public in consideration

of payment and that has a dining room, a kitchen and the employees necessary for preparing, cooking and serving meals; provided that "restaurant" does not include establishments as defined in rules promulgated by the director serving only hamburgers, sandwiches, salads and other fast foods;

W. "retailer" means a person licensed under the provisions of the Liquor Control Act selling, offering for sale or having in the person's possession with the intent to sell alcoholic beverages in unbroken packages, including growlers, for consumption and not for resale off the licensed premises;

X. "ski area" means a tract of land and facilities for the primary purpose of alpine skiing, snowboarding or other snow sports with trails, parks and at least one chairlift with uphill capacity and may include facilities necessary for other seasonal or year-round recreational activities;

Y. "spirituous liquors" means alcoholic beverages as defined in Subsection A of this section except fermented beverages such as wine, beer and ale;

Z. "wholesaler" means a person whose place of business is located in New Mexico and who sells, offers for sale or possesses for the purpose of sale any alcoholic beverages for resale by the purchaser;

AA. "wine" includes the words "fruit juices" and means alcoholic beverages obtained by the fermentation of the natural sugar contained in fruit or other agricultural products, with or without the addition of sugar or other products, that do not contain less than one-half percent nor more than twenty-one percent alcohol by volume;

BB. "wine bottler" means a New Mexico wholesaler who is licensed to sell wine at wholesale for resale only and who buys wine in bulk and bottles it for wholesale resale;

CC. "winegrower" means a person who owns or operates a business for the manufacture of wine;

DD. "winer" means a winegrower; and

EE. "winery" means a facility in which a winegrower manufactures and stores wine."

Chapter 29 Section 3 Laws 2019

SECTION 3. Section 60-3A-7 NMSA 1978 (being Laws 1987, Chapter 254, Section 25, as amended) is amended to read:

"60-3A-7. AUTHORITY OF THE ALCOHOLIC BEVERAGE CONTROL DIVISION.--The alcoholic beverage control division of the regulation and licensing department has the authority over all matters relating to the issuance, denial, suspension or revocation of licenses under the Liquor Control Act. The director of the division may request the department of public safety to provide investigatory and enforcement support as deemed necessary."

Chapter 29 Section 4 Laws 2019

SECTION 4. Section 60-3A-8 NMSA 1978 (being Laws 2001, Chapter 86, Section 5) is amended to read:

"60-3A-8. POWERS AND DUTIES OF THE DIRECTOR OF THE ALCOHOLIC BEVERAGE CONTROL DIVISION.--The director of the alcoholic beverage control division of the regulation and licensing department is responsible for the operation of the division. It is the director's duty to supervise all operations of the division and to:

A. administer the laws that the division administers, including the Liquor Control Act. The director shall request the department of public safety to enforce the provisions of the Liquor Control Act as deemed necessary;

B. exercise general supervisory authority over all employees of the division;

C. organize the division into units to enable it to function most effectively;

D. confer authority and delegate responsibility as is necessary and appropriate;

E. employ, within the limitations of current appropriations and personnel laws, persons as are required to discharge the director's duties;

F. undertake studies and conduct courses of instruction for division employees that will improve the operations of the division and advance its purposes; and

G. require compliance by employees of the division with the director's verbal and written instructions by whatever disciplinary means appropriate."

Chapter 29 Section 5 Laws 2019

SECTION 5. TEMPORARY PROVISION--TRANSFERS OF PROPERTY, CONTRACTUAL OBLIGATIONS AND STATUTORY REFERENCES.--On the effective date of this act, all:

A. functions, personnel, appropriations, money, records, furniture, equipment and other property of the alcohol and gaming division of the regulation and licensing department are transferred to the alcoholic beverage control division of that department;

B. contractual obligations of the alcohol and gaming division of the regulation and licensing department shall be deemed to be references to the alcoholic beverage control division of that department; and

C. references in law to the alcohol and gaming division of the regulation and licensing department shall be deemed to be references to the alcoholic beverage control division of that department. _____

Senate Bill 149

Approved February 4, 2019

LAWS 2019, CHAPTER 30

AN ACT

RELATING TO HOMEOWNER ASSOCIATIONS; AMENDING DISCLOSURE REQUIREMENTS; ALLOWING ALTERNATIVE DISPUTE RESOLUTION TO RESOLVE CERTAIN DISAGREEMENTS RELATED TO HOMEOWNER ASSOCIATIONS; BROADENING THE APPLICABILITY OF THE HOMEOWNER ASSOCIATION ACT; ADDING A PENALTY.

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

Chapter 30 Section 1 Laws 2019

SECTION 1. Section 47-16-2 NMSA 1978 (being Laws 2013, Chapter 122, Section 2) is amended to read:

"47-16-2. DEFINITIONS.--As used in the Homeowner Association Act:

A. "articles of incorporation" means the articles of incorporation, and all amendments thereto, of an association on record in the office of the county clerk in the county or counties in which the association is located;

B. "association" means a homeowner association;

C. "board" means the body, regardless of name, designated in the declaration or bylaws to act on behalf of the association;

D. "bylaws" means the code of rules adopted for the regulation or management of the affairs of the association, irrespective of the name by which such rules are designated;

E. "common area" means property within a development that is designated as a common area in the declaration and is required by the declaration to be maintained or operated by an association for use of the association's members;

F. "common expenses" means expenditures made by, or the financial liabilities of, the association, together with any allocations to reserves;

G. "community documents" means all documents governing the use of the lots and the creation and operation of the association, including the declaration, bylaws, articles of incorporation and rules of the association;

H. "conflict of interest" means that a person accepts or is a beneficiary of a fee, brokerage, gift or other thing of value, other than a fixed salary or compensation, as consideration for an investment, loan, deposit, purchase, sale, exchange, insurance, reinsurance or other transaction made by or for the association, an officer of the board or the board; or that a person is financially interested in any capacity in a transaction for the association, except on behalf of the association, an officer of the board or the board;

I. "declarant" means the person or group of persons designated in a declaration as declarant or, if no declarant is designated, the person or group of persons who sign the declaration and their successors or assigns who may submit property to a declaration;

J. "declaration" means an instrument, however denominated, including amendments or supplements to the instrument, that:

(1) imposes on the association maintenance or operational responsibilities for common areas, easements or portions of rights of way; and

(2) creates the authority in the association to impose on lots or on the owners or occupants of such lots, or on any other entity, any mandatory payment of money in connection with the provision of maintenance or services for the benefit of some or all of the lots, the owners or occupants of the lots or the common areas. "Declaration" does not include a like instrument for a condominium or time-share project;

K. "development" means real property subject to a declaration that contains residential lots and common areas with respect to which any person, by virtue of ownership of a lot, is a member of an association and is obligated to pay assessments provided for in a declaration;

L. "development right" means a right or combination of rights reserved by the declarant in a declaration;

M. "disclosure certificate" or "disclosure statement" means:

(1) a statement disclosing the existence and terms of any right of first refusal or other restraint on the free alienability of the lot;

(2) a statement setting forth the amount of the monthly common expense assessment and any unpaid common expense or special assessment currently due and payable from the selling lot owner;

(3) a statement of any other fees payable by lot owners;

(4) a statement of any capital expenditures anticipated by the association and approved by the board for the current fiscal year and the two next succeeding fiscal years;

(5) a statement of the amount of any reserves for capital expenditures and of any portions of those reserves designated by the association for any approved projects;

(6) the most recent regularly prepared balance sheet and income and expense statement, if any, of the association;

(7) the current operating budget of the association;

(8) a statement of any unsatisfied judgments or pending suits against the association and the status of any pending suits material to the association of which the association has actual knowledge;

(9) a statement describing any insurance coverage provided for the benefit of lot owners and the board of the association;

(10) if applicable, a statement stating that the records of the association reflect alterations or improvements to the lot that violate the declaration;

(11) a statement of the remaining term of any leasehold estate affecting the association and the provisions governing any extension or renewal thereof; and

(12) the contact person and contact information for the association;

N. "homeowner association" means an incorporated or unincorporated entity upon which maintenance and operational responsibilities are imposed and to which authority is granted in the declaration;

O. "lot" means a parcel of land designated for separate ownership or occupancy shown on a recorded subdivision plat for a development or the boundaries of which are described in the declaration or in a recorded instrument referred to or expressly contemplated by the declaration, other than a common area;

P. "lot owner" means a person or group of persons holding title to a lot, including a declarant;

Q. "master planned community" means a large-scale residential development that allows for a phasing of development that will take place over a long period of time, following comprehensive and coordinated planning review by a local government and approval of design and development standards beyond conventionally platted subdivisions; provided that additional design and development standards approved by the local government shall be included in a site plan, area plan or master plan as required by the local government approving the development; and

R. "proxy" means a person authorized to act for another."

Chapter 30 Section 2 Laws 2019

SECTION 2. Section 47-16-5 NMSA 1978 (being Laws 2013, Chapter 122, Section 5) is amended to read:

"47-16-5. RECORD DISCLOSURE TO MEMBERS--UPDATED INFORMATION.--

A. All financial and other records of the association shall be made available during regular business hours for examination by a lot owner within ten business days of a written request.

B. The association shall not charge a fee for making financial and other records available for review. The association may charge a fee of not more than ten cents (\$.10) per page for copies.

C. As used in this section, "financial and other records" includes:

- (1) the declaration of the association;
- (2) the name, address and telephone number of the association's designated agent;
- (3) the bylaws of the association;
- (4) the names and addresses of all association members;
- (5) minutes of all meetings of the association's lot owners and board for the previous five years, other than executive sessions, and records of all actions taken by a committee in place of the board or on behalf of the association for the previous five years;
- (6) the operating budget for the current fiscal year;
- (7) current assessments, including both regular and special assessments;
- (8) financial statements and accounts, including bank account statements, transaction registers, association-provided service or utility records and amounts held in reserve;
- (9) the most recent financial audit or review, if any;
- (10) all current contracts entered into by the association or the board on behalf of the association;
- (11) current insurance policies, including company names, policy limits, deductibles, additional named insureds and expiration dates for property, general liability and association director and officer professional liability, and fidelity policies; and

(12) any electronic record of action taken by the board.

D. The failure of an association to provide access to the financial and other records within ten business days after receipt of a written request creates a rebuttable presumption that the association willfully failed to comply with the Homeowner Association Act. A lot owner that is denied access to financial and other records is entitled to the greater of the actual damages incurred for the association's willful failure to comply with this subsection or fifty dollars (\$50.00) per calendar day, starting on the eleventh business day after the association's receipt of the written request."

Chapter 30 Section 3 Laws 2019

SECTION 3. Section 47-16-7 NMSA 1978 (being Laws 2013, Chapter 122, Section 7) is amended to read:

"47-16-7. BOARD MEMBERS AND OFFICERS--DUTIES--BUDGET.--

A. Except as provided in the community documents or other provisions of the Homeowner Association Act, the board acts on behalf of the association. In the performance of their duties, officers and members of the board shall exercise, if appointed by the declarant, the degree of care and loyalty required of a fiduciary of the lot owners and, if elected by the lot owners, ordinary and reasonable care free from any undisclosed conflict of interest.

B. Within ninety days after being elected or appointed to the board, each board member shall certify in writing to the secretary of the association that the member:

- (1) has read the community documents;
- (2) will work to uphold the community documents and policies to the best of the member's ability; and
- (3) will faithfully discharge the member's duties to the association.

C. A board member who does not file the written certification pursuant to Subsection B of this section shall be suspended from the board until the member complies with Subsection B of this section.

D. The association shall retain each board member's written certification for inspection by lot owners for five years after the board member's election or appointment. The failure of an association to have a board member's written

certification on file does not affect the validity of any action taken by the board or any protections provided to board members under the:

(1) Homeowner Association Act; or

(2) Nonprofit Corporation Act, if the association is organized under the Nonprofit Corporation Act.

E. The board or the lot owners, as provided for in the community documents, shall adopt a budget annually. Within thirty calendar days after adoption of any proposed budget for the association, the board shall provide a copy of the budget to all the lot owners.

F. The board shall provide to all lot owners a statement included with a copy of the annual budget listing all fees and fines that may be charged to a lot owner by the association or any management company retained by the association to act on behalf of the association, including charges for a disclosure certificate pursuant to Subsection H of Section 47-16-12 NMSA 1978.

G. Any management contract negotiated between the board and a management company retained by the association to act on behalf of the association shall include:

(1) a disclosure to the board of any existing relationships the management company has with any vendor or contractor for the association from which a conflict of interest may arise; and

(2) a list of all fees to be charged to the association or lot owners by the management company during the term of the contract."

Chapter 30 Section 4 Laws 2019

SECTION 4. Section 47-16-9 NMSA 1978 (being Laws 2013, Chapter 122, Section 9) is amended to read:

"47-16-9. PROXY AND ABSENTEE VOTING--BALLOT COUNTING.--

A. The association shall provide for votes to be cast in person, by absentee ballot or by proxy and may provide for voting by some other form of delivery.

B. Vote by proxy is allowed for lot owner meetings. The proxy vote shall:

(1) be dated and executed by a lot owner, but if a lot is owned by more than one person, each owner of the lot may vote or register protest to the casting of votes by the other owners of the lot through a duly executed proxy, but in no case shall the total vote cast be more than that allocated to the lot under the declaration;

(2) allow for revocation if notice of revocation is provided to the person presiding over a lot owner meeting; and

(3) be valid only for the meeting at which it is cast.

C. If proxy voting is utilized at a lot owner meeting, a person shall not pay a company or person to collect proxy votes.

D. Where directors or officers are to be elected by members, the bylaws may provide that such elections may be conducted by mail.

E. Votes cast by proxy and by absentee ballot are valid for the purpose of establishing a quorum.

F. Ballots, if used, shall be counted by a neutral third party or by a committee of volunteers. The volunteers shall be selected or appointed at an open meeting, in a fair manner, by the chair of the board or another person presiding during that portion of the meeting. The volunteers shall not be board members and, in the case of a contested election for a board position, shall not be candidates.

G. Nothing in this section shall be considered in conflict with or a replacement of voting member councils or representative voting systems created by the community documents."

Chapter 30 Section 5 Laws 2019

SECTION 5. Section 47-16-10 NMSA 1978 (being Laws 2013, Chapter 122, Section 10) is amended to read:

"47-16-10. FINANCIAL AUDIT.--

At least every three years, the board shall provide for a financial audit, review or compilation of the association's records in accordance with generally accepted accounting principles by an independent certified public accountant and shall provide that the cost thereof be assessed as a common expense. The audit, review or compilation shall be made available to lot owners within thirty calendar days of its completion."

Chapter 30 Section 6 Laws 2019

SECTION 6. Section 47-16-12 NMSA 1978 (being Laws 2013, Chapter 122, Section 12) is amended to read:

"47-16-12. SALE OF LOTS--DISCLOSURE CERTIFICATE.--

A. Unless exempt pursuant to Subsection F of this section, prior to closing, a lot owner shall furnish to a purchaser copies of:

- (1) the declaration of the association, other than the plats and plans;
- (2) the bylaws of the association;
- (3) any covenants, conditions and restrictions applicable to the lot;
- (4) the rules of the association; and
- (5) a disclosure certificate from the association.

B. Within ten business days after receipt of a written request from a lot owner or the lot owner's representative, the association shall furnish a disclosure certificate containing the information necessary to enable the lot owner to comply with the provisions of this section. A lot owner providing a disclosure certificate pursuant to Subsection A of this section shall not be liable to the purchaser for any erroneous information provided by the association and included in the disclosure certificate.

C. A purchaser shall not be liable for any unpaid assessment or fee greater than the amount, prorated to the date of closing, set forth in the disclosure certificate prepared by the association.

D. A lot owner shall not be liable to a purchaser for the failure or delay of the association to provide the disclosure certificate in a timely manner.

E. The information contained in the disclosure certificate shall be current as of the date on which the disclosure certificate is furnished to the lot owner by the association.

F. A disclosure certificate shall not be required in the case of a disposition:

- (1) pursuant to court order;

- (2) by a government or governmental agency;
- (3) by foreclosure or deed in lieu of foreclosure; or
- (4) that may be canceled at any time and for any reason by the purchaser without penalty.

G. The statements contained in the disclosure certificate pursuant to Paragraphs (2) and (3) of Subsection M of Section 47-16-2 NMSA 1978 shall only be valid for sixty days from their creation. Beginning sixty-one days after the creation of the disclosure certificate, the lot owner may request that the association update any changes to statements contained in the disclosure certificate pursuant to Paragraphs (2) and (3) of Subsection M of Section 47-16-2 NMSA 1978. Upon a lot owner's request for changes to statements contained in the disclosure certificate pursuant to this subsection, the association shall provide the updated information within three business days of the lot owner's request and may impose a reasonable fee not to exceed fifty dollars (\$50.00). The updated information shall only be valid for sixty days from the update.

H. Notwithstanding any local ordinance or ordinance enacted by a home rule municipality, an association may impose reasonable charges not to exceed three hundred dollars (\$300) for preparation of a disclosure certificate as required by the Homeowner Association Act, to be collected at the time of closing; provided that the transaction closes."

Chapter 30 Section 7 Laws 2019

SECTION 7. Section 47-16-15 NMSA 1978 (being Laws 2013, Chapter 122, Section 15, as amended) is amended to read:

"47-16-15. APPLICABILITY.--

A. Except as provided in Subsection B of this section, the Homeowner Association Act shall apply to all homeowner associations created and existing within this state.

B. Sections 47-16-9, 47-16-10 and 47-16-14 NMSA 1978 do not apply to homeowner associations created before July 1, 2013 and that have fewer than thirty lots; provided that any amendment to the community documents of an association created before July 1, 2013 shall comply with the Homeowner Association Act.

C. The Homeowner Association Act does not apply to a condominium governed by the Condominium Act."

Chapter 30 Section 8 Laws 2019

SECTION 8. A new section of the Homeowner Association Act is enacted to read:

"REMOVAL OF BOARD MEMBERS.--Unless a process for removal of board members is provided for in the community documents, the lot owners, by a two-thirds' vote of all lot owners present and entitled to vote at a lot owner meeting at which a quorum is present, may remove a member of the board."

Chapter 30 Section 9 Laws 2019

SECTION 9. A new section of the Homeowner Association Act is enacted to read:

"MEETINGS OF ASSOCIATION.--

A. The association shall hold an annual meeting at least once every thirteen months.

B. Notwithstanding a provision to the contrary in the community documents, written notice of the meeting stating the time, date and location of the annual meeting and, in the case of a special meeting, the purpose or purposes for which the meeting is called, shall be delivered electronically, hand-delivered or sent by mail not less than ten and no more than fifty days before the meeting. If sent by mail, the notice shall be deemed to be delivered when addressed to a lot owner at the address as it appears in the association's records and deposited in the United States mail, postage prepaid.

C. Unless a longer period of time is required by an association's community documents, notice of the time, date and location of board meetings and drafts of any proposed policy resolutions shall be provided to lot owners at least forty-eight hours in advance electronically, by conspicuous posting, posting on the association's website or social media or by any other reasonable means as determined by the board.

D. All lot owners shall have the right to attend and speak at all open meetings, but the board may place reasonable time restrictions on those persons speaking.

E. Any portion of a meeting may be closed only if that portion is limited to consideration of:

- (1) legal advice from an attorney for the board or association;
- (2) pending or contemplated litigation; or
- (3) personal, health or financial information about an individual member of the association, an individual employee of the association or an individual contractor for the association.

F. The association shall maintain a written copy of the minutes of all association meetings, including summaries of all agenda items and formal actions taken."

Chapter 30 Section 10 Laws 2019

SECTION 10. A new section of the Homeowner Association Act is enacted to read:

"ENFORCEMENT OF COVENANTS--DISPUTE RESOLUTION.--

A. Each association and each lot owner and the owner's tenants, guests and invitees shall comply with the Homeowners Association Act and the association's community documents.

B. Unless otherwise provided for in the community documents, the association may, after providing written notice and an opportunity to dispute an alleged violation other than failure to pay assessments:

- (1) levy reasonable fines for violations of or failure to comply with any provision of the community documents; and

- (2) suspend, for a reasonable period of time, the right of a lot owner or the lot owner's tenant, guest or invitee to use common areas and facilities of the association.

C. Prior to imposition of a fine or suspension, the board shall provide an opportunity to submit a written statement or for a hearing before the board or a committee appointed by the board by providing written notice to the person sought to be fined or suspended fourteen days prior to the hearing. Following the hearing or review of the written statement, if the board or committee, by a majority vote, does not approve a proposed fine or suspension, neither the fine nor the suspension may be imposed. Notice and a hearing are not required for violations that pose an imminent threat to public health or safety.

D. If a person against whom a violation has been alleged fails to request a hearing or submit a written statement as provided for in Subsection C of this section, the fine or suspension may be imposed, calculated from the date of violation.

E. A lot owner or the association may use a process other than litigation used to prevent or resolve disputes, including mediation, facilitation, regulatory negotiation, settlement conferences, binding and nonbinding arbitration, fact-finding, conciliation, early neutral evaluation and policy dialogues, for complaints between the lot owner and the association or if such services are required by the community documents."

Chapter 30 Section 11 Laws 2019

SECTION 11. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

Senate Bill 150, aa

Approved February 4, 2019

LAWS 2019, CHAPTER 31

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; ALLOWING EDUCATIONAL RETIREMENT PROGRAM MEMBERS TO CONVERT UNUSED SICK LEAVE TO SERVICE CREDIT.

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

Chapter 31 Section 1 Laws 2019

SECTION 1. A new section of the Educational Retirement Act is enacted to read:

"SICK LEAVE SERVICE CREDIT.--

A. Beginning on July 1, 2020, a member who has acquired the minimum number of years of contributory employment to be eligible for retirement benefits under the Educational Retirement Act may pay to have unused sick leave, earned from the

member's contributory employment and for which the member has otherwise not received payment, converted to earned service credit, up to a maximum of:

(1) six days of unused sick leave per year of contributory employment;
and

(2) four calendar quarters of earned service credit.

B. The following standards apply to the conversion of unused sick leave to earned service credit under this section:

(1) eight hours of sick leave equals one day of sick leave;

(2) thirty-eight to eighty-two days of sick leave equals one quarter of earned service credit;

(3) eighty-three to one hundred twenty-seven days of sick leave equals two quarters of earned service credit;

(4) one hundred twenty-eight to one hundred seventy-two days of sick leave equals three quarters of earned service credit; and

(5) one hundred seventy-three or more days of sick leave equals four quarters of service credit.

C. A member who elects to convert unused sick leave to earned service credit under this section shall, in accordance with rules that the board shall establish, submit to the board verification from local administrative units of the member's unused sick leave.

D. The cost to a member of converting unused sick leave to earned service credit is the actuarial present value, as determined by the board, of the benefit attributable to the conversion. The board shall establish rules pertaining to payments for converting unused sick leave to earned service credit."

Chapter 31 Section 2 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2020.

Senate Bill 157

Approved February 4, 2019

LAWS 2019, CHAPTER 32

AN ACT

RELATING TO INSURANCE; ALLOWING INSURANCE AGENTS TO GIVE PROSPECTIVE CUSTOMERS LIMITED GIFTS AND PRIZES.

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

Chapter 32 Section 1 Laws 2019

SECTION 1. Section 59A-16-17 NMSA 1978 (being Laws 1984, Chapter 127, Section 283, as amended) is amended to read:

"59A-16-17. UNFAIR DISCRIMINATION, REBATES PROHIBITED--OTHER COVERAGES.--

A. No property, casualty or title insurer, or nonprofit health care or prepaid dental plan or other insurance-type organization, or any employee or representative thereof, and no insurance producer or other representative shall pay, allow or give, or offer to pay, allow or give, directly or indirectly, as an inducement to insurance or coverage, or after insurance or coverage has been effected, any rebate, discount, abatement, credit or reduction of the premium named in a policy, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified or provided for in the policy, except to the extent provided for in an applicable filing with the superintendent as provided by law or as allowed by this section.

B. No title insurer or title insurance producer shall:

(1) pay, directly or indirectly, to the insured or any person acting as agent, representative, attorney or employee of the owner, lessee, mortgagee, existing or prospective, of the real property, or interest therein, that is the subject matter of title insurance or as to which a service is to be performed any commission or part of its fee or charges or other consideration as inducement or compensation for the placing of any order for a title insurance policy or for performance of any escrow or other service by the insurer with respect thereto;

(2) issue any policy or perform any service in connection with which it or any insurance producer or other person has paid or contemplates paying any commission, rebate or inducement in violation of this section;

(3) give or receive, directly or indirectly, any consideration or thing of value for the referral of title insurance business or escrow or other service provided by a title insurer or title insurance producer unless otherwise permitted by regulation of the superintendent; or

(4) enter into a reinsurance agreement with an affiliate of a real estate developer, real estate agency, mortgage lender or referrer of title business without the prior written approval of the superintendent.

C. No insured named in a policy or any employee of such insured shall knowingly receive or accept, directly or indirectly, any rebate, discount, abatement, credit or reduction of premium, or any special favor or advantage or valuable consideration or inducement, except as allowed by this section.

D. No insurer or organization shall make or permit any unfair discrimination between insureds or property having like insuring or risk characteristics, in the premium or rates charged for insurance or coverage, or in the dividends or other benefits payable thereon or in any other of the terms and conditions of the insurance or coverage.

E. Nothing in this section shall be construed as prohibiting the payment of commissions or other compensation to licensed insurance producers or other representatives; or as prohibiting the extension of credit to an insured for the payment of any premium and for which credit a reasonable rate of interest is charged and collected; or as prohibiting any insurer or insurance producer from allowing or returning to its participating policyholders, members or subscribers, dividends, savings or unabsorbed premium deposits. As to title insurance, nothing in this section shall prohibit bulk rates or special rates for customers of prescribed classes if such bulk or special rates are provided for in the currently effective schedule of fees and charges of the title insurer as filed with the superintendent.

F. The provisions of this section shall not prohibit a property or casualty insurer, or any employee or representative thereof, or a property or casualty insurance producer or other representative thereof from providing to customers or prospective customers prizes and gifts, including goods, gift cards, gift certificates, charitable donations, raffle entries, meals, event tickets and other items not exceeding one hundred dollars (\$100) in the aggregate in value per customer or prospective customer in any one calendar year."

Chapter 32 Section 2 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.

Senate Bill 164

Approved February 4, 2019

LAWS 2019, CHAPTER 33

AN ACT

RELATING TO HIGHER EDUCATION; ALLOWING CERTAIN STUDENTS WITH DISABILITIES TO RECEIVE LEGISLATIVE LOTTERY TUITION SCHOLARSHIPS.

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

Chapter 33 Section 1 Laws 2019

SECTION 1. Section 21-21N-3 NMSA 1978 (being Laws 2014, Chapter 80, Section 3, as amended) is amended to read:

"21-21N-3. TUITION SCHOLARSHIPS AUTHORIZED--QUALIFIED STUDENTS.--

A. To the extent that funds are made available by the legislature from the fund, the boards of regents or governing bodies of public post-secondary educational institutions shall award tuition scholarships in department-approved amounts to qualified students and legacy students attending their respective public post-secondary educational institutions.

B. Beginning in fiscal year 2015:

(1) a legacy student is eligible to receive a tuition scholarship until the total number of program semesters for which the legislative lottery scholarship is received pursuant to the former provisions of Sections 21-1-4.3, 21-13-10 and 21-16-10.1 NMSA 1978 or the Legislative Lottery Tuition Scholarship Act reaches eight;

provided that the legacy student maintains residency in New Mexico, maintains a grade point average of 2.5 or higher on a 4.0 scale and completes twelve or more credit hours per program semester; and

(2) a qualified student who is not a legacy student is eligible to receive the tuition scholarship for a maximum of seven program semesters and in an amount determined pursuant to the provisions of Section 21-21N-4 NMSA 1978.

C. Except as otherwise provided in this section, a tuition scholarship may be awarded to a qualified student who:

- (1) maintains residency in New Mexico;
- (2) maintains a grade point average of 2.5 or higher on a 4.0 scale; and
- (3) completes:

(a) for a student attending a four-year public post-secondary educational institution, fifteen or more credit hours per program semester; and

(b) for a student attending a two-year public post-secondary educational institution, twelve or more credit hours per program semester.

D. For students with disabilities who may require accommodations, the department, in consultation with the student and the office at the public post-secondary educational institution that serves students with disabilities, shall review both the definition of "full time" and the maximum number of consecutive program semesters of eligibility and adjust either or both as deemed reasonable and appropriate, based on the student's disability needs. In no case, however, shall "full time" mean fewer than six credit hours per semester, and in no case shall eligibility extend beyond fourteen consecutive program semesters. The definition of "qualified student" notwithstanding, a New Mexico resident who had to leave the state to receive an education pursuant to the federal Individuals with Disabilities Education Act shall be eligible for a tuition scholarship if the student graduated from an accredited high school in another state and otherwise meets the qualifications for a tuition scholarship pursuant to the definition of "qualified student" and this section."

Approved February 4, 2019

LAWS 2019, CHAPTER 34

AN ACT

RELATING TO MOTOR VEHICLES; ALLOWING ORGANIZATIONS THAT OWN OR LEASE VEHICLES THAT PRIMARILY TRANSPORT PERSONS WITH SIGNIFICANT MOBILITY LIMITATIONS TO ACQUIRE SPECIAL DISTINCTIVE REGISTRATION PLACARDS.

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

Chapter 34 Section 1 Laws 2019

SECTION 1. Section 66-3-16 NMSA 1978 (being Laws 1978, Chapter 35, Section 36, as amended) is amended to read:

"66-3-16. DISTINCTIVE REGISTRATION PLATES--PERSONS WITH SIGNIFICANT MOBILITY LIMITATION--PARKING PLACARDS.--

A. The division shall issue distinctive registration plates for use on motor vehicles and motorcycles owned or leased by a person with a significant mobility limitation who requests a distinctive registration plate and who proves satisfactorily to the division that the person is a person with a significant mobility limitation.

B. The division shall issue a distinctive parking placard to an organization that owns or leases a motor vehicle that primarily transports persons with significant mobility limitations and that requests a distinctive parking placard. The organization, if qualified, may obtain a distinctive parking placard for each vehicle used to transport persons with significant mobility limitations.

C. No fee in addition to the regular registration fee, if any, applicable to the motor vehicle or motorcycle shall be collected for issuance of distinctive registration plates or parking placards pursuant to this section.

D. No person shall falsely claim to have a significant mobility limitation so as to be eligible to be issued a distinctive registration plate or a parking placard pursuant to this section when the person does not in fact have a significant mobility limitation. Upon notice and opportunity to be heard, the division may revoke and demand return of any placard when:

- (1) it was issued in error or with false information;
- (2) the person receiving the placard is no longer eligible;
- (3) the placard is being used by ineligible

persons; or

(4) the organization to which the parking placard was issued no longer exists.

E. Upon written application to the division accompanied by a medical statement by a licensed physician or a physician assistant, advanced practice registered nurse or certified nurse-midwife working within that person's scope of practice attesting to the permanent significant mobility limitation, a resident of the state who has a significant mobility limitation, as provided in this section, may apply for and be issued no more than two parking placards for display upon a motor vehicle registered to the person or motor vehicle owned by another person who is transporting the person with a significant mobility limitation. The licensed physician or the physician assistant, advanced practice registered nurse or certified nurse-midwife working within that person's scope of practice shall provide the division all information and records necessary to issue a permanent parking placard. Once approved for use of a permanent parking placard, a person with a significant mobility limitation shall not be required to furnish further medical information.

F. To obtain a distinctive parking placard pursuant to this section, an organization shall submit to the division:

(1) on a form approved by the division, a signed statement by an authorized officer of the organization affirming that the vehicle will be primarily used to transport persons with significant mobility limitations and that the registered vehicle is owned or leased by the organization; and

(2) at least one contract that places the organization under obligation to provide transportation services to persons with significant mobility limitations.

G. A parking placard issued pursuant to this section shall expire four years from the date it was issued.

H. The division shall issue two-sided hanger-style parking placards with the following characteristics:

- (1) a picture of the international symbol of access;
- (2) a hologram to make duplication difficult;
- (3) an imprinted expiration date; and
- (4) for a placard issued to:

(a) a person with a significant mobility limitation, a full-face photograph of the holder on the inside of the placard covered by a flap; or

(b) an organization, the number of the registration plate issued to the vehicle that is registered or leased to the organization on which the placard will be used.

I. The division shall consult with the governor's commission on disability for continued issuance and format of the placard.

J. The division may issue an identification card containing a full-face photograph of the holder of the registration plate or parking placard and the number of the registration plate or parking placard issued to that person.

K. Upon written application to the division accompanied by a medical statement from a licensed physician or a physician assistant, advanced practice registered nurse or certified nurse-midwife working within that person's scope of practice attesting to a temporary significant mobility limitation, a person may be issued a temporary placard for no more than one year. The licensed physician or the physician assistant, advanced practice registered nurse or certified nurse-midwife working within that person's scope of practice shall provide the division all information and records necessary to issue a temporary placard.

L. Registration plates or parking placards issued to a person with a significant mobility limitation by another state or foreign jurisdiction shall be honored until the motor vehicle or motorcycle is registered or the parking placard holder establishes residency in this state.

M. A "person with a significant mobility limitation" means a person who:

- (1) cannot walk one hundred feet without stopping to rest;

(2) cannot walk without the use of a brace, cane or crutch or without assistance from another person, a prosthetic device, a wheelchair or other assistive device;

(3) is restricted by lung disease to such an extent that the person's forced respiratory volume, when exhaling for one second, when measured by spirometry, is less than one liter or the arterial oxygen tension is less than sixty millimeters on room air at rest;

(4) uses portable oxygen;

(5) has a severe cardiac condition; or

(6) is so severely limited in the ability to walk due to an arthritic, neurologic or orthopedic condition that the person cannot ascend or descend more than ten stair steps."

Chapter 34 Section 2 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.

Senate Bill 189

Approved February 4, 2019

LAWS 2019, CHAPTER 35

AN ACT

RELATING TO LOBBYIST REGULATION; CHANGING REPORTING REQUIREMENTS.

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

Chapter 35 Section 1 Laws 2019

SECTION 1. Section 2-11-6 NMSA 1978 (being Laws 1977, Chapter 261, Section 6, as amended) is amended to read:

"2-11-6. EXPENDITURE REPORT TO BE FILED--CONTENTS--REPORTING PERIODS.--

A. Each lobbyist who receives compensation or lobbyist's employer who makes or incurs expenditures or makes political contributions for the benefit of or in opposition to a state legislator or candidate for the state legislature, a state public officer or candidate for state public office, a board or commission member or state employee who is involved in an official action affecting the lobbyist's employer or in support of or in opposition to a ballot issue or pending legislation or official action shall file an expenditure report with the secretary of state using an electronic reporting system approved by the secretary of state in accordance with Section 2-11-7 NMSA 1978. The expenditure report shall include a sworn statement that sets forth:

(1) the cumulative total of all individual expenditures of less than one hundred dollars (\$100) made or incurred by the employer or lobbyist during the covered reporting period, separated into the following categories:

- (a) meals and beverages;
- (b) other entertainment expenditures; and
- (c) other expenditures;

(2) each individual expenditure of one hundred dollars (\$100) or more made or incurred by the employer or lobbyist during the covered reporting period, indicating the amount spent and a description of the expenditure. The list shall be separated into the following categories:

- (a) meals and beverages;
- (b) other entertainment expenditures; and
- (c) other expenditures;

(3) each political contribution made, and whether the contribution is from the lobbyist's employer or the lobbyist on the lobbyist's own behalf, identified by amount, date and name of the candidate or ballot issue supported or opposed; and

(4) the names, addresses, employers and occupations of other contributors and the amounts of their separate political contributions if the lobbyist or lobbyist's employer delivers directly or indirectly separate contributions from those contributors to a candidate, a campaign committee or anyone authorized by a candidate to receive funds on the candidate's behalf.

B. The expenditure report shall be filed electronically and shall be electronically authenticated by the lobbyist or the lobbyist's employer using an electronic signature as prescribed by the secretary of state in conformance with the Electronic Authentication of Documents Act and the Uniform Electronic Transactions Act. For the purposes of the Lobbyist Regulation Act, a report that is electronically authenticated in accordance with the provisions of this subsection shall be deemed to have been subscribed and sworn to by the lobbyist or the lobbyist's employer that is required to file the report.

C. In identifying expenditures pursuant to the provisions of Paragraphs (1) and (2) of Subsection A of this section, in the case of special events, including parties, dinners, athletic events, entertainment and other functions, to which all members of the legislature, to which all members of either house or any legislative committee or to which all members of a board or commission are invited, expenses need not be allocated to each individual who attended, but the date, location, name of the body invited and total expenses incurred shall be reported.

D. A lobbyist who accepts compensation for lobbying but does not incur expenditures or make political contributions during a reporting period may file a statement of no activity in lieu of a full report for that period in accordance with the reporting schedule in Subsection E of this section.

E. The reports required pursuant to the provisions of the Lobbyist Regulation Act shall be filed:

(1) no later than January 15 for all expenditures and political contributions made or incurred during the preceding year and not previously reported;

(2) within forty-eight hours for each separate expenditure made or incurred during a legislative session that was for five hundred dollars (\$500) or more;

(3) no later than the first Wednesday after the first Monday in May for all expenditures and political contributions made or incurred through the first Monday in May of the current year and not previously reported; and

(4) no later than the first Wednesday after the first Monday in October for all expenditures and political contributions made or incurred through the first Monday in October of the current year and not previously reported.

F. A lobbyist's personal living expenses and the expenses incidental to establishing and maintaining an office in connection with lobbying activities or compensation paid to a lobbyist by a lobbyist's employer need not be reported.

G. A lobbyist or lobbyist's employer shall obtain and preserve all records, accounts, bills, receipts, books, papers and documents necessary to substantiate the financial statements required to be made under the Lobbyist Regulation Act for a period of two years from the date of filing of the report containing such items. When the lobbyist is required under the terms of the lobbyist's employment to turn over any such records to the lobbyist's employer, responsibility for the preservation of them as required by this section and the filing of reports required by this section shall rest with the employer. Such records shall be made available to the secretary of state or attorney general upon written request.

H. A lobbyist's employer who also engages in lobbying shall also comply with the provisions of this section. A lobbyist and the lobbyist's employer shall coordinate their reporting to ensure that the contributions and expenditures that each have reported are not duplicative.

I. An organization of two or more persons, including an individual who makes any representation as being an organization, that within one calendar year expends funds in excess of two thousand five hundred dollars (\$2,500) not otherwise reported under the Lobbyist Regulation Act to conduct an advertising campaign for the purpose of lobbying shall register with the secretary of state within forty-eight hours after expending two thousand five hundred dollars (\$2,500). Such registration shall indicate the name of the organization and the names, addresses and occupations of any of its principals, organizers or officers and shall include the name of any lobbyist or lobbyist's employer who is a member of the organization. Within fifteen days after a legislative session, the organization shall report the contributions, pledges to contribute, expenditures and commitments to expend for the advertising campaign for the purpose of lobbying, including the names, addresses, employers and occupations of the contributors, to the secretary of state on a prescribed form."

Chapter 35 Section 2 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.

Senate Bill 191

Approved February 4, 2019

LAWS 2019, CHAPTER 36

AN ACT

RELATING TO LIVESTOCK; AMENDING SECTIONS OF THE LIVESTOCK CODE TO PROVIDE FOR AN OPTION FOR PRODUCERS TO OPT OUT OF THE COUNCIL ASSESSMENT.

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

Chapter 36 Section 1 Laws 2019

SECTION 1. Section 77-2A-7.1 NMSA 1978 (being Laws 1983, Chapter 228, Section 3, as amended) is amended to read:

"77-2A-7.1. ASSESSMENTS--COUNCIL ASSESSMENT OPT-OUT.--

A. There is levied and imposed upon all cattle involved in a transfer of ownership in this state an assessment to be called the "council assessment". The council assessment is to be fixed by the council at a rate of not more than one dollar (\$1.00) per head. The board shall collect this council assessment and the federal domestic assessment imposed pursuant to the Beef Promotion and Research Act of 1985 at the same time and in the same manner as the fee charged for the state brand inspection required upon the movement of those cattle. The board shall not deliver the certificate of inspection or permit the cattle to move until all fees have been paid. The proceeds of the council assessment shall be remitted by the board to the council at the end of each month, along with information that will allow the council to make necessary refunds. At the request of the board, the council shall reimburse the board for the responsible and necessary expenses incurred for such collections and information at not more than four cents (\$.04) per one dollar (\$1.00) collected on only those cattle involved in a transfer of ownership and not on refunded council assessments.

B. Producers may elect not to participate in the council assessment for each duly registered New Mexico livestock brand through an application process. The application must be in writing, on a form prescribed by the council for that purpose. Incomplete information on an opt-out form may delay the processing of the form. Upon

receipt of the completed form, the council shall notify the board. The board shall enter the request in the board brand database in order to stop collection of the council assessment for the given brand. The council assessment opt-out shall be in effect for three years from the application date. A producer may revoke the opt-out option at any time by request made through the council."

Chapter 36 Section 2 Laws 2019

SECTION 2. Section 77-2A-7.3 NMSA 1978 (being Laws 1983, Chapter 228, Section 5) is amended to read:

"77-2A-7.3. REFUNDS.--Any person who has paid a council assessment is entitled to a refund of the amount paid by making written application therefor to the council. The application form shall be returned within thirty days after the inspection was made giving rise to the council assessment and shall contain enough detail to enable the council to find the record of payment. Refunds shall be made within thirty days of the date of the application unless the proceeds and the necessary information have not been received by the council, in which case the refund shall be made within fifteen days after receipt of the proceeds and necessary information. The form shall be provided by the council."

Senate Bill 193, aa

Approved February 4, 2019

LAWS 2019, CHAPTER 37

AN ACT

RELATING TO COURTS; CREATING THE JUDGE PRO TEMPORE FUND TO PAY THE COSTS OF JUDGES PRO TEMPORE; DECLARING AN EMERGENCY.

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

Chapter 37 Section 1 Laws 2019

SECTION 1. JUDGE PRO TEMPORE FUND--CREATED.--The "judge pro tempore fund" is created in the state treasury, to be administered by the administrative office of the courts. The fund shall be used to pay the costs of judges pro tempore.

The fund shall consist of appropriations, gifts, grants, donations and bequests made to the fund. Income from the fund shall be credited to the fund. Payments from the judge pro tempore fund shall be made pursuant to vouchers issued and signed by the director of the administrative office of the courts or the director's designee upon warrants drawn by the secretary of finance and administration.

Chapter 37 Section 2 Laws 2019

SECTION 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately. _____

Senate Bill 197, aa, w/ec

Approved February 4, 2019

LAWS 2019, CHAPTER 38

AN ACT

RELATING TO THE ADMINISTRATIVE OFFICE OF THE COURTS; ALLOWING THE DIRECTOR TO RECEIVE FUNDS TO CARRY OUT THE DUTIES OF THE OFFICE.

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

Chapter 38 Section 1 Laws 2019

SECTION 1. Section 34-9-3 NMSA 1978 (being Laws 1959, Chapter 162, Section 3, as amended) is amended to read:

"34-9-3. DIRECTOR--DUTIES.--The director of the administrative office of the courts shall, under the supervision and direction of the supreme court:

- A. supervise all matters relating to administration of the courts;
- B. examine fiscal matters and the state of the dockets of the courts, secure information as to the courts' need of assistance and prepare and transmit to the supreme court statistical data and reports as to the business of the courts;

C. submit to the supreme court and to the legislature by January 30 of each year a report of the activities of the administrative office of the courts and of the state of business of the courts, including the statistical data submitted to the supreme court pursuant to Subsection B of this section, and the director's recommendations. This report is a public document;

D. deal with the problems of finance of those courts supported by legislative appropriation and be concerned with adequate but economical financing of each of these courts and the equitable distribution of available funds among them. For this purpose, the director shall receive, adjust and approve proposed budgets submitted by these courts prior to submission of the budgets to the state budget division of the department of finance and administration for inclusion in the executive budget. The district courts of all counties within a judicial district shall be included within a single budget. Budget proposals shall be submitted by the courts at the time and in the form prescribed by the director;

E. perform other duties in aid of the administration of justice and the administration and dispatch of the business of the courts as directed by the supreme court. The courts shall comply with all requests of the director for information;

F. encourage that any behavioral health services, including mental health and substance abuse services, funded, provided, contracted for or approved by the administrative office of the courts be in compliance with the requirements of Section 9-7-6.4 NMSA 1978; and

G. apply for and receive, in the name of the administrative office of the courts, any public or private funds, including United States government funds, available to carry out its programs, duties or services." _____

Senate Bill 198

Approved February 4, 2019

LAWS 2019, CHAPTER 39

AN ACT

RELATING TO CIVIL LIBERTIES; ENACTING THE ELECTRONIC COMMUNICATIONS PRIVACY ACT; PROVIDING PERSONAL PROTECTIONS FROM GOVERNMENT ACCESS TO ELECTRONIC COMMUNICATIONS.

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

Chapter 39 Section 1 Laws 2019

SECTION 1. SHORT TITLE.--This act may be cited as the "Electronic Communications Privacy Act".

Chapter 39 Section 2 Laws 2019

SECTION 2. DEFINITIONS.--As used in the Electronic Communications Privacy Act:

A. "adverse result" means:

- (1) danger to the life or physical safety of a natural person;
- (2) flight from prosecution;
- (3) destruction of or tampering with evidence;
- (4) intimidation of a potential witness; or
- (5) serious jeopardy to an investigation;

B. "authorized possessor" means a natural person who owns and possesses an electronic device or a natural person who, with the owner's consent, possesses an electronic device;

C. "electronic communication" means the transfer of a sign, a signal, a writing, an image, a sound, a datum or intelligence of any nature in whole or in part by a wire, radio, electromagnetic, photoelectric or photo-optical system;

D. "electronic communication information":

(1) means information about an electronic communication or the use of an electronic communication service, including:

(a) the contents, sender, recipients, format or the sender's or recipients' precise or approximate location at any point during the communication;

(b) the time or date the communication was created, sent or received; and

(c) any information, including an internet protocol address, pertaining to a person or device participating in the communication; and

(2) excludes subscriber information;

E. "electronic communication service" means a service that:

(1) allows its subscribers or users to send or receive electronic communications, including by acting as an intermediary in the transmission of electronic communications; or

(2) stores electronic communication information;

F. "electronic device" means a device that stores, generates or transmits information in electronic form;

G. "electronic device information":

(1) means information stored on or generated through the operation of an electronic device; and

(2) includes the current and prior locations of the device;

H. "electronic information" means electronic communication information or electronic device information;

I. "government entity" means:

(1) a department, agency or political subdivision of the state; or

(2) a natural person acting for or on behalf of the state or a political subdivision of the state;

J. "service provider" means a person offering an electronic communication service;

K. "specific consent":

(1) means consent provided directly to a government entity seeking information; and

(2) includes consent provided when the government entity is the addressee, the intended recipient or a member of the intended audience of an electronic communication, regardless of whether the originator of the communication had actual knowledge that the addressee, intended recipient or member of the specific audience is a government entity, except where the government entity has taken deliberate steps to hide the government entity's government association; and

L. "subscriber information" means:

(1) the name, street address, telephone number, email address or other similar type of contact information provided by a subscriber to a service provider to establish or maintain an account or communication channel;

(2) a subscriber or account number or identifier; or

(3) the length and type of service used by a user or a service-provider subscriber.

Chapter 39 Section 3 Laws 2019

SECTION 3. GOVERNMENT ENTITY--PROSCRIBED ACTS--PERMITTED ACTS--WARRANTS--INFORMATION RETENTION--EMERGENCY.--

A. Except as otherwise provided in this section, a government entity shall not:

(1) compel or incentivize the production of or access to electronic communication information from a service provider;

(2) compel the production of or access to electronic device information from a person other than the device's authorized possessor; or

(3) access electronic device information by means of physical interaction or electronic communication with the electronic device.

B. A government entity may compel the production of or access to electronic communication information from a service provider or compel the production of or

access to electronic device information from a person other than the authorized possessor of the device only if the production or access is made under a:

(1) warrant that complies with the requirements in Subsection D of this section; or

(2) wiretap order.

C. A government entity may access electronic device information by means of physical interaction or electronic communication with the device only if that access is made:

(1) under a warrant that complies with the requirements in Subsection D of this section;

(2) under a wiretap order;

(3) with the specific consent of the device's authorized possessor;

(4) with the specific consent of the device's owner if the device has been reported as lost or stolen;

(5) because the government entity believes in good faith that the device is lost, stolen or abandoned, in which case, the government entity may access that information only as necessary and for the purpose of attempting to identify, verify or contact the device's authorized possessor; or

(6) because the government entity believes in good faith that an emergency involving danger of death or serious physical injury to a natural person requires access to the electronic device information.

D. A warrant for the search and seizure of electronic information shall:

(1) describe with particularity the information to be seized by specifying the time periods covered and, as appropriate and reasonable, the natural persons or accounts targeted, the applications or services covered and the types of information sought;

(2) except when the information obtained is exculpatory with respect to the natural person targeted, require that any information obtained through the execution of the warrant that is unrelated to the objective of the warrant be destroyed within thirty

days after the information is seized and be not subject to further review, use or disclosure; and

(3) comply with all New Mexico and federal laws, including laws prohibiting, limiting or imposing additional requirements on the use of search warrants.

E. When issuing a warrant or order for electronic information or upon a petition of the target or recipient of the warrant or order, a court may appoint a special master charged with ensuring that only the information necessary to achieve the objective of the warrant or order is produced or accessed.

F. A service provider may voluntarily disclose electronic communication information or subscriber information if the law otherwise permits that disclosure.

G. If a government entity receives electronic communication information as provided in Subsection F of this section, the government entity shall destroy that information within ninety days after the disclosure unless the government entity:

(1) has or obtains the specific consent of the sender or recipient of the electronic communication about which information was disclosed; or

(2) obtains a court order under Subsection H of this section.

H. A court may issue an order authorizing the retention of electronic communication information:

(1) only upon a finding that the conditions justifying the initial voluntary disclosure persist; and

(2) lasting only for the time those conditions persist or there is probable cause to believe that the information constitutes criminal evidence.

I. Information retained as provided in Subsection H of this section shall be shared only with a person that agrees to limit the person's use of the information to the purposes identified in the court order and that:

(1) is legally obligated to destroy the information upon the expiration or rescindment of the court order; or

(2) voluntarily agrees to destroy the information upon the expiration or rescindment of the court order.

J. If a government entity obtains electronic information because of an emergency that involves danger of death or serious physical injury to a natural person and that requires access to the electronic information without delay, the government entity shall file with the appropriate court within three days after obtaining the electronic information:

(1) an application for a warrant or order authorizing the production of electronic information and, if applicable, a request supported by a sworn affidavit for an order delaying notification as provided in Subsection B of Section 4 of the Electronic Communications Privacy Act; or

(2) a motion seeking approval of the emergency disclosures that sets forth the facts giving rise to the emergency and, if applicable, a request supported by a sworn affidavit for an order delaying notification as provided in Subsection B of Section 4 of the Electronic Communications Privacy Act.

K. A court that receives an application or motion as provided in Subsection J of this section shall promptly rule on the application or motion. If the court finds that the facts did not give rise to an emergency or if the court rejects the application for a warrant or order on any other ground, the court shall order:

(1) the immediate destruction of all information obtained; and

(2) the immediate notification provided in Subsection A of Section 4 of the Electronic Communications Privacy Act if that notice has not already been given.

L. This section does not limit the authority of a government entity to use an administrative, grand jury, trial or civil discovery subpoena to require:

(1) an originator, addressee or intended recipient of an electronic communication to disclose any electronic communication information associated with that communication;

(2) when a person that provides electronic communications services to its officers, directors, employees or agents for those officers, directors, employees or agents to carry out their duties, the person to disclose the electronic communication information associated with an electronic communication to or from the officer, director, employee or agent; or

(3) a service provider to provide subscriber information.

M. This section does not prohibit the intended recipient of an electronic communication from voluntarily disclosing electronic communication information concerning that communication to a government entity.

N. Nothing in this section shall be construed to expand any authority under New Mexico law to compel the production of or access to electronic information.

Chapter 39 Section 4 Laws 2019

SECTION 4. WARRANT--EMERGENCY--GOVERNMENT DUTIES--NOTIFICATION.--

A. Except as otherwise provided in this section, a government entity that executes a warrant or obtains electronic information in an emergency as provided in Section 3 of the Electronic Communications Privacy Act shall:

(1) serve upon or deliver, by registered or first-class mail, electronic mail or other means reasonably calculated to be effective, to the identified targets of the warrant or emergency request, a notice that informs the recipient that information about the recipient has been compelled or requested and that states with reasonable specificity the nature of the government investigation under which the information is sought;

(2) serve or deliver the notice:

(a) contemporaneously with the execution of a warrant; or

(b) in the case of an emergency, within three days after obtaining the electronic information; and

(3) include with the notice:

(a) a copy of the warrant; or

(b) a written statement setting forth the facts giving rise to the emergency.

B. When a government entity seeks a warrant or obtains electronic information in an emergency as provided in Section 3 of the Electronic Communications Privacy Act, the government entity may request from a court an order delaying notification and prohibiting any party providing information from notifying any other party that information

has been sought. The government entity shall support the request with a sworn affidavit. The court:

(1) shall issue the order if the court determines that there is reason to believe that notification may have an adverse result, but for no more than ninety days and only for the period that the court finds there is reason to believe that the notification may have that adverse result; and

(2) may grant one or more extensions of the delay of up to ninety days each on the grounds provided in Paragraph (1) of this subsection.

C. When the period of delay of a notification ordered by a court as provided in Subsection B of this section expires, the government entity that requested the order shall serve upon or deliver, by registered or first-class mail, electronic mail or other means reasonably calculated to be effective, as specified by the court issuing the order, to the identified targets of the warrant:

(1) a document that includes the information described in Subsection A of this section; and

(2) a copy of all electronic information obtained or a summary of that information, including, at a minimum:

(a) the number and types of records disclosed;

(b) the date and time when the earliest and latest records were created; and

(c) a statement of the grounds for the court's determination to grant a delay in notifying the targeted person.

D. If there is no identified target of a warrant or emergency request at the time of the warrant's or request's issuance, the government entity shall submit to the attorney general within three days after the execution of the warrant or request issuance the information described in Subsection A of this section. If an order delaying notice is obtained under Subsection B of this section, the government entity shall submit to the attorney general when the period of delay of the notification expires the information described in Subsection C of this section. The attorney general shall publish all those reports on the attorney general's website within ninety days after receipt. The attorney general shall redact names and other personal identifying information from the reports.

E. Except as otherwise provided in this section, nothing in the Electronic Communications Privacy Act prohibits or limits a service provider or any other party from disclosing information about a request or demand for electronic information.

Chapter 39 Section 5 Laws 2019

SECTION 5. VIOLATIONS OF LAW.--

A. A person in a trial, hearing or proceeding may move to suppress any electronic information obtained or retained in violation of the United States constitution, the constitution of New Mexico or the Electronic Communications Privacy Act. The motion shall be made, determined and subject to review in accordance with the procedures provided in law.

B. The attorney general may commence a civil action to compel a government entity to comply with the Electronic Communications Privacy Act.

C. A natural person, service provider or other recipient of a warrant, order or other legal process obtained in violation of the United States constitution, the constitution of New Mexico or the Electronic Communications Privacy Act may petition the court that issued the warrant, order or process to void or modify it or order the destruction of any information obtained in violation of those sources of law.

Chapter 39 Section 6 Laws 2019

SECTION 6. ANNUAL REPORTING.--

A. A government entity that obtains electronic communication information under the Electronic Communications Privacy Act shall report to the attorney general beginning in 2020 and every year thereafter on or before February 1. The report shall include, to the extent it reasonably can be determined:

(1) the number of times electronic information was sought or obtained under the Electronic Communications Privacy Act;

(2) the number of times each of the following were sought and, for each, the number of records obtained:

(a) electronic communication content;

(b) location information;

and (c) electronic device information, excluding location information;

(d) other electronic communication information; and

(3) for each type of information listed in Paragraph (2) of this subsection:

(a) the number of times that type of information was sought or obtained under: 1) a wiretap order issued under the Electronic Communications Privacy Act; 2) a search warrant issued under the Electronic Communications Privacy Act; and 3) an emergency request as provided in Subsection J of Section 3 of the Electronic Communications Privacy Act;

(b) the number of persons whose information was sought or obtained;

(c) the number of instances in which information sought or obtained did not specify a target natural person;

(d) for demands or requests issued upon a service provider, the number of those demands or requests that were fully complied with, partially complied with and refused;

(e) the number of times notice to targeted persons was delayed and the average length of the delay;

(f) the number of times records were shared with other government entities or any department or agency of the federal government and the government entity, department or agency names with which the records were shared;

(g) for location information, the average period for which location information was obtained or received; and

(h) the number of times electronic information obtained under the Electronic Communications Privacy Act led to a conviction and the number of instances in which electronic information was sought or obtained that were relevant to the criminal proceedings leading to those convictions.

B. Beginning in 2020 and every year thereafter, on or before April 1, the attorney general shall publish on the attorney general's website:

(1) the individual reports from each government entity that requests or compels the production of contents or records pertaining to an electronic communication or location information; and

(2) a summary aggregating each of the items in Subsection A of this section.

C. Nothing in the Electronic Communications Privacy Act prohibits or restricts a service provider from producing an annual report summarizing the demands or requests it receives under the Electronic Communications Privacy Act. _____

Senate Bill 199

Approved February 4, 2019

LAWS 2019, CHAPTER 40

AN ACT

RELATING TO MASSAGE THERAPY; AMENDING THE MASSAGE THERAPY PRACTICE ACT TO DELETE CERTAIN REFERENCES TO MASSAGE THERAPY INSTRUCTORS; ADDING A SCOPE OF PRACTICE PROVISION; EXPANDING CONTINUING EDUCATION PROVISIONS; MAKING TECHNICAL CHANGES TO THE MASSAGE THERAPY PRACTICE ACT; DECLARING AN EMERGENCY.

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

Chapter 40 Section 1 Laws 2019

SECTION 1. Section 61-12C-3 NMSA 1978 (being Laws 1991, Chapter 147, Section 3, as amended) is amended to read:

"61-12C-3. DEFINITIONS.--As used in the Massage Therapy Practice Act:

A. "board" means the massage therapy board;

B. "continuing education" means courses, seminars, workshops and classes in areas related to the practice of massage therapy, such as:

(1) massage;

- (2) bodywork;
- (3) health care;
- (4) psychology;
- (5) anatomy and physiology;
- (6) business;
- (7) insurance;
- (8) ethics;
- (9) professional development;
- (10) movement therapy;
- (11) stress management;
- (12) exempt modalities listed in Subsection C of Section 61-12C-5.1

NMSA 1978;

- (13) cardiopulmonary resuscitation or first aid; and

(14) complementary alternative medicine modalities determined by the board to be related to the practice of massage therapy;

C. "continuing education provider" means:

(1) an individual who was an active New Mexico registered independent massage therapy instructor on the effective date of this 2019 act;

(2) a massage therapy school regulated by the requisite regulatory agency where the massage therapy school is located;

(3) a national or international professional association for massage therapists;

(4) an individual or an organization approved by a national or international massage therapy continuing education approval agency;

(5) a health care professional organization; or

(6) accredited post-secondary educational institutions;

D. "department" means the regulation and licensing department;

E. "jurisprudence" means the statutes and rules of the state pertaining to the practice of massage therapy;

F. "massage therapist" means an individual licensed to practice massage therapy pursuant to the Massage Therapy Practice Act;

G. "massage therapy" means the treatment of soft tissues for therapeutic purposes, primarily comfort and relief of pain; it is a health care service that includes gliding, kneading, percussion, compression, vibration, friction, nerve strokes, stretching the tissue and exercising the range of motion and may include the use of oils, salt glows, hot or cold packs or hydrotherapy. Synonymous terms for massage therapy include massage, therapeutic massage, body massage, myomassage, bodywork, body rub or any derivation of those terms. "Massage therapy" does not include the diagnosis or treatment of illness or disease or any service or procedure for which a license to practice medicine, nursing, chiropractic, physical therapy, occupational therapy, acupuncture or podiatry is required by law; and

H. "massage therapy school" means a facility providing an educational program in massage therapy that is registered with the board."

Chapter 40 Section 2 Laws 2019

SECTION 2. Section 61-12C-5 NMSA 1978 (being Laws 1991, Chapter 147, Section 5, as amended) is amended to read:

"61-12C-5. LICENSE REQUIRED.--

A. An individual shall not provide or offer to provide massage therapy for compensation unless that individual is a massage therapist.

B. An individual shall not use the title of or make any representation as being a massage therapist or use any other title, abbreviations, letters, figures, signs or devices that indicate the individual is a massage therapist unless the individual is a massage therapist."

Chapter 40 Section 3 Laws 2019

SECTION 3. Section 61-12C-5.1 NMSA 1978 (being Laws 2001, Chapter 121, Section 1, as amended) is amended to read:

"61-12C-5.1. EXEMPTIONS.--Nothing in the Massage Therapy Practice Act shall be construed to prevent:

A. qualified members of other recognized professions that are licensed or regulated under New Mexico law from rendering services within the scope of their licenses or regulations; provided they do not represent themselves as massage therapists;

B. students from rendering massage therapy services within the course of study of a registered massage therapy school; and

C. sobadores; Hispanic traditional healers; Native American healers; reflexologists whose practices are limited to hands, feet and ears; practitioners of polarity, Trager approach, Feldenkrais method, craniosacral therapy, Rolfing structural integration, reiki, ortho-bionomy or ch'i gung; or practitioners of healing modalities not listed in this subsection who do not manipulate the soft tissues for therapeutic purposes from practicing those skills. An exempt practitioner who applies for a license pursuant to the Massage Therapy Practice Act shall comply with all licensure requirements of that act."

Chapter 40 Section 4 Laws 2019

SECTION 4. Section 61-12C-8 NMSA 1978 (being Laws 1991, Chapter 147, Section 8, as amended) is amended to read:

"61-12C-8. BOARD POWERS.--The board has the power to:

A. adopt and file, in accordance with the State Rules Act, rules necessary to carry out the provisions of the Massage Therapy Practice Act, in accordance with the provisions of the Uniform Licensing Act;

B. provide for the evaluation of the qualifications of applicants for licensure as a massage therapist or registration as a massage therapy school under the Massage Therapy Practice Act;

C. provide for the issuance of massage therapist licenses to applicants who meet the requirements of the Massage Therapy Practice Act;

D. establish minimum curricula for massage therapy schools and provide for the issuance and revocation of massage therapy school registrations;

E. establish instructor qualifications for hands-on massage therapy instruction within the minimum curricula;

F. provide for the inspection, when required, of the business premises of any licensee or registrant during regular business hours;

G. establish minimum training and educational standards for licensure as a massage therapist;

H. pursuant to the Uniform Licensing Act, conduct hearings on charges against applicants or licensees and take actions described in Section 61-1-3 NMSA 1978;

I. bring an action for injunctive relief in district court seeking to enjoin a person from violating the provisions of the Massage Therapy Practice Act;

J. issue cease and desist orders to persons violating the provisions of the Massage Therapy Practice Act or any rule adopted by the board pursuant to that act;

K. adopt an annual budget;

L. adopt a code of professional conduct for massage therapists;

M. provide for the investigation of complaints against licensees and registrants;
and

N. publish at least annually combined or separate lists of licensed massage therapists and registered massage therapy schools."

Chapter 40 Section 5 Laws 2019

SECTION 5. Section 61-12C-9 NMSA 1978 (being Laws 1991, Chapter 147, Section 9, as amended) is amended to read:

"61-12C-9. REQUIREMENTS FOR LICENSURE OF MASSAGE THERAPISTS.--

A. The board shall issue a license to practice massage therapy to any individual who files a completed application, accompanied by the required fees, and who submits satisfactory evidence that the applicant:

(1) has reached the age of majority;

(2) has completed all educational requirements established by the board;
and

(3) has completed at least six hundred fifty hours of education that includes at least five hundred hours of massage therapy instruction.

B. An initial license issued pursuant to this section may be for a period of up to two years pursuant to board rule."

Chapter 40 Section 6 Laws 2019

SECTION 6. Section 61-12C-13 NMSA 1978 (being Laws 1991, Chapter 147, Section 13, as amended) is amended to read:

"61-12C-13. EXAMINATIONS.--

A. The board shall establish by rule the required examinations for licensure as a massage therapist and the procedures for taking and retaking them. The board shall determine the passing grade on examinations.

B. The board shall specify by rule the general areas of competency to be covered by examinations for licensure and ensure that the examinations measure adequately both an applicant's competency and knowledge of related statutory requirements. Professional testing services may be utilized for the examinations."

Chapter 40 Section 7 Laws 2019

SECTION 7. Section 61-12C-17 NMSA 1978 (being Laws 1991, Chapter 147, Section 17, as amended) is amended to read:

"61-12C-17. LICENSE RENEWAL--CONTINUING EDUCATION.--

A. Except as provided for initial licensure in Subsection B of Section 61-12C-9 NMSA 1978, massage therapy licenses shall expire biennially. Expiration dates shall be established by rule.

B. The board may establish continuing education requirements as a condition of the renewal of massage therapy licenses.

C. All courses offered by continuing education providers shall be acceptable to meet continuing education requirements regardless of the location where the course is offered.

D. A continuing education provider who is an individual who was an active New Mexico registered independent massage therapy instructor on the effective date of this 2019 act shall submit to the board a syllabus and one-time fee for any course not previously approved by the board.

E. Within thirty days of application, the board may approve or deny the application of an individual who is not a continuing education provider to offer a particular continuing education course; provided that the individual submits:

- (1) a copy of any relevant license;
- (2) proof of a minimum of two years' experience in the area of instruction;
- (3) a course syllabus for the proposed course;
- (4) a resume; and
- (5) a one-time fee to be determined by the board by rule.

F. A license shall be renewed by submitting a renewal application on a form provided by the board.

G. A sixty-day grace period shall be allowed each licensee after the end of the renewal period, during which time a license may be renewed upon payment of the renewal fee and a late fee as prescribed by the board."

Chapter 40 Section 8 Laws 2019

SECTION 8. Section 61-12C-18 NMSA 1978 (being Laws 1991, Chapter 147, Section 18, as amended) is amended to read:

"61-12C-18. INACTIVE STATUS.--

A. A massage therapy license not renewed at the end of the sixty-day grace period shall be placed on inactive status for a period not to exceed two years. At the end of two years, if the license has not been reactivated, it shall automatically expire.

B. If within a period of two years from the date the license was placed on inactive status the licensee wishes to resume practice, the licensee shall notify the board in writing, and, upon proof of completion of any continuing education or refresher courses prescribed by rule of the board and payment of an amount set by the board in lieu of all lapsed renewal fees, the license shall be restored in full."

Chapter 40 Section 9 Laws 2019

SECTION 9. Section 61-12C-21 NMSA 1978 (being Laws 1991, Chapter 147, Section 21, as amended) is amended to read:

"61-12C-21. ADVERTISING.--A massage therapist or massage therapy school shall include the number of the license or registration and the designation as a "licensed massage therapist" or "registered massage therapy school" in any advertisement of massage therapy services as established by board rule."

Chapter 40 Section 10 Laws 2019

SECTION 10. Section 61-12C-24 NMSA 1978 (being Laws 1991, Chapter 147, Section 24, as amended) is amended to read:

"61-12C-24. SUSPENSION, REVOCATION AND REINSTATEMENT OF LICENSES.--

A. Pursuant to the Uniform Licensing Act, the board may take disciplinary action against an individual licensed pursuant to the Massage Therapy Practice Act.

B. The board has authority to take an action set forth in Section 61-1-3 NMSA 1978 upon a finding by the board that the licensee:

- (1) is guilty of fraud, deceit or misrepresentation;
- (2) attempted to use as the licensee's own the license of another;
- (3) allowed the use of the licensee's license by another;
- (4) has been adjudicated as mentally incompetent by regularly constituted authorities;
- (5) has been convicted of a crime that substantially relates to the qualifications, functions or duties of a massage therapist. A copy of the record of

conviction, certified by the clerk of the court entering the conviction, is conclusive evidence of conviction;

(6) is guilty of unprofessional or unethical conduct or a violation of the code of ethics;

(7) is habitually or excessively using controlled substances or alcohol;

(8) is guilty of false, deceptive or misleading advertising;

(9) is guilty of aiding, assisting or advertising an unlicensed individual in the practice of massage therapy;

(10) is grossly negligent or incompetent in the practice of massage therapy;

(11) has had a license to practice massage therapy revoked, suspended or denied in any jurisdiction, territory or possession of the United States or another country for acts of the licensee similar to acts described in this section. A certified copy of the record of conviction shall be conclusive evidence of the conviction; or

(12) is guilty of failing to comply with a provision of the Massage Therapy Practice Act or rules of the board adopted pursuant to that act and filed in accordance with the State Rules Act.

C. Disciplinary proceedings may be instituted by sworn complaint of any individual, including members of the board, and shall conform with the provisions of the Uniform Licensing Act.

D. The board shall establish the guidelines for the disposition of disciplinary cases. Guidelines may include minimum and maximum fines, periods of probation, conditions of probation or reissuance of a license.

E. Licensees who have been found culpable and sanctioned by the board shall be responsible for the payments of all costs of the disciplinary proceedings."

Chapter 40 Section 11 Laws 2019

SECTION 11. Section 61-12C-27 NMSA 1978 (being Laws 1993, Chapter 173, Section 20, as amended) is amended to read:

"61-12C-27. OFFENSES--CRIMINAL PENALTIES.--An individual who does any of the following is guilty of a misdemeanor and shall be sentenced pursuant to Section 31-19-1 NMSA 1978:

A. violates a provision of the Massage Therapy Practice Act or rules adopted pursuant to that act;

B. renders or attempts to render massage therapy services without the required current valid license issued by the board; or

C. advertises or uses a designation, diploma or certificate implying that the individual is a massage therapist or massage therapy school unless the individual holds a current valid license or registration issued by the board."

Chapter 40 Section 12 Laws 2019

SECTION 12. A new section of the Massage Therapy Practice Act is enacted to read:

"MASSAGE THERAPY SCHOOL REGISTRATION, RENEWAL, SUSPENSION AND REVOCATION.--

A. A person shall not maintain, manage or operate a massage therapy school offering education, instruction or training in massage therapy unless the school is a registered massage therapy school.

B. Massage therapy school registrations shall expire annually. Expiration dates shall be established by rule of the board.

C. A registration shall be renewed by submitting a renewal application on a form provided by the board.

D. A sixty-day grace period shall be allowed each registrant after the end of the renewal period, during which time a registration may be renewed upon payment of the renewal fee and a late fee as prescribed by the board.

E. Proceedings to determine whether to suspend or revoke the registration of a massage therapy school may be instituted by sworn complaint of any individual, including members of the board, and shall conform with the provisions of the Uniform Licensing Act."

Chapter 40 Section 13 Laws 2019

SECTION 13. A new section of the Massage Therapy Practice Act is enacted to read:

"DENIAL OF LICENSE.--

A. Pursuant to the Uniform Licensing Act, the board may deny the issuance of a massage therapist license to an applicant.

B. The board has authority to take an action set forth in Section 61-1-3 NMSA 1978 upon a finding by the board that the applicant:

- (1) is guilty of fraud, deceit or misrepresentation;
- (2) attempted to use as the applicant's own the license of another;
- (3) allowed the use by another of the applicant's license issued in another jurisdiction;
- (4) has been adjudicated as mentally incompetent by regularly constituted authorities;
- (5) has been convicted of a crime that substantially relates to the qualifications, functions or duties of a massage therapist. A copy of the record of conviction, certified by the clerk of the court entering the conviction, is conclusive evidence of conviction;
- (6) is guilty of unprofessional or unethical conduct or a violation of the code of ethics;
- (7) is habitually or excessively using controlled substances or alcohol;
- (8) is guilty of false, deceptive or misleading advertising;
- (9) is guilty of aiding, assisting or advertising the practice of massage therapy in New Mexico without a New Mexico license;
- (10) is grossly negligent or incompetent in the practice of massage therapy;
- (11) has had a license to practice massage therapy revoked, suspended or denied in any jurisdiction, territory or possession of the United States or another

country for acts of the applicant similar to acts described in this section. A certified copy of the record of conviction shall be conclusive evidence of the conviction; or

(12) is guilty of failing to comply with a provision of the Massage Therapy Practice Act or rules of the board adopted pursuant to that act and filed in accordance with the State Rules Act."

Chapter 40 Section 14 Laws 2019

SECTION 14. A new section of the Massage Therapy Practice Act is enacted to read:

"SCOPE OF PRACTICE.--The practice of massage therapy consists of the assessment of the soft tissue structures of the body; the treatment and prevention of physical dysfunction and pain of soft tissue; and joint movement within normal physiologic range of motion to relieve pain or to develop, maintain, rehabilitate or augment physical function."

Chapter 40 Section 15 Laws 2019

SECTION 15. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately. _____

Senate Bill 200, w/ec

Approved February 4, 2019

LAWS 2019, CHAPTER 41

AN ACT

RELATING TO PUBLIC HEALTH; ENACTING THE MATERNAL MORTALITY AND MORBIDITY PREVENTION ACT TO ESTABLISH A MATERNAL MORTALITY AND SEVERE MATERNAL MORBIDITY REVIEW COMMITTEE TO REVIEW MATERNAL MORTALITY AND SEVERE MATERNAL MORBIDITY IN THE STATE AND MAKE RECOMMENDATIONS FOR PREVENTING FURTHER MATERNAL MORTALITY AND SEVERE MATERNAL MORBIDITY; CREATING AN ABTRACTOR SUBCOMMITTEE.

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

Chapter 41 Section 1 Laws 2019

SECTION 1. SHORT TITLE.--This act may be cited as the "Maternal Mortality and Morbidity Prevention Act".

Chapter 41 Section 2 Laws 2019

SECTION 2. DEFINITIONS.--As used in the Maternal Mortality and Morbidity Prevention Act:

A. "aggregate data" means health care data that exclude any individually identifiable health information, including patient and health care provider identification;

B. "chief medical officer" means the chief medical officer of the department;

C. "committee" means the maternal mortality and severe maternal morbidity review committee, including the subcommittee;

D. "de-identified data" means removal any of the following identifiers:

(1) names;

(2) any geographic subdivision smaller than a state, including street address, city, county, precinct and zip code and their equivalent geocodes;

(3) all elements of dates, except the year of an incident, for dates directly related to an individual, including birth date, admission date, discharge date and date of death;

(4) telephone numbers;

(5) fax numbers;

(6) electronic mail addresses;

(7) social security numbers;

(8) medical record numbers;

(9) health plan beneficiary numbers;

(10) account numbers;

- (11) certificate and license numbers;
- (12) vehicle identifiers and serial numbers, including license plate numbers;
- (13) device identifiers and serial numbers;
- (14) web universal resource locators, also known as "URLs";
- (15) internet protocol address numbers;
- (16) biometric identifiers, including finger and voice prints;
- (17) full-face photographic images and any comparable images; and
- (18) any other unique identifying number, characteristic or code;

E. "department" means the department of health;

F. "health care provider" means:

- (1) an individual licensed, certified or otherwise authorized to provide health care services in the ordinary course of business in the state; or
- (2) a health facility that the department licenses;

G. "law enforcement agency" means a law enforcement agency of the state or a political subdivision of the state;

H. "maternal mortality" means the death of a pregnant woman or a woman within one year postpartum;

I. "medical record" means the written or graphic documentation, sound recording or electronic record relating to medical, behavioral health and health care services that a patient receives from a health care provider, under the direction of a physician or another licensed health care provider. "Medical record" includes diagnostic documentation, including an x-ray, electrocardiogram and electroencephalogram; other test results; data entered into a prescription drug monitoring program; and an autopsy report;

J. "severe maternal morbidity" means a condition that occurs in a woman during pregnancy or within one year of the end of pregnancy that results in:

- (1) admission to the intensive care unit of a health facility; or
- (2) transfusion of four or more units of red blood cells; and

K. "subcommittee" means the abstractor subcommittee of the committee.

Chapter 41 Section 3 Laws 2019

SECTION 3. MATERNAL MORTALITY AND SEVERE MATERNAL MORBIDITY COMMITTEE--CREATION--MEMBERSHIP--DUTIES.--

A. The "maternal mortality and severe maternal morbidity review committee" is created in the department. The committee shall be composed of a maximum of twenty-five members that the chief medical officer shall appoint to serve three-year terms. In appointing members of the committee, the chief medical officer shall appoint members from geographic areas throughout the state with knowledge of maternal mortality and severe maternal morbidity, including representatives of hospitals and other birthing facilities; obstetrical providers; nursing providers; the office of the state medical investigator; the department; representatives of an association of perinatal health care providers that work in a perinatal health care collaborative; and other professionals that the chief medical officer deems appropriate.

B. Committee members shall serve terms of three years; provided that the initial members' terms shall be staggered in accordance with department rules. The secretary of health shall call the first meeting, at which the committee shall elect a chair. Thereafter, the committee shall meet at the call of the chair.

C. Committee members shall serve without any compensation or perquisite arising from their service.

D. The committee shall:

- (1) review each maternal mortality and severe maternal morbidity incident in the state related to each maternal mortality, using the de-identified case summary that the subcommittee provides;
- (2) investigate and review incidents of maternal mortality and severe maternal morbidity;
- (3) outline trends and patterns relating to maternal mortality and severe maternal morbidity in the state;

(4) compile reports, using aggregate data based on the cases that the department identifies for reporting. The committee shall compile these reports on an annual basis in an effort to further study the causes and problems associated with maternal mortality and severe maternal morbidity and distribute these reports to the legislature, government agencies, health care providers and others as necessary to reduce the maternal mortality rate in the state. These reports shall include recommendations to assist health care providers in reducing maternal mortality and morbidity;

(5) serve as a link with maternal mortality and morbidity review teams nationwide and participate in national maternal mortality and morbidity review team activities; and

(6) perform any other functions as resources allow to enhance efforts to reduce and prevent maternal mortality and severe maternal morbidity in the state.

Chapter 41 Section 4 Laws 2019

SECTION 4. ACCESS TO HEALTH INFORMATION--ABTRACTOR SUBCOMMITTEE.--

A. A health care provider, the office of the state medical investigator and the vital records and health statistics bureau of the department shall notify the chief medical officer of any incident of maternal mortality or severe maternal morbidity within three months of the incident.

B. Except as otherwise provided by law, the subcommittee may access medical records and other health information relating to an incidence of maternal mortality and severe maternal morbidity at any time within five years from the date of the incidence. At the request of the chief medical officer, a health care provider, the office of the state medical investigator and the vital records and health statistics bureau of the department shall provide medical records and other requested health information to the department relating to each incidence of maternal mortality and severe maternal morbidity for access by the subcommittee. Upon the request of the department, a law enforcement agency shall provide any report relating to an incidence of maternal mortality and severe maternal morbidity to the committee. A health care provider or law enforcement agency that provides a medical record, health information or report pursuant to this section with reasonable care and in compliance with the law shall not be held criminally or civilly liable for that release of information.

C. The following shall be confidential and shall not be subject to the Open Meetings Act or the Inspection of Public Records Act or subject to any subpoena,

discovery request or introduction into evidence in a civil or criminal proceeding unless obtained from a source separate and apart from the committee or department by valid means as provided by law:

(1) any meeting, part of a meeting or activity of the committee or subcommittee at which data or other information are to be discussed and that may result in disclosure to the public of information protected by law; and

(2) except as may be necessary in furtherance of the duties of the committee or in response to an alleged violation of a confidentiality agreement pursuant to Subsection E of this section, any information, record, report, notes, memorandum or other data that the department or committee obtains pursuant to the Maternal Mortality and Morbidity Prevention Act.

D. The chief medical officer shall appoint a three-member "abstractor subcommittee" of the committee, to be chaired by the chief medical officer and composed of public health and clinical health care providers who are members of the committee. The subcommittee shall meet at the call of the chief medical officer to review all medical records and documents related to each incident of maternal mortality and severe maternal morbidity that occurs in the state. The subcommittee shall perform a thorough record abstraction to obtain details of incidences and issues relating to maternal mortality and severe maternal morbidity. The subcommittee shall prepare an annual report for the committee that contains de-identified data and analysis relating to maternal mortality and severe maternal morbidity. Only members of the subcommittee shall have access to medical records and vital records data.

E. Each committee and subcommittee member shall sign a confidentiality agreement that indicates the member's adherence to the provisions of this section.

Chapter 41 Section 5 Laws 2019

SECTION 5. RULEMAKING.--By December 31, 2019, the secretary of health shall adopt and promulgate rules to carry out the provisions of the Maternal Mortality and Morbidity Act. _____

Senate Bill 215

Approved February 4, 2019

LAWS 2019, CHAPTER 42

AN ACT

RELATING TO SPECIAL REGISTRATION PLATES; PROVIDING INCREASED OPTIONS OF FREE SPECIAL REGISTRATION PLATES FOR FIFTY PERCENT OR MORE DISABLED VETERANS.

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

Chapter 42 Section 1 Laws 2019

SECTION 1. Section 66-3-412 NMSA 1978 (being Laws 1979, Chapter 299, Section 2, as amended) is amended to read:

"66-3-412. SPECIAL REGISTRATION PLATES--FIFTY PERCENT OR MORE DISABLED VETERANS--SUBMISSION OF PROOF--PENALTY.--

A. The department shall issue distinctive registration plates for up to two vehicles, including motorcycles, to a person who is a veteran of the armed forces of the United States and was fifty percent or more disabled while serving in the armed forces of the United States, upon the submission by the person of proof satisfactory to the department that the person was fifty percent or more disabled while serving in the armed forces of the United States. No fee, including the regular registration fee applicable to the passenger motor vehicle or regular motorcycle registration fees, if any, shall be collected for issuance of up to two special registration plates pursuant to this section. A person eligible for a special registration plate pursuant to this section and also eligible for one or more special registration plates pursuant to the Motor Vehicle Code shall be issued up to two special registration plates for which the person is eligible, in any combination of the person's choice free of charge, notwithstanding any fee that would otherwise be charged for a special registration plate.

B. No person shall falsely make any representation as having been fifty percent or more disabled while serving in the armed forces of the United States so as to be eligible to be issued special registration plates pursuant to this section when the person in fact was not fifty percent or more disabled while serving in the armed forces of the United States.

C. A person who violates the provisions of Subsection B of this section is guilty of a misdemeanor.

D. As used in this section, "veteran" means an individual who was regularly enlisted, drafted, inducted or commissioned, who was accepted for and assigned to

active duty in the armed forces of the United States and who was not separated from such service under circumstances amounting to dishonorable discharge."

Chapter 42 Section 2 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.

Senate Bill 236

Approved February 4, 2019

LAWS 2019, CHAPTER 43

AN ACT

RELATING TO LEGAL SERVICES; ESTABLISHING A PROGRAM TO INCREASE LEGAL SERVICES FOR ACEQUIAS, LAND GRANTS-MERCEDES AND LOW-INCOME RESIDENTS OF COLONIAS; ESTABLISHING A WAIVER OF TUITION FOR SERVICE PROGRAM; CREATING A FUND; CREATING A COMMISSION.

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

Chapter 43 Section 1 Laws 2019

SECTION 1. SHORT TITLE.--This act may be cited as the "Community Governance Attorney Act".

Chapter 43 Section 2 Laws 2019

SECTION 2. DEFINITIONS.--As used in the Community Governance Attorney Act:

A. "acequia" means a political subdivision organized pursuant to Chapter 73, Article 2 or 3 NMSA 1978;

B. "colonia" means a community as defined in the Colonias Infrastructure Act;

C. "commission" means the community governance attorney commission;

D. "community governance attorney" means an attorney with a legal practice that is focused on the requirements and challenges faced by small political subdivisions and unincorporated communities, including the promulgation of land and water use ordinances, contracting and the collection or payment of taxes and fees;

E. "course of study" means a law student's legal education, including clinical and internship programs and preparation courses for the state bar examination;

F. "department" means the higher education department;

G. "fund" means the community governance attorney and conditional tuition waiver fund;

H. "land grant-merced" means a political subdivision organized pursuant to Chapter 49, Article 1 or 4 NMSA 1978;

I. "participant" means an individual who has applied to participate in, has been accepted into and has signed a contract agreeing to the terms of the program;

J. "program" means the community governance attorney and conditional tuition waiver program;

K. "secretary" means the secretary of higher education;

L. "university" means the university of New Mexico school of law; and

M. "waiver" means a loan to cover tuition, fees and a reasonable living stipend that is forgiven in whole or in part if the participant renders service as a community governance attorney.

Chapter 43 Section 3 Laws 2019

SECTION 3. COMMUNITY GOVERNANCE ATTORNEY AND CONDITIONAL TUITION WAIVER PROGRAM CREATED-- ADMINISTRATION--RULEMAKING SELECTION PROCESS--REPAYMENT.--

A. The "community governance attorney and conditional tuition waiver program" is created and shall be administered by the department. The department shall:

(1) promulgate rules for implementing the program and for a reasonable living stipend in consultation with the university; provided that the maximum living stipend shall be based upon the availability of funds and information provided by the university regarding the current cost of attendance at the university;

(2) publicize the program to law students and to prospective law students;

(3) collect and manage repayment from students who do not meet their obligations under the program; and

(4) solicit and accept funds for the program, including grants and donations.

B. Participants shall enter the program in their final year of law school. The department shall select participants according to rules it promulgates and, in consultation with the commission, shall create a standard process for law students to apply to participate in the program.

C. The department shall award no more than two new waivers a year, in addition to renewing existing waivers for eligible participants, subject to the availability of funding.

D. Participation in the program shall be evidenced by a contract between the participant and the department. The contract shall provide for the payment of a participant's waiver and shall be conditioned upon the participant fulfilling the program obligations and meeting the university's standards for satisfactory academic progress. An applicant to the program shall sign the contract prior to being accepted into the program.

E. The contract shall include the following terms for repayment of the waiver:

(1) interest shall accrue upon termination of the participant's course of study at the following interest rates:

(a) eighteen percent per year if the participant completes a course of study and no portion of the principal and interest is forgiven pursuant to Subsection F of this section; and

(b) seven percent per year in all other cases; and

(2) the maximum period for repayment shall be ten years, commencing six months from the date the participant completes or discontinues the course of study.

F. The contract shall provide that the department forgive fifty percent of a waiver for each year that a participant is employed full time as a community governance attorney with a salary of not more than fifty thousand dollars (\$50,000) per year.

Chapter 43 Section 4 Laws 2019

SECTION 4. COMMISSION--DUTIES.--

A. The "community governance attorney commission" is created. The commission shall be composed of five members as follows:

- (1) the secretary or the secretary's designee;
- (2) the dean of the university or the dean's designee; and
- (3) three members appointed by the governor; provided that one member shall be a member of an acequia, one member shall be a current or past member of the land grant council and one member shall be a current or past member of the colonias infrastructure board and a resident of a colonia.

B. Staff and meeting space for the commission shall be provided by the university. The commission shall elect a chair and such other officers as it deems appropriate and shall meet at the call of the chair. Members of the commission shall receive per diem and mileage pursuant to the Per Diem and Mileage Act and shall receive no other compensation.

C. The commission shall:

- (1) make recommendations to the department on applicants for the program;
- (2) advise the department on the adoption of rules to implement the provisions of the Community Governance Attorney Act;
- (3) pursuant to the Procurement Code, solicit proposals for disbursement from the fund for legal services;
- (4) enter into contracts for expenditure of the fund for the purpose of providing community governance attorney services for acequias, land grants-mercedes

and low-income residents of colonias on issues regarding the governance of colonias. The contracts shall be entered into with the university or with nonprofit organizations whose mission is to provide a range of free legal services to low-income New Mexicans. No contract shall provide funding in excess of one-half of a full-time community governance attorney position, and each contract shall be executed only with service providers that have secured sufficient matching nonstate funding to provide a full-time position; and

(5) adopt such rules as are necessary to carry out the provisions of this section.

D. The department, pursuant to rules of the commission, shall administer the contracts and programs provided for in this section.

Chapter 43 Section 5 Laws 2019

SECTION 5. FUND CREATED--DISBURSEMENT.--

A. The "community governance attorney and conditional tuition waiver fund" is created in the state treasury. The fund shall consist of money appropriated, donated or otherwise accruing to the fund. All payments for repayment of waivers and penalties shall be credited to the fund. Balances in the fund shall not revert to any other fund at the end of a fiscal year.

B. Expenditures from the fund shall only be used to make waivers to participants in the program, to pay contracts for community governance attorney services and to pay the administrative expenses associated with the program and collection activity on its behalf; provided that no more than five percent of the annual expenditures from the fund shall be for administrative costs. The department shall require an annual accounting from each organization receiving funds pursuant to this section.

C. All waiver loan payments shall be by warrant drawn by the secretary upon vouchers signed by the designated representative of the department. All disbursements from the fund for community governance attorney services shall be by warrant drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of higher education or the secretary's designee. Money in the fund is subject to appropriation by the legislature to the department for the purposes of carrying out the provisions of the Community Governance Attorney Act.

D. Money disbursed pursuant to this section shall not be used by a recipient to:

- (1) support lobbying, as defined in the Lobbyist Regulation Act; or
- (2) bring suit against the state.

Chapter 43 Section 6 Laws 2019

SECTION 6. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.

Senate Bill 244

Approved February 4, 2019

LAWS 2019, CHAPTER 44

AN ACT

RELATING TO TAXATION; EXCLUDING CERTAIN ENTITIES FROM A GROSS RECEIPTS TAX EXEMPTION FOR NONPROFIT ORGANIZATIONS.

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

Chapter 44 Section 1 Laws 2019

SECTION 1. Section 7-9-29 NMSA 1978 (being Laws 1970, Chapter 12, Section 3, as amended) is amended to read:

"7-9-29. EXEMPTION--GROSS RECEIPTS TAX--CERTAIN ORGANIZATIONS--EXCEPTIONS.--

A. Exempted from the gross receipts tax are the receipts of organizations that demonstrate to the department that they have been granted exemption from the federal income tax by the United States commissioner of internal revenue as organizations described in Section 501(c)(3) of the United States Internal Revenue Code of 1986, as that section may be amended or renumbered.

B. Exempted from the gross receipts tax are the receipts from carrying on chamber of commerce, visitor bureau and convention bureau functions of organizations

that demonstrate to the department that they have been granted exemption from the federal income tax by the United States commissioner of internal revenue as organizations described in Section 501(c)(6) of the United States Internal Revenue Code of 1986, as that section may be amended or renumbered.

C. This section does not apply to:

(1) receipts derived from an unrelated trade or business as defined in Section 513 of the United States Internal Revenue Code of 1986, as that section may be amended or renumbered;

(2) receipts of a prime contractor that are derived from operating a facility in New Mexico designated as a national laboratory by an act of congress; or

(3) receipts of a prime contractor that are derived from operating a research facility in New Mexico that is owned by the state."

Chapter 44 Section 2 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.

Senate Bill 11, aa, w/cc

Approved February 28, 2019

LAWS 2019, CHAPTER 45

AN ACT

RELATING TO CRIME; REQUIRING A BACKGROUND CHECK WHEN CONDUCTING SALES OF A FIREARM; PROVIDING PENALTIES.

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

Chapter 45 Section 1 Laws 2019

SECTION 1. A new section of Chapter 30, Article 7 NMSA 1978 is enacted to read:

"UNLAWFUL SALE OF A FIREARM WITHOUT A BACKGROUND CHECK.--

A. Unlawful sale of a firearm without a background check consists of the sale of a firearm without conducting a federal instant background, check subject to the following:

(1) if the buyer of a firearm is not a natural person, then each natural person who is authorized by the buyer to possess the firearm after the sale shall undergo a federal instant background check before taking possession of the firearm;

(2) a prospective firearm seller who does not hold a current and valid federal firearms license issued pursuant to 18 U.S.C. Section 923(a) shall arrange for a person who does hold that license to conduct the federal instant background check. A federal firearms licensee shall not unreasonably refuse to perform a background check pursuant to this paragraph; and

(3) a person who holds a current and valid federal firearms license issued pursuant to 18 U.S.C. Section 923(a) may charge a fee not to exceed thirty-five dollars (\$35.00) for conducting a background check pursuant to this section.

B. The provisions of Subsection A of this section do not apply to the sale of a firearm:

(1) by or to a person who holds a current and valid federal firearms license issued pursuant to 18 U.S.C. Section 923(a);

(2) to a law enforcement agency;

(3) between two law enforcement officers authorized to carry a firearm and certified pursuant to federal law or the Law Enforcement Training Act; or

(4) between immediate family members.

C. As used in this section:

(1) "consideration" means anything of value exchanged between the parties to a sale;

(2) "federal instant background check" means a background check that meets the requirements of 18 U.S.C. Section 922(t) and that does not indicate that a sale to the person receiving the firearm would violate 18 U.S.C. Section 922(g) or 18 U.S.C. Section 922(n) or state law;

(3) "firearm" means any weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosion; the frame or receiver of any such weapon; or any firearm muffler or firearm silencer; and includes any handgun, rifle or shotgun; but shall not include an antique firearm as defined in 18 U.S.C. Section 921(16), a powder-actuated tool or other device designed to be used for construction purposes, an emergency flare or a firearm in permanently inoperable condition;

(4) "immediate family member" means a spouse, parent, child, sibling, grandparent, grandchild, great-grandchild, niece, nephew, first cousin, aunt or uncle; and

(5) "sale" means the delivery or passing of ownership, possession or control of a firearm for a fee or other consideration, but does not include temporary possession or control of a firearm provided to a customer by the proprietor of a licensed business in the conduct of that business.

D. Each party to an unlawful sale in violation of this section may be separately charged for the same sale.

E. Each firearm sold contrary to the provisions of this section constitutes a separate offense under Subsection A of this section.

F. Two or more offenses may be charged in the same complaint, information or indictment and shall be punished as separate offenses.

G. Whoever violates the provisions of this section is guilty of a misdemeanor."

Chapter 45 Section 2 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.

Senate Bill 8, aa

Approved March 8, 2019

LAWS 2019, CHAPTER 46

AN ACT

RELATING TO THE SEVERANCE TAX PERMANENT FUND; INCREASING INVESTMENT IN SMALL BUSINESSES.

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

Chapter 46 Section 1 Laws 2019

SECTION 1. Section 7-27-5.15 NMSA 1978 (being Laws 1990, Chapter 126, Section 5, as amended) is amended to read:

"7-27-5.15. NEW MEXICO PRIVATE EQUITY FUNDS AND NEW MEXICO BUSINESS INVESTMENTS.--

A. No more than nine percent of the market value of the severance tax permanent fund may be invested in New Mexico private equity funds or New Mexico businesses under this section.

B. In making investments pursuant to Subsection A of this section, the council shall make investments in

New Mexico private equity funds or New Mexico businesses whose investments or enterprises enhance the economic development objectives of the state.

C. The state investment officer shall make investments pursuant to Subsection A of this section only upon approval of the council and within guidelines and policies established by the council.

D. As used in this section:

(1) "New Mexico business" means, in the case of a corporation or limited liability company, a business with its principal office and a majority of its full-time employees located in New Mexico or, in the case of a limited partnership, a business with its principal place of business and eighty percent of its assets located in New Mexico; and

(2) "New Mexico private equity fund" means an entity that makes, manages or sources potential investments in New Mexico businesses and that:

(a) has as its primary business activity the investment of funds in return for equity in or debt of businesses for the purpose of providing capital for start-up, expansion, product or market development, recapitalization or similar business purposes;

(b) holds out the prospects for capital appreciation from such investments;

(c) has at least one full-time manager with at least three years of professional experience in assessing the growth prospects of businesses or evaluating business plans;

(d) is committed to investing or helps secure investing by others, in an amount at least equal to the total investment made by the state investment officer in that fund pursuant to this section, in businesses with a principal place of business in New Mexico and that hold promise for attracting additional capital from individual or institutional investors nationwide for businesses in New Mexico; and

(e) accepts investments only from accredited investors as that term is defined in Section 2 of the federal Securities Act of 1933, as amended (15 USCA Section 77(b)), and rules and regulations promulgated pursuant to that section, or federally recognized Indian tribes, nations and pueblos with at least five million dollars (\$5,000,000) in overall investment assets.

E. The state investment officer is authorized to make investments in New Mexico businesses to create new job opportunities and to support new, emerging or expanding businesses in a manner consistent with the constitution of New Mexico if:

(1) the investments are made:

(a) in conjunction with cooperative investment agreements with parties that have demonstrated abilities and relationships in making investments in new, emerging or expanding businesses;

(b) in a New Mexico aerospace business that has received an award from the United States government or one of its agencies or instrumentalities: 1) in an amount, not less than one hundred million dollars (\$100,000,000), that is equal to at least ten times the investment from the severance tax permanent fund; and 2) for the purpose of stimulating commercial enterprises; or

(c) in a New Mexico business that: 1) is established to perform technology transfer, research and development, research commercialization, manufacturing, training, marketing or public relations in any field of science or technology, including but not limited to energy, security, defense, aerospace, automotives, electronics, telecommunications, computer and information science, environmental science, biomedical science, life science, physical science, materials science or nanoscience, using research developed in whole or in part by a state institution of higher education or a prime contractor designated as a national laboratory by an act of congress that is operating a facility in the state, or an affiliated entity; and 2) has an agreement to operate the business on state lands;

(2) an investment in any one business does not exceed ten percent of the amount available for investment pursuant to this section; and

(3) the investments represent no more than fifty-one percent of the total investment capital in a business; provided, however, that nothing in this subsection prohibits the ownership of more than fifty-one percent of the total investment capital in a New Mexico business if the additional ownership interest:

(a) is due to foreclosure or other action by the state investment officer pursuant to agreements with the business or other investors in that business;

(b) is necessary to protect the investment; and

(c) does not require an additional investment of the severance tax permanent fund.

F. The state investment officer shall make a commitment to the small business investment corporation pursuant to the Small Business Investment Act to invest two percent of the market value of the severance tax permanent fund to create new job opportunities by providing capital for land, buildings or infrastructure for facilities to support new or expanding businesses and to otherwise make investments to create new job opportunities to support new or expanding businesses in a manner consistent with the constitution of New Mexico. On July 1 of each year, the state investment officer shall determine whether the invested capital in the small business investment corporation is less than two percent of the market value of the severance tax permanent fund. If the invested capital in the small business investment corporation equals less than two percent of the market value of the severance tax permanent fund, further commitments shall be made until the invested capital is equal to two percent of the market value of the fund.

G. The state investment officer shall report semiannually on the investments made pursuant to this section. Annually, a report shall be submitted to the legislature prior to the beginning of each regular legislative session and a second report no later than October 1 each year to the legislative finance committee, the revenue stabilization and tax policy committee and any other appropriate interim committee. Each report shall provide the amounts invested in each New Mexico private equity fund, as well as information about the objectives of the funds, the companies in which each private equity fund is invested and how each private equity investment enhances the economic development objectives of the state. Each report also shall provide the amounts invested in each New Mexico business." _____

Senate Bill 10

Approved March 13, 2019

LAWS 2019, CHAPTER 47

AN ACT

RELATING TO TAXATION; APPLYING THE PROVISIONS OF THE TAX ADMINISTRATION ACT TO THE INSURANCE PREMIUM TAX ACT; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA.

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

Chapter 47 Section 1 Laws 2019

SECTION 1. Section 7-1-2 NMSA 1978 (being Laws 1965, Chapter 248, Section 2, as amended) is amended to read:

"7-1-2. APPLICABILITY.--The Tax Administration Act applies to and governs:

A. the administration and enforcement of the following taxes or tax acts as they now exist or may hereafter be amended:

- (1) Income Tax Act;
- (2) Withholding Tax Act;
- (3) Venture Capital Investment Act;

- receipts tax;
- (4) Gross Receipts and Compensating Tax Act and any state gross receipts tax;
 - (5) Liquor Excise Tax Act;
 - (6) Local Liquor Excise Tax Act;
 - (7) any municipal local option gross receipts tax;
 - (8) any county local option gross receipts tax;
 - (9) Special Fuels Supplier Tax Act;
 - (10) Gasoline Tax Act;
 - (11) petroleum products loading fee, which fee shall be considered a tax for the purpose of the Tax Administration Act;
 - (12) Alternative Fuel Tax Act;
 - (13) Cigarette Tax Act;
 - (14) Estate Tax Act;
 - (15) Railroad Car Company Tax Act;
 - (16) Investment Credit Act, rural job tax credit, Laboratory Partnership with Small Business Tax Credit Act, Technology Jobs and Research and Development Tax Credit Act, Film Production Tax Credit Act, Affordable Housing Tax Credit Act and high-wage jobs tax credit;
 - (17) Corporate Income and Franchise Tax Act;
 - (18) Uniform Division of Income for Tax Purposes Act;
 - (19) Multistate Tax Compact;
 - (20) Tobacco Products Tax Act;
 - (21) the telecommunications relay service surcharge imposed by Section 63-9F-11 NMSA 1978, which surcharge shall be considered a tax for the purposes of the Tax Administration Act; and

(22) the Insurance Premium Tax Act;

B. the administration and enforcement of the following taxes, surtaxes, advanced payments or tax acts as they now exist or may hereafter be amended:

(1) Resources Excise Tax Act;

(2) Severance Tax Act;

(3) any severance surtax;

(4) Oil and Gas Severance Tax Act;

(5) Oil and Gas Conservation Tax Act;

(6) Oil and Gas Emergency School Tax Act;

(7) Oil and Gas Ad Valorem Production Tax Act;

(8) Natural Gas Processors Tax Act;

(9) Oil and Gas Production Equipment Ad Valorem Tax Act;

(10) Copper Production Ad Valorem Tax Act;

(11) any advance payment required to be made by any act specified in this subsection, which advance payment shall be considered a tax for the purposes of the Tax Administration Act;

(12) Enhanced Oil Recovery Act;

(13) Natural Gas and Crude Oil Production Incentive Act; and

(14) intergovernmental production tax credit and intergovernmental production equipment tax credit;

C. the administration and enforcement of the following taxes, surcharges, fees or acts as they now exist or may hereafter be amended:

(1) Weight Distance Tax Act;

(2) the workers' compensation fee authorized by Section 52-5-19 NMSA 1978, which fee shall be considered a tax for purposes of the Tax Administration Act;

(3) Uniform Unclaimed Property Act (1995);

(4) 911 emergency surcharge and the network and database surcharge, which surcharges shall be considered taxes for purposes of the Tax Administration Act;

(5) the solid waste assessment fee authorized by the Solid Waste Act, which fee shall be considered a tax for purposes of the Tax Administration Act;

(6) the water conservation fee imposed by Section 74-1-13 NMSA 1978, which fee shall be considered a tax for the purposes of the Tax Administration Act; and

(7) the gaming tax imposed pursuant to the Gaming Control Act; and

D. the administration and enforcement of all other laws, with respect to which the department is charged with responsibilities pursuant to the Tax Administration Act, but only to the extent that the other laws do not conflict with the Tax Administration Act."

Chapter 47 Section 2 Laws 2019

SECTION 2. A new section of the Tax Administration Act is enacted to read:

"DISTRIBUTION--PREMIUM TAX.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the law enforcement protection fund in an amount equal to ten percent of the net receipts attributable to the premium tax from life, general casualty and title insurance business.

B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the fire protection fund of the net receipts attributable to the premium tax derived from property and vehicle insurance business."

Chapter 47 Section 3 Laws 2019

SECTION 3. A new section of the New Mexico Insurance Code is enacted to read:

"SUPERINTENDENT SHALL PROVIDE INFORMATION TO THE TAXATION AND REVENUE DEPARTMENT NECESSARY TO ADMINISTER THE INSURANCE PREMIUM TAX ACT.--The superintendent shall provide to the taxation and revenue

department information regarding an insurer or plan subject to the Insurance Premium Tax Act that is necessary to that department to administer the provisions of the Insurance Premium Tax Act."

Chapter 47 Section 4 Laws 2019

SECTION 4. REPEAL.--Sections 7-40-8 and 7-40-9 NMSA 1978 (being Laws 2018, Chapter 57, Sections 8 and 9) are repealed.

Chapter 47 Section 5 Laws 2019

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of Sections 1 through 3 of this act is January 1, 2020. _____

House Bill 162

Approved March 13, 2019

LAWS 2019, CHAPTER 48

AN ACT

RELATING TO STATE GOVERNMENT; CREATING THE EARLY CHILDHOOD EDUCATION AND CARE DEPARTMENT; TRANSFERRING EARLY CHILDHOOD-RELATED FUNCTIONS OF OTHER STATE AGENCIES TO THE EARLY CHILDHOOD EDUCATION AND CARE DEPARTMENT; EXPANDING EARLY PRE-KINDERGARTEN AND PRE-KINDERGARTEN PROGRAM ELIGIBILITY; TRANSFERRING PERSONNEL, FUNCTIONS, MONEY, APPROPRIATIONS, OTHER PROPERTY AND CONTRACTUAL OBLIGATIONS; CHANGING REFERENCES IN LAW; MAKING APPROPRIATIONS.

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

Chapter 48 Section 1 Laws 2019

SECTION 1. SHORT TITLE.--Sections 1 through 12 of this act may be cited as the "Early Childhood Education and Care Department Act".

Chapter 48 Section 2 Laws 2019

SECTION 2. DEFINITIONS.--As used in the Early Childhood Education and Care Department Act:

A. "child" means a person from birth to age five or, where the context otherwise provides, to age eight or thirteen;

B. "department" means the early childhood education and care department;
and

C. "secretary" means the secretary of early childhood education and care.

Chapter 48 Section 3 Laws 2019

SECTION 3. DEPARTMENT CREATED--ORGANIZATIONAL UNITS.--

A. The "early childhood education and care department" is created as a cabinet department and consists of the:

- (1) administrative services division;
- (2) office of the secretary;
- (3) child care licensing and services division;
- (4) early childhood education division; and
- (5) early intervention services division, which consists of the:
 - (a) home visitation bureau; and
 - (b) family, infant, toddler program.

B. The office of the secretary shall include an assistant secretary for Native American early childhood education and care who will be advised by the Indian education advisory council created pursuant to Section 22-23A-6 NMSA 1978.

Chapter 48 Section 4 Laws 2019

SECTION 4. SECRETARY--APPOINTMENT.--The chief executive and administrative officer of the department is the "secretary of early childhood education and care". The governor, with the advice and consent of the senate, shall appoint a person who has experience in early childhood education or care programs to serve as

secretary. The secretary shall serve in and have the duties, responsibilities and authority of that position during the period before final action by the senate confirming or rejecting the secretary's appointment. The secretary shall serve in the executive cabinet and shall serve in the role of secretary at the pleasure of the governor.

Chapter 48 Section 5 Laws 2019

SECTION 5. DEPARTMENT REORGANIZATION AND ORGANIZATIONAL UNIT CREATION.--

A. The secretary may reorganize the department. If the secretary does so, the secretary shall report on the reorganization to the legislature.

B. The secretary shall, with the approval of the governor, appoint directors of the department's divisions.

C. The secretary may establish within each of the department's divisions additional bureaus as necessary to implement the Early Childhood Education and Care Department Act. The secretary shall appoint chiefs to serve as the administrative heads of the department's bureaus.

Chapter 48 Section 6 Laws 2019

SECTION 6. SECRETARY--DUTIES AND GENERAL POWERS.--

A. The secretary is responsible to the governor for the operation of the department. The secretary shall manage the department's operations and ensure compliance with laws applicable to the department.

B. To perform the secretary's duties, and except as otherwise provided by law, the secretary may exercise powers granted to the department.

C. The secretary shall:

(1) except as otherwise provided by the Early Childhood Education And Care Department Act, exercise general supervisory and appointing power over all department employees in accordance with personnel laws;

(2) delegate power to department employees as necessary and appropriate and, in doing so, clearly delineate the limits of the delegated power;

(3) employ and fix the compensation of employees as necessary to perform the duties imposed by law on the secretary and the department;

(4) issue administrative orders and instructions to ensure implementation of and compliance with laws the secretary is charged with administering and enforce those orders and instructions through the courts;

(5) conduct research and studies to improve the department's operations and its delivery of programs;

(6) improve department operations and efficiency and promote the delivery of comprehensive, coordinated, culturally sensitive programs that address overall child well-being and early learning;

(7) provide courses of instruction and practical training for department employees and others involved in administering department programs; and

(8) prepare an annual budget for the department.

D. The secretary, in the name of the department and with the governor's approval, may apply for and receive public or private funding to carry out department programs, duties and services.

E. The secretary and division directors may promulgate reasonable rules as necessary to perform the department's duties. A rule promulgated by a division director is effective only with the secretary's approval.

Chapter 48 Section 7 Laws 2019

SECTION 7. ASSISTANT SECRETARY--APPOINTMENT--DUTIES.--

A. The secretary shall, with the consent of the governor, appoint an assistant secretary for Native American early education and care.

B. The assistant secretary shall:

(1) be responsible to the secretary for the administration, coordination and oversight of Indian early childhood education and care programs;

(2) the assistant secretary shall, in cooperation with the secretary, collaborate with state and federal departments and agencies, tribal governments, eligible providers and community partners to identify ways such entities can assist the

department in the implementation of the Early Childhood Education and Care Department Act;

(3) consult with the New Mexico Indian nations, tribes and pueblos for delivery of learning guidelines in Native American language, culture and history designed for tribal and nontribal students;

(4) provide assistance to school districts and educational agencies to expand appropriate Indian education programs for Native American infants, toddlers, children, youth and families pursuant to the federal Indian Child Welfare Act of 1978;

(5) assist with the delivery of culturally relevant education and care for Native American children;

(6) seek funding to establish and strengthen programs related to Native American infants, toddlers, children, youth and families; and

(7) help ensure that Native American language and cultural considerations are included in programs administered through the department.

Chapter 48 Section 8 Laws 2019

SECTION 8. DEPARTMENT--DUTIES.--The department shall:

A. develop priorities for department programs and the use of department resources based on state policy, national best-practice standards, evidence-based interventions and practices and local considerations and priorities;

B. coordinate and align an early childhood education and care system to:

(1) include child care, pre-kindergarten, early pre-kindergarten, home visitation, early head start, head start, early childhood special education and early intervention and family support; and

(2) provide New Mexico families with consistent access to appropriate care and education services;

C. administer the child care assistance, child care licensing and registered child care home programs;

D. develop standards for the department-sponsored delivery of early childhood programs;

E. cooperate with other state agencies that affect children to develop common contracting procedures and service definitions and a uniform system of access to early childhood programs;

F. develop reimbursement criteria for child care centers and home providers licensed by the department;

G. conduct biennial assessments of child care or early learning service gaps and needs and establish plans to address those service gaps and needs;

H. conduct pre-employment fingerprint-based national criminal background checks on all department employees, including those whose employment by the department arises as a result of the transfer provisions of Section 34 of this 2019 act, and on staff members and volunteers of department-contracted providers whose jobs involve direct contact with children participating in programs delivered by the department or those providers;

I. provide a system of seamless transition from prenatal to early childhood programs to kindergarten;

J. provide consumer education and accessibility to early childhood care and education programs;

K. advance quality early childhood education and care programs to support the development of children to prepare them for success in school;

L. ensure effective collaboration with state and local child welfare programs and early childhood health and behavioral health programs;

M. develop and manage effective data systems to support the necessary functions of a coordinated program;

N. develop an aligned system of workforce development for early childhood professionals; and

O. promote culturally and linguistically appropriate programming and provide equal education and care opportunities to non-English speaking families.

Chapter 48 Section 9 Laws 2019

SECTION 9. RECORDS AND CONFIDENTIALITY.--The department may access records and data of other state agencies that are not made expressly

confidential by law. The department shall enter into agreements with the children, youth and families department and the public education department to share and maintain confidential information in accordance with federal and state confidentiality laws.

Chapter 48 Section 10 Laws 2019

SECTION 10. FAMILY, INFANT, TODDLER PROGRAM.--

A. As used in this section:

(1) "early intervention programs" means programs, including physical development, communications development, adaptive development, social and emotional development and sensory development programs, designed to meet the developmental needs of eligible children;

(2) "eligible child" means a child from birth to age thirty-six months with developmental delay or who, according to department of health-established criteria, is at risk of developmental delay; and

(3) "program" means the family, infant, toddler program.

B. The department is the lead state agency for the program. Through the program, the department shall develop and administer a statewide system of comprehensive, coordinated, multidisciplinary and interagency early intervention programs to eligible children.

C. The parent of an eligible child may choose whether to enroll the child in the program.

D. The children, youth and families department, the department of health, the human services department, the public education department and other publicly funded providers of services to eligible children shall collaborate with the department to provide program services and shall establish the division of responsibilities for providing those services in interagency agreements.

E. The secretary shall comply with the federal Individuals with Disabilities Education Act, Part C, contingent on participation by the state, including by:

(1) establishing related policies and promulgating program rules;

- delivered;
- (2) implementing procedures to ensure that program services are timely delivered;
 - (3) administering and overseeing the program;
 - (4) resolving complaints related to the program;
 - (5) maintaining and expanding interagency and state and local coordination in implementing the program;
 - (6) identifying and coordinating resources for delivering early intervention programs through the program; and
 - (7) establishing minimum requirements to qualify personnel to deliver services through the program.

F. The department is the custodian of money received by the state from the federal government for the purpose of implementing the federal Individuals with Disabilities Education Act, Part C.

Chapter 48 Section 11 Laws 2019

SECTION 11. EARLY CHILDHOOD PROGRAMS.--

A. The department shall convene an advisory council consisting primarily of eligible providers, community organizations, employees who reflect the demographics of the current early childhood workforce throughout the state, employee representatives and representatives of the legislative finance committee and the department of finance and administration to:

- (1) develop an outcomes measurement plan to monitor outcomes for children and families receiving services through early childhood programs;
- (2) as part of that plan, develop goals and objectives with corresponding indicators that measure whether each of those objectives is reached;
- (3) as part of the work of the council, a workforce development plan shall be developed to include a career ladder, wage structure and professional development plan that applies to the full continuum of programs within the department, as well as other items deemed appropriate by the secretary; and

(4) submit the plan by December 31, 2020 to the legislature and the governor.

B. By December 31 of each year, the department shall develop and submit to the legislature and the governor an annual report on outcomes for children and families receiving services through early childhood programs that includes:

(1) the number and type of early childhood programs funded by the department;

(2) the income levels of families served through those programs;

(3) the reasons stated by families for applying for participation in those programs;

(4) the number of children served through those programs, including by county and the monthly average;

(5) evidence of improved school readiness, child development and literacy among children served through those programs;

(6) the number of kindergarten-age children served through those programs who enter kindergarten ready to learn;

(7) the number and percentage of children served through those programs who receive regular immunizations;

(8) evidence that children served through those programs are served meals regularly;

(9) retention rates, wages and certification and education levels of those programs' staff members; and

(10) evidence that families of children served through those programs are engaged in the programs.

Chapter 48 Section 12 Laws 2019

SECTION 12. EARLY CHILDHOOD EDUCATION AND CARE FINANCE PLAN.--

A. The department shall prepare and update a four-year early childhood education and care finance plan to provide the legislature and the governor with demographic information on at-risk children, data on the efficacy of early childhood education and care programs and recommendations for financing the early childhood education and care system.

B. The department shall include in the early childhood education and care finance plan:

(1) an identification of:

(a) the social, emotional, cognitive, health, educational, safety and other needs and risk factors of children by age and location;

(b) the availability of, cost of and funding for programs that address those needs and reduce those risks by: 1) type of program; 2) age of program participant; and 3) geographic location;

(c) the gaps between those needs and the programs that address those needs and the reasons for those gaps; and

(d) the funding for each of the previous four years for programs that address those needs and reduce those risks;

(2) an evaluation of the early childhood education and care system by service type;

(3) an assessment of whether desired outcomes have been reached for each of the previous four years; and

(4) recommendations for legislation, funding and other changes necessary to improve that system and to close the gaps in those programs.

C. The department shall post prominently on its website the early childhood education and care finance plan in a user-friendly, searchable format.

Chapter 48 Section 13 Laws 2019

SECTION 13. Section 13-1-98 NMSA 1978 (being Laws 1984, Chapter 65, Section 71, as amended) is amended to read:

"13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE.--The provisions of the Procurement Code shall not apply to:

A. procurement of items of tangible personal property or services by a state agency or a local public body from a state agency, a local public body or external procurement unit except as otherwise provided in Sections 13-1-135 through 13-1-137 NMSA 1978;

B. procurement of tangible personal property or services for the governor's mansion and grounds;

C. printing and duplicating contracts involving materials that are required to be filed in connection with proceedings before administrative agencies or state or federal courts;

D. purchases of publicly provided or publicly regulated gas, electricity, water, sewer and refuse collection services;

E. purchases of books, periodicals and training materials in printed or electronic format from the publishers or copyright holders thereof;

F. travel or shipping by common carrier or by private conveyance or to meals and lodging;

G. purchase of livestock at auction rings or to the procurement of animals to be used for research and experimentation or exhibit;

H. contracts with businesses for public school transportation services;

I. procurement of tangible personal property or services, as defined by Sections 13-1-87 and 13-1-93 NMSA 1978, by the corrections industries division of the corrections department pursuant to rules adopted by the corrections industries commission, which shall be reviewed by the purchasing division of the general services department prior to adoption;

J. purchases not exceeding ten thousand dollars (\$10,000) consisting of magazine subscriptions, web-based or electronic subscriptions, conference registration fees and other similar purchases where prepayments are required;

K. municipalities having adopted home rule charters and having enacted their own purchasing ordinances;

L. the issuance, sale and delivery of public securities pursuant to the applicable authorizing statute, with the exception of bond attorneys and general financial consultants;

M. contracts entered into by a local public body with a private independent contractor for the operation, or provision and operation, of a jail pursuant to Sections 33-3-26 and 33-3-27 NMSA 1978;

N. contracts for maintenance of grounds and facilities at highway rest stops and other employment opportunities, excluding those intended for the direct care and support of persons with handicaps, entered into by state agencies with private, nonprofit, independent contractors who provide services to persons with handicaps;

O. contracts and expenditures for services or items of tangible personal property to be paid or compensated by money or other property transferred to New Mexico law enforcement agencies by the United States department of justice drug enforcement administration;

P. contracts for retirement and other benefits pursuant to Sections 22-11-47 through 22-11-52 NMSA 1978;

Q. contracts with professional entertainers;

R. contracts and expenditures for legal subscription and research services and litigation expenses in connection with proceedings before administrative agencies or state or federal courts, including experts, mediators, court reporters, process servers and witness fees, but not including attorney contracts;

S. contracts for service relating to the design, engineering, financing, construction and acquisition of public improvements undertaken in improvement districts pursuant to Subsection L of Section 3-33-14.1 NMSA 1978 and in county improvement districts pursuant to Subsection L of Section 4-55A-12.1 NMSA 1978;

T. works of art for museums or for display in public buildings or places;

U. contracts entered into by a local public body with a person, firm, organization, corporation or association or a state educational institution named in Article 12, Section 11 of the constitution of New Mexico for the operation and maintenance of a hospital pursuant to Chapter 3, Article 44 NMSA 1978, lease or operation of a county hospital pursuant to the Hospital Funding Act or operation and maintenance of a hospital pursuant to the Special Hospital District Act;

V. purchases of advertising in all media, including radio, television, print and electronic;

W. purchases of promotional goods intended for resale by the tourism department;

X. procurement of printing services for materials produced and intended for resale by the cultural affairs department;

Y. procurement by or through the public education department from the federal department of education relating to parent training and information centers designed to increase parent participation, projects and initiatives designed to improve outcomes for students with disabilities and other projects and initiatives relating to the administration of improvement strategy programs pursuant to the federal Individuals with Disabilities Education Act; provided that the exemption applies only to procurement of services not to exceed two hundred thousand dollars (\$200,000);

Z. procurement of services from community rehabilitation programs or qualified individuals pursuant to the State Use Act;

AA. purchases of products or services for eligible persons with disabilities pursuant to the federal Rehabilitation Act of 1973;

BB. procurement, by either the department of health or Grant county or both, of tangible personal property, services or construction that are exempt from the Procurement Code pursuant to Section 9-7-6.5 NMSA 1978;

CC. contracts for investment advisory services, investment management services or other investment-related services entered into by the educational retirement board, the state investment officer or the retirement board created pursuant to the Public Employees Retirement Act;

DD. the purchase for resale by the state fair commission of feed and other items necessary for the upkeep of livestock;

EE. contracts entered into by the crime victims reparation commission to distribute federal grants to assist victims of crime, including grants from the federal Victims of Crime Act of 1984 and the federal Violence Against Women Act of 1994;

FF. procurement by or through the early childhood education and care department of early pre-kindergarten and pre-kindergarten services purchased pursuant to the Pre-Kindergarten Act;

GG. procurement of services of commissioned advertising sales representatives for New Mexico magazine; and

HH. procurements exempt from the Procurement Code as otherwise provided by law."

Chapter 48 Section 14 Laws 2019

SECTION 14. Section 13-7-7 NMSA 1978 (being Laws 2001, Chapter 351, Section 3, as amended) is amended to read:

"13-7-7. CONSOLIDATED ADMINISTRATIVE FUNCTIONS--BENEFIT.--

A. The publicly funded health care agencies, political subdivisions and other persons participating in the consolidated purchasing single process pursuant to the Health Care Purchasing Act may enter into a joint powers agreement pursuant to the Joint Powers Agreements Act with the publicly funded health care agencies and political subdivisions to determine assessments or provisions of resources to consolidate, standardize and administer the consolidated purchasing single process and subsequent activities pursuant to the Health Care Purchasing Act. The publicly funded health care agencies, political subdivisions and other persons participating in the consolidated purchasing single process pursuant to the Health Care Purchasing Act may enter into contracts with nonpublic persons to provide the service of determining assessments or provision of resources for consolidation, standardization and administrative activities.

B. Each agency shall retain its responsibility to determine policy direction of the benefit plans, plan development, training and coordination with respect to participants and its benefits staff, as well as to respond to benefits eligibility inquiries and establish and enforce eligibility rules.

C. Notwithstanding Subsection B of this section, publicly funded health care agencies, political subdivisions and other persons participating in the consolidated purchasing single process pursuant to the Health Care Purchasing Act shall provide coverage for children, from birth through three years of age, for or under the family, infant, toddler program administered by the early childhood education and care department, provided eligibility criteria are met, for a maximum benefit of three thousand five hundred dollars (\$3,500) annually for medically necessary early intervention services provided as part of an individualized family service plan and delivered by certified and licensed personnel who are working in early intervention programs approved by the early childhood education and care department. No payment under this subsection shall be applied against any maximum lifetime or annual limits specified in the policy, health benefits plan or contract."

Chapter 48 Section 15 Laws 2019

SECTION 15. Section 22-23A-6 NMSA 1978 (being Laws 2003, Chapter 151, Section 6, as amended by Laws 2007, Chapter 295, Section 5 and by Laws 2007, Chapter 296, Section 5) is amended to read:

"22-23A-6. ADVISORY COUNCIL.--

A. The "Indian education advisory council" is created and shall advise the secretaries of early childhood education and care and public education and the assistant secretaries for Native American early childhood education and care and for Indian education on implementation of the provisions of the Indian Education Act. The council consists of sixteen members as follows:

- (1) four representatives from the Navajo Nation;
- (2) two representatives, one from the Mescalero Apache Tribe and one from the Jicarilla Apache Nation;
- (3) four representatives, two from the southern pueblos and two from the northern pueblos;
- (4) three urban Indians representing urban areas, including Albuquerque, Gallup and Farmington; and
- (5) three at-large representatives, one from the federal bureau of Indian affairs, one from a head start organization and one from the general public, at least one of whom shall be nontribal, but all of whom shall have knowledge of and involvement in the education of tribal students.

B. Members shall be appointed by the secretary with input from New Mexico tribes and organizations involved in the education of tribal students for staggered terms so that the terms of the at-large members and of one-half of each of the tribal representatives end on December 31, 2009 and the terms of the remaining members end on December 31, 2011. Thereafter, appointments shall be for terms of four years. The terms of existing members shall expire on June 15, 2007.

C. A majority of the members of the Indian education advisory council constitutes a quorum. The advisory council shall elect a chair from its membership.

D. On a semiannual basis, representatives from all New Mexico tribes, members of the commission, the office of the governor, the Indian affairs department,

the legislature, the secretary, the assistant secretary and the Indian education advisory council shall meet to assist in evaluating, consolidating and coordinating all activities relating to the education of tribal students.

E. Members of the Indian education advisory council may receive per diem and mileage as provided for nonsalaried public officers in the Per Diem and Mileage Act."

Chapter 48 Section 16 Laws 2019

SECTION 16. Section 32A-22-1 NMSA 1978 (being Laws 2005, Chapter 64, Section 1) is amended to read:

"32A-22-1. SHORT TITLE.--Chapter 32A, Article 22 NMSA 1978 may be cited as the "Children's Cabinet Act"."

Chapter 48 Section 17 Laws 2019

SECTION 17. Section 32A-22-2 NMSA 1978 (being Laws 2005, Chapter 64, Section 2) is amended to read:

"32A-22-2. CHILDREN'S CABINET CREATED.--

A. The "children's cabinet" is created and is administratively attached to the office of the governor. The children's cabinet shall meet at least six times each year.

B. The children's cabinet consists of:

- (1) the governor;
- (2) the lieutenant governor;
- (3) the secretary of children, youth and families;
- (4) the secretary of early childhood education and care;
- (5) the secretary of corrections;
- (6) the secretary of human services;
- (7) the secretary of workforce solutions;
- (8) the secretary of health;

- (9) the secretary of finance and administration;
- (10) the secretary of economic development;
- (11) the secretary of public safety;
- (12) the secretary of aging and long-term services;
- (13) the secretary of Indian affairs; and
- (14) the secretary of public education.

C. Each year, the governor shall select a person to serve as chair of the cabinet."

Chapter 48 Section 18 Laws 2019

SECTION 18. Section 32A-23-1 NMSA 1978 (being Laws 2005, Chapter 170, Section 1) is amended to read:

"32A-23-1. SHORT TITLE.--Chapter 32A, Article 23 NMSA 1978 may be cited as the "Pre-Kindergarten Act"."

Chapter 48 Section 19 Laws 2019

SECTION 19. Section 32A-23-2 NMSA 1978 (being Laws 2005, Chapter 170, Section 2) is amended to read:

"32A-23-2. FINDINGS.--The legislature finds that:

A. special needs are present among the state's population of three- and four-year-old children and those needs warrant the provision of early pre-kindergarten and pre-kindergarten programs;

B. participation in quality early pre-kindergarten and pre-kindergarten has a positive effect on children's intellectual, emotional, social and physical development; and

C. early pre-kindergarten and pre-kindergarten will advance governmental interests and childhood development and readiness."

Chapter 48 Section 20 Laws 2019

SECTION 20. Section 32A-23-3 NMSA 1978 (being Laws 2005, Chapter 170, Section 3) is amended to read:

"32A-23-3. DEFINITIONS.--As used in the Pre-Kindergarten Act:

A. "community" means an area defined by school district boundaries, tribal boundaries or joint boundaries of a school district and tribe or any combination of school districts and tribes;

B. "department" means the early childhood education and care department;

C. "early pre-kindergarten program" means a statewide, voluntary developmental readiness program for children who have attained their third birthday prior to September 1 that delivers to eligible children programs that address their total developmental needs, including their physical, cognitive, social and emotional needs, and that supports their development in the areas of health care, nutrition and safety and multicultural awareness;

D. "eligible child" means a person age three or four on September 1 of the early pre-kindergarten or pre-kindergarten program year;

E. "eligible provider" means a person licensed by the department to provide early childhood developmental readiness services or preschool special education, or is a public provider or a tribal program or head start program;

F. "mixed delivery programming" means the provision of pre-kindergarten programs through an equal distribution of funds to programs administered by the public schools and other programs licensed by the department;

G. "pre-kindergarten program" means a statewide, voluntary developmental readiness program for children who have attained their fourth birthday prior to September 1 that delivers to eligible children programs that address their total developmental needs, including their physical, cognitive, social and emotional needs, and that supports their development in the areas of health care, nutrition and safety and multicultural awareness;

H. "public provider" means a school district or charter school; and

I. "tribe" means an Indian nation, tribe or pueblo located in New Mexico."

Chapter 48 Section 21 Laws 2019

SECTION 21. Section 32A-23-4 NMSA 1978 (being Laws 2005, Chapter 170, Section 4) is amended to read:

"32A-23-4. EARLY PRE-KINDERGARTEN AND PRE-KINDERGARTEN PROGRAMS--INTERAGENCY COOPERATION--CONTRACTS--CONTRACT MONITORING--RESEARCH.--

A. The department shall develop and implement an early pre-kindergarten program and a pre-kindergarten program. The department may transfer funds to the public education department for an approved public provider or may contract with any other eligible provider for the delivery of early pre-kindergarten and pre-kindergarten program services.

B. The department shall establish standards and performance measures for the early pre-kindergarten and pre-kindergarten programs to ensure the delivery of high-quality, effective services that prepare participating children for kindergarten. The department and the public education department shall cooperate to align standards for early pre-kindergarten, pre-kindergarten and kindergarten programs. Those departments shall enter into an agreement to share data necessary to report on the early pre-kindergarten and pre-kindergarten programs' performance, including the percentage of program participants who:

(1) enter kindergarten:

(a) developmentally prepared for it;

(b) needing special services; and

(c) proficient in reading and mathematics; and

(2) are retained in kindergarten or first, second or third grade.

C. The department shall coordinate with federal head start agencies to avoid duplication of effort and maximize the use of available resources in the implementation of the early pre-kindergarten and pre-kindergarten programs.

D. The department shall promulgate rules on pre-kindergarten program services, including state policies and standards defining length of service for pre-kindergarten and early pre-kindergarten programs, and shall review the process for making contract awards and for the expenditure and use of contract funds.

E. The department shall monitor activity under early pre-kindergarten and pre-kindergarten program contracts to ensure adherence to child-centered, developmentally appropriate practices and outcomes. The department shall provide early childhood training and technical assistance to contract award recipients.

F. Each year, the department shall provide an annual report to the governor and the legislature on the early pre-kindergarten and pre-kindergarten programs."

Chapter 48 Section 22 Laws 2019

SECTION 22. Section 32A-23-6 NMSA 1978 (being Laws 2005, Chapter 170, Section 6, as amended) is amended to read:

"32A-23-6. REQUESTS FOR PROPOSALS--CONTRACTS FOR SERVICES.--

A. The department shall solicit the delivery of both half-day and full-day early pre-kindergarten and pre-kindergarten program services by publishing a request for proposals or a request for applications that contains the same requested information for pre-kindergarten services.

B. Eligible providers shall submit proposals to the department that shall include a description of the services that will be provided, including:

- (1) how the provider's services meet department standards;
- (2) the number of eligible children the provider can serve;
- (3) the provider's site and floor plans and a description of its facilities;
- (4) the revenue sources and non-state funding available for the provider's delivery of services;
- (5) a description of the qualifications and experience of the provider's service-delivery staff for each site;
- (6) the provider's plan for communicating with and involving parents of children in the early pre-kindergarten and pre-kindergarten programs;
- (7) how the provider's services meet the continuum of services to children; and

(8) other relevant information.

C. The department shall accept and evaluate proposals or applications for the delivery of early pre-kindergarten and pre-kindergarten program services by eligible providers.

D. In selecting among proposals and applications for the delivery of early pre-kindergarten and pre-kindergarten program services, the department shall give priority to programs in communities with public elementary schools designated as Title I schools in which at least sixty-six percent of the children served reside within the attendance zone of a Title I elementary school. It shall further consider:

(1) the number of eligible children residing in the community and the number of eligible children proposed to be served;

(2) the adequacy and capacity of pre-kindergarten facilities in the community;

(3) the availability of language and literacy services in the community;

(4) the cultural, historic and linguistic responsiveness to the community;

(5) the availability of parent education services for parents of eligible children in the community;

(6) staff professional development plans;

(7) the capacity of local organizations and persons interested in and involved in programs and services for eligible children and their commitment to work together;

(8) the degree of local support for early pre-kindergarten and pre-kindergarten program services in the community; and

(9) other relevant criteria specified by department rule.

E. A contract with an eligible provider for early pre-kindergarten and pre-kindergarten program services shall provide that funds not be used for any religious, sectarian or denominational purposes, instruction or material."

Chapter 48 Section 23 Laws 2019

SECTION 23. Section 32A-23-9 NMSA 1978 (being Laws 2011, Chapter 126, Section 1) is amended to read:

"32A-23-9. EQUAL DIVISION OF APPROPRIATIONS.--Any money appropriated for pre-kindergarten programs shall be divided equally between programs administered by the public schools and other programs licensed by the department."

Chapter 48 Section 24 Laws 2019

SECTION 24. A new section of the Pre-Kindergarten Act is enacted to read:

"MIXED DELIVERY OF PRE-KINDERGARTEN PROGRAMS.--Any money appropriated for pre-kindergarten programs shall be distributed for mixed delivery programming. The public education department shall access funds from the early childhood education and care department to support pre-kindergarten in the public education system. Pre-kindergarten funding transfers to public providers shall be processed through the public education department to those public providers that demonstrate adherence to standards developed by the department."

Chapter 48 Section 25 Laws 2019

SECTION 25. Section 32A-23A-1 NMSA 1978 (being Laws 2011, Chapter 123, Section 1) is amended to read:

"32A-23A-1. SHORT TITLE.--Chapter 32A, Article 23A NMSA 1978 may be cited as the "Early Childhood Care and Education Act"."

Chapter 48 Section 26 Laws 2019

SECTION 26. Section 32A-23A-2 NMSA 1978 (being Laws 2011, Chapter 123, Section 2) is amended to read:

"32A-23A-2. DEFINITIONS.--As used in the Early Childhood Care and Education Act:

- A. "department" means the early childhood education and care department;
- B. "early childhood" means the period of a person's life from birth to age five;
- C. "fund" means the early childhood care and education fund; and
- D. "secretary" means the secretary of early childhood education and care."

Chapter 48 Section 27 Laws 2019

SECTION 27. Section 32A-23B-1 NMSA 1978 (being Laws 2013, Chapter 118, Section 1) is amended to read:

"32A-23B-1. SHORT TITLE.--Chapter 32A, Article 23B NMSA 1978 may be cited as the "Home Visiting Accountability Act"."

Chapter 48 Section 28 Laws 2019

SECTION 28. Section 32A-23B-2 NMSA 1978 (being Laws 2013, Chapter 118, Section 2) is amended to read:

"32A-23B-2. DEFINITIONS.--As used in the Home Visiting Accountability Act:

A. "culturally and linguistically appropriate" means appropriate when taking into consideration the culture, customs and language of an eligible family's home;

B. "department" means the early childhood education and care department;

C. "eligible family" means a family that elects to receive home visiting services and includes:

(1) a child, from birth until kindergarten entry; or

(2) a pregnant woman, an expectant father, a parent or a primary caregiver;

D. "home visiting":

(1) means:

(a) delivering a variety of informational, educational, developmental, referral and other support services for eligible families who are expecting or who have children who have not yet entered kindergarten and that is designed to promote child well-being and prevent adverse childhood experiences; and

(b) providing a comprehensive array of services that promote parental competence and successful early childhood health and development by building long-term relationships with families and optimizing the relationships between parents and children in their home environments; and

(2) does not include:

(a) provision of case management or a one-time home visit or infrequent home visits, such as a home visit for a newborn child or a child in preschool;

(b) home visiting provided as a supplement to other services; or

(c) services delivered through an individualized family service plan or an individualized education program under Part B or Part C of the federal Individuals with Disabilities Education Act;

E. "home visiting program" means a program that:

(1) uses home visiting as a primary service delivery strategy; and

(2) offers services on a voluntary basis to pregnant women, expectant fathers and parents and primary caregivers of children from birth to kindergarten entry;

F. "home visiting system" means the infrastructure and programs that support and provide home visiting. A "home visiting system":

(1) provides universal, voluntary access;

(2) provides a common framework for service delivery and accountability across all home visiting programs;

(3) establishes a consistent statewide system of home visiting; and

(4) allows for the collection, aggregation and analysis of common data;
and

G. "standards-based program" means a home visiting program that:

(1) is research-based and grounded in relevant, empirically based best practices and knowledge that:

(a) is linked to and measures the following outcomes: 1) babies are born healthy; 2) children are nurtured by their parents and caregivers; 3) children are physically and mentally healthy; 4) children are ready for school; 5) children and families are safe; and 6) families are connected to formal and informal supports in their communities;

(b) has comprehensive home visiting standards that ensure high-quality service delivery and continuous quality improvement; and

(c) has demonstrated significant, sustained positive outcomes;

(2) follows program standards that specify the purpose, outcomes, duration and frequency of services that constitute the program;

(3) follows a research-based curriculum or combinations of research-based curricula, or follows the curriculum of an evidence-based home visiting model or promising approach that the home visiting program has adopted pursuant to department rules defining "evidence-based model" and "promising approach";

(4) employs well-trained and competent staff and provides continual professional supervision and development relevant to the specific program or model being delivered;

(5) demonstrates strong links to other community-based services;

(6) operates within an organization that ensures compliance with home visiting standards;

(7) continually evaluates performance to ensure fidelity to the program standards;

(8) collects data on program activities and program outcomes; and

(9) is culturally and linguistically appropriate."

Chapter 48 Section 29 Laws 2019

SECTION 29. Section 32A-23B-3 NMSA 1978 (being Laws 2013, Chapter 118, Section 3) is amended to read:

"32A-23B-3. HOME VISITING PROGRAMS--ACCOUNTABILITY--EXCLUSIONS--CONTRACTING--REPORTING.--

A. The department shall provide statewide home visiting services using a standards-based program and promulgate rules governing the program.

B. The department shall fund only standards-based home visiting programs that include periodic home visits to improve the health, well-being and self-sufficiency of

eligible families. The department may prioritize funding for programs associated with strong evidence of effectiveness and for programs that serve high-risk populations.

C. A home visiting program shall provide culturally and linguistically appropriate, face-to-face visits by nurses, social workers and other early childhood and health professionals or by trained and supervised lay workers.

D. A home visiting program shall do two or more of the following:

(1) improve prenatal, maternal, infant or child health outcomes, including reducing preterm births;

(2) promote positive parenting practices;

(3) build healthy parent and child relationships;

(4) enhance children's social-emotional and language development;

(5) support children's cognitive and physical development;

(6) improve the health of eligible families;

(7) provide resources and supports that may help to reduce child maltreatment and injury;

(8) increase children's readiness to succeed in school; and

(9) improve coordination of referrals for, and the provision of, other community resources and supports for eligible families.

E. The department shall develop internal processes that provide for a greater ability to collaborate with other state agencies, local governments and private entities and share relevant home visiting data and information. The processes may include a uniform format for the collection of data relevant to each home visiting program.

F. The department shall enter into a joint powers agreement with the human services department to use medicaid to finance department-approved, evidence-based home visiting programs. Providers approved for medicaid home visiting are subject to the Home Visiting Accountability Act.

G. When the department authorizes funds through payments, contracts or grants that are used for home visiting programs, it shall include language regarding

home visiting in its funding agreement contract or grant that is consistent with the provisions of the Home Visiting Accountability Act.

H. Beginning January 1, 2020 and annually thereafter, the department shall submit to the governor and the legislature an annual outcomes report that includes:

- (1) the goals and achieved outcomes of the home visiting system implemented pursuant to the Home Visiting Accountability Act; and
- (2) data regarding:
 - (a) the cost per eligible family served;
 - (b) the number of eligible families served;
 - (c) demographic data on eligible families served;
 - (d) the duration of participation by eligible families in the program;
 - (e) the number and type of programs that the department has funded;
 - (f) any increases in school readiness, child development and literacy;
 - (g) decreases in child maltreatment or child abuse;
 - (h) any reductions in risky parental behavior;
 - (i) the percentage of children receiving regular well-child exams, as recommended by the American academy of pediatrics;
 - (j) the percentage of infants on schedule to be fully immunized by age two;
 - (k) the number of children who received an ages and stages questionnaire and what percent scored age appropriately in all developmental domains;
 - (l) the number of children identified with potential developmental delay and, of those, how many began services within two months of the screening; and

(m) the percentage of children receiving home visiting services who are enrolled in high-quality licensed child care programs."

Chapter 48 Section 30 Laws 2019

SECTION 30. Section 59A-22-34.2 NMSA 1978 (being Laws 1994, Chapter 64, Section 2, as amended) is amended to read:

"59A-22-34.2. COVERAGE OF CHILDREN.--

A. An insurer shall not deny enrollment of a child under the health plan of the child's parent on the grounds that the child:

- (1) was born out of wedlock;
- (2) is not claimed as a dependent on the parent's federal tax return; or
- (3) does not reside with the parent or in the insurer's service area.

B. When a child has health coverage through an insurer of a noncustodial parent, the insurer shall:

- (1) provide such information to the custodial parent as may be necessary for the child to obtain benefits through that coverage;
- (2) permit the custodial parent or the provider, with the custodial parent's approval, to submit claims for covered services without the approval of the noncustodial parent; and
- (3) make payments on claims submitted in accordance with Paragraph (2) of this subsection directly to the custodial parent, the provider or the state medicaid agency.

C. When a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage, the insurer shall be required:

- (1) to permit the parent to enroll, under the family coverage, a child who is otherwise eligible for the coverage without regard to any enrollment season restrictions;

(2) if the parent is enrolled but fails to make application to obtain coverage for the child, to enroll the child under family coverage upon application of the child's other parent, the state agency administering the medicaid program or the state agency administering 42 U.S.C. Sections 651 through 669, the child support enforcement program; and

(3) not to disenroll or eliminate coverage of the child unless the insurer is provided satisfactory written evidence that:

(a) the court or administrative order is no longer in effect; or

(b) the child is or will be enrolled in comparable health coverage through another insurer that will take effect not later than the effective date of disenrollment.

D. An insurer shall not impose requirements on a state agency that has been assigned the rights of an individual eligible for medical assistance under the medicaid program and covered for health benefits from the insurer that are different from requirements applicable to an agent or assignee of any other individual so covered.

E. An insurer shall provide coverage for children, from birth through three years of age, for or under the family, infant, toddler program administered by the early childhood education and care department, provided eligibility criteria are met, for a maximum benefit of three thousand five hundred dollars (\$3,500) annually for medically necessary early intervention services provided as part of an individualized family service plan and delivered by certified and licensed personnel who are working in early intervention programs approved by the early childhood education and care department. No payment under this subsection shall be applied against any maximum lifetime or annual limits specified in the policy, health benefits plan or contract."

Chapter 48 Section 31 Laws 2019

SECTION 31. Section 59A-23-7.2 NMSA 1978 (being Laws 1994, Chapter 64, Section 5, as amended) is amended to read:

"59A-23-7.2. COVERAGE OF CHILDREN.--

A. An insurer shall not deny enrollment of a child under the health plan of the child's parent on the grounds that the child:

(1) was born out of wedlock;

- (2) is not claimed as a dependent on the parent's federal tax return; or
- (3) does not reside with the parent or in the insurer's service area.

B. When a child has health coverage through an insurer of a noncustodial parent, the insurer shall:

- (1) provide such information to the custodial parent as may be necessary for the child to obtain benefits through that coverage;
- (2) permit the custodial parent or the provider, with the custodial parent's approval, to submit claims for covered services without the approval of the noncustodial parent; and
- (3) make payments on claims submitted in accordance with Paragraph (2) of this subsection directly to the custodial parent, the provider or the state medicaid agency.

C. When a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage, the insurer shall be required:

- (1) to permit the parent to enroll, under the family coverage, a child who is otherwise eligible for the coverage without regard to any enrollment season restrictions;
- (2) if the parent is enrolled but fails to make application to obtain coverage for the child, to enroll the child under family coverage upon application of the child's other parent, the state agency administering the medicaid program or the state agency administering 42 U.S.C. Sections 651 through 669, the child support enforcement program; and
- (3) not to disenroll or eliminate coverage of the child unless the insurer is provided satisfactory written evidence that:
 - (a) the court or administrative order is no longer in effect; or
 - (b) the child is or will be enrolled in comparable health coverage through another insurer that will take effect not later than the effective date of disenrollment.

D. An insurer shall not impose requirements on a state agency that has been assigned the rights of an individual eligible for medical assistance under the medicaid program and covered for health benefits from the insurer that are different from requirements applicable to an agent or assignee of any other individual so covered.

E. An insurer shall provide coverage for children, from birth through three years of age, for or under the family, infant, toddler program administered by the early childhood education and care department, provided eligibility criteria are met, for a maximum benefit of three thousand five hundred dollars (\$3,500) annually for medically necessary early intervention services provided as part of an individualized family service plan and delivered by certified and licensed personnel who are working in early intervention programs approved by the early childhood education and care department. No payment under this subsection shall be applied against any maximum lifetime or annual limits specified in the policy, health benefits plan or contract."

Chapter 48 Section 32 Laws 2019

SECTION 32. Section 59A-46-38.1 NMSA 1978 (being Laws 1994, Chapter 64, Section 9, as amended) is amended to read:

"59A-46-38.1. COVERAGE OF CHILDREN.--

A. An insurer shall not deny enrollment of a child under the health plan of the child's parent on the grounds that the child:

- (1) was born out of wedlock;
- (2) is not claimed as a dependent on the parent's federal tax return; or
- (3) does not reside with the parent or in the insurer's service area.

B. When a child has health coverage through an insurer of a noncustodial parent, the insurer shall:

- (1) provide such information to the custodial parent as may be necessary for the child to obtain benefits through that coverage;
- (2) permit the custodial parent or the provider, with the custodial parent's approval, to submit claims for covered services without the approval of the noncustodial parent; and

(3) make payments on claims submitted in accordance with Paragraph (2) of this subsection directly to the custodial parent, the provider or the state medicaid agency.

C. When a parent is required by a court or administrative order to provide health coverage for a child and the parent is eligible for family health coverage, the insurer shall be required:

(1) to permit the parent to enroll, under the family coverage, a child who is otherwise eligible for the coverage without regard to any enrollment season restrictions;

(2) if the parent is enrolled but fails to make application to obtain coverage for the child, to enroll the child under family coverage upon application of the child's other parent, the state agency administering the medicaid program or the state agency administering 42 U.S.C. Sections 651 through 669, the child support enforcement program; and

(3) not to disenroll or eliminate coverage of the child unless the insurer is provided satisfactory written evidence that:

(a) the court or administrative order is no longer in effect; or

(b) the child is or will be enrolled in comparable health coverage through another insurer that will take effect not later than the effective date of disenrollment.

D. An insurer shall not impose requirements on a state agency that has been assigned the rights of an individual eligible for medical assistance under the medicaid program and covered for health benefits from the insurer that are different from requirements applicable to an agent or assignee of any other individual so covered.

E. An insurer shall provide coverage for children, from birth through three years of age, for or under the family, infant, toddler program administered by the early childhood education and care department, provided eligibility criteria are met, for a maximum benefit of three thousand five hundred dollars (\$3,500) annually for medically necessary early intervention services provided as part of an individualized family service plan and delivered by certified and licensed personnel who are working in early intervention programs approved by the early childhood education and care department. No payment under this subsection shall be applied against any maximum lifetime or annual limits specified in the policy, health benefits plan or contract."

Chapter 48 Section 33 Laws 2019

SECTION 33. Section 59A-47-37 NMSA 1978 (being Laws 1994, Chapter 64, Section 12, as amended) is amended to read:

"59A-47-37. COVERAGE OF CHILDREN.--

A. An insurer shall not deny enrollment of a child under the health plan of the child's parent on the grounds that the child:

- (1) was born out of wedlock;
- (2) is not claimed as a dependent on the parent's federal tax return; or
- (3) does not reside with the parent or in the insurer's service area.

B. When a child has health coverage through an insurer of a noncustodial parent, the insurer shall:

- (1) provide such information to the custodial parent as may be necessary for the child to obtain benefits through that coverage;
- (2) permit the custodial parent or the provider, with the custodial parent's approval, to submit claims for covered services without the approval of the noncustodial parent; and
- (3) make payments on claims submitted in accordance with Paragraph (2) of this subsection directly to the custodial parent, the provider or the state medicaid agency.

C. When a parent is required by a court or administrative order to provide health coverage for a child, and the parent is eligible for family health coverage, the insurer shall be required:

- (1) to permit the parent to enroll, under the family coverage, a child who is otherwise eligible for the coverage without regard to any enrollment season restrictions;
- (2) if the parent is enrolled but fails to make application to obtain coverage for the child, to enroll the child under family coverage upon application of the child's other parent, the state agency administering the medicaid program or the state

agency administering 42 U.S.C. Sections 651 through 669, the child support enforcement program; and

(3) not to disenroll or eliminate coverage of the child unless the insurer is provided satisfactory written evidence that:

(a) the court or administrative order is no longer in effect; or

(b) the child is or will be enrolled in comparable health coverage through another insurer that will take effect not later than the effective date of disenrollment.

D. An insurer shall not impose requirements on a state agency that has been assigned the rights of an individual eligible for medical assistance under the medicaid program and covered for health benefits from the insurer that are different from requirements applicable to an agent or assignee of any other individual so covered.

E. An insurer shall provide coverage for children, from birth through three years of age, for or under the family, infant, toddler program administered by the early childhood education and care department, provided eligibility criteria are met, for a maximum benefit of three thousand five hundred dollars (\$3,500) annually for medically necessary early intervention services provided as part of an individualized family service plan and delivered by certified and licensed personnel who are working in early intervention programs approved by the early childhood education and care department. No payment under this subsection shall be applied against any maximum lifetime or annual limits specified in the policy, health benefits plan or contract."

Chapter 48 Section 34 Laws 2019

SECTION 34. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS, PERSONNEL, APPROPRIATIONS, PROPERTY, RECORDS, CONTRACTS AND REFERENCES IN LAW.--

A. On July 1, 2020, all programs, functions, personnel, appropriations, money, statutory funds, records, furniture, equipment, supplies and other property belonging to the following are transferred to the early childhood education and care department, and all contractual obligations of the following are binding on the early childhood education and care department:

(1) the children, youth and families department's early childhood services division; and

- (2) the department of health's:
 - (a) family, infant, toddler program; and
 - (b) family first home visiting.

B. Beginning on July 1, 2020, all contractual obligations pertaining to the programs, services and entities in Subsection A of this section are binding on the early childhood education and care department.

C. Beginning on July 1, 2020, all references in law, rules, orders and other official acts to the programs, services and entities in Subsection A of this section shall be deemed references to the early childhood education and care department.

Chapter 48 Section 35 Laws 2019

SECTION 35. TEMPORARY PROVISION--INTERIM POWERS AND DUTIES--ACCOUNTING AND FINANCIAL CONTROL.--

A. After July 1, 2019, the governor may appoint the secretary-designate of early childhood education and care and may allow the secretary-designate to appoint division directors to assist with the transition. The governor shall convene a working group made up of the secretaries of finance and administration, early childhood education and care, children, youth and families and health to plan for the orderly transition of programs and personnel to the early childhood education and care department. The secretaries shall assign staff as necessary to assist the transition. All state agencies shall assist the working group as requested. The following state agencies shall provide the following services:

- (1) the general services department shall assist in locating the early childhood education and care department in a state building or an appropriate leased facility;
- (2) the department of finance and administration shall set up the administrative services division of the early childhood education and care department and ensure the orderly transition of administrative systems from the children, youth and families department and the department of health to the early childhood education and care department; and
- (3) the department of information technology shall set up administrative, programmatic, data and other required systems and ensure the orderly transfer of pertinent data from the children, youth and families department and the department of

health to the early childhood education and care department and shall ensure the compatibility of the three systems.

B. Between July 1, 2019 and July 1, 2020, the accounts and financial control functions that will belong to the early childhood education and care department shall continue being performed by the administrative services divisions of the children, youth and families department, the public education department, the human services department and the department of health, as appropriate; provided, however, that the administrative services divisions of the children, youth and families department and the department of health shall provide for separate reporting of accounts and finances between the early childhood education and care department and the children, youth and families department and the department of health and shall provide necessary administrative services related to the early childhood education and care department at the direction of the secretary of early childhood education and care.

Chapter 48 Section 36 Laws 2019

SECTION 36. APPROPRIATIONS.--The following amounts are appropriated from the general fund to the early childhood education and care department:

A. two hundred fifty thousand dollars (\$250,000) for expenditure in fiscal year 2020 to develop the early childhood education and care finance plan and an integrated data visualization system. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund; and

B. one million dollars (\$1,000,000) for expenditure in fiscal year 2020 to establish integrated field offices and transfer programs from other departments to the early childhood education and care department in accordance with Section 34 of this act. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 48 Section 37 Laws 2019

SECTION 37. REPEAL.--Sections 9-2A-13, 28-18-1, 28-18-2, 32A-23-5, 32A-23-7 and 32A-23-8 NMSA 1978 (being Laws 1992, Chapter 57, Section 13, Laws 1990, Chapter 4, Sections 1 and 2 and Laws 2005, Chapter 170, Sections 5, 7 and 8, as amended) are repealed.

Chapter 48 Section 38 Laws 2019

SECTION 38. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1 through 7 and 34 through 36 of this act is July 1, 2019.

B. The effective date of the provisions of Sections 8 through 33 and 37 of this act is July 1, 2020.

SRC/Senate Bill 22, aa

Approved March 14, 2019

LAWS 2019, CHAPTER 49

AN ACT

RELATING TO TAXATION; CLARIFYING A GROSS RECEIPTS TAX DEDUCTION FOR RECEIPTS FROM TESTING OR TRANSPORTING MILK.

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

Chapter 49 Section 1 Laws 2019

SECTION 1. Section 7-9-59 NMSA 1978 (being Laws 1969, Chapter 144, Section 49, as amended by Laws 2000, Chapter 26, Section 1 and also by Laws 2000, Chapter 87, Section 1) is amended to read:

"7-9-59. DEDUCTION--GROSS RECEIPTS TAX--WAREHOUSING, THRESHING, HARVESTING, GROWING, CULTIVATING AND PROCESSING AGRICULTURAL PRODUCTS--TESTING OR TRANSPORTING MILK.--

A. Receipts from warehousing grain or other agricultural products may be deducted from gross receipts.

B. Receipts from threshing, cleaning, growing, cultivating or harvesting agricultural products, including the ginning of cotton, may be deducted from gross receipts.

C. Receipts from testing or transporting milk for the producer or nonprofit marketing association from the farm to a milk processing or dairy product manufacturing plant may be deducted from gross receipts.

D. Receipts from processing for growers, producers or nonprofit marketing associations of agricultural products raised for food and fiber, including livestock, may be deducted from gross receipts."

Chapter 49 Section 2 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.

Senate Bill 16

Approved March 14, 2019

LAWS 2019, CHAPTER 50

AN ACT

RELATING TO PUBLIC SAFETY; EXPANDING THE NOTIFICATION AND REPORTING REQUIREMENTS FOR CERTAIN MISSING PERSONS.

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

Chapter 50 Section 1 Laws 2019

SECTION 1. Section 29-15-2 NMSA 1978 (being Laws 1995, Chapter 146, Section 2, as amended) is amended to read:

"29-15-2. DEFINITIONS.--As used in the Missing Persons Information and Reporting Act:

A. "Brittany alert" means a notification relating to an endangered person:

(1) who is a missing person; and

(2) about whom there is a clear indication that the person has a developmental disability as defined in Subsection A of Section 28-16A-6 NMSA 1978 and that the person's health or safety is at risk;

B. "child" means a person under the age of eighteen years who is not emancipated;

C. "clearinghouse" means the missing persons information clearinghouse;

D. "custodian" means a parent, guardian or other person who exercises legal physical control, care or custody of a child or of an adult with a developmental disability; or a person who performs one or more activities of daily living for an adult;

E. "endangered person" means a missing person who:

(1) is in imminent danger of causing harm to the person's self;

(2) is in imminent danger of causing harm to another;

(3) is in imminent danger of being harmed by another or who has been harmed by another;

(4) has been a victim of a crime as provided in the Crimes Against Household Members Act or in Section 30-3A-3 or 30-3A-3.1 NMSA 1978, or their equivalents in any other jurisdiction;

(5) is or was protected by an order of protection pursuant to the Family Violence Protection Act;

(6) has Alzheimer's disease, dementia or another degenerative brain disorder or a brain injury; or

(7) has a developmental disability as defined in Subsection A of Section 28-16A-6 NMSA 1978 and that person's health or safety is at risk;

F. "immediate family member" means the spouse, nearest relative or close friend of a person;

G. "law enforcement agency" means a law enforcement agency of the state, a state agency or a political subdivision of the state;

H. "lead station" means an AM radio station that has been designated as the "state primary station" by the federal communications commission for the emergency alert system;

I. "missing person" means a person whose whereabouts are unknown to the person's custodian or immediate family member and the circumstances of whose absence indicate that:

(1) the person did not leave the care and control of the custodian or immediate family member voluntarily and the taking of the person was not authorized by law; or

(2) the person voluntarily left the care and control of the custodian without the custodian's consent and without intent to return;

J. "missing person report" means information that is:

(1) given to a law enforcement agency on a form used for sending information to the national crime information center; and

(2) about a person whose whereabouts are unknown to the reporter and who is alleged in the form submitted by the reporter to be missing;

K. "person" means an individual, regardless of age;

L. "possible match" means the similarities between unidentified human remains and a missing person that would lead one to believe they are the same person;

M. "reporter" means the person who reports a missing person;

N. "silver alert" means a notification relating to an endangered person:

(1) who is a missing person; and

(2) who is fifty years or older; or

(3) about whom there is a clear indication that the individual suffers from Alzheimer's disease or another form of dementia, regardless of age;

O. "state agency" means an agency of the state, a political subdivision of the state or a public post-secondary educational institution; and

P. "state registrar" means the employee so designated by the public health division of the department of health pursuant to the Vital Statistics Act."

Chapter 50 Section 2 Laws 2019

SECTION 2. Section 29-15-3.2 NMSA 1978 (being Laws 2013, Chapter 81, Section 1) is amended to read:

"29-15-3.2. SILVER ALERT ADVISORY.--

A. The department of public safety shall issue a silver alert if, after review and investigation of a missing person report of a person subject to the alert, the department makes an independent determination that the missing person is a person subject to the alert.

B. The department of public safety shall develop and implement a silver alert plan for the purpose of disseminating, as rapidly as possible, information about a person subject to the alert. The plan shall:

(1) provide a procedure for the department to notify the lead station that a silver alert has been declared. The procedure shall include codes for use by the department in communicating with the lead station to prevent false alerts;

(2) provide a procedure in which other state and private print, radio, television or other media may alert members of the public of the missing person;

(3) include a procedure for notifying the department of information technology that a silver alert has been declared. The department of information technology shall immediately transmit the notification and related information to all state field operations employees so that they may be aware and vigilant in the course of their regular activities;

(4) require cellular service companies to implement silver alerts in accordance with the federal communication commission's wireless emergency alerts processes;

(5) include a procedure for notifying all local and federal law enforcement agencies that a silver alert has been declared;

(6) provide for dissemination of information about the missing person to the lead station, the department of information technology and local law enforcement agencies when a silver alert has been declared; and

(7) provide for collecting and maintaining the following records regarding each silver alert issued:

(a) the municipality where the missing person report originated;

A. An appraisal management company shall not remove an appraiser from its appraiser panel, or otherwise refuse to assign requests for real estate appraisal services to an independent appraiser without notifying the appraiser in writing of the reasons for the appraiser being removed from the appraiser panel of the appraisal management company. If the appraiser is being removed from the panel for illegal conduct, violation of the uniform standards of professional appraisal practice or a violation of state licensing standards, the appraisal management company shall provide the independent appraiser the nature of the alleged conduct or violation and provide an opportunity for the appraiser to respond.

B. An independent appraiser that is removed from the appraiser panel of an appraisal management company for alleged illegal conduct, violation of the uniform standards of professional appraisal practice or violation of state licensing standards may file a complaint with the board for a review of the decision of the appraisal management company, except that in no case shall the board make any determination regarding the nature of the business relationship between the appraiser and the appraisal management company that is unrelated to the actions specified in Subsection A of this section.

C. If an independent appraiser files a complaint against an appraisal management company pursuant to Subsection B of this section, the board shall adjudicate the complaint within one hundred eighty days.

D. If after opportunity for hearing and review, the board determines that an independent appraiser did not commit a violation of law, a violation of the uniform standards of professional appraisal practice or a violation of state licensing standards, the board shall order that the appraiser be added to the appraiser panel of the appraisal management company that was the subject of the complaint without prejudice." _____

Senate Bill 56

Approved March 14, 2019

LAWS 2019, CHAPTER 52

AN ACT

**RELATING TO HEALTH CARE; ENACTING THE SAFE HARBOR FOR NURSES ACT;
ESTABLISHING SAFE HARBOR FOR REGISTERED NURSES AND LICENSED
PRACTICAL NURSES; REQUIRING EMPLOYERS TO OFFER SAFE HARBOR TO**

NURSES WHO ARE REQUESTED TO ENGAGE IN PRACTICES THAT NURSES BELIEVE TO BE IN VIOLATION OF THEIR LEGAL DUTIES; REQUIRING EMPLOYERS TO DEVELOP A PROCESS FOR INVOKING SAFE HARBOR; PREVENTING EMPLOYERS FROM DISCIPLINING NURSES FOR INVOKING SAFE HARBOR.

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

Chapter 52 Section 1 Laws 2019

SECTION 1. SHORT TITLE.--This act may be cited as the "Safe Harbor for Nurses Act".

Chapter 52 Section 2 Laws 2019

SECTION 2. DEFINITIONS.--As used in the Safe Harbor for Nurses Act:

A. "assignment" means the designated responsibility for the provision or supervision of nursing care for a defined work period in a defined work setting, including the specified functions, duties, practitioner orders, supervisory directives and amount of work designated as an individual nurse's responsibility; provided that changes in a nurse's assignment may occur at any time during the work period;

B. "good faith" means taking action supported by a sincere belief with a reasonable factual or legal basis other than the nurse's moral, religious or personal beliefs;

C. "health care facility" means an entity licensed by the department of health that provides health care on its premises and has three or more nurses;

D. "nurse" means a nurse licensed pursuant to the Nursing Practice Act as a registered nurse or a licensed practical nurse; and

E. "safe harbor" means a process that:

(1) protects a registered nurse or a licensed practical nurse from adverse action by the health care facility where the nurse is working when the nurse makes a good faith request to be allowed to reject an assignment, which request is based on the nurse's:

(a) assessment of the nurse's own education, knowledge, competence or experience; and

(b) immediate assessment of the risk for patient safety or potential violation of the Nursing Practice Act or board of nursing rules; and

(2) provides for further assessment of the situation.

Chapter 52 Section 3 Laws 2019

SECTION 3. SAFE HARBOR--HEALTH CARE FACILITY RESPONSIBILITY.--

A. A nurse may invoke safe harbor when:

(1) in the nurse's good faith judgment, the nurse lacks the basic knowledge, skills or abilities necessary to deliver nursing care that is safe and that meets the minimum standards of care to such an extent that accepting the assignment would expose one or more patients to an unjustifiable risk of harm or would constitute a violation of the Nursing Practice Act or board of nursing rules; or

(2) the nurse questions the medical reasonableness of another health care provider's order that the nurse is required to execute.

B. A nurse who intends to invoke safe harbor shall invoke it before the nurse engages in conduct or an assignment giving rise to the nurse's request for safe harbor. A nurse may also invoke safe harbor at any time during the work period, when an initial assignment changes and, in the nurse's good faith judgment, the change creates a situation that comports with the requirements for invoking safe harbor pursuant to Subsection A of this section. A health care facility shall develop a process by which a nurse employed or contracted by that facility may invoke safe harbor.

C. A safe harbor process shall include:

(1) notification to all nurses on staff as to how safe harbor may be invoked;

(2) notification by the nurse to the nurse's supervisor that the nurse is invoking safe harbor;

(3) written documentation with the date, time and location of the invocation of safe harbor and the reason for invocation, signed by the supervisor and the nurse;

(4) a post-occurrence review of the situation that:

(a) includes at least one other staff nurse and nurse manager, as the health care facility defines those roles; and

(b) is used to determine whether additional action is required to minimize the likelihood of similar situations in the future; and

(5) documentation of the resolution and review of the matter in which safe harbor was invoked.

D. A health care facility shall not retaliate against, demote, suspend, terminate, discipline, discriminate against or report any action to the board of nursing when a nurse makes a good faith request for safe harbor. _____

SJC/Senate Bill 82

Approved March 14, 2019

LAWS 2019, CHAPTER 53

AN ACT

RELATING TO STATE REVENUE; ENACTING THE HEALTH CARE QUALITY SURCHARGE ACT; IMPOSING A TEMPORARY SURCHARGE ON CERTAIN HEALTH CARE FACILITIES; PROVIDING THAT REVENUE FROM THE SURCHARGE SHALL BE USED TO REIMBURSE A PORTION OF THE SURCHARGE AS A MEDICAID-ALLOWABLE COST AND TO INCREASE MEDICAID PROVIDER REIMBURSEMENT RATES; PROVIDING A DELAYED REPEAL OF THE ACT; MAKING AN APPROPRIATION.

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

Chapter 53 Section 1 Laws 2019

SECTION 1. SHORT TITLE.--Sections 1 through 8 of this act may be referred to as the "Health Care Quality Surcharge Act".

Chapter 53 Section 2 Laws 2019

SECTION 2. PURPOSE.--The purpose of the Health Care Quality Surcharge Act is to enhance federal financial participation in medicaid to increase medicaid provider reimbursement rates and support facility quality improvement efforts in skilled nursing facilities, intermediate care facilities and intermediate care facilities for individuals with intellectual disabilities.

Chapter 53 Section 3 Laws 2019

SECTION 3. DEFINITIONS.--As used in the Health Care Quality Surcharge Act:

- A. "department" means the taxation and revenue department;
- B. "health care facility" means a skilled nursing facility, intermediate care facility or intermediate care facility for individuals with intellectual disabilities;
- C. "intermediate care facility" means a facility with greater than sixty beds and is licensed by the department of health to provide intermediate nursing care. "Intermediate care facility" does not include an intermediate care facility for individuals with intellectual disabilities;
- D. "intermediate care facility for individuals with intellectual disabilities" means a facility licensed by the department of health to provide food, shelter, health or rehabilitative and active treatment for individuals with intellectual disabilities or persons with related conditions;
- E. "medicaid" means the medical assistance program established pursuant to Title 19 of the federal Social Security Act and regulations promulgated pursuant to that act;
- F. "medicare" means coverage provided pursuant to part A or part B of Title 18 of the federal Social Security Act, as amended;
- G. "medicare advantage" means insurance that expands a medicare beneficiary's options for participation in private sector health plans with networks of participating providers;
- H. "medicare part A" means insurance provided through medicare for inpatient hospital, home health, skilled nursing facility and hospice care;

I. "net revenue" means gross inpatient revenue reported by a health care facility for routine nursing and ancillary inpatient services provided to residents by the facility, less applicable contractual allowances and bad debt;

J. "non-medicare bed day" means a day for which the primary payer is not medicare part A, medicare advantage or a special needs plan. A non-medicare bed day excludes any day on which a resident is not in the facility or the facility is paid to hold the bed while the resident is on leave;

K. "resident day" means a calendar day of care provided to a resident in a health care facility, including the day of admission and not including the day of discharge; provided that admission and discharge occurring on the same day shall constitute one resident day;

L. "skilled nursing facility" means a facility with greater than sixty beds and is licensed by the department of health to provide skilled nursing services; and

M. "special needs plan" means a specific type of medicare advantage plan that limits membership to individuals with specific diseases or characteristics.

Chapter 53 Section 4 Laws 2019

SECTION 4. HEALTH CARE QUALITY SURCHARGE--RATE CALCULATION-- -DATE PAYMENT DUE.--

A. A surcharge is imposed on each health care facility. The surcharge shall be per day for each non-medicare bed day. The rate of the surcharge shall be annually calculated by the human services department pursuant to Subsection B of this section.

B. No later than sixty days following the effective date of the Health Care Quality Surcharge Act and by June 1 of each year thereafter, the human services department shall calculate the rate of the surcharge to be paid by each health care facility during the subsequent fiscal year and shall notify the taxation and revenue department and each such health care facility of the applicable rates. In calculating the rates, the human services department shall:

(1) set a uniform rate per non-medicare day in health care facilities not to exceed the maximum allowed by federal law governing the approval of the state medicaid plan or any waiver from that plan;

(2) structure the rates for each skilled nursing facility and intermediate care facility so that the total estimated revenue received in the subsequent fiscal year

from all those facilities will equal six percent of the net revenue received in the aggregate by those health care facilities in the previous calendar year; and

(3) structure the rates for each intermediate care facility for individuals with intellectual disabilities so that the total estimated revenue received in the subsequent fiscal year from all those facilities will equal six percent of the net revenue received in the aggregate by all those facilities in the previous calendar year.

C. If the rate of net revenue provided in Paragraph (2) or (3) of Subsection B of this section exceeds the maximum percentage of net revenue for all health care facilities allowed by Section 1903(w)(4) of the federal Social Security Act, as that section may be amended or renumbered, the rate of the health care quality surcharge shall be reduced to a percentage that will equal, but not exceed, the maximum percentage allowed by that federal law.

D. If the rate of net revenue provided in Paragraph (3) of Subsection B of this section results in medicaid fee-for-service and medicaid managed care reimbursement rates that exceed the upper payment limits allowed by Section 1902(a)(30)(A) of the federal Social Security Act, as that section may be amended or renumbered, the rate of the health care quality surcharge shall be reduced to a percentage that will result in reimbursement rates that equal, but do not exceed, those limits.

E. No later than thirty days following the effective date of the Health Care Quality Surcharge Act, a health care facility shall report to the human services department the number of resident days provided by the health care facility, broken down by payer, and the net revenue earned by the health care facility for each of the most recent four calendar quarters available. On each January 1, April 1, July 1 and October 1 thereafter, a health care facility shall report to the human services department the number of resident days provided by the health care facility, broken down by payer, and the net revenue earned by the health care facility for the calendar quarter prior to the previous quarter.

F. The surcharge imposed pursuant to this section may be referred to as the "health care quality surcharge". Health care quality surcharge payments are due quarterly by the twenty-fifth day of the month subsequent to the end of each calendar quarter based upon the non-medicare bed days reported on the most recently filed calendar quarter report required pursuant to Subsection E of this section. Initial health care quality surcharge payments shall be based upon the non-medicare bed days reported on the most recently filed calendar quarter report required pursuant to Subsection E of this section closest to the effective date of the Health Care Quality Surcharge Act.

Chapter 53 Section 5 Laws 2019

SECTION 5. EXEMPTION.--A health care facility with more than ninety thousand annual medicaid-financed bed days may claim an exemption in an amount equal to sixty-five percent of the health care quality surcharge due in a reporting period. The percentage and annual medicaid-financed bed days threshold may be modified by rule promulgated by the human services department, if necessary, for approval of the surcharge program by the federal centers for medicare and medicaid services.

Chapter 53 Section 6 Laws 2019

SECTION 6. HEALTH CARE FACILITY FUND--DISABILITY HEALTH CARE FACILITY FUND.--

A. The "health care facility fund" and the "disability health care facility fund" are created in the state treasury. The funds consist of appropriations, distributions, transfers, gifts, grants, donations and bequests made to the funds and income from the investment of the funds. The funds shall be administered by the human services department, and money in the funds is subject to appropriation by the legislature to the human services department to carry out the purposes provided in this section. Money in the funds shall be disbursed on warrants signed by the secretary of finance and administration pursuant to vouchers signed by the secretary of human services or the secretary's authorized representative. Any balance remaining in the funds at the end of a fiscal year shall not revert to the general fund.

B. At least eighty percent of the money in the health care facility fund shall be used for the following purposes and in the following order of priority for skilled nursing facilities and intermediate care facilities:

(1) to increase per diem rates to those facilities for the medicaid share of the health care quality surcharge as a pass-through, medicaid-allowable cost;

(2) to annually increase, on a per diem basis, as provided by rule promulgated by the human services department, each facility's respective medicaid fee-for-service and medicaid managed care reimbursement rates above those in effect upon the effective date of the Health Care Quality Surcharge Act and in subsequent years thereafter by at least the rate of nursing home inflation for the rate year as published on behalf of the federal centers for medicare and medicaid services; and

(3) to provide financial incentives in the form of supplemental payments, paid no less frequently than quarterly, based upon performance data to improve the quality of skilled nursing facilities and intermediate care facilities.

C. The disability health care facility fund shall be used for the following purposes and in the following order of priority for intermediate care facilities for individuals with intellectual disabilities:

(1) to increase per diem rates to those facilities for the medicaid share of the health care quality surcharge as a pass-through, medicaid-allowable cost; and

(2) to increase each facility's respective medicaid fee-for-service reimbursement rates above those in effect on the effective date of the Health Care Quality Surcharge Act.

D. No more than twenty percent of the money in the health care facility fund may be used by the human services department to administer the state medicaid program for purposes other than those provided in Subsection B of this section.

E. The initial health care quality surcharge payment by health care facilities for the first calendar quarter ending after the effective date of the Health Care Quality Surcharge Act shall be made twenty-five days after the date the federal centers for medicare and medicaid services approve the authorization sought by the secretary of human services pursuant to Section 11 of this 2019 act.

F. The initial quarterly supplemental payments to health care facilities made pursuant to Subsection B of this section for the first calendar quarter ending after the effective date of the Health Care Quality Surcharge Act shall be made thirty days after the date the federal centers for medicare and medicaid services approve the authorization sought by the secretary of human services pursuant to Section 11 of this 2019 act. The initial per diem payments to health care facilities made pursuant to Subsections B and C of this section shall be made thirty days after the date the federal centers for medicare and medicaid services approve the authorization sought by the secretary of human services pursuant to Section 11 of this 2019 act.

G. Subsequent health care quality surcharge payments by health care facilities will be made twenty-five days after the end of each calendar quarter for that calendar quarter. Subsequent supplemental payments made to health care facilities pursuant to Subsection B of this section shall be made thirty days after the end of each calendar quarter for that calendar quarter.

Chapter 53 Section 7 Laws 2019

SECTION 7. ADMINISTRATION AND ENFORCEMENT OF ACT.--The department shall interpret the provisions of the Health Care Quality Surcharge Act. The department shall administer and enforce the collection of the health care quality

surcharge, and the Tax Administration Act applies to the administration and enforcement of that surcharge.

Chapter 53 Section 8 Laws 2019

SECTION 8. DEPARTMENTS REQUIRED TO PROMULGATE RULES.--The taxation and revenue department and the human services department shall promulgate rules to carry out the provisions of the Health Care Quality Surcharge Act, as appropriate for each department, including the rate calculations required to be performed by the human services department, and the notification from that department to the taxation and revenue department pursuant to Section 4 of the Health Care Quality Surcharge Act.

Chapter 53 Section 9 Laws 2019

SECTION 9. A new section of the Tax Administration Act is enacted to read:

"DISTRIBUTION--HEALTH CARE QUALITY SURCHARGE--HEALTH CARE FACILITY FUND--DISABILITY HEALTH CARE FACILITY FUND.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the health care facility fund in an amount equal to the net receipts attributable to the health care quality surcharge imposed on skilled nursing facilities and intermediate care facilities pursuant to the Health Care Quality Surcharge Act.

B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the disability health care facility fund in an amount equal to the net receipts attributable to the health care quality surcharge imposed on intermediate care facilities for individuals with intellectual disabilities pursuant to the Health Care Quality Surcharge Act."

Chapter 53 Section 10 Laws 2019

SECTION 10. Section 7-1-2 NMSA 1978 (being Laws 1965, Chapter 248, Section 2, as amended) is amended to read:

"7-1-2. APPLICABILITY.--The Tax Administration Act applies to and governs:

A. the administration and enforcement of the following taxes or tax acts as they now exist or may hereafter be amended:

- (1) Income Tax Act;

- (2) Withholding Tax Act;
- (3) Venture Capital Investment Act;
- (4) Gross Receipts and Compensating Tax Act and any state gross receipts tax;
- (5) Liquor Excise Tax Act;
- (6) Local Liquor Excise Tax Act;
- (7) any municipal local option gross receipts tax;
- (8) any county local option gross receipts tax;
- (9) Special Fuels Supplier Tax Act;
- (10) Gasoline Tax Act;
- (11) petroleum products loading fee, which fee shall be considered a tax for the purpose of the Tax Administration Act;
- (12) Alternative Fuel Tax Act;
- (13) Cigarette Tax Act;
- (14) Estate Tax Act;
- (15) Railroad Car Company Tax Act;
- (16) Investment Credit Act, rural job tax credit, Laboratory Partnership with Small Business Tax Credit Act, Technology Jobs and Research and Development Tax Credit Act, Film Production Tax Credit Act, Affordable Housing Tax Credit Act and high-wage jobs tax credit;
- (17) Corporate Income and Franchise Tax Act;
- (18) Uniform Division of Income for Tax Purposes Act;
- (19) Multistate Tax Compact;
- (20) Tobacco Products Tax Act;

(21) the telecommunications relay service surcharge imposed by Section 63-9F-11 NMSA 1978, which surcharge shall be considered a tax for the purposes of the Tax Administration Act; and

(22) the Health Care Quality Surcharge Act;

B. the administration and enforcement of the following taxes, surtaxes, advanced payments or tax acts as they now exist or may hereafter be amended:

(1) Resources Excise Tax Act;

(2) Severance Tax Act;

(3) any severance surtax;

(4) Oil and Gas Severance Tax Act;

(5) Oil and Gas Conservation Tax Act;

(6) Oil and Gas Emergency School Tax Act;

(7) Oil and Gas Ad Valorem Production Tax Act;

(8) Natural Gas Processors Tax Act;

(9) Oil and Gas Production Equipment Ad Valorem Tax Act;

(10) Copper Production Ad Valorem Tax Act;

(11) any advance payment required to be made by any act specified in this subsection, which advance payment shall be considered a tax for the purposes of the Tax Administration Act;

(12) Enhanced Oil Recovery Act;

(13) Natural Gas and Crude Oil Production Incentive Act; and

(14) intergovernmental production tax credit and intergovernmental production equipment tax credit;

C. the administration and enforcement of the following taxes, surcharges, fees or acts as they now exist or may hereafter be amended:

- (1) Weight Distance Tax Act;
- (2) the workers' compensation fee authorized by Section 52-5-19 NMSA 1978, which fee shall be considered a tax for purposes of the Tax Administration Act;
- (3) Uniform Unclaimed Property Act (1995);
- (4) 911 emergency surcharge and the network and database surcharge, which surcharges shall be considered taxes for purposes of the Tax Administration Act;
- (5) the solid waste assessment fee authorized by the Solid Waste Act, which fee shall be considered a tax for purposes of the Tax Administration Act;
- (6) the water conservation fee imposed by Section 74-1-13 NMSA 1978, which fee shall be considered a tax for the purposes of the Tax Administration Act; and
- (7) the gaming tax imposed pursuant to the Gaming Control Act; and

D. the administration and enforcement of all other laws, with respect to which the department is charged with responsibilities pursuant to the Tax Administration Act, but only to the extent that the other laws do not conflict with the Tax Administration Act."

Chapter 53 Section 11 Laws 2019

SECTION 11. TEMPORARY PROVISION--HUMAN SERVICES DEPARTMENT SHALL APPLY FOR AUTHORIZATION.--On or before sixty days from the effective date of this section, the secretary of human services shall seek a waiver, a state plan amendment or whatever federal authorization is necessary to implement the provisions of the Health Care Quality Surcharge Act.

Chapter 53 Section 12 Laws 2019

SECTION 12. DELAYED REPEAL.--Sections 1 through 9 of this act are repealed effective January 1, 2023.

Chapter 53 Section 13 Laws 2019

SECTION 13. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

SPAC/Senate Bill 246

Approved March 14, 2019

LAWS 2019, CHAPTER 54

AN ACT

RELATING TO HIGHER EDUCATION; ALLOWING TRIBAL COLLEGES TO RECEIVE FUNDS FROM THE LOTTERY TUITION FUND.

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

Chapter 54 Section 1 Laws 2019

SECTION 1. Section 21-21N-2 NMSA 1978 (being Laws 2014, Chapter 80, Section 2, as amended) is amended to read:

"21-21N-2. DEFINITIONS.--As used in the Legislative Lottery Tuition Scholarship Act:

A. "community college" means a branch community college of a four-year state educational institution, a

two-year state educational institution or a community college or technical and vocational institute established pursuant to Chapter 21, Article 13 or 16 NMSA 1978, respectively;

B. "comprehensive institution" means eastern New Mexico university, western New Mexico university, New Mexico highlands university or northern New Mexico college;

C. "department" means the higher education department;

D. "full time" means fifteen or more credit hours each semester of the regular academic year in state educational institutions and twelve or more credit hours each semester of the regular academic year in community colleges or for legacy students in any program semester;

E. "fund" means the lottery tuition fund;

F. "legacy student" means a full-time resident student who has received for three or more program semesters by the end of fiscal year 2014 the legislative lottery

scholarship awarded pursuant to the former provisions of Sections 21-1-4.3, 21-13-10 and 21-16-10.1 NMSA 1978 prior to the enactment of the Legislative Lottery Tuition Scholarship Act;

G. "program semesters" means those semesters for which a legacy or qualified student may receive a tuition scholarship and excludes the first semester of attendance at a public post-secondary educational institution;

H. "public post-secondary educational institution" means a four-year state educational institution or a community college;

I. "qualified student" means a full-time student who graduated from a public or accredited private New Mexico high school or who received a high school equivalency credential while maintaining residency in New Mexico and who:

(1) either:

(a) within sixteen months of graduation or receipt of a high school equivalency credential, was accepted for entrance to and attended a public post-secondary educational institution; or

(b) within four months of graduation or receipt of a high school equivalency credential, began service in the United States armed forces and within sixteen months of completion of honorable service or medical discharge from the service, attended a public post-secondary educational institution; and

(2) successfully completed the first semester at a public post-secondary educational institution with a grade point average of 2.5 or higher on a 4.0 scale during the first semester of full-time enrollment;

J. "research institution" means the university of New Mexico, New Mexico state university or New Mexico institute of mining and technology;

K. "state educational institution" means an institution of higher education enumerated in Article 12, Section 11 of the constitution of New Mexico;

L. "tribal college" means a tribally, federally or congressionally chartered post-secondary educational institution located in New Mexico that is accredited by the higher learning commission; and

M. "tuition scholarship" means the scholarship that provides tuition assistance per program semester for a qualified student or legacy student attending a public post-secondary educational institution or tribal college."

Chapter 54 Section 2 Laws 2019

SECTION 2. Section 21-21N-3 NMSA 1978 (being Laws 2014, Chapter 80, Section 3, as amended) is amended to read:

"21-21N-3. TUITION SCHOLARSHIPS AUTHORIZED--QUALIFIED STUDENTS.--

A. To the extent that funds are made available by the legislature from the fund, the boards of regents or governing bodies of public post-secondary educational institutions and tribal colleges shall award tuition scholarships in department-approved amounts to qualified students and legacy students attending their respective public post-secondary educational institutions.

B. Beginning in fiscal year 2015:

(1) a legacy student is eligible to receive a tuition scholarship until the total number of program semesters for which the legislative lottery scholarship is received pursuant to the former provisions of Sections 21-1-4.3, 21-13-10 and 21-16-10.1 NMSA 1978 or the Legislative Lottery Tuition Scholarship Act reaches eight; provided that the legacy student maintains residency in New Mexico, maintains a grade point average of 2.5 or higher on a 4.0 scale and completes twelve or more credit hours per program semester; and

(2) a qualified student who is not a legacy student is eligible to receive the tuition scholarship for a maximum of seven program semesters and in an amount determined pursuant to the provisions of Section 21-21N-4 NMSA 1978.

C. Except as otherwise provided in this section, a tuition scholarship may be awarded to a qualified student who:

- (1) maintains residency in New Mexico;
- (2) maintains a grade point average of 2.5 or higher on a 4.0 scale; and
- (3) completes:

(a) for a student attending a four-year public post-secondary educational institution or a tribal college, fifteen or more credit hours per program semester; and

(b) for a student attending a two-year public post-secondary educational institution, twelve or more credit hours per program semester.

D. For students with disabilities who may require accommodations, the department, in consultation with the student and the office at the public post-secondary educational institution or the tribal college that serves students with disabilities, shall review both the definition of "full time" and the maximum number of consecutive program semesters of eligibility and adjust either or both as deemed reasonable and appropriate, based on the student's disability needs. In no case, however, shall "full time" mean fewer than six credit hours per semester, and in no case shall eligibility extend beyond fourteen consecutive program semesters."

Chapter 54 Section 3 Laws 2019

SECTION 3. Section 21-21N-4 NMSA 1978 (being Laws 2014, Chapter 80, Section 4, as amended) is amended to read:

"21-21N-4. TUITION SCHOLARSHIP AMOUNT--FUND.--

A. Prior to June 1 of each year, based on the amount appropriated by the legislature from the fund and on the projected enrollment at all public post-secondary educational institutions and tribal colleges, the department shall:

(1) determine the total amount of money available for all tuition scholarships for qualified students;

(2) determine the award amount for research institutions, comprehensive institutions, tribal colleges and community colleges; and

(3) notify all public post-secondary educational institutions and tribal colleges of the determinations made pursuant to Paragraphs (1) and (2) of this subsection.

B. In determining distribution and award amounts for the tuition scholarship program, the department shall:

(1) maintain the minimum fund balance pursuant to Section 21-21N-5 NMSA 1978;

(2) distribute to all public post-secondary educational institutions and tribal colleges an amount not to exceed the remaining balance in the fund; and

(3) subject to the provisions of Paragraphs (1) and (2) of this subsection, distribute to each public post-secondary educational institution or tribal college an amount based on:

(a) the projected enrollment at each four-year public post-secondary educational institution and tribal college of qualified students in their first through seventh program semesters, including qualified students in their fourth through seventh program semesters who transferred from community colleges;

(b) the projected enrollment at each community college of qualified students in their first through third program semesters; and

(c) an award for each scholarship recipient distributed in amounts as follows: 1) one thousand five hundred dollars (\$1,500) per scholarship per program semester for a student enrolled at a research institution; 2) one thousand twenty dollars (\$1,020) per scholarship per program semester for a student enrolled at a comprehensive institution or tribal college; and 3) three hundred eighty dollars (\$380) per scholarship per program semester for a student enrolled at a community college.

C. If the total amount available pursuant to Paragraph (1) of Subsection A of this section is less than the amount calculated in Subsection B of this section, the department shall decrease the scholarship award amounts in a manner that maintains the distribution in the same proportions as provided in Subparagraph (c) of Paragraph (3) of Subsection B of this section.

D. If the total amount available pursuant to Paragraph (1) of Subsection A of this section is more than the amount calculated in Subsection B of this section, the department shall increase the scholarship award amounts in a manner that maintains the distribution in the same proportions as provided in Subparagraph (c) of Paragraph (3) of Subsection B of this section."

Chapter 54 Section 4 Laws 2019

SECTION 4. Section 21-21N-5 NMSA 1978 (being Laws 1995, Chapter 155, Section 23, as amended) is amended to read:

"21-21N-5. LOTTERY TUITION FUND CREATED--PURPOSE.--

A. The "lottery tuition fund" is created in the state treasury. The fund shall be administered by the department. Earnings from investment of the fund shall accrue to the credit of the fund. The fund shall maintain an annual average balance of two million dollars (\$2,000,000), and any balance in the fund at the end of any fiscal year shall remain in the fund for appropriation by the legislature as provided in this section.

B. Money in the fund shall be appropriated by the legislature to the department for distribution to New Mexico's public post-secondary educational institutions and tribal colleges to provide tuition assistance for qualified students and legacy students as provided in the Legislative Lottery Tuition Scholarship Act."

Chapter 54 Section 5 Laws 2019

SECTION 5. Section 21-21N-7 NMSA 1978 (being Laws 2015, Chapter 84, Section 2) is amended to read:

"21-21N-7. LOTTERY STUDENT COMMUNITY OUTREACH PILOT PROJECT--TUITION SCHOLARSHIP RECIPIENTS--ADDITIONAL REQUIREMENTS--MENTORING--TRAINING.--

A. The "lottery student community outreach pilot project" is created as a six-year study that encourages students who receive a tuition scholarship pursuant to the Legislative Lottery Tuition Scholarship Act at participating public post-secondary educational institutions or tribal colleges to volunteer to provide community outreach, chiefly through mentoring public school students. Tuition scholarship students are not required to participate to maintain their tuition scholarship. The purpose of the pilot project is to demonstrate that:

(1) both mentors and mentees receive similar benefits, including improved grades and on-time graduation and a renewed sense of confidence, purpose and community and civic engagement;

(2) this service improves the community in which the student volunteer works and the public school student lives;

(3) mentoring by young adults can help disadvantaged public school students narrow the achievement gap; improve cognitive, social and behavioral skills; and lead to higher test scores and success in school; and

(4) mentoring can also help the student volunteer improve the student volunteer's skills, test scores and success in college and inculcate civic and social engagement in community life.

B. The pilot project shall be administered by the department and shall be conducted with at least three public post-secondary educational institutions around the state, ideally with at least one from the research institutions, at least one from the comprehensive universities or tribal colleges and at least one from the branch and independent community colleges and with at least five hundred tuition scholarship students. Preference for the pilot project shall be given to institutions in areas with high poverty rates and in public schools with eighty-five percent or more of the students eligible for free or reduced-fee lunch and high English language learner populations. The department may expand the pilot project during its term to more participants.

C. The department shall certify a list of nonprofit community- and education-oriented organizations that maintain relationships with public schools with which student volunteers may work. The organizations shall identify public schools in their areas that are interested in having mentors and shall develop a mentoring training program for student volunteers. The organizations shall also identify community-based outreach or specific community-based projects appropriate for students in their first program semester or students unable to mentor during the school year.

D. A participating community- and education-oriented organization shall monitor and evaluate the work of the student volunteers and the time spent mentoring or participating in community-based projects as well as the progress of the public school students being mentored.

E. The department shall determine application requirements and procedures for public post-secondary educational institutions, tribal colleges, nonprofit community- and education-oriented organizations and student volunteers to apply for the pilot project, criteria to evaluate applications and quantitative and qualitative measures of the pilot project's efficacy.

F. In addition to other requirements and qualifications in the Legislative Lottery Tuition Scholarship Act, a tuition scholarship student who participates in the pilot project shall provide at least two hours per week of community outreach with public school students in the area of the public post-secondary educational institution or tribal college the student attends. The community outreach shall consist of:

- (1) partnering with community-based organizations and assisting with community-based projects;
- (2) mentoring public school students; or
- (3) mentoring first-year college students.

G. The following schedule of community outreach for student volunteers is:

(1) students in their first program semester shall partner with a community-based organization to assist it in community outreach or specific community-based projects;

(2) students in their sophomore and junior years shall mentor students in grades kindergarten through twelve; and

(3) students in their senior year shall mentor freshmen college students.

H. If a tuition scholarship student who wants to participate is unable to perform the community outreach service during the school year because of class load, work requirements or other reasons, the student volunteer may volunteer for an approved community outreach project that will be available for the student to participate in during semester breaks or the summer for a total of at least thirty-two hours.

I. Public schools that choose to participate in the pilot project shall identify willing students who would benefit from participation. The student's teacher or school principal shall work with the nonprofit organization and the student volunteer to determine what activities and types of engagement would benefit the mentee student.

J. The department shall establish reporting and evaluation requirements for all participants in the pilot project. The department shall provide interim and final reports annually to the governor and the legislature.

K. The participating public post-secondary educational institutions, tribal colleges, nonprofit community- and education-oriented organizations and public schools shall actively seek public and private grants and donations for any costs of the pilot project. Grants and donations shall be kept and expended as other grants and donations of the institution, tribal college, organization or public school."

Chapter 54 Section 6 Laws 2019

SECTION 6. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.

Senate Bill 407, aa

Approved March 14, 2019

LAWS 2019, CHAPTER 55

AN ACT

RELATING TO FIRE PROTECTION; CLARIFYING THAT MONEY FROM THE FIRE PROTECTION FUND MAY BE USED TO PURCHASE LAND FOR FIRE STATIONS AND SUBSTATIONS; ALLOWING FIRE PROTECTION FUND AWARDS TO ENTITIES HAVING OUTSTANDING OBLIGATIONS ASSOCIATED WITH PRIOR FIRE PROTECTION FUND AWARDS.

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

Chapter 55 Section 1 Laws 2019

SECTION 1. Section 59A-53-8 NMSA 1978 (being Laws 1984, Chapter 127, Section 979, as amended) is amended to read:

"59A-53-8. EXPENDITURE OF FIRE PROTECTION FUND MONEY.--Money distributed from the fire protection fund to a municipality or to a county fire district:

- A. may be expended only for the:
- (1) maintenance of its fire department;
 - (2) purchase or refinance of land for its fire stations and substations;
 - (3) purchase, refinance, construction, maintenance, repair and operation of its fire stations and substations;
 - (4) purchase or refinance of fire apparatus and equipment;
 - (5) payment of insurance premiums on fire stations, substations, fire apparatus and equipment and insurance premiums for injuries or deaths of firefighters as otherwise provided by law;
 - (6) payment of fire department emergency medical services, except salaries; and
 - (7) payment of firefighters' attendance at fire schools and conventions approved by the marshal;

B. shall not, without approval by the marshal, be expended for any purpose related to:

(1) its water supply systems or the improvement or construction of those systems;

(2) the purchase, rental, installation or maintenance of fire hydrants; or

(3) any other appurtenance related to the distribution or use of water from its water supply system; and

C. shall not be expended for any public, private or other water system used for potable water supply."

Chapter 55 Section 2 Laws 2019

SECTION 2. Section 59A-53-10 NMSA 1978 (being Laws 1984, Chapter 127, Section 981, as amended) is amended to read:

"59A-53-10. INTEREST IN LAND FOR FIRE STATIONS OR SUBSTATIONS.-- Money distributed from the fire protection fund to a municipality or to a county fire district may be expended or obligated for the construction of buildings for fire stations or substations only if:

A. the municipality or county fire district proposing to expend or obligate for that purpose holds fee simple title, not encumbered by any lien, to the land on which it proposes to construct the building; or

B. the land is donated in whole or in part to the municipality or county fire district for the purpose, and use of fire protection fund money for the construction or location, where the donor has reserved right of reversion of the land under stated conditions, if the use of money is approved by the marshal in advance and after full investigation and determination that the use would be appropriate and reasonable." _____

House Bill 124, aa

Approved March 14, 2019

LAWS 2019, CHAPTER 56

AN ACT

RELATING TO HIGHER EDUCATION; INCREASING THE PER-STUDENT PER-SEMESTER COLLEGE AFFORDABILITY SCHOLARSHIP MAXIMUM AMOUNT; INCREASING THE DISTRIBUTION FROM THE COLLEGE AFFORDABILITY ENDOWMENT FUND.

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

Chapter 56 Section 1 Laws 2019

SECTION 1. Section 21-21L-5 NMSA 1978 (being Laws 2005, Chapter 192, Section 5, as amended by Laws 2007, Chapter 70, Section 4 and by Laws 2007, Chapter 71, Section 4 and also by Laws 2007, Chapter 85, Section 4) is amended to read:

"21-21L-5. SCHOLARSHIP AUTHORIZED--ADMINISTRATION--PREFERENCE IN SCHOLARSHIP AWARDS.--

A. The department shall administer the College Affordability Act and shall promulgate rules to carry out the provisions of that act.

B. Scholarships shall be awarded to qualified eligible students. Qualifications shall be determined by rule of the department.

C. The department shall allocate money to public post-secondary educational institutions and tribal colleges based on a student need formula calculated according to income reported on the free application for federal student aid and on the percentage of the institution's students classified as returning adults who are otherwise ineligible for state financial aid.

D. Public post-secondary educational institutions and tribal colleges shall make awards to qualifying eligible students based on financial need in an amount not to exceed one thousand five hundred dollars (\$1,500) per semester as determined by rule of the department.

E. Money for the scholarship shall be placed in an account at the public post-secondary educational institution or tribal college in the name of the eligible student, and the money may be drawn upon to pay educational expenses charged by the institution, including tuition, fees, books and course supplies."

Chapter 56 Section 2 Laws 2019

SECTION 2. Section 21-21L-8 NMSA 1978 (being Laws 2005, Chapter 192, Section 8, as amended by Laws 2007, Chapter 70, Section 7 and by Laws 2007, Chapter 71, Section 7 and also by Laws 2007, Chapter 85, Section 7) is amended to read:

"21-21L-8. FUNDS CREATED.--

A. The "college affordability endowment fund" is created as a nonreverting fund in the state treasury, consisting of appropriations; unspecified gifts, grants and donations to the fund; and income from investment of the fund except as provided in Subsection C of this section.

B. The "college affordability scholarship fund" is created as a nonreverting fund in the state treasury, consisting of income from investment of the fund and any specified distributions, appropriations, gifts, grants and donations to the fund. Money in the scholarship fund is appropriated to the department for scholarship awards as provided in the College Affordability Act. Expenditures from the scholarship fund shall be by warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary of higher education or the secretary's authorized representative.

C. Until fifty percent of the annual income from investment of the college affordability endowment fund is equal to or exceeds three million dollars (\$3,000,000), an annual distribution of three million dollars (\$3,000,000) shall be made from the college affordability endowment fund to the college affordability scholarship fund. Thereafter, until the corpus of the endowment fund is two hundred fifty million dollars (\$250,000,000), fifty percent of the income from investment of the fund shall be applied to the corpus of the fund and fifty percent shall be distributed annually to the scholarship fund. After the corpus of the endowment fund is two hundred fifty million dollars (\$250,000,000), all of the income from investment of the fund shall be distributed to the college affordability scholarship fund." _____

House Bill 127, aa

Approved March 14, 2019

LAWS 2019, CHAPTER 57

AN ACT

RELATING TO HEALTH; ENACTING THE COUNTY AND TRIBAL HEALTH COUNCILS ACT; REPEALING THE MATERNAL AND CHILD HEALTH PLAN ACT.

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

Chapter 57 Section 1 Laws 2019

SECTION 1. SHORT TITLE.--This act may be cited as the "County and Tribal Health Councils Act".

Chapter 57 Section 2 Laws 2019

SECTION 2. PURPOSE OF ACT.--The purpose of the County and Tribal Health Councils Act is to improve the health of New Mexicans by encouraging the development of comprehensive, community-based health planning councils to identify and address local health needs and priorities.

Chapter 57 Section 3 Laws 2019

SECTION 3. DEFINITIONS.--As used in the County and Tribal Health Councils Act:

- A. "board" means the board of county commissioners of a county or leadership of a tribe;
- B. "department" means the department of health;
- C. "health council" means a county or tribal health council;
- D. "jurisdiction" means a county or a tribe; and
- E. "tribe" means an Indian nation, tribe, pueblo or chapter located within the boundaries of the state.

Chapter 57 Section 4 Laws 2019

SECTION 4. COUNTY AND TRIBAL HEALTH COUNCILS--DESIGNATION.--

A. Residents of a jurisdiction may create a county or tribal health council to carry out the provisions of the County and Tribal Health Councils Act; provided that:

and (1) a board shall recognize only a single health council for its jurisdiction;

(2) two or more boards may collaborate to recognize a common, single health council representing two or more jurisdictions.

B. A board shall recognize only a county or tribal health council whose members represent a diverse spectrum of community interests, including individuals and public, private and nonprofit entities.

C. Members of a health council shall elect from among themselves a chair for a term designated by the health council.

D. Health council members shall not be paid, but they may receive per diem and mileage expenses as provided in the Per Diem and Mileage Act.

Chapter 57 Section 5 Laws 2019

SECTION 5. HEALTH COUNCIL FUNCTIONS.--

A. A health council shall prepare a community health plan, updated at regular intervals. A health council shall report its community health plan to the board and to the department.

B. Each community health plan shall include:

(1) a county or tribal health assessment and inventory of health resources;

(2) identification of health priorities determined through independent, community-based planning processes; and

(3) strategies and resources to address health priorities.

C. A health council shall:

(1) monitor health and health care programs and services in order to identify potential gaps and to reduce potential duplication;

(2) collaborate with other entities to develop programs, networks, partnerships and coalitions as necessary to improve health;

(3) advise the board in its jurisdiction and other entities regarding policies that affect health;

(4) facilitate communication among local jurisdictions, state agencies and other entities; and

(5) identify additional public and private resources to improve health in its respective jurisdiction.

Chapter 57 Section 6 Laws 2019

SECTION 6. DEPARTMENT--POWERS AND DUTIES.--The department shall:

A. in consultation with health councils, develop benchmarks, expectations and mechanisms to ensure the long-term viability of health councils;

B. in collaboration with universities, other state agencies and other public health entities, provide training, technical assistance and other supports to health councils;

C. in collaboration with other entities, develop a system to evaluate the effectiveness of health councils and the gathering of necessary evaluation data;

D. administer funding to support the work of the health councils, including local health council staffing, training and technical assistance, and monitor and evaluate contracts for funding; and

E. adopt and promulgate rules as necessary to carry out the purposes of the County and Tribal Health Councils Act and to strengthen community-based health planning and self-determination.

Chapter 57 Section 7 Laws 2019

SECTION 7. REPEAL.--Sections 24-1B-1 through 24-1B-7 NMSA 1978 (being Laws 1991, Chapter 113, Sections 1 through 7, as amended) are repealed._____

House Bill 137

Approved March 14, 2019

LAWS 2019, CHAPTER 58

AN ACT

RELATING TO ALCOHOL; AMENDING A SECTION OF THE LIQUOR CONTROL ACT TO PROVIDE FOR A PARTIALLY CONSUMED BOTTLE OF WINE TO BE REMOVED FROM A WINERY.

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

Chapter 58 Section 1 Laws 2019

SECTION 1. Section 60-3A-12 NMSA 1978 (being Laws 2007, Chapter 78, Section 1) is amended to read:

"60-3A-12. PARTIALLY CONSUMED BOTTLE OF WINE--LICENSED PREMISES.--

A. Notwithstanding any other provision of law, a dispenser, canopy licensee or restaurant licensee may permit a customer of the licensee to remove from the licensed premises one opened bottle of partially consumed wine; provided that:

(1) the customer has purchased a full-course meal and a bottle of wine and consumed a portion of the bottle of wine with the meal on the licensed premises; and

(2) the dispenser, canopy licensee or restaurant licensee or an agent or employee of the dispenser, canopy licensee or restaurant licensee attaches the customer receipt issued for the bottle of wine and reseals the bottle of partially consumed wine by reinserting a cork and sealing the bottle in a tamper-proof bag.

B. Notwithstanding any other provision of law, a winery licensee may permit a customer of the licensee to remove from the licensed premises one opened bottle of partially consumed wine; provided that the winery licensee or an agent or employee of the winery licensee attaches the customer receipt issued for the bottle of wine and reseals the bottle of partially consumed wine by reinserting a cork and sealing the bottle in a tamper-proof bag.

C. When operating a motor vehicle, the customer shall possess and transport the partially consumed bottle of wine in accordance with Section 66-8-138 NMSA 1978."

House Bill 549

Approved March 14, 2019

LAWS 2019, CHAPTER 59

AN ACT

RELATING TO PUBLIC SCHOOLS; BROADENING THE LOCATION OF AREA VOCATIONAL HIGH SCHOOLS.

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

Chapter 59 Section 1 Laws 2019

SECTION 1. Section 22-5-4.8 NMSA 1978 (being Laws 1999, Chapter 219, Section 19) is amended to read:

"22-5-4.8. AREA VOCATIONAL HIGH SCHOOLS.--

A. A local school board, alone or in cooperation with other local school boards, may develop a plan for the establishment of an area vocational high school. The plan shall be submitted to the department for its approval.

B. The department may approve a plan for an area vocational high school if the plan adequately provides for:

(1) sufficient financing for the operation of the school, which may include an election for a special levy not to exceed one dollar (\$1.00) for each one thousand dollars (\$1,000) of net taxable value, and that may be in addition to levies authorized by the College District Tax Act;

(2) a broad vocational and technical education program serving a sufficient number of students to achieve economic viability; and

(3) compliance with the state plan for vocational education." _____

Senate Bill 576

Approved March 15, 2019

LAWS 2019, CHAPTER 60

AN ACT

RELATING TO HIGHER EDUCATION; CREATING CENTERS OF EXCELLENCE AT HIGHER EDUCATION INSTITUTIONS TO PROMOTE DEVELOPMENT IN THE CYBERSECURITY, SUSTAINABLE AGRICULTURE, RENEWABLE ENERGY INDUSTRIES AND BIOSCIENCE.

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

Chapter 60 Section 1 Laws 2019

SECTION 1. A new section of Chapter 21 NMSA 1978 is enacted to read:

"CENTERS OF EXCELLENCE.--

A. A "center of excellence" is established at the following higher education institutions:

(1) the New Mexico institute of mining and technology to work toward developing and promoting innovation in and expanding cybersecurity industries;

(2) New Mexico state university to work toward developing and promoting innovation in and expanding sustainable agricultural industries;

(3) San Juan college to work toward developing and promoting innovation in and expanding sustainable and renewable energy industries; and

(4) the university of New Mexico health sciences center-affiliated entity, the New Mexico bioscience authority, to continue its work toward developing, promoting innovation in and expanding the bioscience industry in New Mexico.

B. Each center of excellence provided for in Subsection A of this section shall foster excellence in the noted field through:

(1) collaboration among leaders of the state's agencies, higher education institutions, business sector, national laboratories and community organizations;

(2) the development by those leaders of strategies to accomplish that aim; and

(3) the execution of those strategies.

C. Each center of excellence provided for in Subsection A of this section shall:

(1) actively seek, and may accept, public and private funding for its work;

(2) establish short- and long-term goals for job creation, business creation and private equity investment outcomes of its work; and

(3) beginning in 2020, report annually to the higher education department and the legislative finance committee on its goals and achievements."

Chapter 60 Section 2 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.

House Bill 7

Approved March 15, 2019

LAWS 2019, CHAPTER 61

AN ACT

RELATING TO PUBLIC EDUCATION IMPROVEMENTS; CREATING THE CAREER TECHNICAL EDUCATION PILOT PROJECT; REQUIRING THE COLLECTION AND ANALYSIS OF STUDENT, PROGRAM AND INSTRUCTOR DATA TO DETERMINE THE EFFICACY OF THE PILOT PROJECT; CREATING A FUND; MAKING AN APPROPRIATION.

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

Chapter 61 Section 1 Laws 2019

SECTION 1. A new section of the Public School Code is enacted to read:

"CAREER TECHNICAL EDUCATION PILOT PROJECT.--

A. A "career technical education pilot project" is created as a seven-year pilot project administered by the department to fund high-quality career technical education programs and monitor their effect on student outcomes, including achievement scores, academic growth, remediation rates and graduation rates. The department shall consult with the higher education department and the workforce solutions department as it develops its measures to determine what constitutes a high-quality career technical education program and what students should know and be able to demonstrate to an employer or to succeed in a post-secondary career technical education program. School districts and charter schools may apply to participate in the pilot project on forms provided by the department. The department may provide grants to school districts and charter schools to:

(1) establish career technical education programs as part of the pilot project; and

(2) provide professional development and training to career technical education teachers in the pilot project.

B. At a minimum, the career technical education programs funded by the department as part of the pilot project shall:

(1) include rigorous content aligned with academic standards and relevant career technical content that align secondary and post-secondary education;

(2) incorporate permeable pathways through post-secondary education;

(3) include potential for dual credit courses;

(4) require competency in science, technology, engineering and mathematics;

(5) require training in soft skills and social skills;

(6) lead to an industry-recognized credential at the post-secondary level or to an associate's or bachelor's degree;

(7) establish partnerships among the local school district or charter school, post-secondary institutions and local business and industry; and

(8) provide the data necessary to the department and the participating public schools to evaluate each program and the pilot project.

C. The department shall provide professional development to existing career technical education teachers and training to new teachers in career technical education that:

- (1) addresses project-based learning;
- (2) includes the basics of pedagogy;
- (3) promotes integration of career technical curricula with core content areas;
- (4) includes training in instruction for employability and soft skills;
- (5) includes training in social-emotional learning and trauma-informed instruction; and
- (6) addresses department standards and benchmarks for career technical education.

D. The department shall promulgate rules for the administration of the pilot project, the collection and analysis of student, program and instructor data and required reporting by participating public schools.

E. The department shall provide annual and final reports to the legislature through the legislative education study committee and the governor on the efficacy of the pilot project."

Chapter 61 Section 2 Laws 2019

SECTION 2. A new section of the Public School Code is enacted to read:

"CAREER TECHNICAL EDUCATION FUND CREATED.--The "career technical education fund" is created as a nonreverting fund in the state treasury until the end of the pilot project. The fund consists of appropriations, gifts, grants and donations. The department shall administer the fund and money in the fund is appropriated to the department to carry out the career technical education pilot project. The fund shall be administered by the department and money in the fund is appropriated to the department to provide grants to school districts and charter schools participating in the pilot project. Expenditures from the fund shall be on warrants of the secretary of

finance and administration on vouchers signed by the secretary of public education or the secretary's designated representative." _____

House Bill 91

Approved March 15, 2019

LAWS 2019, CHAPTER 62

AN ACT

RELATING TO NATURAL RESOURCES; ENACTING THE FOREST AND WATERSHED RESTORATION ACT; ESTABLISHING A BOARD; PROVIDING POWERS AND DUTIES; PROVIDING CRITERIA FOR THE EVALUATION AND FUNDING OF PROJECTS; MAKING A DISTRIBUTION FROM THE NEW MEXICO IRRIGATION WORKS CONSTRUCTION FUND AND THE IMPROVEMENT OF RIO GRANDE INCOME FUND.

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

Chapter 62 Section 1 Laws 2019

SECTION 1. SHORT TITLE.--Sections 1 through 6 of this act may be cited as the "Forest and Watershed Restoration Act".

Chapter 62 Section 2 Laws 2019

SECTION 2. DEFINITIONS.--As used in the Forest and Watershed Restoration Act:

- A. "board" means the forest and watershed advisory board;
- B. "division" means the forestry division of the energy, minerals and natural resources department;
- C. "project" means a large-scale forest and watershed restoration project on any lands in the state that increases the adaptability and resilience to recurring drought and extreme weather events of the state's forests and watersheds; protects water

sources; reduces the risk of wildfire, including plans for watershed conservation; restores burned areas or thins forests; and includes a related economic or workforce development project or a wildlife conservation or habitat improvement project; and

D. "sponsor" means a federal, state or local government agency, tribal entity, corporation or organization that applies for a project or is conducting a project in conjunction with the division.

Chapter 62 Section 3 Laws 2019

SECTION 3. FOREST AND WATERSHED ADVISORY BOARD CREATED--MEMBERSHIP--APPOINTMENTS--TERMS--COMPENSATION.--

A. The "forest and watershed advisory board" is created and is administratively attached to the energy, minerals and natural resources department. The board consists of the following members:

- (1) the New Mexico state forester;
- (2) the state engineer or the state engineer's designee;
- (3) the commissioner of public lands or the commissioner's designee;
- (4) the secretary of economic development or the secretary's designee;
- (5) the secretary of environment or the secretary's designee;
- (6) the director of the department of game and fish or the director's designee;
- (7) the state fire marshal or the fire marshal's designee; and
- (8) three public members appointed by the governor from a list of nominees submitted to the governor jointly by the president pro tempore of the senate and the speaker of the house of representatives:
 - (a) one of whom shall be a representative of the forest products industry;
 - (b) one of whom shall be a representative of local government interests, such as a member of New Mexico counties or the soil and water conservation commission; and

(c) one of whom shall be a representative of an academic or nonprofit conservation organization with a focus on ecological restoration science.

B. Public members of the board shall serve until their successors have been appointed.

C. A majority of the members of the board constitutes a quorum for transaction of business. The board shall elect a chair from among its members.

D. Members of the board are entitled to receive per diem and mileage pursuant to the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

Chapter 62 Section 4 Laws 2019

SECTION 4. BOARD--DIVISION--POWERS AND DUTIES.--

A. The board shall:

(1) recommend guidelines, protocols and best management practices for projects;

(2) foster partnerships and cooperation among federal, state and county agencies, tribal entities, political subdivisions of the state, soil and water conservation districts, the forest products industry and other public or private organizations dedicated to forest and watershed conservation and restoration programs or projects or wildlife conservation or habitat improvement programs or

projects for the purpose of co-funding or leveraging funding for priority projects; and

(3) evaluate and recommend projects to the division for funding.

B. The division may:

(1) seek and accept all public and private funds and gifts, devises, grants and donations from others to carry out the provisions of the Forest and Watershed Restoration Act;

(2) beginning July 1, 2019, provide partial or full funding for approved projects and facilitate and coordinate funding from multiple sources for projects, when appropriate; and

(3) adopt rules to carry out the purposes of the Forest and Watershed Restoration Act.

Chapter 62 Section 5 Laws 2019

SECTION 5. USE OF FOREST AND WATERSHED RESTORATION FUND-- PROJECT EVALUATION AND PRIORITIZATION.--

A. Money in the forest land protection revolving fund may be used to administer and carry out the purposes of the Forest and Watershed Restoration Act and to fund projects authorized by the division on any lands in the state for:

(1) on-the-ground restoration treatments;

(2) project planning;

(3) economic development programs to advance the use of small-diameter trees and wood biomass removed for hazardous fuel reduction and forest and watershed restoration; or

(4) workforce development for wood utilization projects.

B. A project is eligible for funding if the project is for a public benefit and:

(1) is part of a current state forest and watershed health plan or forest action plan, a community wildfire protection plan, other comprehensive forest and

watershed treatment plan or wildlife conservation or habitat improvement plan approved by the board;

(2) incorporates actions recommended by current plans or, where new plans are developed, seeks to integrate forest, fire and water management with community and economic development plans;

(3) protects watersheds that are the source of drinking or irrigation water;

(4) targets an area at high risk of catastrophic wildfire; or

(5) has obtained all requisite state and federal permits and authorizations necessary to initiate the project, if the project is other than a planning project.

C. A project that is eligible for funding in accordance with Subsection B of this section shall be given priority for funding by the division if the project:

(1) leverages federal, state, local, tribal or private sources and, if available, support from other public or private water, forest, fire, wildlife habitat or economic development programs;

(2) is in an area:

(a) with a wood supply that can be used as biomass for energy production;

(b) where small-diameter trees may be put to commercial use; or

(c) where traditional forest products may be produced;

(3) is clustered around priority areas that are able to supply a useful amount of wood products for industry; or

(4) creates incentives to increase investment by federal, state, local, tribal or private entities, including investment by downstream water users to manage forested headwaters and water sources.

D. Beginning July 1, 2019, sponsors may apply to the division for project funding.

Chapter 62 Section 6 Laws 2019

SECTION 6. REPORT BY DIVISION.--At least forty-five days prior to each legislative session, the division shall submit a report concerning its activities, the projects implemented and any recommended legislation to the governor and the legislature.

Chapter 62 Section 7 Laws 2019

SECTION 7. Section 68-2-28 NMSA 1978 (being Laws 1987, Chapter 143, Section 6, as amended) is amended to read:

"68-2-28. FOREST LAND PROTECTION REVOLVING FUND CREATED.--

A. There is created in the state treasury a revolving fund to be known as the "forest land protection revolving fund". The forest land protection revolving fund shall

consist of all receipts as provided by Section 68-2-26 NMSA 1978, appropriations, gifts, grants, donations and revenue received by the forestry division of the energy, minerals and natural resources department from the federal government or other state agencies and other sources for conducting forest and watershed management projects. Subject to legislative appropriation, expenditures may be made from the forest land protection revolving fund upon vouchers signed by the state forester and warrants issued by the secretary of finance and administration:

(1) for the administration and enforcement of the Forest Conservation Act;

(2) to administer forest and watershed management projects, including acquisition of tools and equipment and expenses incurred by the forestry division in planning and supervising forest and watershed management projects; and

(3) to fund approved projects pursuant to the Forest and Watershed Restoration Act.

B. Money in the forest land protection revolving fund shall not revert to the general fund."

Chapter 62 Section 8 Laws 2019

SECTION 8. Section 72-14-6 NMSA 1978 (being Laws 1935, Chapter 24, Section 3, as amended by Laws 1997, Chapter 241, Section 3 and also by Laws 1997, Chapter 246, Section 3) is amended to read:

"72-14-6. APPROPRIATION--HOW DISBURSEMENTS ARE TO BE MADE.--

A. Annually, one million dollars (\$1,000,000) shall be distributed from the improvement of Rio Grande income fund to the forest land protection revolving fund.

B. There is appropriated annually all money remaining in the improvement of the Rio Grande income fund after the distribution pursuant to Subsection A of this section or as much thereof as may be necessary for the purpose of complying with Sections 72-14-4 through 72-14-6 and 72-14-9 through 72-14-28 NMSA 1978 and to fulfill and carry out their purposes and intentions. The appropriations authorized shall be paid, from time to time as may be necessary, upon vouchers approved by the interstate stream commission."

Chapter 62 Section 9 Laws 2019

SECTION 9. Section 72-14-23 NMSA 1978 (being Laws 1955, Chapter 266, Section 15, as amended) is amended to read:

"72-14-23. NEW MEXICO IRRIGATION WORKS CONSTRUCTION FUND CREATED--LIMITATION OF LIABILITY UNDER ACT--REPARATION OF DAMAGES CAUSED IN CARRYING OUT POWERS GRANTED--AUTHORITY OF COMMISSION TO RECEIVE CONTRIBUTIONS.--

A. There is created a fund to be known as the "New Mexico irrigation works construction fund", which shall consist of the income creditable to the permanent reservoirs for irrigation purposes income fund not otherwise pledged under Section 72-14-19 NMSA 1978 and all other money that may be appropriated by the legislature to the construction fund. The fund shall be a continuing fund and shall not revert to the general fund or to any other fund.

B. Annually, one million dollars (\$1,000,000) shall be distributed from the New Mexico irrigation works construction fund to the forest land protection revolving fund.

C. The cost of investigations and construction as authorized in Section 72-14-11 NMSA 1978 shall be paid from the New Mexico irrigation works construction fund and also the cost of all preliminary work on any project, and all expenses directly chargeable to such project, prior to the receipt of the proceeds of bonds, shall be paid from the construction fund. The amount of all such expenses on account of any project and such part of the general administrative expenses of the commission and the cost of investigation as shall be properly chargeable, in the opinion of the commission, to such project shall be reimbursed to the construction fund upon the receipt of the proceeds of bonds issued for such project. No liability or obligation shall be incurred under the provisions of Sections 72-14-9 through 72-14-28 NMSA 1978 beyond the extent to which the money has been provided under the authority of those sections. All public and private property damaged or destroyed in carrying out the powers granted under those sections shall be restored or repaired and placed in its original condition, as nearly as practicable, or adequate compensation made therefor out of funds provided by those sections.

D. The commission shall also have authority to pay the cost of such investigations and construction on any project from the New Mexico irrigation works construction fund when contracts in form satisfactory to it have been entered into whereby title to works have been mortgaged, deeded, assigned or transferred by the owner to the commission, and a program for reimbursement of all amounts expended, together with operation and maintenance charges, have been agreed upon; provided that no construction contract shall be entered into without the prior approval of the state board of finance. The commission shall also have authority to receive and accept

E. purchases of books, periodicals and training materials in printed or electronic format from the publishers or copyright holders thereof and purchases of print, digital or electronic format library materials by public, school and state libraries for access by the public;

F. travel or shipping by common carrier or by private conveyance or to meals and lodging;

G. purchase of livestock at auction rings or to the procurement of animals to be used for research and experimentation or exhibit;

H. contracts with businesses for public school transportation services;

I. procurement of tangible personal property or services, as defined by Sections 13-1-87 and 13-1-93 NMSA 1978, by the corrections industries division of the corrections department pursuant to rules adopted by the corrections industries commission, which shall be reviewed by the purchasing division of the general services department prior to adoption;

J. purchases not exceeding ten thousand dollars (\$10,000) consisting of magazine subscriptions, web-based or electronic subscriptions, conference registration fees and other similar purchases where prepayments are required;

K. municipalities having adopted home rule charters and having enacted their own purchasing ordinances;

L. the issuance, sale and delivery of public securities pursuant to the applicable authorizing statute, with the exception of bond attorneys and general financial consultants;

M. contracts entered into by a local public body with a private independent contractor for the operation, or provision and operation, of a jail pursuant to Sections 33-3-26 and 33-3-27 NMSA 1978;

N. contracts for maintenance of grounds and facilities at highway rest stops and other employment opportunities, excluding those intended for the direct care and support of persons with handicaps, entered into by state agencies with private, nonprofit, independent contractors who provide services to persons with handicaps;

O. contracts and expenditures for services or items of tangible personal property to be paid or compensated by money or other property transferred to New

Mexico law enforcement agencies by the United States department of justice drug enforcement administration;

P. contracts for retirement and other benefits pursuant to Sections 22-11-47 through 22-11-52 NMSA 1978;

Q. contracts with professional entertainers;

R. contracts and expenditures for legal subscription and research services and litigation expenses in connection with proceedings before administrative agencies or state or federal courts, including experts, mediators, court reporters, process servers and witness fees, but not including attorney contracts;

S. contracts for service relating to the design, engineering, financing, construction and acquisition of public improvements undertaken in improvement districts pursuant to Subsection L of Section 3-33-14.1 NMSA 1978 and in county improvement districts pursuant to Subsection L of Section 4-55A-12.1 NMSA 1978;

T. works of art for museums or for display in public buildings or places;

U. contracts entered into by a local public body with a person, firm, organization, corporation or association or a state educational institution named in Article 12, Section 11 of the constitution of New Mexico for the operation and maintenance of a hospital pursuant to Chapter 3, Article 44 NMSA 1978, lease or operation of a county hospital pursuant to the Hospital Funding Act or operation and maintenance of a hospital pursuant to the Special Hospital District Act;

V. purchases of advertising in all media, including radio, television, print and electronic;

W. purchases of promotional goods intended for resale by the tourism department;

X. procurement of printing, publishing and distribution services for materials produced and intended for resale by the cultural affairs department;

Y. procurement by or through the public education department from the federal department of education relating to parent training and information centers designed to increase parent participation, projects and initiatives designed to improve outcomes for students with disabilities and other projects and initiatives relating to the administration of improvement strategy programs pursuant to the federal Individuals with Disabilities

Education Act; provided that the exemption applies only to procurement of services not to exceed two hundred thousand dollars (\$200,000);

Z. procurement of services from community rehabilitation programs or qualified individuals pursuant to the State Use Act;

AA. purchases of products or services for eligible persons with disabilities pursuant to the federal Rehabilitation Act of 1973;

BB. procurement, by either the department of health or Grant county or both, of tangible personal property, services or construction that are exempt from the Procurement Code pursuant to Section 9-7-6.5 NMSA 1978;

CC. contracts for investment advisory services, investment management services or other investment-related services entered into by the educational retirement board, the state investment officer or the retirement board created pursuant to the Public Employees Retirement Act;

DD. the purchase for resale by the state fair commission of feed and other items necessary for the upkeep of livestock;

EE. contracts entered into by the crime victims reparation commission to distribute federal grants to assist victims of crime, including grants from the federal Victims of Crime Act of 1984 and the federal Violence Against Women Act of 1994;

FF. procurement by or through the children, youth and families department of pre-kindergarten services purchased pursuant to the Pre-Kindergarten Act;

GG. procurement of services of commissioned advertising sales representatives for New Mexico magazine; and

HH. procurements exempt from the Procurement Code as otherwise provided by law." _____

House Bill 430

Approved March 15, 2019

LAWS 2019, CHAPTER 64

AN ACT

RELATING TO TAXATION; AMENDING THE DEFINITION OF "CONTRACTOR" IN THE LABORATORY PARTNERSHIP WITH SMALL BUSINESS TAX CREDIT ACT; AMENDING NOTICE REQUIREMENTS TO A SMALL BUSINESS THAT RECEIVES ASSISTANCE FROM A NATIONAL LABORATORY OR THE LABORATORY'S CONTRACTOR; INCREASING THE AMOUNT OF CREDITS FOR EACH SMALL BUSINESS PURSUANT TO THE LABORATORY PARTNERSHIP WITH SMALL BUSINESS TAX CREDIT ACT.

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

Chapter 64 Section 1 Laws 2019

SECTION 1. Section 7-9E-3 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 20, Section 3, as amended) is amended to read:

"7-9E-3. DEFINITIONS.--As used in the Laboratory Partnership with Small Business Tax Credit Act:

A. "contractor":

(1) means a person that:

(a) has the capability to provide small business assistance; and

(b) may enter into a contract with a national laboratory to provide small business assistance; and

(2) includes:

(a) a gas, water or electric utility owned or operated by a county, municipality or other political subdivision of the state;

(b) a national, federal, state, Indian or other governmental unit or subdivision, or an agency, department or instrumentality of any of the foregoing; or

(c) an organization that: 1) demonstrates to the department that the organization has been granted exemption from the federal income tax by the United States commissioner of internal revenue as organizations described in Section 501(c)(3) of the United States Internal Revenue Code of 1986, as that section may be amended or renumbered; and 2) has a place of business in New Mexico;

B. "department" means the taxation and revenue department, the secretary of taxation and revenue or an employee of the department exercising authority lawfully delegated to that employee by the secretary;

C. "national laboratory" means a prime contractor designated as a national laboratory by act of congress that is operating a facility in New Mexico;

D. "qualified expenditure" means an expenditure by a national laboratory in providing small business assistance, limited to the following expenditures incurred in providing the assistance:

(1) employee salaries, wages, fringe benefits and employer payroll taxes;

(2) administrative costs related directly to the provision of small business assistance, the total of which is limited to forty-nine percent of employee salaries, wages, fringe benefits and employer payroll taxes;

(3) in-state travel expenses, including per diem and mileage at the internal revenue service standard rates; and

(4) supplies and services of contractors related to the provision of small business assistance;

E. "rural area" means an area of the state outside of the exterior boundaries of a class A county that has a net taxable value for rate-setting purposes for any property tax year of more than seven billion dollars (\$7,000,000,000);

F. "small business" means a business in New Mexico that conforms to the definition of small business found in the federal Small Business Act; and

G. "small business assistance" means assistance rendered by a national laboratory related to the transfer of technology, including software, manufacturing, mining, oil and gas, environmental, agricultural, information and solar and other alternative energy source technologies. "Small business assistance" includes nontechnical assistance related to expanding the New Mexico base of suppliers, including training and mentoring individual small businesses; assistance in developing business systems to meet audit, reporting and quality assurance requirements; and other supplier development initiatives for individual small businesses."

Chapter 64 Section 2 Laws 2019

SECTION 2. Section 7-9E-5 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 20, Section 5, as amended) is amended to read:

"7-9E-5. ELIGIBILITY REQUIREMENTS.--A national laboratory is eligible for a tax credit in an amount equal to qualified expenditures if:

A. the small business assistance is rendered to a small business located in New Mexico;

B. the small business assistance is completed;

C. the small business certifies to the national laboratory that the small business assistance provided is not otherwise available to the small business at a reasonable cost through private industry;

D. the national laboratory provides written notice to each small business to which the laboratory or a contractor of the laboratory is providing small business assistance that the small business is entitled to license intangible property developed from the small business assistance or can obtain ownership of tangible or intangible property developed from the small business assistance;

E. the national laboratory requires small businesses to which it is providing small business assistance to acknowledge only after the small business assistance is completed that the small business assistance has been rendered; and

F. the national laboratory provides forms for small business requests and for completion of small business assistance that are in accordance with the Laboratory Partnership with Small Business Tax Credit Act and other applicable state and federal laws."

Chapter 64 Section 3 Laws 2019

SECTION 3. Section 7-9E-7 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 20, Section 7, as amended) is amended to read:

"7-9E-7. TAX CREDITS--AMOUNTS.--A tax credit provided pursuant to the Laboratory Partnership with Small Business Tax Credit Act shall be in an amount equal to the qualified expenditure incurred by the national laboratory to provide small business assistance to a specific small business, not to exceed twenty thousand dollars (\$20,000) for each small business for which small business assistance is rendered in a calendar year or forty thousand dollars (\$40,000) if the small business assistance was provided to a small business located in a rural area."

Chapter 64 Section 4 Laws 2019

SECTION 4. Section 7-9E-8 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 20, Section 8, as amended) is amended to read:

"7-9E-8. CLAIMING THE TAX CREDIT--LIMITATION.--

A. A national laboratory eligible for the tax credit pursuant to the Laboratory Partnership with Small Business Tax Credit Act may claim the amount of each tax credit by crediting that amount against gross receipts taxes otherwise due pursuant to the Gross Receipts and Compensating Tax Act. The tax credit shall be taken on each monthly gross receipts tax return filed by the laboratory against gross receipts taxes due the state and shall not impact any local government tax distribution. In no event shall the tax credits taken by an individual national laboratory exceed two million four hundred thousand dollars (\$2,400,000) in a given calendar year.

B. Tax credits claimed pursuant to the Laboratory Partnership with Small Business Tax Credit Act by all national laboratories in the aggregate for qualified expenditures for a specific small business not located in a rural area shall not exceed twenty thousand dollars (\$20,000).

C. Tax credits claimed pursuant to the Laboratory Partnership with Small Business Tax Credit Act by all national laboratories in the aggregate for qualified expenditures for a specific small business located in a rural area shall not exceed forty thousand dollars (\$40,000)."

Chapter 64 Section 5 Laws 2019

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

House Bill 526, aa

Approved March 15, 2019

LAWS 2019, CHAPTER 65

AN ACT

RELATING TO PUBLIC UTILITIES; ENACTING THE ENERGY TRANSITION ACT; AUTHORIZING CERTAIN UTILITIES THAT ABANDON CERTAIN GENERATING FACILITIES TO ISSUE BONDS PURSUANT TO A FINANCING ORDER ISSUED BY THE PUBLIC REGULATION COMMISSION; PROVIDING PROCUREMENT OF REPLACEMENT RESOURCES, INCLUDING LOCATION OF THE REPLACEMENT RESOURCES; AUTHORIZING THE COMMISSION TO IMPOSE A FEE ON THE QUALIFYING UTILITY TO PAY COMMISSION EXPENSES FOR CONTRACTS FOR SERVICES FOR LEGAL COUNSEL AND FINANCIAL ADVISORS TO PROVIDE ADVICE AND ASSISTANCE FOR PURPOSES RELATED TO THE ACT; PROVIDING PROCEDURES FOR REHEARING AND JUDICIAL REVIEW; PROVIDING FOR THE TREATMENT OF ENERGY TRANSITION BONDS BY THE COMMISSION; CREATING SECURITY INTERESTS IN CERTAIN PROPERTY; PROVIDING FOR THE PERFECTION OF INTERESTS IN CERTAIN PROPERTY; EXEMPTING ENERGY TRANSITION CHARGES FROM CERTAIN GOVERNMENT FEES; CREATING THE ENERGY TRANSITION INDIAN AFFAIRS FUND, THE ENERGY TRANSITION ECONOMIC DEVELOPMENT ASSISTANCE FUND AND THE ENERGY TRANSITION DISPLACED WORKER ASSISTANCE FUND; PROVIDING FOR NONIMPAIRMENT OF ENERGY TRANSITION CHARGES AND BONDS; PROVIDING FOR CONFLICTS IN LAW; PROVIDING THAT ACTIONS TAKEN PURSUANT TO THE ENERGY TRANSITION ACT SHALL NOT BE INVALIDATED IF THE ACT IS HELD INVALID; REQUIRING THE PUBLIC REGULATION COMMISSION TO APPROVE PROCUREMENT OF ENERGY STORAGE SYSTEMS; PROVIDING NEW REQUIREMENTS AND TARGETS FOR THE RENEWABLE PORTFOLIO STANDARD FOR RURAL ELECTRIC COOPERATIVES AND PUBLIC UTILITIES; AMENDING CERTAIN DEFINITIONS IN THE RENEWABLE ENERGY ACT AND RURAL ELECTRIC COOPERATIVE ACT; REQUIRING THE HIRING OF APPRENTICES FOR THE CONSTRUCTION OF FACILITIES THAT PRODUCE OR PROVIDE ELECTRICITY; ALLOWING COST RECOVERY FOR EMISSIONS REDUCTION; PROVIDING POWERS AND DUTIES FOR THE PUBLIC REGULATION COMMISSION OVER VOLUNTARY PROGRAMS FOR PUBLIC UTILITIES AND RURAL ELECTRIC COOPERATIVES; REQUIRING THE PROMULGATION OF RULES TO IMPLEMENT THE RENEWABLE ENERGY ACT; REQUIRING THE ENVIRONMENTAL IMPROVEMENT BOARD TO PROMULGATE RULES TO LIMIT CARBON DIOXIDE EMISSIONS OF CERTAIN ELECTRIC GENERATING FACILITIES.

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

Chapter 65 Section 1 Laws 2019

SECTION 1. SHORT TITLE.--Sections 1 through 23 of this act may be cited as the "Energy Transition Act".

Chapter 65 Section 2 Laws 2019

SECTION 2. DEFINITIONS.--As used in the Energy Transition Act:

A. "adjustment mechanism" means a formula-based calculation used to make adjustments to the energy transition charges that are necessary to correct for any over-collection or under-collection of the energy transition charges, to provide for the timely and complete payment of scheduled principal and interest on energy transition bonds and the payment and recovery of other financing costs in accordance with a financing order;

B. "ancillary agreement" means a bond, insurance policy, letter of credit, reserve account, surety bond, interest rate lock or swap arrangement, hedging arrangement, liquidity or credit support arrangement or other similar agreement or arrangement entered into in connection with the issuance of an energy transition bond that is designed to promote the credit quality and marketability of the bond or to mitigate the risk of an increase in interest rates;

C. "assignee" means a person or legal entity, that may be newly created by the qualifying utility, to which an interest in energy transition property is sold, assigned, transferred or conveyed, other than as security, and any successor to or subsequent assignee of such a person or legal entity;

D. "commission" means the public regulation commission;

E. "electric delivery service" means transmission, distribution, generation, energy or any other service from a qualifying utility pursuant to commission-approved rate schedules or special contracts;

F. "energy transition bond" means a bond or other evidence of indebtedness or ownership that is issued by a qualifying utility or an assignee pursuant to a financing order, the proceeds of which are secured by or payable from energy transition property and that are non-recourse to the qualifying utility;

G. "energy transition charge" means a non-bypassable charge paid by all customers of a qualifying utility for the recovery of energy transition costs;

H. "energy transition cost" means the sum of:

- (1) financing costs;

(2) abandonment costs, which for a qualifying generating facility shall not exceed the lower of three hundred seventy-five million dollars (\$375,000,000) or one hundred fifty percent of the undepreciated investment in a qualifying generating facility being abandoned, as of the date of the abandonment. The abandonment costs subject to this limitation shall include:

(a) up to thirty million dollars (\$30,000,000) per qualifying generating facility in costs not previously collected from the qualifying utility's customers for plant decommissioning and mine reclamation costs, subject to any limitations ordered by the commission prior to January 1, 2019 and affirmed by the New Mexico supreme court prior to the effective date of the Energy Transition Act, associated with the abandoned qualifying generating facility;

(b) up to twenty million dollars (\$20,000,000) per qualifying generating facility in costs for severance and job training for employees losing their jobs as a result of an abandoned qualifying generating facility and any associated mine that only services the abandoned qualifying generating facility;

(c) undepreciated investments as of the date of abandonment on the qualifying utility's books and records in a qualifying generating facility that were either being recovered in rates as of January 1, 2019 or are otherwise found to be recoverable through a court decision; and

(d) other undepreciated investments in a qualifying generating facility incurred to comply with law, whether established by statute, court decision or rule, or necessary to maintain the safe and reliable operation of the qualifying generating facility prior to the facility's abandonment;

(3) any other costs required to comply with changes in law enacted after January 1, 2019 incurred by the qualifying utility at the qualifying generating facility; and

(4) payments required pursuant to Section 16 of the Energy Transition Act;

I. "energy transition property" means the rights and interests of a qualifying utility or an assignee under a financing order, including the right to impose, charge, collect and receive energy transition charges in an amount necessary to provide for full payment and recovery of all energy transition costs identified in the financing order, including all revenues or other proceeds arising from those rights and interests;

J. "energy transition revenues" means revenues collected by or on behalf of a qualifying utility through an energy transition charge;

K. "financing cost" means the cost incurred by the qualifying utility or an assignee to issue and administer energy transition bonds, including:

(1) payment of the fee authorized pursuant to Subsection L of Section 5 of the Energy Transition Act;

(2) principal, interest, acquisition, defeasance and redemption premiums that are payable on energy transition bonds;

(3) any payment required under an ancillary agreement and any amount required to fund or replenish a reserve account or other account established under any indenture, ancillary agreement or other financing document relating to the energy transition bonds;

(4) any costs, fees and expenses related to issuing, supporting, repaying, servicing and refunding energy transition bonds, the application for a financing order, including related state board of finance expenses, or obtaining an order approving abandonment of a qualifying generating facility;

(5) any costs, fees and related expenses incurred relating to any existing secured or unsecured obligation of a qualifying utility or an affiliate of a qualifying utility that are necessary to obtain any consent, release, waiver or approval from any holder of such an obligation to permit a qualifying utility to issue or cause the issuance of energy transition bonds;

(6) any taxes, fees, charges or other assessments imposed on energy transition bonds;

(7) preliminary and continuing costs associated with subsequent financing; and

(8) any other related costs approved for recovery in the financing order;

L. "financing order" means an order of the commission that authorizes the issuance of energy transition bonds, authorizes the imposition, collection and periodic adjustments of the energy transition charge and creates energy transition property;

M. "financing party" means a trustee, collateral agent or other person acting for the benefit of a bondholder, and a party to an ancillary agreement or the energy transition bonds, the rights and obligations of which relate to or depend upon the existence of energy transition property, the enforcement and priority of a security

interest in energy transition property or the timely collection and payment of energy transition revenues;

N. "lowest cost objective" means that the structuring, marketing and pricing of energy transition bonds results in the lowest energy transition charges consistent with prevailing market conditions at the time of pricing of energy transition bonds and the structure and terms of energy transition bonds approved pursuant to the financing order;

O. "municipality" means any incorporated city, town or village, whether incorporated under general act, special act or special charter, incorporated counties and H class counties;

P. "non-bypassable" means that the payment of an energy transition charge may not be avoided by an electric service customer located within a utility service area and shall be paid by the customer that receives electric delivery service from the qualifying utility imposing the charge for as long as the energy transition bonds secured by the charge are outstanding and the related financing costs have not been recovered in full;

Q. "non-utility affiliate" means, with respect to a qualifying utility, a person that is an affiliated interest, as that term is used in the Public Utility Act, but a "non-utility affiliate" does not include a public utility that provides retail utility service to customers in the state;

R. "public utility" means "public utility" as used in the Public Utility Act, but "public utility" does not include a distribution cooperative utility organized pursuant to the Rural Electric Cooperative Act;

S. "qualifying generating facility" means a coal-fired generating facility in New Mexico that may be composed of multiple generating units that:

(1) has been granted a certificate of public convenience and for which abandonment authority is granted after December 31, 2018;

(2) is owned or leased, in whole or in part, by a qualifying utility;

(3) if operated by a qualifying utility prior to the effective date of the Energy Transition Act, is to be abandoned prior to January 1, 2023; and

(4) if not operated by a qualifying utility prior to the effective date of the Energy Transition Act, is to be abandoned prior to January 1, 2032; and

T. "qualifying utility" means a public utility that meets the requirements of Paragraph (1) of Subsection G of Section 62-3-3 NMSA 1978 and owns or leases all or a portion of a qualifying generating facility and its successor or assignees.

Chapter 65 Section 3 Laws 2019

SECTION 3. LOCATION OF RESOURCE DEVELOPMENT AFTER ABANDONMENT.--

A. For a qualifying utility that abandons a qualifying generating facility in New Mexico prior to January 1, 2023, the qualifying utility shall, no later than one year after approval of the abandonment, apply for commission approval of competitively procured replacement resources. As part of that competitive procurement, and in addition to the criteria set forth in Subsections B and C of this section, projects shall be ranked based on their cost, economic development opportunity and ability to provide jobs with comparable pay and benefits to those lost due to the abandonment of a qualifying generating facility. The qualitative and quantitative data and analysis used to establish the ranking shall be available for review by parties to the commission proceeding.

B. In determining whether to approve replacement resources, the commission shall prefer resources with the least environmental impacts, those with higher ratios of capital costs to fuel costs and those able to reduce the cost of reclamation and use for lands previously mined within the county of the qualifying generating facility.

C. In considering responses to requests for proposals for replacement resources pursuant to this section, a qualifying utility shall inform prospective bidders that it promotes and encourages the use of workers residing in New Mexico to the greatest extent practicable and shall take that use into consideration in evaluating proposals.

D. The commission shall grant all necessary approvals for replacement resources; provided that the commission may determine that the particular resource proposed by the qualifying utility should not be approved and that, instead, an alternative replacement resource that meets the conditions of this section should be approved. The commission shall not disallow recovery of reasonable costs associated with requirements as to where the resources are located.

E. Replacement resources shall be subject to local property taxes or a binding commitment to make an equivalent payment in lieu of taxes.

F. As used in this section, "replacement resources" means up to four hundred fifty megawatts of nameplate capacity identified by the qualifying utility as replacement

for a qualifying generating facility, and may include energy storage capacity; provided that such resources are located in the school district in New Mexico where the abandoned facility is located, are necessary to maintain reliable service and are in the public interest as determined by the commission.

Chapter 65 Section 4 Laws 2019

SECTION 4. FINANCING ORDER--APPLICATION CONTENTS--PENDING APPLICATIONS.--

A. A qualifying utility that is abandoning a qualifying generating facility may apply to the commission for a financing order pursuant to this section to recover all of its energy transition costs through the issuance of energy transition bonds. To obtain a financing order, a qualifying utility shall obtain approval to abandon a qualifying generating facility pursuant to Section 62-9-5 NMSA 1978. The application for the financing order may be filed as part of the application for approval to abandon a qualifying generating facility.

B. An application for a financing order shall include:

(1) a description of the facility that the qualifying utility proposes to abandon or for which abandonment authority was granted after December 31, 2018;

(2) an estimate of the energy transition costs and shall:

(a) identify the severance pay and job training expenses for affected employees losing their jobs as a result of an abandoned qualifying generating facility and any associated mine that only services the abandoned qualifying generating facility;

(b) identify costs not previously collected from the qualifying utility's customers for plant decommissioning and mine reclamation costs, subject to any limitations ordered by the commission prior to January 1, 2019 and affirmed by the New Mexico supreme court prior to the effective date of the Energy Transition Act, associated with the abandoned qualifying generating facility; and

(c) include an estimate of the financing costs associated with each series of energy transition bonds proposed to be issued;

(3) an estimate of the amount of energy transition charges necessary to recover the costs in Paragraph (2) of this subsection and the proposed calculation

thereof, based on the estimated date of issuance and estimated principal amount of each series of energy transition bonds proposed to be issued;

(4) a description of the proposed adjustment mechanism that complies with the provisions of Section 6 of the Energy Transition Act;

(5) a memorandum with supporting exhibits from a securities firm, such firm to be attested to by the state board of finance as being experienced in the marketing of bonds and capable of providing such a memorandum, that the proposed issuance satisfies the current published AAA rating or equivalent rating criteria of at least one nationally recognized statistical rating organization for issuances similar to the proposed energy transition bonds. The request for such attestation may be made by a qualifying utility prior to an application for a financing order, and the state board of finance shall act upon such a request promptly;

(6) a commitment by the qualifying utility to file with the commission following the issuance of the energy transition bonds:

(a) a description of the final structure and pricing of the bonds;

(b) updated financing costs and payment amount required pursuant to Section 16 of the Energy Transition Act; and

(c) an updated calculation of the energy transition charges;

(7) an estimate of timing of the issuance and term of the energy transition bonds, or series of bonds; provided that the scheduled final maturity for each bond issuance shall be no longer than twenty-five years;

(8) identification of plans to sell, assign, transfer or convey, other than as a security, interest in energy transition property, including identification of an assignee, and demonstration that the assignee will be a financing entity wholly owned, directly or indirectly, by the qualifying utility that will be initially capitalized by the qualifying utility in such a way that equity interests in the financing entity are at least one-half percent of the total capital of the assignee;

(9) identification of ancillary agreements that may be necessary or appropriate;

(10) a description of a proposed ratemaking process to reconcile and recover or refund any difference between the energy transition costs financed by the

energy transition bonds and the actual final energy transition costs incurred by the qualifying utility or the assignee;

(11) a proposed ratemaking method to account for the reduction in the qualifying utility's cost of service associated with the amount of undepreciated investments being recovered by the energy transition charge at the time that charge becomes effective; and

(12) a statement from the qualifying utility committing that the qualifying utility will use commercially reasonable efforts to obtain the lowest cost objective.

C. The application may include requests for approvals for new resources necessitated by the abandonment of a qualifying generating facility.

D. The qualifying utility or the commission may defer applications for needed approvals for new resources to a separate proceeding; provided that the application identifies adequate potential new resources sufficient to provide reasonable and proper service to retail customers.

E. If an application for approval to abandon a qualifying generating facility is pending before the commission on the effective date of the Energy Transition Act, the qualifying utility may file a separate application for a financing order, and the commission may join or consolidate the application for a financing order with the pending proceeding involving abandonment of the qualifying generating facility, with the consent of the applicant. On such joinder or consolidation, the time periods prescribed by the Energy Transition Act shall become applicable to the joined or consolidated case as of the date of the joinder or consolidation.

F. If a qualifying utility does not recover energy transition costs pursuant to the Energy Transition Act, the energy transition costs may be recovered pursuant to other applicable provisions of the Public Utility Act.

Chapter 65 Section 5 Laws 2019

SECTION 5. FINANCING ORDER--ISSUANCE--TERMS OF BONDS-- REPORTS TO COMMISSION OF DISBURSEMENT OF BOND PROCEEDS--REVIEW AND AUDIT OF RECORDS.--

A. The commission may approve an application for a financing order without a formal hearing if no protest establishing good cause for a formal hearing is filed within thirty days of the date when notice is given of the filing of the application for the financing order. If a hearing is held, the commission shall issue an order granting or

denying the application for the financing order to a qualifying utility that is abandoning a qualifying generating facility and an order on an accompanying application of the qualifying utility for approval to abandon the qualifying generating facility within six months from the date the application for the financing order is filed with the commission. For good cause shown, the commission may extend the time for issuing the order for an additional three months.

B. Failure to issue an order approving the application or advising of the application's noncompliance pursuant to Subsection E of this section within the time prescribed by Subsection A of this section shall be deemed approval of the application for a financing order and approval to abandon the qualifying generating facility, if abandonment approval was requested as part of the application for the financing order pursuant to this subsection. The commission shall issue an order acknowledging the deemed approvals within seven days of the expiration of the time period described in Subsection A of this section.

C. If an application for a financing order is accompanied by a request for approval of new resources, this section provides an alternative time frame to that provided in Subsection C of Section 62-9-1 NMSA 1978, and the time frame specified in this section shall govern, unless the request has been deferred to a separate proceeding pursuant to Subsection D of Section 4 of the Energy Transition Act.

D. The issuance of a financing order shall be the only approval required for the authority granted in the financing order.

E. The commission shall issue a financing order approving the application if the commission finds that the qualifying utility's application for the financing order complies with the requirements of Section 4 of the Energy Transition Act. If the commission finds that a qualifying utility's application does not comply with Section 4 of the Energy Transition Act, the commission shall advise the qualifying utility of any changes necessary to comply with that section and provide the applicant an opportunity to amend the application to make such changes. Upon those changes being made, the commission shall issue a financing order approving the application.

F. A financing order shall include the following provisions:

(1) approval for the qualifying utility or assignee to issue energy transition bonds as requested in the application, to use energy transition bonds to finance the maximum amount of the energy transition costs as requested in the application, as may be adjusted pursuant to Paragraph (6) of Subsection B of Section 4 of the Energy Transition Act, and to use the proceeds provided in Subsection A of Section 10 of the Energy Transition Act;

(2) approval for the qualifying utility to recover the energy transition costs, as may be adjusted pursuant to Paragraph (6) of Subsection B of Section 4 of the Energy Transition Act, requested in the application through energy transition charges;

(3) approval of the energy transition charges necessary to recover the authorized energy transition costs, to be imposed through a non-bypassable energy transition charge as a separate line item on the qualifying utility's customer bills, assessed consistent with energy and demand cost allocations within each customer class, subject to update pursuant to the notice filing contemplated by Paragraph (6) of Subsection B of Section 4 of the Energy Transition Act and subject to the application of the adjustment mechanism as provided in Section 6 of the Energy Transition Act, until the energy transition bonds issued pursuant to the financing order and the financing costs related to those bonds are paid in full;

(4) approval of the adjustment mechanism in compliance with Section 6 of the Energy Transition Act;

(5) a description of the energy transition property that is created by the financing order that may be used to pay, and secure the payment of, the energy transition bonds and financing costs authorized to be issued in the financing order;

(6) approval to enter into necessary or appropriate ancillary agreements;

(7) approval of any plans for selling, assigning, transferring or conveying, other than as a security, an interest in energy transition property; and

(8) approval of the proposed ratemaking process and method included in the application pursuant to Paragraphs (10) and (11) of Subsection B of Section 4 of the Energy Transition Act.

G. A financing order shall provide that the creation of energy transition property shall be simultaneous with the sale of the energy transition property to an assignee as provided in the application and the pledge of the energy transition property to secure energy transition bonds.

H. A financing order shall authorize the qualifying utility to issue one or more series of energy transition bonds for a scheduled final maturity of no more than twenty-five years for each series; provided that a rated final maturity may exceed twenty-five years. With such authorization, the qualifying utility shall not subsequently be required to secure a separate financing order prior to each issuance.

I. The commission may require, as a condition of the financing order and in every circumstance subject to the limitations set forth in Subsection A of Section 7 of the Energy Transition Act, that, during any period in which energy transition bonds issued pursuant to the financing order are outstanding, an assignee that is a non-utility affiliate and issues energy transition bonds shall provide in the affiliate's articles of incorporation, partnership agreement or operating agreement, as applicable, that in order for a person to file a voluntary bankruptcy petition on behalf of that assignee, the prior unanimous consent of the directors, partners, managers or members, as applicable, shall be required. Any such provision shall constitute a legal, valid and binding agreement of such shareholders, partners or members of the assignee and is enforceable against such shareholders, partners or members.

J. A financing order may require the qualifying utility to file with the commission a periodic report showing the receipt and disbursement of proceeds of energy transition bonds and any other documents necessary for the qualifying utility to implement the financing order. Upon issuance of the energy transition bonds, the qualifying utility shall file an advice notice with the commission, subject to review by the commission for errors and corrections, that identifies the actual energy transition charges to be included on customers' bills, effective fifteen days from the date the advice notice is filed.

K. A financing order may authorize the commission to review and audit the books and records of the qualifying utility and of an assignee that is a non-utility affiliate and issues energy transition bonds, relating to energy transition property and the receipt and disbursement of proceeds of energy transition bonds.

L. After review and approval by the department of finance and administration with regard to reasonableness of contracts for services, a financing order may authorize the commission to impose a fee on the qualifying utility to pay commission expenses for contract bond counsel accredited by a nationally recognized association of bond lawyers to provide advice and assistance to commission staff in reviewing an application for a financing order and the structure and marketing of the proposed energy transition bonds.

M. The provisions of this section shall not be construed to limit the authority of the commission to:

(1) investigate the practices of or to audit the books and records of a qualifying utility; or

(2) issue such further orders as may be necessary to effectuate the provisions of the Energy Transition Act.

Chapter 65 Section 6 Laws 2019

SECTION 6. ADJUSTMENT MECHANISM--ADJUSTMENT PROCEDURES--HEARING PROCEDURES IF COMMISSION DETERMINES ADJUSTMENT MADE IN ERROR.--

A. If the commission issues a financing order, the qualifying utility for which the order is issued may charge all of the qualifying utility's customers an energy transition charge, which shall be allocated to customer classes consistent with the production cost allocation methodology established by the commission in the qualifying utility's most recent general rate case. Energy transition charges shall be assessed consistent with the production cost allocation methodology and the determination of energy and demand costs within each customer class, both of which shall be subject to the adjustment mechanism.

B. The commission shall periodically approve adjustments of the energy transition charges pursuant to the adjustment mechanism approved in the financing order to correct for any over-collection or under-collection of the energy transition charge and to provide for timely payment of scheduled principal of and interest on the energy transition bonds and the payment and recovery of financing costs in accordance with the financing order. Except as provided in Subsection C of this section, the qualifying utility shall file at least semiannually, or more frequently as provided in the financing order:

(1) a calculation estimating whether the existing energy transition charge is sufficient to provide for timely payment of scheduled principal of and interest on the energy transition bonds and the payment and recovery of other financing costs in accordance with the financing order or if either an over-collection or under-collection is projected; and

(2) a calculation showing the adjustment to the energy transition charge to correct for any over-collection or under-collection of energy transition charges.

C. The qualifying utility shall file the calculations described in Subsection B of this section at least quarterly during the two-year period preceding the final maturity date of the energy transition bonds.

D. The adjustment mechanism shall remain in effect until the energy transition bonds and all financing costs have been fully paid and recovered, any under-collection is recovered from customers and any over-collection is returned to customers.

E. On the same day the qualifying utility files with the commission its calculation of the adjustment to the energy transition charge, the qualifying utility shall cause notice of the filing to be given to the parties of record in the case in which the financing order was issued.

F. An adjustment to the energy transition charge filed by the qualifying utility shall be deemed approved without hearing thirty days after filing the adjustment unless:

(1) no later than twenty days from the date the qualifying utility filed the calculation of the adjustment, the commission is notified of a potential mathematical or transcription error in the adjustment; provided that the notice identifies the error with specificity; and

(2) the commission determines that the calculation of the adjustment is unlikely to provide for timely payment, or is likely to result in a material overpayment, of scheduled principal of and interest on the energy transition bonds and the payment and recovery of other financing costs in accordance with the financing order and, based on that determination, suspends operation of the adjustment, pending a hearing limited to the issue of the error in the adjustment; provided that the suspension shall be for a period not to exceed sixty days from the date the qualifying utility filed the calculation of the adjustment.

G. If the commission determines that a hearing is necessary, the commission shall hold a hearing on the proposed adjustment that shall be limited to determining whether there is a mathematical or transcription error in the calculation of the adjustment. If, after a hearing, the commission determines that the calculation of the adjustment contains a mathematical or transcription error, the commission shall issue an order that rejects and corrects the adjustment. The qualifying utility shall adjust the energy transition charge in accordance with the commission's calculation within five days from issuance of the order. If the commission does not issue an order rejecting the adjustment with a determination of the corrected calculation within sixty days from the date the qualifying utility filed the adjustment, the adjustment to the energy transition charge shall be deemed approved.

H. No adjustment pursuant to this section, and no proceeding held pursuant to this section, shall affect the irrevocability of the financing order pursuant to Section 7 of the Energy Transition Act.

Chapter 65 Section 7 Laws 2019

SECTION 7. FINANCING ORDER--IRREVOCABILITY--AMENDMENTS.--

A. A financing order is irrevocable and the commission shall not reduce, impair, postpone or terminate the energy transition charges approved in the financing order, the energy transition property or the collection or recovery of energy transition revenues.

B. Subject to the limitation provided in Subsection A of this section, a financing order may be amended at the request of the qualifying utility to commence a proceeding and issue an amended financing order that:

(1) provides for refinancing, retiring or refunding all or a portion of an outstanding series of energy transition bonds issued pursuant to the original financing order; provided that the commission includes in the amended financing order the findings and requirements specified in Section 5 of the Energy Transition Act; or

(2) adjusts the amount of energy transition costs to be financed by energy transition bonds that have not yet been issued to reflect updated estimated or actual costs that differ from costs estimated at the time of the initial financing order or to correct any errors.

C. The commission shall issue an order granting or denying the proposed amended financing order within thirty days of the filing of the request by the qualifying utility. No change in the credit rating of a qualifying utility from the credit rating at the time of issuance of a financing order shall impair the irrevocability of a financing order.

Chapter 65 Section 8 Laws 2019

SECTION 8. AGGRIEVED PARTIES--REQUEST FOR REHEARING-- JUDICIAL REVIEW.--

A. A financing order shall be issued as a separate order from any other order issued by the commission on a requested approval in the application proceeding and is a final order of the commission. A party aggrieved by the issuance of a financing order may apply to the commission for a rehearing in accordance with Section 62-10-16 NMSA 1978; provided that such application shall be due no later than ten calendar days after issuance of the financing order. An application for rehearing shall be deemed denied if not acted upon by the commission within ten calendar days after the filing of the application.

B. An aggrieved party may file a notice of appeal with the supreme court in accordance with Section 62-11-1 NMSA 1978; provided that such notice shall be due no later than ten calendar days after denial of an application for rehearing or, if rehearing is not applied for, no later than ten calendar days after issuance of the financing order.

The supreme court shall proceed to hear and determine the appeal as expeditiously as practicable.

Chapter 65 Section 9 Laws 2019

SECTION 9. CONDITIONS THAT KEEP FINANCING ORDERS IN EFFECT AND ENERGY TRANSITION CHARGES IMPOSED.--

A. A financing order shall remain in effect until the energy transition bonds issued pursuant to the financing order and any related financing costs have been paid in full.

B. A financing order shall remain in effect and unabated notwithstanding the bankruptcy, reorganization or insolvency of the qualifying utility or any non-utility affiliate or the commencement of any proceeding for bankruptcy or appointment of a receiver.

C. If energy transition bonds issued pursuant to a financing order are outstanding and the related energy transition costs have not been paid in full, the energy transition charges authorized by the financing order shall be collected by the qualifying utility or its successors or assignees, or a collection agent, in full through a non-bypassable charge that is a separate line item on customer bills and not a part of the qualifying utility's base rates. The charge shall be paid by all customers:

(1) receiving electric delivery service from the qualifying utility under commission-approved rate schedules or special contracts; and

(2) who acquire electricity from an alternative or subsequent electricity supplier in the utility service area, to the extent that such acquisition is permitted by New Mexico law.

Chapter 65 Section 10 Laws 2019

SECTION 10. QUALIFYING UTILITY DUTIES.--

A. Except as provided in Section 16 of the Energy Transition Act, a qualifying utility that is abandoning a qualifying generating facility shall use the proceeds of the issuance of energy transition bonds only for purposes related to providing utility service to customers and to pay financing costs.

B. Energy transition revenues shall be applied solely to the repayment of energy transition bonds and the ongoing financing costs.

C. The failure of a qualifying utility to comply with any provision of the Energy Transition Act shall not invalidate, impair or affect a financing order, energy transition property, energy transition charge or energy transition bonds and financing costs. Payments to bondholders or financing parties on the energy transition bonds shall be made on a quarterly or semiannual basis pursuant to the terms of the energy transition bonds.

D. For a qualifying utility that receives approval of a financing order and issues sources of energy transition bonds, the qualifying utility's generation and sources of energy procured pursuant to power purchase agreements with a term of twenty-four months or longer, and that are dedicated to serve the qualifying utility's retail customers, shall not emit, on average, more than four hundred pounds of carbon dioxide per megawatt-hour by January 1, 2023, and not more than two hundred pounds of carbon dioxide per megawatt-hour by January 1, 2032 and thereafter. Compliance shall be measured and verified every three years with the first period commencing on January 1, 2023. The commission shall adopt rules to implement the requirements of this subsection.

Chapter 65 Section 11 Laws 2019

SECTION 11. COMMISSION TREATMENT OF ENERGY TRANSITION BONDS.--

A. If the commission issues a financing order, the commission shall not treat:

(1) energy transition bonds issued pursuant to the financing order as debt of the qualifying utility;

(2) the energy transition charges paid under the financing order as revenue of the qualifying utility; or

(3) the energy transition costs to be financed by energy transition bonds as costs of the qualifying utility.

B. Reasonable actions taken by a qualifying utility to comply with the financing order shall be deemed to be just and reasonable for ratemaking purposes. Nothing in the Energy Transition Act shall:

(1) prevent or preclude the commission from investigating the compliance of a qualifying utility with the terms and conditions of a financing order and requiring compliance therewith;

(2) prevent or preclude the commission from imposing regulatory sanctions against a qualifying utility for failure to comply with the terms and conditions of a financing order or the requirements of the Energy Transition Act;

(3) affect the authority of the commission to apply the adjustment mechanism as provided in Section 6 of the Energy Transition Act; or

(4) prevent or preclude the commission from including the qualifying utility's acquisition of replacement power resources in the qualifying utility's cost of service.

C. The commission shall not order or require a qualifying utility to issue energy transition bonds to finance any costs associated with abandonment of a qualifying generating facility. A utility's decision not to issue energy transition bonds shall not be a basis for the commission to refuse to allow a qualifying utility to recover energy transition costs in an otherwise permissible fashion, or as a basis to refuse or condition authorization to issue securities pursuant to Sections 62-6-6 and 62-6-7 NMSA 1978.

Chapter 65 Section 12 Laws 2019

SECTION 12. ENERGY TRANSITION PROPERTY--ENERGY TRANSITION REVENUES.--

A. Energy transition property that is created in a financing order shall constitute an existing, present property right, notwithstanding that the imposition and collection of energy transition charges depend on the qualifying utility continuing to provide electric energy or continuing to perform its service functions relating to the collection of energy transition charges or on the level of future energy consumption. Energy transition property shall exist whether or not the energy transition revenues have been billed, have accrued or have been collected and notwithstanding that the value or amount of the energy transition property is dependent on the future provision of electric energy or service to customers by the qualifying utility.

B. All energy transition property created in a financing order shall continue to exist until the energy transition bonds issued and all related financing costs pursuant to a financing order are paid in full.

C. All or any portion of energy transition property created in a financing order may be transferred, sold, conveyed or assigned to a non-utility affiliate that is:

(1) wholly owned, directly or indirectly, by the qualifying utility; and

(2) created for the limited purposes of acquiring, owning or administering energy transition property or issuing energy transition bonds under the financing order.

D. All or any portion of energy transition property may be pledged to secure the payment of energy transition bonds and all financing costs.

E. The formation by a qualifying utility of a non-utility affiliate for the purposes of acquiring, owning or administering energy transition property, issuing energy transition bonds pursuant to a financing order and transacting a transfer, sale, conveyance, assignment, grant of a security interest in or pledge of energy transition property by a qualifying utility to a non-utility affiliate, to the extent previously authorized in a financing order, does not require any further approval of the commission and shall not be subject to the rules of the commission regarding Class I transactions and Class II transactions, as defined by Section 62-3-3 NMSA 1978, except that the commission may examine the books and records of the non-utility affiliate.

F. If a qualifying utility defaults on any required payment of energy transition bonds, a court with jurisdiction in the matter, on application by an interested party and without limiting any other remedies available to the applying party, shall order the sequestration and payment of the energy transition revenues for the benefit of bondholders, any assignees or financing parties. The order shall remain in full force and effect notwithstanding any bankruptcy, reorganization or other insolvency or receivership proceedings with respect to the qualifying utility or any non-utility affiliate.

G. Energy transition property, energy transition revenues and the interests of an assignee, bondholder or financing party in energy transition property and energy transition revenues are not subject to set-off, counterclaim, surcharge or defense by the qualifying utility or any other person or in connection with the bankruptcy, reorganization or other insolvency or receivership proceeding of the qualifying utility, non-utility affiliate or any other entity.

H. Any successor to a qualifying utility shall be bound by the requirements of the Energy Transition Act and shall perform and satisfy all obligations of, and have the same rights under a financing order as, the qualifying utility under the financing order in the same manner and to the same extent as the qualifying utility, including the obligation to collect and pay energy transition revenues to persons entitled to receive the revenues.

Chapter 65 Section 13 Laws 2019

SECTION 13. SECURITY INTERESTS--CREATION OF SECURITY INTEREST--PRIORITY OVER OTHER LIENS--ATTACHMENT ON FILING WITH SECRETARY OF STATE.--

A. Except as otherwise provided in this section, the creation, perfection and enforcement of a security interest in energy transition property to secure the repayment of the principal of and interest on energy transition bonds, amounts payable pursuant to an ancillary agreement and other financing costs are governed by this section. This section shall be deemed to supersede the provisions of the Uniform Commercial Code and Chapter 62, Article 13 NMSA 1978, to the extent those provisions are inconsistent with this section.

B. The description or reference to energy transition property in a transfer or security agreement and a financing statement is sufficient only if the description or reference refers to the Energy Transition Act and the financing order creating the energy transition property. This section applies to all purported transfers of, grants of liens on or security interests in, energy transition property.

C. A security interest in energy transition property is created, valid and binding at the latest of when:

- (1) the financing order is issued;
- (2) a security agreement is executed and delivered; or
- (3) value is received for the energy transition bonds.

D. The security interest attaches without any physical delivery of collateral or other act and the lien of the security interest shall be valid, binding and perfected against all parties having claims of any kind against the person granting the security interest, regardless of whether such parties have notice of the lien, on the filing of a financing statement with the secretary of state. The secretary of state shall maintain the financing statement in the same manner and in the same recordkeeping system maintained for financing statements filed pursuant to the Uniform Commercial Code-Secured Transactions. Financing statements filed pursuant to this section shall be effective until a termination statement is filed.

E. A security interest in energy transition property is a continuously perfected security interest and has priority over any other lien that may subsequently attach to the energy transition property unless the holder of the security interest has agreed in writing otherwise.

F. The priority of a security interest in energy transition property is not affected by the commingling of energy transition revenues with other funds. Any pledgee or secured party shall have a perfected security interest in the amount of all energy transition revenues that are deposited in any account of the qualifying utility and any other security interest that may apply to those funds shall be terminated when they are transferred to a segregated account for the assignee or a financing party.

G. No order of the commission amending a financing order and no application of the adjustment mechanism shall affect the validity, perfection or priority of a security interest in or transfer of energy transition property.

Chapter 65 Section 14 Laws 2019

SECTION 14. SALE OF ENERGY TRANSITION PROPERTY--PERFECTING INTERESTS--ABSOLUTE TRANSFER AND TRUE SALE REQUIREMENTS.--

A. Any sale, assignment or transfer of energy transition property to an assignee that is a financing entity that is wholly owned, directly or indirectly, by the utility shall be an absolute transfer and true sale of, and not a pledge of or secured transaction relating to, the seller's right, title and interest in, to and under the energy transition property if the documents governing the transaction expressly state that the transaction is a sale or other absolute transfer. A transfer of an interest in energy transition property shall be created when:

- (1) the financing order creating the energy transition property has become effective;
- (2) the documents evidencing the transfer of energy transition property have been executed and delivered to the assignee; and
- (3) value is received.

B. On the filing of a financing statement with the secretary of state pursuant to Subsection D of Section 13 of the Energy Transition Act, a transfer of an interest in energy transition property shall be perfected against all third persons, except creditors holding a prior security interest, ownership interest or assignment in the energy transition property previously perfected in accordance with Section 13 of that act.

C. The characterization of the sale, assignment or transfer as an absolute transfer and true sale, and the corresponding characterization of the property interest of the purchaser, shall not be affected or impaired by:

- (1) commingling of energy transition revenues with other funds;
- (2) the retention by the seller of:
 - (a) a partial or residual interest, including an equity interest, in the energy transition property, whether direct or indirect, or whether subordinate or otherwise; or
 - (b) the right to recover costs associated with taxes or license fees imposed on the collection of energy transition revenues;
- (3) any recourse that the purchaser may have against the seller;
- (4) any indemnification rights, obligations or repurchase rights made or provided by the seller;
- (5) the obligation of the seller to collect energy transition revenues on behalf of an assignee;
- (6) the treatment of the sale, assignment or transfer of energy transition property for tax, financial reporting or other purposes;
- (7) any subsequent order of the commission amending a financing order pursuant to Subsection B of Section 7 of the Energy Transition Act;
- (8) any use of an adjustment mechanism approved in the financing order; or
- (9) anything else that might affect or impair the characterization of the property.

Chapter 65 Section 15 Laws 2019

SECTION 15. FEE ASSESSMENTS.--The energy transition charge stated as a separate line entry on a customer bill sent by a qualifying utility may be subject to an assessment of a franchise fee imposed by a municipality, county or other political subdivision of the state, pursuant to a utility franchise agreement. The imposition, collection and receipt of an energy transition charge is exempt from inspection and supervision fees assessed pursuant to the Public Utility Act.

Chapter 65 Section 16 Laws 2019

SECTION 16. ENERGY TRANSITION INDIAN AFFAIRS FUND--ENERGY TRANSITION ECONOMIC DEVELOPMENT ASSISTANCE FUND--ENERGY TRANSITION DISPLACED WORKER ASSISTANCE FUND--COMMUNITY ADVISORY COMMITTEE.--

A. The "energy transition Indian affairs fund" is created in the state treasury. The fund shall consist of appropriations, gifts, grants, donations and bequests made to the fund. Income from the fund shall be credited to the fund, and money in the fund shall not revert or be transferred to any other fund at the end of a fiscal year.

B. The Indian affairs department shall administer the energy transition Indian affairs fund, and money in the fund is subject to appropriation by the legislature only to that department to assist in addressing the conditions and issues of tribes and native peoples in the affected community.

C. The Indian affairs department shall develop an Indian affairs assistance plan to assist tribal and native people in the affected community that shall provide for the disbursement of money in the energy transition Indian affairs fund. In developing the plan, the Indian affairs department shall establish a public planning process in the affected community to inform the use of money in the fund. The Indian affairs department shall engage in consultation with Indian nations, tribes and pueblos in the affected community pursuant to the State-Tribal Collaboration Act. The public planning process shall include at least three public meetings in the affected community. Expenditures from the fund shall be made after completion of the plan and as follows:

(1) to an entity approved by the Indian affairs department to receive funds for any program established at the Indian affairs department; and

(2) to tribal governments, public agencies or private persons to provide services and facilities in the affected community for promoting the welfare of Indian people.

D. The "energy transition economic development assistance fund" is created in the state treasury. The fund shall consist of appropriations, gifts, grants, donations and bequests made to the fund. Income from the fund shall be credited to the fund, and money in the fund shall not revert or be transferred to any other fund at the end of a fiscal year.

E. The economic development department shall administer the energy transition economic development assistance fund, and money in the fund is subject to appropriation by the legislature only to that department to assist in diversifying and

promoting the affected community's economy by fostering economic development opportunities unrelated to fossil fuel development or use.

F. The economic development department shall develop an economic diversification and development plan to assist the affected community that shall provide for the disbursement of money in the energy transition economic development assistance fund. In developing the plan, the economic development department shall request recommendations from the affected community's community advisory committee pursuant to Subsection K of this section and establish a public input process in the affected community to inform the use of money in the fund. The economic development department shall engage in consultation with Indian nations, tribes and pueblos in the affected area pursuant to the State-Tribal Collaboration Act. The public input process shall include at least three public meetings in the affected community. Expenditures from the fund shall be made pursuant to the plan and as follows:

(1) to an entity approved by the economic development department to receive funds for any program established at the economic development department;

(2) to assist employers to qualify for any tax relief for hiring displaced workers established under state or federal law; and

(3) to a municipality, county, Indian nation, pueblo or tribe or land grant community in New Mexico for programs designed to promote economic development in the affected community.

G. The "energy transition displaced worker assistance fund" is created in the state treasury. The fund shall consist of appropriations, gifts, grants, donations and bequests made to the fund. Income from the fund shall be credited to the fund, and money in the fund shall not revert or be transferred to any other fund at the end of a fiscal year.

H. The workforce solutions department shall administer the energy transition displaced worker assistance fund, and money in the fund is subject to appropriation by the legislature only to that department to assist displaced workers in an affected community.

I. The workforce solutions department shall develop a displaced worker development plan to assist displaced workers in an affected community that shall provide for the disbursement of money in the energy transition displaced worker assistance fund. In developing the plan, the workforce solutions department shall request recommendations from the affected community's community advisory committee pursuant to Subsection K of this section and establish a public input process

in the affected community to inform the use of money in the energy transition displaced worker assistance fund. The workforce solutions department shall engage in consultation with Indian nations, tribes and pueblos in the affected area pursuant to the State-Tribal Collaboration Act. The public input process shall include at least three public meetings in the affected community. Expenditures from the energy transition displaced worker assistance fund shall be made pursuant to the plan and as follows:

(1) to assist employers of displaced workers to qualify for any tax relief established under state or federal law;

(2) to the workforce solutions department:

(a) to provide assistance to displaced workers using any program established at that department; and

(b) for payment of costs associated with displaced workers enrolling and participating in certified apprenticeship programs in New Mexico; and

(3) to a municipality, county, Indian nation, pueblo or tribe or land grant community in New Mexico for job training and apprenticeship programs for displaced workers or for programs designed to promote economic development in the affected community.

J. Within thirty days of receipt of energy transition bond proceeds, a qualifying generating facility located in New Mexico shall transfer the following percentages of the financed amount of energy transition bonds as follows:

(1) one-half percent to the Indian affairs department for deposit in the energy transition Indian affairs fund;

(2) one and sixty-five hundredths percent to the economic development department for deposit in the energy transition economic development assistance fund; and

(3) three and thirty-five hundredths percent to the workforce solutions department for deposit in the energy transition displaced worker assistance fund.

K. In each affected community, a community advisory committee shall be convened. All meetings of the community advisory committee shall be held pursuant to the Open Meetings Act. The secretaries of Indian affairs, economic development and workforce solutions shall appoint three conveners who reside in the affected community, at least one from each major political party and one representing one of the

Navajo Nation chapter houses in the affected community. The conveners shall appoint members of the community advisory committee to include a member from each municipality, county, Indian nation, pueblo, tribe and land grant community, if any, in the affected community, at least four appointees representing diverse economic and cultural perspectives of the affected community and one appointee representing displaced workers in the affected community. Within sixty days of a request by the economic development department pursuant to Subsection F of this section, or the workforce solutions department pursuant to Subsection I of this section, a community advisory committee shall provide recommendations to the requesting department on the use of available funds intended for the affected community.

L. As used in this section:

(1) "affected community" means a New Mexico county located within one hundred miles of a New Mexico facility producing electricity that closes, resulting in at least forty displaced workers; and

(2) "displaced worker" means a New Mexico resident who:

(a) within the previous twelve months, was terminated from employment, or whose contract was terminated, due to the abandonment of a New Mexico facility producing electricity that resulted in displacing at least forty workers;

(b) had at least seventy-five percent of the resident's net income, as that term is defined in the Income Tax Act, from the employment or contract described in Subparagraph (a) of this paragraph;

(c) has not been able to replace the lost wages described in Subparagraph (b) of this paragraph or whose annual wages are at least twenty-five percent less than when the qualifying facility was operating; and

(d) does not qualify to take full benefits pursuant to a pension or retirement plan.

Chapter 65 Section 17 Laws 2019

SECTION 17. ENERGY TRANSITION BONDS NOT PUBLIC DEBT.--Energy transition bonds issued pursuant to the Energy Transition Act shall not constitute a debt or a pledge of the faith and credit or taxing power of this state or of any county, municipality or any other political subdivision of this state. Bondholders shall have no right to have taxes levied by the legislature or the taxing authority of any county, municipality or other political subdivision of this state for the payment of the principal of

or interest on energy transition bonds. The issuance of energy transition bonds does not obligate the state or a political subdivision of the state to levy any tax or make any appropriation for payment of the principal of or interest on the bonds.

Chapter 65 Section 18 Laws 2019

SECTION 18. ENERGY TRANSITION BONDS AS LEGAL INVESTMENTS.-- Energy transition bonds shall be legal investments for all governmental units, permanent funds of the state, finance authorities, financial institutions, insurance companies, fiduciaries and other persons requiring statutory authority regarding legal investments.

Chapter 65 Section 19 Laws 2019

SECTION 19. STATE PLEDGE NOT TO IMPAIR.--

A. The state pledges to and agrees with the bondholders, any assignee and any financing parties that the state shall not take or permit any action that impairs the value of energy transition property, except as allowed pursuant to Section 6 of the Energy Transition Act, or reduces, alters or impairs energy transition charges that are imposed, collected and remitted for the benefit of the bondholders, any assignee and any financing parties, until the entire principal of, interest on and redemption premium on the energy transition bonds, all financing costs and all amounts to be paid to an assignee or financing party under an ancillary agreement are paid in full and performed in full.

B. Any person who issues energy transition bonds is permitted to include the pledge specified in Subsection A of this section in the energy transition bonds, ancillary agreements and documentation related to the issuance and marketing of the energy transition bonds.

Chapter 65 Section 20 Laws 2019

SECTION 20. CHOICE OF LAW.--The laws of the state of New Mexico as set forth in the Energy Transition Act shall govern the validity, enforceability, attachment, perfection, priority and exercise of remedies with respect to the transfer of an interest or right of creation of a security interest in energy transition property, an energy transition charge or a financing order.

Chapter 65 Section 21 Laws 2019

SECTION 21. CONFLICTS.--In the event of any conflict between the Energy Transition Act and any other law regarding the attachment, assignment or perfection, or the effect of perfection, or priority of any security interest in or transfer of energy transition property, the Energy Transition Act shall govern to the extent of the conflict.

Chapter 65 Section 22 Laws 2019

SECTION 22. VALIDITY ON ACTIONS IF ACT HELD INVALID.--Effective on the date that energy transition bonds are first issued under the Energy Transition Act, if any provision of that act is invalidated, superseded, replaced, repealed or expires for any reason, that occurrence shall not affect the validity of any action allowed pursuant to that act that is taken by the commission, a qualifying utility, an assignee or any other person, a collection agent, a financing party, a bondholder or a party to an ancillary agreement and, to prevent the impairment of energy transition bonds issued or authorized in a financing order issued pursuant to the Energy Transition Act, any such action shall remain in full force and effect with respect to all energy transition bonds issued or authorized in a financing order pursuant to the Energy Transition Act before the date that such provision is held to be invalid or is invalidated, superseded, replaced, repealed or expires for any reason.

Chapter 65 Section 23 Laws 2019

SECTION 23. APPLICABILITY.--The provisions of the Energy Transition Act shall not apply to a qualifying utility that makes an initial application for a financing order more than twelve years after the effective date of that act. This section shall not preclude a qualifying utility for which the commission has issued a financing order from applying to the commission for a subsequent order amending the financing order, pursuant to Section 7 of the Energy Transition Act.

Chapter 65 Section 24 Laws 2019

SECTION 24. A new section of the Public Utility Act is enacted to read:

"REQUIRING THE HIRING OF APPRENTICES FOR THE CONSTRUCTION OF FACILITIES THAT GENERATE ELECTRICITY.--

A. The construction of New Mexico facilities that generate electricity for New Mexico retail customers, and that are not located on the customer side of an electricity meter, shall be subject to the requirements provided in Subsection B of this section if the facilities are built as a result of competitive solicitations issued after July 1, 2020.

B. Subject to availability of qualified applicants, the construction of facilities that generate electricity for New Mexico retail customers shall employ apprentices from an apprenticeship program during the construction phase of a project at a minimum level of the following percentages of all persons employed for the project:

(1) ten percent for projects for which on-site construction commences beginning January 1, 2020, and prior to January 1, 2024;

(2) seventeen and one-half percent for projects for which on-site construction commences beginning January 1, 2024, and prior to January 1, 2026; and

(3) twenty-five percent for projects for which on-site construction commences beginning January 1, 2026.

C. Apprenticeship programs used for purposes of this section shall encourage diversity among participants, participation by those underrepresented in the industry associated with that apprenticeship program and participation from disadvantaged communities, as determined by the workforce solutions department. The department shall promulgate rules to ensure compliance with this section.

D. As used in this section, "apprenticeship program" means an apprenticeship program registered pursuant to the Apprenticeship Assistance Act."

Chapter 65 Section 25 Laws 2019

SECTION 25. Section 62-9-1 NMSA 1978 (being Laws 1941, Chapter 84, Section 46, as amended) is amended to read:

"62-9-1. NEW CONSTRUCTION--RATEMAKING PRINCIPLES.--

A. No public utility shall begin the construction or operation of any public utility plant or system or of any extension of any plant or system without first obtaining from the commission a certificate that public convenience and necessity require or will require such construction or operation. This section does not require a public utility to secure a certificate for an extension within any municipality or district within which it lawfully commenced operations before June 13, 1941 or for an extension within or to territory already served by it, necessary in the ordinary course of its business, or for an extension into territory contiguous to that already occupied by it and that is not receiving similar service from another utility. If any public utility or mutual domestic water consumer association in constructing or extending its line, plant or system unreasonably interferes or is about to unreasonably interfere with the service or system of any other public utility or mutual domestic water consumer association rendering the same type of

service, the commission, on complaint of the public utility or mutual domestic water consumer association claiming to be injuriously affected, may, upon and pursuant to the applicable procedure provided in Chapter 62, Article 10 NMSA 1978, and after giving due regard to public convenience and necessity, including reasonable service agreements between the utilities, make an order and prescribe just and reasonable terms and conditions in harmony with the Public Utility Act to provide for the construction, development and extension, without unnecessary duplication and economic waste.

B. If a certificate of public convenience and necessity is required pursuant to this section for the construction or extension of a generating plant or transmission lines and associated facilities, a public utility may include in the application for the certificate a request that the commission determine the ratemaking principles and treatment that will be applicable for the facilities that are the subject of the application for the certificate. If such a request is made, the commission shall, in the order granting the certificate, set forth the ratemaking principles and treatment that will be applicable to the public utility's stake in the certified facilities in all ratemaking proceedings on and after such time as the facilities are placed in service. The commission shall use the ratemaking principles and treatment specified in the order in all proceedings in which the cost of the public utility's stake in the certified facilities is considered. If the commission later decertifies the facilities, the commission shall apply the ratemaking principles and treatment specified in the original certification order to the costs associated with the facilities that were incurred by the public utility prior to decertification.

C. The commission may approve the application for the certificate without a formal hearing if no protest is filed within sixty days of the date that notice is given, pursuant to commission order, that the application has been filed. The commission shall issue its order granting or denying the application within nine months from the date the application is filed with the commission. Failure to issue its order within nine months is deemed to be approval and final disposition of the application; provided, however, that the commission may extend the time for granting approval for an additional six months for good cause shown.

D. In an application for a certificate of public convenience and necessity for an energy storage system, the commission shall approve energy storage systems that:

(1) reduce costs to ratepayers by avoiding or deferring the need for investment in new generation and for upgrades to systems for the transmission and distribution of energy;

(2) reduce the use of fossil fuels for meeting demand during peak load periods and for providing ancillary services;

(3) assist with ensuring grid reliability, including transmission and distribution system stability, while integrating sources of renewable energy into the grid;

(4) support diversification of energy resources and enhance grid security;

(5) reduce greenhouse gases and other air pollutants resulting from power generation;

(6) provide the public utility with the discretion, subject to applicable laws and rules, to operate, maintain and control energy storage systems so as to ensure reliable and efficient service to customers; and

(7) are the most cost effective among feasible alternatives.

E. As used in this section:

(1) "energy storage system" means methods and technologies used to store electricity; and

(2) "mutual domestic water consumer association" means an association created and organized pursuant to the provisions of:

(a) Laws 1947, Chapter 206; Laws 1949, Chapter 79; or Laws 1951, Chapter 52; or

(b) the Sanitary Projects Act."

Chapter 65 Section 26 Laws 2019

SECTION 26. Section 62-15-34 NMSA 1978 (being Laws 2007, Chapter 4, Section 1, as amended by Laws 2014, Chapter 24, Section 1, and by Laws 2014, Chapter 25, Section 1) is amended to read:

"62-15-34. RENEWABLE PORTFOLIO STANDARD.--

A. Except as provided in Subsection E of this section, each distribution cooperative organized under the Rural Electric Cooperative Act shall meet the renewable portfolio standard requirements, as provided in this section, to include

renewable energy in its electric energy supply portfolio as demonstrated by its retirement of renewable energy certificates. Requirements and targets of the renewable portfolio standard are as follows:

(1) no later than January 1, 2015, renewable energy shall comprise no less than five percent of each distribution cooperative's total retail sales to New Mexico customers;

(2) the renewable portfolio standard shall increase by one percent per year thereafter until January 1, 2020, at which time the renewable portfolio standard shall be ten percent of the distribution cooperative's total retail sales to New Mexico customers;

(3) a distribution cooperative shall have the following targets and requirements for renewable energy and zero carbon resources as a percentage of the distribution cooperative's total retail sales in New Mexico:

(a) a requirement of forty percent renewable energy by January 1, 2025;

(b) a requirement of fifty percent renewable energy by January 1, 2030; and

(c) a target of achieving the zero carbon resource standard by January 1, 2050, composed of at least eighty percent renewable energy; provided that: 1) achieving the target is technically feasible; 2) the rural electric cooperative is able to provide reliable electric service while implementing the target; and 3) implementing the target shall not cause electric service to become unaffordable; and

(4) renewable energy resources that are in a distribution cooperative's energy supply portfolio on January 1, 2008 shall be counted in determining compliance with this section.

B. By April 30 of each year, a distribution cooperative shall file with the public regulation commission a report on its purchases and generation of renewable energy during the preceding calendar year. The report shall include the cost of the renewable energy resources purchased and generated by the distribution cooperative to meet the renewable portfolio standard, an explanation of steps taken to minimize those costs, including competitive procurement and comparison of the price of electricity from renewable energy resources in the bids received by the distribution cooperative to recent prices for such electricity elsewhere in the southwestern United States, and an

annual compliance plan for meeting the renewable portfolio standard for the following three years.

C. If, in any given year, a distribution cooperative determines that the average annual levelized cost of renewable energy that would need to be procured or generated for purposes of compliance with the renewable portfolio standard would be greater than sixty dollars (\$60.00) per megawatt-hour at the point of interconnection of the renewable energy resource with the transmission system, adjusted for inflation after 2020, the distribution cooperative shall not be required to incur that excess cost; provided that the existence of this condition excusing performance in any given year shall not operate to delay compliance with the renewable portfolio standard in subsequent years. The provisions of this subsection do not preclude a distribution cooperative from accepting a project with a cost that would exceed sixty dollars (\$60.00) per megawatt-hour.

D. A distribution cooperative shall report to its membership a summary of its purchases and generation of renewable energy during the preceding calendar year.

E. A distribution cooperative organized pursuant to the Rural Electric Cooperative Act shall meet the requirements and targets of the renewable portfolio standard pursuant to Subsection A of this section as demonstrated by the cooperative's retirement of renewable energy certificates associated with energy assigned to the cooperative; provided that a generation and transmission cooperative referred to in Section 62-6-4 NMSA 1978 shall be responsible for meeting the requirements and targets for all energy supplied to the distribution cooperatives in New Mexico. Energy from renewable energy and zero carbon resources that a generation and transmission cooperative supplies in compliance with the requirements and targets shall be verified at the point where the generation and transmission cooperative produces or takes delivery of the energy on behalf of the distribution cooperatives that the generation and transmission cooperative is serving."

Chapter 65 Section 27 Laws 2019

SECTION 27. Section 62-15-37 NMSA 1978 (being Laws 2007, Chapter 4, Section 4, as amended by Laws 2015, Chapter 64, Section 2 and by Laws 2015, Chapter 71, Section 2) is amended to read:

"62-15-37. DEFINITIONS--ENERGY EFFICIENCY--RENEWABLE ENERGY.--
As used in the Rural Electric Cooperative Act:

A. "energy efficiency" means measures, including energy conservation measures, or programs that target consumer behavior, equipment or devices to result in

a decrease in consumption of electricity without reducing the amount or quality of energy services;

B. "renewable energy" means electric energy generated by use of renewable energy resources and delivered to a rural electric cooperative;

C. "renewable energy certificate" means a certificate or other record, in a format approved by the public regulation commission, that represents all the environmental attributes from one megawatt-hour of electricity generated from renewable energy;

D. "renewable energy resource" means electric or useful thermal energy:

(1) generated by use of the following energy resources, with or without energy storage and delivered to a rural electric cooperative:

(a) solar, wind and geothermal;

(b) hydropower facilities brought in service on or after July 1, 2007;

(c) other hydropower facilities supplying no greater than the amount of energy from hydropower facilities that were part of an energy supply portfolio prior to July 1, 2007;

(d) fuel cells that do not use fossil fuels to create electricity;

(e) biomass resources, limited to agriculture or animal waste, small diameter timber, not to exceed eight inches, salt cedar and other phreatophyte or woody vegetation removed from river basins or watersheds in New Mexico; provided that these resources are from facilities certified by the energy, minerals and natural resources department to: 1) be of appropriate scale to have sustainable feedstock in the near vicinity; 2) have zero life cycle carbon emissions; and 3) meet scientifically determined restoration, sustainability and soil nutrient principles; and

(f) landfill gas and anaerobically digested waste biomass; and

(2) does not include electric energy generated by use of fossil fuel or nuclear energy;

E. "useful thermal energy" means renewable energy delivered from a source that can be metered and that is delivered in the state to an end user in the form of direct

heat, steam or hot water or other thermal form that is used for heating, cooling, humidity control, process use or other valid end-use energy requirements and for which fossil fuel or electricity would otherwise be consumed;

F. "zero carbon resource" means an electricity generation resource that emits no carbon dioxide into the atmosphere, or that reduces methane emitted into the atmosphere in an amount equal to no less than one-tenth of the tons of carbon dioxide emitted into the atmosphere, as a result of electricity production; and

G. "zero carbon resource standard" means providing New Mexico rural electric cooperative retail customers with electricity generated from one hundred percent zero carbon resources."

Chapter 65 Section 28 Laws 2019

SECTION 28. Section 62-16-3 NMSA 1978 (being Laws 2004, Chapter 65, Section 3, as amended) is amended to read:

"62-16-3. DEFINITIONS.--As used in the Renewable Energy Act:

- A. "commission" means the public regulation commission;
- B. "energy storage" means batteries or other means by which energy can be retained and delivered as electricity for use at a later time;
- C. "municipality" means a municipal corporation, organized under the laws of the state, and H class counties;
- D. "public utility" means an entity certified by the commission to provide retail electric service in New Mexico pursuant to the Public Utility Act but does not include rural electric cooperatives;
- E. "reasonable cost threshold" means an average annual levelized cost of sixty dollars (\$60.00) per megawatt-hour at the point of interconnection of the renewable energy resource with the transmission system, adjusted for inflation after 2020;
- F. "renewable energy" means electric energy generated by use of renewable energy resources and delivered to a public utility;
- G. "renewable energy certificate" means a certificate or other record, in a format approved by the commission, that represents all the environmental attributes from one megawatt-hour of electricity generated from renewable energy;

H. "renewable energy resource" means the following energy resources, with or without energy storage:

(1) solar, wind and geothermal;

(2) hydropower facilities brought in service on or after July 1, 2007;

(3) biomass resources, limited to agriculture or animal waste, small diameter timber, not to exceed eight inches, salt cedar and other phreatophyte or woody vegetation removed from river basins or watersheds in New Mexico; provided that these resources are from facilities certified by the energy, minerals and natural resources department to:

(a) be of appropriate scale to have sustainable feedstock in the near vicinity;

(b) have zero life cycle carbon emissions; and

(c) meet scientifically determined restoration, sustainability and soil nutrient principles;

(4) fuel cells that do not use fossil fuels to create electricity; and

(5) landfill gas and anaerobically digested waste biogas;

I. "renewable portfolio standard" means the minimum percentage of retail sales of electricity by a public utility to electric consumers in New Mexico that is required by the Renewable Energy Act to be from renewable energy;

J. "renewable purchased power agreement" means an agreement that binds an entity generating power from renewable energy resources to provide power at a specified price and binds the purchaser to that price;

K. "zero carbon resource" means an electricity generation resource that emits no carbon dioxide into the atmosphere, or that reduces methane emitted into the atmosphere in an amount equal to no less than one-tenth of the tons of carbon dioxide emitted into the atmosphere, as a result of electricity production; and

L. "zero carbon resource standard" means providing New Mexico public utility customers with electricity generated from one hundred percent zero carbon resources."

Chapter 65 Section 29 Laws 2019

SECTION 29. Section 62-16-4 NMSA 1978 (being Laws 2004, Chapter 65, Section 4, as amended) is amended to read:

"62-16-4. RENEWABLE PORTFOLIO STANDARD.--

A. A public utility shall meet the renewable portfolio standard requirements, as provided in this section, to include renewable energy in its electric energy supply portfolio as demonstrated by its retirement of renewable energy certificates; provided that the associated renewable energy is delivered to the public utility and assigned to the public utility's New Mexico customers. For public utilities other than rural electric cooperatives and municipalities, requirements of the renewable portfolio standard are:

(1) no later than January 1, 2015, renewable energy shall comprise no less than fifteen percent of each public utility's total retail sales to New Mexico customers;

(2) no later than January 1, 2020, renewable energy shall comprise no less than twenty percent of each public utility's total retail sales to New Mexico customers;

(3) no later than January 1, 2025, renewable energy shall comprise no less than forty percent of each public utility's total retail sales of electricity to New Mexico customers;

(4) no later than January 1, 2030, renewable energy shall comprise no less than fifty percent of each public utility's total retail sales of electricity to

New Mexico customers;

(5) no later than January 1, 2040, renewable energy resources shall supply no less than eighty percent of all retail sales of electricity in New Mexico; provided that compliance with this standard until December 31, 2047 shall not require the public utility to displace zero carbon resources in the utility's generation portfolio on the effective date of this 2019 act; and

(6) no later than January 1, 2045, zero carbon resources shall supply one hundred percent of all retail sales of electricity in New Mexico. Reasonable and consistent progress shall be made over time toward this requirement.

B. In administering the standards required by Paragraphs (5) and (6) of Subsection A of this section, the commission shall:

(1) not jeopardize the operation of a sewage treatment facility that captures and combusts methane gas in the facility's operations;

(2) maintain and protect the safety, reliable operation and balancing of loads and resources on the electric system;

(3) prevent unreasonable impacts to customer electricity bills, taking into consideration the economic and environmental costs and benefits of renewable energy resources and zero carbon resources;

(4) prevent carbon dioxide emitting electricity-generating resources from being reassigned, redesignated or sold as a means of complying with the standard;

(5) in consultation with the energy, minerals and natural resources department, undertake programs not prohibited by law to achieve the standard;

(6) in consultation with the department of environment, ensure that the standard does not result in material increases to greenhouse gas emissions from entities not subject to commission oversight and regulation; and

(7) in consultation with electricity transmission system operators responsible for balancing New Mexico electricity loads and resources, issue a report to the legislature by July 1, 2020, and each July 1 every four years thereafter. The report shall include:

(a) review of the standard, with a focus on technologies, forecasts, existing transmission, environmental protection, public safety, affordability and electricity transmission and distribution system reliability;

(b) evaluation of the anticipated financial costs and benefits to electric utilities in implementing the standard, including the impacts and benefits to customer electricity bills; and

(c) identification of the barriers to, and benefits of, achieving the standard.

C. Any customer that is a political subdivision of the state, or any educational institution designated in Article 12, Section 11 of the constitution of New Mexico with an enrollment of twenty thousand students or more during the fall semester on its main campus, with consumption exceeding twenty thousand megawatt-hours per year at any single location or facility and that owns facilities that produce renewable energy or hosts such facilities through a renewable purchased power agreement, shall not be charged

by the utility for power purchases of one year or less or fuel on the amount of electricity purchased from the utility equal to the amount of renewable energy produced or hosted by the customer. The customer shall annually certify to the state auditor and notify the commission and the customer's serving electric utility of the amount of renewable energy produced at the customer-owned or customer-hosted facilities that generate renewable energy. The customer shall also certify to the state auditor and notify the commission that the customer will retire all renewable energy certificates associated with the renewable energy produced by those facilities. Any financial benefits as a result of the provisions of this subsection shall accrue to the customer immediately upon the effective date of this 2019 act and shall be reflected in customer bills each month, subject to annual true-up and reconciliation. The provisions of this subsection shall not prevent the utility from recovering all of its reasonable and prudent fuel and purchased power costs.

D. Upon a motion or application by a public utility the commission shall, or upon a motion or application by any other person the commission may, open a docket to develop and provide financial or other incentives to encourage public utilities to produce or acquire renewable energy that exceeds the applicable annual renewable portfolio standard set forth in this section; results in reductions in carbon dioxide emissions earlier than required by Subsection A of this section; or causes a reduction in the generation of electricity by coal-fired generating facilities, including coal-fired generating facilities located outside of New Mexico. The incentives may include additional earnings and capital investment opportunities for resources used in furtherance of the outcomes described in this subsection.

E. If, in any given year, a public utility determines that the average annual levelized cost of renewable energy that would need to be procured or generated for purposes of compliance with the renewable portfolio standard would be greater than the reasonable cost threshold, the public utility shall not be required to incur that excess cost; provided that the existence of this condition excusing performance in any given year shall not operate to delay compliance with the renewable portfolio standard in subsequent years. The provisions of this subsection do not preclude a public utility from accepting a project with a cost that would exceed the reasonable cost threshold. When a public utility can generate or procure renewable energy at or below the reasonable cost threshold, it shall be required to do so to the extent necessary to meet the applicable renewable portfolio standard and shall not be precluded from exceeding the standard.

F. By September 1, 2007 and until June 30, 2019, a public utility shall file a report to the commission on its procurement and generation of renewable energy during the prior calendar year and a procurement plan that includes:

(1) the cost of procurement for any new renewable energy resource in the next calendar year required to comply with the renewable portfolio standard; and

(2) testimony and exhibits that demonstrate that the proposed procurement is reasonable as to its terms and conditions considering price, availability, reliability, any renewable energy certificate values and diversity of the renewable energy resource; or

(3) demonstration that the plan is otherwise in the public interest.

G. By July 1, 2020, and each July 1 thereafter, a public utility shall file a report to the commission on the public utility's procurement and generation of renewable energy since the last report and a procurement plan that includes:

(1) the cost of procurement for new renewable energy required to comply with the renewable portfolio standard;

(2) the capital, operating and fuel costs on a per-megawatt-hour basis during the preceding calendar year of each nonrenewable generation resource rate-based by the utility, or dedicated to the utility through a power purchase agreement of one year or longer, and the nonrenewable generation resources' carbon dioxide emissions on a per-megawatt-hour basis during that same year;

(3) information, including exhibits, as applicable, that demonstrates that the proposed procurement:

(a) was the result of competitive procurement that included opportunities for bidders to propose purchased power, facility self-build or facility build-transfer options;

(b) has a cost that is reasonable as evidenced by a comparison of the price of electricity from renewable energy resources in the bids received by the public utility to recent prices for comparable energy resources elsewhere in the southwestern United States; and

(c) is in the public interest, considering factors such as overall cost and economic development opportunities; and

(4) strategies used to minimize costs of renewable energy integration, including location, diversity, balancing area activity, demand-side management and load management.

H. The commission shall approve or modify a public utility's procurement plan within ninety days and may approve the plan without a hearing, unless a protest is filed that demonstrates to the commission's reasonable satisfaction that a hearing is necessary. The commission may modify a plan after notice and hearing. The commission may, for good cause, extend the time to approve a procurement plan for an additional ninety days. If the commission does not act within the ninety-day period, the procurement plan is deemed approved.

I. The commission may reject a procurement plan if, within forty days of filing, the commission finds that the plan does not contain the required information and, upon the rejection, shall provide the public utility the time necessary to file a revised plan; provided that the total amount of renewable energy required to be procured by the public utility shall not change."

Chapter 65 Section 30 Laws 2019

SECTION 30. Section 62-16-5 NMSA 1978 (being Laws 2004, Chapter 65, Section 5, as amended) is amended to read:

"62-16-5. RENEWABLE ENERGY CERTIFICATES--COMMISSION DUTIES.--

A. The commission shall establish:

(1) a system of renewable energy certificates that can be used by a public utility to establish compliance with the renewable portfolio standard and that may include certificates that are monitored, accounted for or transferred by or through a regional system or trading program for any region in which a public utility is located; and

(2) requirements and procedures concerning requirements for renewable energy certificates pursuant to Subsections B and C of this section.

B. Renewable energy certificates:

(1) are owned by the generator of the renewable energy unless:

(a) the renewable energy certificates are transferred to the purchaser of the electricity through specific agreement with the generator;

(b) the generator is a qualifying facility, as defined by the federal Public Utility Regulatory Policies Act of 1978, in which case the renewable energy certificates are owned by the public utility purchaser of the renewable energy; or

(c) a contract for the purchase of renewable energy is in effect prior to July 1, 2019, in which case the renewable energy certificates are owned by the purchaser of the electricity for the term of such contract, unless otherwise agreed to in a contract approved by the commission;

(2) may be traded, sold or otherwise transferred by their owner, unless the certificates are from a rate-based public utility plant, in which case the entirety of the renewable energy certificates from that plant shall be retired by the utility on behalf of itself or its customers. Any contract to purchase renewable energy entered into by a public utility on or after July 1, 2019 shall include conveyance to the purchasing utility of all renewable energy certificates, and the entirety of those certificates shall be retired by that utility on behalf of itself or its customers or subsequently transferred to a retail customer for retirement under a voluntary program for purchasing renewable energy approved by the commission. A utility shall not claim that it is providing renewable energy from generation resources for which it has traded, sold or transferred the associated renewable energy certificates. The commission shall not disallow the recovery of the cost associated with any expired renewable energy certificate. The public utility shall annually file a report with the commission discussing:

(a) its use, sale, trading or transfer of renewable energy certificates; and

(b) whether and how its public claims of renewable energy generation account for renewable energy certificates that it has traded, sold or transferred;

(3) that are used for the purpose of meeting the renewable portfolio standard shall be registered with a renewable energy generation information system that is designed to create and track ownership of renewable energy certificates and that, through the use of independently audited generation data, verifies the generation and delivery of electricity associated with each renewable energy certificate and protects against multiple counting of the same renewable energy certificate; and

(4) may be carried forward for up to four years from the date of issuance to establish compliance with the renewable portfolio standard, after which they shall be deemed retired by the public utility.

C. A public utility shall be responsible for demonstrating that a renewable energy certificate used for compliance with the renewable portfolio standard is derived from eligible renewable energy resources."

Chapter 65 Section 31 Laws 2019

SECTION 31. Section 62-16-6 NMSA 1978 (being Laws 2004, Chapter 65, Section 6, as amended) is amended to read:

"62-16-6. COST RECOVERY FOR RENEWABLE ENERGY AND EMISSIONS REDUCTION.--

A. A public utility that procures or generates renewable energy shall recover, through the rate-making process, the reasonable costs of complying with the renewable portfolio standard. Costs that are consistent with commission approval of procurement plans or transitional procurement plans shall be deemed to be reasonable.

B. The commission shall not exclude from such cost recovery reasonable interconnection and transmission costs and costs to comply with electric industry reliability standards incurred by the public utility in order to deliver renewable energy to retail New Mexico customers.

C. If a public utility has been granted a certificate of public convenience and necessity prior to January 1, 2015 to construct or operate an electric generation facility and the investment in that facility has been allowed recovery as part of the utility's rate-base, the commission may require the facility to discontinue serving customers within New Mexico if the replacement has less or zero carbon dioxide emissions into the atmosphere; provided that no order of the commission shall disallow recovery of any undepreciated investments or decommissioning costs associated with the facility."

Chapter 65 Section 32 Laws 2019

SECTION 32. Section 62-16-7 NMSA 1978 (being Laws 2004, Chapter 65, Section 7) is amended to read:

"62-16-7. COMMISSION--POWERS AND DUTIES--VOLUNTARY PROGRAMS.--

A. The commission:

(1) shall adopt rules regarding the renewable portfolio standard, including a provision for public utility records and reports; and

(2) may require that a public utility offer its retail customers a voluntary program for purchasing renewable energy that is in addition to electricity provided by the public utility pursuant to the renewable portfolio standard, under rates and terms that are approved by the commission.

B. All renewable energy purchased by a retail customer through an approved voluntary program shall:

(1) have all associated renewable energy certificates retired by the retail customer, or on that customer's behalf, by the public utility, and the certificates shall not be used to meet the public utility's renewable portfolio standard requirements pursuant to Subsection A of Section 62-16-4 NMSA 1978;

(2) be excluded from the total retail sales to New Mexico customers used to determine the renewable portfolio standard requirements pursuant to Subsection A of Section 62-16-4 NMSA 1978; and

(3) not be subject to charges by the public utility to recover costs of complying with the renewable portfolio standard requirements pursuant to Subsection A of Section 62-16-4 NMSA 1978."

Chapter 65 Section 33 Laws 2019

SECTION 33. Section 62-16-8 NMSA 1978 (being Laws 2004, Chapter 65, Section 8, as amended) is amended to read:

"62-16-8. RURAL ELECTRIC COOPERATIVE--VOLUNTARY TARIFFS.--

A. The commission may require that a rural electric cooperative:

(1) offer its retail customers a voluntary program for purchasing renewable energy under rates and terms that are approved by the commission;

(2) report to the commission the demand for renewable energy pursuant to a voluntary program; and

(3) comply with the requirements for the procurement of renewable energy set forth in the Rural Electric Cooperative Act.

B. The commission shall establish and amend rules and regulations for the implementation of renewable portfolio standards consistent with the Rural Electric Cooperative Act."

Chapter 65 Section 34 Laws 2019

SECTION 34. Section 62-16-9 NMSA 1978 (being Laws 2004, Chapter 65, Section 9) is amended to read:

"62-16-9. EXISTING RULES.--The commission shall promulgate rules to implement the provisions of the Renewable Energy Act."

Chapter 65 Section 35 Laws 2019

SECTION 35. Section 62-16-10 NMSA 1978 (being Laws 2004, Chapter 65, Section 10) is amended to read:

"62-16-10. FEDERAL REQUIREMENTS.--Renewable energy procured or generated by a public utility to comply with a federal law, rule or regulation may be used to satisfy the required procurements of the Renewable Energy Act."

Chapter 65 Section 36 Laws 2019

SECTION 36. Section 74-2-5 NMSA 1978 (being Laws 1967, Chapter 277, Section 5, as amended) is amended to read:

"74-2-5. DUTIES AND POWERS--ENVIRONMENTAL IMPROVEMENT BOARD--LOCAL BOARD.--

A. The environmental improvement board or the local board shall prevent or abate air pollution.

B. The environmental improvement board or the local board shall:

(1) adopt, promulgate, publish, amend and repeal rules and standards consistent with the Air Quality Control Act to attain and maintain national ambient air quality standards and prevent or abate air pollution, including:

(a) rules prescribing air standards, within the geographic area of the environmental improvement board's jurisdiction or the local board's jurisdiction, or any part thereof; and

(b) standards of performance that limit carbon dioxide emissions to no more than one thousand one hundred pounds per megawatt-hour on and after January 1, 2023 for a new or existing source that is an electric generating facility with an original installed capacity exceeding three hundred megawatts and that uses coal as a fuel source; and

(2) adopt a plan for the regulation, control, prevention or abatement of air pollution, recognizing the differences, needs, requirements and conditions within the

geographic area of the environmental improvement board's jurisdiction or the local board's jurisdiction or any part thereof.

C. Rules adopted by the environmental improvement board or the local board may:

(1) include rules to protect visibility in mandatory class I areas to prevent significant deterioration of air quality and to achieve national ambient air quality standards in nonattainment areas; provided that such regulations:

(a) shall be no more stringent than but at least as stringent as required by the federal act and federal regulations pertaining to visibility protection in mandatory class I areas, pertaining to prevention of significant deterioration and pertaining to nonattainment areas; and

(b) shall be applicable only to sources subject to such regulation pursuant to the federal act;

(2) prescribe standards of performance for sources and emission standards for hazardous air pollutants that, except as provided in this subsection and in Subparagraph (b) of Paragraph (1) of Subsection B of this section:

(a) shall be no more stringent than but at least as stringent as required by federal standards of performance; and

(b) shall be applicable only to sources subject to such federal standards of performance;

(3) include regulations governing emissions from solid waste incinerators that shall be at least as stringent as, and may be more stringent than, any applicable federal emission limitations;

(4) include regulations requiring the installation of control technology for mercury emissions that removes the greater of what is achievable with best available control technology or ninety percent of the mercury from the input fuel for all coal-fired power plants, except for coal-fired power plants constructed and generating electric power and energy before July 1, 2007;

(5) require notice to the department or the local agency of the intent to introduce or permit the introduction of an air contaminant into the air within the geographical area of the environmental improvement board's jurisdiction or the local board's jurisdiction; and

AN ACT

RELATING TO SAFETY INSPECTIONS; REQUIRING THE PUBLIC REGULATION COMMISSION TO ISSUE RULES REQUIRING INSPECTION OF FIRE AND SMOKE DAMPERS AND FIRE CONTROL SYSTEMS IN ACCORDANCE WITH NATIONAL FIRE PROTECTION ASSOCIATION STANDARDS.

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

Chapter 66 Section 1 Laws 2019

SECTION 1. A new section of Chapter 59A, Article 52 NMSA 1978 is enacted to read:

"FIRE AND SMOKE DAMPER AND FIRE CONTROL SYSTEMS--
COMMISSION RULES.--

A. The public regulation commission shall issue rules requiring the inspection and testing of fire and smoke dampers and smoke control systems in accordance with national fire protection association standards in places of assembly, educational occupancies, institutional occupancies, residential occupancies consisting of four or more family units, mercantile occupancies, office occupancies, industrial occupancies, storage occupancies and miscellaneous structures consisting of towers, underground structures and windowless buildings and all buildings owned or occupied by the state or any political subdivision thereof or by municipal governments.

B. The rules shall require that:

(1) inspection and testing be conducted by the state or a political subdivision of the state with a fire and life safety enforcement program or other person possessing a fire life safety certification from a program accredited by the American national standards institute; and

(2) the person conducting the inspection or test shall submit findings of noncompliance to the owner of the public occupancy and to the state fire marshal." _____

SCORC/Senate Bill 143

Approved March 27, 2019

LAWS 2019, CHAPTER 67

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH AND SAFETY; ALLOWING FOR VOTER REGISTRATION ON ELECTION DAY AND DURING EARLY VOTING IN STATEWIDE AND SPECIAL ELECTIONS; PROVIDING FOR AUTOMATIC VOTER REGISTRATION AND UPDATES TO VOTER REGISTRATION.

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

Chapter 67 Section 1 Laws 2019

SECTION 1. A new section of Chapter 1, Article 4 NMSA 1978 is enacted to read:

"REGISTRATION AT VOTING LOCATION PRIOR TO VOTING.--

A. Notwithstanding the provisions in Section 1-4-8 NMSA 1978 providing for the closing of registration prior to an election, a qualified elector seeking to register to vote or update an existing certificate of registration in the state shall be allowed to do so at a voting location immediately before voting in that election after signing an affidavit under oath that the elector has not voted in the election in this state or elsewhere, and as further provided in this section.

B. During a statewide election, a qualified elector may register to vote or update an existing certificate of registration at the county clerk's office during the regular hours and days of business beginning on the twenty-eighth day preceding the election and from 10:00 a.m. to 6:00 p.m. on the Saturday immediately prior to the date of the election; provided that if the county clerk establishes an additional alternate voting location near the clerk's office in lieu of voting at the office of the county clerk, a qualified elector may register to vote or update an existing certificate of registration at that location during the regular hours and days of business beginning on the twenty-eighth day preceding the election and during the hours for voting at alternate voting locations commencing on the third Saturday prior to the election through the Saturday immediately prior to the election.

C. During a statewide election, a qualified elector may register to vote or update an existing certificate of registration at an alternate voting location only if the county clerk has assigned a county clerk employee to be the clerk's authorized deputy to serve as a registration officer at the alternate voting location; provided that ninety days before the election, the county clerk shall post the location of each alternate voting location

where a qualified elector may register to vote or update an existing certificate of registration immediately before voting.

D. Beginning January 1, 2021 and upon the approval of the voting system certification committee, during a statewide election, a qualified elector may register to vote or update an existing certificate of registration at an election day voting location; provided that the secretary of state shall establish procedures to ensure that a registration officer has an opportunity to review the information of a qualified elector who registers to vote or updates an existing certificate of registration immediately before the qualified elector votes on election day.

E. A voter shall not be allowed to change party affiliation when updating an existing certificate of registration or registering to vote at an early voting site or polling place during a primary election.

F. During a special election, a qualified elector may register to vote or update an existing certificate of registration at the county clerk's office during the regular hours and days of business beginning on the twenty-eighth day preceding the election until the last regular business day the week prior to the date of the election.

G. A qualified elector seeking to register to vote or update an existing certificate of registration immediately before voting shall provide:

(1) a New Mexico driver's license or New Mexico identification card issued through the motor vehicle division of the taxation and revenue department;

(2) any document that contains an address in the county together with a photo identification card; or

(3) a current valid student photo identification card from a post-secondary educational institution in New Mexico accompanied by a current student fee statement that contains the student's address in the county.

H. If an early voting site or polling place does not have real-time access to the statewide electronic voter file, a voter desiring to update an existing certificate of registration or to register to vote shall be issued a provisional ballot.

I. No later than June 30, 2021 and upon the approval of the voting system certification committee, the secretary of state and the secretary of taxation and revenue shall develop a procedure for importing the list of eligible but unregistered persons with a driver's license or state-issued identification card into the voter registration electronic

management system prior to an election to facilitate processing a new voter registration pursuant to this section."

Chapter 67 Section 2 Laws 2019

SECTION 2. A new section of Chapter 1, Article 4 NMSA 1978 is enacted to read:

"AUTOMATIC VOTER REGISTRATION; DRIVER'S LICENSE AND AGENCY REGISTRATION AND UPDATES TO REGISTRATION.--

A. In addition to the requirements of Section 1-4-47 NMSA 1978:

(1) a qualified elector registering to vote or updating an existing certificate of registration when conducting an in-person transaction to apply for or renew a driver's license or state-issued identification card shall not be required to provide a second time any information that duplicates information required in the driver's license portion of the transaction;

(2) the address of a voter who provides a different address when conducting an in-person transaction to apply for or renew a driver's license or state-issued identification card shall be updated on the voter's certificate of registration unless the voter declines to do so; and

(3) immediately at the conclusion of each in-person transaction to apply for or renew a driver's license or state-issued identification card, the person shall receive written notification by the motor vehicle division of the taxation and revenue department informing the person if a voter registration transaction was processed, and if so, providing information regarding any voter registration transaction delivered to the county clerk by the motor vehicle division as a result of that application for or renewal of a driver's license or state-issued identification card.

B. In addition to the requirements of Section 1-4-48 NMSA 1978:

(1) the human services department shall develop procedures to be approved by the secretary of state to ensure that each benefit program administered by the department appropriately ensures that qualified electors receiving benefits are offered the opportunity to register to vote or update an existing certificate of registration without duplication of information contained by the department or by the secretary of state. No later than the last day of August of each calendar year, the human services department shall issue an annual report detailing implementation of the requirements of

this paragraph. The report shall be sent to the legislative council service, the secretary of state and each county clerk; and

(2) no later than June 30, 2020 and upon the approval of the voting system certification committee, the secretary of state and the secretary of taxation and revenue shall develop a procedure for using the address provided as a taxpayer to update the registration address of a voter who has been identified as having moved from the voter's precinct of residence pursuant to Section 1-4-48 NMSA 1978. The procedure shall include a requirement of notification to the voter at least one hundred twenty days before an election of the intent to update the registration address and the ability for a voter to decline to permit the update to take effect.

C. If a person who is not a qualified elector becomes registered to vote pursuant to this section, that registration shall not be valid and the county clerk shall remove the certificate of registration from the register of voters." _____

SRC/Senate Bill 672, aa

Approved March 27, 2019

LAWS 2019, CHAPTER 68

AN ACT

RELATING TO HEALTH CARE; AMENDING SECTIONS OF THE HEALTH PROFESSIONAL LOAN REPAYMENT ACT AND THE OSTEOPATHIC MEDICINE ACT TO ESTABLISH DESIGNATED HEALTH PROFESSIONAL LOAN REPAYMENT FUNDING TO ASSIST OSTEOPATHIC PRIMARY CARE PHYSICIANS WORKING IN DESIGNATED HEALTH PROFESSIONAL SHORTAGE AREAS; ESTABLISHING OSTEOPATHIC PHYSICIAN LICENSING FEES FOR THE HEALTH PROFESSIONAL LOAN REPAYMENT PROGRAM; ENACTING NEW SECTIONS OF THE HEALTH PROFESSIONAL LOAN REPAYMENT ACT TO ESTABLISH THE OSTEOPATHIC PHYSICIAN EXCELLENCE FUND; MAKING APPROPRIATIONS.

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

Chapter 68 Section 1 Laws 2019

SECTION 1. Section 21-22D-3 NMSA 1978 (being Laws 1995, Chapter 144, Section 18, as amended) is amended to read:

"21-22D-3. DEFINITIONS.--As used in the Health Professional Loan Repayment Act:

A. "department" means the higher education department;

B. "health professional" means a primary care physician, optometrist, podiatrist, physician's assistant, dentist, nurse, member of an allied health profession as defined in the Allied Health Student Loan for Service Act or a licensed or certified health professional as determined by the department;

C. "loan" means a grant of money to defray the costs incidental to a health education, under a contract between the federal government or a commercial lender and a health professional, requiring either repayment of principal and interest or repayment in services;

D. "nurse in advanced practice" means a registered nurse, including a:

(1) certified nurse practitioner, certified registered nurse anesthetist or clinical nurse specialist, authorized pursuant to the Nursing Practice Act to function beyond the scope of practice of professional registered nursing; or

(2) certified nurse-midwife licensed by the department of health; and

E. "osteopathic primary care physician" means an osteopathic physician licensed pursuant to the Osteopathic Medicine Act with specialty training in family medicine, general internal medicine, obstetrics, gynecology or general pediatrics."

Chapter 68 Section 2 Laws 2019

SECTION 2. A new section of the Health Professional Loan Repayment Act is enacted to read:

"OSTEOPATHIC PHYSICIAN EXCELLENCE FUND.--The department shall apply funds appropriated to the department from the osteopathic physician excellence fund established pursuant to Section 3 of this 2019 act exclusively for health professional loan repayment assistance for osteopathic primary care physicians who are licensed pursuant to the Osteopathic Medicine Act and who practice in areas of New Mexico that the department has designated as underserved."

Chapter 68 Section 3 Laws 2019

SECTION 3. A new section of the Health Professional Loan Repayment Act is enacted to read:

"OSTEOPATHIC PHYSICIAN EXCELLENCE FUND--CREATION--ADMINISTRATION--APPROPRIATION.--The "osteopathic physician excellence fund" is created in the state treasury to support awards established through the Health Professional Loan Repayment Act to osteopathic primary care physicians who practice in areas of New Mexico that the department has designated as underserved. The fund consists of license application and renewal surcharges pursuant to Section 61-10-6.1 NMSA 1978, appropriations, gifts, grants, donations and income from investment of the fund. Any income earned on investment of the fund shall remain in the fund. Money in the fund shall not revert to any other fund at the end of a fiscal year. The fund shall be administered by the department, and money in the fund is appropriated to the department to make awards established through the Health Professional Loan Repayment Act to osteopathic primary care physicians who practice in areas of New Mexico that the department has designated as underserved. Disbursements from the fund shall be made only upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of higher education or the secretary's authorized representative."

Chapter 68 Section 4 Laws 2019

SECTION 4. Section 61-10-6.1 NMSA 1978 (being Laws 2016, Chapter 90, Section 7) is amended to read:

"61-10-6.1. FEES.--The board shall charge the following fees; provided that all fees are nonrefundable and, except for those fees collected pursuant to Paragraph (10) of Subsection A of this section, shall be used by the board to carry out its duties:

A. pertaining to osteopathic physicians:

(1) an application fee not to exceed one thousand dollars (\$1,000) for triennial licensure of an osteopathic physician pursuant to Section 61-10-12 NMSA 1978;

(2) a triennial osteopathic physician licensure renewal fee not to exceed one thousand dollars (\$1,000);

(3) a fee not to exceed seventy-five dollars (\$75.00) for placing an osteopathic physician license on inactive status;

(4) a late fee not to exceed:

(a) two hundred dollars (\$200) for osteopathic physicians who fail to renew their licenses on or before July 1 of the year in which their triennial licenses are due for renewal but who renew on or before September 29 of that year; and

(b) four hundred dollars (\$400) for osteopathic physicians who renew their licenses after September 29;

(5) a reinstatement fee not to exceed five hundred dollars (\$500) for reinstatement of a revoked, suspended or inactive osteopathic physician license;

(6) a temporary license fee not to exceed one hundred dollars (\$100);

(7) a postgraduate osteopathic physician training license fee not to exceed fifty dollars (\$50.00);

(8) an osteopathic physician telemedicine triennial license fee not to exceed four hundred dollars (\$400);

(9) an impaired physician fee not to exceed one hundred dollars (\$100);
and

(10) a fee of one hundred dollars (\$100) to accompany fees for application for and renewal of osteopathic physician licensure for deposit in the osteopathic physician excellence fund pursuant to Section 3 of this 2019 act;

B. pertaining to osteopathic physician assistants:

(1) a biennial license fee not to exceed four hundred fifty dollars (\$450);

(2) a registration of new supervision fee that is equal to one-half of the biennial license fee for osteopathic physician assistants;

(3) a late fee not to exceed twenty-five dollars (\$25.00) for osteopathic physician assistants who fail to renew their licenses on or before July 1 of the year in which their biennial licenses are due for renewal;

(4) an impaired osteopathic physician assistant fee not to exceed one hundred dollars (\$100); and

(5) a fee for an osteopathic physician assistant license on inactive status not to exceed seventy-five dollars (\$75.00); and

C. pertaining to osteopathic physician and osteopathic physician assistant licensees or applicants:

(1) a fee not to exceed five hundred dollars (\$500) for reprocessing an application or renewal that includes errors that would otherwise be subject to investigation and possible disciplinary action; and

(2) a reasonable administrative fee that the board establishes by rule for verification of license, publications and copying charges." _____

SPAC/Senate Bill 21

Approved March 27, 2019

LAWS 2019, CHAPTER 69

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; EXTENDING THE DATE AFTER WHICH STATEWIDE ECONOMIC DEVELOPMENT FINANCE ACT STANDARD PROJECTS MUST BE APPROVED BY LAW.

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

Chapter 69 Section 1 Laws 2019

SECTION 1. Section 6-25-6 NMSA 1978 (being Laws 2016, Chapter 38, Section 1) is amended to read:

"6-25-6. NEW MEXICO FINANCE AUTHORITY--ADDITIONAL POWERS AND DUTIES.--

A. To implement a program to assist eligible entities in financing projects, the authority has the powers specified in this section.

B. State projects receiving financing assistance with money in the fund shall first be approved by law. To protect public money in the fund or other public resources,

rules of the authority relating to state projects shall include provisions to ensure achievement of the economic development goals of the state project and shall describe the means of recovering public money or other public resources if an eligible entity defaults on its obligations to the authority.

C. Standard projects receiving financing assistance with money in the fund shall be approved by the authority pursuant to rules approved by the New Mexico finance authority oversight committee. Beginning July 1, 2023, standard projects shall first be approved by law.

D. The authority may:

- (1) issue project revenue bonds on behalf of an eligible entity, payable from the revenues of a project and other revenues authorized as security for the bonds, to finance a project on behalf of an eligible entity;
- (2) make loans from the fund for projects to eligible entities that establish one or more dedicated sources of revenue to repay the loan from the authority;
- (3) enter into loan participation agreements from the fund for projects, whether in the form of an interest rate buy-down, the purchase of loans or portions of loans originated and underwritten by third-party lenders or other similar arrangements;
- (4) provide loan guarantees from the fund for projects;
- (5) make, execute and enforce all contracts necessary, convenient or desirable for purposes of the authority or pertaining to project revenue bonds, economic development revolving fund bonds, loans, loan participations or loan guarantees and the Statewide Economic Development Finance Act and pay the reasonable value of services rendered to the authority pursuant to the contracts;
- (6) purchase and hold loans and loan participations in the fund at prices and in a manner determined by the authority;
- (7) sell loans and loan participations acquired or held by the authority in the fund at prices and in a manner determined by the authority;
- (8) prescribe the form of application or procedure required of an eligible entity to apply for financing assistance;

(9) fix the terms and conditions of the financing assistance, including the priority of lien and type of collateral or other security, and enter into agreements with eligible entities with respect to financing assistance;

(10) fix, revise from time to time, charge and collect fees and other charges in connection with the issuance of bonds; the making, purchase, participation in or guarantee of loans; and the review of proposed financing assistance to an eligible entity, whether or not the financing assistance is provided;

(11) employ architects, engineers, accountants and attorneys; construction and financial experts; and such other advisors, consultants and agents as may be necessary in its judgment, and fix and pay their compensation;

(12) to the extent allowed under its contracts with the holders of bonds of the authority, consent to modification of the rate of interest, time and payment of installments of principal or interest, security or any other term of financing assistance;

(13) consider the ability of the eligible entity to secure financing for a project from other sources and the costs of that financing;

(14) acquire fee simple, leasehold, mortgagor's or mortgagee's interests in real or personal property and sell, mortgage, convey, lease or assign that property for authority purposes; and

(15) in the event of default by an eligible entity, enforce its rights by suit, mandamus and all other remedies available under law.

E. The authority shall adopt rules subject to approval of the New Mexico finance authority oversight committee to:

(1) establish procedures for applying for financing assistance;

(2) establish credit qualifications for eligible entities and establish terms and conditions for financing assistance;

(3) establish economic development goals for projects in consultation with the department;

(4) establish methods for determining quantifiable benefits;

(5) provide safeguards to protect public money and other public resources provided for a state project;

(6) establish procedures by which the authority requests approval by law for projects receiving financing assistance with money in the fund; and

(7) establish fees to pay the costs of evaluating, originating and administering financing assistance.

F. The authority shall coordinate with the department to provide staffing and other assistance to the department in carrying out the department's responsibilities and activities pursuant to the Statewide Economic Development Finance Act.

G. The authority shall report to the New Mexico finance authority oversight committee twice each year regarding the total expenditures from the economic development revolving fund for the previous fiscal year, the purposes for which expenditures were made, an analysis of the progress of the projects funded and proposals for legislative action." _____

Senate Bill 37

Approved March 27, 2019

LAWS 2019, CHAPTER 70

AN ACT

MAKING AN APPROPRIATION FOR DRINKING WATER SYSTEM FINANCING.

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

Chapter 70 Section 1 Laws 2019

SECTION 1. APPROPRIATION.--Two million five hundred thousand dollars (\$2,500,000) is appropriated from the public project revolving fund to the drinking water state revolving loan fund for expenditure in fiscal year 2020 and subsequent fiscal years to provide state matching funds for federal Safe Drinking Water Act of 1974 projects and to carry out the purposes of the Drinking Water State Revolving Loan Fund Act. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the public project revolving fund.

Chapter 70 Section 1 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.

Senate Bill 43

Approved March 27, 2019

LAWS 2019, CHAPTER 71

AN ACT

RELATING TO CORRECTIONS; REQUIRING CORRECTIONAL FACILITIES TO DEVELOP AND IMPLEMENT BREASTFEEDING AND LACTATION POLICIES FOR LACTATING INMATES.

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

Chapter 71 Section 1 Laws 2019

SECTION 1. CORRECTIONAL FACILITIES--BREASTFEEDING AND LACTATION POLICIES.--

A. By January 1, 2020, every correctional facility that houses female inmates shall develop and implement a breastfeeding and lactation policy for lactating female inmates that is based on current accepted best practices. The policy shall include provisions for:

(1) human milk expression with access to an electric breast pump, milk storage and transport or disposal;

(2) continuation of medication-assisted addiction treatment;

(3) breastfeeding in county and municipal detention facilities that can accommodate skin-to-skin contact visits and in all facilities operated by the corrections department and children, youth and families department; and

(4) medically appropriate support and care related to cessation of lactation or weaning if preferred by the lactating inmate.

B. For purposes of this section, "correctional facility" means a jail, prison or other detention facility, whether operated by a government or private contractor, that is used for the confinement of adult or juvenile persons who are charged with or convicted of a violation of a law or ordinance. _____

SJC/Senate Bill 124

Approved March 27, 2019

LAWS 2019, CHAPTER 72

AN ACT

RELATING TO PUBLIC FINANCE; ALLOWING MUNICIPALITIES TO PLEDGE ANY TYPE OF REVENUE FOR THE PAYMENT OF REFUNDING BONDS.

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

Chapter 72 Section 1 Laws 2019

SECTION 1. Section 3-31-8 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-30-8, as amended) is amended to read:

"3-31-8. REVENUE BONDS--REFUNDING AUTHORIZATION--AUTHORITY TO MORTGAGE MUNICIPAL UTILITY.--

A. Any municipality having issued revenue bonds as authorized in Sections 3-31-1 through 3-31-7 NMSA 1978 or pursuant to any other laws enabling the governing body of any municipality having issued such revenue bonds payable only out of the pledged revenue may issue refunding revenue bonds for the purpose of refinancing, paying and discharging all or any part of such outstanding bonds of any one or more or all outstanding issues:

(1) for the acceleration, deceleration or other modification of the payment of such obligations, including without limitation any capitalization of any interest thereon in arrears or about to become due for any period not exceeding one year from the date of the refunding bonds;

(2) for the purpose of reducing interest costs or effecting other economies;

(3) for the purpose of modifying or eliminating restrictive contractual limitations pertaining to the issuance of additional bonds, otherwise concerning the outstanding bonds or to any facilities relating thereto; or

(4) for any combination of such purposes.

B. The municipality may pledge irrevocably for the payment of interest and principal on refunding bonds the appropriate pledged revenues, which may be pledged to an original issue of bonds as provided in Section 3-31-1 NMSA 1978, and it may pledge revenues from one source to the payment of bonds that refund bonds payable from a different source of revenue.

C. Bonds for refunding and bonds for any purpose permitted by Section 3-31-1 NMSA 1978 may be issued separately or issued in combination in one series or more.

D. In addition to pledging of utility revenues to the payment of the refunding revenue bonds that refund utility bonds or joint utility bonds as provided in Section 3-23-4 NMSA 1978, the municipality may grant by ordinance, or by resolution if the refunding revenue bonds are issued and sold to the New Mexico finance authority pursuant to Subsection C of Section 3-31-4 NMSA 1978, a mortgage of the municipal utility that has been solely financed by revenue bonds to the bondholder or a trustee for the benefit and security of the holders of the refunding revenue bonds."

Chapter 72 Section 2 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

Senate Bill 165

Approved March 27, 2019

LAWS 2019, CHAPTER 73

AN ACT

RELATING TO INCARCERATION; REQUIRING COURTS TO CONSIDER PREGNANCY OR LACTATION FOR RELEASE, BOND OR GOOD TIME COMPUTATION.

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

Chapter 73 Section 1 Laws 2019

SECTION 1. RELEASE OF INDIVIDUALS WHO ARE PREGNANT OR LACTATING.--

A. The court shall consider an individual's pregnancy or lactation status when determining whether the individual is eligible for release or bond and in the computation of good time credit. A presumption shall be made in favor of release for an individual who is pregnant or lactating. An individual released pursuant to this section shall be placed on the least restrictive conditions of release necessary to ensure return to custody.

B. As used in this section, "release" means:

(1) custodial release, which is release under such court-imposed restrictions as to satisfy the court that the person remains in custody while released; and

(2) noncustodial release, which is release under such conditions that are not considered custodial.

Chapter 73 Section 2 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

SJC/SPAC/Senate Bill 192

Approved March 27, 2019

LAWS 2019, CHAPTER 74

AN ACT

RELATING TO THE NEW MEXICO COMPILATION COMMISSION; CHANGING THE OPERATIONAL MODEL FOR DISTRIBUTIONS OF STATUTORY AND LEGAL PUBLICATIONS TO PROVIDE FOR FREE ONLINE ACCESS TO STATE AND LOCAL

AGENCIES, PUBLIC OFFICIALS AND COURTS AND THE GENERAL PUBLIC; PROVIDING FOR THE PUBLICATION OF PRINT VERSIONS OF CERTAIN PUBLICATIONS BY LICENSING AGREEMENTS; REQUIRING THE ATTORNEY GENERAL TO PROVIDE ALL OPINIONS AND ADVISORY LETTERS TO THE COMMISSION; CHANGING THE MEMBERSHIP OF THE COMMISSION; REPEALING SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

Chapter 74 Section 1 Laws 2010

SECTION 1. Section 8-5-6 NMSA 1978 (being Laws 1979, Chapter 106, Section 1, as amended) is amended to read:

"8-5-6. OPINIONS AND REPORT.--The New Mexico compilation commission shall receive all opinions and advisory letters of the attorney general and shall maintain the attorney general's opinions and advisory letters as part of the master database of the commission. The attorney general shall provide the commission with an electronic copy of all opinions and advisory letters as issued in a format mutually agreed upon by the commission and the attorney general."

Chapter 74 Section 2 Laws 2010

SECTION 2. Section 12-1-2 NMSA 1978 (being Laws 1953, Chapter 39, Section 2, as amended) is amended to read:

"12-1-2. NEW MEXICO COMPILATION COMMISSION--CREATION.-- The "New Mexico compilation commission" is created. The commission consists of the chief justice of the supreme court or a justice designated by the chief justice, who shall act as president of the commission; the clerk of the supreme court; the attorney general or a deputy or assistant attorney general designated by the attorney general; the dean of the university of New Mexico school of law or the dean's designee; the director of the legislative council service; and the president of the state bar of New Mexico or a bar commissioner designated by the president of the state bar of New Mexico."

Chapter 74 Section 3 Laws 2010

SECTION 3. Section 12-1-3 NMSA 1978 (being Laws 1977, Chapter 74, Section 2, as amended) is amended to read:

"12-1-3. POWERS OF COMMISSION.--The New Mexico compilation commission, acting on the advice and approval of an advisory committee appointed by the New Mexico supreme court, may:

A. provide for official, annotated compilations of the New Mexico statutes and court rules as approved by the supreme court and all other necessary things pertaining to the publication, including online publication, of any compilation and related publications;

B. provide for the licensing of the content of the compilation and any related publications;

C. contract with a publisher for any compilation or related publications as may be necessary or desirable to carry out the provisions of this section;

D. do all things necessary to keep current the master database of publications published or authorized for publication by the compilation commission; and

E. hire an executive director, who shall:

(1) serve as the chief administrative officer of the commission;

(2) serve at the pleasure of the commission;

(3) carry out the policies established by the commission; and

(4) within available funding, hire such additional staff as necessary to effectuate the powers exercised by the commission."

Chapter 74 Section 4 Laws 2010

SECTION 4. Section 12-1-3.1 NMSA 1978 (being Laws 1982, Chapter 7, Section 2, as amended) is amended to read:

"12-1-3.1. ADDITIONAL POWERS OF COMMISSION--MASTER DATABASE.--

A. The New Mexico compilation commission shall keep current the automated legal databases, known as the official "master database", of the following legal publications, including any revisions, and shall provide free online access to these publications:

(1) all appellate court opinions and decisions;

(2) all opinions and advisory letters issued by the attorney general of New Mexico;

(3) publications of session laws and court rules of this state; and

(4) parallel tables of New Mexico laws.

B. The commission may license any part of the master database.

C. The commission may include other statutory or legal content in the master database and may license the use of that information or may electronically publish that content on its online website."

Chapter 74 Section 5 Laws 2010

SECTION 5. Section 12-1-5 NMSA 1978 (being Laws 1953, Chapter 39, Section 5) is amended to read:

"12-1-5. NEW MEXICO COMPILATION FUND--CREATED.--The "New Mexico compilation fund" is created as a nonreverting fund in the state treasury. The fund consists of filing, licensing and other fees; gifts, grants and donations; appropriations; and any other money credited to the fund. The fund shall be administered by the New Mexico compilation commission, and money in the fund is appropriated to the commission to carry out the purposes of Chapter 12, Article 1 NMSA 1978. Expenditures from the fund shall be by warrant of the secretary of finance and administration pursuant to vouchers signed by the executive director of the commission or the executive director's authorized representative."

Chapter 74 Section 6 Laws 2010

SECTION 6. Section 12-1-7 NMSA 1978 (being Laws 1953, Chapter 39, Section 7, as amended) is amended to read:

"12-1-7. RECOGNITION AS OFFICIAL COMPILATION.--Upon the annual certification of the compilation of 1978 by the New Mexico compilation commission, with the advice and approval of the advisory committee of the supreme court, the compilation shall be in force and recognized, referred to and used in all the courts and in all departments and offices of the state as the official compilation of the statutory law of New Mexico and may be cited as the "NMSA 1978", whether printed under an exclusive license of the content of the compilation or published electronically free of charge."

Chapter 74 Section 7 Laws 2010

SECTION 7. Section 12-1-8 NMSA 1978 (being Laws 1977, Chapter 74, Section 5, as amended) is amended to read:

"12-1-8. RULES OF CONSTRUCTION GOVERNING COMPILATION OF STATUTES.--In carrying out the duties provided by law and contract, absent an expressed contrary legislative intent, the executive director of the New Mexico compilation commission and the advisory committee of the supreme court shall be governed by the following rules:

A. if two or more acts are enacted during the same session of the legislature amending the same section of the NMSA, regardless of the effective dates of the acts, the act last signed by the governor shall be compiled in the NMSA and, if the New Mexico compilation commission, after consultation with the legislative council service, determines that the provisions of one or more of the earlier signed acts can be reconciled with the act that is to be compiled, those provisions shall be incorporated in the last-signed act and compiled in the NMSA. The history following the amended section shall set forth the section, chapter and year of all acts amending the section. A compiler's note shall be included in the annotations setting forth the nature of the difference between the acts or sections, if any; and

B. if two or more irreconcilable acts dealing with the same section of law are enacted by the same session of the legislature, the last act signed by the governor shall be presumed to be the law. The act last signed by the governor shall be compiled in the NMSA with an annotation following the compiled section setting forth in full the text of any conflicting section of any earlier signed act."

Chapter 74 Section 8 Laws 2010

SECTION 8. Section 34-4-2 NMSA 1978 (being Laws 1966, Chapter 28, Section 28, as amended) is amended to read:

"34-4-2. APPELLATE COURT REPORTS--INCLUSION IN MASTER DATABASE.--

A. The New Mexico compilation commission shall maintain and update all opinions and decisions of the appellate courts in the master database of the commission and provide them free of charge on its online website.

B. The courts shall provide the commission with an electronic copy of each opinion and decision as it is issued."

Chapter 74 Section 9 Laws 2010

SECTION 9. TEMPORARY PROVISIONS--DISPOSAL OF SETS-- CONTRACTS.--

A. On the effective date of this act, all state, local and district officers designated by the New Mexico compilation commission to receive distributions of sets of the compilation, replacement volumes or replacement pamphlets may dispose of such sets according to procedures set out for disposal of surplus property. Sets shall not be delivered or returned to the office of the commission in Santa Fe. The commission shall determine how many full sets of the printed statutes and other publications it will maintain for historical, reference and possible replacement purposes, and the remainder of the sets held by the commission may be disposed of according to procedures set out for the disposal of surplus property.

B. All contracts in effect on the effective date of this act shall continue to be effective until the contract has been completed or the commission decides to terminate the contract.

C. On the effective date of this act, all references in law and other legal documents to the New Mexico statutes annotated or the NMSA 1978 shall be deemed to be references to the content of the master database.

Chapter 74 Section 10 Laws 2010

SECTION 10. REPEAL.--Sections 8-5-7, 8-5-14, 12-1-4, 12-1-6 and 35-7-6 NMSA 1978 (being Laws 1959, Chapter 20, Section 2, Laws 1959, Chapter 21, Section 7, Laws 1953, Chapter 39, Sections 4 and 6 and Laws 1968, Chapter 62, Section 101, as amended) are repealed.

Chapter 74 Section 11 Laws 2010

SECTION 11. EFFECTIVE DATE.--The effective date of the provisions of this act is May 3, 2019.

Chapter 74 Section 12 Laws 2010

SECTION 12. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately. _____

Senate Bill 261, aa, w/ec

Approved March 27, 2019

LAWS 2019, CHAPTER 75

AN ACT

RELATING TO FINANCIAL INSTITUTIONS; MAKING TECHNICAL CHANGES TO PROVISIONS OF THE UNIFORM MONEY SERVICES ACT.

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

Chapter 75 Section 1 Laws 2019

SECTION 1. Section 58-32-803 NMSA 1978 (being Laws 2016, Chapter 88, Section 803) is amended to read:

"58-32-803. ORDERS TO CEASE AND DESIST.--

A. If the director determines that a violation of the Uniform Money Services Act, or of a rule adopted or an order issued pursuant to that act, by a licensee or authorized delegate is likely to cause immediate and irreparable harm to the licensee, its customers or the public as a result of the violation, or causes insolvency or significant dissipation of assets of the licensee, the director may issue an order requiring the licensee or authorized delegate to cease and desist from the violation. The order becomes effective upon service of it upon the licensee or authorized delegate.

B. The director may issue an order against a licensee to cease and desist from providing money services through an authorized delegate that is the subject of a separate order by the director.

C. An order to cease and desist remains effective and enforceable pending the completion of an administrative proceeding pursuant to Section 58-32-901 or 58-32-902 NMSA 1978.

D. A licensee or an authorized delegate that is served with an order to cease and desist may petition the district court for a judicial order setting aside, limiting or suspending the enforcement, operation or effectiveness of the order pending the completion of an administrative proceeding pursuant to Section 58-32-901 or 58-32-902 NMSA 1978.

E. An order to cease and desist expires unless the director commences an administrative proceeding pursuant to Section 58-32-901 or 58-32-902 NMSA 1978 within ten days after it is issued."

Senate Bill 262

Approved March 27, 2019

LAWS 2019, CHAPTER 76

AN ACT

RELATING TO PUBLIC FINANCE; AUTHORIZING THE NEW MEXICO FINANCE AUTHORITY TO MAKE LOANS OR GRANTS FROM THE WATER PROJECT FUND FOR CERTAIN WATER PROJECTS; DECLARING AN EMERGENCY.

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

Chapter 76 Section 1 Laws 2019

SECTION 1. AUTHORIZATION OF QUALIFYING WATER PROJECTS.-- Pursuant to Section 72-4A-9 NMSA 1978, the legislature authorizes the New Mexico finance authority to make loans or grants from the water project fund to the following qualifying entities for the following qualifying water projects on terms and conditions established by the water trust board and the New Mexico finance authority:

1. to the village of Milan in Cibola county for a flood prevention project;
2. to the eastern Sandoval county arroyo flood control authority in Sandoval county for a flood prevention project;
3. to the southern Sandoval county arroyo flood control authority in Sandoval county for a flood prevention project;
4. to the upper Rio Grande watershed district in Rio Arriba county for a flood prevention project;
5. to the city of Grants in Cibola county for a flood prevention project;
6. to the city of Sunland Park in Dona Ana county for a flood prevention project;

7. to the city of Clovis in Curry county for a water conservation or treatment, recycling or reuse project;
8. to Los Alamos county for a water conservation or treatment, recycling or reuse project;
9. to the city of Gallup in McKinley county for a water storage, conveyance and delivery project;
10. to the city of Portales in Roosevelt county for a water storage, conveyance and delivery project;
11. to the Eldorado area water and sanitation district in Santa Fe county for a water storage, conveyance and delivery project;
12. to the El Creston mutual domestic water consumers association in San Miguel county for a water storage, conveyance and delivery project;
13. to the Sangre de Cristo regional mutual domestic water consumers and mutual sewage works association in Guadalupe county for a water storage, conveyance and delivery project;
14. to the village of Cuba in Sandoval county for a water storage, conveyance and delivery project;
15. to the Chappelle mutual domestic consumers association in San Miguel county for a water storage, conveyance and delivery project;
16. to the eastern New Mexico water utility authority in Curry county for a water storage, conveyance and delivery project;
17. to the Buena Vista mutual domestic water consumer's and sewage works association in Mora county for a water storage, conveyance and delivery project;
18. to the town of Red River in Taos county for a water storage, conveyance and delivery project;
19. to the city of Belen in Valencia county for a water storage, conveyance and delivery project;
20. to the Alcalde mutual domestic water consumers' and mutual sewage works association in Rio Arriba county for a water storage, conveyance and delivery project;

21. to the Pena Blanca water and sanitation district in Sandoval county for a water storage, conveyance and delivery project;
22. to the La Cueva mutual domestic water consumers association in San Miguel county for a water storage, conveyance and delivery project;
23. to the lower Arroyo Hondo mutual domestic water consumers and mutual sewage works association in Taos county for a water storage, conveyance and delivery project;
24. to the Union del Llano mutual domestic water consumers association in Taos county for a water storage, conveyance and delivery project;
25. to the village of Eagle Nest in Colfax county for a water storage, conveyance and delivery project;
26. to the city of Jal in Lea county for a water storage, conveyance and delivery project;
27. to the Guadalupe soil and water conservation district in Guadalupe county for a watershed restoration and management project;
28. to the Claunch-Pinto soil and water conservation district in Torrance county for a watershed restoration and management project in Taos, Rio Arriba, Los Alamos, Santa Fe and Sandoval counties;
29. to the Claunch-Pinto soil and water conservation district in Torrance county for a watershed restoration and management project; and
30. to the San Juan soil and water conservation district in San Juan county for a watershed restoration and management project.

Chapter 76 Section 2 Laws 2019

SECTION 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately. _____

Senate Bill 326, w/ec

Approved March 27, 2019

LAWS 2019, CHAPTER 77

AN ACT

RELATING TO HIGHER EDUCATION; ALLOWING NORTHERN NEW MEXICO COLLEGE TO ADMINISTER A BRANCH COMMUNITY COLLEGE THAT ONE OR MORE AREA SCHOOL DISTRICTS CREATE TO PROVIDE TECHNICAL AND VOCATIONAL COURSES.

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

Chapter 77 Section 1 Laws 2019

SECTION 1. A new section of Chapter 21, Article 14 NMSA 1978 is enacted to read:

"NORTHERN NEW MEXICO COLLEGE--BRANCH COMMUNITY COLLEGE FOR TECHNICAL AND VOCATIONAL COURSES.--

A. The board of regents of northern New Mexico college may choose to partner with one or more area school districts to be the parent institution of a branch community college established by the school districts to provide technical and vocational education. The branch community college may be co-located on the northern New Mexico college main campus or on its El Rito campus. Notwithstanding the provisions of Chapter 21, Article 14 NMSA 1978, the co-located branch community college shall be under the direction of the president of northern New Mexico college and shall operate under the administrative structure of northern New Mexico college. Otherwise, the board of the branch community college shall have the same powers over financing and financial control as provided for boards of other branch community colleges in Chapter 21, Article 14 NMSA 1978.

B. The board of regents and the area school boards or the elected board of the branch community college may agree to have northern New Mexico college offer its technical and vocational courses through the branch community college. If so offered, those courses shall not be eligible for funding from the northern New Mexico state school land grant permanent fund income fund or be eligible to benefit in any way as a land grant beneficiary."

Chapter 77 Section 2 Laws 2019

SECTION 2. Section 21-14-2 NMSA 1978 (being Laws 1963, Chapter 162, Section 2, as amended) is amended to read:

"21-14-2. BOARD DUTIES--RELATIONSHIP WITH PARENT INSTITUTION--ELECTIONS.--

A. As used in Chapter 21, Article 14 NMSA 1978, "board" means either the local school board or the combined local school boards acting as a single board of the school district or the board of the branch community college elected pursuant to Section 21-14-2.1 NMSA 1978.

B. The duties of the board are to:

(1) enter into written agreements with the board of regents of the parent institution, subject thereafter to biennial review by all parties concerned and to the review and commentary of the higher education department;

(2) act in an advisory capacity to the board of regents of the parent institution in all matters relating to the conduct of the branch community college;

(3) approve an annual budget for the branch community college for recommendation to the board of regents of the parent institution;

(4) certify to the board of county commissioners the tax levy; and

(5) conduct the election for tax levies for the branch community college.

C. Except for the branch community college of northern New Mexico college, the board and the board of regents of the parent institution of the branch community college shall jointly conduct a search for qualified candidates for director. The board of regents of the parent institution, after consultation with the board, shall then select a director for the branch community college.

D. The board and the board of regents of the parent institution shall enter into a written agreement, which shall include provisions for:

(1) the parent institution to have full authority and responsibility in relation to all academic matters;

(2) the parent institution to honor all credits earned by students as though they were earned on the parent campus;

- (3) the course of study and program offered;
- (4) the cooperative use of physical facilities and teaching staff;
- (5) consideration of applications of local qualified people before employing teachers of the local school system; and
- (6) the detailed agreement of financing and financial control of the branch community college.

E. The agreement shall be binding upon both the board and the board of regents of the parent institution; however, it may be terminated by mutual consent or it may be terminated by either board upon six months' notice. However, if the branch community college has outstanding general obligation or revenue bonds, neither the board nor the board of regents may terminate the agreement until the outstanding bonds are retired, except as provided by Section 21-13-24.1 NMSA 1978. This provision shall apply to all agreements in existence between the branch community college and the board of regents of the parent institution.

F. All taxes levied to pay for principal and interest on bonds of the branch community college shall be in addition to the taxes levied for operating, maintaining and providing facilities for the branch community college pursuant to the College District Tax Act.

G. For the purpose of relating branch community colleges to existing laws, branch community college districts or branch community colleges shall not:

- (1) be considered a part of the uniform system of free public schools pursuant to Article 12, Section 1 and Article 21, Section 4 of the constitution of New Mexico;

- (2) benefit from the permanent school fund and from the current school fund under Article 12, Sections 2 and 4 of the constitution of New Mexico;

- (3) be subject, except as it relates to technical and vocational education, to the control, management and direction of the public education department;

- (4) be considered school districts insofar as the restrictions of Article 9, Section 11 of the constitution of New Mexico are concerned;

(5) for the branch community college of northern New Mexico college, be eligible for separate state appropriations through the higher education funding formula; and

(6) for the branch community college of northern New Mexico college, any courses, students, student credit hours and degrees and certificates awarded shall be reported to the higher education department along with and in the same manner as those for northern New Mexico college. These courses, students, student credit hours and degrees and certificates awarded shall be included in all reports and funding formula calculations by the higher education department for northern New Mexico college.

H. All elections held pursuant to the branch community college laws shall be as follows:

(1) the board calling the election shall give notice of the election in a newspaper of general circulation in the branch community college district at least once a week for three consecutive weeks, the last insertion to be not less than thirty days prior to the proposed election;

(2) the election shall be conducted and canvassed in the same manner as municipal school district elections unless otherwise provided in the branch community college laws; and

(3) any person or corporation may institute in the district court of any county in which the branch community college district affected lies an action or suit to contest the validity of any proceedings held under the branch community college laws, but no such suit or action shall be maintained unless it is instituted within ten days after the issuance by the proper officials of a certificate or notification of the results of the election and the canvassing of the election returns by the board.

I. The tax rolls of the school districts comprising the branch community college district shall be adopted as the tax rolls of the branch community college district."

Chapter 77 Section 3 Laws 2019

SECTION 3. Section 21-14-9 NMSA 1978 (being Laws 1973, Chapter 371, Section 1, as amended) is amended to read:

"21-14-9. STATE SUPPORT--APPROPRIATION.--

A. The higher education department shall recommend an appropriation for each branch community college, except the branch community college of northern New Mexico college, and junior college based upon the college's financial requirements in relation to its authorized program and its available funds from non-general fund sources; provided, the recommended appropriation shall be an amount not less than three hundred twenty-five dollars (\$325) for each full-time-equivalent student.

B. The higher education department shall not recommend an appropriation greater than three hundred twenty-five dollars (\$325) for each full-time-equivalent student for any branch community college that levies a tax at a rate less than one dollar (\$1.00), unless a lower amount is required by operation of the rate limitation provisions of Section 7-37-7.1 NMSA 1978 upon a rate approved by the electors of at least one dollar (\$1.00) on each one thousand dollars (\$1,000) of net taxable value, as that term is defined in the Property Tax Code, or any branch community college that reduces a previously authorized tax levy, except as required by the operation of the rate limitation provisions of Section 7-37-7.1 NMSA 1978." _____

Senate Bill 431, aa

Approved March 27, 2019

LAWS 2019, CHAPTER 78

AN ACT

RELATING TO MUSEUMS; CREATING ELIGIBILITY REQUIREMENTS FOR MEMBERS OF THE NEW MEXICO MUSEUM OF SPACE HISTORY COMMISSION.

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

Chapter 78 Section 1 Laws 2019

SECTION 1. Section 18-7-2 NMSA 1978 (being Laws 1978, Chapter 72, Section 2, as amended by Laws 2001, Chapter 275, Section 3 and by Laws 2001, Chapter 278, Section 3) is amended to read:

"18-7-2. NEW MEXICO MUSEUM OF SPACE HISTORY COMMISSION.-- There is created the "New Mexico museum of space history commission" consisting of eleven members appointed by the governor. Membership shall be composed of geographically diverse residents of the state that are proficient in the scientific study of

space, museums or other relevant subject areas. Three members shall be appointed to the commission for a term ending December 31, 1974, four members shall be appointed to the commission for a term ending December 31, 1975 and four members shall be appointed to the commission for a term ending December 31, 1976. Thereafter, members of the commission shall be appointed for terms of three years or less in such manner that the staggered expiration date is maintained. Necessary officers shall be elected by the commission. The commission members shall be reimbursed for their necessary and actual mileage and per diem expenses as provided in the Per Diem and Mileage Act." _____

Senate Bill 433

Approved March 27, 2019

LAWS 2019, CHAPTER 79

AN ACT

RELATING TO MOTOR VEHICLES; ESTABLISHING THE CRIME OF DRIVING WHILE INTOXICATED WITH A MINOR IN THE VEHICLE; PROVIDING A PENALTY.

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

Chapter 79 Section 1 Laws 2019

SECTION 1. A new section of Chapter 66, Article 8 NMSA 1978 is enacted to read:

"DRIVING WHILE INTOXICATED WITH A MINOR IN THE VEHICLE--
PENALTY.--

A. Driving while intoxicated with a minor in the vehicle consists of a person committing a violation of Section 66-8-102 NMSA 1978 when a minor is in the vehicle and when the minor does not suffer great bodily harm or death. Whoever commits driving while intoxicated with a minor in the vehicle is guilty of a misdemeanor.

B. A charge for a violation of Subsection A of this section shall be in addition to a charge for the violation of Section 66-8-102 NMSA 1978 and shall be punished as a separate offense.

C. As used in this section, "minor" means an individual who is younger than thirteen years of age."

Chapter 79 Section 2 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

SJC/Senate Bill 517, aa

Approved March 27, 2019

LAWS 2019, CHAPTER 80

AN ACT

RELATING TO SCHOOL PERSONNEL; CHANGING SCHOOL ADMINISTRATOR
RECIPROCITY REQUIREMENTS.

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

Chapter 80 Section 1 Laws 2019

SECTION 1. Section 22-10A-12 NMSA 1978 (being Laws 2003, Chapter 153, Section 43) is amended to read:

"22-10A-12. LIMITED RECIPROCITY.--

A. A teacher or school principal licensed in another state may be granted a level two or level three license if the teacher or school principal has teaching experience, demonstrates the required competencies and meets other requirements and qualifications for the license for which the teacher or school principal applies, including clearance of the required background check. The local superintendent may require a mentorship period for the licensee if the superintendent deems it necessary. A teacher or school principal who holds an out-of-state license may apply for a lower level license if the teacher or school principal does not meet the requirements for the higher level.

B. The department may grant a level three-B license to a candidate who does not meet the other requirements and qualifications of that license if the candidate has a

school administrator license issued in another state and has worked as a school administrator in good standing for at least six years." _____

Senate Bill 593, aa

Approved March 27, 2019

LAWS 2019, CHAPTER 81

AN ACT

RELATING TO STATE AUTHORITY UNDER THE NATIONAL LABOR RELATIONS ACT; ALLOWING UNION MEMBERSHIP TO BE REQUIRED AS A CONDITION OF EMPLOYMENT; ESTABLISHING THAT THE STATE HAS EXCLUSIVE JURISDICTION TO PROHIBIT UNION SECURITY AGREEMENTS.

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

Chapter 81 Section 1 Laws 2019

SECTION 1. LABOR RELATIONS--UNION SECURITY AGREEMENTS.--

A. The purpose of this section is for the state to exercise the limited authority reserved to the states under Section 14(b) of the National Labor Relations Act.

B. An employer or labor organization anywhere in the state may execute and apply an agreement requiring membership in a labor organization as a condition of employment to the full extent allowed by federal law.

C. The state has exclusive jurisdiction to prohibit the negotiation, execution or application of agreements requiring membership in a labor organization as a condition of employment in New Mexico.

D. A city, county, home rule municipality or other political subdivision of the state shall not adopt nor continue in effect any ordinance, rule, regulation, resolution or statute that prohibits the negotiation, execution or application of agreements requiring membership in a labor organization as a condition of employment in New Mexico. _____

House Bill 85

Approved March 27, 2019

LAWS 2019, CHAPTER 82

AN ACT

RELATING TO THE STATE FAIR; REQUIRING THE STATE FAIR COMMISSION TO INCLUDE IN ITS BUDGET ANNUAL FUNDING FOR THE AFRICAN AMERICAN PERFORMING ARTS CENTER AND EXHIBIT HALL; CREATING AN ADVISORY COMMITTEE.

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

Chapter 82 Section 1 Laws 2019

SECTION 1. Section 16-6-4 NMSA 1978 (being Laws 1913, Chapter 46, Section 4, as amended) is amended to read:

"16-6-4. POWERS AND DUTIES OF COMMISSION--ANNUAL FAIR--EXHIBITS--PREMIUMS.--

A. The state fair commission shall have power and authority to hold annually on suitable grounds a state fair at which shall be exhibited livestock, poultry, vegetables, fruits, grains, grasses and other farm products, minerals, ores and other mining exhibits, mining machinery and farm implements and all other things that the commissioners or a majority thereof deem consonant with the purposes of a state fair for the purposes of advancing the agricultural, horticultural and stock raising, mining, mechanical and industrial pursuits of the state and shall have the care of its property and be entrusted with the entire direction of its business and its financial affairs consistent with the provisions of Sections 16-6-15 and 16-6-16 NMSA 1978.

B. The state fair commission or its designees, among other duties, shall:

(1) prepare, adopt, publish and enforce all necessary rules for the management of the New Mexico state fair and its meetings and exhibitions and for the guidance of its officers, employees and exhibitors;

(2) determine the duties, compensation and tenure of office of all of its officers and employees and may remove from office or discharge any person appointed or employed by it at will;

(3) have the power to appoint all necessary fairgrounds police to keep order on the grounds and in the buildings of the state fair. The fairgrounds police so appointed shall be vested with the same authority for such purposes as peace officers;

(4) have the power to charge entrance fees and admissions and lease stalls, stands and restaurant sites, give prizes and premiums, arrange entertainments and do all things that by the commission may be considered proper for the conduct of the state fair not otherwise prohibited by law;

(5) prohibit the sale or consumption of alcoholic beverages on the grounds of the state fair except in controlled access areas within the licensed premises;

(6) meet with the director of the alcohol and gaming division of the regulation and licensing department and other parties in interest to designate the controlled access areas on which the sale and consumption of alcoholic beverages may be permitted;

(7) annually request funding to support the operations and maintenance of the African American performing arts center and exhibit hall housed on the state fairgrounds; and

(8) provide staff to support the operations and maintenance of the African American performing arts center and exhibit hall.

C. As used in this section, "alcoholic beverages" means distilled or rectified spirits, potable alcohol, brandy, whiskey, rum, gin and aromatic bitters bearing the federal internal revenue strip stamps or any similar alcoholic beverage, including blended or fermented beverages, dilutions or mixtures of one or more of the foregoing containing more than one-half of one percent alcohol, but excluding medicinal bitters."

Chapter 82 Section 2 Laws 2019

SECTION 2. Section 16-6-15 NMSA 1978 (being Laws 1935, Chapter 69, Section 3, as amended) is amended to read:

"16-6-15. ADDITIONAL POWERS.--In addition to the powers that it may now have, the New Mexico state fair shall have power to:

A. acquire, by purchase, gift or the exercise of the right of eminent domain, and hold and dispose of real or personal property or rights or interests therein except as limited by Section 13-6-2.1 NMSA 1978, which provisions requiring state board of finance approval of certain actions are applicable to the state fair. The right of eminent

domain shall be exercised in the same manner as is provided for the exercise of such power by the state or any county, municipality or school district;

B. build, construct, improve, repair or maintain buildings, structures, improvements, grounds and equipment that may be required by or convenient for the purpose of operating a state fair;

C. acquire any project and to own, operate and maintain such project;

D. accept grants of money, materials or property of any kind from a federal agency upon such terms and conditions as the federal agency may impose;

E. borrow money and issue bonds and provide for the payment of the same and for the rights of the holders thereof; provided that the commission shall not issue bonds, negotiate loans or renegotiate loans without the prior approval of the state board of finance; and

F. perform all acts and do all things necessary or convenient to carry out the powers granted in Chapter 16, Article 6 NMSA 1978, or heretofore granted, to obtain loans or grants or both from any federal agency and to accomplish the purposes of that article and secure the benefits of the Recovery Act."

Chapter 82 Section 3 Laws 2019

SECTION 3. ADVISORY COMMITTEE CREATED--APPOINTMENTS-- STAGGERED TERMS OF MEMBERS--DUTIES.--

A. The "African American performing arts center advisory committee" is created and is administratively attached to the state fair commission.

B. The committee shall consist of five members, including:

(1) two members from the African American performing arts center foundation appointed by the executive director of the African American performing arts center and exhibit hall;

(2) one member from the cultural affairs department appointed by the governor;

(3) one member from the office on African American affairs appointed by the governor; and

(4) one community member who has knowledge of the academic, cultural and historical context of performance art within the African American experience appointed by the director of the Africana studies program at the university of New Mexico.

C. Staggered membership terms shall be established so that two members of the initial committee are appointed for two years, three members are appointed for three years and subsequent appointments of each member are for two-year terms.

D. Vacancies in an appointed member's term shall be filled for the remainder of the unexpired term in the same manner as the original appointment was made.

E. The committee shall annually elect a chair, vice chair and secretary from among its membership. A majority of the members constitutes a quorum for the conduct of business.

F. The committee shall meet at the call of the chair at least annually. Meetings of the committee shall be held in Albuquerque or at other sites within the state at the direction of the chair.

G. Members shall receive no compensation for serving on the committee but shall be paid per diem and mileage as provided for in the Per Diem and Mileage Act.

H. The committee shall make recommendations to the African American performing arts center foundation and the executive director and artistic director of the African American performing arts center and exhibit hall regarding staffing, operations, maintenance, programming and exhibitions of the African American performing arts center and exhibit hall.

I. As used in this section, "performance art" means any creative activity performed for an audience that uses an individual's voice, body or inanimate objects to convey an artistic expression, including live or recorded theatrical productions, movies, music, dance, puppetry and spoken word. _____

House Bill 158, aa

Approved March 27, 2019

LAWS 2019, CHAPTER 83

AN ACT

RELATING TO PUBLIC EMPLOYEES; AMENDING THE HAZARDOUS DUTY OFFICERS' EMPLOYER-EMPLOYEE RELATIONS ACT TO CLARIFY THAT THE COMPELLED STATEMENT OF AN OFFICER SHALL NOT BE RELEASED EXCEPT UPON COURT ORDER.

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

Chapter 83 Section 1 Laws 2019

SECTION 1. Section 10-7F-1 NMSA 1978 (being Laws 2010, Chapter 62, Section 1) is amended to read:

"10-7F-1. SHORT TITLE.--Chapter 10, Article 7F NMSA 1978 may be cited as the "Hazardous Duty Officers' Employer-Employee Relations Act"."

Chapter 83 Section 2 Laws 2019

SECTION 2. Section 10-7F-2 NMSA 1978 (being Laws 2010, Chapter 62, Section 2) is amended to read:

"10-7F-2. DEFINITIONS.--As used in the Hazardous Duty Officers' Employer-Employee Relations Act:

A. "compelled statement" means a statement provided by an officer to the officer's employer if the statement is compelled under threat of dismissal from employment or any other employment sanction;

B. "emergency medical technician" means an individual who has been licensed by the department of health as an emergency medical technician;

C. "firefighter" means an individual who is employed as a non-volunteer firefighter and who has taken the oath prescribed for firefighters;

D. "hazardous duty officer" or "officer" means an individual who is employed full time by the state or a political subdivision of the state as a firefighter, emergency medical technician or paramedic, provided that "hazardous duty officer" does not include an individual who has not completed the probationary period established by the individual's employer as a condition of employment; and

E. "paramedic" means an individual who has been licensed by the department of health as a paramedic."

Chapter 83 Section 3 Laws 2019

SECTION 3. Section 10-7F-3 NMSA 1978 (being Laws 2010, Chapter 62, Section 3) is amended to read:

"10-7F-3. INVESTIGATIONS OF HAZARDOUS DUTY OFFICERS--
REQUIREMENTS--LIMITATION.--

A. When a hazardous duty officer is under investigation by the officer's employer for alleged actions that could result in administrative sanctions being levied against the officer, any investigative interview of the officer shall be conducted only:

(1) upon the order of the officer's department director or the department director's designee;

(2) when the officer is on duty or during the officer's normal waking hours, unless the urgency of the investigation requires otherwise; and

(3) at the employer's facility, unless the urgency of the investigation requires otherwise.

B. Prior to commencement of an investigative interview:

(1) the officer shall be informed of the name and rank of the person in charge of the investigative interview and all other persons who will be present during the investigative interview;

(2) the officer shall be informed of the nature of the investigation, and the names of all known complainants shall be disclosed to the officer unless the chief administrator of the officer's employer determines that the identification of the complainant shall not be disclosed because it is necessary for the protection of an informant or because disclosure would jeopardize or compromise the integrity or security of the investigation; and

(3) a reasonable attempt shall be made to notify the officer's immediate superior of the pending investigative interview.

C. During an investigative interview, the following requirements shall be adhered to:

(1) at the commencement of the investigative interview, the officer shall be advised of all legal rights that the officer has with respect to the investigative interview;

(2) each investigative interview session shall not exceed two hours unless the parties mutually consent to continuation of the session;

(3) there shall not be more than one investigative interview session within a twenty-four-hour period, unless the parties mutually consent to additional sessions, provided that there shall be at least a one-hour rest period between the sessions;

(4) there shall not be more than two investigators at any given time;

(5) the officer shall be allowed to attend to physical necessities as they occur in the course of an investigative interview; and

(6) the officer shall not be subjected to offensive language or illegal coercion by an investigator in the course of an investigative interview.

D. An investigative interview of an officer shall be recorded, and the complete investigative interview shall be published as a transcript; provided that any recesses called during the investigative interview shall be noted in the transcript. An accurate copy of the transcript or tape shall be provided to the officer, upon written request, no later than fifteen working days after the investigation has been completed.

E. The compelled statement of an officer shall not be released by the employer except upon court order." _____

House Bill 208

Approved March 27, 2019

LAWS 2019, CHAPTER 84

AN ACT

RELATING TO INSURANCE; REQUIRING ORGANIZATIONS THAT PUBLISH INFORMATION REGARDING COMMUNITY FIRE PROTECTION OR BUILDING CODE INFORMATION TO PROVIDE NOTICE OF UNFAVORABLE CHANGES TO

THE OFFICE OF SUPERINTENDENT OF INSURANCE; REQUIRING THAT INSURERS PROVIDE NOTICE TO CUSTOMERS ADVERSELY AFFECTED.

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

Chapter 84 Section 1 Laws 2019

SECTION 1. A new section of Chapter 59A, Article 18 NMSA 1978 is enacted to read:

"NOTICE.--

A. An organization that publishes information regarding the effectiveness of community fire protection or building code information, including public protection classifications, community grading, building code effectiveness classifications or fire suppression rating schedules for use by residential property insurers in this state, shall provide notice of any unfavorable change in a community's classification to the office of superintendent of insurance.

B. Upon receiving notice of an unfavorable change in a community's public protection classification, community grading, building code effectiveness classification or fire suppression rating schedule, the office of superintendent of insurance shall issue a bulletin notifying insurers of the change and the communities affected and instructing insurers to notify customers who may be adversely affected by the unfavorable change within ninety days of the publication of the bulletin."

Chapter 84 Section 2 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2020. _____

HSEIC/House Bill 311

Approved March 27, 2019

LAWS 2019, CHAPTER 85

AN ACT

RELATING TO HOUSING; AMENDING SECTIONS OF THE REGIONAL HOUSING LAW; CHANGING THE REQUIRED COUNTY OF ORIGIN DISTRIBUTION FOR REGIONAL HOUSING AUTHORITY BOARD COMMISSIONERS; REMOVING STATE BOARD OF FINANCE APPROVAL FOR CREATION OF NONPROFIT CORPORATIONS AND THEIR ARTICLES OF INCORPORATION AND BYLAWS PRIOR TO APPROVAL BY THE NEW MEXICO MORTGAGE FINANCE AUTHORITY; CLARIFYING THE OWNERSHIP OF PROPERTY BY REGIONAL HOUSING AUTHORITIES.

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

Chapter 85 Section 1 Laws 2019

SECTION 1. Section 11-3A-6 NMSA 1978 (being Laws 1994, Chapter 132, Section 6, as amended) is amended to read:

"11-3A-6. POWERS OF REGIONAL HOUSING AUTHORITY IN BOARD OF COMMISSIONERS--APPOINTMENT OF BOARD OF REGIONAL HOUSING AUTHORITIES--TERMS.--

A. The powers of each regional housing authority shall be vested in its board of commissioners as the board may be constituted, from time to time. The board of commissioners of the regional housing authority for each of the three regions shall be appointed by the governor and consist of at least seven members who shall be residents of the designated area of the regional housing authority; provided that no more than two members shall be residents of the same county. Appointments shall be for terms of four years and shall be made so that the terms of not more than four commissioners on each board of commissioners expire on July 1 of each year. Vacancies shall be filled for the unexpired term. Commissioners shall serve until their successors have been appointed.

B. Members of the board of commissioners of a regional housing authority shall elect an executive committee consisting of a chair, vice chair, treasurer, secretary and one other member of the board to function and meet on a monthly basis as an executive committee. The executive committee shall have the authority to act on behalf of the board of commissioners of the regional housing authority as needed. The executive committee shall submit a report of actions to the full board of commissioners, which shall meet on a quarterly basis.

C. Members of the board of commissioners of a regional housing authority may receive per diem and mileage as provided in the Per Diem and Mileage Act but shall receive no other compensation, perquisite or allowance. A majority of the appointed

commissioners of a board of commissioners shall constitute a quorum of the board for the purpose of conducting its business and exercising its powers and for all other purposes. Action may be taken by a regional housing authority upon a vote of a majority of the commissioners present. Each board of commissioners shall organize itself at its annual meeting each year. A board of commissioners may employ an executive director, subject to approval by the New Mexico mortgage finance authority. With delegated authority from the board of commissioners, the executive director may hire or terminate, according to the procurement and personnel policies and procedures of the regional housing authority, any technical experts, officers, attorneys, agents or employees, permanent or temporary, as the regional housing authority may require.

D. The threshold requirements for commissioners of boards of regional housing authorities are that commissioners have expertise and experience in housing construction, real estate, architecture, law, banking, housing finance, business, property management, accounting, residential development, public housing programs, community development, social services or health care. The requirements set forth in this section shall not apply to commissioners serving pursuant to requirements of the federal department of housing and urban development.

E. Commissioners are expected to attend all meetings of the board of commissioners of the regional housing authority, and more than three unexcused absences may be grounds for dismissal from the board. All recommendations for appointments of commissioners shall be forwarded to and reviewed by the New Mexico mortgage finance authority prior to recommendation to the governor."

Chapter 85 Section 2 Laws 2019

SECTION 2. Section 11-3A-9 NMSA 1978 (being Laws 1994, Chapter 132, Section 9, as amended) is amended to read:

"11-3A-9. NONPROFIT CORPORATIONS.--Every regional housing authority, in addition to other powers conferred by the Regional Housing Law, shall have, if authorized by resolution of its board of commissioners, the power to create nonprofit corporations to carry out the powers and duties set forth in Section 11-3A-7 NMSA 1978. The articles of incorporation and bylaws, and any subsequent changes, shall be recommended for approval by the New Mexico mortgage finance authority. Such nonprofit corporations shall be subject to all of the duties and limitations imposed on the regional housing authority and its board of commissioners."

Chapter 85 Section 3 Laws 2019

SECTION 3. Section 11-3A-31 NMSA 1978 (being Laws 2009, Chapter 48, Section 20) is amended to read:

"11-3A-31. TRANSITIONAL PROVISIONS--COMMISSIONERS--CONTRACTS AND AGREEMENTS.--

A. Members of boards of commissioners of regional housing authorities appointed prior to March 31, 2009 shall continue to serve as members of boards of commissioners until their terms expire or their successors are appointed and qualified pursuant to the provisions of Laws 2009, Chapter 48.

B. All contracts and agreements of regional housing authorities in effect on March 31, 2009 shall continue in effect.

C. Property or an interest in property owned by a regional housing authority prior to the consolidation of regional housing authorities pursuant to Laws 2009, Chapter 48 shall be deemed to be owned by the regional housing authority whose region pursuant to Section 11-3A-4 NMSA 1978 includes the county where the property is located."_____

House Bill 505

Approved March 27, 2019

LAWS 2019, CHAPTER 86

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE; ENACTING THE STATE ETHICS COMMISSION ACT; PROVIDING FOR AN EXECUTIVE DIRECTOR; PROVIDING FOR ANNUAL ETHICS TRAINING AND THE PUBLICATION OF ETHICS GUIDES; REQUIRING THE DEVELOPMENT OF A PROPOSED ETHICS CODE; PROVIDING FOR THE ISSUANCE OF ADVISORY OPINIONS; PROVIDING FOR THE FILING OF COMPLAINTS AGAINST CERTAIN PUBLIC OFFICIALS, PUBLIC EMPLOYEES, CANDIDATES AND PERSONS SUBJECT TO THE CAMPAIGN REPORTING ACT, GOVERNMENT CONTRACTORS, LOBBYISTS AND OTHERS FOR ETHICS VIOLATIONS; PROVIDING FOR INVESTIGATIONS AND HEARINGS; GRANTING SUBPOENA POWERS; PROHIBITING RETALIATION; PROHIBITING CERTAIN CANDIDATES AND STATE OFFICERS FROM SOLICITING CONTRIBUTIONS DURING A PROHIBITED PERIOD; PROVIDING PENALTIES.

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

Chapter 86 Section 1 Laws 2019

SECTION 1. SHORT TITLE.--Sections 1 through 16 of this act may be cited as the "State Ethics Commission Act".

Chapter 86 Section 2 Laws 2019

SECTION 2. DEFINITIONS.--As used in the State Ethics Commission Act:

- A. "commission" means the state ethics commission;
- B. "commissioner" means a member of the commission;
- C. "complainant" means a person who files a verified complaint with the commission;
- D. "complaint" means a complaint that has been signed by the complainant and the complainant attests under oath and subject to penalty of perjury before a notary public that the information in the complaint, and any attachments provided with the complaint, are true and accurate;
- E. "director" means the executive director of the commission;
- F. "government contractor" means a person who has a contract with a public agency or who has submitted a competitive sealed proposal or competitive sealed bid for a contract with a public agency;
- G. "legislative body" means the house of representatives or the senate;
- H. "lobbyist" means a person who is required to register as a lobbyist pursuant to the provisions of the Lobbyist Regulation Act;
- I. "political party" means a political party that has been qualified in accordance with the provisions of the Election Code;
- J. "public agency" means any department, commission, council, board, committee, agency or institution of the executive or legislative branch of government of the state or any instrumentality of the state, including the New Mexico mortgage finance authority, the New Mexico finance authority, the New Mexico exposition center

authority, the New Mexico hospital equipment loan council and the New Mexico renewable energy transmission authority;

K. "public employee" means an employee of a public agency;

L. "public official" means a person elected to an office of the executive or legislative branch of the state or a person appointed to a public agency; and

M. "respondent" means a person against whom a complaint has been filed with or by the commission.

Chapter 86 Section 3 Laws 2019

SECTION 3. STATE ETHICS COMMISSION CREATED--MEMBERSHIP--TERMS--REMOVAL.--

A. The "state ethics commission", as created in Article 5, Section 17 of the constitution of New Mexico, is composed of seven commissioners, appointed as follows:

(1) one commissioner appointed by the speaker of the house of representatives;

(2) one commissioner appointed by the minority floor leader of the house of representatives;

(3) one commissioner appointed by the president pro tempore of the senate;

(4) one commissioner appointed by the minority floor leader of the senate;

(5) two commissioners appointed by the four legislatively appointed commissioners; and

(6) one commissioner appointed by the governor, who shall be a retired judge and who shall chair the commission.

B. No more than three members of the commission may be members of the same political party.

C. The appointing authorities shall give due regard to the cultural diversity of the state and to achieving geographical representation from across the state. Each appointing authority shall file letters of appointment with the secretary of state.

D. Commissioners shall be appointed for staggered terms of four years beginning July 1, 2019. The initial commissioners appointed by the speaker of the house of representatives and senate minority floor leader shall serve an initial term of four years; members appointed by the president pro tempore of the senate and house minority floor leader shall serve an initial term of two years; members appointed by the legislatively appointed members shall serve an initial term of one year; and the member appointed by the governor shall serve an initial term of three years. Members shall serve until their successors are appointed and qualified.

E. A person shall not serve as a commissioner for more than two consecutive four-year terms.

F. When any member of the commission dies, resigns or no longer has the qualifications required for the commissioner's original selection, the commissioner's position on the commission becomes vacant. The director shall notify the original appointing authority of the vacant position. The original appointing authority shall select a successor in the same manner as the original selection was made. A vacancy shall be filled by appointment by the original appointing authority no later than sixty days following notification of a vacancy for the remainder of the unexpired term. A vacancy on the commission shall be filled by appointment by the original appointing authority for the remainder of the unexpired term.

G. The commission shall meet as necessary to carry out its duties pursuant to the State Ethics Commission Act. Commissioners are entitled to receive per diem and mileage as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

H. Four commissioners consisting of two members of the largest political party in the state and two members of the second largest political party in the state constitute a quorum for the transaction of business. No action shall be taken by the commission unless at least four members, including at least two members of the largest political party in the state and two members of the second largest political party in the state, concur.

I. A commissioner may be removed only for incompetence, neglect of duty or malfeasance in office. A proceeding for the removal of a commissioner may be commenced by the commission or by the attorney general upon the request of the commission. A commissioner shall be given notice of hearing and an opportunity to be

heard before the commissioner is removed. The supreme court has original jurisdiction over proceedings to remove commissioners, and its decision shall be final. A commissioner is also liable to impeachment pursuant to Article 4, Section 36 of the constitution of New Mexico.

Chapter 86 Section 4 Laws 2019

SECTION 4. COMMISSIONERS--QUALIFICATIONS--LIMITATIONS.--

A. To qualify for appointment to the commission, a person shall:

- (1) be a qualified elector of New Mexico;
- (2) not have changed party registration in the five years next preceding the member's appointment in such a manner that the member's prior party registration would make the member ineligible to serve on the commission;
- (3) not continue to serve as a commissioner if the member changes party registration after the date of appointment in such a manner as to make the member ineligible to serve on the commission; and
- (4) not be, or within the two years prior to appointment shall not have been, in New Mexico, any of the following:
 - (a) a public official;
 - (b) a public employee;
 - (c) a candidate;
 - (d) a lobbyist;
 - (e) a government contractor; or
 - (f) an office holder in a political party at the state or federal level.

B. Before entering upon the duties of the office of commissioner, each commissioner shall review the State Ethics Commission Act and other laws and rules pertaining to the commission's responsibilities and to ethics and governmental conduct in New Mexico. Each commissioner shall take the oath of office as provided in Article 20, Section 1 of the constitution of New Mexico.

C. For a period of one calendar year following a commissioner's tenure or following the resignation or removal of a commissioner, the commissioner shall not:

(1) represent a respondent, unless appearing on the commissioner's own behalf; or

(2) accept employment or otherwise provide services to a respondent unless the commissioner accepted employment or provided services prior to the filing of a complaint against the respondent.

D. During a commissioner's tenure, a commissioner shall not hold another public office or be:

(1) a public employee;

(2) a candidate;

(3) a lobbyist;

(4) a government contractor; or

(5) an office holder in a political party at the state or federal level.

E. A commissioner who changes political party affiliation in violation of the provisions of Subsection A of this section or who chooses to seek or hold an office in violation of Subsection D of this section shall resign from the commission or be deemed to have resigned.

Chapter 86 Section 5 Laws 2019

SECTION 5. COMMISSION--DUTIES AND POWERS.--

A. The commission shall:

(1) employ an executive director, who shall be an attorney, upon approval of at least five commissioners;

(2) develop, adopt and promulgate the rules necessary for it to implement and administer the provisions of the State Ethics Commission Act; and

(3) establish qualifications for hearing officers and rules for hearing procedures and appeals.

B. Beginning January 1, 2020, the commission shall:

(1) receive and investigate complaints alleging ethics violations against public officials, public employees, candidates, persons subject to the Campaign Reporting Act, government contractors, lobbyists and lobbyists' employers;

(2) hold hearings in appropriate cases to determine whether there has been an ethics violation;

(3) compile, index, maintain and provide public access to all advisory opinions and reports required to be made public pursuant to the State Ethics Commission Act;

(4) draft a proposed code of ethics for public officials and public employees and submit the proposed code to each elected public official and public agency for adoption; and

(5) submit an annual report of its activities, including any recommendations regarding state ethics laws or the scope of its powers and duties, in December of each year to the legislature and the governor.

C. Beginning January 1, 2020, the commission may:

(1) by approval of at least five commissioners, initiate complaints alleging ethics violations against a public official, public employee, candidate, person subject to the Campaign Reporting Act, government contractor, lobbyist or lobbyist's employer;

(2) petition a district court to issue subpoenas under seal requiring the attendance of witnesses and the production of books, records, documents or other evidence relevant or material to an investigation;

(3) issue advisory opinions in accordance with the provisions of the State Ethics Commission Act;

(4) compile, adopt, publish and make available to all public officials, public employees, government contractors and lobbyists an ethics guide that clearly and plainly explains the ethics requirements set forth in state law, including those that relate to conducting business with the state and public agencies; and

(5) offer annual ethics training to public officials, public employees, government contractors, lobbyists and other interested persons.

Chapter 86 Section 6 Laws 2019

SECTION 6. EXECUTIVE DIRECTOR--APPOINTMENT--DUTIES AND POWERS.--

A. The commission shall appoint an executive director who shall be knowledgeable about state ethics laws and who shall be appointed without reference to party affiliation and solely on the grounds of fitness to perform the duties of the office. The director shall hold office from the date of appointment until such time as the director is removed by the commission.

B. The director shall:

(1) take the oath of office required by Article 20, Section 1 of the constitution of New Mexico;

(2) hire a general counsel who may serve for no more than five years, unless rehired for up to an additional five years;

(3) hire additional personnel as may be necessary to carry out the duties of the commission;

(4) prepare an annual budget for the commission and submit it to the commission for approval;

(5) make recommendations to the commission of proposed rules or legislative changes needed to provide better administration of the State Ethics Commission Act;

(6) perform other duties as assigned by the commission; and

(7) be required to reapply for the position after six years of service and may serve as director for no more than twelve years.

C. The director may:

(1) enter into contracts and agreements on behalf of the commission;
and

(2) have the general counsel administer oaths and take depositions subject to the Rules of Civil Procedure for the District Courts.

D. For a period of one calendar year immediately following termination of the director's employment with the commission, the director shall not:

(1) represent a respondent, unless appearing on the director's own behalf; or

(2) accept employment or otherwise provide services to a respondent, unless the director accepted employment or provided services prior to the filing of a complaint against the respondent.

Chapter 86 Section 7 Laws 2019

SECTION 7. RECUSAL AND DISQUALIFICATION OF A COMMISSIONER.--

A. A commissioner may recuse from a particular matter.

B. A commissioner shall recuse from any matter in which the commissioner is unable to make a fair and impartial decision or in which there is a reasonable doubt about whether the commissioner can make a fair and impartial decision, including:

(1) when the commissioner has a personal bias or prejudice concerning a party to the proceeding or has prejudged a disputed evidentiary fact involved in a proceeding prior to a hearing. For the purposes of this paragraph, "personal bias or prejudice" means a predisposition toward a person based on a previous or ongoing relationship that renders the commissioner unable to exercise the commissioner's functions impartially;

(2) when the commissioner has a pecuniary interest in the outcome of the matter; or

(3) when in previous employment the commissioner served as an attorney, adviser, consultant or witness in the matter in controversy.

C. A party to the proceeding may request the recusal of a commissioner and shall provide the commission with the grounds for the request. If the commissioner declines to recuse upon request of a party to the proceeding, the commissioner shall provide a full explanation in support of the refusal to recuse.

D. A party may appeal a commissioner's refusal to recuse, or if the propriety of a commissioner's participation in a particular matter is otherwise questioned, the issue shall be decided by a majority of the other commissioners present and voting.

E. A disqualified commissioner shall not participate in any proceedings with reference to the matter from which the commissioner is disqualified or recused, and the commissioner shall be excused from that portion of any meeting at which the matter is discussed.

F. Minutes of commission meetings shall record the name of any commissioner not voting on a matter by reason of disqualification or recusal.

G. If two or more commissioners have recused themselves or are disqualified from participating in a proceeding, the remaining commissioners shall appoint temporary commissioners to participate in that proceeding. Appointments of temporary commissioners shall be made by a majority vote of the remaining commissioners in accordance with the political affiliation and geographical representation requirements and the qualifications set forth in the State Ethics Commission Act.

H. The commission shall promulgate rules for the recusal and disqualification of commissioners, for an appeal of a recusal decision and for the appointment of temporary commissioners.

Chapter 86 Section 8 Laws 2019

SECTION 8. ADVISORY OPINIONS.--

A. The commission may issue advisory opinions on matters related to ethics. Advisory opinions shall:

(1) be requested in writing by a public official, public employee, candidate, person subject to the Campaign Reporting Act, government contractor, lobbyist or lobbyist's employer;

(2) identify a specific set of circumstances involving an ethics issue;

(3) be issued within sixty days of receipt of the request unless the commission notifies the requester of a delay in issuance and continues to notify the requester every thirty days until the advisory opinion is issued; and

(4) be published after omitting the requester's name and identifying information.

B. A request for an advisory opinion shall be confidential and not subject to the provisions of the Inspection of Public Records Act.

C. Unless amended or revoked, an advisory opinion shall be binding on the commission in any subsequent commission proceedings concerning a person who acted in good faith and in reasonable reliance on the advisory opinion.

Chapter 86 Section 9 Laws 2019

SECTION 9. COMMISSION JURISDICTION--COMPLIANCE PROVISIONS.--

A. The commission has jurisdiction to enforce the applicable civil compliance provisions for public officials, public employees, candidates, persons subject to the Campaign Reporting Act, government contractors, lobbyists and lobbyists' employers of:

- (1) the Campaign Reporting Act;
- (2) the Financial Disclosure Act;
- (3) the Gift Act;
- (4) the Lobbyist Regulation Act;
- (5) the Voter Action Act;
- (6) the Governmental Conduct Act;
- (7) the Procurement Code;
- (8) the State Ethics Commission Act; and
- (9) Article 9, Section 14 of the constitution of New Mexico.

B. All complaints filed with a public agency regarding the statutes listed in Subsection A of this section shall be forwarded to the commission.

C. The commission may choose to act on some or all aspects of a complaint and forward other aspects of a complaint to another state or federal agency with jurisdiction over the matter in accordance with Subsection E of this section.

D. If the commission decides not to act on a complaint, whether the complaint was filed with the commission or forwarded from another public agency, or decides only to act on part of a complaint, the commission shall promptly forward the complaint, or any part of a complaint on which it does not wish to act, to the public agency that has appropriate jurisdiction within ten days of the decision. The complainant and

respondent shall be notified in writing when the complainant's request has been forwarded to another agency unless otherwise provided pursuant to Subsection H of Section 10 of the State Ethics Commission Act.

E. The commission may share jurisdiction with other public agencies having authority to act on a complaint or any aspect of a complaint. Such shared jurisdiction shall be formalized through an agreement entered into by all participating agencies involved with the complaint and the director. The commission may also investigate a complaint referred to the commission by the legislature, or a legislative committee, in accordance with an agreement entered into pursuant to policies of the New Mexico legislative council or rules of the house of representatives or senate.

F. The commission may file a court action to enforce the civil compliance provisions of an act listed in Subsection A of this section. The court action shall be filed in the district court in the county where the respondent resides.

Chapter 86 Section 10 Laws 2019

SECTION 10. COMPLAINTS--INVESTIGATIONS--SUBPOENAS.--

A. A complaint of an alleged ethics violation committed by a public official, public employee, candidate, person subject to the Campaign Reporting Act, government contractor, lobbyist, lobbyist's employer or a restricted donor subject to the Gift Act may be filed with the commission by a person who has actual knowledge of the alleged ethics violation.

B. The complainant shall set forth in detail the specific charges against the respondent and the factual allegations that support the charges and shall sign the complaint under penalty of false statement. The complainant shall submit any evidence the complainant has that supports the complaint. Evidence may include documents, records and names of witnesses. The commission shall prescribe the forms on which complaints are to be filed. The complaint form shall be signed and sworn by the complainant and notarized.

C. Except as provided in Subsection H of this section, the respondent shall be notified within seven days of the filing of the complaint and offered an opportunity to file a response on the merits of the complaint.

D. The director shall determine if the complaint is subject to referral to another state agency pursuant to an agreement or outside the jurisdiction of the commission, and if so, promptly refer the complaint to the appropriate agency. If the director

determines that the complaint is within the commission's jurisdiction, the director shall have the general counsel initiate an investigation.

E. The general counsel shall conduct an investigation to determine whether the complaint is frivolous or unsubstantiated. If the general counsel determines that the complaint is frivolous or unsubstantiated, the complaint shall be dismissed, and the complainant and respondent shall be notified in writing of the decision and reasons for the dismissal. The commission shall not make public a complaint that has been dismissed pursuant to this subsection or the reasons for the dismissal.

F. If the general counsel and the respondent reach a settlement on the matters of the complaint, the settlement shall be submitted to the commission for its approval, and if the matter has been resolved to the satisfaction of the commission, the complaint and terms of the settlement shall be subject to public disclosure.

G. If the general counsel determines that there is probable cause, the director shall promptly notify the respondent of the finding of probable cause and of the specific allegations in the complaint that are being investigated and that a public hearing will be set. If the finding of probable cause involves a discriminatory practice or actions by the respondent against the complainant, no settlement agreement shall be reached without prior consultation with the complainant. In any case, the notification, complaint, specific allegations being investigated and any response to the complaint shall be made public thirty days following notice to the respondent.

H. Notwithstanding the provisions of Subsections C and G of this section, the director may delay notifying a respondent and complainant and releasing to the public the complaint and related information required by Subsection G of this section if it is deemed necessary to protect the integrity of a criminal investigation. A decision whether to delay notifying a respondent shall be taken by a majority vote of the commission and shall be documented in writing with reasonable specificity.

I. As part of an investigation, the general counsel may administer oaths, interview witnesses and examine books, records, documents and other evidence reasonably related to the complaint. All testimony in an investigation shall be under oath, and the respondent may be represented by legal counsel. If the general counsel determines that a subpoena is necessary to obtain the testimony of a person or the production of books, records, documents or other evidence, the director shall request that the commission petition a district court to issue a subpoena.

J. The commission may petition the court for a subpoena for the attendance and examination of witnesses or for the production of books, records, documents or other evidence reasonably related to an investigation. If a person neglects or refuses

to comply with a subpoena, the commission may apply to a district court for an order enforcing the subpoena and compelling compliance. All proceedings in the district court prior to the complaint being made public pursuant to Subsection G of this section, or upon entry of a settlement agreement, shall be sealed. A case is automatically unsealed upon notice by the commission to the court that the commission has made the complaint public. No later than July 1 of each even-numbered year, the chief justice of the supreme court shall appoint an active or pro tempore district judge to consider the issuance and enforcement of subpoenas provided for in this section. The appointment shall end on June 30 of the next even-numbered year after appointment.

K. A public official or state public employee who is a respondent who is subject to a complaint alleging a violation made in the performance of the respondent's duties shall be entitled to representation by the risk management division of the general services department.

Chapter 86 Section 11 Laws 2019

SECTION 11. STATUS OF INVESTIGATION--REPORTS TO COMMISSION.--

A. If a hearing has not been scheduled concerning the disposition of a complaint within ninety days after the complaint is received, the director shall report to the commission on the status of the investigation. The commission may dismiss the complaint or instruct the director to continue the investigation of the complaint. Unless the commission dismisses the complaint, the director shall report to the commission every ninety days thereafter on the status of the investigation.

B. Upon dismissal of a complaint or a decision to continue an investigation of a complaint, the commission shall notify the complainant and respondent in writing of its action. If the commission has not notified a respondent pursuant to the provisions of Subsection G of Section 10 of the State Ethics Commission Act, the commission shall vote on whether to notify the respondent. A decision whether to continue to delay notifying the respondent shall be taken by a majority vote of a quorum of the commission and shall be documented in writing with reasonable specificity.

Chapter 86 Section 12 Laws 2019

SECTION 12. INVESTIGATION REPORT--COMMISSION HEARINGS-- DECISIONS AND REASONS GIVEN--DISCLOSURE OF AN ETHICS VIOLATION.--

A. Upon receipt of the general counsel's recommendation, the commission or hearing officer shall:

(1) dismiss a complaint and notify the complainant and the respondent of the dismissal; or

(2) set a public hearing, as soon as practicable.

B. At any time before or during a hearing provided for in Subsection A of this section, the hearing officer may, at a public meeting, approve a disposition of a complaint agreed to by the general counsel and the respondent, as approved by the commission.

C. The hearing provided for in Subsection A of this section shall be pursuant to the rules of evidence that govern proceedings in the state's courts and procedures established by the commission. An audio recording shall be made of the hearing. The respondent may be represented by counsel. The parties may present evidence and testimony, request the director to compel the presence of witnesses and examine and cross-examine witnesses.

D. The hearing officer shall issue a written decision that shall include the reasons for the decision. If the hearing officer finds by a preponderance of the evidence that the respondent's conduct constituted a violation, the decision may include recommendations for disciplinary action against the respondent, and the hearing officer may impose any fines provided for by law. A finding of fraudulent or willful misconduct shall require clear and convincing evidence.

E. The complainant or respondent may appeal a decision of the hearing officer within thirty days of the decision to the full commission, which shall hear the matter within sixty days of notice of the appeal and issue its decision within 180 days.

F. The commission shall publicly disclose a decision, including a dismissal following a finding of probable cause or the terms of a settlement, issued pursuant to this section. The commission shall provide the decision to the complainant, the respondent and the:

(1) house of representatives if the respondent is a public official who is subject to impeachment;

(2) appropriate legislative body if the respondent is a member of the legislature;

(3) respondent's appointing authority if the respondent is an appointed public official;

(4) appropriate public agency if the respondent is a public employee;

(5) public agency with which the respondent has a government contract if the respondent is a government contractor; and

(6) secretary of state and the respondent's employer, if any, if the respondent is a lobbyist.

G. The commission shall produce a quarterly report subject to public inspection containing the following information:

(1) the number of complaints filed with and referred to the commission;

(2) the disposition of the complaints; and

(3) the type of violation alleged in the complaints.

Chapter 86 Section 13 Laws 2019

SECTION 13. CONFIDENTIALITY OF RECORDS--PENALTY.--

A. A decision that a respondent's conduct constituted a violation, and the terms of a settlement approved by the commission, are public records. Pleadings, motions, briefs and other documents or information related to the decision are public records, except for information that is confidential or protected pursuant to attorney-client privilege, provider-patient privilege or state or federal law.

B. If a complaint is determined to be frivolous, unsubstantiated or outside the jurisdiction of the commission, the complaint shall not be made public by the commission; provided that the commission shall not prohibit the complainant or respondent from releasing the commission's decision or other information concerning the complaint.

C. Except as otherwise provided in the acts listed in Section 9 of the State Ethics Commission Act, all complaints, reports, files, records and communications collected or generated by the commission, hearing officer, general counsel or director that pertain to alleged violations shall not be disclosed by the commission or any commissioner, agent or employee of the commission, unless:

(1) disclosure is necessary to pursue an investigation by the commission;

(2) disclosure is required pursuant to the provisions of the State Ethics Commission Act; or

(3) they are offered into evidence by the commission, respondent or another party at a judicial, legislative or administrative proceeding, including a hearing before a hearing officer.

D. Information and reports containing information made confidential by law shall not be disclosed by the commission or its director, staff or contractors.

E. A commissioner, director, staff or contractor who knowingly discloses any confidential complaint, report, file, record or communication in violation of the State Ethics Commission Act is guilty of a petty misdemeanor.

Chapter 86 Section 14 Laws 2019

SECTION 14. CRIMINAL VIOLATIONS--REFERRAL.--If the commission finds at any time that a respondent's conduct amounts to a criminal violation, the director shall consult with the attorney general or an appropriate district attorney, and the commission may refer the matter to the attorney general or an appropriate district attorney. The commission may provide the attorney general or district attorney with all evidence collected during the commission's investigation. Nothing in this section prevents the commission from taking any action authorized by the State Ethics Commission Act or deciding to suspend an investigation pending resolution of any criminal charges.

Chapter 86 Section 15 Laws 2019

SECTION 15. TIME LIMITATIONS ON JURISDICTION.--

A. The commission shall not accept or consider a complaint unless the complaint is filed with the commission within the later of two years from the date:

(1) on which the alleged conduct occurred; or

(2) the alleged conduct could reasonably have been discovered.

B. The commission shall not adjudicate a complaint filed against a candidate, except pursuant to the Campaign Reporting Act or Voter Action Act, less than sixty days before a primary or general election. During that time period, the commission may dismiss complaints that are frivolous or unsubstantiated or refer complaints that are outside the jurisdiction of the commission.

C. A complainant shall be notified in writing of the provisions of this section and shall also be notified in writing that the complainant may refer allegations of criminal conduct to the attorney general or the appropriate district attorney.

D. When commission action on a complaint is suspended pursuant to the provisions of this section, the respondent shall promptly be notified that a complaint has been filed and of the specific allegations in the complaint and the specific violations charged in the complaint.

Chapter 86 Section 16 Laws 2019

SECTION 16. PROHIBITED ACTIONS.--

A. A person shall not take or threaten to take any retaliatory, disciplinary or other adverse action against another person who in good faith:

(1) files a verified complaint with the commission that alleges a violation;
or

(2) provides testimony, records, documents or other information to the commission during an investigation or at a hearing.

B. A complainant and a respondent shall not communicate ex parte with any hearing officer, commissioner or other person involved in a determination of the complaint.

C. Nothing in the State Ethics Commission Act precludes civil or criminal actions for libel or slander or other civil or criminal actions against a person who files a false claim.

Chapter 86 Section 17 Laws 2019

SECTION 17. Section 1-19-32 NMSA 1978 (being Laws 1979, Chapter 360, Section 8, as amended) is amended to read:

"1-19-32. INSPECTION OF PUBLIC RECORDS.--

A. Each of the following documents is a public record open to public inspection during regular office hours in the office in which the document was filed or from which the document was issued:

(1) a statement of no activity;

- (2) a report of expenditures and contributions;
- (3) an advisory opinion issued by the state ethics commission; except for the name of the person who requested the opinion;
- (4) a document specified as a public record in the Campaign Reporting Act; and
- (5) an arbitration decision issued by an arbitration panel and filed with the secretary of state or state ethics commission.

B. Each public record described in Subsection A of this section shall be retained by the state for five years and may be destroyed five years after the date of filing unless a legal action or prosecution is pending that requires the preservation of the public record.

C. The secretary of state shall provide for electronic access to reports of expenditures and contributions and statements of no activity submitted electronically by reporting individuals. Electronic access shall include access via the internet and shall be in an easily searchable format."

Chapter 86 Section 18 Laws 2019

SECTION 18. Section 1-19-34.1 NMSA 1978 (being Laws 1993, Chapter 46, Section 12, as amended) is amended to read:

"1-19-34.1. LEGISLATIVE SESSION FUNDRAISING PROHIBITION.--

A. It is unlawful during the prohibited period for a state legislator, the attorney general, the secretary of state, the state treasurer, the commissioner of public lands or the state auditor or a candidate for state legislator, attorney general, secretary of state, state treasurer, commissioner of public lands or state auditor, or any agent on behalf of the attorney general, the secretary of state, the state treasurer, the commissioner of public lands or the state auditor or a candidate for attorney general, the secretary of state, state treasurer, commissioner of public lands or state auditor, to knowingly solicit a contribution governed by the Campaign Reporting Act. For purposes of this subsection, "prohibited period" means that period beginning January 1 prior to any regular session of the legislature or, in the case of a special session, after the proclamation has been issued, and ending on adjournment of the regular or special session.

B. It is unlawful during the prohibited period for the governor or the lieutenant governor, or any agent on the governor's or the lieutenant governor's behalf, to knowingly solicit a contribution governed by the Campaign Reporting Act. For purposes of this subsection, "prohibited period" means that period beginning January 1 prior to any regular session of the legislature or, in the case of a special session, after the proclamation has been issued, and ending on the twentieth day following the adjournment of the regular or special session."

Chapter 86 Section 19 Laws 2019

SECTION 19. A new section of the Campaign Reporting Act is enacted to read:

"STATE ETHICS COMMISSION--JURISDICTION.--

A. On and after January 1, 2020:

(1) the state ethics commission shall have jurisdiction to investigate and adjudicate a complaint alleging a civil violation of a provision of the Campaign Reporting Act in accordance with the provisions of that act; and

(2) the state ethics commission shall share jurisdiction to investigate and adjudicate complaints, or any aspect of a complaint, with the secretary of state as formalized through an agreement. The secretary of state shall forward complaints it receives alleging violations of the Campaign Reporting Act to the state ethics commission in accordance with the agreement.

B. The state ethics commission and the secretary of state shall make recommendations to the first session of the fifty-fifth legislature on any changes to the Campaign Reporting Act necessary for the efficient administration and enforcement of the provisions of that act."

Chapter 86 Section 20 Laws 2019

SECTION 20. A new section of the Voter Action Act is enacted to read:

"STATE ETHICS COMMISSION--JURISDICTION.--

A. On and after January 1, 2020:

(1) the state ethics commission shall have jurisdiction to investigate and adjudicate a complaint alleging a civil violation of a provision of the Voter Action Act in accordance with the provisions of that act; and

(2) the state ethics commission shall share jurisdiction to investigate and adjudicate complaints, or any aspect of a complaint, with the secretary of state as formalized through an agreement. The secretary of state shall forward complaints it receives alleging violations of the Voter Action Act to the state ethics commission in accordance with the agreement.

B. The state ethics commission and the secretary of state shall make recommendations to the first session of the fifty-fifth legislature on any changes to the Voter Action Act necessary for the efficient administration and enforcement of the provisions of that act."

Chapter 86 Section 21 Laws 2019

SECTION 21. A new section of the Lobbyist Regulation Act is enacted to read:

"STATE ETHICS COMMISSION--JURISDICTION.--

A. On and after January 1, 2020:

(1) the state ethics commission shall have jurisdiction to investigate and adjudicate a complaint alleging a civil violation of a provision of the Lobbyist Regulation Act in accordance with the provisions of that act; and

(2) the state ethics commission shall share jurisdiction to investigate and adjudicate complaints, or any aspect of a complaint, with the secretary of state as formalized through an agreement. The secretary of state shall forward complaints it receives alleging violations of the Lobbyist Regulation Act to the state ethics commission in accordance with the agreement.

B. The state ethics commission and the secretary of state shall make recommendations to the first session of the fifty-fifth legislature on any changes to the Lobbyist Regulation Act necessary for the efficient administration and enforcement of the provisions of that act."

Chapter 86 Section 22 Laws 2019

SECTION 22. Section 2-15-8 NMSA 1978 (being Laws 1993, Chapter 46, Section 53) is amended to read:

"2-15-8. INTERIM LEGISLATIVE ETHICS COMMITTEE--DUTIES.--

A. The interim legislative ethics committee is authorized to:

(1) issue advisory opinions on the interpretation and enforcement of ethical principles as applied to the legislature and that are not under the jurisdiction of the state ethics commission;

(2) investigate complaints from another member of the legislature or a member of the public alleging misconduct of a legislator;

(3) investigate referrals made to the co-chairs of the New Mexico legislative council from the state ethics commission, the attorney general, the secretary of state or a district attorney;

(4) hire special counsel, arbitrators or independent hearing officers as necessary; and

(5) make recommendations to the respective houses regarding proposed sanctions for ethical misconduct.

B. The interim legislative ethics committee shall issue an annual report no later than the first day of May of each year regarding its activities during the previous twelve months, including a listing of the number of complaints received, the disposition of the complaints that have been resolved and the advisory opinions issued.

C. The interim legislative ethics committee shall maintain a web page on the legislature's website."

Chapter 86 Section 23 Laws 2019

SECTION 23. Section 10-16-11 NMSA 1978 (being Laws 1967, Chapter 306, Section 11, as amended) is amended to read:

"10-16-11. CODES OF CONDUCT.--

A. Each elected statewide executive branch public officer shall adopt a general code of conduct for employees subject to the officer's control. The New Mexico legislative council shall adopt a general code of conduct for all legislative branch employees. The general codes of conduct shall be based on the principles set forth in the Governmental Conduct Act.

B. Within thirty days after the general codes of conduct are adopted, they shall be given to and reviewed with all executive and legislative branch officers and employees. All new public officers and employees of the executive and legislative

branches shall review the employees' general code of conduct prior to or at the time of being hired.

C. The head of every executive and legislative agency and institution of the state may draft a separate code of conduct for all public officers and employees in that agency or institution. The separate agency code of conduct shall prescribe standards, in addition to those set forth in the Governmental Conduct Act and the general codes of conduct for all executive and legislative branch public officers and employees, that are peculiar and appropriate to the function and purpose for which the agency or institution was created or exists. The separate codes, upon approval of the responsible executive branch public officer for executive branch public officers and employees or the New Mexico legislative council for legislative branch employees, govern the conduct of the public officers and employees of that agency or institution and, except for those public officers and employees removable only by impeachment, shall, if violated, constitute cause for dismissal, demotion or suspension. The head of each executive and legislative branch agency shall adopt ongoing education programs to advise public officers and employees about the codes of conduct. All codes shall be filed with the state ethics commission and are open to public inspection.

D. Codes of conduct shall be reviewed at least once every four years. An amended code shall be filed as provided in Subsection C of this section.

E. All legislators shall attend a minimum of two hours of ethics continuing education and training developed and provided, in consultation with the director of the legislative council service, by the state ethics commission or a national state legislative organization of which the state is a member, approved by the director, biennially."

Chapter 86 Section 24 Laws 2019

SECTION 24. Section 10-16-13.1 NMSA 1978 (being Laws 1993, Chapter 46, Section 35) is amended to read:

"10-16-13.1. EDUCATION AND VOLUNTARY COMPLIANCE.--

A. The state ethics commission shall advise and seek to educate all persons required to perform duties under the Governmental Conduct Act of those duties. This includes advising all those persons at least annually of that act's ethical principles.

B. The state ethics commission shall seek first to ensure voluntary compliance with the provisions of the Governmental Conduct Act. A person who violates that act unintentionally or for good cause shall be given ten days' notice to correct the matter.

Referrals for civil enforcement of that act shall be pursued only after efforts to secure voluntary compliance with that act have failed."

Chapter 86 Section 25 Laws 2019

SECTION 25. Section 10-16-14 NMSA 1978 (being Laws 1967, Chapter 306, Section 14, as amended) is amended to read:

"10-16-14. ENFORCEMENT PROCEDURES.--

A. The state ethics commission may investigate suspected violations of the Governmental Conduct Act and forward its findings and evidence to the attorney general, district attorney or appropriate state agency or legislative body for enforcement. If a suspected violation involves the office of the state ethics commission, the attorney general may enforce that act. If a suspected violation involves the office of the attorney general, a district attorney may enforce that act.

B. Violation of the provisions of the Governmental Conduct Act by any legislator is grounds for discipline by the appropriate legislative body.

C. If the state ethics commission determines that there is sufficient cause to file a complaint to remove from office a public officer removable only by impeachment, the commission shall refer the matter to the house of representatives of the legislature. If within thirty days after the referral the house of representatives has neither formally declared that the charges contained in the complaint are not substantial nor instituted hearings on the complaint, the state ethics commission shall make public the nature of the charges but shall make clear that the merits of the charges have never been determined. Days during which the legislature is not in session shall not be included in determining the thirty-day period.

D. Violation of the provisions of the Governmental Conduct Act by any public officer or employee, other than those covered by Subsection C of this section, is grounds for discipline, including dismissal, demotion or suspension. Complaints against executive branch employees may be filed with the agency head and reviewed pursuant to the procedures provided in the Personnel Act. Complaints against legislative branch employees may be filed with and reviewed pursuant to procedures adopted by the New Mexico legislative council. Complaints against judicial branch employees may be filed and reviewed pursuant to the procedures provided in the judicial personnel rules. Complaints against employees subject to the State Ethics Commission Act may also be filed with the state ethics commission, which shall determine whether to forward a complaint to the appropriate state agency or investigate the complaint on its own.

E. Subject to the provisions of this section, the provisions of the Governmental Conduct Act may be enforced by the state ethics commission. Except as regards legislators, state employees or statewide elected officials, a district attorney in the county where a person who allegedly violated the provisions resides or where an alleged violation occurred may also enforce that act. Enforcement actions may include seeking civil injunctive or other appropriate orders."

Chapter 86 Section 26 Laws 2019

SECTION 26. Section 10-16-18 NMSA 1978 (being Laws 1995, Chapter 153, Section 23) is amended to read:

"10-16-18. ENFORCEMENT--CIVIL PENALTIES.--

A. If the state ethics commission reasonably believes that a person committed, or is about to commit, a violation of the Governmental Conduct Act, the state ethics commission may refer the matter to the attorney general or a district attorney for enforcement.

B. The state ethics commission may institute a civil action in district court or refer a matter to the attorney general or a district attorney to institute a civil action in district court if a violation has occurred or to prevent a violation of any provision of the Governmental Conduct Act. Relief may include a permanent or temporary injunction, a restraining order or any other appropriate order, including an order for a civil penalty of two hundred fifty dollars (\$250) for each violation not to exceed five thousand dollars (\$5,000)."

Chapter 86 Section 27 Laws 2019

SECTION 27. Section 10-16A-1 NMSA 1978 (being Laws 1993, Chapter 46, Section 39) is amended to read:

"10-16A-1. SHORT TITLE--FINANCIAL DISCLOSURE ACT.-- Chapter 10, Article 16A NMSA 1978 may be cited as the "Financial Disclosure Act"."

Chapter 86 Section 28 Laws 2019

SECTION 28. Section 10-16A-5 NMSA 1978 (being Laws 1993, Chapter 46, Section 43) is amended to read:

"10-16A-5. EDUCATION AND VOLUNTARY COMPLIANCE.--

A. The secretary of state shall advise and seek to educate all persons required to perform duties under the Financial Disclosure Act of those duties. This includes providing timely advance notice of the required financial disclosure statement and preparing forms that are clear and easy to complete.

B. The secretary of state shall seek first to ensure voluntary compliance with the provisions of the Financial Disclosure Act. A person who violates that act unintentionally or for good cause shall be given ten days' notice to correct the matter before fines are imposed. Referrals to the state ethics commission for civil enforcement of the Financial Disclosure Act shall be pursued only after efforts to secure voluntary compliance with that act have failed."

Chapter 86 Section 29 Laws 2019

SECTION 29. Section 10-16A-6 NMSA 1978 (being Laws 1993, Chapter 46, Section 44, as amended) is amended to read:

"10-16A-6. INVESTIGATIONS--BINDING ARBITRATION--FINES--ENFORCEMENT.--

A. The state ethics commission and the secretary of state may conduct thorough examinations of statements and initiate investigations to determine whether the Financial Disclosure Act has been violated. Any person who believes that act has been violated may file a written complaint with the state ethics commission. The commission shall adopt procedures for processing complaints and notifications of violations.

B. If the state ethics commission determines that a violation has occurred for which a penalty should be imposed, the commission shall so notify the person charged and impose the penalty. If the person charged disputes the commission's determination, the person charged may request binding arbitration.

C. The arbitration decision shall be decided by a single arbitrator selected within ten days by the person against whom the penalty has been imposed from a list of five arbitrators provided by the state ethics commission. No arbitrator may be a person subject to the Financial Disclosure Act, Campaign Reporting Act or Lobbyist Regulation Act. Arbitrators shall be considered to be independent contractors, not public officers or employees, and shall not be paid per diem and mileage.

D. The arbitrator may take any action the state ethics commission is authorized to take. The arbitrator shall state the reasons for the decision in a written document that shall be a public record. The decision shall be final and binding. The decision

shall be issued within thirty days of the conclusion of the hearing. Unless otherwise provided for in this section, or by rule or regulation adopted by the state ethics commission, the procedures for the arbitration shall be governed by the Uniform Arbitration Act. No arbitrator shall be subject to liability for actions taken pursuant to this section.

E. Any person who files a statement or report after the deadline imposed by the Financial Disclosure Act or any person who files a false or incomplete statement or report is liable for and shall pay to the secretary of state, at or from the time initially required for the filing, fifty dollars (\$50.00) per day for each regular working day after the time required for the filing of the statement or report until the complete report is filed, up to a maximum of five thousand dollars (\$5,000).

F. The secretary of state may refer a matter to the state ethics commission, attorney general or a district attorney for a civil injunctive or other appropriate order or enforcement."

Chapter 86 Section 30 Laws 2019

SECTION 30. Section 10-16A-8 NMSA 1978 (being Laws 1995, Chapter 153, Section 25) is amended to read:

"10-16A-8. ENFORCEMENT--CIVIL PENALTIES.--

A. If the state ethics commission reasonably believes that a person committed, or is about to commit, a violation of the Financial Disclosure Act, the commission may refer the matter to the attorney general or a district attorney for enforcement.

B. The state ethics commission may institute a civil action in district court or refer a matter to the attorney general or a district attorney to institute a civil action in district court if a violation has occurred or to prevent a violation of any provision of the Financial Disclosure Act. Relief may include a permanent or temporary injunction, a restraining order or any other appropriate order, including an order for a civil penalty of two hundred fifty dollars (\$250) for each violation not to exceed five thousand dollars (\$5,000)."

Chapter 86 Section 31 Laws 2019

SECTION 31. Section 10-16B-1 NMSA 1978 (being Laws 2007, Chapter 226, Section 1) is amended to read:

"10-16B-1. SHORT TITLE.--Chapter 10, Article 16B NMSA 1978 may be cited as the "Gift Act"."

Chapter 86 Section 32 Laws 2019

SECTION 32. A new section of the Gift Act is enacted to read:

"INVESTIGATIONS--COMPLAINTS--ENFORCEMENT.--

A. The state ethics commission may initiate investigations to determine whether the provisions of the Gift Act have been violated. A person who believes that a violation of the Gift Act has occurred may file a complaint with the state ethics commission.

B. If the state ethics commission determines that a violation has occurred, the commission shall refer the matter to the attorney general for criminal prosecution."

Chapter 86 Section 33 Laws 2019

SECTION 33. A new section of the Procurement Code is enacted to read:

"STATE ETHICS COMMISSION JURISDICTION.--The state ethics commission may investigate complaints against a contractor who has a contract with a state agency or a person who has submitted a competitive sealed proposal or competitive sealed bid for a contract with a state agency. The state ethics commission may impose the civil penalties authorized in Sections 13-1-196 through 13-1-198 NMSA 1978 pursuant to the provisions of those sections."

Chapter 86 Section 34 Laws 2019

SECTION 34. Section 13-1-196 NMSA 1978 (being Laws 1984, Chapter 65, Section 169) is amended to read:

"13-1-196. CIVIL PENALTY.--Any person, firm or corporation that knowingly violates any provision of the Procurement Code is subject to a civil penalty of not more than one thousand dollars (\$1,000) for each procurement in violation of any provision of the Procurement Code. The district attorney in the jurisdiction in which the violation occurs or the state ethics commission is empowered to bring a civil action for the enforcement of any provision of the Procurement Code; provided that the commission may refer a matter for enforcement to the attorney general or the district attorney in the jurisdiction in which the violation occurred. Any penalty collected under the provisions

of this section shall be credited to the general fund of the political subdivision in which the violation occurred and on whose behalf the suit was brought."

Chapter 86 Section 35 Laws 2019

SECTION 35. Section 2-6-1 NMSA 1978 (being Laws 1961, Chapter 2, Section 1, as amended) is amended to read:

"2-6-1. LIMIT ON THE TIME WITHIN WHICH BILLS MAY BE INTRODUCED.--

A. Legislation shall not be accepted for filing until after the beginning of the prohibited period for soliciting campaign contributions provided for in Section 1-19-34.1 NMSA 1978.

B. No bill shall be introduced at any regular session of the legislature subsequent to the thirtieth legislative day in sessions held in the odd-numbered years or subsequent to the fifteenth legislative day in sessions held in the even-numbered years. The limitation provided in this subsection does not apply to the general appropriation bill, bills to provide for the current expenses of the government and such bills as may be referred to the legislature by the governor by special message specifically setting forth the emergency or necessity requiring such legislation."

Chapter 86 Section 36 Laws 2019

SECTION 36. Section 34-10-2.1 NMSA 1978 (being Laws 1977, Chapter 289, Section 1) is amended to read:

"34-10-2.1. JUDICIAL STANDARDS COMMISSION--DUTIES--SUBPOENA POWER.--

A. Pursuant to the judicial standards commission's authority granted by Article 6, Section 32 of the constitution of New Mexico, any justice, judge or magistrate of any court may be disciplined or removed for willful misconduct in office, persistent failure or inability to perform the judge's duties or habitual intemperance, or may be retired for a disability that seriously interferes with the performance of the justice's, judge's or magistrate's duties and that is, or is likely to become, of a permanent character. The judicial standards commission is granted the same authority to regulate the conduct and character of court-appointed commissioners, hearing officers, administrative law judges or special masters while acting in a judicial capacity.

B. With respect to the officials listed in Subsection A of this section, the judicial standards commission shall:

(1) investigate all charges, complaints and allegations as to willful misconduct in office, persistent failure or inability to perform official duties or habitual intemperance, if the commission deems necessary, and hold a hearing on the charges, complaints or allegations concerning the discipline or removal of the official;

(2) investigate and, if the commission deems necessary, hold hearings on any charge, complaint or allegation that an official listed in Subsection A of this section has suffered a disability that is seriously interfering with the performance of the official's duties and that is, or is likely to become, of a permanent character;

(3) if the commission deems it necessary or convenient, appoint three masters, who are justices or judges of courts of record, to hear and take evidence in any matter arising under Paragraph (1) or (2) of this subsection who shall report their findings to the commission; and

(4) after a hearing deemed necessary pursuant to Paragraph (2) of this subsection or after considering the record and the findings and report of the masters, if the commission finds good cause, recommend to the supreme court the discipline, removal or retirement of the official.

C. In any investigation or hearing held under the provisions of this section, the commission may administer oaths and, with the concurrence of a majority of the members of the commission, petition a district court to subpoena witnesses, compel their attendance and examine them under oath or affirmation and require the production of any books, records, documents or other evidence it may deem relevant or material to an investigation upon a showing of probable cause."

Chapter 86 Section 37 Laws 2019

SECTION 37. TEMPORARY PROVISION--REPORT ON EXTENSION OF JURISDICTION.--

A. By October 1, 2021, the state ethics commission shall submit a report to the legislature and the office of the governor regarding whether to extend commission jurisdiction.

B. If the report recommends extension of the state ethics commission's jurisdiction, the report shall address:

(1) a detailed plan for implementation of an extension of the commission's jurisdiction and a proposed time line for the implementation;

(2) the estimated number of additional employees and other resources needed by the commission to perform its expanded duties;

(3) estimated budget increases needed for the commission to perform its expanded duties; and

(4) recommended changes to existing law.

Chapter 86 Section 38 Laws 2019

SECTION 38. TEMPORARY PROVISION--COMPILER'S INSTRUCTION.--The New Mexico compilation commission shall rename Chapter 2, Article 15 NMSA 1978 "Legislative Ethics".

Chapter 86 Section 39 Laws 2019

SECTION 39. REPEAL.--Sections 2-15-1 through 2-15-6 NMSA 1978 (being Laws 1993, Chapter 46, Sections 46 through 51) are repealed.

Chapter 86 Section 40 Laws 2019

SECTION 40. APPLICABILITY.--The provisions of the State Ethics Commission Act apply only to conduct occurring on or after July 1, 2019.

Chapter 86 Section 41 Laws 2019

SECTION 41. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1 through 8, 34, 37 and 38 of this act is July 1, 2019.

B. The effective date of the provisions of Sections 9 through 33 and 36 of this act is January 1, 2020.

C. The effective date of the provisions of Section 35 of this act is July 1, 2020.

Chapter 86 Section 42 Laws 2019

SECTION 42. EFFECTIVE DATE.--The effective date of the provisions of Section 18 of this act is January 1, 2020. _____

SEC/Senate Bill 668, aa

Approved March 28, 2019

LAWS 2019, CHAPTER 87

AN ACT

RELATING TO TAXATION; AMENDING THE FILM PRODUCTION TAX CREDIT ACT; LIMITING CERTAIN ADDITIONAL CREDITS TO PRODUCTIONS THAT COMMENCE PRINCIPAL PHOTOGRAPHY PRIOR TO JULY 1, 2019; CREATING THE NEW FILM PRODUCTION TAX CREDIT FOR PRODUCTIONS THAT COMMENCE PRINCIPAL PHOTOGRAPHY ON OR AFTER JULY 1, 2019; INCREASING THE AMOUNT OF CREDIT THAT MAY BE CLAIMED PER TAXABLE YEAR; ALLOWING ADDITIONAL AMOUNTS FOR TELEVISION PILOTS AND SERIES AND EXPENDITURES MADE IN CERTAIN AREAS OF THE STATE; CREATING THE NONRESIDENT BELOW-THE-LINE CREW CREDIT; INCREASING THE AGGREGATE CAP; PROVIDING THAT CERTAIN EXPENDITURES BY CERTAIN FILM PRODUCTION COMPANIES SHALL NOT BE SUBJECT TO THE AGGREGATE CAP; PROHIBITING THE NEW MEXICO FILM DIVISION OF THE ECONOMIC DEVELOPMENT DEPARTMENT FROM CERTIFYING EXPENDITURE BUDGETS THAT WOULD EXCEED ONE HUNDRED MILLION DOLLARS (\$100,000,000) IN EXCESS OF THE AGGREGATE CAP; REQUIRING THE TAXATION AND REVENUE DEPARTMENT TO PAY A CERTAIN AMOUNT OF PREVIOUSLY APPROVED CREDITS; AMENDING AND ENACTING SECTIONS OF THE FILM PRODUCTION TAX CREDIT ACT; MAKING AN APPROPRIATION.

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

Chapter 87 Section 1 Laws 2019

SECTION 1. Section 7-1-8.8 NMSA 1978 (being Laws 2009, Chapter 243, Section 10, as amended) is amended to read:

"7-1-8.8. INFORMATION THAT MAY BE REVEALED TO OTHER STATE AGENCIES.--An employee of the department may reveal to:

A. a committee of the legislature for a valid legislative purpose, return information concerning any tax or fee imposed pursuant to the Cigarette Tax Act;

B. the attorney general, return information acquired pursuant to the Cigarette Tax Act for purposes of Section 6-4-13 NMSA 1978 and the master settlement agreement defined in Section 6-4-12 NMSA 1978;

C. the commissioner of public lands, return information for use in auditing that pertains to rentals, royalties, fees and other payments due the state under land sale, land lease or other land use contracts;

D. the secretary of human services or the secretary's delegate under a written agreement with the department, the last known address with date of all names certified to the department as being absent parents of children receiving public financial assistance, but only for the purpose of enforcing the support liability of the absent parents by the child support enforcement division or any successor organizational unit;

E. the department of information technology, by electronic media, a database updated quarterly that contains the names, addresses, county of address and taxpayer identification numbers of New Mexico personal income tax filers, but only for the purpose of producing the random jury list for the selection of petit or grand jurors for the state courts pursuant to Section 38-5-3 NMSA 1978;

F. the state courts, the random jury lists produced by the department of information technology under Subsection E of this section;

G. the director of the New Mexico department of agriculture or the director's authorized representative, upon request of the director or representative, the names and addresses of all gasoline or special fuel distributors, wholesalers and retailers;

H. the public regulation commission, return information with respect to the Corporate Income and Franchise Tax Act required to enable the commission to carry out its duties;

I. the state racing commission, return information with respect to the state, municipal and county gross receipts taxes paid by racetracks;

J. the gaming control board, tax returns of license applicants and their affiliates as provided in Subsection E of Section 60-2E-14 NMSA 1978;

K. the director of the workers' compensation administration or to the director's representatives authorized for this purpose, return information to facilitate the identification of taxpayers that are delinquent or noncompliant in payment of fees required by Section 52-1-9.1 or 52-5-19 NMSA 1978;

L. the secretary of workforce solutions or the secretary's delegate, return information for use in enforcement of unemployment insurance collections pursuant to the terms of a written reciprocal agreement entered into by the department with the secretary of workforce solutions for exchange of information;

M. the New Mexico finance authority, information with respect to the amount of municipal and county gross receipts taxes collected by municipalities and counties pursuant to any local option municipal or county gross receipts taxes imposed, and information with respect to the amount of governmental gross receipts taxes paid by every agency, institution, instrumentality or political subdivision of the state pursuant to Section 7-9-4.3 NMSA 1978;

N. the secretary of human services or the secretary's delegate; provided that a person who receives the confidential return information on behalf of the human services department shall not reveal the information and shall be subject to the penalties in Section 7-1-76 NMSA 1978 if the person fails to maintain the confidentiality required:

(1) that return information needed for reports required to be made to the federal government concerning the use of federal funds for low-income working families; and

(2) the names and addresses of low-income taxpayers for the limited purpose of outreach to those taxpayers; provided that the human services department shall pay the department for expenses incurred by the department to derive the information requested by the human services department if the information requested is not readily available in reports for which the department's information systems are programmed;

O. the secretary of finance and administration or the secretary's delegate, aggregate return information concerning credits pursuant to the Film Production Tax Credit Act; and

P. the secretary of economic development or the secretary's delegate, aggregate return information concerning a credit pursuant to the Film Production Tax Credit Act."

Chapter 87 Section 2 Laws 2019

SECTION 2. Section 7-1-8.8 NMSA 1978 (being Laws 2009, Chapter 243, Section 10, as amended by Section 1 of this act) is repealed and a new Section 7-1-8.8 NMSA 1978 is enacted to read:

"7-1-8.8. INFORMATION THAT MAY BE REVEALED TO OTHER STATE AGENCIES.--An employee of the department may reveal to:

A. a committee of the legislature for a valid legislative purpose, return information concerning any tax or fee imposed pursuant to the Cigarette Tax Act;

B. the attorney general, return information acquired pursuant to the Cigarette Tax Act for purposes of Section 6-4-13 NMSA 1978 and the master settlement agreement defined in Section 6-4-12 NMSA 1978;

C. the commissioner of public lands, return information for use in auditing that pertains to rentals, royalties, fees and other payments due the state under land sale, land lease or other land use contracts;

D. the secretary of human services or the secretary's delegate under a written agreement with the department, the last known address with date of all names certified to the department as being absent parents of children receiving public financial assistance, but only for the purpose of enforcing the support liability of the absent parents by the child support enforcement division or any successor organizational unit;

E. the department of information technology, by electronic media, a database updated quarterly that contains the names, addresses, county of address and taxpayer identification numbers of New Mexico personal income tax filers, but only for the purpose of producing the random jury list for the selection of petit or grand jurors for the state courts pursuant to Section 38-5-3 NMSA 1978;

F. the state courts, the random jury lists produced by the department of information technology under Subsection E of this section;

G. the director of the New Mexico department of agriculture or the director's authorized representative, upon request of the director or representative, the names and addresses of all gasoline or special fuel distributors, wholesalers and retailers;

H. the public regulation commission, return information with respect to the Corporate Income and Franchise Tax Act required to enable the commission to carry out its duties;

I. the state racing commission, return information with respect to the state, municipal and county gross receipts taxes paid by racetracks;

J. the gaming control board, tax returns of license applicants and their affiliates as provided in Subsection E of Section 60-2E-14 NMSA 1978;

K. the director of the workers' compensation administration or to the director's representatives authorized for this purpose, return information to facilitate the identification of taxpayers that are delinquent or noncompliant in payment of fees required by Section 52-1-9.1 or 52-5-19 NMSA 1978;

L. the secretary of workforce solutions or the secretary's delegate, return information for use in enforcement of unemployment insurance collections pursuant to the terms of a written reciprocal agreement entered into by the department with the secretary of workforce solutions for exchange of information;

M. the New Mexico finance authority, information with respect to the amount of municipal and county gross receipts taxes collected by municipalities and counties pursuant to any local option municipal or county gross receipts taxes imposed, and information with respect to the amount of governmental gross receipts taxes paid by every agency, institution, instrumentality or political subdivision of the state pursuant to Section 7-9-4.3 NMSA 1978;

N. the secretary of human services or the secretary's delegate; provided that a person who receives the confidential return information on behalf of the human services department shall not reveal the information and shall be subject to the penalties in Section 7-1-76 NMSA 1978 if the person fails to maintain the confidentiality required:

(1) that return information needed for reports required to be made to the federal government concerning the use of federal funds for low-income working families; and

(2) the names and addresses of low-income taxpayers for the limited purpose of outreach to those taxpayers; provided that the human services department shall pay the department for expenses incurred by the department to derive the information requested by the human services department if the information requested is not readily available in reports for which the department's information systems are programmed;

O. the superintendent of insurance, return information with respect to the premium tax and the health insurance premium surtax;

P. the secretary of finance and administration or the secretary's delegate, aggregate return information concerning a credit pursuant to the Film Production Tax Credit Act; and

Q. the secretary of economic development or the secretary's delegate, aggregate return information concerning a credit pursuant to the Film Production Tax Credit Act."

Chapter 87 Section 3 Laws 2019

SECTION 3. Section 7-2F-1 NMSA 1978 (being Laws 2002, Chapter 36, Section 1, as amended) is amended to read:

"7-2F-1. FILM PRODUCTION TAX CREDIT--FILM PRODUCTION COMPANIES THAT COMMENCE PRINCIPAL PHOTOGRAPHY PRIOR TO JANUARY 1, 2016.--

A. The tax credit created by this section may be referred to as the "film production tax credit".

B. Except as otherwise provided in this section, an eligible film production company may apply for, and the taxation and revenue department may allow, subject to the limitation in this section, a tax credit in an amount equal to twenty-five percent of:

(1) direct production expenditures made in New Mexico that:

(a) are directly attributable to the production in New Mexico of a film or commercial audiovisual product;

(b) are subject to taxation by the state of New Mexico;

(c) exclude direct production expenditures for which another taxpayer claims the film production tax credit; and

(d) do not exceed the usual and customary cost of the goods or services acquired when purchased by unrelated parties. The secretary of taxation and revenue may determine the value of the goods or services for purposes of this section when the buyer and seller are affiliated persons or the sale or purchase is not an arm's length transaction; and

(2) postproduction expenditures made in New Mexico that:

(a) are directly attributable to the production of a commercial film or audiovisual product;

(b) are for services performed in New Mexico;

(c) are subject to taxation by the state of New Mexico;

(d) exclude postproduction expenditures for which another taxpayer claims the film production tax credit; and

(e) do not exceed the usual and customary cost of the goods or services acquired when purchased by unrelated parties. The secretary of taxation and revenue may determine the value of the goods or services for purposes of this section when the buyer and seller are affiliated persons or the sale or purchase is not an arm's length transaction.

C. In addition to the percentage applied pursuant to Subsection B of this section, another five percent shall be applied in calculating the amount of the film production tax credit to direct production expenditures:

(1) on a standalone pilot intended for series television in New Mexico or on series television productions intended for commercial distribution with an order for at least six episodes in a single season; provided that the New Mexico budget for each of those six episodes is fifty thousand dollars (\$50,000) or more; or

(2) on a production with a total New Mexico budget of the following amounts; provided that the expenditures are directly attributable and paid to a New Mexico resident who is hired as industry crew, or who is hired as a producer, writer or director working directly with the physical production and has filed a New Mexico income tax return as a resident in the two previous taxable years:

(a) not more than thirty million dollars (\$30,000,000) that shoots at least ten principal photography days in New Mexico at a qualified production facility; provided that a film production company in principal photography on or after April 10, 2015 shall: 1) shoot at least seven of those days at a sound stage that is a qualified production facility and the remaining number of required days, if any, at a standing set that is a qualified production facility; and 2) for each of the ten days, include industry crew working on the premises of those facilities for a minimum of eight hours within a twenty-four-hour period; or

(b) thirty million dollars (\$30,000,000) or more that shoots at least fifteen principal photography days in New Mexico at a qualified production facility; provided that a film production company in principal photography on or after April 10, 2015 shall: 1) shoot at least ten of those days at a sound stage that is a qualified production facility and the remaining number of required days, if any, at a standing set that is a qualified production facility; and 2) for each day of the fifteen days, include

industry crew working on the premises of the facility for a minimum of eight hours within a twenty-four-hour period.

D. With respect to expenditures attributable to a production for which the film production company receives a tax credit pursuant to the federal new markets tax credit program, the percentage to be applied in calculating the film production tax credit is twenty percent.

E. A claim for film production tax credits shall be filed as part of a return filed pursuant to the Income Tax Act or the Corporate Income and Franchise Tax Act. The date a credit claim is received by the taxation and revenue department shall determine the order that a credit claim is authorized for payment by the department.

F. Except as otherwise provided in this section and Section 10 of this 2019 act, credit claims authorized for payment pursuant to the Film Production Tax Credit Act shall be paid pursuant to provisions of the Tax Administration Act to the taxpayer as follows:

(1) a credit claim amount of less than two million dollars (\$2,000,000) per taxable year shall be paid immediately upon authorization for payment of the credit claim;

(2) a credit claim amount of two million dollars (\$2,000,000) or more but less than five million dollars (\$5,000,000) per taxable year shall be divided into two equal payments, with the first payment to be made immediately upon authorization of the payment of the credit claim and the second payment to be made twelve months following the date of the first payment; and

(3) a credit claim amount of five million dollars (\$5,000,000) or more per taxable year shall be divided into three equal payments, with the first payment to be made immediately upon authorization of payment of the credit claim, the second payment to be made twelve months following the date of the first payment and the third payment to be made twenty-four months following the date of the first payment.

G. For a fiscal year in which the amount of total credit claims authorized for payment is less than the aggregate amount of credit claims that may be authorized for payment pursuant to Section 7-2F-12 NMSA 1978, the next scheduled payments for credit claims authorized for payment pursuant to Subsection F of this section shall be accelerated for payment for that fiscal year and shall be paid to a taxpayer pursuant to the Tax Administration Act and in the order in which outstanding payments are scheduled in the queue established pursuant to Section 7-2F-12 NMSA 1978; provided that the total credit claims authorized for payment shall not exceed the aggregate

amount of credit claims that may be authorized for payment pursuant to this section. If a partial payment is made pursuant to this subsection, the difference owed shall retain its original position in the queue.

H. Any amount of a credit claim that is carried forward pursuant to Subsection F of this section shall be subject to the limit on the aggregate amount of credit claims that may be authorized for payment pursuant to Section 7-2F-12 NMSA 1978.

I. A credit claim shall only be considered received by the taxation and revenue department if the credit claim is made on a complete return filed after the close of the taxable year. All direct production expenditures and postproduction expenditures incurred during the taxable year by a film production company shall be submitted as part of the same income tax return and paid pursuant to this section. A credit claim shall not be divided and submitted with multiple returns or in multiple years.

J. For purposes of determining the payment of credit claims pursuant to this section, the secretary of taxation and revenue may require that credit claims of affiliated persons be combined into one claim if necessary to accurately reflect closely integrated activities of affiliated persons.

K. The film production tax credit shall not be claimed with respect to direct production expenditures or postproduction expenditures for which the film production company has delivered a nontaxable transaction certificate pursuant to Section 7-9-86 NMSA 1978.

L. A production for which the film production tax credit is claimed pursuant to Paragraph (1) of Subsection B of this section shall contain an acknowledgment to the state of New Mexico in the end screen credits that the production was filmed in New Mexico, and a state logo provided by the division shall be included and embedded in the end screen credits of long-form narrative film productions and television episodes, unless otherwise agreed upon in writing by the film production company and the division.

M. To be eligible for the film production tax credit, a film production company shall submit to the division information required by the division to demonstrate conformity with the requirements of the Film Production Tax Credit Act, including detailed information on each direct production expenditure and each postproduction expenditure. A film production company shall make reasonable efforts, as determined by the division, to contract with a specialized vendor that provides goods and services, inventory or services directly related to that vendor's ordinary course of business. A film production company shall provide to the division a projection of the film production

tax credit claim the film production company plans to submit in the fiscal year. In addition, the film production company shall agree in writing:

(1) to pay all obligations the film production company has incurred in New Mexico;

(2) to post a notice at completion of principal photography on the website of the division that:

(a) contains production company information, including the name of the production, the address of the production company and contact information that includes a working phone number, fax number and email address for both the local production office and the permanent production office to notify the public of the need to file creditor claims against the film production company; and

(b) remains posted on the website until all financial obligations incurred in the state by the film production company have been paid;

(3) that outstanding obligations are not waived should a creditor fail to file;

(4) to delay filing of a claim for the film production tax credit until the division delivers written notification to the taxation and revenue department that the film production company has fulfilled all requirements for the credit; and

(5) to submit a completed application for the film production tax credit and supporting documentation to the division within one year of making the final expenditures in New Mexico that were incurred for the registered project and that are included in the credit claim.

N. The division shall determine the eligibility of the company and shall report this information to the taxation and revenue department in a manner and at times the economic development department and the taxation and revenue department shall agree upon. The division shall also post on its website all information provided by the film production company that does not reveal revenue, income or other information that may jeopardize the confidentiality of income tax returns, including that the division shall report quarterly the projected amount of credit claims for the fiscal year.

O. To provide guidance to film production companies regarding the amount of credit capacity remaining in the fiscal year, the taxation and revenue department shall post monthly on that department's website the aggregate amount of credits claimed and processed for the fiscal year.

P. To receive a film production tax credit, a film production company shall apply to the taxation and revenue department on forms and in the manner the department may prescribe. The application shall include a certification of the amount of direct production expenditures or postproduction expenditures made in New Mexico with respect to the film production for which the film production company is seeking the film production tax credit; provided that for the film production tax credit, the application shall be submitted within one year of the date of the last direct production expenditure in New Mexico or the last postproduction expenditure in New Mexico. If the amount of the requested tax credit exceeds five million dollars (\$5,000,000), the application shall also include the results of an audit, conducted by a certified public accountant licensed to practice in New Mexico, verifying that the expenditures have been made in compliance with the requirements of this section. If the requirements of this section have been complied with, the taxation and revenue department shall approve the film production tax credit and issue a document granting the tax credit.

Q. The film production company may apply all or a portion of the film production tax credit granted against personal income tax liability or corporate income tax liability. If the amount of the film production tax credit claimed exceeds the film production company's tax liability for the taxable year in which the credit is being claimed, the excess shall be refunded.

R. That amount of a film production tax credit for total payments as applied to direct production expenditures for the services of performing artists shall not exceed five million dollars (\$5,000,000) for services rendered by nonresident performing artists and featured resident principal performing artists in a production. This limitation shall not apply to the services of background artists and resident performing artists who are not cast in industry standard featured principal performer roles.

S. As used in this section, "direct production expenditure" means a transaction that is subject to taxation in New Mexico:

(1) including an expenditure for:

(a) payment of wages, fringe benefits or fees for talent, management or labor to a person who is a New Mexico resident;

(b) payment for wages and per diem for a performing artist who is not a New Mexico resident and who is directly employed by the film production company; provided that the film production company deducts and remits, or causes to be deducted and remitted, income tax from the first day of services rendered in New Mexico at the maximum rate pursuant to the Withholding Tax Act;

(c) payment to a personal services business for the services of a performing artist if: 1) the personal services business pays gross receipts tax in New Mexico on the portion of those payments qualifying for the tax credit; and 2) the film production company deducts and remits, or causes to be deducted and remitted, income tax at the maximum rate in New Mexico pursuant to Subsection H of Section 7-3A-3 NMSA 1978 on the portion of those payments qualifying for the tax credit paid to a personal services business where the performing artist is a full or part owner of that business or subcontracts with a personal services business where the performing artist is a full or part owner of that business; and

(d) any of the following provided by a vendor: 1) the story and scenario to be used for a film; 2) set construction and operations, wardrobe, accessories and related services; 3) photography, sound synchronization, lighting and related services; 4) editing and related services; 5) rental of facilities and equipment; 6) leasing of vehicles, not including the chartering of aircraft for out-of-state transportation; however, New Mexico-based chartered aircraft for in-state transportation directly attributable to the production shall be considered a direct production expenditure; provided that only the first one hundred dollars (\$100) of the daily expense of leasing a vehicle for passenger transportation on roadways in the state may be claimed as a direct production expenditure; 7) food or lodging; provided that only the first one hundred fifty dollars (\$150) of lodging per individual per day is eligible to be claimed as a direct production expenditure; 8) commercial airfare if purchased through a New Mexico-based travel agency or travel company for travel to and from New Mexico or within New Mexico that is directly attributable to the production; 9) insurance coverage and bonding if purchased through a New Mexico-based insurance agent, broker or bonding agent; 10) services for an external audit upon submission of an application for a film production tax credit by an accounting firm that submits the application pursuant to this section; and 11) other direct costs of producing a film in accordance with generally accepted entertainment industry practice; and

(2) does not include an expenditure for:

(a) a gift with a value greater than twenty-five dollars (\$25.00);

(b) artwork or jewelry, except that a work of art or a piece of jewelry may be a direct production expenditure if: 1) it is used in the film production; and 2) the expenditure is less than two thousand five hundred dollars (\$2,500);

(c) entertainment, amusement or recreation;

(d) subcontracted goods or services provided by a vendor when subcontractors are not subject to state taxation, such as equipment and locations provided by the military, government and religious organizations; or

(e) a service provided by a person who is not a New Mexico resident and employed in an industry crew position, excluding a performing artist, where it is the standard entertainment industry practice for the film production company to employ a person for that industry crew position, except when the person who is not a New Mexico resident is hired or subcontracted by a vendor; and when the film production company, as determined by the division and when applicable in consultation with industry, provides: 1) reasonable efforts to hire resident crew; and 2) financial or promotional contributions toward education or workforce development efforts in New Mexico, including at least one of the following: a payment to a New Mexico public education institution that administers at least one industry-recognized film or multimedia program, as determined by the division, in an amount equal to two and one-half percent of payments made to nonresidents in approved positions employed by the vendor; promotion of the New Mexico film industry by directors, actors or executive producers affiliated with the production company's project through social media that is managed by the state; radio interviews facilitated by the division; enhanced screen credit acknowledgments; or related events that are facilitated, conducted or sponsored by the division.

T. As used in this section, "film production company" means a person that produces one or more films or any part of a film and that commences principal photography prior to January 1, 2016.

U. As used in this section, "vendor" means a person who sells or leases goods or services that are related to standard industry craft inventory, who has a physical presence in New Mexico and is subject to gross receipts tax pursuant to the Gross Receipts and Compensating Tax Act and income tax pursuant to the Income Tax Act or corporate income tax pursuant to the Corporate Income and Franchise Tax Act but excludes a personal services business and services provided by nonresidents hired or subcontracted if the tasks and responsibilities are associated with:

(1) the standard industry job position of:

(a) a director;

(b) a writer;

(c) a producer;

- (d) an associate producer;
- (e) a co-producer;
- (f) an executive producer;
- (g) a production supervisor;
- (h) a director of photography;
- (i) a motion picture driver whose sole responsibility is driving;
- (j) a production or personal assistant;
- (k) a designer;
- (l) a still photographer; or
- (m) a carpenter and utility technician at an entry level; and

(2) nonstandard industry job positions and personal support services."

Chapter 87 Section 4 Laws 2019

SECTION 4. Section 7-2F-2 NMSA 1978 (being Laws 2003, Chapter 127, Section 2, as amended) is amended to read:

"7-2F-2. DEFINITIONS.--As used in the Film Production Tax Credit Act:

A. "affiliated person" means a person who directly or indirectly owns or controls, is owned or controlled by or is under common ownership or control with another person through ownership of voting securities or other ownership interests representing a majority of the total voting power of the entity;

B. "background artist" means a person who is not a performing artist but is a person of atmospheric business whose work includes atmospheric noise, normal actions, gestures and facial expressions of that person's assignment; or a person of atmospheric business whose work includes special abilities that are not stunts; or a substitute for another actor, whether photographed as a double or acting as a stand-in;

C. "below-the-line crew" means a person in a position that is off-camera and who provides technical services during the physical production of a film. "Below-the-

line crew" does not include a person who is a writer, director, producer or background artist or performing artist for the film;

D. "commercial audiovisual product" means a film or a video game intended for commercial exploitation;

E. "direct production expenditure" means a transaction that is subject to taxation in New Mexico and is certified pursuant to Subsection A of 7-2F-12 NMSA 1978:

(1) including an expenditure for:

(a) payment of wages, fringe benefits or fees for talent, management or labor to a person who is a New Mexico resident;

(b) payment for standard industry craft inventory when provided by a below-the-line crew that is a New Mexico resident in addition to its below-the-line crew services;

(c) payment for wages and per diem for a performing artist who is not a New Mexico resident and who is directly employed by the film production company; provided that the film production company deducts and remits, or causes to be deducted and remitted, income tax from the first day of services rendered in New Mexico at the maximum rate pursuant to the Withholding Tax Act;

(d) payment to a personal services business for the services of a performing artist if: 1) the personal services business pays gross receipts tax in New Mexico on the portion of those payments qualifying for the tax credit; and 2) the film production company deducts and remits, or causes to be deducted and remitted, income tax at the maximum rate in New Mexico pursuant to Subsection H of Section 7-3A-3 NMSA 1978 on the portion of those payments qualifying for the tax credit paid to a personal services business where the performing artist is a full or part owner of that business or subcontracts with a personal services business where the performing artist is a full or part owner of that business; and

(e) any of the following provided by a vendor: 1) the story and scenario to be used for a film; 2) set construction and operations, wardrobe, accessories and related services; 3) photography, sound synchronization, lighting and related services; 4) editing and related services; 5) rental of facilities and equipment; 6) the first one hundred fifty dollars (\$150) of the daily expense of leasing of vehicles, not including the chartering of aircraft for out-of-state transportation; however, New Mexico-based chartered aircraft for in-state transportation directly attributable to the production

shall be considered a direct production expenditure; 7) food; 8) the first three hundred dollars (\$300) of lodging per individual, per day; 9) commercial airfare if purchased through a New Mexico-based travel agency or travel company for travel to and from New Mexico or within New Mexico that is directly attributable to the production; 10) insurance coverage and bonding if purchased through a New Mexico-based insurance agent, broker or bonding agent; 11) subcontracted goods and services from businesses; provided that the ordinary course of business of the vendor procuring the goods and services from the subcontractor directly relates to standard film industry goods and services; and 12) other direct costs of producing a film in accordance with generally accepted entertainment industry practice; and

(2) does not include an expenditure for:

(a) a gift with a value greater than one hundred dollars (\$100);

(b) artwork or jewelry, except that a work of art or a piece of jewelry may be a direct production expenditure if: 1) it is used in the film production; and 2) the expenditure is less than two thousand five hundred dollars (\$2,500);

(c) entertainment, amusement or recreation;

(d) subcontracted goods or services provided by a vendor when the subcontractors providing those goods or services to the vendor are not subject to state taxation, such as equipment and locations provided by the military, government and organizations that demonstrate to the taxation and revenue department that they have been granted exemption from the federal income tax by the United States commissioner of internal revenue as organizations described in Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended or renumbered;

(e) subcontracted services provided by a vendor when the subcontracted services are provided by a person who is below-the-line crew and is not a New Mexico resident;

(f) hidden or other indirect service fees, costs, commissions or other remuneration received by third parties and that are not directly paid by the film production company or expressly enumerated on a film production company's filing to claim a new film production tax credit;

(g) wages for a person who is not a New Mexico resident and who falsely claims to be a New Mexico resident. The wages of such person shall not be considered an eligible expense for two years from the date in which the person is determined by the taxation and revenue department as having made a false claim,

regardless of whether the person becomes a New Mexico resident within that time frame; or

(h) which the film production company receives funding pursuant to Section 21-19-7.1 NMSA 1978;

F. "division" means the New Mexico film division of the economic development department;

G. "federal new markets tax credit program" means the tax credit program codified as Section 45D of the United States Internal Revenue Code of 1986, as amended;

H. "film" means a single medium or multimedia program, including television programs but excluding advertising messages other than national or regional advertising messages intended for exhibition, that:

(1) is fixed on film, a digital medium, videotape, computer disc, laser disc or other similar delivery medium;

(2) can be viewed or reproduced;

(3) is not intended to and does not violate a provision of Chapter 30, Article 37 NMSA 1978; and

(4) is intended for reasonable commercial exploitation for the delivery medium used;

I. "film production company" means a person that produces one or more films or commercial audiovisual products or any part of a film or commercial audiovisual product;

J. "fiscal year" means the state fiscal year beginning on July 1;

K. "New Mexico resident" means an individual who is domiciled in this state during any part of the taxable year or an individual who is physically present in this state for one hundred eighty-five days or more during the taxable year; but any individual, other than someone who was physically present in the state for one hundred eighty-five days or more during the taxable year and who, on or before the last day of the taxable year, changed the individual's place of abode to a place without this state with the bona fide intention of continuing actually to abide permanently without this state is not a

resident for the purposes of the Film Production Tax Credit Act for periods after that change of abode;

L. "performing artist" means an actor, on-camera stuntperson, puppeteer, pilot who is a stuntperson or actor, specialty foreground performer or narrator; and who speaks a line of dialogue, is identified with the product or reacts to narration as assigned. "Performing artist" does not include a background artist;

M. "personal services business" means a business organization, with or without physical presence, that receives payments pursuant to the Film Production Tax Credit Act for the services of a performing artist;

N. "physical presence" means a physical address in New Mexico from which a vendor conducts business, stores inventory or otherwise creates, assembles or offers for sale the product purchased or leased by a film production company and the vendor or an employee of the vendor is a resident;

O. "postproduction expenditure" means an expenditure, certified pursuant to Subsection A of Section 7-2F-12 NMSA 1978, for editing, Foley recording, automatic dialogue replacement, sound editing, special effects, including computer-generated imagery or other effects, scoring and music editing, beginning and end credits, negative cutting, soundtrack production, dubbing, subtitling or addition of sound or visual effects; but not including an expenditure for advertising, marketing, distribution or expense payments;

P. "principal photography" means the production of a film during which the main visual elements are created;

Q. "qualified production facility" means a building, or complex of buildings, building improvements and associated back-lot facilities in which films are or are intended to be regularly produced and that contain at least one:

(1) sound stage with contiguous floor space of at least seven thousand square feet and a ceiling height of no less than eighteen feet; or

(2) standing set that includes at least one interior, and at least five exteriors, built or re-purposed for film production use on a continual basis and is located on at least fifty acres of contiguous space designated for film production use; and

R. "vendor" means a person who sells or leases goods or services that are related to standard industry craft inventory, who has a physical presence in New Mexico and is subject to gross receipts tax pursuant to the Gross Receipts and Compensating

Tax Act or income tax pursuant to the Income Tax Act or corporate income tax pursuant to the Corporate Income and Franchise Tax Act but excludes a personal services business and services provided by nonresidents hired or subcontracted if the tasks and responsibilities are associated with the standard industry job position of director, writer or producer."

Chapter 87 Section 5 Laws 2019

SECTION 5. Section 7-2F-4 NMSA 1978 (being Laws 2011, Chapter 165, Section 5, as amended) is amended to read:

"7-2F-4. REPORTING--ACCOUNTABILITY.--

A. The economic development department shall:

(1) collect data to be used in an econometric tool that objectively assesses the effectiveness of the credits provided by the Film Production Tax Credit Act;

(2) track the direct expenditures for the credits;

(3) with the support and assistance of the legislative finance committee staff and the taxation and revenue department, review and assess the analysis developed in Paragraph (1) of this subsection and create a report for presentation to the revenue stabilization and tax policy committee and the legislative finance committee that provides an objective assessment of the effectiveness of the credits; and

(4) report annually to the revenue stabilization and tax policy committee and the legislative finance committee on aggregate approved tax credits made pursuant to the Film Production Tax Credit Act and the past performance of and current outlook for the Film Production Tax Credit Act, including:

(a) the aggregate amount of credits paid subject to the aggregate amount allowed pursuant to Subsection B of Section 7-2F-12 NMSA 1978 in the prior fiscal year and the current amount of claims in the queue pursuant to Subsection C of Section 7-2F-12 NMSA 1978;

(b) the aggregate amount of approved credits paid in the prior fiscal year for expenditures by certain film production companies that are not subject to the aggregate amount of claims allowed pursuant to Section 7-2F-12 NMSA 1978;

(c) the number of applicants receiving the additional credit for television pilots and series pursuant to Section 7-2F-7 NMSA 1978;

(d) the number of applicants receiving the additional amount for expenditures made in certain areas of the state pursuant to Section 8 of this 2019 act;

(e) the aggregate amount of direct production expenditures and post production expenditures in New Mexico during the prior fiscal year, shown by county;

(f) the total number and wages of New Mexico residents employed by film production companies in the prior fiscal year; and

(g) any other relevant information, as determined by the division.

B. The division shall develop a form on which the taxpayer claiming a credit pursuant to the Film Production Tax Credit Act shall submit a report to accompany the taxpayer's application for that credit.

C. With respect to the production on which the application for a credit is based, the film production company shall report to the division at a minimum the following information:

(1) the total aggregate wages of the members of the New Mexico resident crew;

(2) the number of New Mexico residents employed;

(3) the total amount of gross receipts taxes paid;

(4) the total number of hours worked by New Mexico residents;

(5) the total expenditures made in New Mexico that do not qualify for the credit;

(6) the aggregate wages paid to the members of the nonresident crew while working in New Mexico;

(7) the aggregate amount of direct production expenditures and postproduction expenditures in New Mexico in the prior fiscal year, shown by county; and

(8) other information deemed necessary by the division and economic development department to determine the effectiveness of the credit.

D. For purposes of assessing the effectiveness of a credit, the inability of the economic development department to aggregate data due to sample size shall not relieve the department of the requirement to report all relevant data to the legislature. The division shall provide notice to a film production company applying for a credit that information provided to the division may be revealed by the department in reports to the legislature."

Chapter 87 Section 6 Laws 2019

SECTION 6. Section 7-2F-12 NMSA 1978 (being Laws 2015, Chapter 143, Section 11) is repealed and a new Section 7-2F-12 NMSA 1978 is enacted to read:

"7-2F-12. CREDIT CLAIMS--CERTIFICATION OF DIRECT PRODUCTION AND POSTPRODUCTION EXPENDITURES--AGGREGATE AMOUNT OF CLAIMS ALLOWED--EXCEPTION.--

A. The division shall certify a film production company's budget for direct production expenditures and postproduction expenditures during a preproduction meeting with the division; provided that the division is prohibited from certifying a film production company's budget if the total expected claims in excess of the aggregate amount of claims that may be authorized for payment pursuant to Subsection B of this section would exceed one hundred million dollars (\$100,000,000) in any fiscal year; and provided further that the limitation in this subsection shall not apply to certification of a budget for a New Mexico film partner.

B. Except as provided in Section 10 of this 2019 act, the aggregate amount of claims for a credit provided by the Film Production Tax Credit Act that may be authorized for payment in any fiscal year is one hundred ten million dollars (\$110,000,000) with respect to the direct production expenditures or postproduction expenditures made on film or commercial audiovisual products; provided that direct production expenditures and postproduction expenditures made by a New Mexico film partner shall not be subject to the aggregate amount of claims provided by this subsection.

C. If a film production company submits a claim for a credit pursuant to the Film Production Tax Credit Act and the aggregate amount of claims pursuant to Subsection B of this section has been met for the fiscal year, the claim shall be placed at the front of a queue for payment in a subsequent fiscal year. Claims shall be placed in order of the

date on which the completed return in which the credit is claimed is filed. Claims authorized for payment shall be paid pursuant to the Tax Administration Act.

D. If, in fiscal years 2020 through 2022, the aggregate amount of claims authorized for payment is less than one hundred ten million dollars (\$110,000,000), excluding claims by a New Mexico film partner, then the difference in that fiscal year or twenty million dollars (\$20,000,000), whichever is less, shall be added to the aggregate amount of claims that may be authorized for payment pursuant to Subsection B of this section in the immediately following fiscal year.

E. To provide guidance to film production companies regarding the amount of credit capacity remaining in the fiscal year, the taxation and revenue department shall post monthly on that department's website the aggregate amount of credits claimed and paid for the fiscal year. In addition, the division shall post monthly on the division's website the aggregate amount of claims certified pursuant to Subsection A of this section for the fiscal year or any subsequent fiscal year.

F. As used in this section, "New Mexico film partner" means a film production company that has made a commitment to produce films or commercial audiovisual products in New Mexico and has purchased or executed a ten-year contract to lease a qualified production facility."

Chapter 87 Section 7 Laws 2019

SECTION 7. A new section of the Film Production Tax Credit Act is enacted to read:

"NEW FILM PRODUCTION TAX CREDIT.--

A. The tax credit created by this section may be referred to as the "new film production tax credit".

B. A film production company that meets the requirements of the Film Production Tax Credit Act may apply for, and the taxation and revenue department may allow, a tax credit in an amount equal to twenty-five percent of:

(1) direct production expenditures made in New Mexico that:

(a) are directly attributable to the production in New Mexico of a film or commercial audiovisual product;

(b) are subject to taxation by the state of New Mexico;

(c) exclude direct production expenditures for which another taxpayer claims the new film production tax credit; and

(d) do not exceed the usual and customary cost of the goods or services acquired when purchased by unrelated parties. The secretary of taxation and revenue may determine the value of the goods or services for purposes of this section when the buyer and seller are affiliated persons or the sale or purchase is not an arm's length transaction; and

(2) postproduction expenditures made in New Mexico that:

(a) are directly attributable to the production of a commercial film or audiovisual product;

(b) are for services performed in New Mexico;

(c) are subject to taxation by the state of New Mexico;

(d) exclude postproduction expenditures for which another taxpayer claims the new film production tax credit; and

(e) do not exceed the usual and customary cost of the goods or services acquired when purchased by unrelated parties. The secretary of taxation and revenue may determine the value of the goods or services for purposes of this section when the buyer and seller are affiliated persons or the sale or purchase is not an arm's length transaction.

C. With respect to expenditures attributable to a production for which the film production company receives a tax credit pursuant to the federal new markets tax credit program, the percentage to be applied in calculating the amount of credit allowed pursuant to the Film Production Tax Credit Act is twenty percent.

D. A claim for new film production tax credits shall be filed as part of a return filed pursuant to the Income Tax Act or the Corporate Income and Franchise Tax Act or an information return filed by an entity assigned payment of an authorized credit pursuant to Section 7-2F-5 NMSA 1978. The date a complete credit claim is received by the taxation and revenue department shall determine the order that a credit claim is authorized for payment by the department. The film production company may apply all or a portion of the new film production tax credit granted against personal income tax liability or corporate income tax liability. If the amount of the credit claimed exceeds the film production company's tax liability for the taxable year in which the credit is being claimed, the excess shall be refunded.

E. A credit claim shall only be considered received by the taxation and revenue department if the credit claim is made on a complete return filed after the close of the taxable year. All direct production expenditures and postproduction expenditures incurred during the taxable year by a film production company shall be submitted as part of the same income tax return and paid pursuant to this section. A credit claim shall not be divided and submitted with multiple returns or in multiple years.

F. For purposes of determining the payment of credit claims pursuant to this section, the secretary of taxation and revenue may require that credit claims of affiliated persons be combined into one claim if necessary to accurately reflect closely integrated activities of affiliated persons.

G. The new film production tax credit shall not be claimed with respect to direct production expenditures or postproduction expenditures for which the film production company has delivered a nontaxable transaction certificate pursuant to Section 7-9-86 NMSA 1978 or alternative evidence pursuant to Section 7-9-43 NMSA 1978.

H. A production for which the new film production tax credit is claimed pursuant to Paragraph (1) of Subsection B of this section shall contain an acknowledgment to the state of New Mexico. Unless otherwise agreed upon in writing by the film production company and the division, the acknowledgment shall be in the end screen credits that the production was filmed in New Mexico and a three-second static or animated state logo provided by the division shall be included and embedded in the following:

(1) end screen credits before the below-the-line crew crawl for the life of the project of long-form narrative film productions; and

(2) body of the program for the life of television episodes, the placement of which shall be:

(a) in the opening sequence;

(b) as a bumper into or out of a commercial break; or

(c) in a prominent position in each single project's end credits with no less than a half screen exposure, but not covering content.

I. To be eligible for the new film production tax credit, a film production company shall submit to the division information required by the division to demonstrate conformity with the requirements of the Film Production Tax Credit Act, including production data deemed necessary by the division and the economic development department to determine the effectiveness of the credit, and a projection of the new film

production tax credit claim the film production company plans to submit. In addition, the film production company shall agree in writing:

(1) to pay all obligations the film production company has incurred in New Mexico;

(2) to post a notice at completion of principal photography on the website of the division that:

(a) contains production company information, including the name of the production and contact information that includes a working phone number and email address for both the local production office and the permanent production office to notify the public of the need to file creditor claims against the film production company; and

(b) remains posted on the website until all financial obligations incurred in the state by the film production company have been paid;

(3) that outstanding obligations are not waived should a creditor fail to file;

(4) to delay filing of a claim for the new film production tax credit until the division delivers written notification to the taxation and revenue department that the film production company has fulfilled all requirements for the credit; and

(5) to submit a completed application for the new film production tax credit and supporting documentation to the division within one year of making the final expenditures in New Mexico that were incurred for the registered project and that are included in the credit claim.

J. The division, in consultation with the taxation and revenue department, shall determine the eligibility of the film production company and shall report this information to the taxation and revenue department in a manner and at times the economic development department and the taxation and revenue department shall agree upon. The division shall also post on its website all information provided by the film production company that does not reveal revenue, income or other information that may jeopardize the confidentiality of income tax returns.

K. To receive a new film production tax credit, a film production company shall apply to the taxation and revenue department on forms and in the manner the department may prescribe. The application shall include a certification of the amount of direct production expenditures or postproduction expenditures made in New Mexico

with respect to the film production for which the film production company is seeking the credit; provided that for the credit, the application shall be submitted within one year of the date of the last direct production expenditure in New Mexico or the last postproduction expenditure in New Mexico. If the amount of the requested tax credit exceeds five million dollars (\$5,000,000), the application shall also include the results of an audit, conducted by a certified public accountant licensed to practice in New Mexico, verifying that the expenditures have been made in compliance with the requirements of this section. If the requirements of this section have been complied with, the taxation and revenue department shall approve the credit and issue a document granting the credit.

L. That amount of a new film production tax credit for total payments as applied to direct production expenditures for the services of performing artists shall not exceed five million dollars (\$5,000,000) for services rendered by nonresident performing artists and resident principal performing artists in a production. This limitation shall not apply to the services of background artists."

Chapter 87 Section 8 Laws 2019

SECTION 8. A new section of the Film Production Tax Credit Act is enacted to read:

"ADDITIONAL AMOUNTS TO BE APPLIED IN CALCULATING CREDIT AMOUNTS--EXPENDITURES MADE IN CERTAIN AREAS OF THE STATE-- TELEVISION PILOTS AND SERIES.--

A. In addition to the percentage of direct production expenditures and postproduction expenditures calculated pursuant to Section 7 of this 2019 act, an additional five percent shall be applied for payments for direct production expenditures and postproduction expenditures:

(1) for work, services or items provided on location for a production of a film or commercial audiovisual product that is located in New Mexico but at least sixty miles outside of the exterior boundaries of certain counties; and

(2) for either of the following:

(a) on a standalone pilot intended for series television in New Mexico or on series television productions intended for commercial distribution with an order for at least six episodes in a single season; provided that the New Mexico budget for each of those six episodes is fifty thousand dollars (\$50,000) or more; or

(b) on a production in a qualified production facility.

B. As used in this section, "certain counties" includes counties with a net taxable value of property for property taxation purposes of greater than six billion dollars (\$6,000,000,000)."

Chapter 87 Section 9 Laws 2019

SECTION 9. A new section of the Film Production Tax Credit Act is enacted to read:

"NONRESIDENT BELOW-THE-LINE CREW CREDIT.--

A. A film production company may apply for, and the taxation and revenue department may allow, a tax credit in an amount equal to fifteen percent of the payment of wages for below-the-line crew who are not New Mexico residents, that are directly attributable to the production in New Mexico of a film or commercial audiovisual product for which the film production company is claiming a new film production tax credit; provided that:

(1) the service for which payment is made is rendered in New Mexico;

(2) the total eligible wages for below-the-line crew who are not New Mexico residents are:

(a) not more than fifteen percent of the production's total New Mexico budget for below-the-line crew wages; or

(b) as determined by the division, up to twenty percent of the production's total New Mexico budget for below-the-line crew wages; provided that sufficient and qualified below-the-line crew who are New Mexico residents are not available. A film production company that is approved for the additional credit by meeting the requirements of this paragraph shall make a financial or promotional contribution toward educational, media-related nonprofit or workforce development efforts in New Mexico, as determined by the division; and

(3) the film production company makes financial or promotional contributions toward educational or workforce development efforts in New Mexico as determined by the division, including:

(a) a payment to a New Mexico educational institution that administers at least one industry-recognized film or multimedia program, as determined

by the division, equal to at least two and one-half percent of the direct production expenditures for the payment of wages, fringe benefits and per diem for nonresident industry crew made by the film production company to nonresident industry crew; or

(b) promotion of the New Mexico film industry by directors, actors or producers affiliated with the film production company's project through: 1) social media that is managed by the state; 2) radio interviews facilitated by the division; 3) enhanced screen credit acknowledgments; or 4) related events that are facilitated, conducted or sponsored by the division.

B. The credit provided by this section may be referred to as the "nonresidential below-the-line crew credit."

Chapter 87 Section 10 Laws 2019

SECTION 10. TEMPORARY PROVISION--AUTHORIZATION TO PAY APPROVED CREDITS PURSUANT TO THE FILM PRODUCTION TAX CREDIT ACT.--

A. In addition to the aggregate amount of claims that may be paid pursuant to Section 7-2F-12 NMSA 1978, a claim for a tax credit approved by the taxation and revenue department pursuant to the Film Production Tax Credit Act shall be paid:

(1) prior to July 1, 2019; provided that the aggregate amount of claims for credits that may be authorized for payment pursuant to this subsection does not exceed one hundred million dollars (\$100,000,000); and

(2) on or after July 1, 2019, but prior to July 1, 2020; provided that the aggregate amount of claims for credits that may be authorized for payment pursuant to this subsection does not exceed ninety-five million dollars (\$95,000,000) and that the claim meets the requirements of the Film Production Tax Credit Act; provided further that, if the fiscal year 2019 general fund revenues estimated by the consensus revenue estimating group presented to the legislative finance committee in August 2019 exceeds the fiscal year 2019 general fund revenues forecasted by the consensus revenue estimating group in February 2019 by at least thirty million dollars (\$30,000,000), then the ninety-five-million dollar (\$95,000,000) threshold shall be increased to one hundred twenty-five million dollars (\$125,000,000).

B. A claim that exceeds the authorized amounts to be paid as provided in this section shall be paid in accordance with the applicable provisions of the Film Production Tax Credit Act, as those provisions were in effect on the date the claim was approved.

Chapter 87 Section 11 Laws 2019

SECTION 11. APPLICABILITY.--

A. The provisions of Sections 4 and 7 through 9 of this act apply to film production companies that commence principal photography for a film or commercial audiovisual product on or after July 1, 2019.

B. The provisions of Sections 7-2F-2.1 and 7-2F-6 through 7-2F-11 NMSA 1978 shall not apply to a film production company that commences principal photography for a film or commercial audiovisual product on or after July 1, 2019.

Chapter 87 Section 12 Laws 2019

SECTION 12. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1, 4 and 5 through 9 of this act is July 1, 2019.

B. The effective date of the provisions of Section 2 of this act is January 1, 2020.

SCORC/Senate Bill 2, aa

Approved March 28, 2019

LAWS 2019, CHAPTER 88

AN ACT

RELATING TO WATER RIGHTS NOTIFICATIONS; PRESCRIBING A STANDARD PROCEDURE FOR PROVIDING NOTICE OF WATER APPLICATIONS; REQUIRING THE STATE ENGINEER TO POST NOTICES ONLINE.

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

Chapter 88 Section 1 Laws 2019

SECTION 1. A new section of Chapter 72, Article 2 NMSA 1978 is enacted to read:

"NOTICE OF APPLICATIONS--ONLINE POSTING--NOTICE BY PUBLICATION--OBJECTIONS.--When notice of an application is required to be provided pursuant to Section 72-5-4, 72-5A-5, 72-6-6, 72-12-3 or 72-12B-1 NMSA 1978:

A. if the state engineer determines that notice of an application shall be published, the state engineer shall post electronically on the state engineer's website a notice that contains the essential facts of the application, the name of the newspaper in which the applicant will be required to publish notice, the contact information for the state engineer district office where the application and supporting documentation are located and the date by which objections may be filed, which shall be seventy days after the date of electronic posting on the state engineer's website;

B. within five days of posting electronic notice on the state engineer's website, the state engineer shall issue instructions to the applicant to publish notice of the application in a form and in the newspaper prescribed by the state engineer once a week for three consecutive weeks and requiring that the last date of publication shall be no less than ten days prior to the date by which objections may be filed with the state engineer. The newspaper shall be one that is published and distributed in each county affected by the diversion and in each county where the water will be or has been put to beneficial use, or if there is no such newspaper, then the newspaper shall be one of general circulation in the stream system;

C. the applicant shall file with the state engineer proof of publication as required within twenty days after the date of the last publication. In case of failure to file satisfactory proof of publication within the time required, the date of the application shall be the date of receipt of proofs of publication in proper form; and

D. if the last of the three consecutive weekly publications does not occur within sixty days of the date the state engineer electronically posts the notice on the state engineer's website, the applicant shall request that the state engineer prepare a new notice and electronically post the notice as prescribed in Subsection A of this section and issue new instructions for newspaper publication as prescribed in Subsection B of this section."

Chapter 88 Section 2 Laws 2019

SECTION 2. Section 72-5-4 NMSA 1978 (being Laws 1907, Chapter 49, Section 26, as amended) is amended to read:

"72-5-4. NOTICE--PUBLICATION.--Upon the filing of an application that complies with the provisions of this article and the rules established pursuant to this article, accompanied by the proper fees, the state engineer shall proceed in accordance

with the provisions of Section 1 of this 2019 act regarding notice of the application. The notice shall give all essential facts as to the proposed appropriation; among them, the places of appropriation and of use, amount of water, the purpose for which it is to be used, name and address of applicant and the time when the application shall be taken up by the state engineer for consideration."

Chapter 88 Section 3 Laws 2019

SECTION 3. Section 72-5-5 NMSA 1978 (being Laws 1965, Chapter 285, Section 6, as amended) is amended to read:

"72-5-5. OBJECTIONS TO APPLICATIONS--FILING OF PROTESTS--
DEFINITION OF STANDING.--

A. If objection or protest to the application is timely filed, the state engineer shall advise interested parties, and a hearing shall be held as otherwise provided by statute.

B. Any person, firm or corporation or other entity objecting that the granting of the application will be detrimental to the objector's water right shall have standing to file objections or protests. Any person, firm or corporation or other entity objecting that the granting of the application will be contrary to the conservation of water within the state or detrimental to the public welfare of the state and showing that the objector will be substantially and specifically affected by the granting of the application shall have standing to file objections or protests. Provided, however, that the state of New Mexico or any of its branches, agencies, departments, boards, instrumentalities or institutions and all political subdivisions of the state and their agencies, instrumentalities and institutions shall have standing to file objections or protests."

Chapter 88 Section 4 Laws 2019

SECTION 4. Section 72-5A-5 NMSA 1978 (being Laws 1999, Chapter 285, Section 5) is amended to read:

"72-5A-5. NOTICE--PROTESTS--HEARINGS--DETERMINATIONS--JUDICIAL
REVIEW.--

A. Upon receipt of an application for a permit to construct and operate a project, the state engineer shall endorse on the application the date it was received and shall keep a record of the application. The state engineer shall conduct an initial review of the application within sixty days of receipt. If the state engineer determines in the initial review that the application is incomplete, the state engineer shall notify the applicant of the application's deficiencies. The application shall remain incomplete until the

applicant provides all information required by the Ground Water Storage and Recovery Act. The state engineer may request additional information from the applicant and shall conduct an investigation of the project.

B. Within thirty days after determining that an application is complete, unless an extension is requested by the applicant, the state engineer shall proceed in accordance with the provisions of Section 1 of this 2019 act regarding notice of the application. The notice shall contain:

- (1) the legal description of the location of the proposed project;
- (2) a brief description of the proposed project, including its capacity;
- (3) the name of the applicant;
- (4) the date of the last publication; and
- (5) the requirements for an objection.

C. A person objecting that the granting of the application will impair the objector's water right, will be contrary to the conservation of water or will be detrimental to the public welfare and showing that the objector will be substantially and specifically affected by the granting of the application shall have standing to file objections or protests; provided, however, that the state or any of its branches, agencies, departments, boards, instrumentalities or institutions, and all political subdivisions of the state and their agencies, instrumentalities and institutions shall have standing to file objections or protests.

D. An objection shall be filed in writing, include the name and mailing address of the objector, identify the grounds for the objection and include the signature of the objector or the objector's legal representative. The state engineer shall schedule a hearing on the application and provide at least thirty days' notice of the hearing, by certified mail, to the applicant and any objector.

E. After the expiration of the time for filing objections, if no objections have been filed, the state engineer shall, if the state engineer finds that the application meets the requirements of the Ground Water Storage and Recovery Act, issue a permit to the applicant to construct the project to store and recover all or a part of the waters applied for, as conditioned by the state engineer.

F. A person or governmental entity aggrieved by any decision of the state engineer may appeal that decision to the district court pursuant to Section 72-7-1 NMSA 1978."

Chapter 88 Section 5 Laws 2019

SECTION 5. Section 72-6-6 NMSA 1978 (being Laws 1967, Chapter 100, Section 6, as amended) is amended to read:

"72-6-6. APPLICATION--NOTICE--PROTEST--HEARING.--

A. Upon the filing of an application by a lessee, the state engineer shall proceed in accordance with the provisions of Section 1 of this 2019 act regarding notice of the application.

B. Any owner who believes the owner's water rights will be adversely affected by the granting of the application may file a protest. The protest shall be specific as to how the granting of the application will adversely affect the owner's water rights. The protest shall be filed in writing with the state engineer and a copy sent to the applicant by certified mail.

C. If a protest is timely filed, the state engineer shall hold a hearing on the granting of the application, and the applicant and protestants shall be notified by the state engineer as to the date and place of the hearing.

D. If no objections are filed, the state engineer may grant the application without hearing. If no objections are filed and the state engineer denies the application, the state engineer shall hold a hearing if requested to do so by the applicant. The request shall be filed with the state engineer within ten days after the denial of the application.

E. If the state engineer grants the application but allows the applicant to use less water than the amount of water the owner would be allowed to use, the state engineer shall hold a hearing on the matter if requested to do so by the applicant. The request shall be filed with the state engineer within ten days after the granting of the application.

F. In a hearing before the state engineer, a full record and transcript of the proceeding shall be kept by the state engineer.

G. The provisions of this section do not apply to leases approved pursuant to Section 73-10-48 NMSA 1978."

Chapter 88 Section 6 Laws 2019

SECTION 6. Section 72-12-3 NMSA 1978 (being Laws 1931, Chapter 131, Section 3, as amended) is amended to read:

"72-12-3. APPLICATION FOR USE OF UNDERGROUND WATER--
PUBLICATION OF NOTICE--PERMIT.--

A. Any person, firm or corporation or any other entity desiring to appropriate for beneficial use any of the waters described in Chapter 72, Article 12 NMSA 1978 shall apply to the state engineer in a form prescribed by the state engineer. In the application, the applicant shall designate:

- (1) the particular underground stream, channel, artesian basin, reservoir or lake from which water will be appropriated;
- (2) the beneficial use to which the water will be applied;
- (3) the location of the proposed well;
- (4) the name of the owner of the land on which the well will be located;
- (5) the amount of water applied for;
- (6) the place of the use for which the water is desired; and
- (7) if the use is for irrigation, the description of the land to be irrigated and the name of the owner of the land.

B. If the well will be located on privately owned land and the applicant is not the owner of the land or the owner or the lessee of the mineral or oil and gas rights under the land, the application shall be accompanied by an acknowledged statement executed by the owner of the land that the applicant is granted access across the owner's land to the drilling site and has permission to occupy such portion of the owner's land as is necessary to drill and operate the well. This subsection does not apply to the state or any of its political subdivisions. If the application is approved, the applicant shall have the permit and statement, executed by the owner of the land, recorded in the office of the county clerk of the county in which the land is located.

C. No application shall be accepted by the state engineer unless it is accompanied by all the information required by Subsections A and B of this section.

D. Upon the filing of an application, the state engineer shall proceed in accordance with the provisions of Section 1 of this 2019 act regarding notice of the application. Any person, firm or corporation or other entity objecting that the granting of the application will impair the objector's water right shall have standing to file objections or protests. Any person, firm or corporation or other entity objecting that the granting of the application will be contrary to the conservation of water within the state or detrimental to the public welfare of the state and showing that the objector will be substantially and specifically affected by the granting of the application shall have standing to file objections or protests; provided, however, that the state or any of its branches, agencies, departments, boards, instrumentalities or institutions, and all political subdivisions of the state and their agencies, instrumentalities and institutions shall have standing to file objections or protests.

E. After the expiration of the time for filing objections, if no objections have been filed, the state engineer shall, if the state engineer finds that there are in the underground stream, channel, artesian basin, reservoir or lake unappropriated waters and that the proposed appropriation would not impair existing water rights from the source, is not contrary to conservation of water within the state and is not detrimental to the public welfare of the state, grant the application and issue a permit to the applicant to appropriate all or a part of the waters applied for, subject to the rights of all prior appropriators from the source.

F. If objections or protests have been filed within the time prescribed in the notice or if the state engineer is of the opinion that the permit should not be issued, the state engineer may deny the application without a hearing or, before the state engineer acts on the application, may order that a hearing be held. The state engineer shall notify the applicant of the action by certified mail sent to the address shown in the application."

Chapter 88 Section 7 Laws 2019

SECTION 7. Section 72-12B-1 NMSA 1978 (being Laws 1983, Chapter 2, Section 1, as amended) is amended to read:

"72-12B-1. APPLICATIONS FOR THE TRANSPORTATION AND USE OF PUBLIC WATERS OUTSIDE THE STATE.--

A. The state of New Mexico has long recognized the importance of the conservation of its public waters and the necessity to maintain adequate water supplies for the state's water requirements. The state of New Mexico also recognizes that under appropriate conditions the out-of-state transportation and use of its public waters is not in conflict with the public welfare of its citizens or the conservation of its waters.

B. Any person, firm or corporation or any other entity intending to withdraw water from any surface or underground water source in the state of New Mexico and transport it for use outside the state or to change the place or purpose of use of a water right from a place in New Mexico to a place out of that state shall apply to the state engineer for a permit to do so. Upon the filing of an application, the state engineer shall proceed in accordance with the provisions of Section 1 of this 2019 act regarding notice of the application. Any person, firm or corporation or other entity objecting that the granting of the application would impair or be detrimental to the objector's water right shall have standing to file objections or protests. Any person, firm or corporation or other entity objecting that the granting of the application will be contrary to the conservation of water within the state or detrimental to the public welfare of the state and showing that the objector will be substantially and specifically affected by the granting of the application shall have standing to file objections or protests. Provided, however, that the state of New Mexico or any of its branches, agencies, departments, boards, instrumentalities or institutions, and all political subdivisions of the state and their agencies, instrumentalities and institutions shall have standing to file objections or protests. The state engineer shall accept for filing and act upon all applications filed under this section in accordance with the provisions of this section. The state engineer shall require notice of the application and shall thereafter proceed to consider the application in accordance with existing administrative law and procedure governing the appropriation of surface or ground water.

C. In order to approve an application under this act, the state engineer must find that the applicant's withdrawal and transportation of water for use outside the state would not impair existing water rights, is not contrary to the conservation of water within the state and is not otherwise detrimental to the public welfare of the citizens of New Mexico.

D. In acting upon an application under this act, the state engineer shall consider, but not be limited to, the following factors:

- (1) the supply of water available to the state of New Mexico;
- (2) water demands of the state of New Mexico;
- (3) whether there are water shortages within the state of New Mexico;
- (4) whether the water that is the subject

of the application could feasibly be transported to alleviate water shortages in the state of New Mexico;

(5) the supply and sources of water available to the applicant in the state where the applicant intends to use the water; and

(6) the demands placed on the applicant's supply in the state where the applicant intends to use the water.

E. By filing an application to withdraw and transport waters for use outside the state, the applicant shall submit to and comply with the laws of the state of New Mexico governing the appropriation and use of water.

F. The state engineer is empowered to condition the permit to insure that the use of water in another state is subject to the same regulations and restrictions that may be imposed upon water use in the state of New Mexico.

G. Upon approval of the application, the applicant shall designate an agent in New Mexico for reception of service of process and other legal notices."

Chapter 88 Section 8 Laws 2019

SECTION 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

SJC/SCONC/Senate Bill 12

Approved March 28, 2019

LAWS 2019, CHAPTER 89

AN ACT

RELATING TO VITAL STATISTICS; AMENDING A SECTION OF THE VITAL STATISTICS ACT TO PROVIDE FOR AMENDMENT OF SEX DESIGNATION ON VITAL RECORDS.

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

Chapter 89 Section 1 Laws 2019

SECTION 1. Section 24-14-25 NMSA 1978 (being Laws 1961, Chapter 44, Section 23, as amended) is amended to read:

"24-14-25. CORRECTION AND AMENDMENT OF VITAL RECORDS.--

A. A certificate or report registered under the Vital Statistics Act may be amended only in accordance with that act and regulations adopted by the department pursuant to that act to protect the integrity and accuracy of vital records and health statistics.

B. Upon receipt of a certified copy of a court order changing the name of a person born in this state and upon request of the person or the person's parent, guardian or legal representative, the state registrar shall amend the original certificate of birth to reflect the new name.

C. Upon request and receipt of an acknowledgment of paternity signed under penalty of perjury by both parents of a child born to an unmarried mother or, in the case of a married mother, upon receipt of an acknowledgment of paternity signed under penalty of perjury by the mother and the non-husband and of a denial of paternity signed under penalty of perjury by the husband, the state registrar shall amend a certificate of birth to show the paternity if paternity is not shown on the birth certificate. The certificate of birth shall not be marked "amended".

D. Upon receipt of a statement signed under penalty of perjury by an individual born in this state, or the individual's parent, guardian or legal representative, indicating the gender identity of the individual, together with a certified copy of an order changing the name of the individual, if applicable, the certificate of birth of the individual shall be reissued to reflect a designation of male, female or X, as prescribed by regulation. The certificate of birth shall not be marked "amended" pursuant to Subsection F of this section.

E. When an applicant does not submit the minimum documentation required in the regulations for amending a vital record or when the state registrar has reasonable cause to question the validity or adequacy of the applicant's statements or statements made under penalty of perjury or the documentary evidence and if the deficiencies are not corrected, the state registrar shall not amend the vital records and shall advise the applicant of the reason for this action.

F. A certificate or report that is amended under this section shall be marked "amended", except as otherwise provided in Subsections C and D of this section. The date of the amendment and a summary description of the evidence submitted in support of the amendment shall be endorsed on or made a part of the record. The department

shall prescribe by regulation the conditions under which additions or minor corrections may be made to certificates or records within one year after the date of the event without the certificate or record being marked "amended".

G. For the purposes of this section, "X" refers to a gender other than male or female or an, undesignated gender." _____

Senate Bill 20, aa

Approved March 28, 2019

LAWS 2019, CHAPTER 90

AN ACT

RELATING TO REAL ESTATE BROKERS; EXEMPTING AN AUCTIONEER WORKING UNDER THE CONTROL OF A QUALIFYING BROKER FROM THE LICENSURE REQUIREMENTS; PROVIDING REQUIREMENTS FOR THE AGREEMENT BETWEEN THE AUCTIONEER AND QUALIFYING BROKER.

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

Chapter 90 Section 1 Laws 2019

SECTION 1. Section 61-29-2 NMSA 1978 (being Laws 1999, Chapter 127, Section 1, as amended) is amended to read:

"61-29-2. DEFINITIONS AND EXCEPTIONS.--

A. As used in Chapter 61, Article 29 NMSA 1978:

(1) "agency relationship" means the fiduciary relationship created solely by an express written agency agreement between a person and a brokerage, authorizing the brokerage to act as an agent for the person according to the scope of authority granted in that express written agreement for real estate services subject to the jurisdiction of the commission;

(2) "agent" means the brokerage authorized, solely by means of an express written agreement, to act as a fiduciary for a person and to provide real estate services that are subject to the jurisdiction of the commission; in the case of an

associate broker, "agent" means the person who has been authorized to act by that associate broker's qualifying broker;

(3) "associate broker" means a person who, for compensation or other valuable consideration, is associated with or engaged under contract by a qualifying broker to carry on the qualifying broker's business as a whole or partial vocation, and:

(a) lists, sells or offers to sell real estate; buys or offers to buy real estate; or negotiates the purchase, sale or exchange of real estate or options on real estate;

(b) is engaged in managing property for others;

(c) leases, rents or auctions or offers to lease, rent or auction real estate;

(d) advertises or makes any representation as being engaged in the business of buying, selling, exchanging, renting, leasing, auctioning or dealing with options on real estate for others as a whole or partial vocation; or

(e) engages in the business of charging an advance fee or contracting for collection of a fee in connection with a contract under which the qualifying broker undertakes primarily to promote the sale of real estate through its listing in a publication issued primarily for that purpose or for the purpose of referral of information concerning real estate to other qualifying brokers or associate brokers;

(4) "auctioneer" means a person who auctions or offers to auction real property;

(5) "brokerage" means a licensed qualifying broker and the licensed real estate business represented by the qualifying broker and its affiliated licensees;

(6) "brokerage relationship" means the legal or contractual relationship between a person and a brokerage in a real estate transaction subject to the jurisdiction of the commission;

(7) "client" means a person who has entered into an express written agreement with a brokerage for real estate services subject to the jurisdiction of the commission;

(8) "commercial real estate" means real estate that is zoned:

(a) for business or commercial use by a city or county; or

(b) by a city or county to allow five or more multifamily units; provided that all units are located on a single parcel of land with a single legal description;

(9) "commission" means the New Mexico real estate commission;

(10) "customer" means a person who uses real estate services without entering into an express written agreement with a brokerage subject to the jurisdiction of the commission;

(11) "foreign broker" means a real estate broker who does not hold a real estate license issued by the commission, but who holds a current and valid real estate broker's license issued by another state in the United States, a province of Canada or any other sovereign nation;

(12) "license" means a qualifying broker's license or an associate broker's license issued by the commission;

(13) "licensee" means a person holding a valid qualifying broker's license or an associate broker's license subject to the jurisdiction of the commission;

(14) "nonresident licensee" means an associate or qualifying broker holding a real estate license issued by the commission and whose license application address is not within the state of New Mexico;

(15) "qualifying broker" means a licensed real estate broker who has qualified a proprietorship, corporation, partnership or association to do business as a real estate brokerage in the state of New Mexico, who discharges the responsibilities specific to a qualifying broker as defined by the commission and who for compensation or other consideration from another:

(a) lists, sells or offers to sell real estate; buys or offers to buy real estate; or negotiates the purchase, sale or exchange of real estate or options on real estate;

(b) is engaged in managing property for others;

(c) leases, rents or auctions or offers to lease, rent or auction real estate;

(d) advertises or makes any representation as being engaged in the business of buying, selling, exchanging, renting, leasing, auctioning or dealing with options on real estate for others as a whole or partial vocation; or

(e) engages in the business of charging an advance fee or contracting for collection of a fee in connection with a contract under which the qualifying broker undertakes primarily to promote the sale of real estate through its listing in a publication issued primarily for that purpose or for the purpose of referral of information concerning real estate to other qualifying brokers or associate brokers;

(16) "real estate" means land, improvements, leaseholds and other interests in real property that are less than a fee simple ownership interest, whether tangible or intangible; and

(17) "transaction broker" means a qualifying broker, associate broker or brokerage that provides real estate services without entering into an agency relationship.

B. A single act of a person in performing or attempting to perform an activity described in Paragraph (15) of Subsection A of this section makes the person a qualifying broker. A single act of a person in performing or attempting to perform an activity described in Paragraph (3) of Subsection A of this section makes the person an associate broker.

C. The provisions of Chapter 61, Article 29 NMSA 1978 do not apply to:

(1) a person who as owner performs any of the activities included in this section with reference to property owned by the person, except when the sale or offering for sale of the property constitutes a subdivision containing one hundred or more parcels;

(2) the employees of the owner or the employees of a qualifying broker acting on behalf of the owner, with respect to the property owned, if the acts are performed in the regular course of or incident to the management of the property and the investments;

(3) isolated or sporadic transactions not exceeding two transactions annually in which a person acts as attorney-in-fact under a duly executed power of attorney delivered by an owner authorizing the person to finally consummate and to perform under any contract the sale, leasing or exchange of real estate on behalf of the owner; and the owner or attorney-in-fact has not used a power of attorney for the purpose of evading the provisions of Chapter 61, Article 29 NMSA 1978;

(4) transactions in which a person acts as attorney-in-fact under a duly executed power of attorney delivered by an owner related to the attorney-in-fact within the fourth degree of consanguinity or closer, authorizing the person to finally consummate and to perform under any contract for the sale, leasing or exchange of real estate on behalf of the owner;

(5) the services rendered by an attorney at law in the performance of the attorney's duties as an attorney at law;

(6) a person acting in the capacity of a receiver, trustee in bankruptcy, administrator or executor, a person selling real estate pursuant to an order of any court or a trustee acting under a trust agreement, deed of trust or will or the regular salaried employee of a trustee;

(7) the activities of a salaried employee of a governmental agency acting within the scope of employment;

(8) persons who deal exclusively in mineral leases or the sale or purchase of mineral rights or royalties in any case in which the fee to the land or the surface rights are in no way involved in the transaction; or

(9) an auctioneer; provided that payments to an auctioneer for services rendered in connection with an auction shall be made to the auctioneer by a qualifying broker, and prior to performing an auction of real estate, the auctioneer shall enter into a transaction-specific written agreement with a qualifying broker that includes:

(a) a description of the parties, the real estate and any additional information necessary to identify the specific transaction governed by the agreement;

(b) the terms of compensation between the auctioneer and the qualifying broker;

(c) the effective date and definitive termination date of the agreement; and

(d) a statement that the auctioneer agrees to: 1) cooperate fully with the qualifying broker and all associate brokers designated by the qualifying broker; 2) conduct all contact with parties, including the general public and other brokers, in association with the qualifying broker or associate brokers designated by the qualifying broker; and 3) conduct all marketing and solicitations for business in the name of the qualifying broker." _____

Senate Bill 120, aa

Approved March 28, 2019

LAWS 2019, CHAPTER 91

AN ACT

RELATING TO PROCUREMENT; ESTABLISHING THE INTERAGENCY PHARMACEUTICALS PURCHASING COUNCIL; PROVIDING FOR COORDINATED PROCUREMENT OF PHARMACEUTICALS AND PHARMACEUTICAL BENEFITS AMONG CERTAIN STATE AGENCIES AND OTHER GOVERNMENTAL ENTITIES AND FOR REPORTING.

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

Chapter 91 Section 1 Laws 2019

SECTION 1. INTERAGENCY PHARMACEUTICALS PURCHASING COUNCIL--
-CREATION--MEMBERSHIP--DUTIES.--

A. The "interagency pharmaceuticals purchasing council" is created and is administratively attached to the general services department. The council shall:

(1) review and coordinate cost-containment strategies for the procurement of pharmaceuticals and pharmacy benefits and the pooling of risk for pharmacy services by the constituent agencies;

(2) identify ways to leverage constituent agencies' pharmaceutical and pharmacy benefits procurement to maximize the purchasing power of New Mexico residents purchasing pharmaceuticals or pharmacy benefits in the private sector; and

(3) identify other cost-saving opportunities for New Mexico residents purchasing pharmaceuticals or pharmacy benefits in the private sector.

B. Pursuant to its review of these strategies and related data, the interagency pharmaceuticals purchasing council shall decide by vote which cost-containment strategies it will recommend. Constituent agencies shall make their own procurement decisions. The secretary of general services shall serve as director of the council and shall be responsible for the coordination of the day-to-day activities of the council.

C. The interagency pharmaceuticals purchasing council shall be composed of the following eleven members serving as voting, ex-officio members:

- (1) the secretary of human services or the secretary's designee;
- (2) the secretary of health or the secretary's designee;
- (3) the secretary of children, youth and families or the secretary's designee;
- (4) the secretary of corrections or the secretary's designee;
- (5) the director of the risk management division of the general services department or the director's designee;
- (6) the executive director of the retiree health care authority or the executive director's designee;
- (7) the executive director of the public school insurance authority or the executive director's designee;
- (8) the superintendent of the Albuquerque public school district or the superintendent's designee;
- (9) the president of the university of New Mexico or the president's designee; and
- (10) two members, appointed by the governor, who are officers of, or representative of organizations that represent, county, municipal or local government entities that participate in consolidated purchasing of pharmaceuticals or pharmacy benefits with other constituent agencies.

D. The interagency pharmaceuticals purchasing council shall convene its first meeting by September 1, 2019 at the call of the secretary of general services. After the initial meeting of the council, it shall meet at least once quarterly at the call of the secretary of general services. Meetings of the council shall be subject to the Open Meetings Act. In addition to notice provided pursuant to that act, the secretary of general services shall provide written notice of each scheduled meeting of the council to the director of the legislative finance committee at least ten days before each meeting.

E. The interagency pharmaceuticals purchasing council shall review and coordinate cost-containment strategies for the procurement of pharmaceuticals and

pharmacy benefits and the pooling of risk for pharmacy services by the constituent agencies. The cost-containment strategies that the council shall examine shall include:

(1) the benchmarking of pricing for pharmaceuticals and pharmacy benefits to the pricing that the state's medical assistance plans achieve for pharmaceuticals and pharmacy benefits; provided that the human services department shall seek federal authorization prior to making any changes to medical assistance pharmaceuticals purchasing or pharmacy benefits;

(2) active medical management to optimize health outcomes and reduce costs;

(3) the establishment of a common formulary for all pharmaceuticals and pharmacy benefits plans offered by constituent agencies;

(4) a single purchase agreement for all constituent agencies' pharmaceuticals and pharmacy benefits;

(5) common procurement of expert services, including, at minimum, pharmacy benefits management, pharmacy benefits management oversight services, medical direction and actuarial services;

(6) identifying any opportunities to consolidate purchasing among two or more constituent agencies;

(7) identifying any opportunities for pooling risk among two or more constituent agencies or populations the constituent agencies serve;

(8) identifying any opportunities for consolidating purchasing with other entities and states of the United States;

(9) ensuring that all agencies, programs, clinics, hospitals and other health-related centers and entities, including those identified by the human services department pursuant to Paragraph (3) of Subsection A of Section 27-2-12.13 NMSA 1978, that are eligible for pharmaceutical discounts pursuant to Section 340B of the federal Public Health Service Act participate in that Section 340B federal pharmaceutical price discount program;

(10) identifying any opportunities for maximizing the use of generic pharmaceuticals where safe and cost-effective to do so;

(11) negotiating advantageous pricing and incentives with insurers, pharmacy benefits managers, pharmacies, manufacturers, distributors and vendors of pharmaceuticals and other third-party entities involved in supplying pharmaceuticals, pharmacy benefits and management services to the council's constituent entities;

(12) identifying ways to leverage constituent agencies' pharmaceutical and pharmacy benefits procurement to maximize the purchasing power of New Mexico residents purchasing pharmaceuticals and pharmacy benefits in the private sector;

(13) identifying other cost-saving opportunities for New Mexico residents purchasing pharmaceuticals or pharmacy benefits in the private sector; and

(14) identifying any other opportunities for maximizing efficiency and a high standard of health care quality.

F. The legislative finance committee shall annually review and validate the interagency pharmaceuticals purchasing council's progress. The legislative finance committee shall incorporate this information into its budget and policy analysis and recommendations for the council or any of the council's implementing constituent agencies.

G. As used in this section, "constituent agency" means:

(1) the human services department, including any medical assistance program it administers;

(2) the department of health;

(3) the children, youth and families department;

(4) the corrections department;

(5) the risk management division of the general services department;

(6) the retiree health care authority;

(7) the public school insurance authority;

(8) the publicly funded health care program of the Albuquerque public school district;

(9) the university of New Mexico health benefits program for university employees and retirees;

(10) the university of New Mexico hospitals; or

(11) any local, county or municipal government that opts to participate in consolidated pharmaceuticals or pharmacy benefit purchasing. _____

Senate Bill 131, aa

Approved March 28, 2019

LAWS 2019, CHAPTER 92

AN ACT

RELATING TO HEALTH; REQUIRING THE SECRETARY OF HUMAN SERVICES TO ALLOW A BEHAVIORAL HEALTH AGENCY EMPLOYING LICENSED SUBSTANCE ABUSE ASSOCIATES TO BE REIMBURSED FOR CERTAIN SERVICES PROVIDED TO MEDICAL ASSISTANCE RECIPIENTS.

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

Chapter 92 Section 1 Laws 2019

SECTION 1. LICENSED SUBSTANCE ABUSE ASSOCIATES--MEDICAL ASSISTANCE--REIMBURSEMENT FOR SERVICES.--The secretary of human services shall adopt and promulgate rules to allow a behavioral health agency employing a substance abuse associate licensed in accordance with the Counseling and Therapy Practice Act to be reimbursed for the following services provided to medical assistance recipients within the licensed substance abuse associate's scope of practice under clinical supervision:

- A. providing interventions directly to individuals, couples, families and groups;
- B. employing practice theory and research findings;
- C. providing screening, assessment, consultation, development of treatment plans, case management, counseling, referral, appraisal, crisis intervention, education, reporting or recordkeeping pertaining specifically to alcohol and drug abuse counseling;

- D. providing generalist services in the role of educator, assistant or mediator;
- E. taking a social history; and
- F. conducting a home study. _____

Senate Bill 207, aa

Approved March 28, 2019

LAWS 2019, CHAPTER 93

AN ACT

RELATING TO HISTORIC PRESERVATION; PROVIDING PROCEDURES FOR THE APPLICATION OF THE HISTORIC DISTRICT AND LANDMARK ACT TO CONSTRUCTION OR RENOVATION OF STATE BUILDINGS.

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

Chapter 93 Section 1 Laws 2019

SECTION 1. Section 3-22-6 NMSA 1978 (being Laws 2009, Chapter 23, Section 1) is amended to read:

"3-22-6. APPLICABILITY TO CONSTRUCTION OR RENOVATION OF STATE BUILDINGS--LIMITATION.--

A. Recognizing the fragility of the state's historic heritage, the purpose of this section is to establish a procedure under which the state and its municipalities and counties will commit to collaborate in good faith and work jointly to preserve and protect the historic districts of New Mexico.

B. Ordinances enacted by a municipality or county pursuant to the Historic District and Landmark Act shall apply to any construction or renovation of a state building only as provided in this section and only if the ordinances contain special provisions and standards applicable to state buildings, including provisions concerning the design, construction, alteration or demolition of the exterior features of state buildings. If requested by a resolution of the governing body of a municipality or county, the staff of the capitol buildings planning commission shall work jointly with the

staff of the municipality or county in developing the provisions and standards required by this subsection.

C. The applicable state agency shall carry out the construction or renovation of a state building in a manner that is harmonious and generally compatible with the municipal or county ordinances.

D. Before commencing the design phase of the construction or renovation of a state building, the applicable state agency shall consult with the municipality or county as to the design standards in the ordinances and how those design standards would impact costs and the operation or manner in which the construction or renovation of a state building will ultimately be expected to function; provided that, if the municipality or county has an agency or other entity review projects within the area zoned as a historic district or landmark, then the consultation shall be with that review agency or other entity. The state agency shall work collaboratively with the municipality or county or its review agency or other entity to arrive at compatibility with the design standards, considering reasonable costs and preserving essential functionality. If the municipality or county has identifiable community groups involved in historic preservation, the agency shall also make every reasonable effort to obtain input from members of those identified groups before commencing the design phase.

E. After the design phase and before soliciting a bid or a proposal for design-build or lease-purchase for the construction or renovation of a state building, the applicable state agency shall transmit its plans for review and comment to the municipality or county or its review agency or other entity and shall also conduct a public meeting to receive public input. Notice of the public meeting shall also be given to any identifiable community groups involved in historic preservation in the municipality or county.

F. Within sixty days after the public meeting, the municipality or county or its review agency or other entity, any identifiable historic preservation community group and any other interested party shall communicate recommendations and comments in writing to the state agency. The state agency shall consult with the municipality or county or its review agency or other entity to resolve any issues raised. If, at the end of the sixty-day period, unresolved issues remain, the municipality or county may, within five days after the end of the period, notify the applicable state agency that the issues remain unresolved and should be finally determined pursuant to Subsection G of this section; provided that, if notice is not timely given, the applicable state agency may, after incorporating those provisions to which the state agency and the municipality or county have agreed, proceed with the construction or renovation of a state building.

G. If notice is timely given by a municipality or county, pursuant to Subsection F of this section, that issues remain unresolved, those issues shall be decided pursuant to the following provisions:

(1) within five days after the notice, a state-local government historic review board shall be formed, consisting of eight members as follows:

(a) one member appointed by the capitol buildings planning commission, who shall chair the board and who shall vote only if there is a tie among the other board members present;

(b) one member appointed by the cultural properties review committee;

(c) the state historic preservation officer or a designee of the officer;

(d) one member appointed by the agency or other entity that reviews projects within the area zoned as a historic district or landmark; provided that, if the municipality or county has no such agency or other entity, the member shall be appointed by the governing body of the municipality or county;

(e) one member appointed by the agency or entity of the municipality or county that is concerned with historic preservation; provided that, if the municipality or county has no such agency or other entity, the member shall be appointed by the governing body of the municipality or county; and

(f) three public members who have a demonstrated interest in historic preservation appointed as follows: 1) one member appointed by the secretary of general services; 2) one member appointed by the governing body of the municipality or county; and 3) one public member appointed by the other two public members;

(2) the staff of the capitol buildings planning commission shall serve as the staff of the state-local government historic review board; and

(3) the state-local government historic review board shall, at a public meeting, consider each of the unresolved issues and, within twenty days of its formation shall, for each issue, make a final decision that is harmonious and generally compatible with the municipal or county ordinance.

H. Appeals from the decisions of the state-local government historic review board shall be taken to the district court in the manner provided in Section 39-3-1.1 NMSA 1978.

I. The state agency shall not take any irrevocable action on the construction or renovation of a state building in reliance on the plans until the procedures set forth in Subsections F and G of this section have been followed.

J. As used in this section:

(1) "construction or renovation" applies only to the exterior envelope of a state building, regardless of the source of funds for the project; and

(2) "state building" means an affixed structure with walls and a roof designed for enclosure or shelter that is owned or leased by the state or located on land owned by the state or held in trust by the state; provided that any lessee of lands held in trust by the state pursuant to the Enabling Act shall be subject to the state agency obligations."

Chapter 93 Section 2 Laws 2019

SECTION 2. APPLICABILITY.--The provisions of this act apply to any new construction or renovation of a state building that commences on or after July 1, 2019; provided that no contract for the design phase for the construction or renovation of the state building has been executed prior to July 1, 2019.

Chapter 93 Section 3 Laws 2019

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.

SJC/SPAC/Senate Bill 219

Approved March 28, 2019

LAWS 2019, CHAPTER 94

AN ACT

RELATING TO OPIOID OVERDOSE; REQUIRING HEALTH CARE PROVIDERS, UNDER CERTAIN CIRCUMSTANCES, TO ADVISE PATIENTS ON THE RISKS OF OVERDOSE AND OPIOID OVERDOSE REVERSAL MEDICATION AND TO CO-PRESCRIBE AN OPIOID ANTAGONIST.

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

Chapter 94 Section 1 Laws 2019

SECTION 1. Section 24-2D-1 NMSA 1978 (being Laws 1999, Chapter 126, Section 1) is amended to read:

"24-2D-1. SHORT TITLE.--Chapter 24, Article 2D NMSA 1978 may be cited as the "Pain Relief Act"."

Chapter 94 Section 2 Laws 2019

SECTION 2. Section 24-2D-2 NMSA 1978 (being Laws 1999, Chapter 126, Section 2, as amended) is amended to read:

"24-2D-2. DEFINITIONS.--As used in the Pain Relief Act:

A. "accepted guideline" means the most current clinical pain management guideline developed by the American geriatrics society or the American pain society or a clinical pain management guideline based on evidence and expert opinion that has been accepted by the New Mexico medical board;

B. "acute pain" means the normal, predicted physiological response to a noxious chemical or thermal or mechanical stimulus, typically associated with invasive procedures, trauma or disease and generally time-limited;

C. "board" means the licensing board of a health care provider;

D. "chronic pain" means pain that persists after reasonable medical efforts have been made to relieve the pain or its cause and that continues, either continuously or episodically, for longer than three consecutive months. "Chronic pain" does not include pain associated with a terminal condition or with a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition;

E. "clinical expert" means a person who by reason of specialized education or substantial relevant experience in pain management has knowledge regarding current standards, practices and guidelines;

F. "disciplinary action" means any formal action taken by a board against a health care provider, upon a finding of probable cause that the health care provider has engaged in conduct that violates the board's practice act;

G. "health care provider" means a person who is licensed or otherwise authorized by law to provide health care in the ordinary course of business or practice of the person's profession and who has prescriptive authority within the limits of the person's license;

H. "opioid analgesic" means buprenorphine, butorphanol, codeine, hydrocodone, hydromorphone, levorphanol, meperidine, methadone, morphine, nalbuphine, oxycodone, oxymorphone, pentazocine and propoxyphene as well as their brand names, isomers and combinations;

I. "opioid antagonist" means a drug approved by the federal food and drug administration that when administered negates or neutralizes in whole or in part the pharmacological effects of an opioid analgesic in the body, including naloxone and such other medications approved by the board of pharmacy for the reversal of opioid analgesic overdoses;

J. "pain" means acute and chronic pain; and

K. "therapeutic purpose" means the use of pharmaceutical and non-pharmaceutical medical treatment that conforms substantially to accepted guidelines for pain management."

Chapter 94 Section 3 Laws 2019

SECTION 3. A new section of the Pain Relief Act is enacted to read:

"REQUIREMENTS FOR HEALTH CARE PROVIDERS WHO PRESCRIBE, DISTRIBUTE OR DISPENSE OPIOID ANALGESICS.--

A. A health care provider who prescribes, distributes or dispenses an opioid analgesic for the first time to a patient shall advise the patient on the risks of overdose and inform the patient of the availability of an opioid antagonist. With respect to a patient to whom an opioid analgesic has previously been prescribed, distributed or dispensed by the health care provider, the health care provider shall advise the patient

B. For a fee of fifteen dollars (\$15.00), which is in addition to the regular motor vehicle registration fees, any motor vehicle owner who is a veteran of the armed forces of the United States or is retired from the national guard or military reserves may apply for the issuance of a special registration plate, as defined in Subsection A of this section. No two owners shall be issued identically lettered or numbered plates.

C. The fifteen-dollar (\$15.00) fee provided in Subsection B of this section shall be waived for each registration period in which a validating sticker is issued under the provisions of Section 66-3-17 NMSA 1978, in lieu of the issuance of a special armed forces veteran plate.

D. Each armed forces veteran may elect to receive a veteran-designation decal to be placed across the top of the plate, centered above the registration number. Replacement or different veteran-designation decals shall be available for purchase from the department at a reasonable charge to be set by the secretary. The department shall furnish the following veteran-designation decals with the armed forces veteran plate to a:

- (1) medal of honor recipient;
- (2) silver star recipient;
- (3) bronze star recipient;
- (4) navy cross recipient;
- (5) distinguished service cross recipient;
- (6) air force cross recipient;
- (7) armed forces air medal recipient;
- (8) ex-prisoner of war;
- (9) disabled veteran;
- (10) purple heart veteran;
- (11) atomic veteran;
- (12) Pearl Harbor survivor;

- (13) Navajo code talker;
- (14) Vietnam veteran;
- (15) Korean veteran;
- (16) disabled Korean veteran;
- (17) World War II veteran;
- (18) World War I veteran;
- (19) Grenada veteran;
- (20) Panama veteran;
- (21) Desert Storm veteran; or
- (22) Iraqi Freedom veteran.

E. The revenue from the special registration plates for the armed forces veterans fee imposed by Subsection B of this section shall be distributed as follows:

(1) seven dollars (\$7.00) of the fee collected for each registration plate shall be retained by the department and is appropriated to the department for the manufacture and issuance of the registration plates; and

(2) eight dollars (\$8.00) of the fee collected for each registration plate shall be transferred pursuant to the provisions of Subsection F of this section.

F. There is created in the state treasury the "armed forces veterans license fund". A portion of the fee collected for each special registration plate for armed forces veterans, as provided in Subsection E of this section, shall be transferred to the state treasurer for the credit of the fund. Expenditures from the fund shall be made on vouchers issued and signed by the secretary of veterans' services or the secretary's authorized representative upon warrants drawn by the department of finance and administration for the purpose of expanding services to rural areas of the state, including Native American communities and senior citizen centers. Any unexpended or unencumbered balance remaining at the end of any fiscal year in the armed forces veterans license fund shall not revert to the general fund.

G. A person shall not falsely represent that the person was honorably discharged from the armed forces or retired from the national guard or military reserves so as to be eligible to be issued a special registration plate pursuant to this section. A person who violates the provisions of this subsection is guilty of a penalty assessment misdemeanor."

Chapter 95 Section 2 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

Senate Bill 225

Approved March 28, 2019

LAWS 2019, CHAPTER 96

AN ACT

RELATING TO HUMAN RIGHTS; AMENDING A SECTION OF THE HUMAN RIGHTS ACT TO INCLUDE SEXUAL ORIENTATION AND GENDER IDENTITY AMONG CLASSES PROTECTED FROM UNLAWFUL DISCRIMINATION BY ALL EMPLOYERS.

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

Chapter 96 Section 1 Laws 2019

SECTION 1. Section 28-1-7 NMSA 1978 (being Laws 1969, Chapter 196, Section 7, as amended) is amended to read:

"28-1-7. UNLAWFUL DISCRIMINATORY PRACTICE.--It is an unlawful discriminatory practice for:

A. an employer, unless based on a bona fide occupational qualification or other statutory prohibition, to refuse to hire, to discharge, to promote or demote or to discriminate in matters of compensation, terms, conditions or privileges of employment against any person otherwise qualified because of race, age, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, physical or mental handicap or

serious medical condition, or, if the employer has fifty or more employees, spousal affiliation; provided, however, that 29 U.S.C. Section 631(c)(1) and (2) shall apply to discrimination based on age;

B. a labor organization to exclude a person or to expel or otherwise discriminate against any of its members or against any employer or employee because of race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, spousal affiliation, physical or mental handicap or serious medical condition;

C. any employer, labor organization or joint apprenticeship committee to refuse to admit or employ any person in any program established to provide an apprenticeship or other training or retraining because of race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, physical or mental handicap or serious medical condition, or, if the employer has fifty or more employees, spousal affiliation;

D. any person, employer, employment agency or labor organization to print or circulate or cause to be printed or circulated any statement, advertisement or publication, to use any form of application for employment or membership or to make any inquiry regarding prospective membership or employment that expresses, directly or indirectly, any limitation, specification or discrimination as to race, color, religion, national origin, ancestry, sex, sexual orientation, gender identity, physical or mental handicap or serious medical condition, or, if the employer has fifty or more employees, spousal affiliation, unless based on a bona fide occupational qualification;

E. an employment agency to refuse to list and properly classify for employment or refer a person for employment in a known available job, for which the person is otherwise qualified, because of race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, spousal affiliation, physical or mental handicap or serious medical condition, unless based on a bona fide occupational qualification, or to comply with a request from an employer for referral of applicants for employment if the request indicates, either directly or indirectly, that the employer discriminates in employment on the basis of race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, spousal affiliation, physical or mental handicap or serious medical condition, unless based on a bona fide occupational qualification;

F. any person in any public accommodation to make a distinction, directly or indirectly, in offering or refusing to offer its services, facilities, accommodations or goods to any person because of race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, spousal affiliation or physical or mental handicap; provided that the physical or mental handicap is unrelated to a person's ability to acquire or rent and maintain particular real property or housing accommodation;

G. any person to:

(1) refuse to sell, rent, assign, lease or sublease or offer for sale, rental, lease, assignment or sublease any housing accommodation or real property to any person or to refuse to negotiate for the sale, rental, lease, assignment or sublease of any housing accommodation or real property to any person because of race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, spousal affiliation or physical or mental handicap; provided that the physical or mental handicap is unrelated to a person's ability to acquire or rent and maintain particular real property or housing accommodation;

(2) discriminate against any person in the terms, conditions or privileges of the sale, rental, assignment, lease or sublease of any housing accommodation or real property or in the provision of facilities or services in connection therewith because of race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, spousal affiliation or physical or mental handicap; provided that the physical or mental handicap is unrelated to a person's ability to acquire or rent and maintain particular real property or housing accommodation; or

(3) print, circulate, display or mail or cause to be printed, circulated, displayed or mailed any statement, advertisement, publication or sign or use any form of application for the purchase, rental, lease, assignment or sublease of any housing accommodation or real property or to make any record or inquiry regarding the prospective purchase, rental, lease, assignment or sublease of any housing accommodation or real property that expresses any preference, limitation or discrimination as to race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, spousal affiliation or physical or mental handicap; provided that the physical or mental handicap is unrelated to a person's ability to acquire or rent and maintain particular real property or housing accommodation;

H. any person to whom application is made either for financial assistance for the acquisition, construction, rehabilitation, repair or maintenance of any housing accommodation or real property or for any type of consumer credit, including financial assistance for the acquisition of any consumer good as defined by Section 55-9-102 NMSA 1978, to:

(1) consider the race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, spousal affiliation or physical or mental handicap of any individual in the granting, withholding, extending, modifying or renewing or in the fixing of the rates, terms, conditions or provisions of any financial assistance or in the extension of services in connection with the request for financial assistance; or

(2) use any form of application for financial assistance or to make any record or inquiry in connection with applications for financial assistance that expresses, directly or indirectly, any limitation, specification or discrimination as to race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, spousal affiliation or physical or mental handicap;

I. any person or employer to:

(1) aid, abet, incite, compel or coerce the doing of any unlawful discriminatory practice or to attempt to do so;

(2) engage in any form of threats, reprisal or discrimination against any person who has opposed any unlawful discriminatory practice or has filed a complaint, testified or participated in any proceeding under the Human Rights Act; or

(3) willfully obstruct or prevent any person from complying with the provisions of the Human Rights Act or to resist, prevent, impede or interfere with the commission or any of its members, staff or representatives in the performance of their duties under the Human Rights Act; or

J. any employer to refuse or fail to accommodate a person's physical or mental handicap or serious medical condition, unless such accommodation is unreasonable or an undue hardship." _____

Senate Bill 227

Approved March 28, 2019

LAWS 2019, CHAPTER 97

AN ACT

RELATING TO WILDLIFE; ENACTING THE WILDLIFE CORRIDORS ACT; IDENTIFYING AND PROTECTING WILDLIFE CORRIDORS; REQUIRING A WILDLIFE CORRIDORS ACTION PLAN TO BE CREATED THAT PROVIDES COMPREHENSIVE GUIDANCE TO STATE AGENCIES FOR IDENTIFYING, PRIORITIZING AND MAINTAINING IMPORTANT AREAS FOR WILDLIFE MOVEMENT; PROVIDING POWERS AND DUTIES; DIRECTING THE DEVELOPMENT OF A LIST OF PRIORITY PROJECTS BASED ON THE ACTION PLAN.

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

Chapter 97 Section 1 Laws 2019

SECTION 1. SHORT TITLE.--This act may be cited as the "Wildlife Corridors Act".

Chapter 97 Section 2 Laws 2019

SECTION 2. DEFINITIONS.--As used in the Wildlife Corridors Act:

A. "human-caused barrier" means a road, culvert, commercial or residential development or other human-made structure that has the potential to affect the natural movement of wildlife across the landscape;

B. "large mammal" includes mule deer, elk, pronghorn antelope, bighorn sheep, black bear and mountain lions;

C. "species of concern" means a wildlife species identified by the department of game and fish as being adversely affected by habitat fragmentation exacerbated by human-caused barriers and the high potential of wildlife-vehicle collisions; and

D. "wildlife corridors" means those areas used routinely by wildlife to travel through their habitat and includes corridors used by migrating wildlife.

Chapter 97 Section 3 Laws 2019

SECTION 3. WILDLIFE CORRIDORS ACTION PLAN--CREATION--DEPARTMENT COORDINATION.--

A. The department of game and fish, in coordination with the department of transportation, shall create a state "wildlife corridors action plan".

B. The wildlife corridors action plan shall contain:

(1) identification of existing highway crossings that pose a risk to successful wildlife migration or that pose a risk to the traveling public because large mammals use the crossing;

(2) identification of other human-caused barriers, especially road segments that negatively affect wildlife habitat and movement;

(3) information about the habitat and movement needs of species of concern with particular attention to large mammals or other species that pose a risk to the traveling public;

(4) projections of anticipated effects that drought and other stressors will have on wildlife habitat, dispersal and movement;

(5) information about the habitat quality needed to support and maintain viable populations of wildlife;

(6) information about how increased movement of species could benefit overused and highly impacted habitat areas;

(7) maps that identify locations of:

(a) existing populations of species of greatest concern;

(b) existing wildlife crossings; and

(c) areas requiring additional monitoring or research;

(8) protocols for post-completion monitoring of wildlife corridors projects in order to assess their effectiveness in establishing, maintaining and promoting wildlife movements;

(9) economic benefits anticipated from preserving wildlife movement patterns, including the potential impact of reduced wildlife-vehicle collisions;

(10) opportunities to collaborate with and enter into joint powers agreements as provided in the Joint Powers Agreements Act as necessary with New Mexico Indian nations, tribes or pueblos; relevant agencies or Indian nations, tribes or pueblos in neighboring states; and relevant federal agencies to protect wildlife corridors that cross state or tribal lines;

(11) the wildlife corridors project list; and

(12) additional information that the department of game and fish and the department of transportation deem necessary and appropriate to carry out the intent and purposes of the Wildlife Corridors Act.

C. The department of game and fish and the department of transportation shall consult with and actively seek the involvement of tribal governments in the development of the wildlife corridors action plan.

D. The initial wildlife corridors action plan shall be:

(1) open for public comment before being finalized; provided that, once finalized, the department of game and fish and the department of transportation shall publish the initial action plan on their websites and shall submit the action plan to the governor and the legislature on or before January 15, 2020; and

(2) updated at least every ten years and may be amended prior to a full update as new research and data become available or changes in conditions affecting wildlife and wildlife-human interactions arise.

E. The wildlife corridors action plan or the provisions of the Wildlife Corridors Act do not apply to private property or private property owners, unless private property owners choose to participate voluntarily.

Chapter 97 Section 4 Laws 2019

SECTION 4. PRIORITIZED WILDLIFE CORRIDORS PROJECT LIST-- PUBLICATION.--

A. As part of the wildlife corridors action plan, the department of game and fish and the department of transportation shall publish a prioritized "wildlife corridors project list" of projects to be undertaken.

B. The department of game and fish and the department of transportation shall prioritize projects within the wildlife corridors project list by assessing the following criteria, listed in order of importance:

(1) the potential to reduce wildlife-vehicle collision and enhance safety to the traveling public;

(2) the relative current population size of select large mammal species and species of concern or the value of proposed infrastructure that will improve wildlife corridors;

(3) the feasibility and constructability of wildlife corridors infrastructure;

- (4) the potential costs and economics of wildlife corridors infrastructure, including benefits or other effects on local communities;
- (5) local community support for proposed wildlife corridors infrastructure;
- (6) the value of the project to native large mammals and other native species; and
- (7) surrounding land-use and ownership, especially tribal lands, and an evaluation of the need for conservation easements or other real estate instrument necessary to maintain the viability of a proposed wildlife corridor.

C. On an annual basis following the issuance of the first wildlife corridors project list, the department of game and fish and the department of transportation shall issue a report to the governor and the legislature stating the progress toward completing the enumerated projects as of the current fiscal year. The report shall represent progress toward completion of a project as a percentage, with a corresponding explanation for the represented number and plans for future progress. _____

Senate Bill 228, aa

Approved March 28, 2019

LAWS 2019, CHAPTER 98

AN ACT

RELATING TO PROFESSIONAL LICENSURE; AMENDING AND ENACTING SECTIONS OF THE PHARMACY ACT TO ESTABLISH ADDITIONAL LICENSURE AND REGISTRATION COMPLIANCE REQUIREMENTS.

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

Chapter 98 Section 1 Laws 2019

SECTION 1. Section 61-11-2 NMSA 1978 (being Laws 1969, Chapter 29, Section 2, as amended) is amended to read:

"61-11-2. DEFINITIONS.--As used in the Pharmacy Act:

A. "administer" means the direct application of a drug to the body of a patient or research subject by injection, inhalation, ingestion or any other means as a result of an order of a licensed practitioner;

B. "board" means the board of pharmacy;

C. "compounding" means preparing, mixing, assembling, packaging or labeling a drug or device as the result of a licensed practitioner's prescription or for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale or dispensing. "Compounding" also includes preparing drugs or devices in anticipation of a prescription based on routine, regularly observed prescribing patterns;

D. "confidential information" means information in the patient's pharmacy records accessed, maintained by or transmitted to the pharmacist or communicated to the patient as part of patient counseling and may be released only to the patient or as the patient directs; or to those licensed practitioners and other authorized health care professionals as defined by regulation of the board when, in the pharmacist's professional judgment, such release is necessary to protect the patient's health and well-being; or to other persons authorized by law to receive the information, regardless of whether the information is on paper, preserved on microfilm or stored on electronic media;

E. "consulting pharmacist" means a pharmacist whose services are engaged on a routine basis by a hospital or other health care facility and who is responsible for the distribution, receipt and storage of drugs according to the state and federal regulations;

F. "custodial care facility" means a nursing home, retirement care, mental care or other facility that provides extended health care;

G. "dangerous drug" means a drug that is required by an applicable federal or state law or rule to be dispensed pursuant to a prescription or is restricted to use by licensed practitioners; or that is required by federal law to be labeled with any of the following statements prior to being dispensed or delivered:

(1) "Caution: federal law prohibits dispensing without prescription.";

(2) "Caution: federal law restricts this drug to use by or on the order of a licensed veterinarian."; or

(3) "RX only";

H. "device" means an instrument, apparatus, implement, machine, contrivance, implant or similar or related article, including a component part or accessory, that is required by federal law to bear the label, "Caution: federal or state law requires dispensing by or on the order of a physician.";

I. "dispense" means the evaluation and implementation of a prescription, including the preparation and delivery of a drug or device to a patient or patient's agent in a suitable container appropriately labeled for subsequent administration to or use by a patient;

J. "distribute" means the delivery of a drug or device other than by administering or dispensing;

K. "drug" means:

(1) an article recognized as a drug in an official compendium or its supplement that is designated from time to time by the board for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or other animals;

(2) an article intended for use in the diagnosis, cure, mitigation, treatment or prevention of diseases in humans or other animals;

(3) an article, other than food, that affects the structure or a function of the body of humans or other animals; and

(4) an article intended for use as a component of an article described in Paragraph (1), (2) or (3) of this subsection;

L. "drug regimen review" includes an evaluation of a prescription and patient record for:

(1) known allergies;

(2) rational therapy contraindications;

(3) reasonable dose and route of administration;

(4) reasonable directions for use;

(5) duplication of therapy;

- (6) drug-drug interactions;
- (7) adverse drug reactions; and
- (8) proper use and optimum therapeutic outcomes;

M. "electronic transmission" means transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment;

N. "hospital" means an institution that is licensed as a hospital by the department of health;

O. "labeling" means the process of preparing and affixing a label to a drug container exclusive of the labeling by a manufacturer, packer or distributor of a nonprescription drug or commercially packaged prescription drug or device; and which label includes all information required by federal or state law or regulations adopted pursuant to federal or state law;

P. "licensed practitioner" means a person engaged in a profession licensed by a state, territory or possession of the United States who, within the limits of the person's license, may lawfully prescribe, dispense or administer drugs for the treatment of a patient's condition;

Q. "manufacturing" means the production, preparation, propagation, conversion or processing of a drug or device, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical or biological synthesis and includes packaging or repackaging, labeling or relabeling and the promotion and marketing of the drugs or devices. "Manufacturing" also includes the preparation and promotion of commercially available products from bulk compounds for resale by pharmacies, licensed practitioners or other persons;

R. "nonprescription drugs" means nonnarcotic medicines or drugs that may be sold without a prescription and are prepackaged for use by a consumer and are labeled in accordance with the laws and regulations of the state and federal governments;

S. "nonresident pharmacy" means any pharmacy located outside New Mexico that ships, mails or delivers, in any manner, drugs into New Mexico;

T. "outsourcing facility" means a facility at one geographic location or address that engages in the compounding of sterile drugs, is licensed by the board and, in

accordance with board rules, is currently registered with the United States food and drug administration as an outsourcing facility;

U. "patient counseling" means the oral communication by the pharmacist of information to a patient or the patient's agent or caregiver regarding proper use of a drug or device;

V. "person" means an individual, corporation, partnership, association or other legal entity;

W. "pharmaceutical care" means the provision of drug therapy and other patient care services related to drug therapy intended to achieve definite outcomes that improve a patient's quality of life, including identifying potential and actual drug-related problems, resolving actual

drug-related problems and preventing potential drug-related problems;

X. "pharmacist" means a person who is licensed as a pharmacist in this state;

Y. "pharmacist in charge" means a pharmacist who accepts responsibility for the operation of a pharmacy in conformance with all laws and rules pertinent to the practice of pharmacy and the distribution of drugs and who is personally in full and actual charge of the pharmacy and its personnel;

Z. "pharmacy" means a place of business licensed by the board where drugs are compounded or dispensed and pharmaceutical care is provided;

AA. "pharmacist intern" means a person licensed by the board to train under a pharmacist;

BB. "pharmacy technician" means a person who is registered to perform repetitive tasks not requiring the professional judgment of a pharmacist;

CC. "practice of pharmacy" means the evaluation and implementation of a lawful order of a licensed practitioner; the dispensing of prescriptions; the participation in drug and device selection or drug administration that has been ordered by a licensed practitioner, drug regimen reviews and drug or drug-related research; the administering or prescribing of dangerous drug therapy; the provision of patient counseling and pharmaceutical care; the responsibility for compounding and labeling of drugs and devices; the proper and safe storage of drugs and devices; and the maintenance of proper records;

DD. "prescription" means an order given individually for the person for whom prescribed, either directly from a licensed practitioner or the licensed practitioner's agent to the pharmacist, including electronic transmission or indirectly by means of a written order signed by the prescriber, that bears the name and address of the prescriber, the prescriber's license classification, the name and address of the patient, the name and quantity of the drug prescribed, directions for use and the date of issue;

EE. "repackager" means a person that repackages a drug, including a medicinal gas, and that, in accordance with board rules, has a valid registration as a drug establishment with the United States food and drug administration;

FF. "significant adverse drug event" means a drug-related incident that may result in harm, injury or death to the patient;

GG. "third-party logistics provider" means a person that provides or coordinates warehousing or other logistics services of a product in interstate commerce on behalf of a manufacturer, wholesale distributor or dispenser of a product but which person does not take ownership of the product nor have responsibility to direct the sale or disposition of the product; and

HH. "wholesale drug distributor" means a person engaged in the wholesale distribution of prescription drugs, including own-label distributors, private-label distributors, jobbers, brokers, manufacturers' warehouses, distributor's warehouses, chain drug warehouses, wholesale drug warehouses, independent wholesale drug traders and retail pharmacies that conduct wholesale distribution."

Chapter 98 Section 2 Laws 2019

SECTION 2. Section 61-11-9.1 NMSA 1978 (being Laws 2007, Chapter 79, Section 4) is amended to read:

"61-11-9.1. SURETY BONDS.--

A. The board may require surety bonds or other equivalent means of security, as approved by the board, that are provided by a third party such as insurance, an irrevocable letter of credit or funds deposited in a trust account or financial institution, to secure payment for any administrative or judicial penalties that may be imposed by the board or the state and for any penalties or costs required by board rule or disciplinary action.

B. Surety bonds or other equivalent means of security as approved by the board and required in this section shall apply to initial applicants or renewal applicants

as a condition for obtaining or maintaining licensure as a drug manufacturer, nonresident pharmacy, wholesale drug distributor, outsourcing facility, repackager or third-party logistics provider.

C. The board shall set by rule the amount and conditions of the surety bond or other equivalent means of security authorized in this section.

D. The board may waive the surety bond or other requirements of this section if it determines that it is in the best interest of the public to do so. Such waivers may be granted under conditions established by board rule.

E. Manufacturers distributing their own products that have been licensed or approved by the food and drug administration and pharmacy warehouses that are engaged only in intracompany transfers are exempt from this section.

F. A separate surety bond or other equivalent means of security is not required for each company's separate locations or for affiliated companies or groups when such separate locations or affiliated companies or groups are required to apply for or renew their drug manufacturer, nonresident pharmacy, wholesale drug distributor, outsourcing facility, repackager or third-party logistics provider license with the board."

Chapter 98 Section 3 Laws 2019

SECTION 3. Section 61-11-11 NMSA 1978 (being Laws 1969, Chapter 29, Section 10, as amended) is amended to read:

"61-11-11. PHARMACIST INTERN--QUALIFICATIONS FOR LICENSURE.--
The classification of pharmacist intern is established. An applicant for licensure as a pharmacist intern shall:

A. be not less than eighteen years of age and not be addicted to the use of drugs or alcohol;

B. have satisfactorily completed educational requirements established by rules of the board in a school or college of pharmacy approved by the board; and

C. meet other requirements established by regulation of the board."

Chapter 98 Section 4 Laws 2019

SECTION 4. Section 61-11-14 NMSA 1978 (being Laws 1969, Chapter 29, Section 13, as amended) is amended to read:

"61-11-14. PHARMACY LICENSURE--CLASSES OF LICENSES--
REQUIREMENTS--FEES--REVOCATION.--

A. Any person who desires to operate or maintain the operation of a pharmacy or who engages in an activity in this state requiring licensure by the board shall apply to the board for the proper license and shall meet the requirements of the board and pay the fee for the license and its renewal.

B. The board shall issue the following classes of licenses that shall be defined and limited by regulation of the board:

- (1) retail pharmacy;
- (2) nonresident pharmacy;
- (3) wholesale drug distributor;
- (4) drug manufacturer;
- (5) hospital pharmacy;
- (6) industrial health clinic;
- (7) community health clinic;
- (8) department of health public health offices;
- (9) custodial care facility;
- (10) home care services;
- (11) emergency medical services;
- (12) animal control facilities;

(13) wholesaler, retailer or distributor of veterinary drugs bearing the legend: "caution: federal law restricts this drug to use by or on the order of a licensed veterinarian". Such drugs may be sold or dispensed by any person possessing a retail pharmacy license, outsourcing facility license, repackager license, wholesale drug distributor's license or drug manufacturer's license issued by the board, without the necessity of acquiring an additional license for veterinary drugs;

- (14) returned drugs processors;
- (15) drug research facilities;
- (16) drug warehouses;
- (17) contact lens sellers;
- (18) medicinal gas repackagers;
- (19) medicinal gas sellers;
- (20) outsourcing facilities;
- (21) repackagers; and
- (22) third-party logistics providers.

C. Every application for the issuance or biennial renewal of:

(1) a license for a retail pharmacy, nonresident pharmacy, hospital pharmacy or drug research facility shall be accompanied by a fee set by the board in an amount not to exceed three hundred dollars (\$300) per year;

(2) a license for a wholesale drug distributor, drug manufacturer, drug warehouse, outsourcing facility, repackager or third-party logistics provider shall be accompanied by a fee not to exceed one thousand dollars (\$1,000) per year;

(3) a license for a custodial care facility or a returned drugs processor business shall be accompanied by a fee set by the board in an amount not to exceed two hundred dollars (\$200) per year; and

(4) a license for an industrial health clinic; a community health clinic; a department of health public health office; home care services; emergency medical services; animal control facilities; wholesaler, retailer or distributor of veterinary drugs; contact lens sellers; or medicinal gas sellers shall be accompanied by a fee set by the board in an amount not to exceed two hundred dollars (\$200) per year.

D. If it is desired to operate or maintain a pharmaceutical business at more than one location, a separate license shall be obtained for each location.

E. Each application for a license shall be made on forms prescribed and furnished by the board.

F. Any person making application to the board for a license to operate a facility or business listed in Subsection B of this section in this state shall submit to the board an application for licensure indicating:

(1) the name under which the business is to be operated;

(2) the address of each location to be licensed and the address of the principal office of the business;

(3) in the case of a retail pharmacy, the name and address of the owner, partner or officer or director of a corporate owner;

(4) the type of business to be conducted at each location;

(5) a rough drawing of the floor plan of each location to be licensed;

(6) the proposed days and hours of operation of the business; and

(7) other information the board may require, including a criminal background check and financial history, provided that manufacturers distributing their own products that have been licensed or approved by the food and drug administration shall be exempt from criminal background check and financial history requirements pursuant to this section.

G. After preliminary approval of the application for a license for any facility or business listed in Paragraphs (1) through (8) and (10) through (22) of Subsection B of this section, a request for an inspection, together with an inspection fee not to exceed two hundred dollars (\$200), shall be submitted to the board for each business location, and an inspection shall be made of each location by the board or its agent.

H. Following a deficiency-free inspection, the executive director of the board may issue a temporary license to the applicant. The temporary license shall expire at the close of business on the last day of the next regular board meeting.

I. Licenses, except temporary licenses provided pursuant to Subsection H of this section, issued by the board pursuant to this section are not transferable and shall expire on the expiration date set by the board unless renewed. Any person failing to renew a license on or before the expiration date set by the board shall not have the license reinstated except upon reapplication and payment of a reinstatement fee set by

the board in an amount not to exceed one hundred dollars (\$100) and all delinquent renewal fees.

J. The board, after notice and a refusal or failure to comply, may suspend or revoke any license issued under the provisions of the Pharmacy Act at any time examination or inspection of the operation for which the license was granted discloses that the operation is not being conducted according to law or regulations of the board.

K. Pharmaceutical sales representatives who carry dangerous drugs shall provide the board with a written statement from the representative's employer that describes the employer's policy relating to the safety and security of the handling of dangerous drugs and to the employer's compliance with the federal Prescription Drug Marketing Act of 1987. Pharmaceutical sales representatives are not subject to the licensing provisions of the Pharmacy Act."

Chapter 98 Section 5 Laws 2019

SECTION 5. Section 61-11-20 NMSA 1978 (being Laws 1969, Chapter 29, Section 19, as amended) is amended to read:

"61-11-20. DISCIPLINARY PROCEEDINGS--UNIFORM LICENSING ACT.--

A. In accordance with the Uniform Licensing Act, the board may deny, withhold, suspend or revoke any registration or license held or applied for under the Pharmacy Act upon grounds that the licensee or applicant:

(1) is guilty of gross immorality or dishonorable or unprofessional conduct as defined by regulation of the board;

(2) is convicted of a violation of a federal law relating to controlled substances, a federal food and drug law or a federal law requiring the maintenance of drug records;

(3) is guilty of a violation of the Controlled Substances Act, the Drug Product Selection Act, the Imitation Controlled Substance Act, the Pharmacy Act, the New Mexico Drug, Device and Cosmetic Act or the Drug Precursor Act;

(4) is addicted to the use of dangerous drugs or narcotic drugs of any kind;

(5) is habitually intemperate;

(6) is guilty of knowingly or fraudulently adulterating or misbranding or causing to be adulterated or misbranded any drugs;

(7) is guilty of procuring or attempting to procure licensure as a pharmacist or pharmacist intern, registration as a pharmacy technician or licensure for a pharmacy or pharmaceutical business in this state for the licensee's or applicant's own self or another by knowingly making or causing to be made false representations to the board;

(8) is unfit or unable to practice pharmacy by reason of a physical or mental disease or disability as determined by the board and based on competent medical authority, during the period of such disability;

(9) fails to maintain any drug record required by federal law and that failure results in the condemnation of any drugs in the licensee's or applicant's possession or control;

(10) is convicted of a felony;

(11) has furnished false or fraudulent material in an application made in connection with drug or device manufacturing or distribution;

(12) has had a nonresident pharmacy, drug manufacturer, wholesale drug distributor, returned drugs processor, outsourcing facility, repackager or third-party logistics provider license or federal registration suspended or revoked;

(13) has obtained remuneration for professional services by fraud, misrepresentation or deception;

(14) has dealt with drugs or devices that the licensee or applicant knew or should have known were stolen;

(15) has purchased or received a drug or device from a source other than a person or pharmacy licensed pursuant to the Pharmacy Act, unless otherwise provided in that act, the Controlled Substances Act or the New Mexico Drug, Device and Cosmetic Act;

(16) is a wholesale drug distributor, manufacturer, outsourcing facility or repackager other than a pharmacy and dispenses or distributes drugs or devices directly to a patient;

(17) has violated a rule adopted by the board pursuant to the Pharmacy Act; or

(18) has divulged or revealed confidential information or personally identifiable information to a person other than a person authorized by the provisions of the Pharmacy Act or regulations adopted pursuant to that act to receive that information.

B. Disciplinary proceedings may be instituted by a person, shall be by sworn complaint and shall conform with the provisions of the Uniform Licensing Act. A party to the hearing may obtain a copy of the hearing record upon payment of costs for the copy.

C. The board may modify a prior order of revocation, suspension or refusal to issue a license of a pharmacist or a pharmacist intern or registration of a pharmacy technician but only upon a finding by the board that there no longer exist any grounds for disciplinary action; provided that cessation of the practice of pharmacy for twelve months or more shall require the pharmacist to undergo additional education, internship or examination as the board determines necessary." _____

Senate Bill 271, aa

Approved March 28, 2019

LAWS 2019, CHAPTER 99

AN ACT

RELATING TO THE STATE GAME COMMISSION; AMENDING THE COMMISSION'S POWERS TO INCLUDE RULEMAKING RELATING TO THE PRINCIPLES OF FAIR CHASE.

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

Chapter 99 Sections Laws 2019

SECTION 1. Section 17-2-1 NMSA 1978 (being Laws 1931, Chapter 117, Section 3, as amended) is amended to read:

LAWS 2019, CHAPTER 100

AN ACT

RELATING TO HEALTH; REQUIRING THE SPEECH-LANGUAGE PATHOLOGY, AUDIOLOGY AND HEARING AID DISPENSING PRACTICES BOARD TO ISSUE ETHICS RULES REQUIRING AUDIOLOGISTS AND HEARING AID DISPENSERS TO EDUCATE PURCHASERS ABOUT ASSISTIVE LISTENING TECHNOLOGY AND DESIGN OPTIONS THAT ARE IN ACCORDANCE WITH LATEST STANDARDS.

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

Chapter 100 Section Laws 2019

SECTION 1. Section 61-14B-11 NMSA 1978 (being Laws 1996, Chapter 57, Section 11, as amended) is amended to read:

"61-14B-11. BOARD POWERS AND DUTIES.--The board shall:

- A. adopt rules and regulations and establish policy necessary to carry out the provisions of the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act in accordance with the Uniform Licensing Act;
- B. adopt rules implementing continuing education requirements;
- C. adopt a code of ethics that includes rules requiring audiologists and hearing aid dispensers, at the time of the initial examination for possible sale and fitting of a hearing aid if a hearing loss is determined, to inform each prospective purchaser about hearing aid options that can provide a direct connection between the hearing aid and assistive listening systems. These rules shall be in accordance with the latest standards for accessible design adopted by the United States department of justice in accordance with the federal Americans with Disabilities Act of 1990, as amended;
- D. conduct hearings upon charges relating to the discipline of licensees, including the denial, suspension or revocation of a license in accordance with the Uniform Licensing Act;
- E. investigate complaints against licensees by issuing investigative subpoenas prior to the issuance of a notice of contemplated action;
- F. establish fees for licensure;

G. provide for the licensing and renewal of licenses of applicants; and

H. adopt rules that provide for licensure by reciprocity, including temporary permits for speech-language pathologists, audiologists or hearing aid dispensers." _____

House Bill 48

Approved March 28, 2019

LAWS 2019, CHAPTER 101

AN ACT

RELATING TO CRIME; AMENDING THE DELINQUENCY ACT TO SPECIFICALLY EXCLUDE PROSTITUTION AS A DELINQUENT ACT; AMENDING THE FAMILY IN NEED OF COURT-ORDERED SERVICES ACT TO CONNECT HUMAN TRAFFICKING VICTIMS TO SERVICES.

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

Chapter 101 Section 1 Laws 2019

SECTION 1. Section 32A-2-3 NMSA 1978 (being Laws 1993, Chapter 77, Section 32, as amended) is amended to read:

"32A-2-3. DEFINITIONS.--As used in the Delinquency Act:

A. "delinquent act" means an act committed by a child that would be designated as a crime under the law if committed by an adult, not including a violation of Section 30-9-2 NMSA 1978, including the following offenses:

(1) any of the following offenses pursuant to municipal traffic codes or the Motor Vehicle Code:

(a) driving while under the influence of intoxicating liquor or drugs;

(b) failure to stop in the event of an accident causing death, personal injury or damage to property;

- (c) unlawful taking of a vehicle or motor vehicle;
 - (d) receiving or transferring of a stolen vehicle or motor vehicle;
 - (e) homicide by vehicle;
 - (f) injuring or tampering with a vehicle;
 - (g) altering or changing of an engine number or other vehicle identification numbers;
 - (h) altering or forging of a driver's license or permit or any making of a fictitious license or permit;
 - (i) reckless driving;
 - (j) driving with a suspended or revoked license; or
 - (k) an offense punishable as a felony;
- (2) buying, attempting to buy, receiving, possessing or being served any alcoholic liquor or being present in a licensed liquor establishment, other than a restaurant or a licensed retail liquor establishment, except in the presence of the child's parent, guardian, custodian or adult spouse. As used in this paragraph, "restaurant" means an establishment where meals are prepared and served primarily for on-premises consumption and that has a dining room, a kitchen and the employees necessary for preparing, cooking and serving meals. "Restaurant" does not include an establishment, as defined in regulations promulgated by the director of the special investigations unit of the department of public safety, that serves only hamburgers, sandwiches, salads and other fast foods;
- (3) a violation of Section 30-29-2 NMSA 1978, regarding the illegal use of a glue, aerosol spray product or other chemical substance;
- (4) a violation of the Controlled Substances Act;
- (5) escape from the custody of a law enforcement officer or a juvenile probation or parole officer or from any placement made by the department by a child who has been adjudicated a delinquent child;
- (6) a violation of Section 30-15-1.1 NMSA 1978 regarding unauthorized graffiti on personal or real property; or

(7) a violation of an order of protection issued pursuant to the provisions of the Family Violence Protection Act;

B. "delinquent child" means a child who has committed a delinquent act;

C. "delinquent offender" means a delinquent child who is subject to juvenile sanctions only and who is not a youthful offender or a serious youthful offender;

D. "detention facility" means a place where a child may be detained under the Children's Code pending court hearing and does not include a facility for the care and rehabilitation of an adjudicated delinquent child;

E. "felony" means an act that would be a felony if committed by an adult;

F. "misdemeanor" means an act that would be a misdemeanor or petty misdemeanor if committed by an adult;

G. "restitution" means financial reimbursement by the child to the victim or community service imposed by the court and is limited to easily ascertainable damages for injury to or loss of property, actual expenses incurred for medical, psychiatric and psychological treatment for injury to a person and lost wages resulting from physical injury, which are a direct and proximate result of a delinquent act. "Restitution" does not include reimbursement for damages for mental anguish, pain and suffering or other intangible losses. As used in this subsection, "victim" means a person who is injured or suffers damage of any kind by an act that is the subject of a complaint or referral to law enforcement officers or juvenile probation authorities. Nothing contained in this definition limits or replaces the provisions of Subsections A and B of Section 32A-2-27 NMSA 1978;

H. "serious youthful offender" means an individual fifteen to eighteen years of age who is charged with and indicted or bound over for trial for first degree murder. A "serious youthful offender" is not a delinquent child as defined pursuant to the provisions of this section;

I. "supervised release" means the release of a juvenile, whose term of commitment has not expired, from a facility for the care and rehabilitation of adjudicated delinquent children, with specified conditions to protect public safety and promote successful transition and reintegration into the community. A juvenile on supervised release is subject to monitoring by the department until the term of commitment has expired and may be returned to custody for violating conditions of release; and

J. "youthful offender" means a delinquent child subject to adult or juvenile sanctions who is:

(1) fourteen to eighteen years of age at the time of the offense and who is adjudicated for at least one of the following offenses:

(a) second degree murder, as provided in Section 30-2-1 NMSA 1978;

(b) assault with intent to commit a violent felony, as provided in Section 30-3-3 NMSA 1978;

(c) kidnapping, as provided in Section 30-4-1 NMSA 1978;

(d) aggravated battery, as provided in Subsection C of Section 30-3-5 NMSA 1978;

(e) aggravated battery against a household member, as provided in Subsection C of Section 30-3-16 NMSA 1978;

(f) aggravated battery upon a peace officer, as provided in Subsection C of Section 30-22-25 NMSA 1978;

(g) shooting at a dwelling or occupied building or shooting at or from a motor vehicle, as provided in Section 30-3-8 NMSA 1978;

(h) dangerous use of explosives, as provided in Section 30-7-5 NMSA 1978;

(i) criminal sexual penetration, as provided in Section 30-9-11 NMSA 1978;

(j) robbery, as provided in Section 30-16-2 NMSA 1978;

(k) aggravated burglary, as provided in Section 30-16-4 NMSA 1978;

(l) aggravated arson, as provided in Section 30-17-6 NMSA 1978;
or

(m) abuse of a child that results in great bodily harm or death to the child, as provided in Section 30-6-1 NMSA 1978;

(2) fourteen to eighteen years of age at the time of the offense, who is adjudicated for any felony offense and who has had three prior, separate felony adjudications within a three-year time period immediately preceding the instant offense. The felony adjudications relied upon as prior adjudications shall not have arisen out of the same transaction or occurrence or series of events related in time and location. Successful completion of consent decrees is not considered a prior adjudication for the purposes of this paragraph; or

(3) fourteen years of age and who is adjudicated for first degree murder, as provided in Section 30-2-1 NMSA 1978."

Chapter 101 Section 2 Laws 2019

SECTION 2. Section 32A-3B-2 NMSA 1978 (being Laws 1993, Chapter 77, Section 74, as amended) is amended to read:

"32A-3B-2. DEFINITIONS.--As used in Chapter 32A, Article 3B NMSA 1978, "family in need of court-ordered services" means the child or the family has refused family services or the department has exhausted appropriate and available family services and court intervention is necessary to provide family services to the child or family and it is a family:

A. whose child, subject to compulsory school attendance, is absent from school without an authorized excuse more than ten days during a school year;

B. whose child is absent from the child's place of residence for a time period of twelve hours or more without consent of the child's parent, guardian or custodian;

C. whose child refuses to return home and there is good cause to believe that the child will run away from home if forced to return to the parent, guardian or custodian;

D. in which the child's parent, guardian or custodian refuses to allow the child to return home and a petition alleging neglect of the child is not in the child's best interests; or

E. whose child is:

(1) alleged to be engaged in an act that would be designated as prostitution if committed by an adult; or

(2) a victim of human trafficking as defined in Section 30-52-1 NMSA 1978."

Chapter 101 Section 3 Laws 2019

SECTION 3. Section 32A-3B-3 NMSA 1978 (being Laws 1993, Chapter 77, Section 75) is amended to read:

"32A-3B-3. PROTECTIVE CUSTODY--INTERFERENCE WITH PROTECTIVE CUSTODY--PENALTY.--

A. A child may be taken into protective custody by a law enforcement officer without a court order when the officer has reasonable grounds to believe that the child:

- (1) has run away from the child's parent, guardian or custodian;
- (2) without parental supervision is suffering from illness or injury;
- (3) has been abandoned;
- (4) is endangered by the child's surroundings and removal from those surroundings is necessary to ensure the child's safety;
- (5) is engaged in an act that would be designated as prostitution if committed by an adult; or
- (6) is a victim of human trafficking as defined in Section 30-52-1 NMSA 1978.

B. A child may be taken into protective custody pursuant to a court order issued after an agency legally charged with the supervision of the child has notified a law enforcement agency that the child has run away from a placement.

C. When a child is taken into protective custody, the department shall make a reasonable effort to determine whether the child is an Indian child.

D. Any person, other than the child taken into protective custody, who interferes with placing the child in protective custody is guilty of a petty misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978."

Chapter 101 Section 4 Laws 2019

SECTION 4. Section 32A-3B-4 NMSA 1978 (being Laws 1993, Chapter 77, Section 76, as amended) is amended to read:

"32A-3B-4. PROTECTIVE CUSTODY--RESTRICTIONS--TIME LIMITATIONS.--

A. A law enforcement officer who takes a child into protective custody shall, with all reasonable speed:

- (1) inform the child of the reasons for the protective custody; and
- (2) contact the department.

B. When the department is contacted by a law enforcement officer who has taken a child into protective custody, the department shall refer the child to community based services and may:

- (1) accept custody of the child and designate an appropriate placement in the community for the child; or
- (2) return the child to the child's parent, guardian or custodian if the child's safety is assured.

C. A child taken into protective custody shall not be placed in or transported in a law enforcement vehicle or any other vehicle that contains an adult placed under arrest, unless circumstances exist in which any delay in transporting the child to an appropriate facility would be likely to result in substantial danger to the child's physical safety. When such circumstances exist, the circumstances shall be described in writing by the driver of the vehicle and submitted to the driver's supervisor within two days after the driver transported the child.

D. A child taken into protective custody shall not be held involuntarily for more than two days, unless a petition to extend the custody is filed pursuant to the provisions of the Family in Need of Court-Ordered Services Act or the Abuse and Neglect Act.

E. When a petition is filed or any time thereafter, the children's court or district court may issue an ex-parte custody order based upon a sworn written statement of facts showing that probable cause exists to believe that protective custody of the child is necessary.

F. The protective custody order shall be served on the respondent by a person authorized to serve arrest warrants and shall direct the law enforcement officer to take custody of the child and deliver the child to a place designated by the court.

G. The Rules of Evidence do not apply to the issuance of an ex-parte custody order."

House Bill 56, aa

Approved March 28, 2019

LAWS 2019, CHAPTER 102

AN ACT

RELATING TO SEXUAL ASSAULT; PROVIDING A SEXUAL ASSAULT SURVIVOR WITH RIGHTS FOLLOWING A SEXUAL ASSAULT AND RELATED MEDICAL EXAMINATION; PROVIDING REQUIREMENTS FOR PROCESSING SEXUAL ASSAULT EXAMINATION KITS.

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

Chapter 102 Section 1 Laws 2019

SECTION 1. A new section of Chapter 30, Article 9 NMSA 1978 is enacted to read:

"SEXUAL ASSAULT SURVIVOR'S BILL OF RIGHTS.--

A. A health care provider who examines and collects a sexual assault examination kit from a survivor of sexual assault shall:

(1) obtain contact information for the survivor;

(2) provide the survivor with:

(a) a consent form by which the survivor may authorize the release of the kit to the relevant law enforcement agency and information about how the survivor may authorize the release of the kit to the agency at a later date;

(b) a copy of the provider's kit release policy;

(c) provide the survivor with contact and descriptive information regarding free and low-cost human immunodeficiency virus and sexually transmitted disease testing, prevention and treatment services including options and services provided by the department of health; and

(d) provide the survivor contact and descriptive information regarding the department of public safety statewide sexual assault examination kit tracking system;

(3) if the survivor consents, notify the relevant law enforcement agency of the sexual assault and collection of the kit;

(4) upon the survivor's request, notify the survivor when the kit is released to a law enforcement agency; and

(5) provide the survivor's contact information to the law enforcement agency when the survivor's kit is transferred to that agency.

B. No costs incurred by a health care provider for the collection of a sexual assault examination kit shall be charged directly or indirectly to the survivor of the sexual assault.

C. A law enforcement agency or crime laboratory that receives a sexual assault examination kit shall:

(1) confirm the sexual assault survivor's contact information and request that the survivor inform the agency of any changes to that information;

(2) inform the survivor of the survivor's right to have the kit tested within one hundred eighty days and have the right to the following information from the agency:

(a) whether the survivor's kit has been tested and the date on which test results are expected, which information shall be provided to the survivor; and

(b) whether the agency was able to develop a DNA profile using the samples of biological material in the kit;

(3) inform the survivor of the survivor's right to the following information from the agency:

(a) information regarding the statewide sexual assault examination kit tracking system;

(b) upon completion of the law enforcement investigation, whether a DNA profile was developed using the samples of biological material in the kit; and

(c) upon completion of the law enforcement investigation, whether a DNA profile match was identified through comparison of the DNA profile;

(4) in a case in which the alleged sexual assault offender has not been identified, notify the survivor in writing at least one hundred eighty days before destruction of a kit, if the law enforcement agency intends to destroy the survivor's kit, and provide information on how the survivor may appeal the agency's decision to destroy the kit; and

(5) with the consent of the survivor, enter designated information from the sexual assault examination kit into the department of public safety statewide sexual assault examination kit tracking system within fourteen days of obtaining consent.

D. A crime laboratory shall complete the processing of a sexual assault examination kit within one hundred eighty days of receipt of the kit.

E. Before commencing an interview of a sexual assault survivor, a law enforcement officer or prosecutor shall inform the survivor of the following:

(1) the survivor's rights pursuant to this section and other relevant law by providing the survivor with a document to be developed by the department of public safety, which document shall be signed by the survivor to confirm receipt;

(2) the survivor's right to consult with a counselor or advocate who specializes in sexual assault services or a support person designated by the survivor during any interview by a law enforcement officer, prosecutor or defense attorney, and the counselor shall be summoned by the interviewer before the commencement of the interview, unless no counselor or advocate who specializes in sexual assault services or a support person designated by the survivor can be summoned in a reasonably timely manner;

(3) the survivor's right to have a support person of the survivor's choosing present during an interview by a law enforcement officer, prosecutor or defense attorney; and

(4) for interviews by a law enforcement officer, the survivor's right to request a different officer if the survivor believes the officer to be unsupportive or inadequately trained.

F. A law enforcement officer or prosecutor shall not, for any reason, discourage a sexual assault survivor from undergoing an examination or allowing the collection of a sexual assault examination kit.

G. In a civil or criminal case relating to a sexual assault, a sexual assault survivor has the right to:

(1) be reasonably protected from the defendant and persons acting on behalf of the defendant;

(2) not be required to submit to a polygraph examination as a prerequisite to filing an accusatory pleading or participating in any part of the criminal justice system;

(3) be heard through a survivor impact statement at any proceeding relevant to the sexual assault; and

(4) provide a sentencing recommendation to the official conducting a pre-sentence investigation.

H. A sexual assault survivor retains the right to have an advocate present during all stages of any medical examination, interview, investigation or other interaction with representatives from the legal or criminal justice systems within New Mexico. Treatment of the survivor shall not be affected or altered in any way as a result of the survivor's decision to exercise the survivor's right to have an advocate present as provided in this section.

I. A law enforcement agency may require a sexual assault survivor's requests for information pursuant to Subsection C of this section to be made in writing, and the agency shall communicate its responses to those requests in writing.

J. For the purpose of notifications and other communications provided for in this section, a sexual assault survivor may designate another person to receive notifications and information on the survivor's behalf and the survivor shall provide the designee's contact information to a medical provider or law enforcement agency required to communicate with the survivor pursuant to this section.

K. In the case of a sexual assault survivor who is deceased, the following persons shall have the right to receive notifications and information required to be communicated to a survivor pursuant to this section:

(1) a person who was the deceased sexual assault survivor's spouse at the time of the survivor's death; or

(2) the deceased sexual assault survivor's parent or sibling or child who is eighteen years of age or older.

L. A prosecutor shall not prosecute a sexual assault survivor for a criminal offense that is not a felony, including underage consumption of alcohol, drug use or prostitution, if the evidence of the commission of the offense is obtained through the examination of and collection of a sexual assault examination kit from the survivor or is obtained through the investigation of the sexual assault.

M. For the purposes of this section:

(1) "health care provider" means a sexual assault examination nurse or another health care provider authorized to examine and collect samples of biological material from a survivor of sexual assault following the assault; and

(2) "sexual assault examination kit" means samples of biological material derived from a human body, including bodily fluid, hair and skin cells, collected during a medical examination of a survivor following a sexual assault."

Chapter 102 Section 2 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

House Bill 135, aa

Approved March 28, 2019

LAWS 2019, CHAPTER 103

AN ACT

RELATING TO LIQUOR CONTROL; AMENDING SECTIONS OF THE LIQUOR CONTROL ACT TO ALLOW MINORS WHO ARE LICENSED UNDER THE NEW MEXICO COMMERCIAL DRIVER'S LICENSE ACT TO DELIVER PACKAGED ALCOHOLIC BEVERAGES.

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

Chapter 103 Section 1 Laws 2019

SECTION 1. Section 60-7B-10 NMSA 1978 (being Laws 1981, Chapter 39, Section 90, as amended) is amended to read:

"60-7B-10. MINORS IN LICENSED PREMISES--REGULATIONS.--

A. Any person licensed pursuant to the provisions of the Liquor Control Act or any employee, agent or lessee of that person who permits a minor to enter and remain in any area of a licensed premises that is prohibited to the use of minors is guilty of a violation of the Liquor Control Act.

B. A minor shall not enter or attempt to enter any area of a licensed premises that is posted or otherwise identified as being prohibited to the use of minors, except as authorized by regulation or as necessitated by an emergency. A person who violates the provisions of this subsection is guilty of a petty misdemeanor and shall be punished pursuant to the provisions of Section 31-19-1 NMSA 1978.

C. The director of the alcohol and gaming division of the regulation and licensing department shall adopt regulations classifying the types of licensed premises or areas of licensed premises where minors may be present. The director shall require that signs issued by the division be posted by licensees to inform the public, including minors, of the areas in licensed premises that are open to minors. The regulations may allow minors in those areas of licensed premises where:

(1) the consumption of alcoholic beverages is the primary activity, when a minor is accompanied by a parent, adult spouse or legal guardian;

(2) there is no consumption of alcoholic beverages; or

(3) the minor is at least eighteen years of age and licensed under the New Mexico Commercial Driver's License Act and is making a delivery of packaged alcoholic beverages to a holder of a dispenser's, retailer's, restaurant, club, small brewer, winegrower, craft distiller, manufacturer's or rectifier or any other license that allows for the purchase and delivery of alcoholic beverages."

Chapter 103 Section 2 Laws 2019

SECTION 2. Section 60-7B-11 NMSA 1978 (being Laws 1981, Chapter 39, Section 91, as amended) is amended to read:

"60-7B-11. EMPLOYMENT OF MINORS.--

A. Except as provided in Subsection B or C of this section, it is a violation of the Liquor Control Act for any person licensed pursuant to the provisions of the Liquor Control Act or for any employee, agent or lessee of that person knowingly to employ or use the service of any minor in the sale and service of alcoholic beverages.

B. A person holding a dispenser's, restaurant or club license may employ persons nineteen years of age or older to sell or serve alcoholic beverages in an establishment that is held out to the public as a place where meals are prepared and served and the primary source of revenue is food, and where the sale or consumption of alcoholic beverages is not the primary activity, except that a person under twenty-one years of age shall not be employed as a bartender.

C. A person holding a wholesaler's license may employ persons eighteen years of age or older who are licensed pursuant to the New Mexico Commercial Driver's License Act to engage in activities customary to warehouse operations and to handle and deliver alcoholic beverages to licensees holding a dispenser's, retailer's, restaurant, club, small brewer, winegrower, craft distiller, manufacturer's, rectifier or any other license that allows for the purchase and delivery of alcoholic beverages by a licensed wholesaler, as long as the minor delivers sealed, unbroken packages, including containers such as bottles, cans and kegs. A person under the age of twenty-one shall not be allowed to sample alcoholic beverages to accounts."

Chapter 103 Section 3 Laws 2019

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

House Bill 151, aa

Approved March 28, 2019

LAWS 2019, CHAPTER 104

AN ACT

RELATING TO TORTS; AMENDING A SECTION OF THE TORT CLAIMS ACT TO PROVIDE FOR AN EXCLUSION FROM THE WAIVER OF IMMUNITY FOR IRRIGATION AND CONSERVANCY DISTRICTS THAT AUTHORIZE PART OF THEIR PROPERTY FOR USE AS A ROADWAY BY THE PUBLIC OR A GOVERNMENTAL ENTITY.

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

Chapter 104 Section 1 Laws 2019

SECTION 1. Section 41-4-11 NMSA 1978 (being Laws 1976, Chapter 58, Section 11, as amended) is amended to read:

"41-4-11. LIABILITY--HIGHWAYS AND STREETS.--

A. The immunity granted pursuant to Subsection A of Section 41-4-4 NMSA 1978 does not apply to liability for damages resulting from bodily injury, wrongful death or property damage caused by the negligence of public employees while acting within the scope of their duties during the construction, and in subsequent maintenance, of any bridge, culvert, highway, roadway, street, alley, sidewalk or parking area.

B. The liability for which immunity has been waived pursuant to Subsection A of this section shall not include liability for damages caused by:

(1) a defect in plan or design of any bridge, culvert, highway, roadway, street, alley, sidewalk or parking area;

(2) the failure to construct or reconstruct any bridge, culvert, highway, roadway, street, alley, sidewalk or parking area; or

(3) a deviation from standard geometric design practices for any bridge, culvert, highway, roadway, street, alley, sidewalk or parking area allowed on a case-by-case basis for appropriate cultural, ecological, economic, environmental, right-of-way through Indian lands, historical or technical reasons; provided that the deviation:

(a) is required by extraordinary circumstances;

(b) has been approved by the governing authority; and

(c) is reasonable and necessary as determined by the application of sound engineering principles taking into consideration the appropriate cultural, ecological, economic, environmental, right-of-way through Indian lands, historical or technical circumstances.

C. All irrigation and conservancy districts that authorize a portion of their property to be used as a road available for use by the general public, and their employees acting lawfully and within the scope of their duties, are excluded from the

waiver of immunity under Subsection A of this section in regard to that portion of property; provided that the:

(1) irrigation or conservancy district has entered into a written agreement with the state agency or governmental entity operating and maintaining that road; and

(2) state agency or governmental entity has agreed to assume the operation and maintenance of that portion of the district's property used for that road.

D. The state agency or governmental entity operating and maintaining the road available for use by the general public pursuant to Subsection C of this section shall be subject to liability as provided in the Tort Claims Act." _____

House Bill 202, aa

Approved March 28, 2019

LAWS 2019, CHAPTER 105

AN ACT

RELATING TO PUBLIC RESTROOMS; REQUIRING THAT BABY CHANGING FACILITIES BE INCLUDED IN NEW CONSTRUCTION OF ALL RESTROOMS THAT ARE AVAILABLE OR ACCESSIBLE FOR PUBLIC USE IN A PLACE OF PUBLIC ACCOMMODATION AS LIMITED BY DISABILITY ACCESS REQUIREMENTS AND SAFETY STANDARDS; EXCEPTING RESTROOMS WITH CERTAIN SIGNAGE; PROVIDING FOR A PLAN APPROVAL PROCESS; PROVIDING FOR NO PRIVATE RIGHT OF ACTION; PROVIDING FOR ADMINISTRATIVE PENALTY.

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

Chapter 105 Section 1 Laws 2019

SECTION 1. EQUAL ACCESS TO PUBLIC BABY CHANGING FACILITIES.--

A. No later than January 1, 2020, the division shall develop and adopt rules governing baby changing facilities for restrooms in a place of public accommodation.

B. A place of public accommodation shall provide a baby changing facility in each restroom located in the place of public accommodation under the following circumstances:

(1) when there is construction of a new restroom; and

(2) to the extent it may be implemented in compliance with local, state and federal laws regarding access for persons with disabilities and with existing fire, health and safety standards.

C. The requirements of Subsection B of this section shall not apply to a restroom in a place of public accommodation that:

(1) is not available or accessible for public use; or

(2) contains clear and conspicuous signage indicating where a restroom with a baby changing facility is located on the same floor of such place of public accommodation.

D. All drawings, specifications and other submittal documents as to new construction of a place of public accommodation shall incorporate the requirements of this section when submitted to the appropriate authority having jurisdiction for plan review. The authority having jurisdiction shall not approve drawings and submittal documents for new construction of a place of public accommodation unless drawings, specifications and other submittal documents comply with the provisions of this section. No certificate of occupancy shall be issued for new construction of a place of public accommodation unless fully compliant with the provisions of this section.

E. This section shall not be construed to create a private right of action for failure to comply with the provisions of this section or rules adopted in accordance with this section.

F. As used in this section:

(1) "authority having jurisdiction" means the state or a municipality, county or other political subdivision that has a full-service building department employing a full-time certified building official and has permitting, inspection and enforcement authority over the general construction, electrical and mechanical-plumbing trades within its jurisdiction;

(2) "baby changing facility" means a table or other device suitable for changing the diaper of a child age three or under;

(3) "department" means the regulation and licensing department;

(4) "division" means the construction industries division of the regulation and licensing department; and

(5) "public accommodation" means:

(a) an inn, hotel, motel or other place of lodging except for an establishment that is located within a building that contains not more than five rooms for rent or hire and that is actually occupied by the proprietor of such establishment as a residence;

(b) a restaurant, bar or other establishment serving food or drink;

(c) a motion picture house, theater, concert hall, stadium or other place of exhibition or entertainment;

(d) an auditorium, convention center, lecture hall or other place of public gathering;

(e) a bakery, grocery store, clothing store, shopping center or other sales or rental establishment;

(f) a laundromat, bank, barber shop, beauty shop, travel service, funeral parlor, gas station, office of an accountant or lawyer, pharmacy, insurance office, professional office of a health care provider, hospital or other service establishment;

(g) a terminal, depot or other station used for public transportation;

(h) a museum, library, gallery or other place of public display or collection;

(i) a park, zoo, amusement park or other place of recreation;

(j) a nursery, elementary, secondary, undergraduate or postgraduate school or other place of education;

(k) a daycare center, senior citizen center, homeless shelter, food bank, adoption agency or other social service center establishment; and

(l) a gymnasium, health spa, bowling alley, golf course or other place of exercise or recreation.

HCPAC/House Bill 205, aa

Approved March 28, 2019

LAWS 2019, CHAPTER 106

AN ACT

RELATING TO MISSING PERSONS; CREATING THE MISSING AND MURDERED INDIGENOUS WOMEN TASK FORCE; DECLARING AN EMERGENCY.

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

Chapter 106 Section 1 Laws 2019

SECTION 1. TEMPORARY PROVISION--MISSING AND MURDERED INDIGENOUS WOMEN TASK FORCE--CREATED--FINDINGS--REPORT.--

A. The "missing and murdered indigenous women task force" is created and shall exist until the end of fiscal year 2021.

B. The task force consists of:

(1) the secretary of Indian affairs or the secretary's designee from the Indian affairs department, who shall be chair of the task force;

(2) the secretary of public safety or the secretary's designee from the department of public safety;

(3) a representative of the United States bureau of Indian affairs office of justice services designated by the southwest region's deputy regional director for Indian services of the bureau of Indian affairs;

(4) one person who is a member of a pueblo, appointed by the governor;

- (5) one person who is a member of the Jicarilla Apache Nation, appointed by the governor;
- (6) one person who is a member of the Mescalero Apache Tribe, appointed by the governor;
- (7) one person who is a member of the Navajo Nation, appointed by the governor;
- (8) one person from the office of the medical investigator;
- (9) one person who is a representative of an indigenous women's nongovernmental organization that provides counseling services for indigenous women and girls who have been victims of violence, appointed by the governor;
- (10) one person who is a representative of a statewide or local nongovernmental organization that provides legal services to indigenous women and girls who have been victims of violence, appointed by the governor; and
- (11) one person who is an indigenous woman who has been a victim of violence or a family member of an indigenous woman who has been a victim of violence, appointed by the governor.

C. Vacancies by members of the task force appointed by the governor shall be filled by appointment by the governor.

D. Task force members appointed by the governor may receive per diem and mileage as provided for non-salaried public officers in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

E. The task force shall conduct a study to determine how to increase state resources for reporting and identifying missing and murdered indigenous women in the state. The task force shall collaborate with tribal law enforcement agencies to determine the scope of the problem, identify barriers to address the problem and create partnerships to improve the reporting of and the investigation of missing and murdered indigenous women.

F. The task force shall work with tribal governments and shall respect tribal sovereignty. The task force shall collaborate with the United States department of justice to improve its processes for information sharing and coordination of resources in regard to reporting and investigating cases of missing and murdered indigenous women in the state.

G. The task force shall report its findings and recommendations to the governor, the legislative council service library and the appropriate interim legislative committee and present those findings to the appropriate interim legislative committee prior to November 1, 2020.

Chapter 106 Section 2 Laws 2019

SECTION 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately. _____

H AFC/House Bill 278, ec

Approved March 28, 2019

LAWS 2019, CHAPTER 107

AN ACT

RELATING TO DENTAL HEALTH CARE; AMENDING AND ENACTING SECTIONS OF THE DENTAL HEALTH CARE ACT TO ESTABLISH THE PROFESSION OF DENTAL THERAPIST; ENACTING A PROVISION OF THE DEPARTMENT OF HEALTH ACT TO ESTABLISH MINIMUM QUALIFICATIONS FOR THE DIRECTOR OF THE OFFICE OF ORAL HEALTH; ENACTING A SECTION OF THE PUBLIC SCHOOL CODE TO REQUIRE STUDENTS TO OBTAIN OR OPT OUT OF DENTAL EXAMINATIONS PRIOR TO ANNUAL SCHOOL ENROLLMENT; AMENDING SECTIONS OF THE PUBLIC ASSISTANCE ACT AND THE NONPROFIT HEALTH CARE PLAN LAW TO PROVIDE FOR REIMBURSEMENT OF DENTAL THERAPY; ENACTING A NEW SECTION OF THE PUBLIC HEALTH ACT TO REQUIRE REPORTING ON DENTAL HEALTH CARE ACCESS AND THE STATUS OF THE DENTAL THERAPIST LICENSURE PROGRAM; ENACTING A TEMPORARY PROVISION TO REQUIRE THE DEPARTMENT OF HEALTH TO CONDUCT AND REPORT ON A STUDY OF THE FIRST FIVE YEARS OF DENTAL THERAPY PRACTICE IN THE STATE.

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

Chapter 107 Section 1 Laws 2019

SECTION 1. Section 61-5A-3 NMSA 1978 (being Laws 1994, Chapter 55, Section 3, as amended) is amended to read:

"61-5A-3. DEFINITIONS.--As used in the Dental Health Care Act:

A. "assessment" means the review and documentation of the oral condition, and the recognition and documentation of deviations from the healthy condition, without a diagnosis to determine the cause or nature of disease or its treatment;

B. "board" means the New Mexico board of dental health care;

C. "certified dental assistant" means an individual certified by the dental assisting national board;

D. "collaborative dental hygiene practice" means a New Mexico licensed dental hygienist practicing according to Subsections D through G of Section 61-5A-4 NMSA 1978;

E. "committee" means the New Mexico dental hygienists committee;

F. "community dental health coordinator" means a dental assistant, a dental hygienist or other trained personnel certified by the board as a community dental health coordinator to provide educational, preventive and limited palliative care and assessment services working collaboratively under the general supervision of a licensed dentist in settings other than traditional dental offices and clinics;

G. "consulting dentist" means a dentist who has entered into an approved agreement to provide consultation and create protocols with a collaborating dental hygienist and, when required, to provide diagnosis and authorization for services, in accordance with the rules of the board and the committee;

H. "dental hygiene-focused assessment" means the documentation of existing oral and relevant system conditions and the identification of potential oral disease to develop, communicate, implement and evaluate a plan of oral hygiene care and treatment;

I. "dental assistant certified in expanded functions" means a dental assistant who meets specific qualifications set forth by rule of the board;

J. "dental hygienist" means an individual who has graduated and received a degree from a dental hygiene educational program that is accredited by the commission on dental accreditation, that provides a minimum of two academic years of dental

hygiene curriculum and that is an institution of higher education; and "dental hygienist" means, except as the context otherwise requires, an individual who holds a license to practice dental hygiene in New Mexico;

K. "dental laboratory" means any place where dental restorative, prosthetic, cosmetic and therapeutic devices or orthodontic appliances are fabricated, altered or repaired by one or more persons under the orders and authorization of a dentist;

L. "dental technician" means an individual, other than a licensed dentist, who fabricates, alters, repairs or assists in the fabrication, alteration or repair of dental restorative, prosthetic, cosmetic and therapeutic devices or orthodontic appliances under the orders and authorization of a dentist;

M. "dental therapist" means an individual who:

(1) is licensed as a dental hygienist;

(2) has provided, in accordance with board rules, evidence to the board that the individual has graduated and received a degree from a dental therapy education program that is accredited by the commission on dental accreditation; and

(3) except as the context otherwise requires, is licensed to practice dental therapy in the state;

N. "dental therapy post-graduate clinical experience" means advanced training in patient management and technical competency:

(1) that is approved by the board, based on educational and supervisory criteria developed by the board and established by board rule;

(2) that is sanctioned by a regionally accredited educational institution with a program accredited by the commission on dental accreditation;

(3) that consists of two thousand hours of advanced training or, if the dental therapy educational program graduate has five years of experience as a dental hygienist, one thousand five hundred hours of advanced training; and

(4) for which the dental therapist may have been compensated;

O. "dental therapy practice agreement" means a contract between a supervising dentist and a dental therapist that outlines the parameters of care, level of

supervision and protocols to be followed while performing dental therapy procedures on patients under the supervising dentist's and dental therapist's care;

P. "dentist" means an individual who has graduated and received a degree from a school of dentistry that is accredited by the commission on dental accreditation and, except as the context otherwise requires, who holds a license to practice dentistry in New Mexico;

Q. "direct supervision" means the process under which an act is performed when a dentist licensed pursuant to the Dental Health Care Act:

(1) is physically present throughout the performance of the act;

(2) orders, controls and accepts full professional responsibility for the act performed; and

(3) evaluates and approves the procedure performed before the patient departs the care setting;

R. "expanded-function dental auxiliary" means a dental assistant, dental hygienist or other dental practitioner that has received education beyond that required for licensure or certification in that individual's scope of practice and that has been certified by the board as an expanded-function dental auxiliary who works under the direct supervision of a dentist;

S. "federally qualified health center" means a health facility that the United States department of health and human services has deemed to qualify for federal funds as a federally qualified health center;

T. "federally qualified health center look-alike facility" means a health facility that the federal centers for medicare and medicaid services certifies as a federally qualified health center look-alike facility;

U. "general supervision" means the authorization by a dentist of the procedures to be used by a dental therapist, community dental health coordinator, dental hygienist, dental assistant or dental student and the execution of the procedures in accordance with a dentist's diagnosis and treatment plan at a time the dentist is not physically present and in facilities as designated by rule of the board;

V. "indirect supervision" means that a dentist, or in certain settings, a dental therapist, dental hygienist or dental assistant certified in expanded functions, is present

in the treatment facility while authorized treatments are being performed by a dental therapist, dental hygienist, dental assistant or dental student;

W. "long-term care facility" means a nursing home licensed by the department of health to provide intermediate or skilled nursing care;

X. "non-dentist owner" means an individual not licensed as a dentist in New Mexico or a corporate entity not owned by a majority interest of a New Mexico licensed dentist that employs or contracts with a dentist or dental hygienist to provide dental or dental hygiene services;

Y. "nonprofit community dental organization" means a community-supported entity that:

(1) provides clinical dental services primarily to low-income patients or medicaid recipients; and

(2) has demonstrated to the taxation and revenue department that it has been granted exemption from the federal income tax by the United States commissioner of internal revenue as an organization described in Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended or renumbered;

Z. "palliative procedures" means nonsurgical, reversible procedures that are meant to alleviate pain and stabilize acute or emergent problems; and

AA. "teledentistry" means a dentist's use of health information technology in real time to provide limited diagnostic and treatment planning services in cooperation with another dentist, a dental therapist, a dental hygienist, a community dental health coordinator or a student enrolled in a program of study to become a dental assistant, dental hygienist, dental therapist or dentist."

Chapter 107 Section 2 Laws 2019

SECTION 2. Section 61-5A-5 NMSA 1978 (being Laws 1994, Chapter 55, Section 5, as amended) is amended to read:

"61-5A-5. LICENSE REQUIRED--EXEMPTIONS.--

A. Unless licensed to practice as a dentist under the Dental Health Care Act, no person shall:

(1) practice dentistry;

(2) use the title "dentist", "dental surgeon", "oral surgeon" or any other title, abbreviation, letters, figures, signs or devices that indicate the person is a licensed dentist; or

(3) perform any of the acts enumerated under the definition of the practice of dentistry as defined in the Dental Health Care Act.

B. The following, under the stipulations described, may practice dentistry or an area of dentistry without a New Mexico dental license:

(1) regularly licensed physicians or surgeons are not prohibited from extracting teeth or treating any disease coming within the province of the practice of medicine;

(2) New Mexico licensed dental hygienists and community dental health coordinators may provide those services within their scope of practice that are also within the scope of the practice of dentistry;

(3) any dental student duly enrolled in an accredited school of dentistry recognized by the board, while engaged in educational programs offered by the school in private offices, public clinics or educational institutions within the state of New Mexico under the indirect supervision of a licensed dentist;

(4) any dental hygiene or dental assisting student duly enrolled in an accredited school of dental hygiene or dental assisting engaged in procedures within or outside the scope of dental hygiene that are part of the curriculum of that program in the school setting and under the indirect supervision of a faculty member of the accredited program who is a licensed dentist, dental hygienist or dental assistant certified in the procedures being taught;

(5) unlicensed persons performing for a licensed dentist merely mechanical work upon inert matter in the construction, making, alteration or repairing of any artificial dental substitute, dental restorative or corrective appliance, when the casts or impressions for the work have been furnished by a licensed dentist and where the work is prescribed by a dentist pursuant to a written authorization by that dentist;

(6) commissioned dental officers of the uniformed forces of the United States and dentists providing services to the United States public health service, the United States department of veterans affairs or within federally controlled facilities in the discharge of their official duties; provided that such persons who hold dental licenses in New Mexico shall be subject to the provisions of the Dental Health Care Act;

(7) dental assistants performing adjunctive services to the provision of dental care, under the indirect supervision of a dentist, as determined by rule of the board if such services are not within the practice of dental hygiene as specifically listed in Subsection B of Section 61-5A-4 NMSA 1978, unless allowed in Subsection F of this section;

(8) a dental therapy student or graduate of a dental therapy educational program enrolled in a board-approved program while engaged in an educational program offered by the dental therapy educational program or dental therapy post-graduate clinical experience in a private office, public clinic or educational institution within the state of New Mexico under the indirect supervision of a licensed dentist; and

(9) a dental therapist who is licensed in New Mexico working under the supervision of a dentist and performing the procedures in accordance with the provisions of Section 9 of this 2019 act.

C. Unless licensed to practice as a dental therapist under the Dental Health Care Act, no person shall:

(1) practice as a dental therapist;

(2) use the title, abbreviation "D.T.", letters, figures, signs or devices that indicate the person is a licensed dental therapist; or

(3) perform any of the acts defined as the practice of dental therapy in the Dental Health Care Act.

D. Unless licensed to practice as a dental hygienist under the Dental Health Care Act, no person shall:

(1) practice as a dental hygienist;

(2) use the title "dental hygienist" or abbreviation "R.D.H." or any other title, abbreviation, letters, figures, signs or devices that indicate the person is a licensed dental hygienist; or

(3) perform any of the acts defined as the practice of dental hygiene in the Dental Health Care Act.

E. The following, under the stipulations described, may practice dental hygiene or the area of dental hygiene outlined without a New Mexico dental hygiene license:

(1) students enrolled in an accredited dental hygiene program engaged in procedures that are part of the curriculum of that program and under the indirect supervision of a licensed faculty member of the accredited program;

(2) dental assistants and community dental health coordinators working under general supervision who:

(a) expose dental radiographs after being certified in expanded functions by the board;

(b) perform rubber cup coronal polishing, which is not represented as a prophylaxis, having satisfied the educational requirements as established by rules of the board;

(c) apply fluorides as established by rules of the board; and

(d) perform those other dental hygienist functions as recommended to the board by the committee and set forth by rule of the board; and

(3) dental assistants certified in expanded functions, working under the indirect supervision of a dental hygienist certified for collaborative practice and under the protocols established in a collaborative practice agreement with a consulting dentist.

F. Dental assistants working under the indirect supervision of a dentist and in accordance with the rules and regulations established by the board may:

(1) expose dental radiographs;

(2) perform rubber cup coronal polishing that is not represented as a prophylaxis;

(3) apply fluoride and pit and fissure sealants without mechanical alteration of the tooth;

(4) perform those other dental hygienist functions as recommended to the board by the committee and set forth by rule of the board; and

(5) perform such other related functions that are not expressly prohibited by statute or rules of the board.

G. A community dental health coordinator working under the general supervision of a dentist and in accordance with the rules established by the board may:

(1) place temporary and sedative restorative material in unexcavated carious lesions and unprepared tooth fractures;

(2) collect and transmit diagnostic data and images via telemetric connection;

(3) dispense and apply medications on the specific order of a dentist;

(4) provide limited palliative procedures for dental emergencies in consultation with a supervising dentist as allowed by the rules the board has promulgated; and

(5) perform other related functions for which the community dental health coordinator meets training and educational standards established by the board and that are not expressly prohibited by statute or rules promulgated by the board.

H. Unless licensed as a dentist or non-dentist owner, or as otherwise exempt from the licensing requirements of the Dental Health Care Act, no individual or corporate entity shall:

(1) employ or contract with a dentist or dental hygienist for the purpose of providing dental or dental hygiene services as defined by their respective scopes of practice; or

(2) enter into a managed care or other agreement to provide dental or dental hygiene services in New Mexico.

I. The following, under stipulations described, may function as a non-dentist owner without a New Mexico license:

(1) government agencies providing dental services within affiliated facilities;

(2) government agencies engaged in providing public health measures to prevent dental disease;

(3) spouses of deceased licensed dentists or dental hygienists for a period of one year following the death of the licensee;

(4) accredited schools of dentistry, dental hygiene and dental assisting providing dental services solely in an educational setting;

(5) dental hygienists licensed in New Mexico or corporate entities with a majority interest owned by a dental hygienist licensed in New Mexico;

(6) federally qualified health centers, as designated by the United States department of health and human services, providing dental services;

(7) nonprofit community dental organizations; and

(8) hospitals licensed by the department of health."

Chapter 107 Section 3 Laws 2019

SECTION 3. Section 61-5A-10 NMSA 1978 (being Laws 1994, Chapter 55, Section 10, as amended) is amended to read:

"61-5A-10. POWERS AND DUTIES OF THE BOARD AND COMMITTEE.--In addition to any other authority provided by law, the board and the committee, when designated, shall:

A. enforce and administer the provisions of the Dental Health Care Act and the Dental Amalgam Waste Reduction Act;

B. adopt, publish, file and revise, in accordance with the Uniform Licensing Act and the State Rules Act, all rules as may be necessary to:

(1) regulate the examination and licensure of dentists and dental therapists and, through the committee, regulate the examination and licensure of dental hygienists;

(2) provide for the examination and certification of dental assistants by the board;

(3) provide for the regulation of dental technicians by the board;

(4) regulate the practice of dentistry, dental therapy and dental assisting and, through the committee, regulate the practice of dental hygiene; and

(5) provide for the regulation and licensure of non-dentist owners by the board;

C. adopt and use a seal;

D. administer oaths to all applicants, witnesses and others appearing before the board or the committee, as appropriate;

E. keep an accurate record of all meetings, receipts and disbursements;

F. grant, deny, review, suspend and revoke licenses and certificates to practice dentistry, dental therapy, dental assisting and, through the committee, dental hygiene and censure, reprimand, fine and place on probation and stipulation dentists, dental therapists, dental assistants and, through the committee, dental hygienists, in accordance with the Uniform Licensing Act for any cause stated in the Dental Health Care Act and the Dental Amalgam Waste Reduction Act;

G. grant, deny, review, suspend and revoke licenses to own dental practices and censure, reprimand, fine and place on probation and stipulation non-dentist owners, in accordance with the Uniform Licensing Act, for any cause stated in the Dental Health Care Act and the Dental Amalgam Waste Reduction Act;

H. maintain records of the name, address, license number and such other demographic data as may serve the needs of the board of licensees, together with a record of license renewals, suspensions, revocations, probations, stipulations, censures, reprimands and fines. The board shall make available composite reports of demographic data but shall limit public access to information regarding individuals to their names, addresses, license numbers and license actions or as required by statute;

I. hire and contract for services from persons as necessary to carry out the board's duties;

J. establish ad hoc committees whose members shall be appointed by the chair with the advice and consent of the board or committee and shall include at least one member of the board or committee as it deems necessary for carrying on its business;

K. have the authority to pay per diem and mileage to individuals who are appointed by the board or the committee to serve on ad hoc committees;

L. have the authority to hire or contract with investigators to investigate possible violations of the Dental Health Care Act and the Dental Amalgam Waste Reduction Act;

M. have the authority to issue investigative subpoenas prior to the issuance of a notice of contemplated action for the purpose of investigating complaints against dentists, dental therapists, dental assistants and, through the committee, dental hygienists licensed under the Dental Health Care Act and the Dental Amalgam Waste Reduction Act;

N. have the authority to sue or be sued and to retain the services of an attorney at law for counsel and representation regarding the carrying out of the board's duties;

O. have the authority to create and maintain a formulary, in consultation with the board of pharmacy, of medications that a dental therapist or dental hygienist may prescribe, administer or dispense in accordance with rules the board has promulgated; and

P. establish continuing education or continued competency requirements for dentists, dental therapists, certified dental assistants in expanded functions, dental technicians and, through the committee, dental hygienists."

Chapter 107 Section 4 Laws 2019

SECTION 4. Section 61-5A-15 NMSA 1978 (being Laws 1994, Chapter 55, Section 15) is amended to read:

"61-5A-15. CONTENT OF LICENSES AND CERTIFICATES--DISPLAY OF LICENSES AND CERTIFICATES.--

A. All dental licenses issued by the board shall bear:

- (1) a serial number;
- (2) the full name of the licensee;
- (3) the date of issue;
- (4) the seal of the board;
- (5) if the license is a specialty license, the specialty to which practice is limited;
- (6) the signatures of a majority of the board members; and
- (7) the attestation of the board president and secretary.

B. All dental therapy licenses issued by the board shall bear:

- (1) a serial number;
- (2) the full name of the licensee;

- (3) the date of issue;
- (4) the seal of the board;
- (5) the signatures of a majority of the board members; and
- (6) the attestation of the board president and secretary.

C. All dental hygienist licenses issued by the board shall bear:

- (1) a serial number;
- (2) the full name of the licensee;
- (3) the date of issue;
- (4) the seal of the board;
- (5) the signatures of a majority of the committee members; and
- (6) the attestation of the board president and secretary.

D. Certificates issued to dental assistants shall bear:

- (1) a serial number;
- (2) the full name of the assistant;
- (3) the date of issue;
- (4) the date of expiration;
- (5) the expanded functions certified to perform; and
- (6) the attestation of the board secretary.

E. All licenses and certificates shall be displayed in a conspicuous place in the office where the holder practices. The license or certificate shall, upon request, be exhibited to any of the members of the board, the committee or its authorized agent."

Chapter 107 Section 5 Laws 2019

SECTION 5. Section 61-5A-17 NMSA 1978 (being Laws 1994, Chapter 55, Section 17, as amended) is amended to read:

"61-5A-17. RETIREMENT AND INACTIVE STATUS-- REACTIVATION.--

A. A licensee who wishes to retire from practice shall meet all requirements for retirement as set by rules of the board, and, if the licensee is a dental hygienist, the committee. The licensee shall notify the board or the committee in writing before the expiration of the licensee's current license, and the secretary of the board or the committee shall acknowledge the receipt of notice and record it. If, within a period of three years from the date of retirement, the licensee wishes to resume practice, the applicant shall notify the board or the committee in writing and give proof of completing all requirements as prescribed by rules of the board and the committee to reactivate the license.

B. At any time during the three-year period following retirement, a licensee with a retired New Mexico license may request in writing to the board or the committee that the licensee's license be placed in inactive status. Upon the receipt of the application and fees as determined by the board or the committee and with the approval of the board or the committee, the license may be placed in inactive status.

C. A licensee whose license has been placed in inactive status may not engage in any of the activities contained within the scope of practice of dentistry, dental therapy or dental hygiene in New Mexico described in the Dental Health Care Act.

D. Licensees with inactive licenses must renew their licenses triennially and comply with all the requirements set by the board and, if the licensee is a dental hygienist, by the committee.

E. If a licensee with an inactive license wishes to resume active practice, the licensee must notify the board or, if the licensee is a dental hygienist, the committee, in writing and provide proof of completion of all requirements to reactivate the license as prescribed by rule of the board or the committee. Upon payment of all fees due, the board may reactivate the license and the licensee may resume practice subject to any stipulations of the board or the committee.

F. Inactive licenses must be reactivated or permanently retired within nine years of having been placed in inactive status.

G. Assessment of fees pursuant to this section is not subject to the Uniform Licensing Act."

Chapter 107 Section 6 Laws 2019

SECTION 6. Section 61-5A-19 NMSA 1978 (being Laws 1994, Chapter 55, Section 19) is amended to read:

"61-5A-19. REINSTATEMENT OF REVOKED OR SUSPENDED LICENSE.--

A. Unless otherwise stated in the order of revocation, a motion for reinstatement of a revoked license may not be filed for a period of at least three years from the effective date of the revocation.

B. If the motion for reinstatement is denied, no further motions for reinstatement shall be considered for a period of one year.

C. A licensee who has been suspended for a specific period of time shall be automatically reinstated at the expiration of the period specified in the order of suspension. The suspended licensee shall automatically be reinstated as of the day after the expiration of the period of suspension; provided that prior to the expiration of such time if the administrative prosecutor has filed with the board or committee the written objections, the suspended licensee shall not be automatically reinstated. Should objections be filed, the petition for reinstatement shall be referred to the board or committee for hearing pursuant to provisions of Subsection E of this section.

D. Procedure for reinstatement of licensees who have been suspended for an indefinite period of time is as follows:

(1) a licensee who has been suspended for an indefinite period of time may, at any time after complying with the conditions of reinstatement, file a petition for reinstatement with the board or committee;

(2) the petition shall be referred to the board or committee for hearing pursuant to provisions of Subsection E of this section; and

(3) if the motion for reinstatement is denied, no further motions for reinstatement will be considered for a period of one year.

E. Procedure for reinstatement hearings is as follows:

(1) applications for reinstatement shall be referred to the board or, if the application is for reinstatement of a license to practice dental hygiene, to the committee for hearing if the applicant meets the criteria set forth in this section;

(2) the board or committee shall schedule a hearing as soon as practical at which the applicant shall have the burden of demonstrating that the applicant has the moral qualifications, that the applicant is once again fit to resume the practice of dentistry, dental therapy or dental hygiene and that the resumption of the applicant's practice of dentistry, dental therapy or dental hygiene will not be detrimental to the public interest;

(3) the board or committee shall file its findings of fact, conclusions of law and decision within ninety days of the hearing; and

(4) the board's or committee's decision to refuse to reinstate a license shall not be reviewable except for an abuse of discretion."

Chapter 107 Section 7 Laws 2019

SECTION 7. Section 61-5A-20 NMSA 1978 (being Laws 1994, Chapter 55, Section 20, as amended) is amended to read:

"61-5A-20. FEES.--The board and the committee shall establish a schedule of reasonable fees not to exceed the following:

	Dentists	Dental Hygienists
A. licensure by examination	\$1,500	\$1,000
B. licensure by credential	\$3,000	\$1,500
C. specialty license by examination	\$1,500	
D. specialty license by credential	\$3,000	
E. temporary license		
48 hours	\$ 50	\$ 50
six months	\$ 300	\$ 200
12 months	\$ 450	\$ 300
F. application for certification in local anesthesia		\$ 40
G. examination in local anesthesia		\$ 150
H. triennial license renewal	\$ 600	\$ 450
I. late renewal	\$ 100	\$ 100
J. reinstatement of license	\$ 450	\$ 300
K. administrative fees	\$ 300	\$ 300
L. impaired dentist or dental hygienist	\$ 150	\$ 75
M. assistant, expanded-function dental auxiliary or community		

	dental health coordinator certificate		\$ 100
N.	application for certification for collaborative practice		\$ 150
O.	annual renewal for collaborative practice		\$ 50
P.	application for inactive status	\$ 50	\$ 50
Q.	triennial renewal of inactive license	\$ 90	\$ 90
			Non-dentist Owners
R.	non-dentist owners license (initial)		\$ 300
S.	non-dentist owners license triennial renewal		\$ 150
			Dental Therapists
T.	dental therapist license (initial)		\$1,000
U.	dental therapist license triennial renewal		\$ 300."

Chapter 107 Section 8 Laws 2019

SECTION 8. Section 61-5A-21 NMSA 1978 (being Laws 1994, Chapter 55, Section 21, as amended) is amended to read:

"61-5A-21. DISCIPLINARY PROCEEDINGS--APPLICATION OF UNIFORM LICENSING ACT.--

A. In accordance with the Uniform Licensing Act and rules of the board, the board and, as relates to dental hygienist licensure, committee may fine and may deny, revoke, suspend, stipulate or otherwise limit any license or certificate, including those of licensed non-dentist owners, held or applied for under the Dental Health Care Act, upon findings by the board or the committee that the licensee, certificate holder or applicant:

(1) is guilty of fraud or deceit in procuring or attempting to procure a license or certificate;

(2) has been convicted of a crime punishable by incarceration in a federal prison or state penitentiary; provided a copy of the record of conviction, certified to by the clerk of the court entering the conviction, shall be conclusive evidence of such conviction;

(3) is guilty of gross incompetence or gross negligence, as defined by rules of the board, in the practice of dentistry, dental therapy, dental hygiene or dental assisting;

(4) is habitually intemperate or is addicted to the use of habit-forming drugs or is addicted to any vice to such degree as to render the licensee unfit to practice;

(5) is guilty of unprofessional conduct as defined by rule;

(6) is guilty of any violation of the Controlled Substances Act;

(7) has violated any provisions of the Dental Health Care Act or rule or regulation of the board or, as relates to the practice of dental hygiene, the committee;

(8) is guilty of willfully or negligently practicing beyond the scope of licensure;

(9) is guilty of practicing dentistry, dental therapy or dental hygiene without a license or aiding or abetting the practice of dentistry, dental therapy or dental hygiene by a person not licensed under the Dental Health Care Act;

(10) is guilty of obtaining or attempting to obtain any fee by fraud or misrepresentation or has otherwise acted in a manner or by conduct likely to deceive, defraud or harm the public;

(11) is guilty of patient abandonment;

(12) is guilty of failing to report to the board any adverse action taken against the licensee by a licensing authority, peer review body, malpractice insurance carrier or other entity as defined in rules of the board and the committee;

(13) has had a license, certificate or registration to practice as a dentist, dental therapist or dental hygienist revoked, suspended, denied, stipulated or otherwise limited in any jurisdiction, territory or possession of the United States or another country for actions of the licensee similar to acts described in this subsection. A certified copy of the decision of the jurisdiction taking such disciplinary action will be conclusive evidence; or

(14) has failed to furnish the board, its investigators or its representatives with information requested by the board or the committee in the course of an official investigation.

B. Disciplinary proceedings may be instituted by sworn complaint by any person, including a board or committee member, and shall conform with the provisions of the Uniform Licensing Act.

C. Licensees and certificate holders shall bear the costs of disciplinary proceedings unless exonerated.

D. Any person filing a sworn complaint shall be immune from liability arising out of civil action if the complaint is filed in good faith and without actual malice.

E. Licensees whose licenses are in a probationary status shall pay reasonable expenses for maintaining probationary status, including laboratory costs when laboratory testing of biological fluids or accounting costs when audits are included as a condition of probation."

Chapter 107 Section 9 Laws 2019

SECTION 9. A new section of the Dental Health Care Act is enacted to read:

"DENTAL THERAPIST LICENSURE--REQUIREMENTS.--

A. The board shall license as a dental therapist any individual who, in accordance with board rules:

(1) provides evidence of licensure as a dental hygienist;

(2) provides evidence of having graduated and received a degree from a dental therapy education program accredited by the commission on dental accreditation;

(3) has passed a written examination covering the statutes and rules relating to the practice of dental therapy in the state within a time frame established in board rules;

(4) has passed a practical or clinical examination on the practice of dental therapy administered by the board or its agent that reasonably tests the individual's skill in practicing dental therapy; and

(5) has paid any requisite fees and complied with any other reasonable requirements for licensure as a dental therapist that the board has established by rule.

B. No dentist shall supervise more than three dental therapists at any one time."

Chapter 107 Section 10 Laws 2019

SECTION 10. A new section of the Dental Health Care Act is enacted to read:

"DENTAL THERAPY--SCOPE OF PRACTICE--SUPERVISION.--

A. A dental therapist shall provide care in accordance with a dental therapy practice agreement; provided that the dental therapy practice agreement is limited to:

(1) the following activities performed under general supervision:

- (a) oral evaluation and assessment of dental disease;
- (b) formulation of an individualized treatment plan as authorized by a supervising dentist;
- (c) place and shape direct restorations without mechanical preparation;
- (d) impressions for single-tooth removable prosthesis;
- (e) temporary cementation;
- (f) atraumatic restorative therapy;
- (g) temporary and sedative restorations;
- (h) extraction of primary teeth without radiological evidence of roots;
- (i) palliative treatments;
- (j) fabrication and placement of temporary crowns;
- (k) recementation of permanent crowns;
- (l) removal and nonsurgical placement of space maintainers;
- (m) repairs and adjustments to prostheses;
- (n) tissue conditioning;

(o) administration of analgesics, anti-inflammatory substances and antibiotics that a supervising dentist orders; and

(p) other closely related procedures that the board authorizes through rules it has adopted and promulgated; and

(2) the following activities that a dental therapist performs under indirect supervision or, if the dental therapist has completed a dental therapy post-graduate clinical experience, under general supervision:

(a) preparation and direct restoration of cavities in primary and permanent teeth; and

(b) fitting, shaping and cementing of stainless steel crowns on teeth prepared by a dentist.

B. A dental therapist may treat a patient prior to a dentist's examination or diagnosis, subject to a dental therapy practice agreement."

Chapter 107 Section 11 Laws 2019

SECTION 11. A new section of the Dental Health Care Act is enacted to read:

"DENTAL THERAPY--PRACTICE ENVIRONMENTS.--

A. A dental therapist shall practice only in the following environments:

(1) a nonprofit community dental organization;

(2) a health facility operated by the federal Indian health service;

(3) a health facility that a tribe operates under Section 638 of the federal Indian Self-Determination and Education Assistance Act;

(4) a federally qualified health center;

(5) a facility certified by the federal centers for medicare and medicaid services as a "federally qualified health center look-alike" facility;

(6) a private residence or a facility in which an individual receives long-term community-based services under the state's medicaid program;

(7) a long-term care facility;

(8) a private residence, when exclusively to treat an individual who, due to disease, disability or condition, is unable to receive care in a dental facility; or

(9) an educational institution engaged in the training of dental therapists accredited by the commission on dental accreditation.

B. The provisions of this section shall not be construed to prohibit, restrict or impose state licensure or regulatory requirements or obligations on the practice of dental therapy:

(1) on tribal lands; or

(2) by a dental therapist who is employed by a tribal health program, a federal Indian health program or a federally operated Indian health service health care site."

Chapter 107 Section 12 Laws 2019

SECTION 12. A new section of the Public Health Act is enacted to read:

"DEPARTMENT OF HEALTH--NEW MEXICO BOARD OF DENTAL HEALTH CARE--ANNUAL REPORT--BIENNIAL REPORT.--The department of health shall collaborate with the New Mexico board of dental health care and provide to the legislative health and human services committee and the legislative finance committee the following reports:

A. by October 1, 2020 and by each October 1 thereafter, a report relating to access to dental health care. The department shall compile for the report at least the following information with analysis and recommendations for legislative action relating to this information:

(1) the status of dental health care professional education loan-for-service programming;

(2) the feasibility of establishing a program allowing bachelor of arts degree recipients to matriculate directly to dental school for a doctor of dental medicine or doctor of dental surgery degree;

(3) the status of the state's medicaid program, including:

(a) simplification of administrative procedures regarding the provision of dental health care to medicaid recipients; and

(b) changes to reimbursement levels that would encourage dental health care professionals to accept more medicaid recipients as patients;

(4) the number of dental health care professionals taking advantage of the rural health care practitioner tax credit;

(5) other timely issues as determined by the New Mexico board of dental health care to have an impact on access to or the delivery of dental health care in New Mexico; and

(6) the identification of activities in the dental therapist's scope of practice that require dental therapy post-graduate clinical experience; and

B. by October 1, 2020 and by October 1 every two years thereafter, a report on the status of the dental therapist licensure program, including the:

(1) name and number of educational institutions offering accreditation of a dental therapy educational program;

(2) number of students enrolled in each dental therapy educational program, per educational institution;

(3) number of licensed dental hygienists enrolled in dental therapy educational programs, per educational institution;

(4) number of students who have graduated from dental therapy educational programs;

(5) name and number of locations where students are completing dental therapy post-graduate experience;

(6) number of graduates practicing under general supervision;

(7) practice location for all licensed dental therapists in the state, by county; and

(8) number of dental therapists in each county."

Chapter 107 Section 13 Laws 2019

SECTION 13. A new section of the Department of Health Act is enacted to read:

"DEPARTMENT OF HEALTH--OFFICE OF ORAL HEALTH--DIRECTOR.--The secretary shall appoint a director of the department's office of oral health, who shall be a dental health care professional licensed pursuant to the Dental Health Care Act."

Chapter 107 Section 14 Laws 2019

SECTION 14. A new section of the Public School Code is enacted to read:

"DENTAL EXAMINATION REQUIREMENT--OPTING OUT--EDUCATION--OUTREACH.--

A. As of July 1, 2021, a student shall not enroll in school unless the student has provided, in accordance with protocols established by the department:

(1) satisfactory evidence of having undergone a dental examination that meets standards established pursuant to department rules; or

(2) a form, signed by the student's parent or guardian, that states that the parent understands the risks associated when a student does not undergo a dental examination prior to school enrollment and that the parent or guardian nevertheless opts not to obtain a dental examination for the student.

B. Department rules shall specify that students shall obtain dental examinations required pursuant to Subsection A of this section at their own expense or at the expense of any dental health coverage they have.

C. By July 1, 2020, the secretary shall:

(1) adopt and promulgate rules to prescribe the requirements for dental examination pursuant to this section; and

(2) provide extensive education statewide for parents and guardians explaining the requirements for dental examination and providing information regarding where they may receive referrals to dental health care professionals statewide who are authorized to perform dental examinations in accordance with those rules.

D. Beginning July 1, 2022, the department shall collect data regarding student compliance with the provisions of Subsection A of this section and make an annual

written report of that data to the legislative finance committee and the legislative health and human services committee.

Chapter 107 Section 15 Laws 2019

SECTION 15. Section 27-2-12 NMSA 1978 (being Laws 1973, Chapter 376, Section 16, as amended) is amended to read:

"27-2-12. MEDICAL ASSISTANCE PROGRAMS.--

A. Consistent with the federal act and subject to the appropriation and availability of federal and state funds, the medical assistance division of the department may by rule provide medical assistance, including the services of licensed doctors of oriental medicine, licensed chiropractic physicians, licensed dental therapists and licensed dental hygienists in collaborating practice, to persons eligible for public assistance programs under the federal act.

B. Subject to appropriation and availability of federal, state or other funds received by the state from public or private grants or donations, the medical assistance division of the department may by rule provide medical assistance, including assistance in the payment of premiums for medical or long-term care insurance, to children up to the age of twelve if not part of a sibling group; children up to the age of eighteen if part of a sibling group that includes a child up to the age of twelve; and pregnant women who are residents of the state of New Mexico and who are ineligible for public assistance under the federal act. The department, in implementing the provisions of this subsection, shall:

(1) establish rules that encourage pregnant women to participate in prenatal care; and

(2) not provide a benefit package that exceeds the benefit package provided to state employees."

Chapter 107 Section 16 Laws 2019

SECTION 16. Section 59A-47-28.4 NMSA 1978 (being Laws 2003, Chapter 343, Section 4) is amended to read:

"59A-47-28.4. COVERAGE FOR COLLABORATIVE PRACTICE--DENTAL THERAPISTS--DENTAL HYGIENISTS.--An individual or group subscriber contract delivered or issued for delivery in New Mexico that, on a prepaid, service or indemnity basis, provides for treatment of persons for the prevention, cure or correction of any

illness or physical or mental condition shall include coverage for the services of a dental therapist and a dental hygienist in a collaborative practice pursuant to the Dental Health Care Act."

Chapter 107 Section 17 Laws 2019

SECTION 17. TEMPORARY PROVISION--OUTCOME REPORT.--The department of health shall conduct an outcome report on the first five years of dental therapy practice in the state pursuant to this 2019 act. At a date five years following the date of the first issuance of a license to practice dental therapy in the state, the department of health shall consult with the New Mexico board of dental health care, the New Mexico dental hygienists' association and the New Mexico dental association to compile and issue a report to the legislative health and human services committee of the department's findings and recommendations regarding dental therapy, including:

- A. its efficacy, effectiveness and cost;
- B. its impact on access to dental health care;
- C. the distribution of dental therapists statewide;
- D. demographic representation among dental therapists;
- E. issues related to supervision of dental therapists and their scope of practice;
- F. evaluation of services delivered under indirect supervision for recommendation to general supervision; and
- G. evaluation of services delivered under general supervision for recommendation to indirect supervision.

Chapter 107 Section 18 Laws 2019

SECTION 18. REPEAL.--Section 61-5A-2 NMSA 1978 (being Laws 1994, Chapter 55, Section 2, as amended) is repealed.

Chapter 107 Section 19 Laws 2019

SECTION 19. EFFECTIVE DATE.--

- A. The effective date of the provisions of Sections 1 through 12 and 14 through 18 of this act is June 14, 2019.

B. The effective date of the provisions of Section 13 of this act is June 14, 2020.

HHHC/House Bill 308, aa

Approved March 28, 2019

LAWS 2019, CHAPTER 108

AN ACT

RELATING TO WATER; ALLOWING ACEQUIAS AND COMMUNITY DITCHES TO OBTAIN A LIEN ON PROPERTY PURSUANT TO MAGISTRATE AND DISTRICT COURT JUDGMENTS.

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

Chapter 108 Section 1 Laws 2019

SECTION 1. Section 73-2-26 NMSA 1978 (being Laws 1963, Chapter 29, Section 1, as amended) is amended to read:

"73-2-26. ACTIONS FOR COLLECTION OF ASSESSMENTS--

LIEN.--

A. Whenever any person, after due notice, has failed to do work or has failed to pay any amount assessed against the person on any acequia or ditch, the mayordomo or superintendent of the acequia or ditch may bring a civil action for collection of the amount assessed. The magistrate courts and the district courts have concurrent jurisdiction in these actions and the actions may be brought in either forum at the election of the ditch officials. If the ditch officials engage the services of an attorney to assist in the collection of the assessments, the court shall charge the offending party with a reasonable amount for attorney fees incurred in the collection, if the ditch officials prevail in the action.

B. Any person who continues to take or use water from the acequia or ditch without paying the assessments and attorney fees as set by a judgment under this section shall pay a civil penalty for the benefit of the ditch or acequia of not more than

two hundred dollars (\$200). The penalty may be recovered in an action by the ditch officials before the court in the county where the acequia or ditch is located.

C. A money judgment rendered in a magistrate court or district court under this section shall be a lien on the judgment debtor's property to which the water rights that incurred the fees or assessments are appurtenant. The lien shall be effective from the date of filing a certified copy of the judgment, if obtained from a magistrate court, or a transcript of the judgment, if obtained from a district court, in the office of the county clerk of the county in which the property is located; provided that a judgment shall not be filed with the county clerk pursuant to this subsection before the last day to appeal the judgment has expired and until all appeals taken are exhausted. The acequia or community ditch officials shall provide written notice to the property owner that a lien has been placed on the property. When the judgment has been fully satisfied, the acequia or community ditch officials shall file a release of lien in the office of the county clerk of the county in which the property is located within fifteen days. The cost of filing the release of lien shall be assessed against the judgment debtor and shall be collected before the release of lien is required to be filed." _____

House Bill 379, aa

Approved March 28, 2019

LAWS 2019, CHAPTER 109

AN ACT

RELATING TO PUBLIC FACILITIES; MAKING EXISTING OR NEWLY
CONSTRUCTED SINGLE-OCCUPANCY RESTROOMS IN A PUBLIC
ACCOMMODATION ACCESSIBLE REGARDLESS OF GENDER IDENTITY OR SEX.

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

Chapter 109 Section 1 Laws 2019

SECTION 1. SHORT TITLE.--This act may be cited as the "Gender-Free Restrooms Act".

Chapter 109 Section 2 Laws 2019

SECTION 2. DEFINITIONS.--As used in the Gender-Free Restrooms Act:

A. "gender identity" means a person's self- perception, or perception of that person by another, of the person's identity as a male or female based upon the person's appearance, behavior or physical characteristics that are in accord with or opposed to the person's physical anatomy, chromosomal sex or sex at birth;

B. "gender-neutral signage" means a sign that indicates a restroom without preference or distinction to a specific gender identity or sex;

C. "public accommodation" means any establishment that provides or offers its services, facilities, accommodations or goods to the public, but does not include a bona fide private club or other place or establishment that is by its nature and use distinctly private; and

D. "single-user toilet facility" means a single- occupancy restroom with an outer door that can be locked by the occupant.

Chapter 109 Section 3 Laws 2019

SECTION 3. PUBLIC FACILITY AVAILABILITY.--

A. A single-user toilet facility that exists or is constructed on or after July 1, 2019 in a public accommodation shall be:

- (1) made available to any person regardless of gender identity or sex;
- (2) designated for use by not more than one occupant at a time or for family or assisted use; and
- (3) identified with gender-neutral signage.

B. Nothing in this section shall be construed to require construction of a new, single-user toilet facility if one does not exist in a public accommodation.

Chapter 109 Section 4 Laws 2019

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

House Bill 388, aa

Approved March 28, 2019

LAWS 2019, CHAPTER 110

AN ACT

RELATING TO LOCAL GOVERNMENT; PROVIDING AUTHORITY FOR COUNTY SOLAR ENERGY IMPROVEMENT SPECIAL ASSESSMENTS TO BE EFFECTIVE IN INCORPORATED MUNICIPALITIES; ALLOWING COUNTIES TO CONTRACT WITH THIRD PARTIES TO ADMINISTER THE SOLAR ENERGY IMPROVEMENT SPECIAL ASSESSMENT.

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

Chapter 110 Section 1 Laws 2019

SECTION 1. Section 4-37-2 NMSA 1978 (being Laws 1975, Chapter 312, Section 2) is amended to read:

"4-37-2. AREAS IN WHICH COUNTY ORDINANCES ARE EFFECTIVE.-- County ordinances are effective within the boundaries of the county, including privately owned land or land owned by the United States. However, ordinances are not effective within the limits of any incorporated municipality; provided that an ordinance adopted by a county pursuant to the Solar Energy Improvement Special Assessment Act shall be effective within the limits of an incorporated municipality if the municipality adopts an ordinance approving the application of the county's ordinance within the incorporated municipality."

Chapter 110 Section 2 Laws 2019

SECTION 2. Section 4-55C-1 NMSA 1978 (being Laws 2009, Chapter 270, Section 1) is amended to read:

"4-55C-1. SHORT TITLE.--Chapter 4, Article 55C NMSA 1978 may be cited as the "Solar Energy Improvement Special Assessment Act"."

Chapter 110 Section 3 Laws 2019

SECTION 3. Section 4-55C-3 NMSA 1978 (being Laws 2009, Chapter 270, Section 3) is amended to read:

"4-55C-3. ORDINANCE IMPOSING SOLAR ENERGY IMPROVEMENT SPECIAL ASSESSMENT.--

A. The board of county commissioners of a county may provide by ordinance for a solar energy improvement special assessment to be imposed on a residential or commercial property within the boundaries of the county if the owner of the property requests the assessment.

B. A solar energy improvement special assessment may be imposed on commercial property within the boundaries of an incorporated municipality in a county if the municipality adopts an ordinance approving the application of the county's ordinance within the incorporated municipality.

C. The purpose of the solar energy improvement special assessment shall be to increase access to the benefits of solar technology improvements by participation in a voluntary special assessment on property, which can be used to facilitate financing arrangements for the eligible solar energy improvements."

Chapter 110 Section 4 Laws 2019

SECTION 4. A new section of the Solar Energy Improvement Special Assessment Act is enacted to read:

"THIRD-PARTY ADMINISTRATOR.--The board of county commissioners may contract with a third party to assist with the planning and administration of the solar energy improvement special assessment pursuant to the Solar Energy Improvement Special Assessment Act." _____

House Bill 440, aa

Approved March 28, 2019

LAWS 2019, CHAPTER 111

AN ACT

RELATING TO STATE GOVERNMENT; AMENDING A SECTION OF THE HUMAN SERVICES DEPARTMENT ACT TO REQUIRE CERTAIN BACKGROUND CHECKS AND PROCEDURES FOR HUMAN SERVICES DEPARTMENT PERSONNEL; PROVIDING A PENALTY; DECLARING AN EMERGENCY.

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

Chapter 111 Section 1 Laws 2019

SECTION 1. Section 9-8-6 NMSA 1978 (being Laws 1977, Chapter 252, Section 7, as amended) is amended to read:

"9-8-6. SECRETARY--DUTIES AND GENERAL POWERS.--

A. The secretary is responsible to the governor for the operation of the department. It is the secretary's duty to manage all operations of the department and to administer and enforce the laws with which the secretary or the department is charged.

B. To perform duties of office, the secretary has every power expressly enumerated in the laws, whether granted to the secretary or the department or any division of the department, except where authority conferred upon any division is explicitly exempted from the secretary's authority by statute. In accordance with these provisions, the secretary shall:

(1) except as otherwise provided in the Human Services Department Act, exercise general supervisory and appointing authority over all department employees, subject to any applicable personnel laws and rules;

(2) delegate authority to subordinates as the secretary deems necessary and appropriate, clearly delineating such delegated authority and the limitations thereto;

(3) organize the department into those organizational units the secretary deems will enable it to function most efficiently, subject to any provisions of law requiring or establishing specific organizational units;

(4) within the limitations of available appropriations and applicable laws, employ and fix the compensation of those persons necessary to discharge the secretary's duties;

(5) conduct background checks on department employees and prospective department employees that have or will have access to federal tax information; provided that:

(a) local law enforcement agency criminal history record checks shall be conducted on all employees, prospective employees, contractors, prospective contractors, subcontractors and prospective subcontractors with access to federal tax information;

(b) record checks for any identified arrests shall be conducted through local law enforcement agencies in jurisdictions where the subject has lived, worked or attended school within the last five years preceding the record check;

(c) federal bureau of investigation fingerprinting shall be conducted on all employees, prospective employees, contractors, prospective contractors, subcontractors and prospective subcontractors with access to federal tax information;

(d) for the purpose of conducting a national agency background check, the department shall submit to the department of public safety and the federal bureau of investigation a fingerprint card for each of the following personnel who have or will have access to federal tax information: 1) employees; 2) prospective employees; 3) contractors; 4) prospective contractors; 5) subcontractors; and 6) prospective subcontractors;

(e) the department shall conduct a check for eligibility to legally work as a citizen or legal resident of the United States on all employees, prospective employees, contractors, prospective contractors, subcontractors and prospective subcontractors with access to federal tax information. The department shall complete a citizenship or residency check for each new employee and any employee with expiring employment eligibility and shall document and monitor the employee's citizenship or residency status for continued compliance;

(f) criminal history records obtained by the department pursuant to the provisions of this paragraph and the information contained in those records are confidential, shall not be used for any purpose other than conducting background checks for the purpose of determining eligibility for employment and shall not be released or disclosed to any other person or agency except pursuant to a court order or with the written consent of the person who is the subject of the records;

(g) a person who releases or discloses criminal history records or information contained in those records in violation of the provisions of this paragraph is

guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978;

(h) the secretary shall adopt and promulgate rules to establish procedures to provide for background checks; provided that background checks shall not be evaluated for any purpose other than a person's department-related activities, and criteria according to which background checks are evaluated, for all present and prospective personnel identified in the provisions of this paragraph;

(i) contractors, prospective contractors, subcontractors and prospective subcontractors shall bear any costs associated with ordering or conducting background checks pursuant to this paragraph; and

(j) a department employee or prospective department employee who is denied employment or whose employment is terminated based on information obtained in a background check shall be entitled to review the information obtained pursuant to this paragraph and to appeal the decision;

(6) take administrative action by issuing orders and instructions, not inconsistent with the law, to assure implementation of and compliance with the provisions of law for whose administration or execution the secretary is responsible and to enforce those orders and instructions by appropriate administrative action in the courts;

(7) conduct research and studies that will improve the operations of the department and the provision of services to the citizens of the state;

(8) provide courses of instruction and practical training for employees of the department and other persons involved in the administration of programs with the objective of improving the operations and efficiency of administration;

(9) prepare an annual budget of the department;

(10) provide cooperation, at the request of heads of administratively attached agencies, in order to:

(a) minimize or eliminate duplication of services and jurisdictional conflicts;

(b) coordinate activities and resolve problems of mutual concern;
and

(c) resolve by agreement the manner and extent to which the department shall provide budgeting, recordkeeping and related clerical assistance to administratively attached agencies;

(11) appoint, with the governor's consent, a "director" for each division. These appointed positions are exempt from the provisions of the Personnel Act. Persons appointed to these positions shall serve at the pleasure of the secretary, except as provided in Section 9-8-9 NMSA 1978;

(12) give bond in the penal sum of twenty-five thousand dollars (\$25,000) and require directors to each give bond in the penal sum of ten thousand dollars (\$10,000) conditioned upon the faithful performance of duties as provided in the Surety Bond Act. The department shall pay the costs of these bonds; and

(13) require performance bonds of such department employees and officers as the secretary deems necessary as provided in the Surety Bond Act. The department shall pay the costs of these bonds.

C. The secretary may apply for and receive, with the governor's approval, in the name of the department, any public or private funds, including United States government funds, available to the department to carry out its programs, duties or services.

D. Where functions of departments overlap or a function assigned to one department could better be performed by another department, the secretary may recommend appropriate legislation to the next session of the legislature for its approval.

E. The secretary may make and adopt such reasonable procedural rules as may be necessary to carry out the duties of the department and its divisions. No rule promulgated by the director of any division in carrying out the functions and duties of the division shall be effective until approved by the secretary unless otherwise provided by statute. Unless otherwise provided by statute, no rule affecting any person or agency outside the department shall be adopted, amended or repealed without a public hearing on the proposed action before the secretary or a hearing officer designated by the secretary. The public hearing shall be held in Santa Fe unless otherwise permitted by statute. Notice of the subject matter of the rule, the action proposed to be taken, the time and place of the hearing, the manner in which interested persons may present their views and the method by which copies of the proposed rule or proposed amendment or repeal of an existing rule may be obtained shall be published once at least thirty days prior to the hearing date in a newspaper of general circulation and mailed at least thirty days prior to the hearing date to all persons who have made a written request for advance notice of hearing.

F. In the event the secretary anticipates that adoption, amendment or repeal of a rule will be required by a cancellation, reduction or suspension of federal funds or order by a court of competent jurisdiction:

(1) if the secretary is notified by appropriate federal authorities at least sixty days prior to the effective date of such cancellation, reduction or termination of federal funds, the department is required to promulgate rules through the public hearing process to be effective on the date mandated by the appropriate federal authority; or

(2) if the secretary is notified by appropriate federal authorities or court less than sixty days prior to the effective date of such cancellation, reduction or suspension of federal funds or court order, the department is authorized without a public hearing to promulgate interim rules effective for a period not to exceed ninety days. Interim rules shall not be promulgated without first providing a written notice twenty days in advance to providers of medical or behavioral health services and beneficiaries of department programs. At the time of the promulgation of the interim rules, the department shall give notice of the public hearing on the final rules in accordance with Subsection E of this section.

G. If the secretary certifies to the secretary of finance and administration and gives contemporaneous notice of such certification through the human services register that the department has insufficient state funds to operate any of the programs it administers and that reductions in services or benefit levels are necessary, the secretary may engage in interim rulemaking. Notwithstanding any provision to the contrary in the State Rules Act, interim rulemaking shall be conducted pursuant to Subsection E of this section, except:

(1) the period of notice of public hearing shall be fifteen days;

(2) the department shall also send individual notices of the interim rulemaking and of the public hearing to affected providers and beneficiaries;

(3) rules promulgated pursuant to the provisions of this subsection shall be in effect not less than five days after the public hearing;

(4) rules promulgated pursuant to the provisions of this subsection shall not be in effect for more than ninety days; and

(5) if final rules are necessary to replace the interim rules, the department shall give notice of intent to promulgate final rules at the time of notice herein. The final rules shall be promulgated not more than forty-five days after the public hearing and filed in accordance with the State Rules Act.

H. At the time of the promulgation of the interim rules, the department shall give notice of the public hearing on the final rules in accordance with Subsection E of this section.

I. The secretary shall ensure that any behavioral health services, including mental health and substance abuse services, provided, contracted for or approved are in compliance with the requirements of Section 9-7-6.4 NMSA 1978.

J. All rules shall be filed in accordance with the State Rules Act."

Chapter 111 Section 2 Laws 2019

SECTION 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately. _____

House Bill 556, aa, w/ec

Approved March 28, 2019

LAWS 2019, CHAPTER 112

AN ACT

RELATING TO PUBLIC HEALTH; EXPANDING THE PUBLIC EDUCATION OF THE BONE MARROW REGISTRY.

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

Chapter 112 Section 1 Laws 2019

SECTION 1. Section 24-28-1 NMSA 1978 (being Laws 2007, Chapter 159, Section 1) is amended to read:

"24-28-1. SHORT TITLE.--Chapter 24, Article 28 NMSA 1978 may be cited as the "Bone Marrow and Organ Donor Act"."

Chapter 112 Section 2 Laws 2019

Chapter 113 Section 1 Laws 2019

SECTION 1. Section 18-3-1 NMSA 1978 (being Laws 1975, Chapter 264, Section 1, as amended) is amended to read:

"18-3-1. MUSEUM OF NEW MEXICO ESTABLISHED--LOCATION--PROPERTY.--

A. The "museum of New Mexico" is established. All properties, real or personal, now held for museum purposes and all properties, real or personal, that may be acquired for museum purposes at any time in the future shall be under the control of the museum board of regents of the museum of New Mexico.

B. The museum of New Mexico consists of:

- (1) the palace of the governors state history museum;
- (2) the New Mexico museum of art;
- (3) the museum of Indian arts and culture;
- (4) the museum of international folk art;
- (5) the archaeology division; and
- (6) the state historic sites:
 - (a) Coronado historic site;
 - (b) Jemez historic site;
 - (c) Fort Selden historic site;
 - (d) Bosque Redondo memorial and Fort Sumner historic site;
 - (e) Lincoln historic site;
 - (f) El Camino Real historic trail site;
 - (g) Fort Stanton historic site;
 - (h) Taylor Reynolds Barela Mesilla historic site; and

- (i) Los Luceros historic site."

Chapter 113 Section 2 Laws 2019

SECTION 2. Section 18-3-16 NMSA 1978 (being Laws 2004, Chapter 25, Section 17, as amended) is amended to read:

"18-3-16. STATE HISTORIC SITES AND MONUMENTS DIVISION CREATED--
-BOARD OF REGENTS.--

A. The "state historic sites and monuments division" is created in the cultural affairs department. The division shall manage the state's historic sites and monuments, including:

- (1) Coronado historic site;
- (2) Jemez historic site;
- (3) Fort Selden historic site;
- (4) Bosque Redondo memorial and Fort Sumner historic site;
- (5) Lincoln historic site;
- (6) El Camino Real historic trail site;
- (7) Fort Stanton historic site;
- (8) Taylor Reynolds Barela Mesilla historic site; and
- (9) Los Luceros historic site.

B. The state's historic sites shall operate under the imprimatur of the museum of New Mexico. The museum of New Mexico board of regents shall exercise trusteeship over state historic sites.

C. The director of the division shall meet the following minimum qualifications:

- (1) hold a bachelor's or higher degree in a discipline related to the function of the division; and

(2) have significant experience in the management and operation of an organization similar to the division.

D. The director shall be appointed by the secretary of cultural affairs from a list of no less than three names provided by the museum of New Mexico board of regents." _____

HLLC/House Bill 692

Approved March 28, 2019

LAWS 2019, CHAPTER 114

AN ACT

RELATING TO LABOR; RAISING THE MINIMUM WAGE; PROVIDING A SEPARATE MINIMUM WAGE FOR EMPLOYED SECONDARY SCHOOL STUDENTS.

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

Chapter 114 Section 1 Laws 2019

SECTION 1. Section 50-4-21 NMSA 1978 (being Laws 1955, Chapter 200, Section 2, as amended) is amended to read:

"50-4-21. DEFINITIONS.--As used in the Minimum Wage Act:

A. "employ" includes suffer or permit to work;

B. "employer" includes any individual, partnership, association, corporation, business trust, legal representative or organized group of persons employing one or more employees at any one time, acting directly or indirectly in the interest of an employer in relation to an employee, but shall not include the United States, the state or any political subdivision of the state; provided, however, that for the purposes of Subsection A of Section 50-4-22 NMSA 1978, "employer" includes the state or any political subdivision of the state; and

C. "employee" includes an individual employed by an employer, but shall not include:

(1) an individual employed in domestic service in or about a private home;

(2) an individual employed in a bona fide executive, administrative or professional capacity and forepersons, superintendents and supervisors;

(3) an individual employed by the United States, the state or any political subdivision of the state; provided, however, that for the purposes of Subsection A of Section 50-4-22 NMSA 1978, "employee" includes an individual employed by the state or any political subdivision of the state;

(4) an individual engaged in the activities of an educational, charitable, religious or nonprofit organization where the employer-employee relationship does not, in fact, exist or where the services rendered to such organizations are on a voluntary basis. The employer-employee relationship shall not be deemed to exist with respect to an individual being served for purposes of rehabilitation by a charitable or nonprofit organization, notwithstanding the payment to the individual of a stipend based upon the value of the work performed by the individual;

(5) salespersons or employees compensated upon piecework, flat rate schedules or commission basis;

(6) registered apprentices and learners otherwise provided by law;

(7) persons eighteen years of age or under who are not students in a primary, secondary, vocational or training school;

(8) G.I. bill trainees while under training;

(9) seasonal employees of an employer obtaining and holding a valid certificate issued annually by the director of the labor relations division of the workforce solutions department. The certificate shall state the job designations and total number of employees to be exempted. In approving or disapproving an application for a certificate of exemption, the director shall consider the following:

(a) whether such employment shall be at an educational, charitable or religious youth camp or retreat;

(b) that such employment will be of a temporary nature;

(c) that the individual will be furnished room and board in connection with such employment, or if the camp or retreat is a day camp or retreat, the individual will be furnished board in connection with such employment;

(d) the purposes for which the camp or retreat is operated;

(e) the job classifications for the positions to be exempted; and

(f) any other factors that the director deems necessary to consider;

(10) any employee employed in agriculture:

(a) if the employee is employed by an employer who did not, during any calendar quarter during the preceding calendar year, use more than five hundred person-days of agricultural labor;

(b) if the employee is the parent, spouse, child or other member of the employer's immediate family; for the purpose of this subsection, the employer shall include the principal stockholder of a family corporation;

(c) if the employee: 1) is employed as a hand-harvest laborer and is paid on a piece-rate basis in an operation that has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment; 2) commutes daily from the employee's permanent residence to the farm on which the employee is so employed; and 3) has been employed in agriculture less than thirteen weeks during the preceding calendar year;

(d) if the employee, other than an employee described in Subparagraph (c) of this paragraph: 1) is sixteen years of age or under and is employed as a hand-harvest laborer, is paid on a piece-rate basis in an operation that has been, and is generally recognized as having been, paid on a piece-rate basis in the region of employment; 2) is employed on the same farm as the employee's parent or person standing in the place of the parent; and 3) is paid at the same piece-rate as employees over age sixteen are paid on the same farm; or

(e) if the employee is principally engaged in the range production of livestock or in milk production;

(11) an employee engaged in the handling, drying, packing, packaging, processing, freezing or canning of any agricultural or horticultural commodity in its unmanufactured state; or

(12) employees of charitable, religious or nonprofit organizations who reside on the premises of group homes operated by such charitable, religious or nonprofit organizations for persons who have a mental, emotional or developmental disability."

Chapter 114 Section 2 Laws 2019

SECTION 2. Section 50-4-22 NMSA 1978 (being Laws 1955, Chapter 200, Section 3, as amended) is amended to read:

"50-4-22. MINIMUM WAGES.--

A. Except as provided in Subsection B or D of this section, an employer shall pay to an employee a minimum wage rate of:

(1) prior to January 1, 2020, at least seven dollars fifty cents (\$7.50) an hour;

(2) beginning January 1, 2020 and prior to January 1, 2021, at least nine dollars (\$9.00) an hour;

(3) beginning January 1, 2021 and prior to January 1, 2022, at least ten dollars fifty cents (\$10.50) an hour;

(4) beginning January 1, 2022 and prior to January 1, 2023, at least eleven dollars fifty cents (\$11.50) an hour; and

(5) on and after January 1, 2023, at least twelve dollars (\$12.00) an hour.

B. On and after January 1, 2020, an employer who employs a student regularly enrolled in secondary school to work after school hours or when school is not in session shall pay the student a minimum wage rate of at least eight dollars fifty cents (\$8.50) an hour unless the student is employed pursuant to Subsection D of this section, in which case the provisions of that subsection shall apply to the student. In each case, the employer shall follow the provisions of the Child Labor Act, and Subsection E of this section shall not apply to the student.

C. An employer furnishing food, utilities, supplies or housing to an employee who is engaged in agriculture may deduct the reasonable value of such furnished items from any wages due to the employee.

D. An employee who customarily and regularly receives more than thirty dollars (\$30.00) a month in tips shall be paid a minimum hourly wage as follows:

(1) prior to January 1, 2020, at least two dollars thirteen cents (\$2.13) an hour;

(2) beginning January 1, 2020 and prior to January 1, 2021, at least two dollars thirty-five cents (\$2.35) an hour;

(3) beginning January 1, 2021 and prior to January 1, 2022, at least two dollars fifty-five cents (\$2.55) an hour;

(4) beginning January 1, 2022 and prior to January 1, 2023, at least two dollars eighty cents (\$2.80) an hour;

(5) on and after January 1, 2023, at least three dollars (\$3.00) an hour;
and

(6) the employer may consider tips as part of wages, but the tips combined with the employer's cash wage shall not equal less than the minimum wage rate as provided in Subsection A of this section. All tips received by such employees shall be retained by the employee, except that nothing in this section shall prohibit the pooling of tips among wait staff.

E. An employee shall not be required to work more than forty hours in any week of seven days, unless the employee is paid one and one-half times the employee's regular hourly rate of pay for all hours worked in excess of forty hours. For an employee who is paid a fixed salary for fluctuating hours and who is employed by an employer a majority of whose business in New Mexico consists of providing investigative services to the federal government, the hourly rate may be calculated in accordance with the provisions of the federal Fair Labor Standards Act of 1938 and the regulations pursuant to that act; provided that in no case shall the hourly rate be less than the federal minimum wage."

Chapter 114 Section 3 Laws 2019

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2020. _____

SCORC/Senate Bill 437, aa

Approved April 1, 2019

LAWS 2019, CHAPTER 115

AN ACT

RELATING TO THE STATE LAND OFFICE; REQUIRING PUBLIC NOTICE AND PUBLIC MEETINGS PRIOR TO CERTAIN TRANSACTIONS INVOLVING STATE TRUST LANDS.

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

Chapter 115 Section 1 Laws 2019

SECTION 1. STATE LAND OFFICE--PUBLIC NOTICE--PUBLIC MEETINGS.--

A. Prior to taking final agency action, the commissioner of public lands shall publish notice of and hold a public meeting to receive public comment regarding the following activities:

- (1) land sales;
- (2) land exchanges;
- (3) right-of-way permits for electrical transmission lines in excess of two hundred thirty kilovolts situated on state trust land; and
- (4) right-of-way permits for oil or gas pipelines in excess of twenty-four inches in diameter and at least ten contiguous miles in length situated on state trust land.

B. A notice of a proposed land sale, land exchange or right-of-way permit as set forth in Subsection A of this section shall be published on the state land office website and in a newspaper of general circulation published in Santa Fe and in a newspaper of general circulation published near the general geographic location of the proposed activity.

C. The notice required in this section shall contain:

- (1) a description of the state trust land offered for sale or exchange or on which the right of way is to be located;

(2) a summary of the effect or potential effect of the proposed transaction or right of way on surrounding lands;

(3) the time, place and location for the public meeting on the sale, exchange or right-of-way permit; and

(4) the name of a person to contact at the state land office for additional information on the sale, exchange or right-of-way permit and the subject state trust land.

D. The public meeting required pursuant to Subsection A of this section shall be held in the same general geographic location as the proposed activity.

E. The requirement for a hearing is waived if public input has been solicited pursuant to another state process or federal law. The commissioner of public lands shall by rule establish the procedures for a hearing held pursuant to this section.

F. No provisions of this section shall alter, change, restrict or diminish the rights, powers and duties of the commissioner of public lands in the administration, management, care and control of state trust lands as provided for by the Enabling Act for New Mexico and applicable state statutes. _____

Senate Bill 458, aa

Approved April 1, 2019

LAWS 2019, CHAPTER 116

AN ACT

RELATING TO COMMERCE; ENACTING THE HEMP MANUFACTURING ACT; ALLOWING AND REGULATING THE PRODUCTION, TESTING, RESEARCH, MANUFACTURING AND TRANSPORT OF HEMP, HEMP EXTRACTS AND HEMP FINISHED PRODUCTS; PROVIDING POWERS AND DUTIES; CREATING EXEMPTIONS FROM PROSECUTION UNDER THE CONTROLLED SUBSTANCES ACT; PROVIDING FOR THE IMPOSITION OF FEES; PROVIDING PENALTIES.

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

Chapter 116 Section 1 Laws 2019

SECTION 1. A new section of Chapter 76, Article 24 NMSA 1978 is enacted to read:

"SHORT TITLE.--Chapter 76, Article 24 NMSA 1978 may be cited as the "Hemp Manufacturing Act"."

Chapter 116 Section 2 Laws 2019

SECTION 2. A new section of Chapter 76, Article 24 NMSA 1978 is enacted to read:

"DEFINITIONS.--As used in the Hemp Manufacturing Act:

- A. "board" means the board of regents of New Mexico state university;
- B. "breeder" means a person who conducts research to develop new hemp varieties;
- C. "Cannabis sativa L." means the plant Cannabis sativa L. and any part of the plant, whether growing or not;
- D. "hemp" means the plant Cannabis sativa L. and any part of that plant, including seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers, whether growing or not, with a THC concentration of not more than three-tenths percent on a dry weight basis;
- E. "hemp-derived material" means any material containing THC in any concentration derived from Cannabis sativa L. through any activity authorized pursuant to the Hemp Manufacturing Act;
- F. "hemp extract" means oil derived from hemp, including cannabidiol, cannabidiolic acid and other identified and non-identified compounds;
- G. "hemp finished product" means a hemp product that is intended for retail sale and containing hemp or hemp extracts that includes food, food additives and herbs for human use, including consumption, that has a THC content of not more than three-tenths percent;
- H. "hemp manufacturer" means a person that extracts, processes or engages in other manufacturing activities regarding hemp, including manufacturing intermediate hemp-derived products and hemp finished products;

I. "hemp producer" means a person that cultivates and harvests hemp and includes a person that cultivates hemp plants for transfer to other hemp producers;

J. "intermediate hemp-derived product" means oil and extracts, including cannabidiol, cannabidiolic acid and other identified and non-identified compounds derived from hemp;

K. "manifest" means a form used for identifying the quantity, composition, origin, routing and destination of hemp-derived materials during transportation; and

L. "THC" means delta-9-tetrahydrocannabinol as measured using a post-decarboxylation method and based on percentage dry weight."

Chapter 116 Section 3 Laws 2019

SECTION 3. A new section of Chapter 76, Article 24 NMSA 1978 is enacted to read:

"HARVEST CERTIFICATE OR OTHER AUTHORITY--REQUIREMENT--ISSUANCE.--

A. A person licensed by the New Mexico department of agriculture may harvest hemp for distribution or sale only after obtaining from the department a harvest certificate for that hemp. The department shall issue a harvest certificate for hemp that meets the THC concentration required pursuant to the Hemp Manufacturing Act as demonstrated by an analysis performed by a person licensed pursuant to the Hemp Manufacturing Act.

B. A licensed hemp manufacturer may only buy or otherwise accept hemp that is accompanied by a harvest certificate issued for that hemp pursuant to this section, a document issued by a person licensed pursuant to Subsection C of Section 8 of the Hemp Manufacturing Act or other document recognized by the New Mexico department of agriculture demonstrating compliance with the provisions of the Hemp Manufacturing Act."

Chapter 116 Section 4 Laws 2019

SECTION 4. A new section of Chapter 76, Article 24 NMSA 1978 is enacted to read:

"UNPROCESSED HEMP TESTING LABORATORIES--REQUIREMENTS.--

A. The New Mexico department of agriculture shall issue licenses pursuant to rules issued under Subsection C of this section for the analysis of unprocessed Cannabis sativa L. samples for use in determining eligibility for a harvest certificate.

B. A person shall not analyze unprocessed Cannabis sativa L. samples for use in determining eligibility for a harvest certificate unless the person is licensed by the New Mexico department of agriculture to engage in that activity.

C. The board, on behalf of the New Mexico department of agriculture, shall adopt rules that include:

(1) procedures for the issuance, denial, renewal, suspension or revocation of a license issued by the New Mexico department of agriculture for the analysis of unprocessed Cannabis sativa L. samples, including license terms and procedures for appeal of a denial, suspension or revocation that include notice and opportunity for a hearing;

(2) qualifications for licensure that include the demonstrated ability to analyze THC concentrations in Cannabis sativa L.;

(3) proficiency standards and requirements for storage, recordkeeping and inspections;

(4) requirements that unprocessed Cannabis sativa L. samples containing THC levels of more than three-tenths percent be disposed of according to specified methods; and

(5) licensing fees not to exceed the lesser of one thousand dollars (\$1,000) or the cost of administration of a license issued pursuant to this section.

D. A license issued pursuant to this section does not relieve a licensee of the responsibility to obtain other licenses or permits required by law."

Chapter 116 Section 5 Laws 2019

SECTION 5. A new section of Chapter 76, Article 24 NMSA 1978 is enacted to read:

"HEMP BREEDER--REQUIREMENTS--EXEMPTIONS.--"

A. The New Mexico department of agriculture shall issue licenses pursuant to rules issued under Subsection C of this section to breed Cannabis sativa L. to produce new hemp varieties.

B. A person shall not breed Cannabis sativa L. to produce new hemp varieties unless the person is licensed by the New Mexico department of agriculture or licensed pursuant to Subsection C of Section 8 of the Hemp Manufacturing Act to engage in that activity.

C. The board, on behalf of the New Mexico department of agriculture, shall adopt rules that include:

(1) procedures for the issuance, denial, renewal, suspension and revocation of a license issued by the New Mexico department of agriculture to breed Cannabis sativa L. to produce new hemp varieties, including license terms and procedures for appeal of a denial, suspension or revocation that include notice and opportunity for a hearing;

(2) qualifications for licensure that include the demonstrated ability to breed Cannabis sativa L. to produce new hemp varieties under secure conditions;

(3) proficiency standards and requirements for storage, recordkeeping and inspections;

(4) requirements that Cannabis sativa L. containing THC levels of more than three-tenths percent be disposed of according to specified methods; and

(5) fees not to exceed the lesser of one thousand dollars (\$1,000) or the cost of administration of a license issued pursuant to this section.

D. A license issued pursuant to this section does not relieve the licensee of the responsibility to obtain other licenses or permits as required by law."

Chapter 116 Section 6 Laws 2019

SECTION 6. A new section of Chapter 76, Article 24 NMSA 1978 is enacted to read:

"HEMP MANUFACTURERS--PERMITS--RULES--REQUIREMENTS.--

A. The department of environment shall issue permits pursuant to rules issued under Subsection C of this section to extract, process or engage in other manufacturing

activities regarding hemp, including manufacturing intermediate hemp-derived products and hemp finished products.

B. A person shall not extract, process or engage in other manufacturing activities regarding hemp, including manufacturing intermediate hemp-derived products and hemp finished products without a permit issued by the department of environment or a license issued pursuant to Subsection C of Section 8 of the Hemp Manufacturing Act.

C. The department of environment shall adopt rules that include:

(1) procedures for the issuance, denial, renewal, suspension and revocation of a permit issued by the department of environment to manufacture hemp products, including permit terms and procedures for appeal of a denial, suspension or revocation that include notice and opportunity for a hearing;

(2) qualifications for permitting that include health, sanitation, safety and security;

(3) proficiency standards and requirements for storage, recordkeeping and inspections;

(4) requiring, and providing a process for, the use or disposal of hemp-derived material containing THC levels of more than three-tenths percent; and

(5) fees not to exceed the lesser of one thousand dollars (\$1,000) or the cost of administration of a permit issued pursuant to this section.

D. A hemp manufacturer that produces intermediate hemp-derived products or hemp finished products intended for human consumption by eating or drinking are subject to the provisions of the Food Service Sanitation Act and the New Mexico Food Act.

E. Hemp finished products produced by a hemp manufacturer holding a permit issued pursuant to this section shall not be deemed adulterated as that term is used in the Food Service Sanitation Act and the New Mexico Food Act.

F. Fees collected pursuant to this section shall be deposited in the food service sanitation fund.

G. A permit issued pursuant to this section does not relieve the holder of the permit of the responsibility to obtain other licenses or permits as required by law."

Chapter 116 Section 7 Laws 2019

SECTION 7. A new section of Chapter 76, Article 24 NMSA 1978 is enacted to read:

"TRANSPORTING HEMP AND HEMP-DERIVED MATERIALS--MANIFEST--RULES--REQUIREMENTS.--

A. A person shall not transport hemp unless during such transportation the person has in the person's immediate possession a harvest certificate for that hemp provided by the licensed grower.

B. A person shall not transport hemp-derived materials unless during such transportation the person has in the person's immediate possession a manifest issued by a person licensed pursuant to the Hemp Manufacturing Act or other applicable law.

C. The department of environment shall establish a manifest system and any other reasonable means necessary to ensure that hemp-derived materials originating from a person permitted pursuant to Section 6 of the Hemp Manufacturing Act are identifiable during transport and that the materials are transported only between persons licensed, permitted or otherwise authorized to possess hemp-derived materials pursuant to the Hemp Manufacturing Act or other applicable law.

D. A person that transports hemp-derived materials or food additive hemp finished products intended for human consumption by eating or drinking shall be subject to the provisions of the Food Service Sanitation Act and the New Mexico Food Act.

E. Transporting hemp or hemp-derived material without a harvest certificate shall constitute a petty misdemeanor, punishable by a fine of up to five hundred dollars (\$500).

F. Product in excess of eight ounces that has the appearance of hemp and is in the possession of a person suspected of violating the provisions of Subsection E of this section may be seized by a law enforcement agency until such time as the agency is able to identify the product, in cooperation with the department of environment or the New Mexico department of agriculture, but for no longer than five days.

G. As used in this section, "harvest certificate" means a certificate, license, permit or other document pursuant to rules adopted under the Hemp Manufacturing Act for use during transportation of hemp or hemp-derived material, whether in the possession of a person or electronically verified by a law enforcement agency."

Chapter 116 Section 8 Laws 2019

SECTION 8. A new section of Chapter 76, Article 24 NMSA 1978 is enacted to read:

"INDIAN NATIONS, TRIBES AND PUEBLOS--NO STATE REGULATION--COOPERATIVE OR JOINT POWERS AGREEMENTS--RECOGNITION OF TRIBALLY ISSUED LICENSES.--

A. The state acknowledges that federally recognized Indian nations, tribes and pueblos located wholly or partially within New Mexico may, pursuant to Section 10113 of the federal Agriculture Improvement Act of 2018, and as a matter of their inherent tribal sovereignty, develop their own plans for the regulation of the production of hemp on their own tribal lands, and that those plans shall be developed in compliance with the federal Agriculture Improvement Act of 2018.

B. The New Mexico department of agriculture and the department of environment may enter into cooperative agreements or joint powers agreements with federally recognized Indian nations, tribes and pueblos located wholly or partially within New Mexico that seek the state's assistance in developing hemp production plans that are acceptable to the director of the New Mexico department of agriculture and the department of environment, or in the regulation of hemp production on tribal lands, or in the testing of hemp plants for THC, or the transportation of hemp or hemp-derived material; provided that no such agreement shall purport to give the state any jurisdiction over any such activities or material on tribal lands.

C. A cooperative agreement or joint powers agreement may include provisions recognizing a tribally issued license that authorizes manufacturing on tribal lands, including the extraction, processing or engaging in other manufacturing activities regarding hemp, including manufacturing intermediate hemp-derived products and hemp finished products under Section 6 of the Hemp Manufacturing Act."

Chapter 116 Section 9 Laws 2019

SECTION 9. Section 30-31-2 NMSA 1978 (being Laws 1972, Chapter 84, Section 2, as amended) is amended to read:

"30-31-2. DEFINITIONS.--As used in the Controlled Substances Act:

A. "administer" means the direct application of a controlled substance by any means to the body of a patient or research subject by a practitioner or the practitioner's agent;

B. "agent" includes an authorized person who acts on behalf of a manufacturer, distributor or dispenser. It does not include a common or contract carrier, public warehouseperson or employee of the carrier or warehouseperson;

C. "board" means the board of pharmacy;

D. "bureau" means the narcotic and dangerous drug section of the criminal division of the United States department of justice, or its successor agency;

E. "controlled substance" means a drug or substance listed in Schedules I through V of the Controlled Substances Act or rules adopted thereto;

F. "counterfeit substance" means a controlled substance that bears the unauthorized trademark, trade name, imprint, number, device or other identifying mark or likeness of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the controlled substance;

G. "deliver" means the actual, constructive or attempted transfer from one person to another of a controlled substance or controlled substance analog, whether or not there is an agency relationship;

H. "dispense" means to deliver a controlled substance to an ultimate user or research subject pursuant to the lawful order of a practitioner, including the administering, prescribing, packaging, labeling or compounding necessary to prepare the controlled substance for that delivery;

I. "dispenser" means a practitioner who dispenses and includes hospitals, pharmacies and clinics where controlled substances are dispensed;

J. "distribute" means to deliver other than by administering or dispensing a controlled substance or controlled substance analog;

K. "drug" or "substance" means substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary or any respective supplement to those publications. It does not include devices or their components, parts or accessories;

L. "hashish" means the resin extracted from any part of marijuana, whether growing or not, and every compound, manufacture, salt, derivative, mixture or preparation of such resins;

M. "hemp" means the plant *Cannabis sativa* L. and any part of that plant, including seeds and all derivatives, extracts, cannabinoids, isomers, acids, salts and salts of isomers, whether growing or not, with a delta-9- tetrahydrocannabinol concentration of not more than three-tenths percent on a dry weight basis;

N. "manufacture" means the production, preparation, compounding, conversion or processing of a controlled substance or controlled substance analog by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance:

(1) by a practitioner as an incident to administering or dispensing a controlled substance in the course of the practitioner's professional practice; or

(2) by a practitioner, or by the practitioner's agent under the practitioner's supervision, for the purpose of or as an incident to research, teaching or chemical analysis and not for sale;

O. "marijuana" means all parts of the plant *cannabis*, including any and all varieties, species and subspecies of the genus *Cannabis*, whether growing or not, the seeds thereof and every compound, manufacture, salt, derivative, mixture or preparation of the plant or its seeds. It does not include the mature stalks of the plant, hashish, tetrahydrocannabinols extracted or isolated from marijuana, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake, or the sterilized seed of the plant that is incapable of germination; or the plant *Cannabis sativa* L. and any part of the plant, whether growing or not, containing a delta-9-tetrahydrocannabinol concentration of no more than three-tenths percent on a dry weight basis;

P. "narcotic drug" means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis:

(1) opium and opiate and any salt, compound, derivative or preparation of opium or opiate;

(2) any salt, compound, isomer, derivative or preparation that is a chemical equivalent of any of the substances referred to in Paragraph (1) of this subsection, except the isoquinoline alkaloids of opium;

(3) opium poppy and poppy straw, including all parts of the plant of the species *Papaver somniferum* L. except its seeds; or

(4) coca leaves and any salt, compound, derivative or preparation of coca leaves, any salt, compound, isomer, derivative or preparation that is a chemical equivalent of any of these substances except decocainized coca leaves or extractions of coca leaves that do not contain cocaine or ecgonine;

Q. "opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. "Opiate" does not include, unless specifically designated as controlled under Section 30-31-5 NMSA 1978, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts, dextromethorphan. "Opiate" does include its racemic and levorotatory forms;

R. "person" means an individual, partnership, corporation, association, institution, political subdivision, government agency or other legal entity;

S. "practitioner" means a physician, certified advanced practice chiropractic physician, doctor of oriental medicine, dentist, physician assistant, certified nurse practitioner, clinical nurse specialist, certified nurse-midwife, prescribing psychologist, veterinarian, euthanasia technician, pharmacist, pharmacist clinician or other person licensed or certified to prescribe and administer drugs that are subject to the Controlled Substances Act;

T. "prescription" means an order given individually for the person for whom is prescribed a controlled substance, either directly from a licensed practitioner or the practitioner's agent to the pharmacist, including by means of electronic transmission, or indirectly by means of a written order signed by the prescriber, bearing the name and address of the prescriber, the prescriber's license classification, the name and address of the patient, the name and quantity of the drug prescribed, directions for use and the date of issue and in accordance with the Controlled Substances Act or rules adopted thereto;

U. "scientific investigator" means a person registered to conduct research with controlled substances in the course of the person's professional practice or research and includes analytical laboratories;

V. "ultimate user" means a person who lawfully possesses a controlled substance for the person's own use or for the use of a member of the person's household or for administering to an animal under the care, custody and control of the person or by a member of the person's household;

W. "drug paraphernalia" means all equipment, products and materials of any kind that are used, intended for use or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance or controlled substance analog in violation of the Controlled Substances Act. It includes:

(1) kits used, intended for use or designed for use in planting, propagating, cultivating, growing or harvesting any species of plant that is a controlled substance or controlled substance analog or from which a controlled substance can be derived;

(2) kits used, intended for use or designed for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances or controlled substance analogs;

(3) isomerization devices used, intended for use or designed for use in increasing the potency of any species of plant that is a controlled substance;

(4) testing equipment used, intended for use or designed for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances or controlled substance analogs;

(5) scales or balances used, intended for use or designed for use in weighing or measuring controlled substances or controlled substance analogs;

(6) diluents and adulterants, such as quinine hydrochloride, mannitol, mannite dextrose and lactose, used, intended for use or designed for use in cutting controlled substances or controlled substance analogs;

(7) separation gins and sifters used, intended for use or designed for use in removing twigs and seeds from, or in otherwise cleaning and refining, marijuana;

(8) blenders, bowls, containers, spoons and mixing devices used, intended for use or designed for use in compounding controlled substances or controlled substance analogs;

(9) capsules, balloons, envelopes and other containers used, intended for use or designed for use in packaging small quantities of controlled substances or controlled substance analogs;

(10) containers and other objects used, intended for use or designed for use in storing or concealing controlled substances or controlled substance analogs;

(11) hypodermic syringes, needles and other objects used, intended for use or designed for use in parenterally injecting controlled substances or controlled substance analogs into the human body;

(12) objects used, intended for use or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish or hashish oil into the human body, such as:

(a) metal, wooden, acrylic, glass, stone, plastic or ceramic pipes, with or without screens, permanent screens, hashish heads or punctured metal bowls;

(b) water pipes;

(c) carburetion tubes and devices;

(d) smoking and carburetion masks;

(e) roach clips, meaning objects used to hold burning material, such as a marijuana cigarette, that has become too small to hold in the hand;

(f) miniature cocaine spoons and cocaine vials;

(g) chamber pipes;

(h) carburetor pipes;

(i) electric pipes;

(j) air-driven pipes;

(k) chilams;

(l) bongs; or

(m) ice pipes or chillers; and

(13) in determining whether an object is drug paraphernalia, a court or other authority should consider, in addition to all other logically relevant factors, the following:

(a) statements by the owner or by anyone in control of the object concerning its use;

(b) the proximity of the object, in time and space, to a direct violation of the Controlled Substances Act or any other law relating to controlled substances or controlled substance analogs;

(c) the proximity of the object to controlled substances or controlled substance analogs;

(d) the existence of any residue of a controlled substance or controlled substance analog on the object;

(e) instructions, written or oral, provided with the object concerning its use;

(f) descriptive materials accompanying the object that explain or depict its use;

(g) the manner in which the object is displayed for sale; and

(h) expert testimony concerning its use;

X. "controlled substance analog" means a substance other than a controlled substance that has a chemical structure substantially similar to that of a controlled substance in Schedule I, II, III, IV or V or that was specifically designed to produce effects substantially similar to that of controlled substances in Schedule I, II, III, IV or V. Examples of chemical classes in which controlled substance analogs are found include the following:

(1) phenethylamines;

(2) N-substituted piperidines;

(3) morphinans;

(4) ecgonines;

(5) quinazolinones;

(6) substituted indoles; and

(7) arylcycloalkylamines.

Specifically excluded from the definition of "controlled substance analog" are those substances that are generally recognized as safe and effective within the meaning of the Federal Food, Drug, and Cosmetic Act or have been manufactured, distributed or possessed in conformance with the provisions of an approved new drug application or an exemption for investigational use within the meaning of Section 505 of the Federal Food, Drug, and Cosmetic Act;

Y. "human consumption" includes application, injection, inhalation, ingestion or any other manner of introduction;

Z. "drug-free school zone" means a public school, parochial school or private school or property that is used for a public, parochial or private school purpose and the area within one thousand feet of the school property line, but it does not mean any post-secondary school; and

AA. "valid practitioner-patient relationship" means a professional relationship, as defined by the practitioner's licensing board, between the practitioner and the patient."

Chapter 116 Section 10 Laws 2019

SECTION 10. Section 30-31-6 NMSA 1978 (being Laws 1972, Chapter 84, Section 6, as amended by Laws 2017, Chapter 139, Section 2, by Laws 2017, Chapter 140, Section 3 and by Laws 2018, Chapter 41, Section 1) is amended to read:

"30-31-6. SCHEDULE I.--The following controlled substances are included in Schedule I:

A. any of the following opiates, including their isomers, esters, ethers, salts, and salts of isomers, esters and ethers, unless specifically exempted, whenever the existence of these isomers, esters, ethers and salts is possible within the specific chemical designation:

- (1) acetylmethadol;
- (2) allylprodine;
- (3) alphacetylmethadol;
- (4) alphameprodine;

- (5) alphamethadol;
- (6) benzethidine;
- (7) betacetylmethadol;
- (8) betameprodine;
- (9) betamethadol;
- (10) betaprodine;
- (11) clonitazene;
- (12) dextromoramide;
- (13) dextrorphan;
- (14) diampromide;
- (15) diethylthiambutene;
- (16) dimenoxadol;
- (17) dimepheptanol;
- (18) dimethylthiambutene;
- (19) dioxaphetyl butyrate;
- (20) dipipanone;
- (21) ethylmethylthiambutene;
- (22) etonitazene;
- (23) etoxeridine;
- (24) furethidine;
- (25) hydroxypethidine;

- (26) ketobemidone;
- (27) levomoramide;
- (28) levophenacylmorphane;
- (29) morpheridine;
- (30) noracymethadol;
- (31) norlevorphanol;
- (32) normethadone;
- (33) norpipanone;
- (34) phenadoxone;
- (35) phenampromide;
- (36) phenomorphan;
- (37) phenoperidine;
- (38) piritramide;
- (39) proheptazine;
- (40) properidine;
- (41) racemoramide; and
- (42) trimeperidine;

B. any of the following opium derivatives, their salts, isomers and salts of isomers, unless specifically exempted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) acetorphine;
- (2) acetyldihydrocodeine;

- (3) benzylmorphine;
- (4) codeine methylbromide;
- (5) codeine-N-oxide;
- (6) cyprenorphine;
- (7) desomorphine;
- (8) dihydromorphine;
- (9) etorphine;
- (10) heroin;
- (11) hydromorphanol;
- (12) methyldesorphine;
- (13) methyldihydromorphine;
- (14) morphine methylbromide;
- (15) morphine methylsulfonate;
- (16) morphine-N-oxide;
- (17) myrophine;
- (18) nicocodeine;
- (19) nicomorphine;
- (20) normorphine;
- (21) pholcodine; and
- (22) thebacon;

C. any material, compound, mixture or preparation that contains any quantity of the following hallucinogenic substances, their salts, isomers and salts of isomers,

unless specifically exempted, whenever the existence of these salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) 3,4-methylenedioxy amphetamine;
- (2) 5-methoxy-3,4-methylenedioxy amphetamine;
- (3) 3,4,5-trimethoxy amphetamine;
- (4) bufotenine;
- (5) diethyltryptamine;
- (6) dimethyltryptamine;
- (7) 4-methyl-2,5-dimethoxy amphetamine;
- (8) ibogaine;
- (9) lysergic acid diethylamide;
- (10) marijuana;
- (11) mescaline;
- (12) peyote, except as otherwise provided in the Controlled Substances Act;
- (13) N-ethyl-3-piperidyl benzilate;
- (14) N-methyl-3-piperidyl benzilate;
- (15) psilocybin;
- (16) psilocyn;
- (17) tetrahydrocannabinols;
- (18) hashish;
- (19) synthetic cannabinoids, including:

(a) 1-[2-(4-(morpholinyl)ethyl)-3-(1-naphthoyl)indole];

(b) 1-butyl-3-(1-naphthoyl)indole;

(c) 1-hexyl-3-(1-naphthoyl)indole;

(d) 1-pentyl-3-(1-naphthoyl)indole;

(e) 1-pentyl-3-(2-methoxyphenylacetyl) indole;

(f) cannabicyclohexanol (CP 47, 497 and homologues: 5-(1,1-dimethylheptyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol (CP-47,497); and 5-(1,1-dimethyloctyl)-2-[(1R,3S)-3-hydroxycyclohexyl]-phenol;

(g) 6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol);

(h) dexanabinol, (6aS,10aS)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol;

(i) 1-pentyl-3-(4-chloro naphthoyl) indole;

(j) (2-methyl-1-propyl-1H-indol-3-yl)-1-naphthalenyl-methanone;

and

(k) 5-(1,1-dimethylheptyl)-2-(3-hydroxy cyclohexyl)-phenol;

(20) 3,4-methylenedioxymethcathinone;

(21) 3,4-methylenedioxyprovalerone;

(22) 4-methylmethcathinone;

(23) 4-methoxymethcathinone;

(24) 3-fluoromethcathinone; and

(25) 4-fluoromethcathinone;

D. the enumeration of peyote as a controlled substance does not apply to the use of peyote in bona fide religious ceremonies by a bona fide religious organization, and members of the organization so using peyote are exempt from registration. Any

person who manufactures peyote for or distributes peyote to the organization or its members shall comply with the federal Comprehensive Drug Abuse Prevention and Control Act of 1970 and all other requirements of law;

E. the enumeration of marijuana, tetrahydrocannabinols or chemical derivatives of tetrahydrocannabinol as Schedule I controlled substances does not apply to:

(1) hemp pursuant to rules promulgated by the board of regents of New Mexico state university on behalf of the New Mexico department of agriculture;

(2) cultivation of hemp by persons pursuant to rules promulgated by the board of regents of New Mexico state university on behalf of the New Mexico department of agriculture;

(3) tetrahydrocannabinols or chemical derivatives of tetrahydrocannabinols, including tetrahydrocannabinols or chemical derivatives of tetrahydrocannabinols with concentrations of up to five percent as measured using a post-decarboxylation method and based on percentage dry weight, possessed by a person in connection with the cultivation, transportation, testing, researching, manufacturing or other processing of the plant *Cannabis sativa* L., or any part of the plant whether growing or not, if authorized pursuant to rules promulgated, pursuant to the Hemp Manufacturing Act, by the board of regents of New Mexico state university on behalf of the New Mexico department of agriculture or the department of environment;

(4) tetrahydrocannabinols or chemical derivatives of tetrahydrocannabinols, including tetrahydrocannabinols or chemical derivatives of tetrahydrocannabinols in any concentration possessed by a person in connection with the extraction of tetrahydrocannabinols or chemical derivatives of tetrahydrocannabinols, if authorized pursuant to rules promulgated, pursuant to the Hemp Manufacturing Act, by the board of regents of New Mexico state university on behalf of the New Mexico department of agriculture or the department of environment;

(5) the use of marijuana, tetrahydrocannabinols or chemical derivatives of tetrahydrocannabinol by certified patients pursuant to the Controlled Substances Therapeutic Research Act or by qualified patients pursuant to the provisions of the Lynn and Erin Compassionate Use Act; or

(6) the use, dispensing, possession, prescribing, storage or transport of a prescription drug that the United States food and drug administration has approved and that contains marijuana, a tetrahydrocannabinol derivative or a chemical derivative of tetrahydrocannabinol; and

F. controlled substances added to Schedule I by rule adopted by the board pursuant to Section 30-31-3 NMSA 1978."

Chapter 116 Section 11 Laws 2019

SECTION 11. Section 76-24-2 NMSA 1978 (being Laws 2017, Chapter 140, Section 1) is amended to read:

"76-24-2. HEMP--NEW MEXICO DEPARTMENT OF AGRICULTURE--NEW MEXICO HEMP RESEARCH AND DEVELOPMENT FUND.--

A. The intent of this section is to bring New Mexico into compliance with federal law.

B. Notwithstanding any other provision of law to the contrary, the board, through the New Mexico department of agriculture, shall issue licenses pursuant to rules enacted under Subsection C of this section to grow hemp for research and development, agricultural, agronomic, ecological, processing, sales and marketing purposes.

C. The board, on behalf of the director of the New Mexico department of agriculture, shall adopt rules to establish and carry out the provisions of this section, including requirements for licensure, training of law enforcement personnel, inspection, recordkeeping, fees not to exceed program costs and compliance processes. An institution of higher education, person or business that plans to grow hemp seed or hemp fiber shall obtain a grower's license by submitting an application to the New Mexico department of agriculture pursuant to promulgated rules.

D. A person who holds a license issued pursuant to this section may grow hemp for research and development, agricultural, agronomic, ecological, processing, sales and marketing or any other purpose allowed by federal regulation or law.

E. The board shall establish a "New Mexico hemp research and development fund". The fund consists of fees collected by the New Mexico department of agriculture pursuant to the Hemp Manufacturing Act, donations, grants and income earned from investment of the fund and money otherwise accruing to the fund. Money in the fund shall not revert to any other fund at the end of a fiscal year. The board shall administer the fund, and money in the fund is subject to appropriation by the legislature to the board for the department to administer the provisions of the Hemp Manufacturing Act. Money in the fund shall be disbursed on warrants signed by the secretary of finance and administration pursuant to vouchers signed by the director of the New Mexico department of agriculture or the director's authorized representative."

Chapter 116 Section 12 Laws 2019

SECTION 12. REPEAL.--Section 76-24-1 NMSA 1978 (being Laws 2017, Chapter 139, Section 1) is repealed.

Chapter 116 Section 13 Laws 2019

SECTION 13. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

House Bill 581, aa, w/cc

Approved April 1, 2019

LAWS 2019, CHAPTER 117

AN ACT

RELATING TO OUTDOOR RECREATION; CREATING THE NEW MEXICO OUTDOOR RECREATION DIVISION IN THE ECONOMIC DEVELOPMENT DEPARTMENT AND THE OUTDOOR RECREATION ADVISORY COMMITTEE; CREATING THE SPECIAL PROJECTS AND OUTDOOR RECREATION INFRASTRUCTURE FUND; CREATING THE OUTDOOR EQUITY GRANT PROGRAM AND FUND; MAKING APPROPRIATIONS.

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

Chapter 117 Section 1 Laws 2019

SECTION 1. Section 9-15-4 NMSA 1978 (being Laws 1983, Chapter 297, Section 4, as amended) is amended to read:

"9-15-4. DEPARTMENT ESTABLISHED.--There is created in the executive branch the "economic development department". The department shall be a cabinet department and shall consist of, but not be limited to, six divisions as follows:

- A. the administrative services division;
- B. the economic development division;

- C. the New Mexico film division;
- D. the technology enterprise division;
- E. the trade and Mexican affairs division; and
- F. the New Mexico outdoor recreation division."

Chapter 117 Section 2 Laws 2019

SECTION 2. A new section of the Economic Development Department Act is enacted to read:

"NEW MEXICO OUTDOOR RECREATION DIVISION--DUTIES--DIRECTOR.--

A. The New Mexico outdoor recreation division of the department shall:

(1) increase outdoor recreation-based economic development, tourism and ecotourism in the state;

(2) recruit out-of-state-based outdoor recreation businesses to locate in New Mexico;

(3) promote stewardship and preservation of New Mexico's unique environment and cultural assets; and

(4) promote education about and use of outdoor recreation assets to enhance public health.

B. The department, the tourism department, the state land office, the Rio Grande trail commission, the state parks division of the energy, minerals and natural resources department, the department of game and fish, the cultural affairs department, the Indian affairs department, the department of health and the department of transportation shall work in conjunction with the New Mexico outdoor recreation division to support the division's duties as they relate to the purposes of the respective departments and agencies.

C. For the purposes of this section:

(1) "ecotourism" means a form of tourism that involves visiting areas of ecological interest and is intended as a low-impact and often small-scale alternative to standard commercial tourism; and

(2) "outdoor recreation" means a recreational activity that occurs outdoors in a natural environment, including the use of trails, the natural landscape, water or snow resources or other natural resources in the activity."

Chapter 117 Section 3 Laws 2019

SECTION 3. A new section of the Economic Development Department Act is enacted to read:

"OUTDOOR RECREATION ADVISORY COMMITTEE--CREATION--MEMBERSHIP--DUTIES.--

A. The "outdoor recreation advisory committee" is created and administratively attached to the New Mexico outdoor recreation division of the department. The director of the New Mexico outdoor recreation division, or the director's designee, shall serve as the chair of the committee.

B. The outdoor recreation advisory committee shall be composed of no more than fifteen members appointed by the director of the New Mexico outdoor recreation division. The members of the committee shall include representatives of the outdoor recreation industry, the tourism department, the cultural affairs department, the energy, minerals and natural resources department, the state parks division of the energy, minerals and natural resources department, the department of game and fish and the Indian affairs department.

C. The members shall serve at the pleasure of the director.

D. Staff and other administrative support for the outdoor recreation advisory committee shall be provided by the administrative services division of the department.

E. Members of the outdoor recreation advisory committee are entitled to receive per diem and mileage as provided in the Per Diem and Mileage Act but shall receive no other perquisite, compensation or allowance."

Chapter 117 Section 4 Laws 2019

SECTION 4. A new section of the Economic Development Department Act is enacted to read:

"NEW MEXICO OUTDOOR RECREATION DIVISION--SPECIAL PROJECTS AND OUTDOOR RECREATION INFRASTRUCTURE FUND--CREATED.--The "special projects and outdoor recreation infrastructure fund" is created in the state treasury.

The fund consists of appropriations, gifts, grants, donations, income from investment of the fund and money otherwise accruing to the fund. Money in the fund at the end of a fiscal year shall not revert to any other fund. The fund shall be administered by the New Mexico outdoor recreation division, and money in the fund is appropriated to the New Mexico outdoor recreation division for special projects and outdoor recreation infrastructure determined by the division to be necessary to carry out the purpose of the division. Money in the fund shall be disbursed on warrants signed by the secretary of finance and administration pursuant to vouchers signed by the director of the New Mexico outdoor recreation division or the director's designee."

Chapter 117 Section 5 Laws 2019

SECTION 5. Section 9-5B-1 NMSA 1978 (being Laws 1992, Chapter 91, Section 1) is amended to read:

"9-5B-1. SHORT TITLE.--Chapter 9, Article 5B NMSA 1978 may be cited as the "New Mexico Youth Conservation Corps Act"."

Chapter 117 Section 6 Laws 2019

SECTION 6. Section 9-5B-6 NMSA 1978 (being Laws 1992, Chapter 91, Section 6) is amended to read:

"9-5B-6. COMMISSION--POWERS AND DUTIES.--

A. The commission may:

- (1) accept gifts, devises, grants and donations from others to carry out the provisions of the New Mexico Youth Conservation Corps Act;
- (2) request assistance and staff support from the department;
- (3) employ such personnel as necessary to carry out the provisions of the New Mexico Youth Conservation Corps Act;
- (4) delegate responsibility for the administration and implementation of conservation projects, corps members' employment and supervision, project coordination and other program matters;
- (5) establish work camps and long-term residential facilities to house corps members and their supervisors; and

(6) contact potential sponsors and funding sources for support.

B. The commission shall:

(1) adopt rules that are necessary for the proper administration of the New Mexico Youth Conservation Corps Act, including the outdoor equity grant program;

(2) administer and enforce the provisions of the New Mexico Youth Conservation Corps Act and rules adopted pursuant to Paragraph (1) of this subsection;

(3) develop and approve corps work projects, activities and contracts with project sponsors;

(4) administer the outdoor equity grant program;

(5) establish standards, procedures and policies for selecting, hiring, providing compensation for and other personnel matters involving corps members and other personnel;

(6) foster partnerships and cooperation between the corps and New Mexico's secondary and post-secondary schools to assist corps members in obtaining education and job training; and

(7) hire a program manager, who shall be the administrative officer of the corps."

Chapter 117 Section 7 Laws 2019

SECTION 7. A new section of the New Mexico Youth Conservation Corps Act is enacted to read:

"OUTDOOR EQUITY GRANT PROGRAM--CREATED--ADMINISTRATION--GRANT CRITERIA.--

A. The "outdoor equity grant program" is created in the department to be administered by the commission.

B. Each fiscal year, competitive grants shall be awarded to applicants for the sole purpose of funding outdoor recreation programs, in whole or in part, for youth up to the age of eighteen.

C. Annually, the commission shall establish a minimum and maximum number of grants available based on the funding appropriated to the outdoor equity grant program fund for that fiscal year.

D. The commission shall award grants to applicants through a competitive process and based upon the following minimum criteria:

(1) at least forty percent of the population served by the applicant are low-income youth up to the age of eighteen;

(2) the applicant has a well-developed, written plan to engage low-income youth in outdoor recreation activities; and

(3) the applicant has an educational plan to educate youth about climate and the environment as part of its outdoor recreation program.

E. The commission shall establish grant reporting requirements that meet the general purpose of this section.

F. For the purposes of this section:

(1) "applicant" means a county, municipality or other political subdivision of the state, a nonprofit organization or an Indian nation, tribe or pueblo that applies for an outdoor equity grant; and

(2) "outdoor recreation" means a recreational activity that occurs outdoors in a natural environment, including the use of trails, the natural landscape, water or snow resources or other natural resources in the activity."

Chapter 117 Section 8 Laws 2019

SECTION 8. A new section of the New Mexico Youth Conservation Corps Act is enacted to read:

"OUTDOOR EQUITY GRANT PROGRAM FUND--CREATED.--

A. The "outdoor equity grant program fund" is created in the state treasury. All appropriations, gifts, devises, grants and donations received shall be deposited in the fund. Money in the fund is appropriated to the commission for the purpose of carrying out the outdoor equity grant program pursuant to the provisions of the New Mexico Youth Conservation Corps Act. Any money appropriated to the fund or accruing to it

through gifts, grants, bequests or interest shall remain in the fund. Money in the fund shall not revert at the end of a fiscal year.

B. The fund shall be administered by the department. Disbursements from the fund shall be made only upon warrant drawn by the secretary of finance and administration pursuant to vouchers signed by the chair of the commission or the chair's designee for the purpose of carrying out the outdoor equity grant program pursuant to the provisions of the New Mexico Youth Conservation Corps Act."

Chapter 117 Section 9 Laws 2019

SECTION 9. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

SCONC/Senate Bill 462, aa

Approved April 2, 2019

LAWS 2019, CHAPTER 118

AN ACT

RELATING TO HEALTH; AMENDING SECTION 52-3-32.1 NMSA 1978 (BEING LAWS 2009, CHAPTER 252, SECTION 1) TO ADD POSTTRAUMATIC STRESS DISORDER TO THE LIST OF CONDITIONS PRESUMED TO BE PROXIMATELY CAUSED BY EMPLOYMENT AS A FIREFIGHTER.

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

Chapter 118 Section 1 Laws 2019

SECTION 1. Section 52-3-32.1 NMSA 1978 (being Laws 2009, Chapter 252, Section 1) is amended to read:

"52-3-32.1. FIREFIGHTER OCCUPATIONAL CONDITIONS.--

A. As used in this section, "firefighter" means a person who is employed as a full-time non-volunteer firefighter by the state or a local government entity and who has taken the oath prescribed for firefighters.

B. If a firefighter is diagnosed with one or more of the following conditions after the period of employment indicated, and the condition was not revealed during an initial employment medical screening examination or during a subsequent medical review pursuant to the Occupational Health and Safety Act and rules promulgated pursuant to that act, the condition is presumed to be proximately caused by employment as a firefighter:

- (1) brain cancer after ten years;
- (2) bladder cancer after twelve years;
- (3) kidney cancer after fifteen years;
- (4) colorectal cancer after ten years;
- (5) non-Hodgkin's lymphoma after fifteen years;
- (6) leukemia after five years;
- (7) ureter cancer after twelve years;
- (8) testicular cancer after five years if diagnosed before the age of forty with no evidence of anabolic steroids or human growth hormone use;
- (9) breast cancer after five years if diagnosed before the age of forty without a breast cancer 1 or breast cancer 2 genetic predisposition to breast cancer;
- (10) esophageal cancer after ten years;
- (11) multiple myeloma after fifteen years;
- (12) hepatitis, tuberculosis, diphtheria, meningococcal disease and methicillin-resistant staphylococcus aureus appearing and diagnosed after entry into employment; or
- (13) posttraumatic stress disorder diagnosed by a physician or psychologist that results in physical impairment, primary or secondary mental impairment or death.

C. The presumptions created in Subsections B and D of this section may be rebutted by a preponderance of evidence in a court of competent jurisdiction showing

that the firefighter engaged in conduct or activities outside of employment that posed a significant risk of contracting or developing a described condition.

D. If a firefighter is diagnosed with a heart injury or stroke suffered within twenty-four hours of fighting a fire, while responding to an alarm, while returning from an alarm call, while engaging in supervised physical training or while responding to or performing in a non-fire emergency, the heart injury or stroke is presumed to be proximately caused by employment as a firefighter. The presumption created in this subsection shall not be made if the firefighter's employer does not have a current physical training program and the firefighter does not have a current medical screening examination or review pursuant to the Occupational Health and Safety Act and rules promulgated pursuant to that act allowing participation in that program.

E. When any presumptions created in this section do not apply, it shall not preclude a firefighter from demonstrating a causal connection between employment and condition or injury by a preponderance of evidence in a court of competent jurisdiction.

F. Medical treatment based on the presumptions created in this section shall be provided by an employer as for a job-related condition or injury unless and until a court of competent jurisdiction determines that the presumption does not apply. If the court determines that the presumption does not apply or that the condition or injury is not job related, the employer's workers' compensation insurance provider shall be reimbursed for health care costs by the medical or health insurance plan or benefit provided for the firefighter by the employer." _____

House Bill 324, aa

Approved April 2, 2019

LAWS 2019, CHAPTER 119

AN ACT

RELATING TO HEALTH COVERAGE; AMENDING SECTIONS OF THE HEALTH CARE PURCHASING ACT, THE NEW MEXICO INSURANCE CODE, THE HEALTH MAINTENANCE ORGANIZATION LAW AND THE NONPROFIT HEALTH CARE PLAN LAW TO PROHIBIT AGE AND DOLLAR LIMITS ON SERVICES RELATED TO AUTISM SPECTRUM DISORDER; ENACTING A NEW SECTION OF THE PUBLIC ASSISTANCE ACT TO REQUIRE MEDICAL ASSISTANCE COVERAGE FOR AUTISM SPECTRUM DISORDER WITHOUT AGE OR DOLLAR LIMITS.

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

Chapter 119 Section 1 Laws 2019

SECTION 1. Section 13-7-16 NMSA 1978 (being Laws 2013, Chapter 185, Section 1) is amended to read:

"13-7-16. COVERAGE FOR AUTISM SPECTRUM DISORDER DIAGNOSIS AND TREATMENT--PERMISSIBLE LIMITATIONS.--

A. Group health coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act shall provide coverage for:

(1) well-baby and well-child screening for diagnosing the presence of autism spectrum disorder; and

(2) treatment of autism spectrum disorder through speech therapy, occupational therapy, physical therapy and applied behavioral analysis.

B. Coverage required pursuant to Subsection A of this section:

(1) shall be limited to treatment that is prescribed by the insured's treating physician in accordance with a treatment plan;

(2) shall not be denied on the basis that the services are habilitative or rehabilitative in nature;

(3) may be subject to other general exclusions of the group health coverage, including coordination of benefits, participating provider requirements, restrictions on services provided by family or household members and utilization review of health care services, including the review of medical necessity, case management and other managed care provisions; and

(4) may be limited to exclude coverage for services received under the federal Individuals with Disabilities Education Improvement Act of 2004 and related state laws that place responsibility on state and local school boards for providing specialized education and related services to children three to twenty-two years of age who have autism spectrum disorder.

C. Coverage for treatment of autism spectrum disorder through speech therapy, occupational therapy, physical therapy and applied behavioral analysis shall not be denied to an enrollee on the basis of the enrollee's age.

D. The coverage required pursuant to Subsection A of this section shall not be subject to deductibles or coinsurance provisions that are less favorable to a covered individual than the deductibles or coinsurance provisions that apply to physical illnesses that are generally covered under the group health coverage, except as otherwise provided in Subsection B of this section.

E. A group health plan shall not deny or refuse health coverage for medically necessary services or refuse to contract with, renew, reissue or otherwise terminate or restrict health coverage for an individual because the individual is diagnosed as having autism spectrum disorder.

F. The treatment plan required pursuant to Subsection B of this section shall include all elements necessary for the group health coverage to pay claims appropriately. These elements include:

- (1) the diagnosis;
- (2) the proposed treatment by types;
- (3) the frequency and duration of treatment;
- (4) the anticipated outcomes stated as goals;
- (5) the frequency with which the treatment plan will be updated; and
- (6) the signature of the treating physician.

G. This section shall not be construed as limiting benefits and coverage otherwise available to an insured under group health coverage.

H. The provisions of this section shall not apply to policies intended to supplement major medical group-type coverages such as medicare supplement, long-term care, disability income, specified disease, accident-only, hospital indemnity or other limited-benefit health insurance policies.

I. As used in this section:

- (1) "autism spectrum disorder" means:

- (a) a condition that meets the diagnostic criteria for autism spectrum disorder published in the current edition of the *Diagnostic and Statistical Manual of Mental Disorders* published by the American psychiatric association; or

(b) a condition diagnosed as autistic disorder, Asperger's disorder, pervasive development disorder not otherwise specified, Rett's disorder or childhood disintegrative disorder pursuant to diagnostic criteria published in a previous edition of the *Diagnostic and Statistical Manual of Mental Disorders* published by the American psychiatric association;

(2) "habilitative or rehabilitative services" means treatment programs that are necessary to develop, maintain and restore to the maximum extent practicable the functioning of an individual; and

(3) "high school" means a school providing instruction for any of the grades nine through twelve."

Chapter 119 Section 2 Laws 2019

SECTION 2. A new section of the Public Assistance Act is enacted to read:

"MEDICAL ASSISTANCE--AUTISM SPECTRUM DISORDER.--

A. The secretary shall ensure that medical assistance coverage provides coverage, which shall not be subject to age restrictions or dollar limits, for:

(1) well-baby and well-child screening for diagnosing the presence of autism spectrum disorder; and

(2) treatment of autism spectrum disorder through speech therapy, occupational therapy, physical therapy and applied behavioral analysis.

B. Coverage required pursuant to Subsection A of this section:

(1) shall be limited to treatment that is prescribed by the recipient's treating physician in accordance with a treatment plan;

(2) shall not be denied on the basis that the services are habilitative or rehabilitative in nature;

(3) may be subject to other general exclusions and limitations of medical assistance coverage, including coordination of benefits, participating provider requirements, restrictions on services provided by family or household members and utilization review of health care services, including the review of medical necessity, case management and other managed care provisions; and

(4) may be limited to exclude coverage for services received under the federal Individuals with Disabilities Education Improvement Act of 2004 and related state laws that place responsibility on state and local school boards for providing specialized education and related services to children three to twenty-two years of age who have autism spectrum disorder.

C. The coverage required pursuant to Paragraph (1) of Subsection A of this section shall not be subject to any recipient cost-sharing.

D. The coverage required pursuant to Paragraph (2) of Subsection A of this section shall not be subject to cost-sharing provisions that are less favorable to a recipient than the cost-sharing provisions that apply to physical illnesses that are generally covered through medical assistance coverage, except as otherwise provided in Subsection B of this section.

E. The treatment plan required pursuant to Subsection B of this section shall include all elements necessary for the health insurance plan to pay claims appropriately. These elements include the:

- (1) diagnosis;
- (2) proposed treatment by types;
- (3) frequency and duration of treatment;
- (4) anticipated outcomes stated as goals;
- (5) frequency with which the treatment plan will be updated; and
- (6) signature of the treating physician.

F. This section shall not be construed as limiting benefits and coverage otherwise available to a recipient through medical assistance coverage.

G. As used in this section:

- (1) "autism spectrum disorder" means:

- (a) a condition that meets the diagnostic criteria for autism spectrum disorder published in the current edition of the *Diagnostic and Statistical Manual of Mental Disorders* published by the American psychiatric association; or

(b) a condition diagnosed as autistic disorder, Asperger's disorder, pervasive development disorder not otherwise specified, Rett's disorder or childhood disintegrative disorder pursuant to diagnostic criteria published in a previous edition of the *Diagnostic and Statistical Manual of Mental Disorders* published by the American psychiatric association;

(2) "cost-sharing" means any deductible, copayment, coinsurance or other payment that a recipient is required to pay for medical assistance items or services provided through medical assistance coverage; and

(3) "habilitative or rehabilitative services" means treatment programs that are necessary to develop, maintain or restore to the maximum extent practicable the functioning of an individual."

Chapter 119 Section 3 Laws 2019

SECTION 3. Section 59A-22-49 NMSA 1978 (being Laws 2009, Chapter 74, Section 1) is amended to read:

"59A-22-49. COVERAGE FOR AUTISM SPECTRUM DISORDER DIAGNOSIS AND TREATMENT.--

A. An individual or group health insurance policy, health care plan or certificate of health insurance that is delivered, issued for delivery or renewed in this state shall provide coverage to an insured for:

(1) well-baby and well-child screening for diagnosing the presence of autism spectrum disorder; and

(2) treatment of autism spectrum disorder through speech therapy, occupational therapy, physical therapy and applied behavioral analysis.

B. Coverage required pursuant to Subsection A of this section:

(1) shall be limited to treatment that is prescribed by the insured's treating physician in accordance with a treatment plan;

(2) shall not be subject to annual or lifetime dollar limits;

(3) shall not be denied on the basis that the services are habilitative or rehabilitative in nature;

(4) may be subject to other general exclusions and limitations of the insurer's policy or plan, including coordination of benefits, participating provider requirements, restrictions on services provided by family or household members and utilization review of health care services, including the review of medical necessity, case management and other managed care provisions; and

(5) may be limited to exclude coverage for services received under the federal Individuals with Disabilities Education Improvement Act of 2004 and related state laws that place responsibility on state and local school boards for providing specialized education and related services to children three to twenty-two years of age who have autism spectrum disorder.

C. Coverage for treatment of autism spectrum disorder through speech therapy, occupational therapy, physical therapy and applied behavioral analysis shall not be denied to an insured on the basis of the insured's age.

D. The coverage required pursuant to Subsection A of this section shall not be subject to deductibles or coinsurance provisions that are less favorable to an insured than the deductibles or coinsurance provisions that apply to physical illnesses that are generally covered under the individual or group health insurance policy, health care plan or certificate of health insurance, except as otherwise provided in Subsection B of this section.

E. An insurer shall not deny or refuse to issue health insurance coverage for medically necessary services or refuse to contract with, renew, reissue or otherwise terminate or restrict health insurance coverage for an individual because the individual is diagnosed as having autism spectrum disorder.

F. The treatment plan required pursuant to Subsection B of this section shall include all elements necessary for the health insurance plan to pay claims appropriately. These elements include:

- (1) the diagnosis;
- (2) the proposed treatment by types;
- (3) the frequency and duration of treatment;
- (4) the anticipated outcomes stated as goals;
- (5) the frequency with which the treatment plan will be updated; and

(6) the signature of the treating physician.

G. This section shall not be construed as limiting benefits and coverage otherwise available to an insured under a health insurance plan.

H. The provisions of this section shall not apply to policies intended to supplement major medical group-type coverages such as medicare supplement, long-term care, disability income, specified disease, accident-only, hospital indemnity or other limited-benefit health insurance policies.

I. As used in this section:

(1) "autism spectrum disorder" means:

(a) a condition that meets the diagnostic criteria for autism spectrum disorder published in the current edition of the *Diagnostic and Statistical Manual of Mental Disorders* published by the American psychiatric association; or

(b) a condition diagnosed as autistic disorder, Asperger's disorder, pervasive development disorder not otherwise specified, Rett's disorder or childhood disintegrative disorder pursuant to diagnostic criteria published in a previous edition of the *Diagnostic and Statistical Manual of Mental Disorders* published by the American psychiatric association;

(2) "habilitative or rehabilitative services" means treatment programs that are necessary to develop, maintain and restore to the maximum extent practicable the functioning of an individual; and

(3) "high school" means a school providing instruction for any of the grades nine through twelve."

Chapter 119 Section 4 Laws 2019

SECTION 4. Section 59A-23-7.9 NMSA 1978 (being Laws 2009, Chapter 74, Section 2) is amended to read:

"59A-23-7.9. COVERAGE FOR AUTISM SPECTRUM DISORDER DIAGNOSIS AND TREATMENT.--

A. A blanket or group health insurance policy or contract that is delivered, issued for delivery or renewed in this state shall provide coverage to an insured for:

(1) well-baby and well-child screening for diagnosing the presence of autism spectrum disorder; and

(2) treatment of autism spectrum disorder through speech therapy, occupational therapy, physical therapy and applied behavioral analysis.

B. Coverage required pursuant to Subsection A of this section:

(1) shall be limited to treatment that is prescribed by the insured's treating physician in accordance with a treatment plan;

(2) shall not be subject to annual or lifetime dollar limits;

(3) shall not be denied on the basis that the services are habilitative or rehabilitative in nature;

(4) may be subject to other general exclusions and limitations of the insurer's policy or plan, including coordination of benefits, participating provider requirements, restrictions on services provided by family or household members and utilization review of health care services, including the review of medical necessity, case management and other managed care provisions; and

(5) may be limited to exclude coverage for services received under the federal Individuals with Disabilities Education Improvement Act of 2004 and related state laws that place responsibility on state and local school boards for providing specialized education and related services to children three to twenty-two years of age who have autism spectrum disorder.

C. Coverage for treatment of autism spectrum disorder through speech therapy, occupational therapy, physical therapy and applied behavioral analysis shall not be denied to an insured on the basis of the insured's age.

D. The coverage required pursuant to Subsection A of this section shall not be subject to deductibles or coinsurance provisions that are less favorable to an insured than the deductibles or coinsurance provisions that apply to physical illnesses that are generally covered under the blanket or group health insurance policy or contract, except as otherwise provided in Subsection B of this section.

E. An insurer shall not deny or refuse to issue health insurance coverage for medically necessary services or refuse to contract with, renew, reissue or otherwise terminate or restrict health insurance coverage for an individual because the individual is diagnosed as having autism spectrum disorder.

F. The treatment plan required pursuant to Subsection B of this section shall include all elements necessary for the health insurance plan to pay claims appropriately. These elements include:

- (1) the diagnosis;
- (2) the proposed treatment by types;
- (3) the frequency and duration of treatment;
- (4) the anticipated outcomes stated as goals;
- (5) the frequency with which the treatment plan will be updated; and
- (6) the signature of the treating physician.

G. This section shall not be construed as limiting benefits and coverage otherwise available to an insured under a health insurance plan.

H. The provisions of this section shall not apply to policies intended to supplement major medical group-type coverages such as medicare supplement, long-term care, disability income, specified disease, accident-only, hospital indemnity or other limited-benefit health insurance policies.

I. As used in this section:

(1) "autism spectrum disorder" means:

(a) a condition that meets the diagnostic criteria for autism spectrum disorder published in the current edition of the *Diagnostic and Statistical Manual of Mental Disorders* published by the American psychiatric association; or

(b) a condition diagnosed as autistic disorder, Asperger's disorder, pervasive development disorder not otherwise specified, Rett's disorder or childhood disintegrative disorder pursuant to diagnostic criteria published in a previous edition of the *Diagnostic and Statistical Manual of Mental Disorders* published by the American psychiatric association;

(2) "habilitative or rehabilitative services" means treatment programs that are necessary to develop, maintain and restore to the maximum extent practicable the functioning of an individual; and

(3) "high school" means a school providing instruction for any of the grades nine through twelve."

Chapter 119 Section 5 Laws 2019

SECTION 5. Section 59A-46-50 NMSA 1978 (being Laws 2009, Chapter 74, Section 3) is amended to read:

"59A-46-50. COVERAGE FOR AUTISM SPECTRUM DISORDER DIAGNOSIS AND TREATMENT.--

A. An individual or group health maintenance contract that is delivered, issued for delivery or renewed in this state shall provide coverage to an enrollee for:

(1) well-baby and well-child screening for diagnosing the presence of autism spectrum disorder; and

(2) treatment of autism spectrum disorder through speech therapy, occupational therapy, physical therapy and applied behavioral analysis.

B. Coverage required pursuant to Subsection A of this section:

(1) shall be limited to treatment that is prescribed by the enrollee's treating physician in accordance with a treatment plan;

(2) shall not be subject to annual or lifetime dollar limits;

(3) shall not be denied on the basis that the services are habilitative or rehabilitative in nature;

(4) may be subject to other general exclusions and limitations of the health maintenance organization contract, including coordination of benefits, participating provider requirements, restrictions on services provided by family or household members and utilization review of health care services, including the review of medical necessity, case management and other managed care provisions; and

(5) may be limited to exclude coverage for services received under the federal Individuals with Disabilities Education Improvement Act of 2004 and related state laws that place responsibility on state and local school boards for providing specialized education and related services to children three to twenty-two years of age who have autism spectrum disorder.

C. Coverage for treatment of autism spectrum disorder through speech therapy, occupational therapy, physical therapy and applied behavioral analysis shall not be denied to an enrollee on the basis of the enrollee's age.

D. The coverage required pursuant to Subsection A of this section shall not be subject to deductibles or coinsurance provisions that are less favorable to an enrollee than the deductibles or coinsurance provisions that apply to physical illnesses that are generally covered under the individual or group health maintenance contract, except as otherwise provided in Subsection B of this section.

E. A carrier shall not deny or refuse to issue a health maintenance organization contract for medically necessary services or refuse to contract with, renew, reissue or otherwise terminate or restrict health maintenance organization coverage for an individual because the individual is diagnosed as having autism spectrum disorder.

F. The treatment plan required pursuant to Subsection B of this section shall include all elements necessary for the health maintenance organization contract to pay claims appropriately. These elements include:

- (1) the diagnosis;
- (2) the proposed treatment by types;
- (3) the frequency and duration of treatment;
- (4) the anticipated outcomes stated as goals;
- (5) the frequency with which the treatment plan will be updated; and
- (6) the signature of the treating physician.

G. This section shall not be construed as limiting benefits and coverage otherwise available to an enrollee under a health maintenance organization contract.

H. The provisions of this section shall not apply to contracts, plans or policies intended to supplement major medical group-type coverages such as medicare supplement, long-term care, disability income, specified disease, accident-only, hospital indemnity or other limited-benefit health insurance contracts, plans or policies.

I. As used in this section:

- (1) "autism spectrum disorder" means:

(a) a condition that meets the diagnostic criteria for the pervasive developmental disorders published in the current edition of the *Diagnostic and Statistical Manual of Mental Disorders* published by the American psychiatric association; or

(b) a condition diagnosed as autistic disorder, Asperger's disorder, pervasive development disorder not otherwise specified, Rett's disorder or childhood disintegrative disorder pursuant to diagnostic criteria published in a previous edition of the *Diagnostic and Statistical Manual of Mental Disorders* published by the American psychiatric association; and

(2) "habilitative or rehabilitative services" means treatment programs that are necessary to develop, maintain and restore to the maximum extent practicable the functioning of an individual."

Chapter 119 Section 6 Laws 2019

SECTION 6. Section 59A-47-45 NMSA 1978 (being Laws 2009, Chapter 74, Section 4) is amended to read:

"59A-47-45. COVERAGE FOR AUTISM SPECTRUM DISORDER DIAGNOSIS AND TREATMENT.--

A. An individual or group health insurance policy, health care plan or certificate of health insurance delivered or issued for delivery in this state shall provide coverage to a subscriber for:

(1) well-baby and well-child screening for diagnosing the presence of autism spectrum disorder; and

(2) treatment of autism spectrum disorder through speech therapy, occupational therapy, physical therapy and applied behavioral analysis.

B. Coverage required pursuant to Subsection A of this section:

(1) shall be limited to treatment that is prescribed by the subscriber's treating physician in accordance with a treatment plan;

(2) shall not be subject to any annual or lifetime dollar limits;

(3) shall not be denied on the basis that the services are habilitative or rehabilitative in nature;

(4) may be subject to other general exclusions and limitations of the health care plan, including coordination of benefits, participating provider requirements, restrictions on services provided by family or household members and utilization review of health care services, including the review of medical necessity, case management and other managed care provisions; and

(5) may be limited to exclude coverage for services received under the federal Individuals with Disabilities Education Improvement Act of 2004 and related state laws that place responsibility on state and local school boards for providing specialized education and related services to children three to twenty-two years of age who have autism spectrum disorder.

C. Coverage for treatment of autism spectrum disorder through speech therapy, occupational therapy, physical therapy and applied behavioral analysis shall not be denied to a subscriber on the basis of the subscriber's age.

D. The coverage required pursuant to Subsection A of this section shall not be subject to deductibles or coinsurance provisions that are less favorable to an insured than the deductibles or coinsurance provisions that apply to physical illnesses that are generally covered under the individual or group health maintenance contract, except as otherwise provided in Subsection B of this section.

E. A health care plan shall not deny or refuse to issue health care plan coverage for medically necessary services or refuse to contract with, renew, reissue or otherwise terminate or restrict health insurance coverage for an individual because the individual is diagnosed as having autism spectrum disorder.

F. The treatment plan required pursuant to Subsection B of this section shall include all elements necessary for the health care plan to pay claims appropriately. These elements include:

- (1) the diagnosis;
- (2) the proposed treatment by types;
- (3) the frequency and duration of treatment;
- (4) the anticipated outcomes stated as goals;
- (5) the frequency with which the treatment plan will be updated; and
- (6) the signature of the treating physician.

G. This section shall not be construed as limiting benefits and coverage otherwise available to an insured under a health care plan.

H. The provisions of this section shall not apply to plans, contracts or policies intended to supplement major medical group-type coverages such as medicare supplement, long-term care, disability income, specified disease, accident-only, hospital indemnity or other limited-benefit health insurance plans, contracts or policies.

I. As used in this section:

(1) "autism spectrum disorder" means:

(a) a condition that meets the diagnostic criteria for autism spectrum disorder published in the current edition of the *Diagnostic and Statistical Manual of Mental Disorders* published by the American psychiatric association; or

(b) a condition diagnosed as autistic disorder, Asperger's disorder, pervasive development disorder not otherwise specified, Rett's disorder or childhood disintegrative disorder pursuant to diagnostic criteria published in a previous edition of the *Diagnostic and Statistical Manual of Mental Disorders* published by the American psychiatric association; and

(2) "habilitative or rehabilitative services" means treatment programs that are necessary to develop, maintain and restore to the maximum extent practicable the functioning of an individual." _____

House Bill 322

Approved April 2, 2019

LAWS 2019, CHAPTER 120

AN ACT

RELATING TO MISSING PERSONS; REQUIRING THE DEPARTMENT OF PUBLIC SAFETY TO SHARE CERTAIN INFORMATION WITH THE NATIONAL MISSING AND UNIDENTIFIED PERSONS SYSTEM CREATED BY THE UNITED STATES DEPARTMENT OF JUSTICE'S NATIONAL INSTITUTE OF JUSTICE; NAMING THE REQUIREMENT THE "MARK DANIEL AGUILAR INFORMATION SHARING REQUIREMENT".

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

Chapter 120 Section 1 Laws 2019

SECTION 1. A new section of the Missing Persons Information and Reporting Act is enacted to read:

"DEPARTMENT OF PUBLIC SAFETY--MARK DANIEL AGUILAR
INFORMATION SHARING REQUIREMENT.--

A. Within thirty days, the department of public safety shall share with the national missing and unidentified persons system created by the United States department of justice's national institute of justice:

(1) all information in the missing persons information clearinghouse; and

(2) all information the department receives pursuant to the Missing Persons Information and Reporting Act regarding the identification and location of missing and unidentified persons or human remains.

B. The requirements pursuant to this section shall be known as the "Mark Daniel Aguilar information sharing requirement". _____

House Bill 16, aa

Approved April 2, 2019

LAWS 2019, CHAPTER 121

AN ACT

RELATING TO WATER; CLARIFYING THAT A LEASE OF A WATER RIGHT SERVED BY AN ACEQUIA OR COMMUNITY DITCH AND SUBSEQUENT USE OF THAT WATER SHALL NOT TAKE EFFECT UNTIL AFTER THE APPLICATION HAS BEEN APPROVED IN ACCORDANCE WITH LAW; DECLARING AN EMERGENCY.

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

Chapter 121 Section 1 Laws 2019

SECTION 1. Section 72-6-3 NMSA 1978 (being Laws 1967, Chapter 100, Section 3, as amended by Laws 2014, Chapter 45, Section 2 and by Laws 2014, Chapter 48, Section 2) is amended to read:

"72-6-3. OWNER MAY LEASE USE OF WATER.--

A. An owner may lease to any person all or any part of the water use due the owner under the owner's water right, and the owner's water right shall not be affected by the lease of the use. The use to which the owner is entitled under the owner's right shall, during the exercise of the lease, be reduced by the amount of water so leased. Upon termination of the lease, the water use and location of use subject to the lease shall revert to the owner's original use and location of use.

B. The lease may be effective for immediate use of water or may be effective for future use of the water covered by the lease; however, the lease shall not be effective to cumulate water from year to year or to substantially enlarge the use of the water in such manner that it would injure other water users. The lease shall not toll any forfeiture of water rights for nonuse, and the owner shall not, by reason of the lease, escape the forfeiture for nonuse prescribed by law; provided, however, that the state engineer shall notify both the owner and the lessee of declaration of nonuser as provided in Sections 72-5-28 and 72-12-8 NMSA 1978. The initial or any renewal term of a lease of water use shall not exceed ten years, except as provided in Subsections C and D of this section.

C. A water use may be leased for forty years by municipalities, counties, state universities, special water users' associations, public utilities supplying water to municipalities or counties and member-owned community water systems as lessee and shall be entitled to the protection of the forty-year water use planning period as provided in Section 72-1-9 NMSA 1978.

D. A water use deriving from an acequia or community ditch organized pursuant to Chapter 73, Article 2 or 3 NMSA 1978, whether owned by a water right owner under the acequia or community ditch or by the acequia or community ditch, may be leased for a term not to exceed ten years; provided that pursuant to the rules or bylaws duly adopted by its members, an acequia or community ditch may require that any water use lease of a water right served by the acequia or community ditch, or any water use lease in which a water right is moved into and then served by the acequia or community ditch, shall be subject to approval by the commissioners of the acequia or community ditch in accordance with the procedures for approval of changes in point of diversion or place or

purpose of use as provided in Subsection E of Section 73-2-21 NMSA 1978 and Sections 72-5-24.1 and 73-3-4.1 NMSA 1978.

E. A water use due under an adjudicated water right secured to a pueblo pursuant to the settlement agreements approved in Title 5 and Title 6 of the federal Claims Resolution Act of 2010, P.L. No. 111-291, Sections 501-626, or in the partial final judgments and decrees entered pursuant to those settlement agreements, may be leased for a term, including all renewals, not to exceed the term specifically authorized in that act; provided that this subsection shall not apply to any water use due under any state-law based water rights acquired by a pueblo or by the United States on behalf of a pueblo."

Chapter 121 Section 2 Laws 2019

SECTION 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately. _____

House Bill 17, aa, w/ec

Approved April 2, 2019

LAWS 2019, CHAPTER 122

AN ACT

RELATING TO MANUFACTURED HOUSING; CHANGING THE DEFINITION OF "DIRECTOR" IN THE MANUFACTURED HOUSING ACT.

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

Chapter 122 Section 1 Laws 2019

SECTION 1. Section 60-14-2 NMSA 1978 (being Laws 1978, Chapter 79, Section 1, as amended) is amended to read:

"60-14-2. DEFINITIONS.--As used in the Manufactured Housing Act:

A. "broker" means any person who, for a fee, commission or valuable consideration, lists, sells, offers for sale, exchanges, offers to exchange, rents or leases

or offers to rent or lease pre-owned manufactured homes for another person or who negotiates, offers to negotiate, locates or brings together a buyer and a seller or offers to locate or bring together a buyer and a seller in conjunction with the sale, exchange, rental or lease of a pre-owned manufactured home. A broker may or may not be an agent of any party involved in the transaction. No person shall be considered a broker unless engaged in brokerage activities related to the sale, exchange or lease-purchase of two or more pre-owned manufactured homes to consumers in any consecutive twelve-month period;

B. "certificate of qualification" means a certificate issued by the division to a qualifying party;

C. "committee" means the manufactured housing committee;

D. "consumer" means any person who seeks or acquires by purchase, exchange or lease-purchase a manufactured home;

E. "dealer" means any person engaged in the business of buying for resale, selling or exchanging manufactured homes or offering manufactured homes for sale, exchange or lease-purchase to consumers. No person shall be considered a dealer unless engaged in the sale, exchange or lease-purchase of two or more manufactured homes to consumers in any consecutive twelve-month period. A dealer may also engage in any brokerage activities included under the definition of broker in this section; provided that "dealer" shall not include:

(1) receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under judgment, decree or order of any court;

(2) public officers while performing their duties as such officers; and

(3) finance companies, banks and other lending institutions covering sales of repossessed manufactured houses;

F. "director" means the director of the division;

G. "division" means the manufactured housing division of the regulation and licensing department;

H. "inspection agency" means any firm, partnership, corporation, association or any combination thereof approved in accordance with regulations adopted by the division as having the personnel and equipment available to adequately inspect for the

proper construction of manufactured homes or house trailers not used exclusively for recreational purposes;

I. "inspector" means a person appointed by the division as being qualified to adequately inspect the construction, electrical installations and mechanical installations of manufactured homes and their repair and modification, as well as the installation, tie-downs, blocking, skirting and water, gas and sewer connections of any manufactured homes in New Mexico;

J. "installer" means any person who installs manufactured homes for remuneration;

K. "installation" means, but is not limited to, preparation by an installer of a manufactured home site, construction of tie-down facilities and connection to on-site utility terminals;

L. "manufacturer" means any resident or nonresident person who manufactures or assembles manufactured homes or any component of manufactured homes;

M. "manufactured home" means a movable or portable housing structure over thirty-two feet in length or over eight feet in width constructed to be towed on its own chassis and designed to be installed with or without a permanent foundation for human occupancy as a residence and that may include one or more components that can be retracted for towing purposes and subsequently expanded for additional capacity or may be two or more units separately towable but designed to be joined into one integral unit, as well as a single unit. "Manufactured home" does not include recreational vehicles or modular or premanufactured homes, built to Uniform Building Code standards, designed to be permanently affixed to real property. "Manufactured home" includes any movable or portable housing structure over twelve feet in width and forty feet in length that is used for nonresidential purposes;

N. "permit" means a certificate issued by the division to the dealer or installer of a manufactured home indicating that the manufactured home meets the minimum requirements for occupancy provided for by codes or regulations of the division;

O. "person" includes an individual, firm, partnership, corporation, association or other legal entity or any combination thereof;

P. "qualifying party" means any individual who submits to the examination for a license, other than a broker's or salesperson's license, to be issued under the Manufactured Housing Act to a licensee, other than an individual, and who after passing such an examination is responsible for the licensee's compliance with the requirements

of that act and with the rules, regulations, codes and standards adopted and promulgated in accordance with the provisions of the Manufactured Housing Act;

Q. "repairman" means any person who, for remuneration or consideration, modifies, alters or repairs the structural, mechanical or electrical systems of a manufactured home; and

R. "salesperson" means any person who for any form of compensation sells or lease-purchases or offers to sell or lease-purchase manufactured homes to consumers as an employee or agent of a dealer."

Chapter 122 Section 2 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

House Bill 49

Approved April 2, 2019

LAWS 2019, CHAPTER 123

AN ACT

RELATING TO LEGAL HOLIDAYS; AMENDING SECTIONS OF THE NMSA 1978 TO REPLACE COLUMBUS DAY WITH INDIGENOUS PEOPLES' DAY.

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

Chapter 123 Section 1 Laws 2019

SECTION 1. Section 12-5-2 NMSA 1978 (being Laws 1969, Chapter 114, Section 1, as amended by Laws 1987, Chapter 3, Section 1 and also by Laws 1987, Chapter 309, Section 1) is amended to read:

"12-5-2. LEGAL HOLIDAYS--DESIGNATION.--Legal public holidays in New Mexico are:

A. New Year's day, January 1;

- B. Martin Luther King, Jr.'s birthday, third Monday in January;
- C. Washington's and Lincoln's birthday, President's day, third Monday in February;
- D. Memorial day, last Monday in May;
- E. Independence day, July 4;
- F. Labor day, first Monday in September;
- G. Indigenous Peoples' day, second Monday in October;
- H. Armistice day and Veterans' day, November 11;
- I. Thanksgiving day, fourth Thursday in November; and
- J. Christmas day, December 25."

Chapter 123 Section 2 Laws 2019

SECTION 2. Section 57-12-21 NMSA 1978 (being Laws 1987, Chapter 212, Section 1, as amended) is amended to read:

"57-12-21. DOOR-TO-DOOR SALES--CONTRACTS--REQUIREMENTS--PROHIBITIONS.--

A. In connection with a door-to-door sale, it constitutes an unfair or deceptive trade practice for a seller to:

(1) fail to furnish the buyer with a fully completed receipt or copy of a contract pertaining to the sale at the time of its execution that is in the same language as that principally used in the oral sales presentation and that shows the date of the transaction and contains the name and address of the seller and, in immediate proximity to the space reserved in the contract for the signature of the buyer or on the front page of the receipt if a contract is not used and in bold face type of a minimum size of ten points, a statement in substantially the following form:

"You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right.";

(2) fail to furnish each buyer, at the time the buyer signs the door-to-door sales contract or otherwise agrees to buy consumer goods or services from the seller, a completed form in duplicate, captioned "NOTICE OF CANCELLATION", that shall be attached to the contract or receipt and easily detachable and that shall contain in ten-point bold face type the following information and statements in the same language as that used in the contract:

"NOTICE OF CANCELLATION

Date

You may cancel this transaction, without any penalty or obligation, within three business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale and any negotiable instrument executed by you will be returned within ten business days following receipt by the seller of your cancellation notice and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale; or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within twenty days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice or any other written notice or send a telegram to:

(name of seller)

at _____

(address of seller's place of business)

not later than midnight of _____

(date)

I hereby cancel this transaction.

(date)

(buyer's signature)";

(3) fail, before furnishing copies of the notice of cancellation to the buyer, to complete both copies by entering the name of the seller, the address of the seller's place of business, the date of the transaction and the date, not earlier than the third business day following the date of the transaction, by which the buyer may give notice of cancellation;

(4) include in a door-to-door contract or receipt a confession of judgment or a waiver of any of the rights to which the buyer is entitled under this section, including specifically the buyer's right to cancel the sale in accordance with the provisions of this section;

(5) fail to inform each buyer orally, at the time the buyer signs the contract or purchases the goods or services, of the right to cancel;

(6) misrepresent in any manner the buyer's right to cancel;

(7) fail or refuse to honor a valid notice of cancellation by a buyer and, within ten business days after the receipt of the notice, fail to:

(a) refund all payments made under the contract or sale;

(b) return in substantially as good condition as when received by the seller any goods or property traded in; and

(c) cancel and return any negotiable instrument executed by the buyer in connection with the contract or sale and take any action necessary or appropriate to terminate promptly a security interest created in the transaction;

(8) negotiate, transfer, sell or assign any notice or other evidence of indebtedness to a finance company or other third party prior to midnight of the fifth business day following the day the contract was signed or the goods or services were purchased; and

(9) fail to notify the buyer, within ten business days of receipt of the notice of cancellation, whether the seller intends to repossess or to abandon any shipped or delivered goods.

B. The cancellation period provided for in this section as applied to telephone initiated sales shall not begin until the buyer has been informed of the right to cancel and has been provided with copies of the notice of cancellation.

C. For the purposes of this section:

(1) "business day" means any calendar day except Sunday or the following business holidays: New Year's day; President's day; Memorial day; Independence day; Labor day; Indigenous Peoples' day; Armistice day and Veterans' day; Thanksgiving day; Christmas day; Martin Luther King, Jr.'s birthday; and any other legal public holiday of the state of New Mexico or the United States;

(2) "consumer goods or services" means goods or services other than perishable goods or agricultural products purchased, leased or rented primarily for personal, family or household purposes, including courses of instruction or training, regardless of the purpose for which they are taken;

(3) "door-to-door sale" means a sale, lease or rental of consumer goods or services with a purchase price of twenty-five dollars (\$25.00) or more, whether under single or multiple contracts, in which the seller or the seller's representative personally solicits the sale, including those in response to or following an invitation by the buyer, and the buyer's agreement or offer to purchase is made at a place other than the place of business of the seller. A door-to-door sale includes seller initiated telephone sales. A door-to-door sale does not include a transaction:

(a) made pursuant to prior negotiations in the course of a visit by the buyer to a retail business establishment having a fixed permanent location where the goods are exhibited or the services are offered for sale on a continuing basis;

(b) in which the consumer is accorded the right of rescission by the provisions of the Consumer Credit Protection Act, 15 U.S.C. 1635, or regulations issued pursuant thereto;

(c) in which the buyer has initiated the contract and the goods or services are needed to meet a bona fide immediate personal emergency of the buyer, and the buyer furnishes the seller with a separate dated and signed personal statement in the buyer's handwriting describing the situation requiring immediate remedy and expressly acknowledging and waiving the right to cancel the sale within three business days;

(d) in which the buyer has initiated the contract and specifically requested the seller to visit the buyer's home for the purpose of repairing or performing maintenance upon the buyer's personal property. If in the course of such a visit the seller sells the buyer the right to receive additional services or goods other than replacement parts necessarily used in performing the maintenance or in making the repairs, the sale of those additional goods or services would not fall within this exclusion;

(e) pertaining to the sale or rental of real property, to the sale of insurance or to the sale of securities or commodities by a broker-dealer registered with the securities and exchange commission; or

(f) in which a consumer acquires the use of goods under the terms of a rental-purchase agreement made pursuant to the provisions of the Rental-Purchase Agreement Act, with an initial rental period of one week or less, by placing a telephone call to a lessor and by requesting that specific goods be delivered to the consumer's residence or such other place as the consumer directs and consummation of the rental-purchase agreement occurs after the goods are delivered;

(4) "place of business" means the main or permanent branch office or local address of a seller;

(5) "purchase price" means the total price paid or to be paid for the consumer goods or services, including all interest and service charges; and

(6) "seller" means any person, partnership, corporation or association engaged in the door-to-door sale of consumer goods or services."

Chapter 123 Section 3 Laws 2019

SECTION 3. Section 57-30-2 NMSA 1978 (being Laws 2008, Chapter 29, Section 2, as amended) is amended to read:

"57-30-2. DEFINITIONS.--As used in the Sale of Recycled Metals Act:

A. "aluminum material" means a product made from aluminum, an aluminum alloy or an aluminum byproduct. "Aluminum material" includes an aluminum beer keg but does not include other types of aluminum cans used to contain a food or beverage;

B. "bronze material" means:

- (1) a cemetery vase, receptacle or memorial made from bronze;
- (2) bronze statuary; or
- (3) material readily identifiable as bronze;

C. "business day" means any calendar day except Sunday and the following holidays: New Year's day; President's day; Memorial day; Independence day; Labor day; Indigenous Peoples' day; Armistice day and Veterans' day; Thanksgiving day; Christmas day; Martin Luther King, Jr.'s birthday; and any other legal public holiday of the state of New Mexico or the United States;

D. "copper or brass material" means:

(1) insulated or noninsulated copper wire, hardware or cable of the type used by a public utility, commercial mobile radio service carrier or common carrier that consists of at least twenty-five percent copper; or

(2) a copper or brass item of a type commonly used in construction or by a public utility, commercial mobile radio service carrier or common carrier;

E. "department" means the regulation and licensing department;

F. "lead material" means:

- (1) a lead-acid battery; or
- (2) material readily identifiable as being made of or containing lead;

G. "peace officer" means any full-time salaried and commissioned or certified law enforcement officer of a police or sheriff's department that is part of or administered by the state or a political subdivision of the state;

H. "personal identification document" means:

- (1) a driver's license;

(2) a military identification card; or

(3) a passport issued by the United States or by another country and recognized by the United States;

I. "regulated material" means:

(1) aluminum material;

(2) bronze material;

(3) copper or brass material;

(4) steel material;

(5) lead material;

(6) a utility access cover;

(7) a water meter cover;

(8) a road or bridge guard rail;

(9) a highway or street sign;

(10) a traffic directional or control sign or signal; or

(11) a catalytic converter that is not part of an entire motor vehicle;

J. "secondhand metal dealer" means a scrap metal processor in the business of operating or maintaining a scrap metal yard in a physical location in which scrap metal or cast-off regulated material is purchased for shipment, sale or transfer;

K. "steel material" means a product made from an alloy of iron, chromium, nickel or manganese, including stainless steel beer kegs; and

L. "superintendent" means the superintendent of regulation and licensing."

Chapter 123 Section 4 Laws 2019

SECTION 4. Section 58-5-7 NMSA 1978 (being Laws 1975, Chapter 330, Section 3, as amended) is amended to read:

"58-5-7. LEGAL HOLIDAYS FOR BANKS.--

A. The following legal holidays may be observed by banks, notwithstanding the provisions of Sections 12-5-1 through 12-5-9 NMSA 1978:

New Year's Day January 1

Martin Luther King, Jr.'s Birthday 3rd Monday in January

President's Day 3rd Monday in February

Memorial Day the date determined by the director to be the date recognized by the majority of the federal reserve districts in New Mexico

Independence Day July 4

Labor Day 1st Monday in September

Indigenous Peoples' Day 2nd Monday in October

Armistice Day and Veterans' Day November 11

Thanksgiving Day 4th Thursday in November

Christmas Day December 25.

Whenever one of these bank holidays falls on a Sunday, the following Monday is a legal bank holiday. Whenever one of these bank holidays falls on a Saturday, that Saturday and the preceding Friday are legal bank holidays.

B. Nothing in this section shall be deemed to require a bank to close or cease operating any remote financial service unit installed pursuant to the Remote Financial Service Unit Act or any automated teller machines located on the bank premises during all or any part of a legal bank holiday."

Chapter 123 Section 5 Laws 2019

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

HCPAC/House Bill 100

Approved April 2, 2019

LAWS 2019, CHAPTER 124

AN ACT

RELATING TO HIGHER EDUCATION; AMENDING SECTIONS OF THE SENIOR CITIZENS REDUCED TUITION ACT TO PROVIDE FOR GREATER ACCESS TO REDUCED TUITION.

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

Chapter 124 Section 1 Laws 2019

SECTION 1. Section 21-21D-3 NMSA 1978 (being Laws 1984, Chapter 96, Section 3) is amended to read:

"21-21D-3. DEFINITIONS.--As used in the Senior Citizens Reduced Tuition Act:

- A. "department" means the higher education department;
- B. "eligible institution" means any New Mexico post-secondary degree-granting educational institution;
- C. "reduced tuition" means that tuition charged senior citizens at the rate of five dollars (\$5.00) per credit hour, up to ten hours per semester; and
- D. "senior citizen" means a person age sixty-five or older."

Chapter 124 Section 2 Laws 2019

SECTION 2. Section 21-21D-4 NMSA 1978 (being Laws 1984, Chapter 96, Section 4) is amended to read:

"21-21D-4. CONDITIONS OF ELIGIBILITY.--

- A. Reduced tuition shall be allowed for any individual who:

- (1) is a resident of New Mexico as determined by the definition of residency for tuition purposes as established by the department;
- (2) is a senior citizen;
- (3) pays any course-specific fees charged for a course;
- (4) enrolls at an eligible institution for credit or noncredit courses; and
- (5) has completed all course prerequisites.

B. The department shall not restrict, as a condition of eligibility for reduced tuition, the number of credit hours per semester for which an individual may enroll. Regardless of the amount of credits for which an individual enrolls during a semester, the department shall provide reduced tuition to any individual who meets the requirements of Subsection A of this section by allowing that individual to receive a maximum of ten credits at the reduced tuition rate of five dollars (\$5.00) for each of those ten credits."

Chapter 124 Section 3 Laws 2019

SECTION 3. Section 21-21D-5 NMSA 1978 (being Laws 1984, Chapter 96, Section 5, as amended) is amended to read:

"21-21D-5. RULES.--The department may adopt rules and procedures as necessary or appropriate to implement the provisions of the Senior Citizens Reduced Tuition Act; provided that senior citizens enrolled at reduced tuition shall be allowed to enroll in classes only on a space-available basis and that no full-time equivalent credit shall be given to the eligible institutions for the attendance of senior citizens in classes under the provisions of the Senior Citizens Reduced Tuition Act. A financial aid officer may exercise professional judgment when special circumstances exist to adjust cost of attendance or expected family contribution or to modify other factors that make the program responsive to a student's special financial circumstances and for which documentation exists in the student's file within the parameters authorized for this program."_____

House Bill 128

Approved April 2, 2019

LAWS 2019, CHAPTER 125

AN ACT

RELATING TO JUVENILE DELINQUENCY; REQUIRING NOTICE TO NATIVE AMERICAN NATIONS, TRIBES AND PUEBLOS IN CERTAIN PROCEEDINGS CONCERNING NATIVE AMERICAN MINORS.

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

Chapter 125 Section 1 Laws 2019

SECTION 1. Section 32A-1-14 NMSA 1978 (being Laws 1993, Chapter 77, Section 23, as amended) is amended to read:

"32A-1-14. NOTICE TO INDIAN TRIBES.--

A. In a case involving a family in need of court-ordered services, if the child is an Indian child, the Indian child's tribe shall be notified when the petition is filed. The form of the notice shall comply with the provisions of the federal Indian Child Welfare Act of 1978.

B. In abuse, neglect or adoption proceedings, if the child is an Indian child, the Indian child's tribe shall be notified. The form of the notice shall comply with the provisions of the federal Indian Child Welfare Act of 1978.

C. In a delinquency proceeding, if the child is an Indian child, the Indian child's tribe shall be notified of the filing of the petition via certified mail."

Chapter 125 Section 2 Laws 2019

SECTION 2. Section 32A-2-5 NMSA 1978 (being Laws 1993, Chapter 77, Section 34, as amended) is amended to read:

"32A-2-5. JUVENILE PROBATION AND PAROLE SERVICES--
ESTABLISHMENT--JUVENILE PROBATION AND PAROLE OFFICERS--POWERS
AND DUTIES.--

A. Juvenile probation and parole services shall be provided by the department.

House Bill 149, aa

Approved April 2, 2019

LAWS 2019, CHAPTER 126

AN ACT

RELATING TO NATURAL RESOURCES; ENACTING THE HEALTHY SOIL ACT; CREATING THE HEALTHY SOIL PROGRAM AND HEALTHY SOIL GRANT PROGRAM IN THE NEW MEXICO DEPARTMENT OF AGRICULTURE; PROVIDING POWERS AND DUTIES.

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

Chapter 126 Section 1 Laws 2019

SECTION 1. SHORT TITLE.--This act may be cited as the "Healthy Soil Act".

Chapter 126 Section 2 Laws 2019

SECTION 2. DEFINITIONS.--As used in the Healthy Soil Act:

- A. "board of regents" means the board of regents of New Mexico state university;
- B. "champion" means a land manager that is declared a soil health champion due to the land manager's excellence in applying and promoting soil health principles, as modeled by the soil health champion program of the national association of conservation districts;
- C. "commission" means the soil and water conservation commission;
- D. "department" means the New Mexico department of agriculture;
- E. "eligible entity" means a local governmental entity with proven land management capacity to support healthy soil and includes the New Mexico state university cooperative extension service, a soil and water conservation district, an Indian nation, tribe or pueblo, a land grant or an acequia;

F. "healthy soil" means soil that enhances its continuing capacity to function as a biological system, increases its organic matter and improves its structure and water- and nutrient-holding capacity;

G. "program" means the healthy soil program created in the Healthy Soil Act;

H. "soil health principle" means a principle that promotes soil health in a given environment and includes:

(1) keeping soil covered;

(2) minimizing soil disturbance on cropland and minimizing external inputs;

(3) maximizing biodiversity;

(4) maintaining a living root; or

(5) integrating animals into land management, including grazing animals, birds, beneficial insects or keystone species, such as earthworms;

I. "supported method" means a method that is based upon soil health principles and is scientifically supported to promote healthy soil;

J. "technical assistance" means assistance provided to a farmer or rancher to achieve the purpose of the Healthy Soil Act and includes outreach, education, financial assistance or assistance with project planning, project design, grant applications, project implementation or project reporting; and

K. "technical assistance provider" means a local, state, federal, tribal or educational entity with demonstrated technical expertise in designing and implementing agricultural management practices that contribute to healthy soils and includes a soil and water conservation district, the New Mexico state university cooperative extension service, the United States natural resources conservation service, the United States forest service, the United States bureau of land management, the state land office, the energy, minerals and natural resources department or the state forestry division.

Chapter 126 Section 3 Laws 2019

SECTION 3. HEALTHY SOIL PROGRAM--CREATED--PURPOSE.--

A. The "healthy soil program" is created in the department. The department, with support and advice from the commission, shall administer the program.

B. The purpose of the program is to promote and support farming and ranching systems and other forms of land management that increase soil organic matter, aggregate stability, microbiology and water retention to improve the health, yield and profitability of the soils of the state.

Chapter 126 Section 4 Laws 2019

SECTION 4. HEALTHY SOIL PROGRAM--SOIL ASSESSMENT AND EDUCATION--GRANT PROGRAM--DEPARTMENT--DUTIES--RULEMAKING.--

A. The program shall be composed of:

- (1) a healthy soil assessment and education program;
- (2) a healthy soil grants program; and
- (3) other programs established by the department to accomplish the purposes of the Healthy Soil Act.

B. In administering the healthy soil assessment and education program, the department shall:

- (1) work through technical assistance providers or eligible entities to:
 - (a) encourage farmers and ranchers and land managers to undertake voluntary soil health measurements;
 - (b) raise awareness about desirable soil health characteristics;
 - (c) facilitate on-site, producer-led workshops and training sessions to promote and engender soil health stewardship; and
 - (d) complete a baseline soil health assessment by testing the organic matter, water infiltration rate, microbiology and aggregate stability of soils, in addition to analyzing phospholipids and monitoring soil cover;
- (2) establish a statewide network of champions to promote soil health stewardship, offer guidance to producers and land managers and encourage teamwork;

(3) create a program to provide ongoing training in soil health stewardship and workshop facilitation for champions and eligible entities;

(4) in collaboration with technical assistance providers, sponsor soil health workshops and training sessions at research centers and learning sites throughout the state; and

(5) educate students and the general public about the importance of soil health stewardship.

C. In administering the healthy soil grant program, the department shall:

(1) award grants to eligible entities to provide technical assistance to producers and land managers in advancing soil health principles and implementing supported methods;

(2) develop a user-friendly grant program application and application and reporting processes;

(3) develop criteria for the award of grants; provided that grants shall be awarded equitably and priority may be given to eligible entities serving young producers, veterans, small farms or ranches or for projects that benefit economically or socially disadvantaged communities; and

(4) ensure that grant funds are only used to advance soil health and soil health stewardship.

D. The department shall encourage producer, land manager, landowner and interagency collaboration in the management of healthy soils and shall:

(1) work with technical assistance providers to advance soil health stewardship across private, state, federal and tribal land jurisdictions by fostering collaboration among producers, land managers and landowners; and

(2) conduct outreach to producers and land managers to promote the program and other federal, state or local grant opportunities that support and promote healthy soils.

E. In administering the program, the department shall support local economic growth in New Mexico and shall:

(1) identify ways to increase the generation and use of compost to build healthy soils;

(2) to the extent permitted by the Procurement Code, prioritize in-state sourcing of the resources needed for the program, including testing resources, compost, seeds, fencing supplies and equipment; and

(3) support the emerging market for food grown in New Mexico under management for healthy soils.

F. The department may adopt rules to carry out the Healthy Soil Act.

Chapter 126 Section 5 Laws 2019

SECTION 5. USE OF APPROPRIATED FUNDS.--Funds appropriated to the board of regents for the department to administer the program may be used for:

A. the healthy soil grant program;

B. the healthy soil assessment and education program;

C. promotion and outreach;

D. department staffing support;

E. capacity building for eligible entities;

F. soil health research;

G. travel reimbursement and per diem in accordance with the Per Diem and Mileage Act; and

H. other expenditures as determined by the department to be necessary to support the overall effective administration of the program. _____

House Bill 204, aa

Approved April 2, 2019

LAWS 2019, CHAPTER 127

AN ACT

RELATING TO FINANCE; AUTHORIZING THE NEW MEXICO FINANCE AUTHORITY TO MAKE LOANS FOR PUBLIC PROJECTS FROM THE PUBLIC PROJECT REVOLVING FUND; DECLARING AN EMERGENCY.

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

Chapter 127 Section 1 Laws 2019

SECTION 1. AUTHORIZATION OF PROJECTS.--Pursuant to Section 6-21-6 NMSA 1978, the legislature authorizes the New Mexico finance authority to make loans from the public project revolving fund for public projects as defined in Section 6-21-3 NMSA 1978. Pursuant to Section 6-21-6 NMSA 1978, loans of one million dollars (\$1,000,000) or less do not require specific authorization and need not be identified in this act. Authorization is given to the New Mexico finance authority to make loans to the following qualified entities on terms and conditions established by the authority:

1. the academy for technology and the classics in Santa Fe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;
2. the Alamogordo public school district in Otero county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;
3. the city of Alamogordo in Otero county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, special assessment district and solid waste projects;
4. the Albuquerque public school district in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;
5. the Alice King community school in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

6. the city of Anthony in Dona Ana county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

7. the Artesia public school district in Eddy and Chaves counties for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

8. the Aztec municipal school district in San Juan county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

9. the city of Bayard in Grant county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

10. the Belen consolidated school district in Valencia county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

11. the city of Belen in Valencia county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

12. Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

13. the Bernalillo county metropolitan court in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

14. the Bernalillo public school district in Sandoval county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

15. the Bloomfield school district in San Juan county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

16. the Bluewater water and sanitation district in Cibola county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

17. the village of Bosque Farms in Valencia county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

18. the Camino Real regional water utility authority in Dona Ana county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

19. the Capitan municipal school district in Lincoln county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

20. the Carlsbad municipal school district in Eddy county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

21. the city of Carlsbad in Eddy county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

22. the town of Carrizozo in Lincoln county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

23. Catron county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

24. the village of Causey in Roosevelt county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

25. the Central consolidated school district in San Juan county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

26. the governing board of Central New Mexico community college in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

27. the Chama Valley independent school district in Rio Arriba county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

28. the village of Chama in Rio Arriba county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

29. Chaves county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

30. Cibola county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

31. the village of Cimarron in Colfax county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

32. the Clayton municipal school district in Union county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

33. the town of Clayton in Union county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

34. the Cloudcroft municipal school district in Otero county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

35. the village of Cloudcroft in Otero county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

36. the Clovis municipal school district in Curry county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

37. the city of Clovis in Curry county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

38. the governing board of Clovis community college in Curry county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

39. the Cobre consolidated school district in Grant county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;
40. Colfax county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;
41. the village of Corrales in Sandoval county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;
42. the Cuba independent school district in Sandoval county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;
43. the village of Cuba in Sandoval county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;
44. Curry county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;
45. the Deming public school district in Luna county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;
46. the city of Deming in Luna county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;
47. the department of transportation in Santa Fe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;
48. the town of Dexter in Chaves county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;
49. Dona Ana county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

50. the Dora consolidated school district in Roosevelt county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

51. the village of Dora in Roosevelt county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

52. the village of Eagle Nest in Colfax county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

53. the east Rio Arriba soil and water conservation district in Rio Arriba county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

54. the board of regents of eastern New Mexico university in Roosevelt county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

55. the board of regents of eastern New Mexico university for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects at the Roswell branch campus of eastern New Mexico university in Chaves county;

56. the board of regents of eastern New Mexico university for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects at the Ruidoso branch campus of eastern New Mexico university in Lincoln county;

57. Eddy county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

58. the El Prado water and sanitation district in Taos county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

59. the El Valle de Los Ranchos water and sanitation district in Taos county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

60. the Eldorado water and sanitation district in Santa Fe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

61. the city of Elephant Butte in Sierra county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

62. the town of Elida in Roosevelt county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

63. the Estancia Moriarty Willard Torrance county regional water association in Torrance county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

64. the village of Encino in Torrance county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

65. the Espanola public school district in Rio Arriba and Santa Fe counties for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

66. the city of Espanola in Rio Arriba and Santa Fe counties for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

67. the town of Estancia in Torrance county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

68. the Eunice public school district in Lea county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

69. the Farmington municipal school district in San Juan county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

70. the city of Farmington in San Juan county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

71. the Fort Sumner municipal school district in De Baca county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

72. the village of Fort Sumner in De Baca county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

73. the Gadsden independent school district in Dona Ana and Otero counties for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

74. the city of Gallup in McKinley county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

75. the Gallup-McKinley county school district in McKinley county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

76. the general services department for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

77. the Gila regional medical center in Grant county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

78. the Grady municipal school district in Curry county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

79. the village of Grady in Curry county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

80. Grant county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, special assessment district and solid waste projects;

81. the city of Grants in Cibola county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

82. the town of Hagerman in Chaves county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

83. Hidalgo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

84. the Hobbs municipal school district in Lea county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

85. the city of Hobbs in Lea county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

86. the Hondo Valley public school district in Lincoln county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

87. the House municipal school district in Quay county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

88. the village of House in Quay county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

89. the Indian Pueblo cultural center in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

90. the Indian Pueblos federal development corporation in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

91. Indian Pueblos marketing, incorporated, in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

92. Innovate ABQ, incorporated, in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

93. IPFDC 2, limited liability company, in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

94. IPFDC 3, limited liability company, in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

95. IPMI 4, limited liability company, in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

96. IPMI 5, limited liability company, in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

97. IPMI 6, limited liability company, in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

98. IPMI hotel group, limited liability company, in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

99. the Jal public school district in Lea county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

100. the city of Jal in Lea county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

101. the Jicarilla Apache Nation in Rio Arriba county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

102. Kewa enterprise, incorporated, in Sandoval county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

103. Kewa gas, limited liability company, in Sandoval county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

104. Kewa Pueblo in Sandoval county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

105. the Kewa Pueblo health corporation in Sandoval county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

106. the Laguna healthcare corporation in Cibola county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

107. the Laguna housing and development management enterprise in Cibola county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

108. the Laguna rainbow corporation in Cibola county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

109. Lea county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

110. Lincoln county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, special assessment district, public improvement district and solid waste projects;

111. the Lincoln county medical center in Lincoln county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

112. the village of Logan in Quay county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

113. the Lordsburg municipal school district in Hidalgo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

114. the city of Lordsburg in Hidalgo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

115. the village of Los Lunas in Valencia county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

116. the village of Los Ranchos de Albuquerque in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

117. the village of Loving in Eddy county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

118. the Loving municipal school district in Eddy county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

119. the Lovington municipal school district in Lea county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

120. the city of Lovington in Lea county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

121. the governing board of Luna community college in San Miguel county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

122. the Magdalena municipal school district in Socorro county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

123. the village of Magdalena in Socorro county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

124. the village of Maxwell in Colfax county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

125. McKinley county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, special assessment district, public improvement district and solid waste projects;

126. the Melrose public school district in Roosevelt and Quay counties for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

127. the village of Melrose in Curry county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

128. the Mesa Vista consolidated school district in Rio Arriba county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

129. the governing board of Mesalands community college in Quay county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

130. the Mescalero Apache Tribe in Otero county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

131. the town of Mesilla in Dona Ana county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

132. the city of Moriarty in Torrance county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

133. the Moriarty-Edgewood school district in Torrance county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

134. the town of Mountainair in Torrance county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

135. the Native American community academy in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

136. the Navajo tribal utility authority in San Juan county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

137. the governing board of New Mexico junior college in Lea county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

138. the New Mexico military institute in Chaves county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

139. the New Mexico school for the arts in Santa Fe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, facilities acquisition and solid waste projects;

140. the board of regents of New Mexico state university in Cibola county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, facilities acquisition and solid waste projects;

141. the north central solid waste authority in Rio Arriba and Santa Fe counties for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

142. the board of regents of northern New Mexico college in Rio Arriba county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

143. Otero county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

144. the Pecos independent school district in San Miguel county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

145. the Pojoaque Valley public school district in Santa Fe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

146. the Portales municipal school district in Roosevelt county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

147. the Pueblo of Acoma in Cibola county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

148. the Pueblo of Cochiti in Sandoval county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

149. the Pueblo of Laguna in Bernalillo, Cibola and Sandoval counties for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

150. the Pueblo of Laguna department of education in Cibola county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

151. the Pueblo of Laguna development corporation in Cibola county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

152. the Pueblo of Laguna utility authority in Cibola county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

153. the Pueblo of Picuris in Taos county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

154. the Pueblo of Santa Ana in Sandoval county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

155. the Pueblo of Taos in Taos county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

156. the Pueblo of Tesuque in Santa Fe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

157. Quay county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

158. the Quemado independent school district in Catron county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

159. the village of Questa in Taos county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

160. the Raton public school district in Colfax county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

161. the town of Red River in Taos county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

162. the Reserve independent school district in Catron county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

163. the village of Reserve in Catron county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

164. the Resource Recovery, limited liability corporation, in Sandoval county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

165. Rio Arriba county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

166. the Rio Rancho public school district in Sandoval county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

167. the city of Rio Rancho in Sandoval and Bernalillo counties for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, special assessment district and solid waste projects;

168. Roosevelt county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

169. the Roosevelt county special hospital district in Roosevelt county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

170. the Roswell independent school district in Chaves county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

171. the city of Roswell in Chaves county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

172. the city of Ruidoso Downs in Lincoln county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

173. the Ruidoso municipal school district in Lincoln county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

174. the village of Ruidoso in Lincoln county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

175. the San Jon municipal school district in Quay county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

176. the village of San Jon in Quay county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

177. San Juan county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

178. Sandoval county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

179. the village of Santa Clara in Grant county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

180. the governing board of Santa Fe community college in Santa Fe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

181. Santa Fe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, special assessment district, public improvement district and solid waste projects;

182. the Santa Fe public school district in Santa Fe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

183. the Santa Fe solid waste management agency in Santa Fe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

184. the city of Santa Fe in Santa Fe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights, special assessment district, public improvement district and solid waste projects;

185. the city of Santa Rosa in Guadalupe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

186. the Santo Domingo tribal housing authority in Sandoval county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

187. Sierra county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

188. the Socorro consolidated school district in Socorro county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

189. Socorro county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

190. the city of Socorro in Socorro county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

191. the south central solid waste authority in Dona Ana county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

192. the southwest solid waste authority in Grant county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

193. the town of Springer in Colfax county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

194. Taos county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

195. the Taos municipal school district in Taos county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

196. the Taos Pueblo business development corporation in Taos county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

197. the Taos Pueblo housing authority in Taos county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

198. the Taos Pueblo utility service in Taos county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

199. the Taos regional landfill in Taos county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

200. the town of Taos in Taos county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

201. the Tatum municipal school district in Lea county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

202. the Texico municipal school district in Curry and Roosevelt counties for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

203. the Tierra Adentro of New Mexico in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

204. the Tierra y Montes soil and water conservation district in San Miguel county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

205. the village of Tijeras in Bernalillo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

206. the Timberon water and sanitation district in Otero county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

207. Torrance county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

208. the Truth or Consequences municipal school district in Sierra county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

209. the city of Truth or Consequences in Sierra county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

210. the Tucumcari public school district in Quay county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

211. the city of Tucumcari in Quay county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

212. the Tularosa municipal school district in Otero county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

213. Union county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

214. Valencia county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

215. the town of Vaughn in Guadalupe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

216. the village of Virden in Hidalgo county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

217. the village of Wagon Mound in Mora county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

218. the west Las Vegas public school district in San Miguel county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

219. the White Buffalo, inc., a wholly owned enterprise of the Pueblo of Picuris, in Taos county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

220. the village of Willard in Torrance county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects;

221. the village of Williamsburg in Sierra county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects; and

222. the workforce solutions department in Santa Fe county for building, equipment, infrastructure, debt refinance, road, land acquisition, water, wastewater, water rights and solid waste projects.

Chapter 127 Section 2 Laws 2019

SECTION 2. VOIDING OF AUTHORIZATION.--If a qualified entity listed in Section 1 of this act has not certified to the New Mexico finance authority by the end of fiscal year 2022 its desire to continue to pursue a loan from the public project revolving fund for a public project listed in that section, the legislative authorization granted to the New Mexico finance authority by Section 1 of this act to make a loan from the public project revolving fund to that qualified entity for that public project is void.

Chapter 127 Section 3 Laws 2019

SECTION 3. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately. _____

H AFC/House Bill 241, w/ec

Approved April 2, 2019

LAWS 2019, CHAPTER 128

AN ACT

RELATING TO PUBLIC HEALTH; AMENDING THE DEE JOHNSON CLEAN INDOOR AIR ACT TO INCLUDE E-CIGARETTES; EXPANDING THE SCOPE OF THE DEFINITIONS OF "SECONDHAND SMOKE" AND "SMOKING"; REMOVING A DEFINITION; RESTRICTING SMOKING-PERMITTED AREAS.

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

Chapter 128 Section 1 Laws 2019

SECTION 1. Section 24-16-3 NMSA 1978 (being Laws 1985, Chapter 85, Section 3, as amended) is amended to read:

"24-16-3. DEFINITIONS.--As used in the Dee Johnson Clean Indoor Air Act:

A. "bar" means an establishment that is devoted to the selling or serving of alcoholic beverages for consumption by patrons on the premises and in which the serving of food is only incidental to the consumption of those beverages, including taverns, nightclubs, cocktail lounges and cabarets;

B. "cigar bar" means an establishment that:

(1) is a bar as defined in Subsection A of this section; and

(2) is engaged in the business of selling cigars for consumption by patrons on the premises and generates ten percent or more of its total annual gross revenue or at least ten thousand dollars (\$10,000) in annual sales from the sale of cigars, not including any sales from vending machines. A cigar bar that fails to generate at least ten percent of its total annual sales from the sale of cigars in the calendar year after December 31, 2006, not including sales from vending machines, shall not be defined as a cigar bar and shall not thereafter be known as such regardless of sales figures. A cigar bar shall agree to provide adequate information to demonstrate to the state's satisfaction compliance with this definition;

C. "department" means the department of health;

D. "designated outdoor smoking area" means an area where smoking may be permitted, designated by an employer or manager, outside an indoor workplace or indoor public place; provided that the following conditions are maintained:

(1) smoking shall not be permitted near any building entrance, including a door, window or ventilation system of any facility where smoking is prohibited under

the provisions of the Deere Johnson Clean Indoor Air Act, so as to prevent secondhand smoke from entering the indoor workplace or indoor public place; and

(2) employees or members of the general public are not required to walk through the smoking area to gain entrance to the indoor workplace or indoor public place;

E. "e-cigarette" means a product containing or delivering nicotine or another substance intended for human consumption that can be used by a person in any manner for the purpose of inhaling vapor or aerosol from the product, including a device, whether manufactured, distributed, marketed or sold as an e-cigarette, e-cigar, e-pipe, e-hookah or vape pen or under another product name or descriptor;

F. "employer" means an individual, a partnership, a corporation or the state or a political subdivision of the state that employs the services of one or more individuals;

G. "enclosed" means an interior space predominantly or totally bounded on all sides and above by physical barriers, regardless of whether such barriers consist of or include uncovered openings, screened or otherwise partially covered openings or open or closed windows;

H. "indoor public place" means the enclosed area within a governmental or nongovernmental place to which the public is invited or in which the public is permitted regardless of whether work or public business, meetings or hearings occur at any given time;

I. "indoor workplace" means an enclosed place where one or more persons engage in work, including lobbies, reception areas, offices, conference and meeting rooms, employee cafeterias and lunchrooms, break rooms and employee lounges, classrooms, auditoriums, hallways, stairways, waiting areas, elevators and restrooms and includes all indoor workplaces and enclosed parts regardless of whether work occurs at any given time;

J. "private club" means an organization, whether incorporated or not, that is the owner, lessee or occupant of a building or portion thereof used exclusively for the organization's purposes at all times, that is operated solely for recreational, fraternal, social, patriotic, political, benevolent or athletic purposes, but not for pecuniary gain, and that only sells alcoholic beverages incidental to its operation. The organization shall have bylaws or a constitution to govern its activities and shall have been granted an exemption as a club under the provisions of Section 501 of the Internal Revenue Code of 1986, as amended;

K. "retail tobacco store" means a retail store, used primarily for the sale of tobacco products, including e-cigarettes, and accessories and in which the sale of other products is merely incidental, including smoke shops, cigar shops or hookah lounges, and does not include establishments that offer for sale alcoholic beverages for consumption by patrons on the premises;

L. "secondhand smoke" means:

(1) smoke emitted from inhaling from, exhaling from, burning, carrying or holding:

(a) a lighted or heated cigar, cigarette, hookah or pipe; or

(b) any other lighted or heated tobacco or plant product intended for inhalation, including cannabis, whether natural or synthetic; or

(2) the aerosol or vapor emitted from inhaling or exhaling or any other use of an e-cigarette;

M. "smokefree area" means a building or other enclosed space where smoking is prohibited;

N. "smoking" means:

(1) inhaling from, exhaling from, burning, carrying or holding:

(a) a lighted or heated cigar, cigarette, hookah or pipe; or

(b) any other lighted or heated tobacco or plant product intended for inhalation, including cannabis, whether natural or synthetic; or

(2) any use of an e-cigarette that creates an aerosol or vapor;

O. "smoking-permitted area" means a building or other enclosed space where smoking may be permitted; provided that secondhand smoke does not infiltrate any area where smoking is prohibited pursuant to the Dee Johnson Clean Indoor Air Act; and

P. "standalone building" means a building whose heating, air conditioning and ventilation system services only that building."

Chapter 128 Section 2 Laws 2019

SECTION 2. Section 24-16-12 NMSA 1978 (being Laws 2007, Chapter 20, Section 4) is amended to read:

"24-16-12. SMOKING-PERMITTED AREAS.--Notwithstanding any other provision of the Dee Johnson Clean Indoor Air Act, smoking-permitted areas include the following:

- A. a private residence, unless it is used commercially to provide child care, adult care or health care or any combination of those activities;
- B. a retail tobacco store; provided that, for a retail tobacco store established on or after the effective date of this 2019 act, the store shall be located in a standalone building;
- C. a cigar bar; provided that, for a cigar bar established on or after the effective date of this 2019 act, the bar shall be located in a standalone building;
- D. the facilities of a tobacco manufacturing company licensed by the United States to manufacture tobacco products that are operated by the company in its own name and that are used exclusively by the company in its business of manufacturing, marketing or distributing its tobacco products; provided that secondhand smoke does not infiltrate other indoor workplaces or other indoor public places where smoking is otherwise prohibited under the Dee Johnson Clean Indoor Air Act;
- E. a state-licensed gaming facility, casino or bingo parlor;
- F. designated outdoor smoking areas;
- G. private clubs;
- H. hotel and motel rooms that are rented to guests and are designated as smoking-permitted rooms; provided that not more than ten percent of rooms rented to guests in a hotel or motel may be so designated;
- I. a site that is being used in connection with the practice of cultural or ceremonial activities by Native Americans and that is in accordance with the federal American Indian Religious Freedom Act, 42 U.S.C. 1996 and 1996a; and
- J. a theatrical stage or a motion picture or television production set when it is necessary for performers to smoke as part of the production."

Chapter 128 Section 3 Laws 2019

B. A health facility shall ensure that certified nurse practitioners, certified nurse-midwives and clinical nurse specialists acting in accordance with these professionals' respective scopes of practice under New Mexico law are:

- (1) eligible to serve on the health facility's medical staff;
- (2) credentialed under the same procedures as the health facility has established for physicians; and
- (3) authorized to conduct peer review of their professional colleagues.

C. As used in this section:

(1) "certified nurse-midwife" means an individual licensed as a registered nurse pursuant to the Nursing Practice Act and licensed by the department of health as a certified nurse-midwife;

(2) "certified nurse practitioner" means a registered nurse who is licensed by the board of nursing for advanced practice as a certified nurse practitioner pursuant to the Nursing Practice Act;

(3) "clinical nurse specialist" means a registered nurse who is licensed by the board of nursing for advanced practice as a clinical nurse specialist and whose name and pertinent information are entered on the list of clinical nurse specialists maintained by the board of nursing;

(4) "health facility" means a health facility licensed by the department of health pursuant to the Public Health Act; and

(5) "physician" means an individual licensed to practice as a medical doctor or an osteopathic physician.

Chapter 129 Section 2 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2020. _____

House Bill 280, aa

Approved April 2, 2019

LAWS 2019, CHAPTER 130

AN ACT

RELATING TO PUBLIC RECORDS; CHANGING THE REQUIREMENTS FOR FILING AND RECORDING DUPLICATES OF INSTRUMENTS OF WRITING; REMOVING CERTAIN USAGE OF THE COUNTY CLERK RECORDING AND FILING FUND; CREATING ACTUAL AUTHORITY FOR SPECIFIED PERSONS IN BUSINESS ENTITIES TO ENTER INTO REAL PROPERTY CONVEYANCES AND ENCUMBRANCES; PROVIDING EXCEPTIONS; REPEALING A SECTION OF THE NMSA.

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

Chapter 130 Section 1 Laws 2019

SECTION 1. Section 14-8-4 NMSA 1978 (being Laws 1901, Chapter 62, Section 18, as amended) is amended to read:

"14-8-4. ACKNOWLEDGMENT NECESSARY FOR RECORDING--EXCEPTIONS--RECORDING OF DUPLICATES.--

A. Any original instrument of writing duly acknowledged may be filed and recorded. Any instrument of writing not duly acknowledged may not be filed and recorded or considered of record, though so entered, unless otherwise provided in this section.

B. For purposes of this section, "acknowledged" means notarized by a person empowered to perform notarial acts pursuant to the Notary Public Act or the Uniform Law on Notarial Acts.

C. The following documents need not be acknowledged but may be filed and recorded:

(1) court-certified copies of a court order, judgment or other judicial decree;

(2) court-certified transcripts of any money judgment obtained in a court of New Mexico or, pursuant to Section 14-9-9 NMSA 1978, in the United States district court for the district of New Mexico;

(3) land patents and land office receipts;

(4) notice of lis pendens filed pursuant to Section 38-1-14 NMSA 1978;

(5) provisional orders creating improvement districts pursuant to Section 4-55A-7 NMSA 1978;

(6) notices of levy on real estate under execution or writ of attachment when filed by a peace officer pursuant to Section 39-4-4 NMSA 1978;

(7) surveys of land that do not create a division of land but only show existing tracts of record when filed by a professional surveyor pursuant to Section 61-23-28.2 NMSA 1978;

(8) certified copies of foreign wills, marriages or birth certificates duly authenticated; and

(9) instruments of writing in any manner affecting lands in the state filed pursuant to Section 14-9-7 NMSA 1978, when these instruments have been duly executed by an authorized public officer.

D. If an original instrument of writing is unavailable but, if it were available, could be filed and recorded in accordance with this section, a duplicate of that instrument shall be accepted for filing and recording if accompanied by an affidavit executed pursuant to this subsection. The affidavit shall:

(1) provide the name, phone number and mailing address of the affiant;

(2) provide information regarding the execution of the instrument, consideration paid, delivery or other information establishing that the original instrument, if it were available, would be entitled to be recorded pursuant to Subsection A of this section;

(3) specify the reason the duplicate is filed and recorded in place of the original instrument;

(4) include a statement that the duplicate is a true and correct copy of the original instrument; and

(5) be acknowledged and made under oath confirming that the statements set forth in the affidavit are true and correct and of the personal knowledge of the affiant.

E. The filing of a duplicate instrument in accordance with Subsection D of this section shall not incur a fee in addition to the fee, if any, charged for filing an original instrument. When the clerk records the instrument, the grantor and grantee shall be those of the duplicate instrument and the name of the affiant shall be indexed under miscellaneous information.

F. Any filing or recording permitted or required under the provisions of the Uniform Commercial Code need not comply with the requirements of this section.

G. Instruments acknowledged on behalf of a corporation need not have the corporation's seal affixed thereto in order to be filed and recorded.

Chapter 130 Section 2 Laws 2019

SECTION 2. Section 14-8-12.2 NMSA 1978 (being Laws 1985, Chapter 122, Section 2, as amended) is amended to read:

"14-8-12.2. COUNTY CLERK RECORDING AND FILING FUND--USES.--

A. A "county clerk recording and filing fund" is established in each county.

B. Expenditures from the county clerk recording and filing fund shall be determined annually by the county clerk and approved by the board of county commissioners.

C. Expenditures from the county clerk recording and filing fund may be expended only:

(1) to rent, purchase, lease or lease-purchase recording equipment and for supplies, training and maintenance for such equipment;

(2) to rent, purchase, lease or lease-purchase vehicles associated with all regular duties in the county clerk's office and for supplies, training and maintenance for such vehicles, provided that the county clerk shall report annually to the board of county commissioners the usage, mileage and necessity of any vehicle acquired pursuant to this paragraph;

(3) for technical assistance or for training associated with all regular duties of the county clerk's office; or

(4) for staff travel associated with all regular duties of the county clerk's office pursuant to the Per Diem and Mileage Act."

Chapter 130 Section 3 Laws 2019

SECTION 3. A new section of Chapter 47, Article 1 NMSA 1978 is enacted to read:

"ACTUAL AUTHORITY--REPRESENTATIVES OF BUSINESS ENTITIES--EXCEPTION.--

A. Except as provided in Subsections B and D of this section, the persons in the following offices or positions shall each have the authority to execute conveyancing instruments and contracts for the transfer or encumbrance of real property owned by a business entity:

- (1) for a cooperative association: president and vice president;
- (2) for a professional corporation: president and vice president;
- (3) for a nonprofit corporation: president and vice president;
- (4) for a business corporation: president and vice president;
- (5) for a limited liability company: manager, member manager, president and vice president;
- (6) for a general partnership: partner;
- (7) for a limited liability partnership: general partner; and
- (8) for a limited partnership: general partner.

B. A business entity may limit or expand the authority provided for in Subsection A of this section by filing with the county clerk, in the county where the real property is located, a statement reflecting limitations on the persons listed as having authority, requiring multiple persons to exercise such authority or authorizing other officers or positions to have the requisite authority to act to transfer or encumber real property owned by the business entity. The recorded statement shall be binding until the business entity revokes or amends the recorded statement and records the revocation or amendment with the county clerk.

C. A person may rely on the authority of the persons set forth in Subsection A of this section to act on behalf of a business entity, subject to limitations set forth in a previously recorded statement as provided in Subsection B of this section. Nothing in

this section shall preclude a business entity from executing a power of attorney and empowering an attorney in fact to also act on its behalf pursuant to the Uniform Power of Attorney Act.

D. An instrument or contract for the transfer or encumbrance of real property by a person without the authority provided in Subsection A or B of this section may be relied upon as binding the business entity if the instrument or contract has been recorded for a period exceeding ten years. That recorded instrument or contract may not be relied upon as binding, however, if:

(1) prior to the execution of that instrument or contract, the business entity recorded another document reflecting that the person who executed the instrument or contract did not have the authority to bind the business entity; or

(2) the authority of the person who executed the instrument or contract has been successfully challenged or is in the process of being challenged in a court having jurisdiction.

E. As used in this section, "business entity" means a:

(1) cooperative association created pursuant to the Cooperative Association Act;

(2) professional corporation created pursuant to the Professional Corporation Act;

(3) nonprofit corporation created pursuant to the Nonprofit Corporation Act;

(4) business corporation created pursuant to the Business Corporation Act;

(5) limited liability company created pursuant to the Limited Liability Company Act;

(6) partnership created pursuant to the Uniform Partnership Act (1994);

(7) limited liability partnership created pursuant to the Uniform Partnership Act (1994); or

(8) limited partnership created pursuant to the Uniform Revised Limited Partnership Act."

Chapter 130 Section 4 Laws 2019

SECTION 4. REPEAL.--Section 14-8-15.1 (being Laws 2011, Chapter 134, Section 22) is repealed.

Chapter 130 Section 5 Laws 2019

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

House Bill 293, aa, w/cc

Approved April 2, 2019

LAWS 2019, CHAPTER 131

AN ACT

RELATING TO RURAL ELECTRIC COOPERATIVES; ALLOWING MAIL-IN BALLOTS TO COUNT TOWARD ESTABLISHING A QUORUM.

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

Chapter 131 Section 1 Laws 2019

SECTION 1. Section 62-15-8 NMSA 1978 (being Laws 1939, Chapter 47, Section 8, as amended) is amended to read:

"62-15-8. MEMBERS.--

A. No person who is not an incorporator shall become a member of a cooperative unless the person agrees to use electric energy furnished by the cooperative when electric energy is available through its facilities. The bylaws of a cooperative may provide that any person, including an incorporator, shall cease to be a member of a cooperative if the person fails or refuses to use electric energy made available by the cooperative or if the electric energy is not made available to that person by the cooperative within a specified time after the person becomes a member of the cooperative. Membership in the cooperative shall not be transferable except as

provided in the bylaws. The bylaws may prescribe additional qualifications and limitations in respect of membership.

B. An annual meeting of the members shall be held at such time as shall be provided in the bylaws or, if not contrary to the bylaws, by the board of trustees.

C. Special meetings of the members may be called by the board of trustees, by any three trustees, by petition signed by not less than ten percent of the members or by the president.

D. Annual and special meetings of members, whether general or by voting districts established pursuant to the Rural Electric Cooperative Act, shall be held at such place as may be provided in the bylaws. In the absence of any such provision, all general meetings shall be held in the city or town in which the principal office of the cooperative is located, and all meetings by voting districts shall be held at a location set by the board of trustees within the boundaries of each district.

E. Except as otherwise provided in the Rural Electric Cooperative Act, written or printed notice stating the time and place of each meeting of members and, in the case of a special meeting, the purpose for which the meeting is called, shall be given to each member by the board of trustees or the secretary, or their legal representatives, either personally or by mail not less than ten or more than twenty-five days before the date of the meeting. Failure to receive notice deposited in the mail addressed to a member at the member's address shown on the cooperative's books and records shall not affect the validity of any business conducted at a meeting.

F. Five percent of all members present in person constitutes a quorum for the transaction of business at all meetings of the members, unless the bylaws prescribe a different number of members for determining a quorum. The bylaws may allow for ballots submitted by mail to be considered in establishing a quorum for the sole purpose of voting on an issue or question, the language of which is stated exactly in the notices and on the ballots provided to all members. If less than a quorum is present at any meeting, the majority of those present in person may adjourn the meeting from time to time without further notice. The failure to hold a meeting of members due to the absence of a quorum shall not affect the validity of any business conducted by the board of trustees.

G. Each member shall be entitled to one vote on each matter submitted to a vote at a meeting. Voting shall be in person; provided that if the bylaws provide for voting by proxy or by mail, the bylaws shall prescribe the conditions under which proxy or mail voting shall be exercised. No person shall vote as proxy for more than three members at any meeting of the members.

H. All actions required by the Rural Electric Cooperative Act to be adopted or approved by a simple majority or greater number of members voting on the action at an annual or special meeting may be acted upon by voting at a general meeting or, to the extent and in the manner that the board of trustees may authorize, by voting by the voting districts established pursuant to that act, so long as the requisite majority of members voting on the action is obtained regardless of whether such a majority is obtained in any particular voting district. Action by voting by the voting districts shall be valid if a quorum exists as a result of a series of voting district meetings regardless of whether a quorum is present in any particular voting district."

Chapter 131 Section 2 Laws 2019

SECTION 2. Section 62-15-10 NMSA 1978 (being Laws 1939, Chapter 47, Section 10, as amended) is amended to read:

"62-15-10. VOTING DISTRICTS.--

A. Notwithstanding any other provision of the Rural Electric Cooperative Act, the bylaws of a cooperative may provide that the territory in which a cooperative supplies electric energy to its members shall be divided into two or more voting districts and that, in respect of each such voting district:

(1) a designated number of trustees shall be elected by the members residing in that district;

(2) a designated number of delegates shall be elected by the members residing in that district; or

(3) both trustees and delegates shall be elected by the members residing in that district.

B. The bylaws shall prescribe the manner in which voting districts, and the members, delegates and trustees thereof, if any, elected therefrom, shall function. The bylaws shall also set forth the powers of the delegates, which may include the power to elect trustees. No delegate who has voted by proxy or by mail on an issue or question shall vote in person on the same issue or question.

C. Voting by members at voting district meetings shall be in person, unless otherwise provided in the bylaws. The bylaws shall prescribe the conditions under which voting by mail shall be exercised."

Chapter 131 Section 3 Laws 2019

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.

House Bill 300, aa

Approved April 2, 2019

LAWS 2019, CHAPTER 132

AN ACT

RELATING TO FAMILIES; PROVIDING FOR FREE ADMISSION TO STATE-OWNED MUSEUMS AND STATE PARKS FOR FOSTER FAMILIES.

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

Chapter 132 Section 1 Laws 2019

SECTION 1. FOSTER FAMILIES--FREE ADMISSION TO MUSEUMS AND STATE PARKS.--Foster parents and children in the custody of foster parents who are residents of the state shall be provided free admission to state-owned museums and state parks; provided that eligibility for free admission shall be contingent upon demonstration of proof of identity, residency and status as a foster parent or child in the custody of a foster parent, in accordance with rules of the:

A. cultural affairs department, for free day-use admission to state-owned museums; and

B. energy, minerals and natural resources department, for free day-use admission to state parks.

House Bill 303, aa

Approved April 2, 2019

LAWS 2019, CHAPTER 133

AN ACT

RELATING TO FORFEITURE; REVISING DEFINITIONS; REVISING PROCEDURES RELATED TO FORFEITURE PROCEEDINGS; PROVIDING FOR DISTRIBUTION OF PROCEEDS FROM THE SALE OF FORFEITED OR ABANDONED PROPERTY; PROVIDING FOR DESTRUCTION OF CERTAIN SEIZED PROPERTY; REVISING PROCEDURES RELATED TO STORAGE, TRANSFER AND DESTRUCTION OF SEIZED PROPERTY; REVISING REPORTING REQUIREMENTS; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

Chapter 133 Section 1 Laws 2019

SECTION 1. Section 31-27-2 NMSA 1978 (being Laws 2002, Chapter 4, Section 2, as amended) is amended to read:

"31-27-2. PURPOSE OF ACT--APPLICABILITY--NO ADDITIONAL REMEDIES.--

A. The purposes of the Forfeiture Act are to:

- (1) make uniform the standards and procedures for the seizure and forfeiture of property subject to forfeiture;
- (2) protect the constitutional rights of persons whose property is subject to forfeiture and of innocent owners holding interests in property subject to forfeiture;
- (3) deter criminal activity by reducing its economic incentives;
- (4) increase the pecuniary loss from criminal activity;
- (5) protect against the wrongful forfeiture of property; and
- (6) ensure that only criminal forfeiture is allowed in this state and only pursuant to state law.

B. The Forfeiture Act:

- (1) applies to all seizures, forfeitures and dispositions of property subject to forfeiture pursuant to laws that specifically apply the Forfeiture Act in this state; and

(2) does not apply to:

(a) contraband, which is subject to seizure pursuant to applicable state laws, but is not subject to forfeiture pursuant to the Forfeiture Act;

(b) animals that are subject to seizure, impoundment, alteration, permanent removal from custody or destruction for animal welfare, public health and safety or compliance and enforcement purposes pursuant to applicable state and local laws;

(c) real property or personal property that is located on that real property that is subject to destruction pursuant to state and local laws to protect public health and safety; and

(d) forfeiture that results from a lien for charges or assessments that are provided for or fixed by state or local laws."

Chapter 133 Section 2 Laws 2019

SECTION 2. Section 31-27-3 NMSA 1978 (being Laws 2002, Chapter 4, Section 3, as amended) is amended to read:

"31-27-3. DEFINITIONS.--As used in the Forfeiture Act:

A. "abandoned property":

(1) is not subject to the provisions of Section 29-1-14 NMSA 1978;

(2) means personal property the rights to which and the control of which an owner has intentionally relinquished; and

(3) does not mean real property;

B. "actual knowledge" means a direct and clear awareness of information, a fact or a condition;

C. "contraband" means goods that may not be lawfully imported, exported or possessed, including drugs that are listed in Schedule I, II, III, IV or V of the Controlled Substances Act and that are possessed without a valid prescription;

D. "conveyance" means a device used for transportation and:

(1) includes a motor vehicle, trailer, snowmobile, airplane, vessel and any equipment attached to the conveyance; but

(2) does not include property that is stolen or taken in violation of a law;

E. "conviction" or "convicted" means that a person has been found guilty of a crime in a trial court whether by a plea of guilty or nolo contendere or otherwise and whether the sentence is deferred or suspended;

F. "crime" means a violation of a criminal statute for which property of the offender is subject to seizure and forfeiture;

G. "instrumentality" means all property that is otherwise lawful to possess that is used in the furtherance or commission of an offense to which forfeiture applies and includes land, a building, a container, a conveyance, equipment, materials, a product, a computer, computer software, a telecommunications device, a firearm, ammunition, a tool, money, a security and a negotiable instrument and other devices used for exchange of property;

H. "law enforcement agency" means the employer of a law enforcement officer who is authorized to seize or has seized property pursuant to the Forfeiture Act;

I. "law enforcement officer":

(1) means a state or municipal police officer, county sheriff, deputy sheriff, conservation officer, motor transportation enforcement officer or other state employee authorized by state law to enforce criminal statutes; but

(2) does not mean a correctional officer;

J. "owner" means a person who has a legal or equitable ownership interest in property;

K. "property" means tangible or intangible personal property or real property;

L. "property subject to forfeiture" means property or an instrumentality declared to be subject to forfeiture by the Forfeiture Act or a state law outside of the Forfeiture Act; and

M. "secured party" means a person with a security or other protected interest in property, whether the interest arose by mortgage, security agreement, lien, lease or

otherwise; the purpose of which interest is to secure the payment of a debt or protect a potential debt owed to the secured party."

Chapter 133 Section 3 Laws 2019

SECTION 3. Section 31-27-4 NMSA 1978 (being Laws 2002, Chapter 4, Section 4, as amended) is amended to read:

"31-27-4. FORFEITURE--CONVICTION REQUIRED--SEIZURE OF PROPERTY--WITH PROCESS--WITHOUT PROCESS.--

A. A person's property is subject to forfeiture pursuant to state law if:

- (1) the person was arrested for an offense to which forfeiture applies;
- (2) the person is convicted by a criminal court of the offense; and
- (3) the state establishes by clear and convincing evidence that the property is subject to forfeiture as provided in Subsection B of this section.

B. Following a person's conviction for an offense to which forfeiture applies, a court may order the person to forfeit:

- (1) property the person acquired through commission of the offense;
- (2) property directly traceable to property acquired through the commission of the offense; and
- (3) any instrumentality the person used in the commission of the offense.

C. Nothing in this section shall prevent property from being forfeited by the terms of a plea agreement to a felony that is approved by a court or by other agreement of the parties to a criminal proceeding.

D. Subject to the provisions of Section 31-27-5 NMSA 1978, at any time, at the request of the state, a court may issue an ex parte preliminary order to seize property that is subject to forfeiture and for which forfeiture is sought and to provide for the custody of the property. The execution on the order to seize the property and the return of the property, if applicable, are subject to the Forfeiture Act and other applicable state laws. Before issuing an order pursuant to this subsection, the court shall make a determination that:

- (1) there is a substantial probability that:
 - (a) the property is subject to forfeiture;
 - (b) the state will prevail on the issue of forfeiture; and
 - (c) failure to enter the order will result in the property being destroyed, removed from the state or otherwise made unavailable for forfeiture; and
 - (2) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship to the owner and other parties known to be claiming interests in the property.
- E. Property subject to forfeiture may be seized at any time, without a prior court order, if:
- (1) the seizure is incident to a lawful arrest for a crime or a search lawfully conducted pursuant to a search warrant and the law enforcement officer making the arrest or executing the search has probable cause to believe the property is subject to forfeiture and that the subject of the arrest or search warrant is an owner of the property;
 - (2) the property subject to seizure is the subject of a previous judgment in favor of the state; or
 - (3) the law enforcement officer making the seizure has probable cause to believe the property is subject to forfeiture and that the delay occasioned by the need to obtain a court order would result in the removal or destruction of the property or otherwise frustrate the seizure."

Chapter 133 Section 4 Laws 2019

SECTION 4. Section 31-27-4.1 NMSA 1978 (being Laws 2015, Chapter 152, Section 5) is amended to read:

"31-27-4.1. RECEIPT FOR SEIZED PROPERTY--REPLEVIN HEARING.--

A. When a law enforcement officer seizes property that is subject to forfeiture, the officer shall provide an itemized receipt to the person possessing the property or, in the absence of a person to whom the receipt could be given, shall leave the receipt in the place where the property was found, if possible.

B. Within five business days of the seizure, the law enforcement officer shall provide notice by personal service or first class mail to all owners of record of the seized property.

C. Following the seizure of property, the defendant in the related criminal matter or another person who claims an interest in the seized property may, at any time before the one-hundred-twentieth day following the filing of the forfeiture action in court, claim an interest in the seized property by a motion requesting the court to issue a writ of replevin. A motion filed pursuant to this section shall include facts to support the person's alleged interest in the seized property.

D. A person who makes a timely motion pursuant to this section shall have a right to a hearing on the motion before the resolution of any related criminal matter or forfeiture proceeding and within sixty days of the date on which the motion is filed.

E. At least ten days before a hearing on a motion filed pursuant to this section, the state shall file an answer or responsive motion that shows probable cause for the seizure.

F. A court shall grant a claimant's motion if the court finds that:

(1) it is likely that the final judgment will require the state to return the property to the claimant;

(2) the property is not reasonably required to be held for investigatory reasons; or

(3) the property is the only reasonable means for a defendant to pay for legal representation in a related criminal or forfeiture proceeding and the law enforcement agency did not make a prima facie showing that the property was stolen or proceeds from or is an instrumentality of a crime.

G. In its discretion, the court may order the return of funds or property sufficient for a defendant to obtain legal counsel but less than the total amount seized. If the court makes such an order, it shall require an accounting. An accounting report of reasonable legal fees held before the resolution of the relevant criminal and forfeiture proceedings shall be held in camera. If the court finds in favor of the state in both the criminal and forfeiture proceedings, the court shall:

(1) hear arguments by the parties as to what portion of the funds or property should be paid to the defendant's counsel and what portion should be forfeited; and

(2) issue an order on how the funds or property shall be distributed.

H. In lieu of ordering the issuance of a writ of replevin, a court may order:

(1) the state to give security or written assurance for satisfaction of any judgment, including damages, that may be rendered in a related forfeiture action; or

(2) any other relief the court deems to be just; provided that the relief does not prejudice an innocent owner, including a secured lienholder."

Chapter 133 Section 5 Laws 2019

SECTION 5. Section 31-27-5 NMSA 1978 (being Laws 2002, Chapter 4, Section 5, as amended) is amended to read:

"31-27-5. NOTICE OF INTENT TO FORFEIT--SERVICE OF PROCESS.--

A. Within thirty days of making a seizure of property or simultaneously upon filing a related criminal indictment, the state shall file a notice of intent to forfeit or return the property to the person from whom it was seized. The notice shall include:

(1) a description of the property seized;

(2) the date and place of seizure of the property;

(3) the name and address of the law enforcement agency making the seizure;

(4) the specific statutory and factual grounds for the seizure;

(5) whether the property was seized pursuant to an order of seizure, and if the property was seized without an order of seizure, an affidavit from a law enforcement officer stating the legal and factual grounds why an order of seizure was not required; and

(6) in the notice, the names of persons known to the state who may claim an interest in the property and the basis for each person's alleged interest.

B. The notice shall be served upon the person from whom the property was seized, the person's attorney of record and all persons known or reasonably believed by the state to claim an interest in the property. A copy of the notice shall also be published on the sunshine portal until the forfeiture proceeding is resolved."

Chapter 133 Section 6 Laws 2019

SECTION 6. Section 31-27-6 NMSA 1978 (being Laws 2002, Chapter 4, Section 6, as amended) is amended to read:

"31-27-6. FORFEITURE PROCEEDINGS--DETERMINATION--SUBSTITUTION OF PROPERTY--CONSTITUTIONALITY--APPEAL.--

A. A person who claims an interest in seized property shall file a response within thirty days of the date of service of the notice of intent to forfeit. The response shall include facts to support the claimant's alleged interest in the property.

B. The district courts have jurisdiction over forfeiture proceedings, and venue for a forfeiture proceeding is in the same court in which venue lies for the criminal matter related to the seized property.

C. The forfeiture proceeding shall begin after the conclusion of the trial for the related criminal matter in an ancillary proceeding that relates to a defendant's property before the same judge and jury, if applicable, and the court, and the jury, if applicable, may consider the forfeiture of property seized from other persons at the same time or in a later proceeding. If the criminal defendant in the related criminal matter is represented by the public defender department, the chief public defender or the district public defender may authorize department representation of the defendant in the forfeiture proceeding.

D. Discovery conducted in an ancillary forfeiture proceeding is subject to the rules of criminal procedure.

E. An ancillary forfeiture proceeding that relates to the forfeiture of property valued at less than twenty thousand dollars (\$20,000) shall be held before a judge only.

F. If the state fails to prove, by clear and convincing evidence, that a person whose property is alleged to be subject to forfeiture is an owner of the property:

(1) the forfeiture proceeding shall be dismissed and the property shall be delivered to the owner, unless the owner's possession of the property is illegal; and

(2) the owner shall not be subject to any charges by the state for storage of the property or expenses incurred in the preservation of the property.

G. The court shall enter a judgment of forfeiture and the seized property shall be forfeited to the state if the state proves by clear and convincing evidence that:

- (1) the seized property is subject to forfeiture;
- (2) the criminal prosecution of the owner of the seized property resulted in a conviction; and
- (3) the value of the property to be forfeited does not unreasonably exceed:
 - (a) the pecuniary gain derived or sought to be derived by the crime;
 - (b) the pecuniary loss caused or sought to be caused by the crime; or
 - (c) the value of the convicted owner's interest in the property.

H. A court shall not accept a plea agreement or other arrangement by which a defendant contributes or donates property to a person, charity or other organization in full or partial fulfillment of responsibility established in the court's proceeding.

I. Following a person's conviction, the state may make a motion for forfeiture of substitute property owned by the person that is equal to but does not exceed the value of the property that is subject to forfeiture but that the state is unable to seize. The court shall order the forfeiture of substitute property only if the state proves by a preponderance of the evidence that the person intentionally transferred, sold or deposited property with a third party to avoid the court's jurisdiction and the forfeiture of the property.

J. A person is not jointly and severally liable for orders for forfeiture of another person's property. When ownership of property is unclear, a court may order each person to forfeit the person's property on a pro rata basis or by another means the court deems equitable.

K. Within the time period for filing an appeal following the conclusion of a forfeiture proceeding, the person whose property was forfeited may petition the court to determine whether the forfeiture was unconstitutionally excessive pursuant to the state or federal constitution.

L. At a non-jury hearing on the petition, the petitioner has the burden of establishing by a preponderance of the evidence that the forfeiture was grossly disproportional to the seriousness of the criminal offense for which the person was convicted.

M. In determining whether the forfeiture is unconstitutionally excessive, the court may consider all relevant factors, including:

- (1) the seriousness of the criminal offense and its impact on the community, the duration of the criminal activity and the harm caused by the defendant;
- (2) the extent to which the defendant participated in the offense;
- (3) the extent to which the property was used in committing the offense;
- (4) the sentence imposed for the commission of the crime that relates to the property that is subject to forfeiture; and
- (5) whether the criminal offense was completed or attempted.

N. In determining the value of the property subject to forfeiture, the court may consider relevant factors, including the fair market value of the property and the hardship from the loss of a primary residence, motor vehicle or other property to the defendant's family members or others if the property is forfeited, in addition to any non-monetary intrinsic value of property that would cause the defendant to suffer if the forfeiture is realized.

O. The court shall not consider the value of the property to the state when it determines whether the forfeiture of the property is constitutionally excessive.

P. A party to a forfeiture proceeding may appeal a district court's decision regarding the seizure, forfeiture and distribution of property."

Chapter 133 Section 7 Laws 2019

SECTION 7. Section 31-27-7 NMSA 1978 (being Laws 2002, Chapter 4, Section 7, as amended) is amended to read:

"31-27-7. TITLE TO SEIZED PROPERTY--DISPOSITION OF FORFEITED PROPERTY AND ABANDONED PROPERTY--PROCEEDS.--

A. The state acquires provisional title to seized property at the time the property was used or acquired in connection with an offense that subjects the property to forfeiture. Provisional title authorizes the state to hold and protect the property. Title to the property shall vest with the state when a trier of fact renders a final forfeiture verdict and the title relates back to the time when the state acquired provisional title;

provided that the title is not subject to claims by third parties that are adjudicated pursuant to the Forfeiture Act.

B. Unless possession of the property is illegal or a different disposition is specifically provided for by law and except as provided in this section, forfeited property that is not currency shall be delivered along with any abandoned property to the state treasurer or the state treasurer's designee for disposition at a public auction. Forfeited currency and all proceeds of the sale of forfeited or abandoned property shall be distributed by the state treasurer as follows:

(1) first, to reimburse the reasonable expenses related to the storage, protection and transfer of the property incurred by a law enforcement agency or the state treasurer;

(2) second, to pay any reasonable expenses incurred to dispose of the property by a law enforcement agency or the state treasurer; and

(3) third, any remaining balance shall be deposited in the general fund.

C. Proceeds from the sale of forfeited property received by the state from another jurisdiction shall be deposited in the general fund.

D. A law enforcement agency or public body that receives reimbursement pursuant to Subsection B of this section shall inform the state auditor of that fact at the time of the agency's or body's annual audit.

E. A forfeited property interest is subject to the interest of a secured party unless, in the forfeiture proceeding, the state proves by clear and convincing evidence that the secured party had actual knowledge of the crime that relates to the seizure of the property.

F. Abandoned property shall be disposed of in the same manner as provided in Subsection B of this section.

G. Property subject to forfeiture that is in a law enforcement agency's possession becomes abandoned property and may be disposed of as such without a conviction if:

(1) there is no innocent owner; and

(2) the criminal prosecution of the owner of the seized property cannot proceed because for a period in excess of one year and one day:

(a) a bench warrant has been pending as a result of the defendant failing to appear; or

(b) the owner fugitates."

Chapter 133 Section 8 Laws 2019

SECTION 8. Section 31-27-7.1 NMSA 1978 (being Laws 2015, Chapter 152, Section 9) is amended to read:

"31-27-7.1. INNOCENT OWNERS.--

A. The property of an innocent owner, as provided in this section, shall not be forfeited.

B. A person who claims to be an innocent owner has the burden of production to show that the person:

(1) holds a legal right, title or interest in the property seized; and

(2) held an ownership interest in the seized property at the time the illegal conduct that gave rise to the seizure of the property occurred or was a bona fide purchaser for fair value.

C. The state shall immediately return property to an established innocent owner who has an interest in homesteaded property, a motor vehicle valued at less than ten thousand dollars (\$10,000) or a conveyance that is encumbered by a security interest that was perfected pursuant to state law or that is subject to a lease or rental agreement, unless the secured party or lessor had actual knowledge of the criminal act upon which the forfeiture was based.

D. If a person establishes that the person is an innocent owner pursuant to Subsection B of this section and the state pursues a forfeiture proceeding with respect to that person's property, other than property described in Subsection D of Section 31-27-7 NMSA 1978, to successfully forfeit the property, the state shall prove by clear and convincing evidence that the innocent owner had actual knowledge of the underlying crime giving rise to the forfeiture.

E. A person who acquired an ownership interest in property subject to forfeiture after the commission of a crime that gave rise to the forfeiture and who claims to be an innocent owner has the burden of production to show that the person has legal right, title or interest in the property seized under this section.

F. If a person establishes that the person is an innocent owner as provided in Subsection B of this section and the state pursues a forfeiture proceeding against the person's property, to successfully forfeit the property, the state shall prove by clear and convincing evidence that at the time the person acquired the property or an interest in the property, the person:

(1) had actual knowledge that the property was subject to forfeiture; or

(2) was not a bona fide purchaser who was without notice of any defect in title and who gave valuable consideration.

G. If the state fails to meet its burdens as provided in Subsections C and D of this section, the court shall find that the person is an innocent owner and shall order the state to relinquish all claims of title to the innocent owner's property without delay and the property shall be released without assessment of fees or costs.

H. Seized property that is firearms, ammunition or explosives subject to forfeiture under the protections of this section and that is not returned to an innocent owner shall be destroyed upon a motion by the law enforcement agency and an order of the court."

Chapter 133 Section 9 Laws 2019

SECTION 9. Section 31-27-8 NMSA 1978 (being Laws 2002, Chapter 4, Section 8, as amended) is amended to read:

"31-27-8. SAFEKEEPING OF SEIZED PROPERTY PENDING DISPOSITION.--
With regard to seized property in the state courts:

A. seized currency alleged to be subject to forfeiture shall be deposited with the clerk of the district court in an interest-bearing account;

B. seized property other than currency or real property, not required by federal or state law to be destroyed, shall be placed under seal at a place designated by the district court;

C. seized property shall be kept by the custodian in a manner to protect it from theft or damage and, if ordered by the district court, insured against those risks; and

D. unless it is returned to an owner, a law enforcement agency shall dispose of forfeited or abandoned property as provided in Section 31-27-7 NMSA 1978."

Chapter 133 Section 10 Laws 2019

SECTION 10. Section 31-27-9 NMSA 1978 (being Laws 2015, Chapter 152, Section 11) is amended to read:

"31-27-9. REPORTING.--

A. Within sixty days following the conclusion of each fiscal year, every law enforcement agency shall prepare on a form approved by the department of public safety an annual report of the agency's seizures and forfeitures conducted pursuant to applicable state law, and seizures and forfeitures conducted pursuant to federal forfeiture law, and the report shall include:

(1) the total number of seizures of currency and the total amount of currency seized in each seizure;

(2) the total number of seizures of property and the number and types of items seized in each seizure;

(3) the market value of each item of property seized;

(4) the total number of occurrences of each class of crime that resulted in the agency's seizure of property;

(5) the costs incurred by the agency for storage, maintenance and transportation of seized property; and

(6) any proceeds received through equitable sharing, along with the federal case number and the final disposition of the case.

B. A law enforcement agency shall submit its annual reports to the department of public safety and to the district attorney's office in the agency's district. An agency that did not engage in seizure or forfeiture pursuant to the Forfeiture Act or local, state or federal forfeiture law shall report that fact in its annual report.

C. The department of public safety shall compile the reports submitted by each law enforcement agency and issue an aggregate report of all forfeitures in the state.

D. By November 1 of each year, the department of public safety shall publish on its website the department's aggregate report and individual law enforcement agency reports submitted for the previous fiscal year."

Chapter 133 Section 11 Laws 2019

SECTION 11. TEMPORARY PROVISION.--The New Mexico supreme court shall issue procedural court rules to implement the provisions of this act.

Chapter 133 Section 12 Laws 2019

SECTION 12. TEMPORARY PROVISION.--Abandoned property in the possession of a law enforcement agency or the state treasurer on the effective date of this act shall be disposed of pursuant to Section 29-1-14 NMSA 1978.

Chapter 133 Section 13 Laws 2019

SECTION 13. APPLICABILITY.--The provisions of this act apply to seized and abandoned property in the possession of a law enforcement agency or the state treasurer on and after the effective date of this act.

Chapter 133 Section 14 Laws 2019

SECTION 14. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately. _____

HJC/House Bill 312, aa, w/ec

Approved April 2, 2019

LAWS 2019, CHAPTER 134

AN ACT

RELATING TO CHILD ABUSE AND NEGLECT; PROVIDING FOR THE ESTABLISHMENT OF CHILDREN'S ADVOCACY CENTERS STATEWIDE; ESTABLISHING MULTIDISCIPLINARY CHILD ABUSE INVESTIGATORY TEAMS IN EACH JUDICIAL DISTRICT.

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

Chapter 134 Section 1 Laws 2019

SECTION 1. SHORT TITLE.--This act may be cited as the "Children's Advocacy Centers Act".

Chapter 134 Section 2 Laws 2019

SECTION 2. DEFINITION.--As used in the Children's Advocacy Centers Act, "center" means a children's advocacy center, which is an entity that provides a comprehensive multidisciplinary team response to allegations of child abuse or neglect in a neutral, child-friendly setting by representatives of the following fields and professions:

- A. child protective services;
- B. family and victim advocacy;
- C. forensic interviewers;
- D. law enforcement;
- E. medical examiners;
- F. behavioral health; and
- G. services related to those fields and professions listed in Subsections A through F of this section.

Chapter 134 Section 3 Laws 2019

SECTION 3. CHILDREN'S ADVOCACY CENTERS--DUTIES.--A center shall:

- A. be an entity that is a private, incorporated agency, a hospital or a governmental entity;
- B. have a neutral, child-focused facility where forensic interviews with children take place; provided that all agencies shall have a place to interact with the child as investigative or treatment needs require;
- C. have a designated staff trained according to standards approved by the national children's alliance;

D. have a multidisciplinary team established in accordance with the provisions of the Children's Advocacy Centers Act that meets on a regular basis, at least every other month;

E. provide case tracking of child abuse cases seen through the center. Case tracking or data collected shall include:

(1) the number of child abuse cases seen at the center;

(2) demographic data;

(3) the number of cases referred for prosecution; and

(4) the number of cases referred for behavioral health services, medical examinations and other related services;

F. provide medical examinations or mental health services at the center or provide referrals for medical examinations or mental health therapy provided by an agency not located at the center but with which the center has a memorandum of understanding or interagency agreement;

G. provide family and victim advocacy services to a child and to a non-offending caregiver of the child;

H. facilitate the provision of training of center staff and multidisciplinary team members; and

I. adhere to the national children's alliance standards.

Chapter 134 Section 4 Laws 2019

SECTION 4. MULTIDISCIPLINARY CHILD ABUSE TEAMS-- ESTABLISHMENT--MEMBERSHIP--DUTIES.--

A. The following persons shall comprise a multidisciplinary child abuse investigation team in each judicial district in the state:

(1) the district attorney of the judicial district in which the team is created and established, or the district attorney's designee;

(2) a representative from the protective services division of the children, youth and families department, appointed by the director of the division or the director's designee;

(3) a representative from a center that exists in the judicial district in which the team is located; and

(4) the following members, appointed by the agency head or designee of the following agencies:

(a) a representative from each law enforcement agency within the judicial district;

(b) medical personnel with expertise and certification in pediatric sexual assault, child physical abuse and neglect identification or treatment;

(c) a mental health service provider with training and experience in evidence-supported trauma-focused cognitive behavioral therapy; and

(d) a family or victim advocate from an agency designated for advocacy services in that judicial district.

B. The following multidisciplinary child abuse investigation team members shall be present before a forensic interview can take place:

(1) the center's forensic interviewer; and

(2) when available and as appropriate:

(a) a representative from law enforcement; and

(b) the representative from the protective services division of the children, youth and families department.

C. A multidisciplinary child abuse investigation team shall:

(1) develop a written protocol for the investigation and prosecution of cases of child abuse and neglect in accordance with each member agency's requirements;

(2) convene on a regular ongoing basis, at least every other month, for the purpose of conducting case tracking, case review and general business and considering proposed modifications to the team's existing protocol; and

(3) train and provide technical assistance to team members, agencies and medical providers that investigate child abuse and neglect cases. _____

House Bill 314, aa

Approved April 2, 2019

LAWS 2019, CHAPTER 135

AN ACT

RELATING TO GAMING; AMENDING SPECIFICATIONS FOR GAMING MACHINES.

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

Chapter 135 Section 1 Laws 2019

SECTION 1. Section 60-2E-44 NMSA 1978 (being Laws 1997, Chapter 190, Section 46, as amended) is amended to read:

"60-2E-44. MACHINE SPECIFICATIONS.--To be eligible for licensure, each gaming machine shall meet all specifications established by regulations of the board and:

A. be unable to be manipulated in a manner that affects the random probability of winning plays or in any other manner determined by the board to be undesirable;

B. have at least one mechanism that accepts coins or currency;

C. be capable of having play suspended through the central system by the executive director until the executive director resets the gaming machine;

D. have electronic meters within a readily accessible locked area of the gaming machine that maintain a record of all money inserted into the machine, all cash payouts of winnings, all refunds of winnings, all credits played for additional games and all credits won by players;

E. be capable of printing out, at the request of the executive director, readings on the electronic meters of the machine;

F. for machines that do not dispense coins or tokens directly to players, be capable of printing a ticket voucher stating the value of a cash prize won by the player at the completion of each game, the date and time of day the game was played in a twenty-four-hour format showing hours and minutes, the machine serial number, the sequential number of the ticket voucher and an encrypted validation number for determining the validity of a winning ticket voucher;

G. be capable of being linked to the board's central system for the purpose of being monitored continuously as required by the board;

H. provide for a payback value for each credit wagered, determined over time, of not less than eighty percent;

I. meet the standards and specifications set by laws or regulations of the states of Nevada and New Jersey for gaming machines, whichever are more stringent;

J. offer only games authorized and examined by the board; and

K. display the gaming machine license issued for that machine in an easily accessible place, before and during the time that a machine is available for use." _____

HSEIC/House Bill 331

Approved April 2, 2019

LAWS 2019, CHAPTER 136

AN ACT

RELATING TO PUBLIC ASSISTANCE; ENACTING A NEW SECTION OF THE PUBLIC ASSISTANCE ACT TO REQUIRE THE HUMAN SERVICES DEPARTMENT TO FACILITATE THE AUTOMATIC ENROLLMENT OF CERTAIN INDIVIDUALS INTO MEDICARE PART B COVERAGE.

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

Chapter 136 Section 1 Laws 2019

SECTION 1. A new section of the Public Assistance Act is enacted to read:

"QUALIFIED MEDICARE BENEFICIARY RECIPIENTS--MEDICARE PART B COVERAGE AUTOMATIC ENROLLMENT.--

A. The department shall provide for the automatic enrollment into medicare part B coverage of individuals:

- (1) whom it deems eligible for participating in the qualified medicare beneficiary program; and
- (2) who are not enrolled in medicare part B coverage.

B. By August 1, 2019, the secretary shall adopt and promulgate rules to provide for informing, in writing, applicants for and recipients of qualified medicare beneficiary coverage that, if they are enrolled in the qualified medicare beneficiary program and, at the time of enrollment they are not enrolled in medicare part B, they are eligible for automatic enrollment in medicare part B coverage, regardless of whether general or "open" enrollment of medicare part B beneficiaries is allowed under federal law at the time a qualified medicare beneficiary program recipient enrolls in the qualified medicare beneficiary program.

C. As used in this section:

- (1) "medicare part B" means the supplemental medical insurance program provided under part B of Title 18 of the federal Social Security Act; and
- (2) "qualified medicare beneficiary program" means the joint state-federal medical assistance program that provides for payment of recipients' premiums under part A of Title 18 of the federal Social Security Act and recipients' coinsurance and deductible amounts on services covered under medicare part B." _____

House Bill 371, aa

Approved April 2, 2019

LAWS 2019, CHAPTER 137

AN ACT

RELATING TO CHILDREN; AMENDING THE ABUSE AND NEGLECT ACT TO PROVIDE FOR THE ESTABLISHMENT OF A MULTILEVEL RESPONSE SYSTEM; PROVIDING THAT THE MULTILEVEL RESPONSE SYSTEM MAY BE USED AS AN ALTERNATIVE TO INVESTIGATION FOR CERTAIN REPORTS ALLEGING CHILD ABUSE OR NEGLECT; CLARIFYING THAT THE COURT MAY ORDER PARTICIPATION IN PROGRAMS OR SERVICES PENDING THE OUTCOME OF A PROCEEDING UNDER THE ABUSE AND NEGLECT ACT.

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

Chapter 137 Section 1 Laws 2019

SECTION 1. Section 32A-4-4 NMSA 1978 (being Laws 1993, Chapter 77, Section 98, as amended) is amended to read:

"32A-4-4. COMPLAINTS--REFERRAL--PRELIMINARY INQUIRY.--

A. Reports alleging neglect or abuse shall be referred to the department, which shall conduct an investigation to determine the best interests of the child with regard to any action to be taken. The name and information regarding the person making the report shall not be disclosed absent the consent of the informant or a court order.

B. If a report alleging neglect or abuse meets the criteria established pursuant to Section 32A-4-4.1 NMSA 1978, the department may assign the case to the multilevel response system.

C. During the investigation of a report alleging neglect or abuse, the matter may be referred to another appropriate agency and conferences may be conducted for the purpose of effecting adjustments or agreements that will obviate the necessity for filing a petition. A representative of the department shall, at the initial time of contact with the party subject to the investigation, advise the party of the reports or allegations made, in a manner that is consistent with laws protecting the rights of the informant. The parties shall be advised of their basic rights and no party may be compelled to appear at any conference, to produce any papers or to visit any place. The investigation shall be completed within a reasonable period of time from the date the report was made.

D. After completion of the investigation on a neglect or abuse report, the department shall either recommend or refuse to recommend the filing of a petition.

E. When a child is taken into custody, the department shall file a petition within two days. If a petition is not filed in a timely manner, the child shall be released to the child's parent, guardian or custodian."

Chapter 137 Section 2 Laws 2019

SECTION 2. A new section of the Children's Code, Section 32A-4-4.1 NMSA 1978, is enacted to read:

"32A-4-4.1. MULTILEVEL RESPONSE SYSTEM.--

A. The department shall establish a multilevel response system to evaluate and provide services to a child or the family, relatives, caretakers or guardians of a child with respect to whom a report alleging neglect or abuse has been made. The multilevel response system may include an alternative to investigation upon completion of an evaluation that may be completed at intake by the department, the results of which indicate that there is no immediate concern for the child's safety; provided, however, that an investigation shall be conducted for any report:

(1) alleging sexual abuse of a child or serious or imminent harm to a child;

(2) indicating a child fatality;

(3) requiring law enforcement involvement, as identified pursuant to rules promulgated by the department; or

(4) requiring a specialized assessment or a traditional investigative approach, as determined pursuant to rules promulgated by the department.

B. The department may remove a case from the multilevel response system and conduct an investigation if imminent danger of serious harm to the child becomes evident. The department may reassign a case from investigation to the multilevel response system at the discretion of the department.

C. For each family, including the child who is the subject of a report to the department and that child's relatives, caretakers or guardians, that receives services under the multilevel response system, the department shall conduct a family assessment. Based on the results of the family assessment, the department may offer or provide referrals for counseling, training or other services aimed at addressing the underlying causative factors jeopardizing the safety or well-being of the child who is the subject of a report to the department. A family member, relative, caretaker or guardian

may choose to accept or decline any services or programs offered under the multilevel response system; provided, however, that if a family member, relative, caretaker or guardian declines services, the department may choose to proceed with an investigation.

D. The department shall employ licensed social workers to provide services to families, relatives, caretakers or guardians participating in the multilevel response system to the extent that licensed social workers are available for employment.

E. The department may pilot the multilevel response system prior to statewide implementation.

F. The department may limit implementation of the multilevel response system to areas of the state where appropriate services are available and operate the system within available state and federal resources.

G. The department shall:

(1) provide an annual report of system implementation and outcomes to the legislative finance committee and the department of finance and administration as part of the department's budget submission;

(2) arrange for an independent evaluation of the multilevel response system, including examining outcomes for child safety and well-being and cost-effectiveness;

(3) incorporate the multilevel response system into the department's quality assurance review process;

(4) develop performance measures, as provided in the Accountability in Government Act, for the multilevel response system; and

(5) no later than July 1, 2022, if the department pilots or otherwise geographically limits the multilevel response system, submit a plan to the legislative finance committee and the department of finance and administration setting forth how the system could be expanded statewide, including a plan to address service availability, and identifying costs that would be incurred by the department.

H. The department shall promulgate rules to implement the provisions of this section.

I. As used in this section, "family assessment" means a comprehensive, evidence-based assessment tool used by the department to determine the needs of a child and the child's family, relatives, caretakers or guardians at the time the department receives a report of child abuse and neglect, including an assessment of the likelihood of:

- (1) imminent danger to a child's well-being;
- (2) the child becoming an abused child or a neglected child; and
- (3) the strengths and needs of the child's family members, relatives, caretakers or guardians with respect to providing for the health and safety of the child."

Chapter 137 Section 3 Laws 2019

SECTION 3. Section 32A-4-18 NMSA 1978 (being Laws 1993, Chapter 77, Section 112, as amended) is amended to read:

"32A-4-18. CUSTODY HEARINGS--TIME LIMITATIONS--NOTICE--PROBABLE CAUSE.--

A. When a child alleged to be neglected or abused has been placed in the legal custody of the department or the department has petitioned the court for temporary custody, a custody hearing shall be held within ten days from the date the petition is filed to determine if the child should remain in or be placed in the department's custody pending adjudication. Upon written request of the respondent, the hearing may be held earlier, but in no event shall the hearing be held sooner than two days after the date the petition was filed.

B. The parent, guardian or custodian of the child alleged to be abused or neglected shall be given reasonable notice of the time and place of the custody hearing.

C. At the custody hearing, the court shall return legal custody of the child to the child's parent, guardian or custodian unless probable cause exists to believe that:

- (1) the child is suffering from an illness or injury, and the parent, guardian or custodian is not providing adequate care for the child;
- (2) the child is in immediate danger from the child's surroundings and removal from those surroundings is necessary for the child's safety or well-being;

(3) the child will be subject to injury by others if not placed in the custody of the department;

(4) there has been an abandonment of the child by the child's parent, guardian or custodian; or

(5) the parent, guardian or custodian is not able or willing to provide adequate supervision and care for the child.

D. At the conclusion of the custody hearing, if the court determines that probable cause exists pursuant to Subsection C of this section, the court may:

(1) return legal custody of the child to the child's parent, guardian or custodian upon such conditions as will reasonably ensure the safety and well-being of the child, including protective supervision or maintenance at home by the department or participation in programs or services aimed at addressing the underlying causative factors that impact the safety or well-being of the child; or

(2) award legal custody of the child to the department.

E. Reasonable efforts shall be made to preserve and reunify the family, with the paramount concern being the child's health and safety. When the department determines that the home of an adult relative of the child meets all relevant child protection and licensing standards and placement in the home would be in the best interest of the child, the department shall give a preference to placement of the child in that home. The department shall make reasonable efforts to conduct home studies on appropriate relatives who express an interest in providing placement for the child.

F. At the conclusion of the custody hearing, if the court determines that probable cause does not exist pursuant to Subsection C of this section, the court shall:

(1) retain jurisdiction and, unless the court permits otherwise, order that the respondent and child remain in the jurisdiction of the court pending the adjudication;

(2) return legal custody of the child to the child's parent, guardian or custodian with conditions to provide for the safety and well-being of the child; and

(3) order that the child's parent, guardian or custodian allow the child necessary contact with the child's guardian ad litem or attorney.

G. At the conclusion of the custody hearing, the court may order the respondent or the child alleged to be neglected or abused, or both, to undergo appropriate

diagnostic examinations or evaluations. If the court determines that probable cause does not exist, the court may order the respondent or the child alleged to be neglected or abused, or both, to undergo appropriate diagnostic examinations or evaluations as necessary to protect the child's best interests, based upon the allegations in the petition and the evidence presented at the custody hearing. Copies of any diagnostic or evaluation reports ordered by the court shall be provided to the parties at least five days before the adjudicatory hearing is scheduled. The reports shall not be sent to the court.

H. The Rules of Evidence shall not apply to custody hearings.

I. Notwithstanding any other provision of law, a party aggrieved by an order entered pursuant to this section shall be permitted to file an immediate appeal as a matter of right. If the order appealed from grants the legal custody of the child to or withholds it from one or more of the parties to the appeal, the appeal shall be expedited and shall be heard at the earliest practicable time. While an appeal pursuant to this section is pending, the court shall have jurisdiction to take further action in the case pursuant to Subsection B of Section 32A-1-17 NMSA 1978.

J. Nothing in this section shall be construed to abridge the rights of Indian children pursuant to the federal Indian Child Welfare Act of 1978."

Chapter 137 Section 4 Laws 2019

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2020. _____

House Bill 376, aa

Approved April 2, 2019

LAWS 2019, CHAPTER 138

AN ACT

RELATING TO PUBLIC FINANCE; TRANSFERRING THE TAX STABILIZATION RESERVE TO THE STATE TREASURY; PROVIDING FOR THE INVESTMENT OF MONEY IN THE TAX STABILIZATION RESERVE BY THE STATE INVESTMENT OFFICER.

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

Chapter 138 Section 1 Laws 2019

SECTION 1. Section 6-4-2.2 NMSA 1978 (being Laws 1987, Chapter 347, Section 3, as amended) is amended to read:

"6-4-2.2. GENERAL FUND TAX STABILIZATION RESERVE.--

A. The "tax stabilization reserve" is created within the state treasury as a reserve fund of the state.

B. The tax stabilization reserve consists of money directed or appropriated to it by law and all income from investment of the reserve. The state investment officer, subject to the approval of the state investment council, shall invest money in the reserve:

(1) in accordance with the prudent investor rule set forth in the Uniform Prudent Investor Act; and

(2) in consultation with the state treasurer.

C. The state investment officer shall report quarterly to the legislative finance committee and the state investment council on the investments made pursuant to this section. Annually, a report shall be submitted no later than October 1 each year to the legislative finance committee, the revenue stabilization and tax policy committee and any other appropriate interim committees.

D. Except as otherwise provided in Subsection E of this section, any balance of the tax stabilization reserve may be:

(1) appropriated only by a two-thirds' majority vote of both houses of the legislature following receipt by the legislature of a declaration of the governor that such an appropriation is necessary for the public peace, health and safety; or

(2) expended by the governor only:

(a) pursuant to an appropriation made by a two-thirds' majority vote of both houses of the legislature specifying the amount of the appropriation and the purpose of the expenditure; and

(b) if the governor declares that the expenditure is necessary for the public peace, health and safety.

E. If general fund revenues, including all transfers to the general fund authorized by law, are projected by the governor to be insufficient either to meet the level of appropriations authorized by law from the general fund for the current fiscal year or to meet the level of appropriations recommended in the budget and appropriations bill submitted in accordance with Section 6-3-21 NMSA 1978 for the next fiscal year, the balance in the tax stabilization reserve may be appropriated by the legislature up to the amount of the projected insufficiency for either or both fiscal years."

Chapter 138 Section 2 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

House Bill 393, aa

Approved April 2, 2019

LAWS 2019, CHAPTER 139

AN ACT

RELATING TO HIGHER EDUCATION; REQUIRING PUBLIC POST-SECONDARY EDUCATIONAL INSTITUTIONS TO ACCEPT FOR CREDIT PASSING SCORES ON THE COLLEGE BOARD ADVANCED PLACEMENT EXAMINATIONS; REQUIRING THE HIGHER EDUCATION DEPARTMENT TO REPORT INSTITUTIONAL ADVANCED PLACEMENT POLICIES TO THE LEGISLATURE AND THE GOVERNOR.

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

Chapter 139 Section 1 Laws 2019

SECTION 1. STATEWIDE ADVANCED PLACEMENT POLICY.--

A. Beginning with the 2019-2020 academic year, public post-secondary educational institutions shall accept a score of three or higher on the advanced

placement examination for post-secondary level course credit. Institutions that offer a corresponding course for a particular advanced placement examination as a part of their general education degree requirements shall accept a score of three or higher on the advanced placement examination for course credit as part of their general education degree requirements. If an institution does not offer a corresponding course for a particular advanced placement examination, the institution shall award, at a minimum, elective post-secondary level course credit for those students who receive a score of three or higher on that advanced placement examination.

B. An institution shall not require an examination score of more than three unless the chief academic officer provides evidence-based research to the higher education department that the higher score is necessary for a student to be successful in a related or more advanced course for which the lower-division course is a prerequisite. Each institution shall publish its updated course-granting policy for advanced placement in accordance with the requirements of this subsection on its website before the beginning of the 2019-2020 academic year.

C. The higher education department, in cooperation with all public post-secondary educational institutions, shall collect and report the course-granting policy for advanced placement of each institution and the research used by each institution to determine the level of credit and the number of credits provided for the advanced placement examination scores and file a report that includes findings and recommendations to the legislature and the governor. Each institution shall provide the department with all necessary data, in accordance with the federal Family Educational Rights and Privacy Act of 1974, to allow the department to conduct its analysis. _____

House Bill 420

Approved April 2, 2019

LAWS 2019, CHAPTER 140

AN ACT

RELATING TO TAXATION; INCREASING THE INCOME LIMIT FOR ELIGIBILITY FOR A LIMITATION ON PROPERTY TAX VALUATION OF A DWELLING OCCUPIED BY A PERSON WHO IS SIXTY-FIVE YEARS OF AGE OR OLDER OR DISABLED.

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

Chapter 140 Section 1 Laws 2019

SECTION 1. Section 7-36-21.3 NMSA 1978 (being Laws 2000, Chapter 21, Section 1, as amended) is amended to read:

"7-36-21.3. LIMITATION ON INCREASE IN VALUE FOR SINGLE-FAMILY DWELLINGS OCCUPIED BY LOW-INCOME OWNERS WHO ARE SIXTY-FIVE YEARS OF AGE OR OLDER OR DISABLED--REQUIREMENTS--PENALTIES.--

A. The valuation for property taxation purposes of a single-family dwelling owned and occupied by a person who is sixty-five years of age or older or disabled and whose modified gross income for the prior taxable year did not exceed the greater of thirty-five thousand dollars (\$35,000) or the amount calculated pursuant to Subsection F of this section shall not be greater than the valuation of the property for property taxation purposes in the:

(1) tax year in which the owner's sixty-fifth birthday occurs, if the owner owns and occupies that property; or

(2) tax year following the tax year in which an owner who is sixty-five years of age or older first owns and occupies the property.

B. The limitation provided by this section may be claimed by filing proof of eligibility with the county assessor on an application form furnished by the assessor. The application form shall be designed by the department and shall provide for proof of age or disability, occupancy and income eligibility. An owner who applies for the limitation of value specified in this section and files proof of income eligibility for the three consecutive years immediately prior to the tax year for which the application is made need not claim the limitation for subsequent tax years if there is no change in eligibility. The county assessor shall apply the limitation automatically in subsequent tax years until a change in eligibility occurs.

C. An owner who has claimed and been allowed the limitation of value specified in this section for the three consecutive tax years immediately prior to the 2020 tax year is not required to claim the limitation for subsequent tax years if there is no change in eligibility, unless the county assessor requests updated information on the owner's modified gross income. The county assessor shall apply the limitation automatically in subsequent tax years until a change in eligibility occurs.

D. A person who has had a limitation applied to a tax year and subsequently becomes ineligible for the limitation because of a change in the person's status or income or a change in the ownership of the property against which the limitation was

applied shall notify the county assessor of the loss of eligibility for the limitation by the last day of February of the tax year immediately following the year in which loss of eligibility occurs.

E. A person who knowingly violates the provisions of this section by intentionally claiming and receiving the benefit of a limitation to which the person is not entitled or who fails to comply with the provisions of Subsection D of this section shall be liable for all taxes due, interest and a civil penalty of one thousand dollars (\$1,000).

F. For the 2020 tax year and each subsequent tax year, the maximum amount of modified gross income in Subsection A of this section shall be adjusted to account for inflation. The department shall make the adjustment by multiplying thirty-five thousand dollars (\$35,000) by a fraction, the numerator of which is the consumer price index ending during the prior tax year and the denominator of which is the consumer price index ending in tax year 2019. The result of the multiplication shall be rounded down to the nearest one hundred dollars (\$100), except that if the result would be an amount less than the corresponding amount for the preceding tax year, then no adjustment shall be made.

G. The department shall publish annually the amount determined by the calculation made pursuant to Subsection F of this section and provide the calculated amount to each county assessor no later than December 1 of each tax year.

H. The limitation of value specified in Subsection A of this section does not apply to:

(1) a change in valuation resulting from any physical improvements made to the property during the year immediately prior to the tax year or a change in the permitted use or zoning of the property during the year immediately prior to the tax year; or

(2) a residential property in the first tax year that is valued for property taxation purposes.

I. As used in this section:

(1) "consumer price index" means the consumer price index for all urban consumers published by the United States department of labor for the month ending September 30;

(2) "disabled" means a person who has been determined to be blind or permanently disabled with medical improvement not expected pursuant to 42 USCA

421 for purposes of the federal Social Security Act or is determined to have a permanent total disability pursuant to the Workers' Compensation Act; and

(3) "modified gross income" means "modified gross income" as used in the Income Tax Act."

Chapter 140 Section 2 Laws 2019

SECTION 2. APPLICABILITY.--The provisions of this act apply to the 2020 and subsequent property tax years. _____

HTRC/House Bill 429

Approved April 2, 2019

LAWS 2019, CHAPTER 141

AN ACT

RELATING TO HEALTH; CREATING A GRADUATE MEDICAL EDUCATION EXPANSION GRANT PROGRAM; CREATING THE GRADUATE MEDICAL EDUCATION EXPANSION GRANT PROGRAM FUND; PROVIDING FUNDING TO CREATE AND EXPAND PHYSICIAN RESIDENCY PROGRAMS; CREATING THE GRADUATE MEDICAL EDUCATION EXPANSION REVIEW BOARD; PROVIDING DUTIES.

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

Chapter 141 Section 1 Laws 2019

SECTION 1. SHORT TITLE.--This act may be cited as the "Graduate Medical Education Expansion Grant Program Act".

Chapter 141 Section 2 Laws 2019

SECTION 2. DEFINITIONS.--As used in the Graduate Medical Education Expansion Grant Program Act:

A. "department" means the human services department;

B. "graduate medical education training program" means a program that has received approval or is in the process of seeking approval to operate as a graduate medical education training program sponsor from the appropriate professional association that evaluates and accredits medical residency and internship programs, including:

- (1) a licensed and accredited hospital;
- (2) an academic medical education institution;
- (3) a new freestanding graduate medical education program;
- (4) an established or new graduate medical education training consortium; and
- (5) a federally qualified health center; and

C. "secretary" means the secretary of human services.

Chapter 141 Section 3 Laws 2019

SECTION 3. GRADUATE MEDICAL EDUCATION EXPANSION GRANT PROGRAM--FUND--DISTRIBUTIONS--APPLICATION REQUIREMENTS--PRIORITIES FOR AWARDS--REPORTING REQUIREMENTS.--

A. The "graduate medical education expansion grant program fund" is created in the state treasury. The fund consists of money appropriated by the legislature. Money in the fund shall not revert to any other fund at the end of a fiscal year. The secretary shall administer the fund, and money in the fund is appropriated to the department to administer the provisions of the Graduate Medical Education Expansion Grant Program Act. Money in the fund may be utilized to secure federal and private matching funds as determined by the secretary. Money in the fund shall be disbursed on warrants signed by the secretary of finance and administration pursuant to vouchers signed by the secretary of human services or the secretary's authorized representative.

B. To receive a grant, a graduate medical education training program shall apply to the graduate medical education expansion grant program, pursuant to rules adopted by the secretary. Grant amounts will be determined by each entity's grant application. Funds from the graduate medical education expansion grant program fund shall be distributed to graduate medical education training programs to develop and implement graduate medical education training programs. The application must

include the applicant's plan to receive accreditation for the positions within the graduate medical education training program.

C. The department may provide one-time planning grants to graduate medical education training programs pursuant to rules adopted by the secretary.

D. The department may provide graduate medical education grants to:

(1) establish new graduate medical education training programs with first-year positions;

(2) fund unfilled, accredited first-year positions within a graduate medical education training program;

(3) expand the number of first-year positions within an existing graduate medical education training program; and

(4) fund existing graduate medical education training programs.

E. The department may prioritize applications that emphasize the following:

(1) developing new or expanded programs with specialties of psychiatry, family medicine, pediatric medicine and internal medicine;

(2) increasing positions for medical specialties having shortages within the state, with preference being given to the primary care specialties of family medicine, pediatric medicine and internal medicine; and

(3) increasing primary care positions in medically underserved areas within the state.

F. Each award recipient shall report annually to the graduate medical education expansion review board on the:

(1) expenditures of grant funds; and

(2) plans for unexpended funds.

Chapter 141 Section 4 Laws 2019

SECTION 4. GRADUATE MEDICAL EDUCATION EXPANSION REVIEW BOARD--CREATED--DUTIES.--

A. Prior to October 1, 2019, the department shall create the "graduate medical education expansion review board" to:

(1) develop a state strategic plan for expanding graduate medical education training programs;

(2) review grant applications; and

(3) review the grants awarded pursuant to the Graduate Medical Education Expansion Grant Program Act.

B. The graduate medical education expansion review board shall consist of nine members who shall be appointed by the department. The review board shall include representation from each accredited osteopathic and allopathic medical school and from the following groups:

(1) the department;

(2) the higher education department;

(3) hospitals, primary care consortiums and medical organizations; and

(4) osteopathic and allopathic medical professional societies and associations.

C. The chair of the review board shall be elected by the review board. The review board shall meet at the call of the chair.

D. Members of the review board shall not be paid per diem and mileage or other compensation for their services.

E. The secretary shall provide staff support for the review board in the performance of its duties.

F. A simple majority of the review board members constitutes a quorum. A member of the review board shall abstain from voting or the member's vote shall be disqualified on any matter in which the member has a pecuniary interest.

G. The secretary of human services and the secretary of higher education shall assist the graduate medical education expansion review board in developing a strategic plan for the expansion of graduate medical education training programs, which shall include the following:

(1) a statement describing the objectives and goals of the review board, the strategies by which those goals will be achieved and a time line for achieving those goals;

(2) a summary of the current graduate medical education training programs throughout the state;

(3) a five-year plan for expanding graduate medical education training programs in the state;

(4) an evaluation of the standards and curriculum guidelines for graduate medical education training programs;

(5) an ongoing evaluation process of funds distributed through the graduate medical education expansion grant program that is overseen by the review board; and

(6) a plan to ensure long-term sustainability.

H. The graduate medical education expansion review board shall review applications to the graduate medical education expansion grant program and provide recommendations to the secretary. _____

HEC/House Bill 480, aa

Approved April 2, 2019

LAWS 2019, CHAPTER 142

AN ACT

RELATING TO HORSE RACING; AMENDING HOW HORSE BREEDERS ARE PAID INCENTIVE AND MERIT AWARDS; REQUIRING MEMBERSHIP IN THE NEW MEXICO HORSE BREEDERS' ASSOCIATION TO RECEIVE MERIT AND INCENTIVE REWARDS; ADDRESSING FIDUCIARY BONDS, FAILURE TO NEGOTIATE AN AWARD CHECK AND FAILURE TO PROVIDE TAX-REPORTING INFORMATION.

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

Chapter 142 Section 1 Laws 2019

SECTION 1. Section 60-1A-24 NMSA 1978 (being Laws 2007, Chapter 39, Section 24) is amended to read:

"60-1A-24. BREEDERS' AWARDS.--

A. The New Mexico horse breeders' association shall create a fund to pay horse breeders of New Mexico-bred horses merit and incentive awards.

B. A racetrack licensee shall pay into a fund created by the New Mexico horse breeders' association an amount equal to ten percent of the first money of a purse won, except for stakes-race purses, at a horse race in New Mexico by a horse registered with the New Mexico horse breeders' association as a New Mexico-bred horse. From stakes-race purses, a racetrack licensee shall pay into the fund created by the New Mexico horse breeders' association an amount equal to ten percent of the added money.

C. The money deposited with the New Mexico horse breeders' association by a racetrack licensee pursuant to Subsection B of this section shall be paid weekly to the breeder of record as recorded by the New Mexico horse breeders' association upon certification of the commission.

D. In addition to the money distributed pursuant to Subsection B of this section, the New Mexico horse breeders' association shall distribute the money allocated to the New Mexico horse breeders' association pursuant to Subsections B, C and D of Section 60-1A-19 NMSA 1978 in the following manner and pursuant to rules adopted by the commission:

(1) forty-five percent of the money to the breeders of record as recorded by the New Mexico horse breeders' association of the first-, second- and third-place finishers;

(2) seven percent of the money to the owners of the stallions that sired the first-place winners at the time the winners were conceived;

(3) no more than eight percent of the money to be retained by the New Mexico horse breeders' association for the purpose of administering the distribution program set forth in this section; and

(4) the remaining money to be divided among the owners of the first-, second- and third-place finishers during each race meet, provided that the first-, second- and third-place finishers are registered as New Mexico-bred horses with the

New Mexico horse breeders' association and the owners are members of the association.

E. The commission shall establish by rule fiduciary, security and insurance safeguards for the money deposited with and paid out or distributed by the New Mexico horse breeders' association pursuant to the Horse Racing Act.

F. A check or other negotiable instrument representing a payment pursuant to Subsection D of this section that is not negotiated within one year from the date of issuance is no longer valid and negotiable. The money represented by the check or other negotiable instrument shall revert to the fund created pursuant to Subsection A of this section and the recipient shall no longer be eligible for the payment.

G. A person otherwise eligible for a payment pursuant to Subsection D of this section shall not be eligible if the person does not provide within ninety days of eligibility for a merit and incentive award information necessary for the New Mexico horse breeders' association to comply with state and federal tax law." _____

House Bill 503,aa

Approved April 2, 2019

LAWS 2019, CHAPTER 143

AN ACT

RELATING TO LICENSING; AMENDING, REPEALING AND ENACTING SECTIONS OF THE SOCIAL WORK PRACTICE ACT TO CLARIFY LICENSURE REQUIREMENTS AND ALLOW FOR TELESUPERVISION AND TELEHEALTH; CLARIFYING CONFLICT OF INTEREST FOR BOARD MEMBERS; PROVIDING FOR ELECTRONIC EXAMINATIONS.

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

Chapter 143 Section 1 Laws 2019

SECTION 1. Section 61-31-3 NMSA 1978 (being Laws 1989, Chapter 51, Section 3, as amended) is amended to read:

"61-31-3. DEFINITIONS.--As used in the Social Work Practice Act:

- A. "advisory committee" means an evaluation advisory committee;
- B. "appropriate supervision" means supervision by a licensed clinical social worker or licensed independent social worker with two years of supervised social work practice experience or other supervision that is deemed by the board to be equivalent to supervision by a licensed clinical social worker or licensed independent social worker;
- C. "board" means the board of social work examiners;
- D. "client" means an individual, couple, family, group, organization or community that seeks or receives social work services from an individual social worker or an organization;
- E. "consultation" means a problem-solving process in which expertise is offered to an individual, group organization or community;
- F. "continuing education" means approved education and training that are oriented to maintain, improve or enhance social work practice;
- G. "department" means the regulation and licensing department;
- H. "executive agency" means any agency within the executive branch of government;
- I. "licensed bachelor of social work" means a person who engages in the practice of social work under appropriate supervision and meets the qualification of a licensed bachelor of social work pursuant to the Social Work Practice Act;
- J. "licensed clinical social worker" means a person who is licensed in the state to engage in clinical social work practice and meets the qualifications for a licensed clinical social worker pursuant to the Social Work Practice Act;
- K. "licensed independent social worker" means a person who is licensed in the state to engage in social work practice other than clinical social work and meets the qualifications for a licensed independent social worker pursuant to the Social Work Practice Act;
- L. "licensed master of social work" means a person who engages in the practice of social work under appropriate supervision and meets the qualification of a licensed master of social work pursuant to the Social Work Practice Act;

M. "professional code of ethics" means a code of ethics or professional standards promulgated by a national organization of social work professionals that provides guidance, research, advocacy and other services to social workers;

N. "recognized association" means a nonprofit national association of educational and professional institutions, social welfare agencies and private citizens recognized as an accrediting agency for social work education in the United States by a self-regulating organization of degree-granting colleges and universities;

O. "supervision" means an interactional professional relationship between a social worker and a supervisor who:

(1) provides evaluation of and direction to a licensed bachelor of social work or a licensed master of social work; and

(2) promotes continued development of a licensed bachelor of social work's or a licensed master of social work's knowledge, skill and ability to practice social work; and

P. "supervisor" means an individual who provides appropriate supervision."

Chapter 143 Section 2 Laws 2019

SECTION 2. Section 61-31-4 NMSA 1978 (being Laws 1989, Chapter 51, Section 4, as amended) is amended to read:

"61-31-4. LICENSE REQUIRED.--

A. Effective January 1, 1990, unless licensed to practice social work under the Social Work Practice Act, no person shall:

(1) practice as an independent social worker, clinical social worker, master of social work or bachelor of social work as defined in the Social Work Practice Act; or

(2) use the title or make any representation as being a licensed social worker of any type or level or use any other title, abbreviation, letters, figures, signs or devices that indicate the person is licensed as a social worker.

B. Notwithstanding the provisions of Subsection A of this section, an individual who is employed in an executive agency on or after July 1, 1989 under the title of social worker or other title that is deemed to be social work practice by the board and who has

a bachelor's degree or higher in a field other than social work shall not be required to be licensed until July 1, 1992; provided an employee of an executive agency who qualifies for licensure under the provisions of the Social Work Practice Act shall apply for licensure as provided in that act."

Chapter 143 Section 3 Laws 2019

SECTION 3. Section 61-31-5 NMSA 1978 (being Laws 1989, Chapter 51, Section 5) is amended to read:

"61-31-5. USE OF TITLE--OTHER PROFESSIONS.--

A. Except as otherwise provided in the Social Work Practice Act, it is unlawful for an individual not licensed as a social worker to:

- (1) engage in the practice of social work;
- (2) hold the individual out as a social worker or claim to be a social worker or use the title of social worker; or
- (3) use any abbreviation or title that implies or would lead the public to believe that the individual is a social worker or is licensed to practice social work.

B. Nothing in the Social Work Practice Act shall be construed to prevent qualified members of other recognized professions that are licensed, certified or regulated under New Mexico law or regulation from rendering services within the scope of their license, certification or regulation; provided that they do not represent themselves as licensed social workers."

Chapter 143 Section 4 Laws 2019

SECTION 4. Section 61-31-7 NMSA 1978 (being Laws 1989, Chapter 51, Section 7, as amended) is amended to read:

"61-31-7. BOARD CREATED.--

- A. There is created the "board of social work examiners".
- B. The board shall be administratively attached to the department.

C. The board shall consist of seven members who are representative of the geographic and ethnic groups within New Mexico and who have been New Mexico residents prior to their appointment. Of the seven members:

(1) four members shall have been engaged in social work practice for at least five years; at least two of the four shall hold a master's degree in social work; and at least two shall hold a bachelor's degree in social work from schools of social work that are accredited by the council on social work education. At least one of these members shall be engaged primarily in clinical social work practice; one member shall be engaged primarily in education; one member shall be engaged primarily in administration or research in social work practice; and at least one member shall be engaged primarily in community organization, planning and development. These members may join professional organizations and associations organized exclusively to promote the improvement of the practice of social work for the protection of the health and welfare of the public or whose activities assist and facilitate the work of the board; and

(2) three members shall represent the public. The public members shall not have been licensed or have practiced as social workers. Public members shall not have any significant financial interest, whether direct or indirect, in social work practice.

D. Members of the board shall be appointed by the governor for staggered terms of three years. Each member shall hold office until a successor is appointed. Vacancies shall be filled for the unexpired term in the same manner as original appointments.

E. Except for the representatives of the public on the board, the governor shall appoint board members from a list of nominees submitted by social work organizations and individual social work professionals or from a pool of resumes submitted to the governor by individuals applying for membership.

F. Members of the board shall be reimbursed as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

G. The board shall elect a chair and other officers as deemed necessary to administer its duties.

H. A simple majority of the board members currently serving shall constitute a quorum of the board.

I. The board shall meet at least once a year and at such other times as it deems necessary. Other meetings may be called by the chair upon the written request of a

quorum of the board. The board may permit electronic participation in board meetings in accordance with the Open Meetings Act and board rules.

J. The governor may remove any member from the board for:

- (1) the neglect of any duty required by law;
- (2) incompetence;
- (3) improper or unprofessional conduct as defined by board rule;
- (4) violation of the current professional code of ethics or professional standards promulgated by a national organization of social work professionals that provides guidance, research, advocacy and other services to social workers; or
- (5) any reason that would justify the suspension or revocation of that member's license to practice social work.

K. A board member shall not serve more than two consecutive terms, and any member failing to attend, after proper notice, three consecutive meetings shall automatically be removed as a board member, unless excused for reasons set forth in board rules.

L. In the event of a vacancy for any reason, the board secretary shall immediately notify the governor and the board of the vacancy and the reason for its occurrence to expedite the appointment of a new board member within a six-month period."

Chapter 143 Section 5 Laws 2019

SECTION 5. Section 61-31-8 NMSA 1978 (being Laws 1989, Chapter 51, Section 8, as amended) is amended to read:

"61-31-8. BOARD'S AUTHORITY.--In addition to any authority provided by law, the board shall have the authority to:

A. adopt and file, in accordance with the State Rules Act, rules necessary to carry out the provisions of the Social Work Practice Act, in accordance with the provisions of the Uniform Licensing Act, including the procedures for an appeal of an examination failure;

B. select, prepare and administer, at least annually, examinations for licensure;

C. adopt a current professional code of ethics or professional standards promulgated by a national organization of social work professionals that provides guidance, research, advocacy and other services to social workers;

D. appoint advisory committees pursuant to Section 61-31-19 NMSA 1978;

E. conduct hearings on an appeal of a denial of a license based on the applicant's failure to meet the minimum qualifications for licensure. The hearing shall be conducted pursuant to the Uniform Licensing Act;

F. require and establish criteria for continuing education;

G. issue subpoenas, statements of charges, statements of intent to deny licenses and orders and delegate in writing to a designee the authority to issue subpoenas, statements of charges and statements of intent to deny licenses and establish procedures for receiving, investigating and conducting hearings on complaints;

H. request that an individual who is violating the Social Work Practice Act:

(1) voluntarily stop violating the Social Work Practice Act; and

(2) meet with the board. If the board's requests to an individual pursuant to this subsection are unsuccessful or in a situation that the board deems to be an emergency, the board may apply for an injunction in district court to enjoin any person from committing any act prohibited by the Social Work Practice Act;

I. develop criteria to approve appropriate supervision for a person seeking licensure as a licensed independent social worker or a licensed clinical social worker based upon the prospective supervisor's:

(1) education;

(2) experience; and

(3) level of training;

J. issue provisional licenses, temporary licenses and licenses based on credentials to persons meeting the requirements set forth in the Social Work Practice Act;

K. determine qualifications for licensure, including the requirement to demonstrate an awareness and knowledge of New Mexico cultures;

L. set fees for licenses as authorized by the Social Work Practice Act and authorize all disbursements necessary to carry out the provisions of the Social Work Practice Act;

M. keep a record and provide notice of all proceedings in accordance with the Open Meetings Act and shall make an annual report to the governor; and

N. determine the appropriate application of technology to social work practice, including video conferencing, for appropriate supervision and client contact."

Chapter 143 Section 6 Laws 2019

SECTION 6. Section 61-31-10 NMSA 1978 (being Laws 1989, Chapter 51, Section 10) is amended to read:

"61-31-10. EXAMINATION.--The date and location of the social work licensure examination shall be established by the board. Applicants who have been found to meet the education and experience requirements for licensure shall be scheduled for the next examination following the filing of the application. The board shall establish by rule the examination application deadline and other rules relating to the retaking of the licensure examination."

Chapter 143 Section 7 Laws 2019

SECTION 7. Section 61-31-11 NMSA 1978 (being Laws 1989, Chapter 51, Section 11, as amended) is amended to read:

"61-31-11. PROVISIONAL LICENSURE.--Prior to examination, an applicant for licensure who holds a bachelor's degree or master's degree in social work may obtain a provisional license to engage in social work practice as long as the applicant meets all the requirements, except examination, pursuant to the Social Work Practice Act for the level of license sought. The provisional license is valid for a period not to exceed one year."

Chapter 143 Section 8 Laws 2019

SECTION 8. Section 61-31-14 NMSA 1978 (being Laws 1989, Chapter 51, Section 14, as amended) is amended to read:

"61-31-14. LICENSE RENEWAL.--

A. Each licensee shall renew the licensee's license biennially by submitting a renewal application on a form provided by the board. At the time of license renewal, the board shall require a licensee to produce evidence of continuing education, as prescribed by the board. The board may establish a method to provide for staggered biennial terms of licensure. The board may authorize license renewal for one year to establish the renewal cycle.

B. A thirty-day grace period shall be allowed each licensee after each annual licensing period, during which time licenses may be renewed upon payment of the renewal fee and providing evidence of continuing education as prescribed by the board.

C. Any licensee who allows the licensee's license to lapse for longer than three months shall have the license automatically revoked and may be required to take an examination.

D. A late penalty fee shall be assessed after the thirty-day grace period has expired for anyone attempting to renew a license to practice social work."

Chapter 143 Section 9 Laws 2019

SECTION 9. Section 61-31-15 NMSA 1978 (being Laws 1989, Chapter 51, Section 15) is amended to read:

"61-31-15. LICENSE FEES.--Applicants for licensure shall pay fees set by the board, not to exceed:

A. for examination for any level of licensure other than initial licensure, two hundred dollars (\$200);

B. for initial licensure following an examination as a licensed bachelor of social work, two hundred dollars (\$200);

C. for initial licensure following an examination as a licensed master of social work, three hundred dollars (\$300);

D. for initial licensure following an examination as a licensed independent social worker, three hundred dollars (\$300);

E. for licensure by credentials at any level, three hundred dollars (\$300);

F. for licensure without examination, including a provisional license, as a licensed bachelor of social work, one hundred fifty dollars (\$150);

G. for licensure without examination, including a provisional license, as a licensed master of social work, two hundred fifty dollars (\$250);

H. for licensure without examination, including a provisional license, as a licensed independent social worker, three hundred dollars (\$300);

I. for renewal of a license as a licensed bachelor of social work, one hundred dollars (\$100);

J. for renewal of a license as a licensed master of social work, two hundred dollars (\$200);

K. for renewal of a license as a licensed independent social worker, three hundred dollars (\$300);

L. for a late fee for failure to renew within the allotted grace period, one hundred dollars (\$100); and

M. for a duplicate license, twenty-five dollars (\$25.00)."

Chapter 143 Section 10 Laws 2019

SECTION 10. Section 61-31-25 NMSA 1978 (being Laws 1989, Chapter 51, Section 27, as amended) is amended to read:

"61-31-25. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The board of social work examiners is terminated on July 1, 2031 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Social Work Practice Act until July 1, 2032. Effective July 1, 2032, the Social Work Practice Act is repealed."

Chapter 143 Section 11 Laws 2019

SECTION 11. A new section of the Social Work Practice Act is enacted to read:

"LICENSED INDEPENDENT SOCIAL WORKER--LICENSURE--QUALIFICATIONS.--After receipt of an application, requisite fees and documentation in accordance with board rules, the board shall issue in a timely manner a license to practice as a licensed independent social worker to an individual who:

A. is at least eighteen years of age;

B. possesses at least a master's degree in social work from a graduate program of social work accredited by a recognized association;

C. completed post-graduate social work hours and experience as an employee or independent worker under appropriate supervision;

D. is trained in New Mexico cultures;

E. passed a jurisprudence examination; and

F. passed an examination approved by the board, including an advanced generalist examination administered by a nonprofit association composed of and owned by social work regulatory boards and colleges in all states."

Chapter 143 Section 12 Laws 2019

SECTION 12. A new section of the Social Work Practice Act is enacted to read:

"LICENSED CLINICAL SOCIAL WORKER--LICENSURE--QUALIFICATIONS.--
After receipt of an application, requisite fees and documentation in accordance with board rules, the board shall issue in a timely manner a license to practice as a licensed clinical social worker to an individual who:

A. is at least eighteen years of age;

B. possesses at least a master's degree in social work from a graduate program of social work accredited by a recognized association;

C. completed post-graduate social work hours and experience as an employee or independent worker under appropriate supervision;

D. is trained in New Mexico cultures;

E. passed a jurisprudence examination; and

F. passed an examination approved by the board, including a clinical examination administered by a nonprofit association composed of and owned by social work regulatory boards and colleges in all states."

Chapter 143 Section 13 Laws 2019

SECTION 13. A new section of the Social Work Practice Act is enacted to read:

"LICENSED MASTER OF SOCIAL WORK--LICENSURE--QUALIFICATIONS.--
After receipt of an application, requisite fees and documentation in accordance with board rules, the board shall issue in a timely manner a license to practice as a licensed master of social work to an individual who:

- A. is at least eighteen years of age;
- B. possesses at least a master's degree in social work from a graduate program of social work accredited by a recognized association;
- C. is trained in New Mexico cultures;
- D. passed a jurisprudence examination; and
- E. passed an examination approved by the board, including a master's examination administered by a nonprofit association composed of and owned by social work regulatory boards and colleges in all states."

Chapter 143 Section 14 Laws 2019

SECTION 14. A new section of the Social Work Practice Act is enacted to read:

"LICENSED BACHELOR OF SOCIAL WORK--LICENSURE--
QUALIFICATIONS.--After receipt of an application, requisite fees and documentation in accordance with board rules, the board shall issue in a timely manner a license to practice as a licensed bachelor of social work to an individual who:

- A. is at least eighteen years of age;
- B. possesses at least a bachelor's degree in social work from a graduate program of social work accredited by a recognized association;
- C. is trained in New Mexico cultures;
- D. passed a jurisprudence examination; and
- E. passed an examination approved by the board, including a bachelor's examination administered by a nonprofit association composed of and owned by social work regulatory boards and colleges in all states."

Chapter 143 Section 15 Laws 2019

SECTION 15. A new section of the Social Work Practice Act is enacted to read:

"APPROPRIATE SUPERVISION--GUIDELINES.--An individual providing appropriate supervision as defined in Section 61-31-3 NMSA 1978 shall conform to supervision guidelines that the board establishes by rule."

Chapter 143 Section 16 Laws 2019

SECTION 16. REPEAL.--Sections 61-31-2, 61-31-9, 61-31-12, 61-31-13.1 and 61-31-23 NMSA 1978 (being Laws 1989, Chapter 51, Sections 2, 9 and 12, Laws 2006, Chapter 4, Section 8 and Laws 1989, Chapter 51, Section 23, as amended) are repealed._____

House Bill 539, aa

Approved April 2, 2019

LAWS 2019, CHAPTER 144

AN ACT

RELATING TO LENDING; ENACTING NEW SECTIONS OF THE COLLECTION AGENCY REGULATORY ACT AND THE MOTOR VEHICLE SALES FINANCE ACT; PROVIDING FOR THE DIRECTOR OF THE FINANCIAL INSTITUTIONS DIVISION OF THE REGULATION AND LICENSING DEPARTMENT TO UTILIZE THE NATIONWIDE MULTISTATE LICENSING SYSTEM AND REGISTRY TO RECEIVE AND PROCESS APPLICATIONS FOR LICENSES; REPEALING A SECTION OF THE COLLECTION AGENCY REGULATORY ACT.

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

Chapter 144 Section 1 Laws 2019

SECTION 1. Section 58-19-2 NMSA 1978 (being Laws 1959, Chapter 204, Section 2, as amended) is amended to read:

"58-19-2. DEFINITIONS.--As used in the Motor Vehicle Sales Finance Act:

A. "motor vehicles" means automobiles, recreational vehicles, recreational travel trailers, trailers, motorcycles, trucks, semi-trailers, truck tractors and buses designed and used primarily to transport persons or property on a public highway, farm machinery and all vehicles new or used, with any power other than muscular power except boat trailers, aircraft or any vehicle that runs only on rails or tracks, but does not include any motor vehicle having a gross vehicle weight of ten thousand pounds or more purchased primarily for business or commercial purposes;

B. "retail buyer" or "buyer" means a person who buys a motor vehicle primarily for personal, family or household purposes from a retail seller and who executes a retail installment contract in connection therewith;

C. "retail seller" or "seller" means a person who sells a motor vehicle to a retail buyer or subject to a retail installment contract;

D. "holder" of a retail installment contract means the retail seller of the motor vehicle under or subject to the contract or, if the contract is purchased by a sales finance company or other assignee, the sales finance company or other assignee;

E. "retail installment transaction" means any transaction evidenced by a retail installment contract entered into between a retail buyer and a retail seller wherein the retail buyer buys a motor vehicle from the retail seller at a time price payable in one or more deferred installments. The cash sale price of the motor vehicle, the amount included for insurance and other benefits if a separate charge is made therefor, official fees and the finance charge together constitute the time price;

F. "retail installment contract" or "contract" means an agreement, entered into in this state or made subject to the laws of this state, pursuant to which the title to or a lien upon the motor vehicle that is the subject matter of a retail installment transaction is retained or taken by a retail seller from a retail buyer as security for the buyer's obligation. The term includes a chattel mortgage, a conditional sales contract and a contract for the bailment or leasing of a motor vehicle by which the bailee or lessee contracts to pay as compensation for its use a sum substantially equivalent to or in excess of its value and by which it is agreed that the bailee or lessee is bound to become or has the option of becoming the owner of the motor vehicle upon full compliance with the provisions of the contract;

G. "cash sale price" means the price stated in a retail installment contract for which the seller would have sold to the buyer, and the buyer would have bought from the seller, the motor vehicle that is the subject matter of the retail installment contract, if the sale had been a sale for cash instead of a retail installment transaction. Cash sale price may include any taxes, registration fee, certificate of title fee, license and other

fees and charges for accessories and their installation and for delivery, servicing, repairing or improving the motor vehicle;

H. "official fees" means the fee prescribed by law for filing, recording or otherwise perfecting and releasing or satisfying a retained title or a lien created by a retail installment contract;

I. "finance charge" means the amount agreed upon between the buyer and the seller to be added to the aggregate of the cash sale price, the amount, if any, included for insurance and other benefits and official fees, in determining the time price;

J. "person" means an individual, partnership, corporation, association and any other group however organized;

K. "sales finance company" means a person engaged in whole or in part in the business of purchasing retail installment contracts from one or more retail sellers. The term includes a bank, trust company, private banker, small loan licensee, industrial bank or investment company, if so engaged; the term also includes a retail seller engaged in whole or in part in the business of creating and holding retail installment contracts that exceed a total aggregate outstanding indebtedness of one hundred thousand dollars (\$100,000);

L. "director" means the director of the financial institutions division of the regulation and licensing department or a duly authorized agent designated by the director;

M. "year" means a period of three hundred sixty-five days; "month" means one-twelfth of a year; and "day" means one three-hundred-sixty-fifth of a year; and

N. "nationwide multistate licensing system and registry" means a licensing system developed and maintained by the conference of state bank supervisors and the American association of residential mortgage regulators pursuant to the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 to manage mortgage licenses and other financial services licenses, or a successor registry."

Chapter 144 Section 2 Laws 2019

SECTION 2. Section 58-19-3 NMSA 1978 (being Laws 1959, Chapter 204, Section 3, as amended) is amended to read:

"58-19-3. LICENSING OF SALES FINANCE COMPANIES REQUIRED--
DENIAL OF LICENSE--PROVISION FOR OUT-OF-STATE LICENSES.--

A. A person shall not engage in the business of a sales finance company in this state without a license as provided in the Motor Vehicle Sales Finance Act; provided, however, that a state or national bank authorized to do business in this state shall not be required to obtain a license under that act but shall comply with all of its other provisions.

B. The application for a license shall be in writing, under oath and in the form prescribed by the director. The application shall contain the name of the applicant; date of incorporation, if incorporated; the address where the business is or is to be conducted and similar information as to any branch office of the applicant; the name and resident address of the owner or partners or, if a corporation or association, of the directors, trustees and principal officers; and such other pertinent information as the director may require.

C. The license fee for each calendar year or part thereof shall be four hundred dollars (\$400) for the principal place of business of the licensee and four hundred dollars (\$400) for each branch of the licensee maintained in this state. For a license maintained out of this state, the license fee shall be five hundred dollars (\$500) for each office. All fees shall be deposited with the state treasurer for deposit and transfer as provided in Section 9-16-14 NMSA 1978.

D. Each license shall specify the location of the office or branch. In case a location is changed, the director shall endorse the change of location on the license upon payment to the director by the licensee of a duplicate license fee of twenty-five dollars (\$25.00).

E. Applicants for a license issued pursuant to the Motor Vehicle Sales Finance Act shall apply using a form prescribed by the director. Information required on the form shall be set forth by rule, instruction or procedure of the director, and may be changed or updated as necessary by the director in order to carry out the purposes of the Motor Vehicle Sales Finance Act.

F. The director may establish relationships or contracts with the nationwide multistate licensing system and registry or other entities designated by the nationwide multistate licensing system and registry to collect and maintain records and process transaction fees or other fees related to licenses issued pursuant to the Motor Vehicle Sales Finance Act.

G. In an application for a license issued pursuant to the Motor Vehicle Sales Finance Act, the applicant shall, at a minimum, furnish to the nationwide multistate licensing system and registry information concerning the applicant's identity, including:

(1) the applicant's personal history and experience in a form prescribed by the nationwide multistate licensing system and registry; and

(2) authorization for the nationwide multistate licensing system and registry and the director to obtain information related to any administrative, civil or criminal findings by any governmental jurisdiction regarding the applicant.

H. The director may use the nationwide multistate licensing system and registry as a channeling agent for requesting and distributing information provided pursuant to Paragraphs (1) and (2) of Subsection G of this section to and from any source as deemed appropriate by the director.

I. Upon the filing of an application and the payment of the fee, the director shall issue to the applicant a license to engage in the business of a sales finance company under and in accordance with the provisions of the Motor Vehicle Sales Finance Act for a period that shall expire on December 31 next following the date of its issuance. The license shall not be transferable or assignable. A licensee shall not transact any business provided for by the Motor Vehicle Sales Finance Act under any other name.

J. The director shall deny a license under the Motor Vehicle Sales Finance Act if the director finds that:

(1) the applicant has failed to pay the required fee;

(2) the applicant has willfully furnished the director with false or misleading information in the application; or

(3) there is reason to believe that the financial responsibility, character and general fitness of the applicant for an original license and of the individual members and beneficiaries thereof, if the applicant is a copartnership, association or trust, and of the officers and directors thereof, if the applicant is a corporation, are such as to warrant belief that the business will not be operated lawfully, honestly, fairly and efficiently within the declared purposes and spirit of that act.

If an original license is denied by the director, the director shall immediately notify the applicant in writing setting forth the reasons for denial.

K. The director may issue a motor vehicle sales finance company license to an applicant who applies for such a license to be located outside the state, if the applicant:

(1) files an application on a form prescribed by the director enclosing a license fee of five hundred dollars (\$500);

(2) maintains, at all times, an agent for service of process, who shall be a resident of New Mexico; and

(3) complies with all sections of the Motor Vehicle Sales Finance Act and any rules and regulations that may be promulgated by the director and complies with all statutes relating to money, interest and usury that are applicable to motor vehicle sales finance companies.

A motor vehicle sales finance company license may be granted to an applicant anywhere in the United States. Local situs is not a requirement for the granting of a license to an out-of-state applicant."

Chapter 144 Section 3 Laws 2019

SECTION 3. Section 58-21-32 NMSA 1978 (being Laws 2009, Chapter 122, Section 53) is amended to read:

"58-21-32. MORTGAGE CALL REPORTS.--Each licensee shall submit to the nationwide multistate licensing system and registry reports of condition, which shall be in such form and shall contain such information as the nationwide multistate licensing system and registry may require."

Chapter 144 Section 4 Laws 2019

SECTION 4. Section 58-21B-3 NMSA 1978 (being Laws 2009, Chapter 122, Section 3) is amended to read:

"58-21B-3. DEFINITIONS.--As used in the New Mexico Mortgage Loan Originator Licensing Act:

A. "clerical or support duties" may include, subsequent to the receipt of an application:

(1) the receipt, collection, distribution and analysis of information common for the processing or underwriting of a residential mortgage loan; and

(2) communicating with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that such communication does not include offering or negotiating loan rates or terms or counseling consumers about residential mortgage loan rates or terms;

B. "depository institution" has the same meaning as the definition of depository institution in Section 3 of the Federal Deposit Insurance Act and includes any credit union;

C. "director" means the director of the financial institutions division of the regulation and licensing department;

D. "dwelling" means a residential structure that contains one to four units whether or not that structure is attached to real property. "Dwelling" includes an individual condominium unit, an individual cooperative unit, a mobile home and a trailer if used as a residence;

E. "federal banking agencies" means the board of governors of the federal reserve system, the comptroller of the currency, the national credit union administration and the federal deposit insurance corporation;

F. "immediate family member" means a spouse, child, sibling, parent, grandparent or grandchild, and "immediate family member" includes a stepparent, a stepchild, a stepsibling and an adoptive relationship;

G. "individual" means a natural person;

H. "license" means a license issued pursuant to Section 58-21B-6 NMSA 1978;

I. "loan processor or underwriter" means an individual who performs clerical or support duties as an employee at the direction of and subject to the supervision and instruction of a person licensed, or exempt from licensing, pursuant to the Mortgage Loan Company Act;

J. "mortgage loan company" means any person defined as such in the Mortgage Loan Company Act;

K. "mortgage loan originator" means an individual who for compensation or gain or in the expectation of compensation or gain takes a residential mortgage loan application or offers or negotiates terms of a residential mortgage loan. "Mortgage loan originator" does not include:

(1) an individual engaged solely as a loan processor or underwriter except as otherwise provided in Subsection I of this section;

(2) a person that only performs real estate brokerage activities and is licensed or registered in accordance with New Mexico law, unless the person is

compensated by a lender, a mortgage loan company or other mortgage loan originator or by any agent of such lender, mortgage loan company or other mortgage loan originator; and

(3) a person solely involved in extensions of credit relating to timeshare plans, as that term is defined in Section 101(53D) of Title 11 of the United States Code;

L. "nationwide multistate licensing system and registry" means a licensing system developed and maintained by the conference of state bank supervisors and the American association of residential mortgage regulators pursuant to the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 to manage mortgage licenses and other financial services licenses, or a successor registry;

M. "nontraditional mortgage product" means any mortgage product other than a thirty-year fixed rate mortgage;

N. "person" means a natural person, corporation, company, limited liability company, partnership or association;

O. "real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including:

(1) acting as a real estate agent or real estate broker for a buyer, seller, lessor or lessee of real property;

(2) bringing together parties interested in the sale, purchase, lease, rental or exchange of real property;

(3) negotiating, on behalf of any party, any portion of a contract relating to the sale, purchase, lease, rental or exchange of real property, other than in connection with providing financing with respect to any such transaction;

(4) engaging in any activity for which a person engaged in the activity is required to be registered or licensed as a real estate agent or real estate broker pursuant to any applicable law; and

(5) offering to engage in any activity or to act in any capacity described in Paragraphs (1) through (4) of this subsection;

P. "registered mortgage loan originator" means any individual who:

(1) meets the definition of mortgage loan originator and is an employee of:

(a) a depository institution;

(b) a subsidiary that is: 1) owned and controlled by a depository institution; and 2) regulated by a federal banking agency; or

(c) an institution regulated by the farm credit administration; and

(2) is registered with, and maintains a unique identifier through, the nationwide multistate licensing system and registry;

Q. "residential mortgage loan" means any loan primarily for personal, family or household use that is secured by a mortgage, deed of trust or other equivalent consensual security interest on a dwelling or on residential real estate upon which is constructed or is intended to be constructed a dwelling as so defined;

R. "residential real estate" means any real property located in New Mexico upon which is constructed or intended to be constructed a dwelling;

S. "servicer" means a person that collects or receives payments, including principal, interest and trust items such as hazard insurance, property taxes and other amounts due, on behalf of a note holder or investor in accordance with the terms of a residential mortgage loan, and includes working with a borrower on behalf of a note holder or investor, when the borrower is in financial hardship or default, to modify either temporarily or permanently the terms of an existing residential mortgage loan; and

T. "unique identifier" means a number or other identifier assigned by protocols established by the nationwide multistate licensing system and registry."

Chapter 144 Section 5 Laws 2019

SECTION 5. Section 58-21B-4 NMSA 1978 (being Laws 2009, Chapter 122, Section 4) is amended to read:

"58-21B-4. LICENSE AND REGISTRATION REQUIRED TO ORIGINATE MORTGAGE LOANS.--

A. Unless specifically exempted from the New Mexico Mortgage Loan Originator Licensing Act pursuant to Subsection B of this section, an individual shall not engage in the business of a mortgage loan originator with respect to any dwelling

located in New Mexico without first obtaining and maintaining annually a license pursuant to that act. Each licensed mortgage loan originator must register with and maintain a valid unique identifier issued by the nationwide multistate licensing system and registry. All new licenses and license renewals shall expire on December 31 of each year. All license renewal applications shall be submitted on or before November 1 of each year.

B. The following are exempt from the provisions of the New Mexico Mortgage Loan Originator Licensing Act:

(1) registered mortgage loan originators when acting for an entity defined in Subparagraphs (a) through (c) of Paragraph (1) of Subsection P of Section 58-21B-3 NMSA 1978;

(2) an individual who offers or negotiates terms of a residential mortgage loan with or on behalf of an immediate family member of the individual;

(3) an individual who offers or negotiates terms of a real property sale financed in whole or in part by the seller and secured by the seller's real property; or

(4) a licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a lender, a mortgage loan company or other mortgage loan originator or by any agent of such lender, mortgage loan company or other mortgage loan originator.

C. A loan processor or underwriter who is an independent contractor shall not engage in the activities of a loan processor or underwriter unless the independent contractor loan processor or underwriter obtains and maintains a license pursuant to Subsection A of this section. Each contractor loan processor or underwriter licensed as a mortgage loan originator shall have and maintain a valid unique identifier issued by the nationwide multistate licensing system and registry.

D. A mortgage loan originator who is currently licensed in another state through the nationwide multistate licensing system and registry may be granted a temporary mortgage loan originator license valid for ninety days while the mortgage loan originator completes the education and testing requirements of the New Mexico Mortgage Loan Originator Licensing Act. The mortgage loan originator's current license in another state must be valid for more than ninety days beyond the date of application for a temporary license in order to receive a temporary license in New Mexico."

Chapter 144 Section 6 Laws 2019

SECTION 6. Section 58-21B-5 NMSA 1978 (being Laws 2009, Chapter 122, Section 5) is amended to read:

"58-21B-5. STATE LICENSE AND REGISTRATION APPLICATION AND ISSUANCE.--

A. Applicants for a license shall apply in a form as prescribed by the director. Each form shall contain content as set forth by rule, instruction or procedure of the director and may be changed or updated as necessary by the director in order to carry out the purposes of the New Mexico Mortgage Loan Originator Licensing Act.

B. In order to fulfill the purposes of the New Mexico Mortgage Loan Originator Licensing Act, the director may establish relationships or contracts with the nationwide multistate licensing system and registry or other entities designated by the nationwide multistate licensing system and registry to collect and maintain records and process transaction fees or other fees related to licensed mortgage loan originators or other individuals subject to that act.

C. In connection with an application for licensing as a mortgage loan originator, the applicant shall, at a minimum, furnish to the nationwide multistate licensing system and registry information concerning the applicant's identity, including:

(1) fingerprints for submission to the federal bureau of investigation and any governmental agency or entity authorized to receive such information for a state, national and international criminal history background check; and

(2) personal history and experience in a form prescribed by the nationwide multistate licensing system and registry, including the submission of authorization for the nationwide multistate licensing system and registry and the director to obtain:

(a) an independent credit report obtained from a consumer reporting agency described in Section 603(p) of the federal Fair Credit Reporting Act; and

(b) information related to any administrative, civil or criminal findings by any governmental jurisdiction.

D. For the purposes of this section and in order to reduce the points of contact that the federal bureau of investigation may have to maintain for purposes of Paragraph (1) of Subsection C of this section and Subparagraph (b) of Paragraph (2) of Subsection C of this section, the director may use the nationwide multistate licensing system and

registry as a channeling agent for requesting information from and distributing information to the federal department of justice or any governmental agency with mortgage industry oversight authority.

E. For the purposes of this section and in order to reduce the points of contact that the director may have to maintain for purposes of Subparagraphs (a) and (b) of Paragraph (2) of Subsection C of this section, the director may use the nationwide multistate licensing system and registry as a channeling agent for requesting and distributing information to and from any source as directed by the director."

Chapter 144 Section 7 Laws 2019

SECTION 7. Section 58-21B-7 NMSA 1978 (being Laws 2009, Chapter 122, Section 7) is amended to read:

"58-21B-7. PRE-LICENSING EDUCATION OF MORTGAGE LOAN ORIGINATORS.--

A. In order to meet the pre-licensing education requirement referred to in Subsection D of Section 58-21B-6 NMSA 1978, an individual shall complete at least twenty hours of education approved in accordance with Subsection B of this section, which shall include at least:

- (1) three hours of federal law and regulations;
- (2) three hours of ethics, including instruction on fraud, consumer protection and fair lending issues;
- (3) two hours of training related to lending standards for the nontraditional mortgage product marketplace; and
- (4) three hours of New Mexico law and administrative rules.

B. For the purposes of Subsection A of this section, pre-licensing education courses shall be reviewed and approved by the nationwide multistate licensing system and registry based upon reasonable standards. Review and approval of a pre-licensing education course shall include review and approval of the course provider.

C. Nothing in this section shall preclude any pre-licensing education course, as approved by the nationwide multistate licensing system and registry, that is provided by the employer of the applicant or by an entity that is affiliated with the applicant by an agency contract, or by any subsidiary or affiliate of the employer or entity.

D. Pre-licensing education may be offered in a classroom, online or by any other means approved by the nationwide multistate licensing system and registry.

E. The pre-licensing education requirements approved by the nationwide multistate licensing system and registry in Paragraphs (1) through (4) of Subsection A of this section for any state shall be accepted as credit toward completion of pre-licensing education requirements in New Mexico.

F. An individual previously licensed pursuant to the New Mexico Mortgage Loan Originator Licensing Act subsequent to the effective date of that act applying to be licensed again shall prove that the individual has completed all of the continuing education requirements for the year in which the license was last held."

Chapter 144 Section 8 Laws 2019

SECTION 8. Section 58-21B-8 NMSA 1978 (being Laws 2009, Chapter 122, Section 8) is amended to read:

"58-21B-8. TESTING OF MORTGAGE LOAN ORIGINATORS.--

A. In order to meet the written test requirement referred to in Subsection E of Section 58-21B-6 NMSA 1978, an individual shall pass, in accordance with the standards established pursuant to this section, a qualified written test developed by the nationwide multistate licensing system and registry and administered by a test provider approved by the nationwide multistate licensing system and registry based upon reasonable standards.

B. A written test shall not be treated as a qualified written test for purposes of Subsection A of this section unless the test adequately measures the applicant's knowledge and comprehension in appropriate subject areas, including:

- (1) ethics;
- (2) federal law and regulations pertaining to mortgage origination;
- (3) New Mexico law and rules pertaining to mortgage origination; and
- (4) federal and New Mexico law and regulations and rules, including those concerning fraud, consumer protection, the nontraditional mortgage product marketplace and fair lending issues.

C. Nothing in this section shall prohibit a test provider approved by the nationwide multistate licensing system and registry from providing a test at the location of the employer of the applicant or the location of any subsidiary or affiliate of the employer of the applicant, or at the location of any entity with which the applicant holds an exclusive arrangement to conduct the business of a mortgage loan originator.

D. An individual shall not be considered to have passed a qualified written test unless the individual achieves a test score of not less than seventy-five percent correct answers to questions.

E. An individual may retake a test two consecutive times, provided that each retake occurs at least thirty days after the preceding test. After failing three consecutive tests, an individual shall wait at least six months before taking the test again.

F. A licensed mortgage loan originator who fails to maintain a valid license for a period of five years or longer shall retake the test, not taking into account any time during which the individual is a registered mortgage loan originator."

Chapter 144 Section 9 Laws 2019

SECTION 9. Section 58-21B-9 NMSA 1978 (being Laws 2009, Chapter 122, Section 9) is amended to read:

"58-21B-9. STANDARDS FOR LICENSE RENEWAL.--

A. The minimum standards for license renewal for mortgage loan originators shall include the following:

(1) the mortgage loan originator continues to meet the minimum standards for license issuance pursuant to Section 58-21B-6 NMSA 1978;

(2) the mortgage loan originator has satisfied the annual continuing education requirements set forth in Section 58-21B-10 NMSA 1978; and

(3) the mortgage loan originator has paid all required fees for renewal of the license.

B. The license of a mortgage loan originator who fails to satisfy the minimum standards for license renewal shall expire. The director may adopt rules for the reinstatement of expired licenses consistent with the standards established by the nationwide multistate licensing system and registry."

Chapter 144 Section 10 Laws 2019

SECTION 10. Section 58-21B-10 NMSA 1978 (being Laws 2009, Chapter 122, Section 10) is amended to read:

"58-21B-10. CONTINUING EDUCATION FOR MORTGAGE LOAN ORIGINATORS.--

A. In order to meet the annual continuing education requirements set forth in Paragraph (2) of Subsection A of Section 58-21B-9 NMSA 1978, a licensed mortgage loan originator shall complete at least eight hours of education approved in accordance with Subsection B of this section, which shall include at least:

- (1) three hours of federal law and regulations;
- (2) two hours of ethics, including instruction on fraud, consumer protection and fair lending issues;
- (3) two hours of training related to lending standards for the nontraditional mortgage product marketplace; and
- (4) one hour of New Mexico law and administrative rules.

B. For the purposes of Subsection A of this section, continuing education courses shall be reviewed and approved by the nationwide multistate licensing system and registry based upon reasonable standards. Review and approval of a continuing education course shall include review and approval of the course provider.

C. Nothing in this section shall preclude any education course, as approved by the nationwide multistate licensing system and registry, that is provided by the employer of the mortgage loan originator or by an entity that is affiliated with the mortgage loan originator by an agency contract, or any subsidiary or affiliate of such employer or entity.

D. Continuing education may be offered in a classroom, online or by any other means approved by the nationwide multistate licensing system and registry.

E. A licensed mortgage loan originator:

- (1) except for the provisions of Subsection B of Section 58-21B-9 NMSA 1978 and Subsection I of this section, may only receive credit for a continuing education course in the year in which the course is taken; and

(2) may not take the same approved course in the same or successive years to meet the annual requirements for continuing education.

F. A licensed mortgage loan originator who is an approved instructor of an approved continuing education course may receive credit for the licensed mortgage loan originator's own annual continuing education requirement at the rate of two hours' credit for every one hour taught.

G. An individual who has successfully completed the education requirements approved by the nationwide multistate licensing system and registry and as set forth in Subsection A of this section for any state shall be accepted as credit toward completion of continuing education requirements in New Mexico.

H. A licensed mortgage loan originator who subsequently becomes unlicensed shall complete the continuing education requirements for the last year in which the license was held prior to issuance of a new or renewed license.

I. An individual who meets the requirements set forth in Paragraphs (1) and (3) of Subsection A of Section 58-21B-9 NMSA 1978 may make up any deficiency in continuing education as established by rule promulgated by the director."

Chapter 144 Section 11 Laws 2019

SECTION 11. Section 58-21B-11 NMSA 1978 (being Laws 2009, Chapter 122, Section 11) is amended to read:

"58-21B-11. AUTHORITY TO REQUIRE LICENSE AND TO SET FEES.--

A. In addition to any other duties imposed upon the director by law, the director shall require mortgage loan originators to be licensed and registered through the nationwide multistate licensing system and registry. In order to carry out this requirement, the director may participate in the nationwide multistate licensing system and registry. For this purpose, the director may establish requirements as necessary, including:

- (1) background checks for:
 - (a) criminal history through fingerprint or other databases;
 - (b) civil or administrative records;
 - (c) credit history; or

(d) any other information deemed necessary by the nationwide multistate licensing system and registry;

(2) payment of fees to apply for or renew licenses through the nationwide multistate licensing system and registry;

(3) setting or resetting as necessary renewal or reporting dates; and

(4) requirements for amending or surrendering a license or any other activities the director deems necessary for participation in the nationwide multistate licensing system and registry.

B. The director shall establish by rule fees sufficient to cover the costs of administering the New Mexico Mortgage Loan Originator Licensing Act. These fees may include:

(1) an original and renewal license fee paid by each licensed mortgage loan originator;

(2) an application fee to cover the costs of processing applications;

(3) an examination or investigation fee to cover the costs of any examination or investigation of the books and records of a licensed mortgage loan originator or other person subject to the New Mexico Mortgage Loan Originator Licensing Act; and

(4) late fees, license amendment fees and any other fees associated with the costs of administering the New Mexico Mortgage Loan Originator Licensing Act.

C. Mortgage loan originators shall not be charged investigation fees for the processing of complaints when the investigation determines that no violation of the New Mexico Mortgage Loan Originator Licensing Act occurred or when the mortgage loan originator provides a remedy satisfactory to the complainant and the director and no order of the director is issued. All money, fees and penalties collected pursuant to the New Mexico Mortgage Loan Originator Licensing Act shall be deposited into the mortgage regulatory fund.

D. For the purposes of implementing an orderly and efficient licensing process, the director may establish licensing rules and interim procedures for licensing and acceptance of applications. For individuals previously registered or licensed pursuant to the Mortgage Loan Company Act, the director may establish expedited review and licensing procedures."

Chapter 144 Section 12 Laws 2019

SECTION 12. Section 58-21B-12 NMSA 1978 (being Laws 2009, Chapter 122, Section 12) is amended to read:

"58-21B-12. NATIONWIDE MULTISTATE LICENSING SYSTEM AND REGISTRY INFORMATION CHALLENGE PROCESS.--The director shall establish rules whereby mortgage loan originators may challenge information entered into the nationwide multistate licensing system and registry by the director."

Chapter 144 Section 13 Laws 2019

SECTION 13. Section 58-21B-13 NMSA 1978 (being Laws 2009, Chapter 122, Section 13) is amended to read:

"58-21B-13. ENFORCEMENT--VIOLATIONS--PENALTIES.--

A. In order to ensure the effective supervision and enforcement of the New Mexico Mortgage Loan Originator Licensing Act, the director may:

(1) deny, suspend, revoke or decline to renew a license for a violation of the New Mexico Mortgage Loan Originator Licensing Act or rules issued pursuant to that act or an order or a directive entered pursuant to that act;

(2) deny, suspend, revoke or decline to renew a license if an applicant or licensed mortgage loan originator:

(a) fails at any time to meet the requirements of Section 58-21B-6 or 58-21B-9 NMSA 1978; or

(b) withholds information or makes a material misstatement in an application for a license or renewal of a license;

(3) order restitution against mortgage loan originators for violations of that act;

(4) impose fines on mortgage loan originators pursuant to Subsections C through E of this section;

(5) order or direct such other affirmative action as the director deems necessary;

(6) bar or suspend a mortgage loan originator from licensure in New Mexico as a mortgage loan originator; and

(7) issue orders or directives pursuant to the New Mexico Mortgage Loan Originator Licensing Act as follows:

(a) order or direct mortgage loan originators to cease and desist from conducting business, including issuing an immediate temporary order to cease and desist;

(b) order or direct mortgage loan originators to cease any harmful activities or violations of that act, including issuing an immediate temporary order to cease and desist; and

(c) enter immediate temporary orders to cease business pursuant to a license issued pursuant to the authority granted pursuant to Section 58-21B-4 NMSA 1978 if the director determines that the license was erroneously granted or the licensed mortgage loan originator is currently in violation of that act.

B. The director may initiate one or more of the actions set forth in Section 58-21B-15 NMSA 1978.

C. It is a violation of the New Mexico Mortgage Loan Originator Licensing Act for a mortgage loan originator to:

(1) directly or indirectly employ any scheme, device or artifice to defraud or mislead borrowers or lenders or to defraud any person;

(2) engage in any unfair or deceptive practice toward any person;

(3) obtain property by fraud or misrepresentation;

(4) solicit or enter into a contract with a borrower that provides in substance that the mortgage loan originator may earn a fee or commission through "best efforts" to obtain a loan even though no loan is actually obtained for the borrower;

(5) solicit, advertise or enter into a contract for specific interest rates, points or other financing terms unless the terms are actually available at the time of soliciting, advertising or contracting;

(6) conduct any business covered by the New Mexico Mortgage Loan Originator Licensing Act without holding a valid license as required pursuant to that act,

or assist or aid and abet any person in the conduct of business pursuant to that act without a valid license as required pursuant to that act;

(7) fail to make disclosures as required by the New Mexico Mortgage Loan Originator Licensing Act and any other applicable state or federal law, including rules and regulations thereunder;

(8) fail to comply with the provisions of the New Mexico Mortgage Loan Originator Licensing Act or rules or regulations promulgated pursuant to that act, or fail to comply with any other state or federal law, including rules and regulations thereunder, applicable to any business authorized or conducted pursuant to the New Mexico Mortgage Loan Originator Licensing Act;

(9) make, in any manner, a false or deceptive statement or representation, including, with regard to the rates, points or other financing terms or conditions for a residential mortgage loan, engaging in bait-and-switch advertising;

(10) negligently make any false statement or knowingly and willfully make any omission of material fact in connection with any information or reports filed with a governmental agency or the nationwide multistate licensing system and registry or in connection with any investigation conducted by the director or another governmental agency;

(11) make any payment, threat or promise, directly or indirectly, to any person for the purposes of influencing the independent judgment of the person in connection with a residential mortgage loan or make any payment, threat or promise, directly or indirectly, to any appraiser of a property for the purposes of influencing the independent judgment of the appraiser with respect to the value of the property. Nothing in this paragraph shall be construed to prohibit a mortgage loan originator from asking the appraiser to consider additional appropriate property information or provide further detail, substantiation or explanation for the appraiser's value conclusion;

(12) collect, charge, attempt to collect or charge, or to use or propose any agreement purporting to collect or charge, any fee prohibited by the New Mexico Mortgage Loan Originator Licensing Act;

(13) cause or require a borrower to obtain property insurance coverage in an amount that exceeds the replacement cost of the improvements as established by the director and the property insurer;

(14) fail to account truthfully for money belonging to a party to a residential mortgage loan transaction;

(15) engage in mortgage loan origination on behalf of more than one mortgage loan company;

(16) pay, receive or collect in whole or in part any commission, fee or other compensation for originating a mortgage loan in violation of the New Mexico Mortgage Loan Originator Licensing Act, including a mortgage loan originated by any unlicensed person other than an exempt person;

(17) charge or collect any fee, commission or rate of interest or make or originate any mortgage loan with terms or conditions or in a manner contrary to other applicable federal and state laws;

(18) advertise mortgage loans, including rates, margins, discounts, points, fees, commission or other material information, including material limitations on the loans, unless the person is able to make the mortgage loans available to a reasonable number of qualified applicants;

(19) coerce, extort, induce, bribe or intimidate or attempt to coerce, extort, induce, bribe or intimidate an appraiser to value property in excess of its fair market value;

(20) originate a mortgage loan that contains a pre-payment penalty;

(21) misrepresent a borrower's credit rating;

(22) misrepresent, inflate or fabricate, or encourage a borrower to misrepresent, inflate or fabricate, the source or amount of a borrower's actual income or assets, other than allowable grossed-up income not to exceed twenty-five percent per current agency guidelines as set by the director, in the application or underwriting process for a residential mortgage loan;

(23) originate a residential mortgage loan when the terms of that loan are in violation of the Home Loan Protection Act;

(24) originate a residential mortgage loan that does not require documentation and consideration of the borrower's reasonable ability to repay that loan pursuant to its terms. The borrower's ability to repay shall be demonstrated through reasonably reliable documentation that may include payroll receipts, tax returns, bank records, asset and credit evaluations, mortgage payment history or other similar reliable documentation. The provisions of this paragraph shall not apply to a residential mortgage loan originated pursuant to a government streamline program or a streamline program administered by a government-sponsored enterprise, to a reverse mortgage

insured as part of a government program or to loss mitigation activities of a mortgage loan servicer or lender with which the borrower has a current relationship, so long as each of these exceptions, as applicable, provides the borrower with a reasonable, tangible net benefit; or

(25) originate a residential mortgage loan that does not require a determination of the borrower's reasonable ability to pay the costs set forth in this paragraph. In the case of an adjustable rate residential mortgage loan, the reasonable ability to pay shall be determined based on a fully indexed rate and repayment schedule that achieves full amortization over the life of the mortgage loan. The costs, as applicable, to be used in determining the borrower's reasonable ability to pay include principal, interest, real estate taxes, property insurance, property assessments, mortgage insurance premiums and other scheduled long-term monthly debt payments.

D. The director may impose a civil penalty on a mortgage loan originator if the director finds, on the record after notice and opportunity for hearing, that the mortgage loan originator has violated or failed to comply with any requirement of the New Mexico Mortgage Loan Originator Licensing Act or any rule promulgated by the director pursuant to that act or any order issued pursuant to authority of that act.

E. The maximum amount of penalty for each act or omission described in Subsection C of this section shall be twenty-five thousand dollars (\$25,000).

F. Each violation or failure to comply with any directive or order of the director is a separate and distinct violation or failure."

Chapter 144 Section 14 Laws 2019

SECTION 14. Section 58-21B-18 NMSA 1978 (being Laws 2009, Chapter 122, Section 18) is amended to read:

"58-21B-18. CONFIDENTIALITY.--In order to promote more effective regulation and reduce regulatory burden through supervisory information-sharing, except as otherwise provided in Public Law 110-289, Section 1512, the requirements pursuant to any federal law or pursuant to the Inspection of Public Records Act regarding the privacy or confidentiality of any information or material provided to the nationwide multistate licensing system and registry, and any privilege arising pursuant to federal or state law, including the rules of any federal or state court, with respect to such information or material, shall continue to apply to such information or material after the information or material has been disclosed to the nationwide multistate licensing system and registry. Such information and material may be shared with all state and federal regulatory officials with mortgage industry oversight authority without the loss of

privilege or the loss of confidentiality protections provided by federal law or the Inspection of Public Records Act, and the director may enter into agreements or sharing arrangements with other governmental agencies, the conference of state bank supervisors, the American association of residential mortgage regulators or other associations representing governmental agencies as established by rule or order of the director."

Chapter 144 Section 15 Laws 2019

SECTION 15. Section 58-21B-22 NMSA 1978 (being Laws 2009, Chapter 122, Section 22) is amended to read:

"58-21B-22. MORTGAGE CALL REPORTS.--A mortgage loan originator shall submit to the nationwide multistate licensing system and registry reports of condition, which shall be in such form and shall contain such information as the nationwide multistate licensing system and registry may require."

Chapter 144 Section 16 Laws 2019

SECTION 16. Section 58-21B-23 NMSA 1978 (being Laws 2009, Chapter 122, Section 23) is amended to read:

"58-21B-23. REPORT TO NATIONWIDE MULTISTATE LICENSING SYSTEM AND REGISTRY.--Subject to state privacy laws, the director shall report regularly violations of the New Mexico Mortgage Loan Originator Licensing Act, as well as enforcement actions and other relevant information, to the nationwide multistate licensing system and registry subject to the provisions set forth in Section 58-21B-18 NMSA 1978."

Chapter 144 Section 17 Laws 2019

SECTION 17. Section 58-32-102 NMSA 1978 (being Laws 2016, Chapter 88, Section 102) is amended to read:

"58-32-102. DEFINITIONS.--As used in the Uniform Money Services Act:

A. "applicant" means a person that files an application for a license pursuant to the Uniform Money Services Act;

B. "authorized delegate" means a person that a licensee designates to provide money services on behalf of the licensee;

C. "bank" means an institution organized under federal or state law that:

(1) accepts demand deposits or deposits that the depositor may use for payment to third parties and engages in the business of making commercial loans; or

(2) engages in credit card operations and maintains only one office that accepts deposits, does not accept demand deposits or deposits that the depositor may use for payments to third parties, does not accept a savings or time deposit less than one hundred thousand dollars (\$100,000) and does not engage in the business of making commercial loans;

D. "check cashing" means receiving compensation for taking payment instruments or stored value, other than traveler's checks, in exchange for money, payment instruments or stored value delivered to the person delivering the payment instrument or stored value at the time and place of delivery without an agreement specifying when the person taking the payment instrument will present it for collection;

E. "control" means:

(1) ownership of, or the power to vote, directly or indirectly, at least twenty-five percent of a class of voting securities or voting interests of a licensee or person in control of a licensee;

(2) the power to elect, appoint, choose or otherwise designate, directly or indirectly, a majority of executive officers, managers, directors, trustees or other persons exercising managerial authority of a licensee or person in control of a licensee; or

(3) the power to exercise, directly or indirectly, a controlling influence over the management or policies of a licensee or person in control of a licensee;

F. "currency exchange" means receipt of revenues from the exchange of money of one government for money of another government;

G. "director" means the director of the financial institutions division of the regulation and licensing department;

H. "electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities;

I. "executive officer" means a president, chair of the executive committee, chief financial officer, responsible individual or other individual who performs similar functions;

J. "internet-based money services business" means a business that provides money transmission, check cashing or currency exchange services to residents of New Mexico through the internet;

K. "licensee" means a person licensed pursuant to the Uniform Money Services Act;

L. "limited station" means private premises where a check casher is authorized to engage in check cashing solely for the employees of the particular employer or group of employers specified in the check casher's license application;

M. "mobile location" means a vehicle or a movable facility where check cashing occurs;

N. "monetary value" means a medium of exchange, whether or not redeemable in money;

O. "money" means a medium of exchange that is authorized or adopted by the United States or a foreign government. "Money" includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more governments;

P. "money services" means money transmission, check cashing or currency exchange;

Q. "money transmission" means selling or issuing payment instruments, stored value or receiving money or monetary value for transmission. "Money transmission" does not include the provision solely of delivery, online or telecommunications services or network access;

R. "nationwide multistate licensing system and registry" means a licensing system developed and maintained by the conference of state bank supervisors and the American association of residential mortgage regulators pursuant to the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 to manage mortgage licenses and other financial services licenses, or a successor registry;

S. "outstanding", with respect to a payment instrument, means issued or sold by or for the licensee and reported as sold but not yet paid by or for the licensee;

T. "payment instrument" means a check, draft, money order, traveler's check or other instrument for the transmission or payment of money or monetary value, whether or not negotiable. "Payment instrument" does not include a credit card voucher, letter of credit or instrument that is redeemable by the issuer in goods or services;

U. "person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency or instrumentality, public corporation or any other legal or commercial entity;

V. "record", when used as a noun, means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

W. "responsible individual" means an individual who is employed by a licensee and has principal managerial authority over the provision of money services by the licensee in New Mexico;

X. "sign" means, with present intent to authenticate or adopt a record:

(1) to execute or adopt a tangible symbol; or

(2) to attach to or logically associate with the record an electronic sound, symbol or process;

Y. "state" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States;

Z. "stored value" means monetary value that is evidenced by an electronic record;

AA. "unique identifier" means a number or other identifier assigned by protocols established by the nationwide multistate licensing system and registry; and

BB. "unsafe or unsound practice" means a practice or conduct by a person licensed to engage in money transmission or an authorized delegate of such a person that creates the likelihood of material loss, insolvency or dissipation of the licensee's assets, or otherwise materially prejudices the interests of its customers."

Chapter 144 Section 18 Laws 2019

SECTION 18. Section 58-32-202 NMSA 1978 (being Laws 2016, Chapter 88, Section 202) is amended to read:

"58-32-202. APPLICATION FOR LICENSE.--

A. A person applying for a license pursuant to Article 2 of the Uniform Money Services Act shall apply in a record signed under penalty of perjury that shall be in a form and in a medium required by the director. Each form shall contain content as set forth by rule, instruction or procedure of the director. The form shall include the following information:

(1) the legal name and residential and business addresses of the applicant and any fictitious or trade name used by the applicant in conducting its business;

(2) a list of any criminal convictions of the applicant and any material litigation in which the applicant has been involved in the ten-year period next preceding the submission of the application;

(3) a description of any money services previously provided by the applicant and the money services that the applicant seeks to provide in New Mexico;

(4) a list of the applicant's proposed authorized delegates and the locations in New Mexico where the applicant and its authorized delegates propose to engage in money transmission or provide other money services;

(5) a list of other states in which the applicant is licensed to engage in money transmission or provide other money services and any license revocations, suspensions or other disciplinary action taken against the applicant in another state;

(6) information concerning any bankruptcy or receivership proceedings affecting the applicant;

(7) a sample form of contract for authorized delegates, if applicable, and a sample form of payment instrument or instrument upon which stored value is recorded, if applicable;

(8) the name and address of any bank through which the applicant's payment instruments and stored value will be paid;

(9) a description of the source of money and credit to be used by the applicant to provide money services; and

(10) any other information the director reasonably requires with respect to the applicant.

B. In order to fulfill the purposes of the Uniform Money Services Act, the director may establish relationships or contracts with the nationwide multistate licensing system and registry or other entities designated by the nationwide multistate licensing system and registry to collect and maintain records and process transaction fees or other fees related to applicants or other individuals subject to that act.

C. In connection with an application for licensing pursuant to Article 2 of the Uniform Money Services Act, the applicant shall, at a minimum, furnish to the nationwide multistate licensing system and registry the following information in a form and medium prescribed by the nationwide multistate licensing system and registry:

(1) the applicant's history and experience; and

(2) an authorization for the nationwide multistate licensing system and registry and the director to obtain:

(a) an independent credit report; and

(b) information related to any administrative, civil or criminal findings by any governmental jurisdiction.

D. If an applicant is a corporation, limited liability company, partnership or other entity, the applicant shall also provide:

(1) the date of the applicant's incorporation or formation and the state or country of incorporation or formation;

(2) if applicable, a certificate of good standing from the state or country in which the applicant is incorporated or formed;

(3) a brief description of the structure or organization of the applicant, including any parent or subsidiary of the applicant, and whether any parent or subsidiary is publicly traded;

(4) the legal name, any fictitious or trade name, all business and residential addresses and the employment in the ten-year period next preceding the submission of the application of each executive officer, manager, director or person that has control of the applicant;

(5) a list of any criminal convictions and material litigation in which any executive officer, manager, director or person in control of the applicant has been involved in the ten-year period next preceding the submission of the application;

(6) a copy of the applicant's audited financial statements for the most recent fiscal year and, if available, for the two-year period next preceding the submission of the application;

(7) a copy of the applicant's unconsolidated financial statements for the current fiscal year, whether audited or not, and, if available, for the two-year period next preceding the submission of the application;

(8) if the applicant is publicly traded, a copy of the most recent report filed with the United States securities and exchange commission pursuant to Section 13 of the federal Securities Exchange Act of 1934;

(9) if the applicant is a wholly owned subsidiary of:

(a) a corporation publicly traded in the United States, a copy of audited financial statements for the parent corporation for the most recent fiscal year or a copy of the parent corporation's most recent report filed pursuant to Section 13 of the federal Securities Exchange Act of 1934; or

(b) a corporation publicly traded outside the United States, a copy of similar documentation filed with the regulator of the parent corporation's domicile outside the United States;

(10) if the applicant has a registered agent in New Mexico, the name and address of the applicant's registered agent in New Mexico; and

(11) any other information the director reasonably requires with respect to the applicant.

E. A nonrefundable application fee of two thousand dollars (\$2,000) and a nonrefundable license fee of two thousand dollars (\$2,000) shall accompany an application for a license pursuant to Article 2 of the Uniform Money Services Act. The application shall also be accompanied by the surety bond or other security required by Section 58-32-203 NMSA 1978.

F. The director may waive one or more requirements of Subsection C or D of this section or permit an applicant to submit other information in lieu of the required information.

G. As used in this section, "material litigation" means litigation that, according to generally accepted accounting principles, is significant to an applicant's or a licensee's financial health and would be required to be disclosed in the applicant's or licensee's annual audited financial statements, report to shareholders or similar records."

Chapter 144 Section 19 Laws 2019

SECTION 19. Section 58-32-302 NMSA 1978 (being Laws 2016, Chapter 88, Section 302) is amended to read:

"58-32-302. APPLICATION FOR LICENSE.--

A. A person applying for a license pursuant to Article 3 of the Uniform Money Services Act shall apply in a record signed under penalty of perjury that shall be in a form and in a medium required by the director. Each form shall contain content as set forth by rule, instruction or procedure of the director. The form shall include the following information:

(1) the legal name and residential and business addresses of the applicant if the applicant is an individual or, if the applicant is not an individual, the name of each partner, executive officer, manager and director;

(2) the location of the principal office of the applicant;

(3) complete addresses of other locations in New Mexico where the applicant proposes to engage in check cashing or currency exchange, including all limited stations and mobile locations;

(4) a description of the source of money and credit to be used by the applicant to engage in check cashing and currency exchange; and

(5) other information the director reasonably requires with respect to the applicant, but not more than the director may require pursuant to Article 2 of the Uniform Money Services Act.

B. In connection with an application for licensing pursuant to Article 3 of the Uniform Money Services Act, the applicant shall, at a minimum, furnish to the nationwide multistate licensing system and registry the following information in a form and medium prescribed by the nationwide multistate licensing system and registry:

(1) the applicant's history and experience; and

(2) an authorization for the nationwide multistate licensing system and registry and the director to obtain:

(a) an independent credit report; and

(b) information related to any administrative, civil or criminal findings by any governmental jurisdiction.

C. A nonrefundable application fee of two thousand dollars (\$2,000) and a nonrefundable license fee of two thousand dollars (\$2,000) shall accompany an application for a license pursuant to Article 3 of the Uniform Money Services Act."

Chapter 144 Section 20 Laws 2019

SECTION 20. Section 58-32-402 NMSA 1978 (being Laws 2016, Chapter 88, Section 402) is amended to read:

"58-32-402. APPLICATION FOR LICENSE.--

A. A person applying for a license pursuant to Article 4 of the Uniform Money Services Act shall apply in a record signed under penalty of perjury that shall be in a form and in a medium required by the director. Each form shall contain content as set forth by rule, instruction or procedure of the director. The form shall include the following information:

(1) the legal name and residential and business addresses of the applicant if the applicant is an individual or, if the applicant is not an individual, the name of each partner, executive officer, manager and director;

(2) the location of the principal office of the applicant;

(3) complete addresses of other locations in New Mexico where the applicant proposes to engage in currency exchange or check cashing, including all limited stations and mobile locations;

(4) a description of the source of money and credit to be used by the applicant to engage in check cashing and currency exchange; and

(5) other information the director reasonably requires with respect to the applicant, but not more than the director may require pursuant to Article 2 of the Uniform Money Services Act.

B. In connection with an application for licensing pursuant to Article 4 of the Uniform Money Services Act, the applicant shall, at a minimum, furnish to the nationwide multistate licensing system and registry the following information in a form and medium prescribed by the nationwide multistate licensing system and registry:

(1) the applicant's history and experience; and

(2) an authorization for the nationwide multistate licensing system and registry and the director to obtain:

(a) an independent credit report; and

(b) information related to any administrative, civil or criminal findings by any governmental jurisdiction.

C. A nonrefundable application fee of two thousand dollars (\$2,000) and a nonrefundable license fee of two thousand dollars (\$2,000) shall accompany an application for a license pursuant to Article 4 of the Uniform Money Services Act."

Chapter 144 Section 21 Laws 2019

SECTION 21. Section 58-32-602 NMSA 1978 (being Laws 2016, Chapter 88, Section 602) is amended to read:

"58-32-602. COOPERATION.--The director may consult and cooperate with other state agencies, agencies of another state or of the United States or the nationwide multistate licensing system and registry in enforcing and administering the Uniform Money Services Act. They may jointly pursue examinations and take other official action that they are otherwise empowered to take."

Chapter 144 Section 22 Laws 2019

SECTION 22. Section 58-32-603 NMSA 1978 (being Laws 2016, Chapter 88, Section 603) is amended to read:

"58-32-603. REPORTS.--

A. A licensee shall file with the director a record signed under penalty of perjury that shall be in a form and in a medium prescribed by the director and that shall contain any material change in information provided in the licensee's application or the information provided by the licensee to the nationwide multistate licensing system and

registry. The record shall be filed within fifteen business days after the licensee has reason to know of the change.

B. A licensee shall file with the director within forty-five days after the end of each fiscal quarter a record signed under penalty of perjury that shall be in a form and in a medium prescribed by the director and that shall contain a current list of all authorized delegates and locations in New Mexico where the licensee or an authorized delegate of the licensee provides money services, including limited stations and mobile locations. The licensee shall state the name and street address of each location and authorized delegate.

C. A licensee shall file a report with the director within one business day after the licensee has reason to know of the occurrence of any of the following events:

(1) the filing of a petition by or against the licensee pursuant to the United States Bankruptcy Code for bankruptcy or reorganization;

(2) the filing of a petition by or against the licensee for receivership, the commencement of any other judicial or administrative proceeding for its dissolution or reorganization or the making of a general assignment for the benefit of its creditors;

(3) the commencement of a proceeding to revoke or suspend its license in a state or country in which the licensee engages in business or is licensed;

(4) the cancellation or other impairment of the licensee's bond or other security;

(5) a charge or conviction of the licensee or of an executive officer, manager, director or person in control of the licensee for a felony; or

(6) a charge or conviction of an authorized delegate for a felony.

D. The report required pursuant to Subsection C of this section shall be a record signed under penalty of perjury and in a form and in a medium prescribed by the director and shall describe the event requiring the report."

Chapter 144 Section 23 Laws 2019

SECTION 23. Section 58-32-901 NMSA 1978 (being Laws 2016, Chapter 88, Section 901) is amended to read:

"58-32-901. POWERS OF DIRECTOR.--

A. The director may act on the director's own initiative or in response to complaints and may receive complaints, take action to obtain voluntary compliance with the Uniform Money Services Act, refer cases to the office of the attorney general or any other state agency or agency of another state or the United States and seek or provide remedies as provided in the Uniform Money Services Act.

B. The director may investigate and examine, in New Mexico or in any other state or country, by subpoena or otherwise, the activities, books, accounts and records of a person that provides or offers to provide money services, or a person to which a licensee has delegated its obligations pursuant to an agreement or the Uniform Money Services Act, to determine compliance with the Uniform Money Services Act. Information that identifies individuals who have agreements with the licensee shall not be disclosed to the public. In connection with the investigation, the director may:

(1) charge the person the reasonable expenses necessarily incurred to conduct the examination; and

(2) require or permit a person to file a statement under oath as to all the facts and circumstances of a matter to be investigated.

C. The director may enter into cooperative arrangements with other state agencies or agencies of another state or of the United States, or the nationwide multistate licensing system and registry, and may exchange with any of those entities information about a licensee, including information obtained during an examination of the licensee.

D. The director may bring an action to enforce the Uniform Money Services Act in New Mexico or in any other state or country.

E. The director may recover the reasonable expenses of enforcing the Uniform Money Services Act pursuant to Article 8 of that act, including nongovernmental attorney and expert witness fees based on the hours reasonably expended and the hourly rates for attorneys and expert witnesses of comparable experience in the community."

Chapter 144 Section 24 Laws 2019

SECTION 24. Section 61-18A-1 NMSA 1978 (being Laws 1987, Chapter 252, Section 1) is amended to read:

"61-18A-1. SHORT TITLE.--Chapter 61, Article 18A NMSA 1978 may be cited as the "Collection Agency Regulatory Act"."

Chapter 144 Section 25 Laws 2019

SECTION 25. Section 61-18A-2 NMSA 1978 (being Laws 1987, Chapter 252, Section 2) is amended to read:

"61-18A-2. DEFINITIONS.--As used in the Collection Agency Regulatory Act:

A. "division" means the financial institutions division of the regulation and licensing department;

B. "director" means the director of the division or a duly authorized agent designated by the director;

C. "collection agency" means a person engaging in business for the purpose of collecting or attempting to collect, directly or indirectly, debts owed or due or asserted to be owed or due another, where such person is so engaged by two or more creditors. The term also includes a creditor who, in the process of collecting the creditor's own debts, uses any name other than the creditor's own that would indicate that a third person is collecting or attempting to collect the debts. The term does not include:

(1) an officer or employee of a creditor while, in the name of the creditor, collecting debts for such creditor;

(2) a person while collecting debts for another person, both of whom are related by common ownership or affiliated by corporate control, if the person collects debts only for persons to whom it is so related or affiliated and if the principal business of such person is not the collection of debts;

(3) an officer or employee of the United States, a state or a political subdivision thereof to the extent that collecting or attempting to collect a debt is in the performance of official duties;

(4) a person while serving or attempting to serve legal process on any other person in connection with the judicial enforcement of a debt;

(5) a nonprofit organization that, at the request of debtors, performs bona fide consumer credit counseling and assists debtors in the liquidation of their debts by receiving payments from such debtors and distributing such amounts to creditors;

(6) an attorney-at-law collecting a debt as an attorney on behalf of and in the name of a client; or

(7) a person collecting or attempting to collect a debt owed or due or asserted to be owed or due to another to the extent such activity:

(a) is incidental to a bona fide fiduciary obligation or a bona fide escrow arrangement;

(b) concerns a debt that was originated by such person;

(c) concerns a debt that was not in default at the time it was obtained by such person; or

(d) concerns a debt obtained by such person as a secured party in a commercial credit transaction involving the creditor;

D. "communication" means the conveying of information regarding a debt directly or indirectly to a person through any medium;

E. "creditor" means a person who offers or extends credit creating a debt or to whom a debt is owed, but the term does not include a person to the extent that the person receives an assignment or transfer of a debt in default solely for the purpose of facilitating collection of such debt for another;

F. "debt" means an obligation or alleged obligation of a debtor to pay money arising out of a transaction in which the money, property, insurance or services that are the subject of the transaction are primarily for personal, family or household purposes, whether or not such obligation has been reduced to judgment;

G. "debt collector" means a collection agency, a reposessor, a manager, a solicitor and an attorney-at-law collecting a debt as an attorney on behalf of and in the name of a client;

H. "debtor" means a natural person obligated or allegedly obligated to pay a debt;

I. "location information" means a debtor's place of abode and the telephone number at such place or the debtor's place of employment;

J. "manager" means a natural person who qualifies under the Collection Agency Regulatory Act to be in full-time charge of a licensed collection agency and to whom a manager's license has been issued by the director;

K. "nationwide multistate licensing system and registry" means a licensing system developed and maintained by the conference of state bank supervisors and the American association of residential mortgage regulators pursuant to the federal Secure and Fair Enforcement for Mortgage Licensing Act of 2008 to manage mortgage licenses and other financial services licenses, or a successor registry;

L. "person" means an individual, corporation, partnership, association, joint-stock company, trust where the interests of the beneficiaries are evidenced by a security, unincorporated organization, government or political subdivision of a government;

M. "repossessor" means a person engaged solely in the business of repossessing personal property for others for a fee. The term does not include a duly licensed collection agency; and

N. "solicitor" means a natural person who, through lawful means, communicates with debtors or solicits the payment of debts for a collection agency licensee by the use of telephone, personal contact, letters or other methods of collection conducted from and within the licensee's office."

Chapter 144 Section 26 Laws 2019

SECTION 26. Section 61-18A-3 NMSA 1978 (being Laws 1987, Chapter 252, Section 3) is amended to read:

"61-18A-3. ADMINISTRATION AND ENFORCEMENT.--

A. The administration and enforcement of the Collection Agency Regulatory Act shall be vested in the office of the director as set forth in that act.

B. The director shall investigate violations or alleged violations of the Collection Agency Regulatory Act by persons engaged in business as collection agencies or repossessors who fail to obtain licenses.

C. The director may examine the business and the books, accounts, records and files used therein by a collection agency licensee, and for such purpose, the director shall have free access to the offices, places of business, books, accounts, records, papers, files, safes and vaults of all licensees and other persons engaging or attempting to engage in business as a collection agency.

D. Any examination reports or other documents or information developed in administration of this section are confidential and not subject to subpoena.

E. Applicants for a license issued pursuant to the Collection Agency Regulatory Act shall apply on a form prescribed by the director. Information required on the form shall be set forth by rule, instruction or procedure of the director and may be changed or updated as necessary by the director in order to carry out the purposes of the Collection Agency Regulatory Act.

F. In order to fulfill the purposes of the Collection Agency Regulatory Act, the director may establish relationships or contracts with the nationwide multistate licensing system and registry or other entities designated by the nationwide multistate licensing system and registry to collect and maintain records and process transaction fees or other fees related to licenses issued pursuant to the Collection Agency Regulatory Act.

G. An applicant for a license pursuant to the Collection Agency Regulatory Act shall, at a minimum, furnish to the nationwide multistate licensing system and registry information concerning the applicants identity, including:

(1) the applicant's personal history and experience in a form prescribed by the nationwide multistate licensing system and registry; and

(2) authorization for the nationwide multistate licensing system and registry and the director to obtain information related to any administrative, civil or criminal findings by any governmental jurisdiction regarding the applicant.

H. The director may use the nationwide multistate licensing system and registry as a channeling agent for requesting and distributing information provided pursuant to Paragraphs (1) and (2) of Subsection G of this section to and from any source as deemed appropriate by the director."

Chapter 144 Section 27 Laws 2019

SECTION 27. Section 61-18A-7 NMSA 1978 (being Laws 1987, Chapter 252, Section 7, as amended) is amended to read:

"61-18A-7. APPLICATION FOR LICENSE.--

A. Application for a collection agency license, reposessor's license or manager's license shall be made to the director in such form as may be required by the director.

B. Applicants for an original license issued pursuant to the Collection Agency Regulatory Act for the period beginning July 1, 2020 and ending December 31, 2020

shall pay an amount equal to one-half of the original license fee for the applicable license as established pursuant to Section 61-18A-30 NMSA 1978.

C. Applicants for renewal of a license issued pursuant to the Collection Agency Regulatory Act with an expiration date of June 30, 2020 may apply for renewal of the license for the period beginning July 1, 2020 and ending December 31, 2020 and shall pay an amount equal to one-half of the renewal license fee for the applicable license as established pursuant to Section 61-18A-30 NMSA 1978.

D. Applicants for all licenses issued pursuant to the Collection Agency Regulatory Act beginning on or after January 1, 2021, and ending at the conclusion of the calendar year for which the license may be issued, shall pay an amount equal to the applicable original or renewal license fee as established pursuant to Section 61-18A-30 NMSA 1978."

Chapter 144 Section 28 Laws 2019

SECTION 28. Section 61-18A-8 NMSA 1978 (being Laws 1987, Chapter 252, Section 8) is amended to read:

"61-18A-8. APPLICATIONS--REQUIRED INFORMATION.--

A. The application for a collection agency license shall state, among other things that may be required, the name of the applicant together with the name under which the applicant will do business and the location by street number and city in this state of the office of the business for which the license is sought.

B. The application shall state:

(1) in the case of an individual, the full residence address of the applicant;

(2) in the case of a partnership, the true names and complete residence addresses of all partners;

(3) in the case of a corporation, the true names and complete residence addresses of all directors and officers and the true names and residence addresses of all holders of ten percent or more of the corporation's outstanding stock and other securities and the number of shares or units of each and of all classes held by each and the total number of shares or units of each class issued and outstanding; and

(4) in the case of a nonstock corporation or an unincorporated association, the true names and complete residence addresses of all officers, directors and trustees.

C. The application shall state the name of the licensed manager who will be actively in charge of the collection agency for which the license is sought.

D. The director may establish, by rule, regulation or order, requirements for a license application as necessary, including:

(1) background checks for criminal history through fingerprint or other databases;

(2) civil or administrative records;

(3) credit history; and

(4) other information as deemed relevant and necessary by the director."

Chapter 144 Section 29 Laws 2019

SECTION 29. Section 61-18A-22 NMSA 1978 (being Laws 1987, Chapter 252, Section 22) is amended to read:

"61-18A-22. OFFICE MANAGEMENT--LICENSE.--

A. Every licensed office of a collection agency, whether a principal or branch office, shall be under the active charge of a licensed manager. Each manager's license shall be issued by the director upon qualification by the applicant and shall be renewed annually upon application accompanied by the manager's renewal license fee, which application is to be filed with the division on or before November 30 of each year. Unless so renewed, each manager's license shall expire on January 1 unless previously revoked or canceled.

B. As used in this section, "under the active charge of a licensed manager" means that a licensed manager shall be physically present at the licensee's office at least seventy-five percent of the time during which the office is open for business."

Chapter 144 Section 30 Laws 2019

SECTION 30. Section 61-18A-27 NMSA 1978 (being Laws 1987, Chapter 252, Section 27) is amended to read:

"61-18A-27. RENEWAL OF LICENSE--FEE.--

A. A licensee desiring renewal of the licensee's license shall, on or before November 30 of each year, file with the director an application for renewal on forms as may be designated by the director. The application shall be accompanied by the renewal fee.

B. The director shall issue a renewal license that shall be dated January 1 next ensuing and shall bear the date to and including which the license is renewed."

Chapter 144 Section 31 Laws 2019

SECTION 31. REPEAL.--Section 61-18A-18 NMSA 1978 (being Laws 1987, Chapter 252, Section 18) is repealed.

Chapter 144 Section 32 Laws 2019

SECTION 32. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

House Bill 584

Approved April 2, 2019

LAWS 2019, CHAPTER 145

AN ACT

RELATING TO MOTOR VEHICLES; PROHIBITING RECOVERY AND REPAIR VEHICLES FROM USING FLASHING LIGHTS UNLESS THEY ARE STOPPED ON A ROADWAY.

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

Chapter 145 Section 1 Laws 2019

SECTION 1. Section 66-3-835 NMSA 1978 (being Laws 1978, Chapter 35, Section 141, as amended) is amended to read:

"66-3-835. SPECIAL RESTRICTIONS ON LAMPS.--

A. Lighted lamps or illuminating devices upon a motor vehicle, other than headlamps, spot lamps, auxiliary lamps, flashing turn signals, emergency vehicle warning lamps and school bus warning lamps, that project a beam of light of an intensity greater than three hundred candle power shall be directed so that no part of the high-intensity portion of the beam strikes the level of the roadway on which the vehicle stands at a distance of more than seventy-five feet from the vehicle.

B. A person shall not drive or move upon a highway a vehicle or equipment with a lamp or device displaying a red light visible from directly in front of the center of the vehicle or equipment, except as expressly authorized or required by the Motor Vehicle Code.

C. Flashing lights are prohibited except as provided in this section and except on authorized emergency vehicles, school buses, snow-removal equipment and highway-marking equipment. Except as otherwise provided in this section, flashing red lights may be used as warning lights on disabled or parked vehicles and on any vehicle as a means of indicating a turn.

D. A recovery or repair vehicle standing on a highway for the purpose of removing, and actually engaged in removing, a disabled vehicle may display flashing lights in any color except red. This provision shall not be construed as permitting the use of flashing lights by recovery or repair vehicles in going to or returning from the location of disabled vehicles or while engaged in towing a disabled vehicle.

E. Only fire department vehicles, law enforcement agency vehicles, ambulances and school buses may display flashing red lights visible from the front of the vehicle. All other vehicles authorized by the Motor Vehicle Code to display flashing lights visible from the front of the vehicle may use any other color of light that is visible."

Chapter 145 Section 2 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

House Bill 631

Approved April 2, 2019

LAWS 2019, CHAPTER 146

AN ACT

RELATING TO VETERANS' AFFAIRS; TRANSFERRING OVERSIGHT OF THE NEW MEXICO STATE VETERANS' HOME FROM THE VETERANS' SERVICES DEPARTMENT TO THE DEPARTMENT OF HEALTH.

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

Chapter 146 Section 1 Laws 2019

SECTION 1. Section 9-22-12.1 NMSA 1978 (being Laws 2017, Chapter 84, Section 7) is amended to read:

"9-22-12.1. HEALTH CARE COORDINATION DIVISION.--The health care coordination division shall:

A. develop and coordinate veterans programs and outreach, including transitional living, housing and health care programs; and

B. advise and coordinate with the secretary regarding all health care-related issues for veterans and veterans' families."

Chapter 146 Section 2 Laws 2019

SECTION 2. Section 23-1-12 NMSA 1978 (being Laws 1977, Chapter 253, Section 42, as amended) is amended to read:

"23-1-12. TRANSFER OF EXISTING INSTITUTIONS.--

A. All property, appropriations and cash balances now held in the name of the following institutional facilities, or by any state agency for the indicated facilities, the use of which is not limited by the terms of any trust or constitutional provision, and staff employed by the following institutional facilities, are transferred to the department of health:

- (1) New Mexico behavioral health institute at Las Vegas;
- (2) Los Lunas medical center;

- (3) Fort Bayard medical center veterans' unit;
- (4) Villa Solano;
- (5) Fort Stanton hospital;
- (6) Turquoise lodge;
- (7) Pecos lodge; and
- (8) New Mexico state veterans' home.

B. The secretary of health may delegate the authority for the supervision and operation of any of the institutional facilities transferred under Subsection A of this section to any of the organizational units within the department of health."

Chapter 146 Section 3 Laws 2019

SECTION 3. Section 23-4-1 NMSA 1978 (being Laws 1974 (S.S.), Chapter 2, Section 1, as amended) is amended to read:

"23-4-1. VETERANS' HOME CREATED--ADVISORY BOARD.--

A. The "New Mexico state veterans' home" located near Truth or Consequences, New Mexico, is declared to be a state home for veterans of service in the armed forces of the United States and their qualifying spouses, surviving spouses and gold star parents.

B. The "Fort Bayard medical center veterans' unit", a separate and distinct unit of the Fort Bayard medical center, located near Silver City, New Mexico, is declared to be a state home for veterans of service in the armed forces of the United States.

C. There is created the "New Mexico veterans' home advisory board". The advisory board shall consist of nine members as follows:

- (1) the secretary of health or the secretary's designee;
- (2) the secretary of veterans' services or the secretary's designee;
- (3) the secretary of aging and long-term services or the secretary's designee;

(4) the administrator of a private nursing home;

(5) a registered health care professional who is employed by a public or private nursing home;

(6) the state commander of the department of New Mexico veterans of foreign wars or the department commander's designee;

(7) the department commander of the American legion or the department commander's designee;

(8) the state commander of disabled American veterans or the state commander's designee; and

(9) a member of any other congressionally recognized veteran service organization.

D. The governor shall appoint the members designated in Paragraphs (4), (5) and (9) of Subsection C of this section, and their terms shall be for three years each.

E. The New Mexico state veterans' home shall be under the control and oversight of the department of health.

F. The New Mexico veterans' home advisory board shall provide advice to the secretaries of veterans' services and health and the administrators of the New Mexico state veterans' home and the Fort Bayard medical center regarding veterans' services."

Chapter 146 Section 4 Laws 2019

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

House Bill 643, aa

Approved April 2, 2019

LAWS 2019, CHAPTER 147

AN ACT

RELATING TO WATER; ENACTING THE WATER DATA ACT; DIRECTING AGENCIES TO IDENTIFY AND INTEGRATE KEY WATER DATA SETS; PROVIDING DUTIES; DIRECTING THE ESTABLISHMENT OF A WATER DATA ACCOUNT.

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

Chapter 147 Section 1 Laws 2019

SECTION 1. SHORT TITLE.--This act may be cited as the "Water Data Act".

Chapter 147 Section 2 Laws 2019

SECTION 2. DEFINITIONS.--As used in the Water Data Act:

A. "agencies" means:

- (1) the bureau of geology and mineral resources of the New Mexico institute of mining and technology;
- (2) the interstate stream commission;
- (3) the office of the state engineer;
- (4) the department of environment; and
- (5) the energy, minerals and natural resources department;

B. "data and information platform" means software, hardware and tools that collect, organize, integrate, distribute and archive water data that at a minimum:

- (1) integrate water data managed by state and local entities using consistent and standardized formats; and
- (2) integrate:
 - (a) state and local government data on streamflow, precipitation, reservoir and irrigation system operations, ground water use and levels, municipal and industrial water use and land uses, but not including data from residential wells;
 - (b) data on water rights, water diversions and water quality; and

(c) data on fish, aquatic and riparian systems and ecological data;
and

C. "water data" means measurements of basic properties relating to the planning and management of water resources, including streamflow, precipitation, ground water, water quality and water use in agriculture, industry and municipal uses and natural systems.

Chapter 147 Section 3 Laws 2019

SECTION 3. WATER DATA AGENCIES--DUTIES--STANDARDS AND BEST PRACTICES--ANNUAL PLAN.--

A. By January 1, 2020, the agencies, as convened by the bureau of geology and mineral resources of the New Mexico institute of mining and technology, shall:

- (1) identify key water data, information and tools needed to support water management and planning;
- (2) develop common water data standards for data collection;
- (3) develop an integrated water data and information platform; and
- (4) identify available and unavailable water data.

B. Water research undertaken with state funding shall comply with the common water data standards and best practices developed by the agencies.

C. The agencies shall collaborate with other regional and national efforts to share, integrate and manage water data.

D. Within two hundred seventy-five days of enactment of the Water Data Act, and thereafter annually by September 1 of each year, the agencies shall develop and submit a plan to the governor and the appropriate interim legislative committee that details:

- (1) an assessment of water data and information needs to support water management and planning;
- (2) goals, targets and actions to carry out the purposes of the Water Data Act in the upcoming fiscal year;

(3) budgetary resources to carry out the purposes of the Water Data Act;
and

(4) metrics for achieving the purposes of the Water Data Act.

Chapter 147 Section 4 Laws 2019

SECTION 4. WATER DATA ACCOUNT.--The board of regents of the New Mexico institute of mining and technology shall establish a "water data account" to receive appropriations from the legislature and gifts, grants or donations for the bureau of geology and mineral resources to carry out the purposes of the Water Data Act. _____

House Bill 651, aa

Approved April 2, 2019

LAWS 2019, CHAPTER 148

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE; ALLOWING CERTAIN CAREER AND TECHNICAL EDUCATION COURSES TO COUNT AS ENGLISH, MATHEMATICS AND SCIENCE CREDITS.

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

Chapter 148 Section 1 Laws 2019

SECTION 1. Section 22-13-1.1 NMSA 1978 (being Laws 1986, Chapter 33, Section 5, as amended) is amended to read:

"22-13-1.1. GRADUATION REQUIREMENTS.--

A. At the end of grades eight through eleven, each student shall prepare an interim next-step plan that sets forth the coursework for the grades remaining until high school graduation. Each year's plan shall explain any differences from previous interim next-step plans, shall be filed with the principal of the student's high school and shall be signed by the student, the student's parent and the student's guidance counselor or other school official charged with coursework planning for the student.

B. Each student must complete a final next-step plan during the senior year and prior to graduation. The plan shall be filed with the principal of the student's high school and shall be signed by the student, the student's parent and the student's guidance counselor or other school official charged with coursework planning for the student.

C. An individualized education program that meets the requirements of Subsections A and B of this section and that meets all applicable transition and procedural requirements of the federal Individuals with Disabilities Education Act for a student with a disability shall satisfy the next-step plan requirements of this section for that student.

D. A local school board shall ensure that each high school student has the opportunity to develop a next-step plan based on reports of college and workplace readiness assessments, as available, and other factors and is reasonably informed about:

(1) curricular and course options, including honors or advanced placement courses, dual-credit courses, distance learning courses, career clusters and career pathways, pre-apprenticeship programs or remediation programs that the college and workplace readiness assessments indicate to be appropriate;

(2) opportunities available that lead to different post-high-school options;
and

(3) alternative opportunities available if the student does not finish a planned curriculum.

E. The secretary shall:

(1) establish specific accountability standards for administrators, counselors, teachers and school district staff to ensure that every student has the opportunity to develop a next-step plan;

(2) promulgate rules for accredited private schools in order to ensure substantial compliance with the provisions of this section;

(3) monitor compliance with the requirements of this section; and

(4) compile such information as is necessary to evaluate the success of next-step plans and report annually, by December 15, to the legislative education study committee and the governor.

F. Once a student has entered ninth grade, the graduation requirements shall not be changed for that student from the requirements specified in the law at the time the student entered ninth grade.

G. Successful completion of a minimum of twenty-three units aligned to the state academic content and performance standards shall be required for graduation. These units shall be as follows:

- (1) four units in English, with major emphasis on grammar and literature;
- (2) three units in mathematics, at least one of which is equivalent to the algebra 1 level or higher;
- (3) two units in science, one of which shall have a laboratory component; provided, however, that with students entering the ninth grade beginning in the 2005-2006 school year, three units in science shall be required, one of which shall have a laboratory component;
- (4) three units in social science, which shall include United States history and geography, world history and geography and government and economics;
- (5) one unit in physical education;
- (6) one unit in communication skills or business education, with a major emphasis on writing and speaking and that may include a language other than English;
- (7) one-half unit in New Mexico history for students entering the ninth grade beginning in the 2005-2006 school year; and
- (8) nine elective units and seven and one-half elective units for students entering the ninth grade in the 2005-2006 school year that meet department content and performance standards. Student service learning shall be offered as an elective. Financial literacy shall be offered as an elective. Pre-apprenticeship programs may be offered as electives. Media literacy may be offered as an elective.

H. For students entering the ninth grade beginning in the 2009-2010 school year, at least one of the units required for graduation shall be earned as an advanced placement or honors course, a dual-credit course offered in cooperation with an institution of higher education or a distance learning course.

I. The department shall establish a procedure for students to be awarded credit through completion of specified career technical education courses for certain

graduation requirements, and districts may choose to allow students who successfully complete an industry-recognized credential, certificate or degree to receive additional weight in the calculation of the student's grade point average.

J. Successful completion of the requirements of the New Mexico diploma of excellence shall be required for graduation for students entering the ninth grade beginning in the 2009-2010 school year. Successful completion of a minimum of twenty-four units aligned to the state academic content and performance standards shall be required to earn a New Mexico diploma of excellence. These units shall be as follows:

(1) four units in English, with major emphasis on grammar, nonfiction writing and literature; provided that department-approved work-based training or career and technical education courses that meet state English academic content performance standards shall qualify as one of the four required English units;

(2) four units in mathematics, of which one shall be the equivalent to or higher than the level of algebra 2, unless the parent submitted written, signed permission for the student to complete a lesser mathematics unit; and provided that a financial literacy course or department-approved work-based training or career and technical education course that meets state mathematics academic content and performance standards shall qualify as one of the four required mathematics units;

(3) three units in science, two of which shall have a laboratory component; provided that department-approved work-based training or career and technical education courses that meet state science academic content and performance standards shall qualify as one of the three required science units;

(4) three and one-half units in social science, which shall include United States history and geography, world history and geography, government and economics and one-half unit of New Mexico history;

(5) one unit in physical education, as determined by each school district, which may include a physical education program that meets state content and performance standards or participation in marching band, junior reserve officers' training corps or interscholastic sports sanctioned by the New Mexico activities association or any other co-curricular physical activity;

(6) one unit in one of the following: a career cluster course, workplace readiness or a language other than English; and

(7) seven and one-half elective units that meet department content and performance standards. Career and technical education courses shall be offered as an elective. Student service learning shall be offered as an elective. Financial literacy shall be offered as an elective. Pre-apprenticeship programs may be offered as electives. Media literacy may be offered as an elective.

K. For students entering the eighth grade in the 2012-2013 school year, a course in health education is required prior to graduation. Health education may be required in either middle school or high school, as determined by the school district. Each school district shall submit to the department by the beginning of the 2011-2012 school year a health education implementation plan for the 2012-2013 and subsequent school years, including in which grade health education will be required and how the course aligns with department content and performance standards. Health education courses shall include:

(1) age-appropriate sexual abuse and assault awareness and prevention training that meets department standards developed in consultation with the federal centers for disease control and prevention that are based on evidence-based methods that have proven to be effective; and

(2) lifesaving skills training that follows nationally recognized guidelines for hands-on psychomotor skills cardiopulmonary resuscitation training. Students shall be trained to recognize the signs of a heart attack, use an automated external defibrillator and perform the Heimlich maneuver for choking victims. The secretary shall promulgate rules to provide for the:

(a) use of the following instructors for the training provided pursuant to this paragraph: 1) school nurses, health teachers and athletic department personnel as instructors; and 2) any qualified persons volunteering to provide training at no cost to the school district that the school district determines to be eligible to offer instruction pursuant to this paragraph; and

(b) approval of training and instructional materials related to the training established pursuant to this paragraph in both English and Spanish.

L. For students entering the ninth grade in the 2017-2018 school year and subsequent school years:

(1) one of the units in mathematics required by Paragraph (2) of Subsection J of this section may comprise a computer science course if taken after the student demonstrates competence in mathematics and if the course is not used to satisfy any part of the requirement set forth in Paragraph (3) of that subsection; and

(2) one of the units in science required by Paragraph (3) of Subsection J of this section may comprise a computer science course if taken after the student demonstrates competence in science and if the course is not used to satisfy any part of the requirement set forth in Paragraph (2) of that subsection.

M. Final examinations shall be administered to all students in all classes offered for credit.

N. Until July 1, 2010, a student who has not passed a state graduation examination in the subject areas of reading, English, mathematics, writing, science and social science shall not receive a high school diploma. The state graduation examination on social science shall include a section on the constitution of the United States and the constitution of New Mexico. If a student exits from the school system at the end of grade twelve without having passed a state graduation examination, the student shall receive an appropriate state certificate indicating the number of credits earned and the grade completed. If within five years after a student exits from the school system the student takes and passes the state graduation examination, the student may receive a high school diploma. Any student passing the state graduation examination and completing all other requirements within five years of entering ninth grade, including a final summer session if completed by August 1, may be counted by the school system in which the student is enrolled as a high school graduate for the year in which completion and examination occur.

O. Beginning with the 2010-2011 school year, a student shall not receive a New Mexico diploma of excellence if the student has not demonstrated competence in the subject areas of mathematics, reading and language arts, writing, social studies and science, including a section on the constitution of the United States and the constitution of New Mexico, based on a standards-based assessment or assessments or a portfolio of standards-based indicators established by the department by rule. The standards-based assessments required in Section 22-2C-4 NMSA 1978 may also serve as the assessment required for high school graduation. If a student exits from the school system at the end of grade twelve without having satisfied the requirements of this subsection, the student shall receive an appropriate state certificate indicating the number of credits earned and the grade completed. If within five years after a student exits from the school system the student satisfies the requirements of this subsection, the student may receive a New Mexico diploma of excellence. Any student satisfying the requirements of this subsection and completing all other requirements within five years of entering ninth grade, including a final summer session if completed by August 1, may be counted by the school system in which the student is enrolled as a high school graduate for the year in which all requirements are satisfied.

P. As used in this section:

(1) "career and technical education", sometimes referred to as "vocational education", means organized programs offering a sequence of courses, including technical education and applied technology education, that are directly related to the preparation of individuals for paid or unpaid employment in current or emerging occupations requiring an industry-recognized credential, certificate or degree;

(2) "career and technical education course" means a course with content that provides technical knowledge, skills and competency-based applied learning and that aligns with educational standards and expectations as defined in rule;

(3) "career cluster" means a grouping of occupations in industry sectors based on recognized commonalities that provide an organizing tool for developing instruction within the educational system;

(4) "career pathways" means a sub-grouping used as an organizing tool for curriculum design and instruction of occupations and career specialties that share a set of common knowledge and skills for career success;

(5) "final next-step plan" means a next-step plan that shows that the student has committed or intends to commit in the near future to a four-year college or university, a two-year college, a trade or vocational program, an internship or apprenticeship, military service or a job;

(6) "interim next-step plan" means an annual next-step plan in which the student specifies post-high-school goals and sets forth the coursework that will allow the student to achieve those goals; and

(7) "next-step plan" means an annual personal written plan of studies developed by a student in a public school or other state-supported school or institution in consultation with the student's parent and school counselor or other school official charged with coursework planning for the student that includes one or more of the following:

- (a) advanced placement or honors courses;
- (b) dual-credit courses offered in cooperation with an institution of higher education;
- (c) distance learning courses;
- (d) career-technical courses; and

(e) pre-apprenticeship programs.

Q. The secretary may establish a policy to provide for administrative interpretations to clarify curricular and testing provisions of the Public School Code." _____

HEC/House Bill 664

Approved April 2, 2019

LAWS 2019, CHAPTER 149

AN ACT

RELATING TO YOUTH; ENACTING THE FOSTERING CONNECTIONS ACT AND AMENDING SECTIONS OF THE CHILDREN'S CODE AND THE ABUSE AND NEGLECT ACT TO PROVIDE FOR SERVICES FOR ELIGIBLE ADULTS IN TRANSITION FROM FOSTER CARE.

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

Chapter 149 Section 1 Laws 2019

SECTION 1. A new section of the Children's Code is enacted to read:

"SHORT TITLE.--Sections 1 through 10 of this act may be cited as the "Fostering Connections Act"."

Chapter 149 Section 2 Laws 2019

SECTION 2. A new section of the Children's Code is enacted to read:

"DEFINITIONS.--As used in the Fostering Connections Act:

A. "eligible adult" means an individual who meets the eligibility criteria for participation in the fostering connections program;

B. "foster care maintenance payment" means a payment for the care and support of an eligible adult, which payment rate is established through legislative appropriation and is based on the age and needs of the eligible adult;

C. "host home" means a setting in an eligible adult's former foster home or in another residence in which an eligible adult:

- (1) shares a residence with another adult or adults; and
- (2) agrees to meet the basic expectations established by the:
 - (a) eligible adult;
 - (b) other adult or adults sharing the residence; and
 - (c) department;

D. "supervised independent living setting" means an age-appropriate setting that the department approves for placement of an eligible adult, which setting:

- (1) conforms to federal requirements for supervised independent living settings; and
- (2) may be a single or shared residence, including:
 - (a) a host home;
 - (b) a college dormitory or other post-secondary education or training housing; or
 - (c) the home of a parent of the eligible adult;

E. "transition plan" means a written, individualized plan developed collaboratively between the department and the eligible adult that identifies the:

- (1) eligible adult's needs, strengths and goals in the areas of safety, housing, education, employment or income, health and mental health, local opportunities for mentors and continuing support services; and
- (2) activities, responsibilities and time frames for addressing the goals specified in the transition plan;

F. "voluntary services and support agreement" means a written agreement, binding on the parties to the agreement, between the department and an eligible adult, which agreement specifies, at a minimum, the legal status of the eligible adult and the

rights and obligations of the eligible adult and the department while the eligible adult is participating in the fostering connections program; and

G. "young adult" means an individual who is at least eighteen years of age and who is under twenty-one years of age."

Chapter 149 Section 3 Laws 2019

SECTION 3. A new section of the Children's Code is enacted to read:

"FOSTERING CONNECTIONS PROGRAM--ELIGIBILITY.--

A. The "fostering connections program" is established in the department. The department shall make the fostering connections program available, on a voluntary basis, to an eligible adult who:

(1) has attained at least eighteen years of age and who is younger than:

(a) as of July 1, 2020, nineteen years of age;

(b) as of July 1, 2021, twenty years of age; and

(c) as of July 1, 2022, twenty-one years of age;

(2) was adjudicated as an abused or neglected child pursuant to the Abuse and Neglect Act or its equivalent under tribal law and:

(a) upon attaining eighteen years of age, was under an out-of-home placement order; or

(b) had attained at least sixteen years of age when a guardianship or adoption assistance agreement was in effect;

(3) is:

(a) completing secondary education or an educational program leading to an equivalent credential;

(b) enrolled in an institution that provides post-secondary or vocational education;

(c) employed for at least eighty hours per month;

(d) participating in a program or activity designed to promote employment or remove barriers to employment; or

(e) incapable of doing any of the activities described in Subparagraphs (a) through (d) of this paragraph due to a medical or behavioral condition, which incapacity is supported by regularly updated information in the case plan; and

(4) enters into a voluntary services and support agreement with the department pursuant to the Fostering Connections Act.

B. The citizenship or immigration status of a young adult shall not be a factor when determining the young adult's eligibility pursuant to this section."

Chapter 149 Section 4 Laws 2019

SECTION 4. A new section of the Children's Code is enacted to read:

"FOSTERING CONNECTIONS PROGRAM--SERVICES--SUPPORTS.--

A. The fostering connections program shall provide at least the following services and supports to eligible adults:

(1) major medical and behavioral health care coverage;

(2) housing, in one of the following settings that the eligible adult chooses:

(a) a supervised independent living setting;

(b) a transitional living program that the department licenses or approves; or

(c) placement in a residential facility or another institution; provided that: 1) except as provided pursuant to Item 2) of this subparagraph, an eligible adult who is residing in a residential facility upon leaving foster care may choose to temporarily stay until the eligible adult is able to transition to a more age-appropriate setting; and 2) if the court finds that an eligible adult's developmental level, disability or other condition indicates placement in a residential facility or another institution due to an eligible adult's developmental level, disability or other condition, the eligible adult shall be placed in a residential facility or another institution until the court deems that the eligible adult may be appropriately placed in another setting;

(3) foster care maintenance payments; provided that these payments:

(a) may be sent by the department, all or in part, directly to: 1) the eligible adult, if the eligible adult is living in a supervised independent living setting; or 2) a transitional living program, if the eligible adult is living in a transitional living program; and

(b) shall reflect the eligible adult's status as a parent, if applicable;
and

(4) case management services that include the development of a case plan, developed jointly by the department and the eligible adult, that includes a description of the identified housing situation or living arrangement, and the resources to assist the eligible adult in the transition from the fostering connections program to adulthood. The case management services shall include assisting the eligible adult in:

(a) obtaining employment or other financial support;

(b) obtaining a government-issued identification card;

(c) opening and maintaining a bank account;

(d) obtaining appropriate community resources, including health, mental health, developmental disability and other disability services and support;

(e) when appropriate, satisfying any juvenile or criminal justice system requirements and assisting with sealing the eligible adult's children's court record pursuant to Section 32A-2-26 NMSA 1978;

(f) completing secondary education;

(g) applying for admission and aid for post-secondary education or vocational courses;

(h) obtaining the necessary state court findings and then applying for special immigrant juvenile status under federal law or applying for other immigration relief for which the eligible adult may be qualified;

(i) obtaining a copy of health and education records of the eligible adult;

(j) applying for any public benefits or benefits for which the eligible adult may be entitled or that may be due through the eligible adult's parents or relatives, including state or federal cash assistance, nutritional assistance or low-income home energy assistance;

(k) maintaining relationships with individuals who are important to the eligible adult, including searching for individuals with whom the eligible adult has lost contact;

(l) accessing information about maternal and paternal relatives, including any siblings;

(m) accessing youth empowerment opportunities and peer support groups; and

(n) accessing pregnancy and parenting resources and services.

B. The department shall not require background checks for other residents of a supervised independent living setting as a condition of approving an eligible adult's supervised independent living setting.

C. The department shall develop procedures to provide extended subsidies to families for adoption and guardianship until the eligible adult turns twenty-one years of age if:

(1) an adoption assistance or guardianship assistance agreement was in effect for the eligible adult when the eligible adult was sixteen years of age or older; and

(2) between the ages of eighteen and twenty-one years, the eligible adult meets at least one of the following participation criteria:

(a) completion of a secondary education or a program leading to an equivalent credential;

(b) enrollment in an institution that provides post-secondary or vocational education;

(c) participation in a program or activity designed to promote, or remove barriers to, employment;

(d) employment for at least eighty hours per month; or

(e) is incapable of doing any of the activities described in Subparagraphs (a) through (d) of this paragraph due to a medical or behavioral condition."

Chapter 149 Section 5 Laws 2019

SECTION 5. A new section of the Children's Code is enacted to read:

"FOSTERING CONNECTIONS PROGRAM--PARTICIPATION--VOLUNTARY SERVICES AND SUPPORT AGREEMENT--PERIODIC CASE REVIEWS.--

A. An eligible adult may participate in the fostering connections program for any duration of time while the eligible adult is between eighteen and twenty-one years of age, by entering into a voluntary services and support agreement immediately upon turning eighteen years of age or any time thereafter.

B. When an eligible adult elects to participate in the fostering connections program, the department and the eligible adult shall execute, and the eligible adult shall be provided with a signed copy of, a voluntary services and support agreement that sets forth, at a minimum, the following:

(1) a requirement that the eligible adult continue to be eligible in accordance with the Fostering Connections Act for the duration of the voluntary services and support agreement;

(2) the services and support that the eligible adult will receive through the fostering connections program;

(3) the voluntary nature of the eligible adult's participation and the eligible adult's right to terminate the voluntary services and support agreement at any time; and

(4) conditions that may result in the termination of the voluntary services and support agreement and the eligible adult's early discharge from the fostering connections program pursuant to Section 6 of the Fostering Connections Act.

C. As soon as possible and no later than forty-five days after the eligible adult and the department execute the voluntary services and support agreement, the department shall conduct a determination of income eligibility for purposes of compliance with federal foster care and transitional care assistance; provided that within fifteen days after execution of the voluntary services and support agreement, the department shall provide those services and supports set forth in that agreement.

D. The department shall assign an eligible adult a case manager, who shall be trained in primarily providing services for transition-aged eligible adults.

E. The department shall provide reasonable efforts to assist eligible adults in achieving permanency and creating permanent connections after the age of eighteen.

F. The department and at least one person who is not responsible for case management, in collaboration with the eligible adult and additional persons identified by the eligible adult, shall conduct periodic case reviews not less than once every one hundred eighty days to evaluate progress made toward meeting the goals set forth in the case plan. The department shall use a team approach in conducting case reviews and shall facilitate the participation of the eligible adult."

Chapter 149 Section 6 Laws 2019

SECTION 6. A new section of the Children's Code is enacted to read:

"TERMINATION OF VOLUNTARY SERVICES AND SUPPORT AGREEMENT--
NOTICE--APPEAL--PROCEDURE.--

A. An eligible adult may choose to terminate the voluntary services and support agreement and stop receiving services and support under the fostering connections program at any time. If an eligible adult chooses to terminate the voluntary services and support agreement, the department shall provide the eligible adult with a clear and developmentally appropriate written notice informing the eligible adult of:

- (1) the potential negative effects of terminating the voluntary services and support agreement early;
- (2) the option to reenter the fostering connections program at any time before attaining twenty-one years of age, so long as the eligibility requirements are met;
- (3) the procedures for reentering the fostering connections program; and
- (4) information about and contact information for community resources that may benefit the eligible adult.

B. As part of the case management processes, the department shall identify as soon as possible any barriers to maintaining eligibility that an eligible adult is encountering and shall make all reasonable efforts to address those barriers. The department's efforts shall be documented in the case plan.

C. Academic breaks in post-secondary education attendance, such as semester and seasonal breaks, and other transitions between status that meet eligibility requirements, including education and employment transitions of no longer than thirty days, shall not be a basis for termination.

D. If the department determines that a young adult is no longer eligible for the fostering connections program, the department shall:

(1) provide to the young adult a clear and developmentally appropriate:

(a) written notice informing the young adult of the department's intent to terminate the voluntary services and support agreement; and

(b) explanation of the basis for the termination; and

(2) make reasonable efforts to meet in person with the young adult to explain the information in the written termination notice and to assist the young adult in reestablishing eligibility if the young adult wishes to continue participating in the program.

E. The department shall not terminate services under the fostering connections program without court approval.

F. If an eligible adult remains in the fostering connections program until attaining twenty-one years of age, at least sixty days before the eligible adult's twenty-first birthday, the department shall provide the eligible adult with a clear and developmentally appropriate written notice informing the eligible adult of the termination of the voluntary services and support agreement at twenty-one years of age, the transition plan requirement and information about and contact information for community resources that may benefit the young adult, specifically including information regarding state programs established pursuant to federal law that provide transitional foster care assistance to young adults."

Chapter 149 Section 7 Laws 2019

SECTION 7. A new section of the Children's Code is enacted to read:

"FOSTERING CONNECTIONS PROGRAM--CHILDREN'S COURT PETITION--
JURISDICTION--CONTENTS--PROGRAM FILE.--

A. An eligible adult participating in the fostering connections program shall remain under the jurisdiction of the children's court while participating in the program. The eligible adult is the eligible adult's own legal custodian.

B. Within fifteen days after the voluntary services and support agreement is executed, the department shall file a petition initiating proceedings pursuant to the Fostering Connections Act that shall be entitled, "In the Matter of , an eligible adult", and shall set forth with specificity:

- (1) the name, birth date and residence of the eligible adult; and
- (2) the facts necessary to invoke the jurisdiction of the court.

C. A petition filed pursuant to Subsection B of this section shall be accompanied by a copy of the eligible adult's voluntary services and support agreement and case plan.

D. There shall be no interruption in the foster care maintenance payment, housing, medical assistance coverage or case management for an eligible adult who is eligible and chooses to participate in the fostering connections program immediately following the termination of children's court jurisdiction at age eighteen.

E. At the inception of a fostering connections proceeding, the court shall appoint an attorney to represent the eligible adult. If the eligible adult consents to the appointment, the attorney who previously served as the eligible adult's attorney may be appointed as the eligible adult's attorney.

F. Unless excused by a court, an attorney appointed to represent an eligible adult shall represent the eligible adult in any subsequent appeals.

G. A hearing held pursuant to the Fostering Connections Act shall be commenced within ninety days of the filing of the petition, at which time the court shall review the voluntary services and support agreement and determine whether the agreement is in the best interests of the eligible adult."

Chapter 149 Section 8 Laws 2019

SECTION 8. A new section of the Children's Code is enacted to read:

"REVIEW HEARINGS.--

A. The court shall conduct a review hearing at least once per year.

B. The primary purpose of the review hearing shall be to ensure that the fostering connections program is providing the eligible adult with the needed services and support to help the eligible adult move toward permanency and a successful transition to adulthood. At the review hearing, the department shall show that it has made reasonable efforts to implement the case plan. A review hearing shall be conducted in a manner that seeks the eligible adult's meaningful participation.

C. The department shall prepare and present to the children's court a report addressing progress made in meeting the goals in the case plan, including an independent living transition proposal, and shall propose modifications as necessary to further those goals.

D. If the court finds the department has not made reasonable efforts to implement the case plan, the court may order additional services and support to achieve the goals of the case plan and the department's policies or state or federal law."

Chapter 149 Section 9 Laws 2019

SECTION 9. A new section of the Children's Code is enacted to read:

"DISCHARGE HEARING.--

A. At the last case review or review hearing held prior to the eligible adult's twentieth birthday, or prior to an eligible adult's discharge from the fostering connections program, the court shall review the eligible adult's transition plan and shall determine whether the department has made reasonable efforts to implement the requirements of Subsection B of this section.

B. The court shall determine whether:

(1) written information concerning the eligible adult's family history, the whereabouts of any sibling, if appropriate, and education and health records have been provided to the eligible adult;

(2) the following have been provided to the eligible adult:

(a) the eligible adult's social security card;

(b) the eligible adult's certified birth certificate;

(c) the eligible adult's state-issued identification card;

- applicable;
- (d) the death certificate of a parent of the eligible adult, if applicable;
 - (e) proof of the eligible adult's citizenship or residence; and
 - (f) proof that the eligible adult has been in foster care;
- (3) assistance in obtaining medicaid has been provided to the eligible adult, unless the eligible adult is ineligible for medicaid; and
- (4) referral for a guardianship or limited guardianship if the eligible adult is incapacitated has been made.

C. If the court finds that the department has not made reasonable efforts to meet all of the requirements of Subsection B of this section and that termination of jurisdiction would be harmful to the eligible adult, the court may continue to exercise its jurisdiction for a period not to exceed one year from the eligible adult's twenty-first birthday or the eligible adult's discharge from the fostering connections program; provided that the eligible adult consents to continued jurisdiction of the court. The court may dismiss the case for good cause at any time after the eligible adult's twenty-first birthday or the eligible adult's discharge from the fostering connections program."

Chapter 149 Section 10 Laws 2019

SECTION 10. A new section of the Children's Code is enacted to read:

"FOSTERING CONNECTIONS ADVISORY COMMITTEE-- MEMBERSHIP-- APPOINTMENT--TERMS--DUTIES--MEETINGS--REPORT.--

A. By October 1, 2019, the secretary shall appoint a "fostering connections advisory committee" to make recommendations to the department and to the legislature regarding the fostering connections program. The committee shall meet on a biannual basis to advise the department and the legislature regarding ongoing implementation of the fostering connections program. By September 1, 2020 and each September 1 thereafter, the committee shall provide a written report to the governor, the legislature and the secretary regarding ongoing implementation of the fostering connections program, including the number of participants and the number of early discharges.

B. By October 1, 2020 and each October 1 thereafter, the committee shall develop specific recommendations for expanding the fostering connections program or improving outcomes for similar groups of at-risk young people.

C. The members of the committee shall include:

(1) the following seven voting members:

(a) the secretary, ex officio, or the secretary's designee;

(b) three members who are appointed by the secretary as follows:

1) two youth or young adults who are currently or were previously placed in foster care; and 2) one representative of a child advocacy group; and

(c) three members who are appointed by the secretary as follows:

1) one representative of a child welfare advocacy organization; 2) one representative of the department; and 3) one representative of an agency providing independent living services; and

(2) the following ex-officio nonvoting members:

(a) a legislator, appointed by the New Mexico legislative council;

(b) a children's court judge, appointed by the administrative office of the courts; and

(c) a subject-matter expert, appointed by the secretary.

D. Members of the committee shall be appointed for terms of two years; provided that the initial committee members' terms shall be staggered so that no more than five members' terms shall expire in any one year.

E. The secretary shall convene a first meeting of the committee by December 1, 2019. At that first meeting, the members of the committee shall choose a chair, and members' terms shall be chosen by lot.

F. The secretary shall fill vacancies on the committee as they occur.

G. A majority of the committee members constitutes a quorum for voting purposes.

H. Members of the committee shall receive per diem and mileage pursuant to the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance for their service on the committee.

I. As used in this section:

(1) "committee" means the fostering connections advisory committee;
and

(2) "secretary" means the secretary of children, youth and families."

Chapter 149 Section 11 Laws 2019

SECTION 11. Section 32A-1-16 NMSA 1978 (being Laws 1993, Chapter 77, Section 25) is amended to read:

"32A-1-16. BASIC RIGHTS.--

A. A child subject to the provisions of the Children's Code is entitled to the same basic rights as an adult, except as otherwise provided in the Children's Code.

B. A person afforded rights under the Children's Code shall be advised of those rights at that person's first appearance before the court on a petition under the Children's Code.

C. An eligible adult retains all of the basic rights of an adult while receiving services pursuant to the fostering connections program."

Chapter 149 Section 12 Laws 2019

SECTION 12. Section 32A-1-20 NMSA 1978 (being Laws 1993, Chapter 77, Section 29) is amended to read:

"32A-1-20. PURCHASE OF CARE FROM PRIVATE AGENCY BY PUBLIC AGENCY.--

A. When the legal custody of a child or the placement and care responsibility of an eligible adult is vested in a public agency, under the provisions of the Children's Code, the public agency may transfer physical custody of the child or the eligible adult to an appropriate private agency and may purchase care and treatment from the private agency if the private agency submits periodic reports to the public agency covering the care and treatment the child or eligible adult is receiving and the child's or eligible adult's responses to that care and treatment. These reports shall be made as frequently as the public agency deems necessary, but not less often than once each six months for each child or eligible adult. The private agency shall also afford an opportunity for a representative of the public agency to examine or consult with the child or eligible adult as frequently as the public agency deems necessary.

B. As used in this section, "eligible adult" means an individual who meets the eligibility criteria for participation in the fostering connections program established pursuant to the Fostering Connections Act."

Chapter 149 Section 13 Laws 2019

SECTION 13. Section 32A-5-45 NMSA 1978 (being Laws 1993, Chapter 77, Section 172, as amended) is amended to read:

"32A-5-45. ADMINISTRATION OF SUBSIDIZED ADOPTIONS.--

A. The department shall promulgate all necessary regulations for the administration of the program of subsidized adoptions or placement with permanent guardians.

B. Subsidy payments may include payments to vendors for medical and surgical expenses and payments to the adoptive parents or permanent guardians for maintenance and other costs incidental to the adoption, care, training and education of the child. The payments in any category of assistance shall not exceed the cost of providing the assistance in foster care. Payments shall not be made under this section after the child reaches eighteen years of age, except for a child who is enrolled in the medically fragile waiver program, in which case the payments may extend until the child is twenty-one years of age. Payments shall be made pursuant to this section until a child reaches twenty-one years of age if the adoption assistance agreement was in effect when the child was at least sixteen years of age and, between the ages of eighteen and twenty-one years of age, the child:

(1) has completed secondary education or a program leading to an equivalent credential;

(2) is enrolled in an institution that provides post-secondary or vocational education;

(3) participates in a program or activity designed to promote or remove barriers to employment;

(4) is employed for at least eighty hours per month; or

(5) is incapable of doing any of the activities described in Paragraphs (1) through (4) of this subsection due to a medical or behavioral condition, and provides evidence of the child's incapability, which evidence is supported by regularly updated information.

C. A written agreement between the adoptive family or permanent guardians and the department shall precede the decree of adoption or permanent guardianship. The agreement shall incorporate the terms and conditions of the subsidy plan based on the individual needs of the child within the permanent family. In cases of subsidies that continue for more than one year, there shall be an annual redetermination of the need for a subsidy. The department shall develop an appeal procedure whereby a permanent family may contest a division determination to deny, reduce or terminate a subsidy.

D. As used in this section, "eligible adult" means an individual who meets the eligibility criteria for participation in the fostering connections program established pursuant to the Fostering Connections Act."

Chapter 149 Section 14 Laws 2019

SECTION 14. TEMPORARY PROVISION--AMENDED STATE PLAN AMENDMENT--CHILDREN, YOUTH AND FAMILIES DEPARTMENT RULES.--

A. By October 1, 2020, the children, youth and families department shall:

(1) submit an amendment to the state plan to seek federal funding for newly eligible adults for whom an adoption subsidy or a guardianship assistance agreement was in effect if the child had attained sixteen years of age before the agreement became effective or for whom a state-funded guardianship assistance agreement was in effect if the youth had attained sixteen years of age before the agreement became effective;

(2) implement the fostering connections program pursuant to the provisions of the Fostering Connections Act and maximize the children, youth and families department's access to federal funds for extended guardianship assistance and extended adoption assistance for the benefit of eligible adults participating in the fostering connections program; and

(3) adopt and promulgate rules as needed to carry out the provisions of the Fostering Connections Act.

B. As used in this section, "eligible adult" means an individual who meets the eligibility criteria for participating in the fostering connections program.

Chapter 149 Section 15 Laws 2019

SECTION 15. TEMPORARY PROVISION--WORK GROUP--YOUTH ADJUDICATED UNDER THE DELINQUENCY ACT--PARTICIPATION IN FOSTERING CONNECTIONS PROGRAM--DUTIES--REPORTING.--The secretary of children, youth and families shall convene a work group composed of experts in children's services and juvenile justice to collect information and make recommendations on including in the fostering connections program youth who have been adjudicated under the Delinquency Act. The work group shall examine and report to the secretary of children, youth and families and the legislature by November 1, 2019:

A. the potential number of young adults who could be included in the fostering connections program;

B. the processes by which young adults eligible to participate in the fostering connections program could be identified;

C. procedures for assisting young adults to become eligible for the fostering connections program; and

D. the potential placement and service array that would be required for including young adults who have been adjudicated under the Delinquency Act in the fostering connections program. _____

SJC/Senate Bill 23

Approved April 2, 2019

LAWS 2019, CHAPTER 150

AN ACT

RELATING TO THE LOCAL GOVERNMENTS ROAD FUND; PERMITTING THE DEPARTMENT OF TRANSPORTATION TO PURCHASE AUTOMOTIVE, MAJOR ROAD AND MISCELLANEOUS EQUIPMENT FOR LAND GRANTS-MERCEDES UNDER CERTAIN CIRCUMSTANCES.

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

Chapter 150 Section 1 Laws 2019

SECTION 1. Section 67-3-28.2 NMSA 1978 (being Laws 1986, Chapter 20, Section 125, as amended) is amended to read:

"67-3-28.2. LOCAL GOVERNMENTS ROAD FUND CREATED--USES.--

A. There is created in the state treasury the "local governments road fund" to be administered by the department. All income received from investment of the fund shall be credited to the fund. No money in the fund shall be used by the department to administer any program, and except as provided in Subsection E of this section, no entity receiving a distribution pursuant to a program requiring matching funds shall use another distribution made pursuant to this section to meet the match required.

B. The department may use up to five hundred thousand dollars (\$500,000) annually from the local governments road fund, to purchase at fair market value, for municipalities, counties and land grants-mercedes that can demonstrate financial hardship as determined by the department, automotive, major road and miscellaneous equipment that would otherwise be sold at auction by the department as unusable for department purposes. The department shall adopt rules setting the procedure to carry out the purposes of this subsection.

C. Except for the amounts in Subsections B and E of this section, money in the local governments road fund shall be distributed in the following amounts for the specified purposes:

(1) forty-two percent for the cooperative agreements program, to be used solely for the cooperative agreements entered into pursuant to Section 67-3-28 NMSA 1978 and in accordance with the match authorized pursuant to Section 67-3-32 NMSA 1978; provided, however, that distribution amounts made pursuant to this paragraph in each year shall be based on the following allocations:

- (a) thirty-three percent for agreements entered into with counties;
- (b) forty-nine percent for agreements entered into with municipalities;
- (c) fourteen percent for agreements entered into with school districts; and
- (d) four percent for agreements entered into with other entities;

(2) sixteen percent for the municipal arterial program, to be used solely for the necessary project development, construction, reconstruction, improvement,

maintenance, repair and right-of-way and material acquisition of and for those streets that are principal extensions of rural state highways and of other streets not on the state highway system but that qualify under the designated criteria established by the department. In entering into agreements with municipalities to provide funds for any project qualifying for the municipal arterial program, the department shall give preference to municipalities that contribute an amount equal to at least twenty-five percent of the project cost, including a contribution made through funding received pursuant to Subsection E of this section;

(3) sixteen percent for school bus routes, to be used solely for cooperative agreements entered into pursuant to Section 67-3-28 NMSA 1978 and in accordance with the match authorized pursuant to Section 67-3-32 NMSA 1978 for acquiring rights of way and constructing, maintaining, repairing, improving and paving school bus routes and public school parking lots; and

(4) twenty-six percent for the county arterial program, to be used for project development, construction, reconstruction, improvement, maintenance, repair and right-of-way and material acquisition of and for county roads for which individual counties have prioritized road projects. Prior to entering into any agreements for projects with the counties for the following fiscal year, in June of each year the department shall determine and certify the amount to which each county is entitled pursuant to the following schedule:

Road Mileage Category Based on

Number of Miles Maintained

by a County:	Entitlement to County:
400 miles or under	\$250 for each mile
401 to 800 miles	\$100,000 plus \$200 for each mile over 400 miles
801 to 1,200 miles	\$180,000 plus \$150 for each mile over 800 miles
1,201 to 1,600 miles	\$240,000 plus \$100 for each mile over 1,200 miles
Over 1,600 miles	\$300,000 plus \$50 for each mile over 1,600 miles.

If in any year there is an insufficient amount in the fund of the county arterial program to certify the total amount to which all counties are entitled, the department shall decrease the entitlement amount due to each county in the same proportion as the

insufficiency is to the total entitlements to all counties. Distribution of an entitlement amount and an agreement entered into with a county for any of the purposes for which the money may be spent requires an amount from the county equal to at least twenty-five percent of the entitlement. The county contribution may be made through funds received pursuant to Subsection E of this section. Any uncommitted or unencumbered balance remaining in the county arterial program fund at the end of a fiscal year shall be transferred to the cooperative agreements program specified in Paragraph (1) of this subsection for additional funding of that program in the next fiscal year.

D. The department may transfer funds from the state road fund to the local governments road fund to facilitate cash flow for the funding of these local governments road projects. The administrator of the local governments road fund shall reimburse the state road fund in a timely manner for any such transfers.

E. The department may distribute up to one million dollars (\$1,000,000) per calendar year of the money in the local governments road fund to municipalities and counties that can demonstrate financial hardship, for use as all or a portion of the municipality's or county's matching fund requirements pursuant to this section. In order to qualify for matching funds under this subsection, a county or municipality shall provide the department with a financial hardship qualification certificate issued by the department of finance and administration."

Chapter 150 Section 2 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.

Senate Bill 44

Approved April 2, 2019

LAWS 2019, CHAPTER 151

AN ACT

RELATING TO ANIMALS; PROHIBITING COYOTE-KILLING CONTESTS; DEFINING "COYOTE-KILLING CONTEST"; PROVIDING PENALTIES.

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

Chapter 151 Section 1 Laws 2019

SECTION 1. A new section of Chapter 30, Article 18 NMSA 1978 is enacted to read:

"COYOTE-KILLING CONTESTS PROHIBITED--DEFINITION--PENALTIES.--

A. It is unlawful for a person to organize, cause, sponsor, arrange, hold or participate in a coyote-killing contest.

B. As used in this section, "coyote-killing contest" means an organized or sponsored competition with the objective of killing coyotes for prizes or entertainment.

C. Organizing, causing, sponsoring, arranging or holding a coyote-killing contest consists of a person knowingly:

(1) planning, organizing or enticing a person to participate in a coyote-killing contest; or

(2) providing the venue for a coyote-killing contest.

D. Participation in a coyote-killing contest consists of a person knowingly taking part in a coyote-killing contest.

E. A person who organizes, causes, sponsors, arranges or holds a coyote-killing contest is guilty of a misdemeanor.

F. A person who participates in a coyote-killing contest is guilty of a petty misdemeanor.

G. Nothing in this section shall be construed to prohibit a person from protecting a person or property or the state game commission from carrying out the statutory authority allowed by Chapter 17 NMSA 1978 in a non-coyote-killing contest setting."

Chapter 151 Section 2 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

Senate Bill 76, aa

Approved April 2, 2019

LAWS 2019, CHAPTER 152

AN ACT

RELATING TO NUTRITIONAL SERVICES FOR SENIOR CITIZENS; AUTHORIZING THE GROWING AND USE FOR FOOD SERVICE OF FRUIT AND VEGETABLE GARDENS AT SENIOR CENTERS.

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

Chapter 152 Section 1 Laws

SECTION 1. SENIOR CENTER FOOD GARDENS AUTHORIZED.--

A. The aging and long-term services department shall permit any senior center to coordinate the planting, cultivation, growing, tending and harvesting by senior center staff and senior participants of edible fruits and vegetables on the senior center's premises for inclusion in food service or distribution to senior participants.

B. For the purposes of this section:

(1) "senior center" means a community-based center:

(a) that serves as a resource for information on aging, support for family caregivers and training; and

(b) where senior participants receive services and participate in programs; and

(2) "senior participant" means an individual who is at least fifty years of age or older or who is otherwise eligible to receive services or to participate in programs administered by the aging and long-term services department or its designees. _____

SCONC/Senate Bill 84

Approved April 2, 2019

LAWS 2019, CHAPTER 153

AN ACT

RELATING TO PUBLIC PURCHASES; TRANSFERRING PROCUREMENT-RELATED FUNCTIONS FROM THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO THE GENERAL SERVICES DEPARTMENT; REQUIRING NOTICE FOR SOLE SOURCE CONTRACTS AND EMERGENCY PROCUREMENT; REQUIRING STATE AGENCIES TO REPORT INFORMATION ABOUT IN-STATE AND OUT-OF-STATE CONTRACTS; NARROWING AND CLARIFYING PROVISIONS CONCERNING EMERGENCY PROCUREMENT; REPEALING AND ENACTING SECTION 13-1-127 NMSA 1978 (BEING LAWS 1984, CHAPTER 65, SECTION 100, AS AMENDED).

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

Chapter 153 Section 1 Laws 2019

SECTION 1. A new section of the Procurement Code is enacted to read:

"STATE AGENCY--REPORTING REQUIRED--IN-STATE AND OUT-OF-STATE CONTRACTS.--All state agencies shall report annually to the purchasing division of the general services department information on the amount of state agency contracts awarded to in-state contractors and the amount awarded to out-of-state contractors."

Chapter 153 Section 2 Laws 2019

SECTION 2. Section 13-1-118 NMSA 1978 (being Laws 1984, Chapter 65, Section 91) is amended to read:

"13-1-118. COMPETITIVE SEALED PROPOSALS--PROFESSIONAL SERVICES CONTRACTS--CONTRACT REVIEW.--All contracts for professional services with state agencies shall be reviewed as to form, legal sufficiency and budget requirements by the general services department if required by the regulations of the department. This section does not apply to contracts entered into by the legislative branch of state government, the judicial branch of state government or the boards of regents of state educational institutions named in Article 12, Section 11 of the constitution of New Mexico."

Chapter 153 Section 3 Laws 2019

SECTION 3. Section 13-1-125 NMSA 1978 (being Laws 1984, Chapter 65, Section 98, as amended) is amended to read:

"13-1-125. SMALL PURCHASES.--

A. A central purchasing office shall procure services, construction or items of tangible personal property having a value not exceeding sixty thousand dollars (\$60,000), excluding applicable state and local gross receipts taxes, in accordance with the applicable small purchase rules adopted by the secretary, a local public body or a central purchasing office that has the authority to issue rules.

B. Notwithstanding the requirements of Subsection A of this section, a central purchasing office may procure professional services having a value not exceeding sixty thousand dollars (\$60,000), excluding applicable state and local gross receipts taxes, except for the services of landscape architects or surveyors for state public works projects or local public works projects, in accordance with professional services procurement rules promulgated by the general services department or a central purchasing office with the authority to issue rules.

C. Notwithstanding the requirements of Subsection A of this section, a state agency or a local public body may procure services, construction or items of tangible personal property having a value not exceeding twenty thousand dollars (\$20,000), excluding applicable state and local gross receipts taxes, by issuing a direct purchase order to a contractor based upon the best obtainable price.

D. Procurement requirements shall not be artificially divided so as to constitute a small purchase under this section."

Chapter 153 Section 4 Laws 2019

SECTION 4. Section 13-1-126.1 NMSA 1978 (being Laws 2013, Chapter 40, Section 6) is amended to read:

"13-1-126.1. SOLE SOURCE CONTRACTS--NOTICE--PROTEST.--

A. At least thirty days before it awards a sole source contract, the state purchasing agent shall post notice of its intent to award the contract on its website. At least thirty days before it awards a sole source contract, a central purchasing office shall post notice of its intent to award the contract on its website, if it maintains one, and shall transmit the notice to the state purchasing agent for posting on the state purchasing agent's website. In each case, the notice shall identify, at a minimum:

- (1) the parties to the proposed contract;
- (2) the nature and quantity of the service, construction or item of tangible personal property being contracted for; and
- (3) the contract amount.

B. Any qualified potential contractor that was not selected for a proposed sole source contract may protest the selection in writing, within fifteen calendar days after the notice of intent to award the contract was posted by the state purchasing agent or central purchasing office, by submitting the protest to the state purchasing agent or central purchasing office, as appropriate. The state purchasing agent or central purchasing office shall then reconsider its selection."

Chapter 153 Section 5 Laws 2019

SECTION 5. Section 13-1-127 NMSA 1978 (being Laws 1984, Chapter 65, Section 100, as amended) is repealed and a new Section 13-1-127 NMSA 1978 is enacted to read:

"13-1-127. EMERGENCY PROCUREMENT--REQUIRED CONDITIONS--LIMITATIONS--NOTICE.--

A. The state purchasing agent or a central purchasing office may only make an emergency procurement when the service, construction or item of tangible personal property procured:

- (1) is needed immediately to:
 - (a) control a serious threat to public health, welfare, safety or property caused by a flood, fire, epidemic, riot, act of terrorism, equipment failure or similar event; or
 - (b) plan or prepare for the response to a serious threat to public health, welfare, safety or property caused by a flood, fire, epidemic, riot, act of terrorism, equipment failure or similar event; and

- (2) cannot be acquired through normal procurement methods.

B. The state purchasing agent or a central purchasing office:

- (1) in making an emergency procurement, shall:

(a) employ a competitive process to the extent practicable under the circumstances; and

(b) use due diligence in determining the basis for the procurement and in selecting a contractor; and

(2) shall not make an emergency procurement for the purchase or lease of heavy road equipment.

C. The state purchasing agent or a central purchasing office that makes an emergency procurement shall outline its determination of the basis for the procurement and its selection of the contractor in writing and include the writing in the procurement file. Promptly thereafter:

(1) the state purchasing agent shall post notice of the procurement on its website; or

(2) the central purchasing office shall post notice of the procurement on its website, if it maintains one, and shall transmit the notice to the state purchasing agent for posting on the state purchasing agent's website.

D. The state purchasing agent or a central purchasing office that makes an emergency procurement to plan or prepare for the response to a serious threat to public health, welfare, safety or property caused by a flood, fire, epidemic, riot, act of terrorism, equipment failure or similar event shall account for the money spent in making the procurement and report on that accounting to the legislative finance committee and the department of finance and administration within sixty days after the end of the fiscal year in which the procurement was made."

Chapter 153 Section 6 Laws 2019

SECTION 6. TEMPORARY PROVISION--TRANSFER OF PERSONNEL, FUNCTIONS, APPROPRIATIONS, MONEY, PROPERTY, CONTRACTUAL OBLIGATIONS, STATUTORY REFERENCES AND RULES.--

A. On the effective date of this act, all personnel, functions, appropriations, money, records, furniture, equipment and other property of, or attributable to, the contracts review bureau of the administrative services division of the department of finance and administration are transferred to the purchasing division of the general services department.

B. On the effective date of this act, all contractual obligations of the contracts review bureau of the administrative services division of the department of finance and administration become binding on the purchasing division of the general services department.

C. On and after the effective date of this act, rules of the department of finance and administration pertaining to the approval of professional services contracts shall be deemed to be the rules of the general services department until amended or repealed by the general services department, and all references in those rules to the department of finance and administration shall be deemed to be references to the general services department.

Chapter 153 Section 7 Laws 2019

SECTION 7. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

Senate Bill 88, aa

Approved April 2, 2019

LAWS 2019, CHAPTER 154

AN ACT

RELATING TO MOTOR VEHICLES; ALLOWING FOR THE CARRYING OF ELECTRONIC EVIDENCE OF FINANCIAL RESPONSIBILITY UNDER THE MANDATORY FINANCIAL RESPONSIBILITY ACT.

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

Chapter 154 Section 1 Laws 2019

SECTION 1. Section 66-5-229 NMSA 1978 (being Laws 1978, Chapter 35, Section 318, as amended) is amended to read:

"66-5-229. DURATION OF EVIDENCE--WHEN FILING OF EVIDENCE MAY BE WAIVED.--

A. Except as provided in Subsection B of this section, the department shall, upon request, consent to the immediate cancellation of any bond or the department shall direct and the state treasurer shall return to the person entitled to it any money deposited pursuant to the Mandatory Financial Responsibility Act as evidence of financial responsibility or the department shall waive the requirement of filing evidence of financial responsibility in any of the following events:

(1) after one year of providing satisfactory evidence as specified in Section 66-5-218 NMSA 1978;

(2) the death of the person on whose behalf evidence was filed or the permanent incapacity of the person to operate a motor vehicle; or

(3) the person who has filed evidence surrenders the person's license and registration to the department.

B. The department shall not consent to the cancellation of any bond or the return of any money or waive the requirement of filing evidence of financial responsibility in the event any action for damages upon a liability covered by the evidence is then pending or any judgment upon any such liability is then unsatisfied or in the event the person who has filed the bond or deposited the money has, within one year immediately preceding the request, been involved as a driver or owner in any motor vehicle accident resulting in injury or damage to the person or property of others. An affidavit of the applicant as to the nonexistence of such facts or that the applicant has been released from all of the applicant's liability or has been finally adjudicated not to be liable for such injury or damage shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the department.

C. An owner or operator of a vehicle subject to the Mandatory Financial Responsibility Act shall carry evidence of financial responsibility as defined by that act in the vehicle at all times while the vehicle is in operation on the highways of this state.

D. When financial responsibility is satisfied through coverage under a motor vehicle insurance policy, the owner's or operator's carrying of evidence in print or accessible through a portable electronic device is acceptable. An owner or operator of a vehicle who provides evidence of financial responsibility through a portable electronic device:

(1) assumes all liability for any resulting damage to the portable electronic device; and

or property occasioned by collisions of vehicles using the roads and highways and livestock ranging in the pastures unless the owner of the livestock is guilty of negligence other than allowing livestock to range in the pasture.

D. As the department of transportation's annual budget permits, the department of transportation shall:

(1) construct, inspect regularly and maintain fences along all highways under its jurisdiction and provide cattle underpasses, water pipelines and cattle guards as the department of transportation may deem necessary, unless it makes a fact determination that no livestock can enter the highway from a portion left unfenced; and

(2) post proper signs along all highways under its jurisdiction that are not fenced on both sides and that are located adjacent to property containing livestock. The signs shall be located at intervals of not more than two miles along such unfenced highways; provided that sign intervals and postings shall be consistent with the department of transportation's specifications for a uniform system of traffic-control devices, subject to traffic safety engineering discretion, and shall warn motorists that loose livestock may be encountered and that caution should be used.

E. A person who violates the provisions of Subsection A or B of this section is guilty of a penalty assessment misdemeanor."

Chapter 155 Section 2 Laws 2019

SECTION 2. Section 30-8-14 NMSA 1978 (being Laws 1975, Chapter 283, Section 1) is recompiled as Section 66-7-363.1 NMSA 1978 and is amended to read:

"66-7-363.1. DEPARTMENT OF TRANSPORTATION--AGREEMENTS WITH OWNERS OR LESSEES OF HIGHWAY FRONTAGE--PROVISIONS.--

A. Notwithstanding the responsibility of the department of transportation under the provisions of Section 66-7-363 NMSA 1978 to construct, inspect regularly and maintain fences along all highways under its jurisdiction, the department of transportation may enter into an agreement with an owner or lessee of property adjoining a public highway to keep a specified section of the highway frontage unfenced for use as roadside business; provided, however, that the owner or lessee, whoever is party to the agreement, agrees:

(1) to assume full responsibility for constructing and maintaining livestock fencing on the property that the owner or lessee owns or leases in such a manner so as to prevent the entry of livestock onto the highway; and

(2) to be liable for any damage caused by livestock entering upon the public highway from the owner's or lessee's property if the property in question is not fenced or the fencing not maintained pursuant to the agreement with the department of transportation.

B. Nothing in this section shall preclude an owner or lessee who has entered into an agreement with the department of transportation pursuant to this section from also being subject to the penalties set out in Section 66-7-363 NMSA 1978." _____

SJC/SCORC/Senate Bill 121, aa

Approved April 2, 2019

LAWS 2019, CHAPTER 156

AN ACT

RELATING TO PUBLIC FINANCE; MAKING CERTAIN LOCAL

GOVERNMENT-OWNED BEHAVIORAL HEALTH CARE CLINICS ELIGIBLE FOR BEHAVIORAL HEALTH CAPITAL FUNDING; ALLOWING THE NEW MEXICO FINANCE AUTHORITY TO RECEIVE COMPENSATION FROM THE BEHAVIORAL HEALTH CAPITAL FUND FOR ITS COSTS OF ADMINISTERING THE BEHAVIORAL HEALTH CAPITAL FUNDING ACT; MAKING AN APPROPRIATION.

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

Chapter 156 Section 1 Laws 2019

SECTION 1. Section 6-26-3 NMSA 1978 (being Laws 2004, Chapter 71, Section 3) is amended to read:

"6-26-3. DEFINITIONS.--As used in the Behavioral Health Capital Funding Act:

A. "authority" means the New Mexico finance authority;

B. "capital project" means repair, renovation or construction of a behavioral health facility; purchase of land; or acquisition of capital equipment of a long-term nature;

C. "department" means the department of health;

D. "eligible entity" means:

(1) a nonprofit behavioral health facility that is a 501(c)(3) nonprofit corporation for federal income tax purposes and serves primarily sick and indigent patients; or

(2) a behavioral health care clinic that operates in a rural or other health care underserved area of the state, that is owned by a county or municipality and that meets department requirements for eligibility; and

E. "fund" means the behavioral health capital fund."

Chapter 156 Section 2 Laws 2019

SECTION 2. Section 6-26-4 NMSA 1978 (being Laws 2004, Chapter 71, Section 4) is amended to read:

"6-26-4. BEHAVIORAL HEALTH CAPITAL FUND.--

A. The "behavioral health capital fund" is created as a revolving fund in the authority. The fund shall consist of appropriations, loan repayments, gifts, grants, donations and interest earned on investment of the fund. Money in the fund shall not revert at the end of a fiscal year.

B. Money in the fund is appropriated to the authority for the purpose of making loans to eligible entities for capital projects pursuant to the Behavioral Health Capital Funding Act.

C. The fund shall be administered by the authority. The authority may recover from the fund the costs of administering the fund and originating loans up to an amount equal to ten percent of original loan amounts." _____

Senate Bill 128

Approved April 2, 2019

LAWS 2019, CHAPTER 157

AN ACT

RELATING TO TAX ADMINISTRATION; MODIFYING TERMS GOVERNING TAX-RELATED PROTESTS AND PROCEEDINGS AND THE ADMINISTRATIVE HEARINGS OFFICE.

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

Chapter 157 Section 1 Laws 2019

SECTION 1. Section 7-1-16 NMSA 1978 (being Laws 1965, Chapter 248, Section 19, as amended) is amended to read:

"7-1-16. DELINQUENT TAXPAYER.--

A. Except as provided in Subsection D of this section, any taxpayer to whom taxes have been assessed as provided in Section 7-1-17 NMSA 1978 or upon whom demand for payment has been made as provided in Section 7-1-63 NMSA 1978 who does not within ninety days after the date of assessment or demand for payment make payment of the undisputed amount, protest the assessment or demand for payment as provided by Section 7-1-24 NMSA 1978 or furnish security for payment as provided by Section 7-1-54 NMSA 1978 becomes a delinquent taxpayer and remains such until:

- (1) payment of the total amount of all such taxes is made;
- (2) security is furnished for payment; or
- (3) no part of the assessment remains unabated.

B. Any taxpayer who fails to provide security as required by Subsection D of Section 7-1-54 NMSA 1978 shall be deemed to be a delinquent taxpayer.

C. If a taxpayer files a protest as provided in Section 7-1-24 NMSA 1978, the taxpayer nevertheless becomes a delinquent taxpayer upon failure of the taxpayer to appear, in person or by authorized representative, at the hearing set or upon failure to perfect an appeal from any decision or part thereof adverse to the taxpayer to the next higher appellate level, as provided in that section, unless the taxpayer makes payment of the total amount of all taxes assessed and remaining unabated or furnishes security for payment.

D. A taxpayer does not become a delinquent taxpayer if the taxpayer has been issued an assessment as a result of a managed audit but is still within the allowed time

period to pay the tax due as specified in Paragraph (4) of Subsection A of Section 7-1-67 NMSA 1978."

Chapter 157 Section 2 Laws 2019

SECTION 2. Section 7-1-23 NMSA 1978 (being Laws 1965, Chapter 248, Section 25, as amended) is amended to read:

"7-1-23. DISPUTING LIABILITIES--ELECTION OF REMEDIES.-- A taxpayer may dispute the taxpayer's liability for taxes only by protesting the assessment of taxes as provided in Section 7-1-24 NMSA 1978 without making payment or by claiming a refund as provided in Section 7-1-26 NMSA 1978 after making payment of the taxes the department asserts are owed. The pursuit of one of the two remedies constitutes an unconditional waiver of the right to pursue the other."

Chapter 157 Section 3 Laws 2019

SECTION 3. Section 7-1-24 NMSA 1978 (being Laws 1965, Chapter 248, Section 26, as amended) is amended to read:

"7-1-24. DISPUTING LIABILITIES--ADMINISTRATIVE PROTEST.--

A. A taxpayer may dispute:

- (1) the assessment to the taxpayer of any amount of tax;
- (2) the application to the taxpayer of any provision of the Tax Administration Act except the issuance of a subpoena or summons; or
- (3) the denial of or failure either to allow or to deny a:
 - (a) credit or rebate; or
 - (b) claim for refund made in accordance with Section 7-1-26 NMSA 1978.

B. The taxpayer may dispute a matter described in Subsection A of this section by filing with the secretary a written protest that:

- (1) identifies the taxpayer and the tax credit, rebate, property or provision of the Tax Administration Act involved;

(2) states the grounds on which the protest is based and summarizes evidence supporting each ground asserted; and

(3) states the affirmative relief requested.

C. A taxpayer may amend a statement made by the taxpayer in accordance with Paragraphs (2) and (3) of Subsection B of this section at any time prior to ten days before the hearing conducted on the protest in accordance with the Administrative Hearings Office Act or, if a scheduling order has been issued, in accordance with the scheduling order. The secretary may, in appropriate cases, provide for an informal conference before a hearing of the protest is set by the administrative hearings office or before acting on a claim for refund.

D. A taxpayer may file a protest, in the case of an assessment of tax by the department, without making payment of the amount assessed; provided that, if only a portion of the assessment is in dispute, any unprotested amounts of tax, interest or penalty shall be paid, or, if applicable, an installment agreement pursuant to Section

7-1-21 NMSA 1978 shall be entered into for the unprotested amounts, on or before the due date for the protest.

E. A protest by a taxpayer shall be filed within ninety days after:

(1) the date of the mailing to the taxpayer by the department of the notice of assessment and demand for payment as provided in Subsection A or D of Section 7-1-17 NMSA 1978;

(2) the mailing of the other peremptory notice or demand;

(3) the date of the application to the taxpayer of the applicable provision of the Tax Administration Act; or

(4) the date of denial of a claim pursuant to Section 7-1-26 NMSA 1978 or the last date upon which the department was required to take action on the claim but failed to take action.

F. If a taxpayer fails to timely protest an assessment of tax, penalty or interest:

(1) the undisputed amount of tax assessed and not protested becomes final;

(2) the taxpayer is deemed to have waived the right to protest the assessment, unless the taxpayer pays the tax and claims a refund of the tax pursuant to Section 7-1-26 NMSA 1978; and

(3) the secretary may proceed to enforce collection of the tax if the taxpayer is delinquent as defined by Section 7-1-16 NMSA 1978.

G. The fact that the department did not mail the assessment or other peremptory notice or demand by certified or registered mail or otherwise demand and receive acknowledgment of receipt by the taxpayer shall not be deemed to demonstrate the taxpayer's inability to protest within the required time.

H. A proceeding other than one to enforce collection of an amount assessed as tax and to protect the interest of the state by injunction, as provided by Sections 7-1-31, 7-1-33, 7-1-34, 7-1-40, 7-1-53, 7-1-56 and 7-1-58 NMSA 1978, is not stayed by timely filing of a protest in accordance with this section.

I. Nothing in this section shall be construed to authorize a criminal proceeding or to authorize an administrative protest of the issuance of a subpoena or summons."

Chapter 157 Section 4 Laws 2019

SECTION 4. Section 7-1-26 NMSA 1978 (being Laws 1965, Chapter 248, Section 28, as amended) is amended to read:

"7-1-26. DISPUTING LIABILITIES--CLAIM FOR CREDIT, REBATE OR REFUND.--

A. A person who believes that an amount of tax has been paid by or withheld from that person in excess of that for which the person was liable, who has been denied a credit or rebate claimed or who claims a prior right to property in the possession of the department pursuant to a levy made under authority of Sections 7-1-31 through 7-1-34 NMSA 1978 may claim a refund by directing to the secretary, within the time limitations provided by Subsections F and G of this section, a written claim for refund that, except as provided in Subsection K of this section, includes:

- (1) the taxpayer's name, address and identification number;
- (2) the type of tax for which a refund is being claimed, the credit or rebate denied or the property levied upon;
- (3) the sum of money or other property being claimed;

(4) with respect to a refund, the period for which overpayment was made;

(5) a brief statement of the facts and the law on which the claim is based, which may be referred to as the "basis for the refund", which may include documentation that substantiates the written claim and supports the taxpayer's basis for the refund; and

(6) if applicable, a copy of an amended return for each tax period for which the refund is claimed.

B. A claim for refund that meets the requirements of Subsection A of this section and that is filed within the time limitations provided by Subsections F and G of this section is deemed to be properly before the department for consideration, regardless of whether the department requests additional documentation after receipt of the claim for refund.

C. If the department requests additional relevant documentation from a taxpayer who has submitted a claim for refund, the claim for refund shall not be considered incomplete provided the taxpayer submits sufficient information for the department to make a determination.

D. The secretary or the secretary's delegate may allow the claim in whole or in part or may deny the claim. If the:

(1) claim is denied in whole or in part in writing, the person shall not refile the denied claim, but the person, within ninety days after either the mailing or delivery of the denial of all or any part of the claim, may elect to pursue only one of the remedies provided in Subsection E of this section; and

(2) department has neither granted nor denied any portion of a complete claim for refund within one hundred eighty days after the claim was mailed or otherwise delivered to the department, the person may elect to treat the claim as denied and elect to pursue only one of the remedies provided in Subsection E of this section.

E. A person may elect to pursue only one of the remedies provided in this subsection. A person who timely pursues more than one remedy is deemed to have elected the first. The person may:

(1) direct to the secretary, pursuant to the provisions of Section 7-1-24 NMSA 1978, a written protest that sets forth:

(a) the circumstances of: 1) an alleged overpayment; 2) a denied credit; 3) a denied rebate; or 4) a denial of a prior right to property levied upon by the department;

(b) an allegation that, because of that overpayment or denial, the state is indebted to the taxpayer for a specified amount, including any allowed interest, or for the property;

(c) a demand for the refund to the taxpayer of that amount or that property; and

(d) a recitation of the facts of the claim for refund; or

(2) commence a civil action in the district court for Santa Fe county by filing a complaint setting forth the circumstance of the claimed overpayment, denied credit or rebate or denial of a prior right to property levied upon by the department alleging that on account thereof the state is indebted to the plaintiff in the amount or property stated, together with any interest allowable, demanding the refund to the plaintiff of that amount or property and reciting the facts of the claim for refund. The plaintiff or the secretary may appeal from any final decision or order of the district court to the court of appeals.

F. Except as otherwise provided in Subsection G of this section, a credit or refund of any amount may be allowed or made to a person:

(1) only within three years after the end of the calendar year in which:

(a) the payment was originally due or the overpayment resulted from an assessment by the department as provided in Section 7-1-17 NMSA 1978, whichever is later;

(b) the final determination of value occurs with respect to any overpayment that resulted from a disapproval by any agency of the United States or the state of New Mexico or any court of increase in value of a product subject to taxation under the Oil and Gas Severance Tax Act, the Oil and Gas Conservation Tax Act, the Oil and Gas Emergency School Tax Act, the Oil and Gas Ad Valorem Production Tax Act or the Natural Gas Processors Tax Act;

(c) property was levied upon as provided in the Tax Administration Act; or

(d) an overpayment of New Mexico tax resulted from: 1) an internal revenue service audit adjustment or a federal refund paid due to an adjustment of an audit by the internal revenue service or an amended federal return; or 2) the amendment to a federal return for which federal approval is required by the Internal Revenue Code;

(2) in the case of a denial of a claim for credit under the Investment Credit Act, Laboratory Partnership with Small Business Tax Credit Act or Technology Jobs and Research and Development Tax Credit Act or for the rural job tax credit provided by Section 7-2E-1.1 NMSA 1978 or similar credit, only within one year after the date of the denial;

(3) in the case of a taxpayer under audit by the department who has signed a waiver of the limitation on assessments on or after July 1, 1993 pursuant to Subsection F of Section 7-1-18 NMSA 1978, only for a refund of the same tax paid for the same period for which the waiver was given, and only until a date one year after the later of the date of the mailing of an assessment issued pursuant to the audit, the date of the mailing of final audit findings to the taxpayer or the date a proceeding is begun in court by the department with respect to the same tax and the same period;

(4) in the case of a payment of an amount of tax not made within three years of the end of the calendar year in which the original due date of the tax or date of the assessment of the department occurred, only for a claim for refund of that amount of tax and only within one year of the date on which the tax was paid; or

(5) in the case of a taxpayer who has been assessed a tax on or after July 1, 1993 under Subsection B, C or D of Section 7-1-18 NMSA 1978 and an assessment that applies to a period ending at least three years prior to the beginning of the year in which the assessment was made, only for a refund for the same tax for the period of the assessment or for any period following that period within one year of the date of the assessment unless a longer period for claiming a refund is provided in this section.

G. No credit or refund shall be allowed or made to a person claiming a refund of gasoline tax under Section 7-13-11 NMSA 1978 unless notice of the destruction of the gasoline was given to the department within thirty days of the actual destruction and the claim for refund is made within six months of the date of destruction. No credit or refund shall be allowed or made to a person claiming a refund of gasoline tax under Section 7-13-17 NMSA 1978 unless the refund is claimed within six months of the date of purchase of the gasoline and the gasoline has been used at the time the claim for refund is made.

H. If, as a result of an audit by the department or a managed audit covering multiple periods, an overpayment of tax is found in any period under the audit and if the taxpayer files a claim for refund for the overpayments identified in the audit, that overpayment may be credited against an underpayment of the same tax found in another period under audit pursuant to Section 7-1-29 NMSA 1978.

I. A refund of tax paid under any tax or tax act administered under Subsection B of Section 7-1-2 NMSA 1978 may be made, at the discretion of the department, in the form of credit against future tax payments if future tax liabilities in an amount at least equal to the credit amount reasonably may be expected to become due.

J. For the purposes of this section, "oil and gas tax return" means a return reporting tax due with respect to oil, natural gas, liquid hydrocarbons, carbon dioxide, helium or nonhydrocarbon gas pursuant to the Oil and Gas Severance Tax Act, the Oil and Gas Conservation Tax Act, the Oil and Gas Emergency School Tax Act, the Oil and Gas Ad Valorem Production Tax Act, the Natural Gas Processors Tax Act or the Oil and Gas Production Equipment Ad Valorem Tax Act.

K. The filing of a fully completed original income tax return, corporate income tax return, corporate income and franchise tax return, estate tax return or special fuel excise tax return that shows a balance due the taxpayer or a fully completed amended income tax return, an amended corporate income tax return, an amended corporate income and franchise tax return, an amended estate tax return, an amended special fuel excise tax return or an amended oil and gas tax return that shows a lesser tax liability than the original return constitutes the filing of a claim for refund for the difference in tax due shown on the original and amended returns."

Chapter 157 Section 5 Laws 2019

SECTION 5. Section 7-1-29.1 NMSA 1978 (being Laws 2003, Chapter 398, Section 12, as amended) is amended to read:

"7-1-29.1. AWARDING OF COSTS AND FEES.--

A. In an administrative proceeding or court proceeding brought by or against a taxpayer and conducted in connection with the determination, collection or refund of a tax or the interest or penalty for a tax governed by the Tax Administration Act, the taxpayer shall be awarded a judgment or a settlement for reasonable administrative costs and reasonable litigation costs and attorney fees incurred in connection with the proceeding if the taxpayer is the prevailing party.

B. As used in this section:

(1) "administrative proceeding" means any procedure or other action before the department or the administrative hearings office;

(2) "court proceeding" means any civil action brought in state district court;

(3) "reasonable administrative costs" means:

(a) any administrative fees or similar charges imposed by the department or the administrative hearings office; and

(b) actual charges for: 1) filing fees, court reporter fees, service of process fees and similar expenses; 2) the services of expert witnesses; 3) any study, analysis, report, test or project reasonably necessary for the preparation of the party's case; and 4) fees and costs paid or incurred for the services in connection with the proceeding of attorneys, certified public accountants, employees of a New Mexico licensed certified public accounting firm or enrolled agents who are authorized to practice in the context of an administrative proceeding; and

(4) "reasonable litigation costs and attorney fees" means:

(a) reasonable court costs; and

(b) actual charges for: 1) filing fees, court reporter fees, service of process fees and similar expenses; 2) the services of expert witnesses; 3) any study, analysis, report, test or project reasonably necessary for the preparation of the party's case; and 4) fees and costs paid or incurred for the services of attorneys in connection with the proceeding.

C. For purposes of this section:

(1) the taxpayer is the prevailing party if the taxpayer has:

(a) substantially prevailed with respect to the amount in controversy; or

(b) substantially prevailed with respect to most of the issues involved in the case or the most significant issue or set of issues involved in the case;

(2) the taxpayer is not the prevailing party if the administrative hearings office finds that the position of the department in the proceeding was based upon a reasonable application of the law to the facts of the case. For purposes of this

paragraph, the position of the department shall be presumed not to be based upon a reasonable application of the law to the facts of the case if:

(a) the department did not follow applicable published guidance in the proceeding; or

(b) the assessment giving rise to the proceeding is not supported by substantial evidence determined at the time of the issuance of the assessment;

(3) as used in Subparagraph (a) of Paragraph (2) of this subsection, "applicable published guidance" means:

(a) department or administrative hearings office regulations, information releases, instructions, notices, technical advice memoranda and announcements; and

(b) private letter rulings and letters issued by the department to the taxpayer; and

(4) the determination of whether the taxpayer is the prevailing party and the amount of reasonable litigation costs or reasonable administrative costs shall be made by agreement of the parties or:

(a) in the case of an administrative proceeding, by the hearing officer; or

(b) in the case of a court proceeding, by the court.

D. An order granting or denying in whole or in part an award for:

(1) reasonable litigation costs and attorney fees pursuant to Subsection A of this section in a court proceeding may be incorporated as a part of the court's decision or judgment and are subject to appeal in the same manner as the decision or judgment; and

(2) reasonable administrative costs pursuant to Subsection A of this section in an administrative proceeding are reviewable in the same manner as a decision of the administrative hearings office.

E. An agreement for or award of reasonable administrative costs or reasonable litigation costs in any administrative proceeding or court proceeding pursuant to

Subsection A of this section shall not exceed the lesser of twenty percent of the amount of the settlement or judgment or seventy-five thousand dollars (\$75,000).

F. The department shall annually report to the legislative finance committee and the revenue stabilization and tax policy committee on the costs it incurs pursuant to this section."

Chapter 157 Section 6 Laws 2019

SECTION 6. Section 7-1B-1 NMSA 1978 (being Laws 2015, Chapter 73, Section 1) is amended to read:

"7-1B-1. SHORT TITLE.--Chapter 7, Article 1B NMSA 1978 may be cited as the "Administrative Hearings Office Act"."

Chapter 157 Section 7 Laws 2019

SECTION 7. Section 7-1B-6 NMSA 1978 (being Laws 2015, Chapter 73, Section 6) is amended to read:

"7-1B-6. HEARING OFFICER CODE OF CONDUCT-- INDEPENDENCE.--

A. The chief hearing officer shall:

(1) adopt and promulgate a hearing officer code of conduct; and

(2) annually, evaluate each hearing officer's performance for competency, efficiency and professional demeanor in accord with relevant legal standards and the hearing officer code of conduct, including through the use of a survey of practitioners who appear before the hearing officer.

B. The chief hearing officer shall ensure that each hearing officer has decisional independence; however, the chief hearing officer may:

(1) consult with a hearing officer about a genuine question of law; and

(2) review with a hearing officer any issue on appeal addressed by a court of this state.

C. The administrative hearings office shall:

- (1) hear all tax protests pursuant to the provisions of the Tax Administration Act;
- (2) hear property tax protests pursuant to the provisions of the Property Tax Code;
- (3) hear all certificate-denial protests pursuant to the provisions of Section 13-1-22 NMSA 1978;
- (4) conduct all adjudicatory hearings pursuant to the Motor Vehicle Code;
- (5) conduct all driver's license revocation hearings pursuant to the provisions of the Implied Consent Act;
- (6) make and preserve a complete record of all proceedings; and
- (7) maintain confidentiality regarding taxpayer information as required by Section 7-1-8 NMSA 1978.

D. In hearings conducted in accordance with the Tax Administration Act, Section 13-1-22 NMSA 1978 and the Motor Vehicle Code:

(1) the Rules of Evidence do not apply. The hearing officer may require reasonable substantiation of statements or records tendered, the accuracy or truth of which is in reasonable doubt, to rule on the admissibility of evidence. A taxpayer or the taxation and revenue department may request a written ruling on a contested question of evidence in a matter in which the taxpayer has filed a written protest and for which that protest is pending. The administrative hearings office shall issue a copy of its written ruling to the department at the time the ruling is issued to the taxpayer;

(2) the Rules of Civil Procedure for the District Courts do not apply. The hearing officer shall conduct a hearing to allow the ample and fair presentation of complaints and defenses. The hearing officer shall hear arguments, permit discovery, entertain and dispose of motions, require written expositions of the case as the circumstances justify and render a decision in accordance with the law and the evidence presented and admitted. A taxpayer or the taxation and revenue department may request a written ruling on a contested question of procedure in a matter in which the taxpayer has filed a written protest and for which that protest is pending. The administrative hearings office shall issue a copy of its written ruling to the department at the time the ruling is issued to the taxpayer; and

(3) the hearing officer may administer oaths and issue subpoenas for the attendance of witnesses and the production of relevant books and papers, and for hearings conducted for a license suspension pursuant to Section 66-5-30 NMSA 1978, the hearing officer may require a reexamination of the licensee."

Chapter 157 Section 8 Laws 2019

SECTION 8. Section 7-1B-8 NMSA 1978 (being Laws 2015, Chapter 73, Section 8) is amended to read:

"7-1B-8. TAX PROTESTS--PROCEDURES.--

A. Upon timely receipt of a tax protest filed in accordance with the provisions of Section 7-1-24 NMSA 1978, the taxation and revenue department shall promptly acknowledge the protest by letter to the protesting taxpayer or the taxpayer's representative. If the department determines that the protest has not been filed in accordance with that section, the department shall, within twenty-one days of receipt of the protest, inform the taxpayer of the deficiency and provide the taxpayer, within twenty-one days of the taxpayer being informed, one opportunity to correct it. If the taxpayer corrects the deficiency, the protest shall be considered timely if the initial protest was filed within ninety days in accordance with Subsection D of Section 7-1-24 NMSA 1978. A determination by the department that a protest has not been filed in accordance with that section may be protested by the taxpayer.

B. Within one hundred eighty days, but no earlier than sixty days after the date of the protest, the taxation and revenue department shall request a hearing with the administrative hearings office. A taxpayer may request in writing an informal conference with the department within sixty days after the date of the protest, and the department shall conduct the requested informal conference within thirty days of the receipt of the request. Whether or not a taxpayer requests an informal conference with the department, a taxpayer may request a hearing with the administrative hearings office no earlier than sixty days from the date of the protest.

C. The taxation and revenue department shall include with its request for a hearing an answer to the protest describing the legal and factual bases supporting the department's position beyond an assertion of the presumption of correctness and articulating the remaining protested issues.

D. In the event the taxpayer first requests a hearing with the administrative hearings office, the taxation and revenue department shall, within thirty days of service of the taxpayer's request for a hearing, file its answer to the protest describing the legal and factual bases supporting the department's position beyond an assertion of the

presumption of correctness. The department may amend its answer to the protest up until ten days before the scheduled hearing or other deadline specified in a controlling scheduling order; provided that if the administrative hearings office determines that the department's amended answer unfairly prejudices the taxpayer, the administrative hearings office may disallow the amended answer. The hearing shall be limited to the grounds provided in the taxpayer's protest letter and in the department's answer to the protest.

E. If the hearing officer finds that the taxation and revenue department failed to comply with the deadlines set forth in Subsections A and B of this section, the hearing officer may order that no further interest may accrue on the protested liability.

F. If the taxpayer files the request for a hearing, the chief hearing officer shall set a hearing to take place within ninety days of the taxation and revenue department's answer to the protest, but in no case later than one hundred twenty days after the taxpayer's request for a hearing. If the department files the request for hearing with the answer to the protest, the chief hearing officer shall set a hearing to take place within ninety days of that request. Absent a conflict of interest requiring the assigned hearing officer to recuse from the case pursuant to the administrative hearings office code of conduct or an unforeseen emergency circumstance such as an accident, unexpected medical condition or illness, or vacancy of the position of the assigned hearing officer, the chief hearing officer shall not reassign a hearing officer to a case without giving the department and the taxpayer notice of that reassignment at least fourteen days before the hearing. Either party may, within ten days of notice of hearing assigning a hearing officer or notice of reassignment of a hearing officer, exercise one time the peremptory right to excuse the hearing officer designated to conduct the hearing; provided that the party has not moved for a discretionary ruling from the assigned hearing officer, nor previously exercised its right of peremptory excusal. Once a hearing officer has been peremptorily excused, that hearing officer shall not be assigned to the case again.

G. The administrative hearings office shall rule on a dispositive motion, including a motion for summary judgment, a motion for partial summary judgment or a motion to dismiss, filed by the taxation and revenue department or the taxpayer at least thirty days before the hearing unless the parties consent to a different deadline in a scheduling order.

H. A taxpayer may appear at the hearing on the taxpayer's own behalf, may appear through a bona fide employee or may be represented by an attorney, a certified public accountant, an employee of a New Mexico licensed certified public accounting firm whose authorization by the firm and by the taxpayer to appear is evidenced in writing or an enrolled agent. An attorney, a certified public accountant, an employee of a New Mexico licensed certified public accounting firm or an enrolled agent shall abide

by their respective controlling professional or ethical standards of conduct at all stages of the administrative proceeding before the administrative hearings office. If the taxation and revenue department and the taxpayer agree, the hearing may be conducted via videoconference. At the beginning of the hearing, the hearing officer shall inform the taxpayer of the taxpayer's right to representation. A hearing shall be closed to the public except upon request of the taxpayer. A hearing officer may postpone or continue a hearing at the hearing officer's discretion. As used in this subsection, "enrolled agent" means a federally licensed tax practitioner with unlimited rights to represent taxpayers before the internal revenue service.

I. Within thirty days after the hearing, the hearing officer shall inform the taxation and revenue department and the taxpayer in writing of the decision and, in accordance with Section 7-1-25 NMSA 1978, of the aggrieved party's right to, and the requirements for perfection of, an appeal from the decision to the court of appeals and of the consequences of a failure to appeal. The written decision shall embody:

(1) an order granting or denying the relief requested or granting or denying a part of the relief requested, as appropriate; and

(2) findings of fact and law and a thorough discussion of the reasoning used to support the order with citations to the record and applicable law.

J. A taxpayer with two or more protests containing related issues may request that the protests be combined and heard jointly. The hearing officer shall grant the request to combine protests unless it would create an unreasonable burden on the administrative hearings office or the taxation and revenue department.

K. Nothing in this section shall be construed to authorize a criminal proceeding or to authorize an administrative protest of the issuance of a subpoena or summons."

SJC/SCORC/Senate Bill 129, aa

Approved April 2, 2019

LAWS 2019, CHAPTER 158

AN ACT

RELATING TO SCHOOL SAFETY; ESTABLISHING NEW REQUIREMENTS FOR SCHOOL EVACUATION AND ACTIVE SHOOTER DRILLS.

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

Chapter 158 Section 1 Laws 2019

SECTION 1. Section 22-13-14 NMSA 1978 (being Laws 1967, Chapter 16, Section 188, as amended) is amended to read:

"22-13-14. EMERGENCY DRILLS--REQUIREMENT.--

A. An emergency drill shall be conducted in each public and private school of the state at least once each week during the first four weeks of the school year. During the first four weeks of the school year, each school shall conduct one shelter in place drill that includes preparation to respond to an active shooter, one evacuation drill and two fire drills. During the rest of the school year, each school shall conduct at least four more emergency drills, at least two of which shall be fire drills. It shall be the responsibility of the person in charge of a school to carry out the provisions of this section.

B. In locations where a fire department is maintained, a member of the fire department shall be requested to be in attendance during the emergency drills for the purpose of giving instruction and constructive criticism.

C. The department shall determine penalties for any person failing to meet the provisions of this section." _____

SPAC/Senate Bill 147, aa

Approved April 2, 2019

LAWS 2019, CHAPTER 159

AN ACT

RELATING TO BUSINESS ENTITIES; REQUIRING THAT CERTAIN BUSINESS ENTITIES CONFIRM THAT THE ENTITY HAS RESIGNED AS A REGISTERED AGENT OR IS NOT CURRENTLY A REGISTERED AGENT FOR ANY ENTITY REGISTERED IN NEW MEXICO IN ORDER TO BE ELIGIBLE FOR DISSOLUTION, WITHDRAWAL OR CANCELLATION OF REGISTRATION.

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

Chapter 159 Section 1 Laws 2019

SECTION 1. Section 53-8-51 NMSA 1978 (being Laws 1975, Chapter 217, Section 51, as amended) is amended to read:

"53-8-51. ARTICLES OF DISSOLUTION.--If voluntary dissolution proceedings have not been revoked, then when all debts, liabilities and obligations of the corporation are paid and discharged, or adequate provision has been made therefor, and all of the remaining property and assets of the corporation are transferred, conveyed or distributed in accordance with the provisions of the Nonprofit Corporation Act, articles of dissolution shall be executed by the corporation by two authorized officers of the corporation, which statement shall set forth:

A. the name of the corporation;

B. if there are members entitled to vote thereon:

(1) a statement setting forth the date of the meeting of members at which the resolution to dissolve was adopted, that a quorum was present at the meeting and that the resolution received at least two-thirds of the votes that members present at the meeting or represented by proxy were entitled to cast; or

(2) a statement that the resolution was adopted by a consent in writing signed by all members entitled to vote with respect thereto;

C. if there are no members, or no members entitled to vote thereon, a statement of such fact, the date of the meeting of the board of directors at which the resolution to dissolve was adopted and a statement of the fact that the resolution received the vote of a majority of the directors in office;

D. that all debts, obligations and liabilities of the corporation have been paid and discharged or that adequate provision has been made therefor;

E. a copy of the plan of distribution, if any, as adopted by the corporation or a statement that no plan was so adopted;

F. that all the remaining property and assets of the corporation have been transferred, conveyed or distributed in accordance with the provisions of the Nonprofit Corporation Act;

G. that there are no suits pending against the corporation in any court or that adequate provision has been made for the satisfaction of any judgment, order or decree that may be entered against it in any pending suit; and

H. confirmation that the corporation has resigned as a registered agent or is not currently a registered agent for any entity registered in New Mexico."

Chapter 159 Section 2 Laws 2019

SECTION 2. Section 53-8-77 NMSA 1978 (being Laws 1975, Chapter 217, Section 77, as amended) is amended to read:

"53-8-77. WITHDRAWAL OF FOREIGN CORPORATION.--

A. A foreign corporation authorized to conduct affairs in New Mexico may withdraw from this state upon procuring from the secretary of state a certificate of withdrawal. In order to procure the certificate of withdrawal, the foreign corporation shall deliver to the secretary of state an application for withdrawal, which shall set forth:

(1) the name of the corporation and the state or country under the laws of which it is incorporated;

(2) that the corporation is not conducting affairs in New Mexico;

(3) that the corporation surrenders its authority to conduct affairs in New Mexico;

(4) that the corporation revokes the authority of its registered agent in New Mexico to accept service of process and consents that service of process in any action, suit or proceeding based upon any cause of action arising in this state during the time the corporation was authorized to conduct affairs in this state may thereafter be made on the corporation by service thereof on the secretary of state;

(5) a post office address to which the secretary of state may mail a copy of any process against the corporation that may be served on it; and

(6) confirmation that the corporation has resigned as a registered agent or is not currently a registered agent for any entity registered in New Mexico.

B. The application for withdrawal shall be made on forms prescribed and furnished by the secretary of state and shall be executed by the corporation by two

authorized officers of the corporation or, if the corporation is in the hands of a receiver or trustee, shall be executed on behalf of the corporation by the receiver or trustee."

Chapter 159 Section 3 Laws 2019

SECTION 3. Section 53-16-11 NMSA 1978 (being Laws 1967, Chapter 81, Section 89, as amended) is amended to read:

"53-16-11. ARTICLES OF DISSOLUTION.--If voluntary dissolution proceedings have not been revoked, then, when all debts, liabilities and obligations of the corporation have been paid and discharged or adequate provision has been made therefor and all of the remaining property and assets of the corporation have been distributed to its shareholders, articles of dissolution shall be executed by the corporation by an authorized officer, which statement shall set forth:

- A. the name of the corporation;
- B. that the secretary of state has previously filed a statement of intent to dissolve the corporation and the date on which the statement was filed;
- C. that all debts, obligations and liabilities of the corporation have been paid and discharged or that adequate provision has been made therefor;
- D. that all the remaining property and assets of the corporation have been distributed among its shareholders in accordance with their respective rights and interests;
- E. that there are no suits pending against the corporation in any court or that adequate provision has been made for the satisfaction of any judgment, order or decree that may be entered against it in any pending suit; and
- F. confirmation that the corporation has resigned as a registered agent or is not currently a registered agent for any entity registered in New Mexico."

Chapter 159 Section 4 Laws 2019

SECTION 4. Section 53-17-15 NMSA 1978 (being Laws 1967, Chapter 81, Section 116, as amended) is amended to read:

"53-17-15. WITHDRAWAL OF FOREIGN CORPORATION.--

A. A foreign corporation authorized to transact business in this state may withdraw from this state upon procuring from the secretary of state a certificate of withdrawal. In order to procure the certificate of withdrawal, the foreign corporation shall deliver to the secretary of state an application for withdrawal, which shall set forth:

(1) the name of the corporation and the state or country under the laws of which it is incorporated;

(2) a statement that the corporation is not transacting business in this state;

(3) a statement that the corporation surrenders its authority to transact business in this state;

(4) a statement that the corporation revokes the authority of its registered agent in this state to accept service of process and consents that service of process in an action, suit or proceeding based upon a cause of action arising in this state during the time the corporation was authorized to transact business in this state may thereafter be made on the corporation by service thereof on the secretary of state;

(5) an address to which the secretary of state may mail a copy of a process against the corporation that may be served on it;

(6) a statement of the aggregate number of shares that the corporation has authority to issue, itemized by class and by series, if any, within each class, as of the date of the application;

(7) a statement of the aggregate number of issued shares, itemized by class and by series, if any, within each class, as of the date of the application;

(8) a statement confirming that the corporation has resigned as a registered agent or is not currently a registered agent for any entity registered in

New Mexico; and

(9) additional information as necessary or appropriate in order to enable the secretary of state to determine and assess any unpaid fees payable by the foreign corporation.

B. The application for withdrawal shall be made on forms prescribed by the secretary of state or on forms containing substantially the same information as forms prescribed by the secretary of state and shall be executed by the corporation by an

authorized officer of the corporation or, if the corporation is in the hands of a receiver or trustee, shall be executed on behalf of the corporation by the receiver or trustee."

Chapter 159 Section 5 Laws 2019

SECTION 5. Section 53-19-41 NMSA 1978 (being Laws 1993, Chapter 280, Section 41) is amended to read:

"53-19-41. ARTICLES OF DISSOLUTION.--

A. On the dissolution of a limited liability company, persons with authority pursuant to the provisions of Subsection A of Section 53-19-42 NMSA 1978 to wind up its business and affairs shall sign and deliver, to the office of the secretary of state for filing, articles of dissolution.

B. The articles of dissolution shall state:

- (1) the name of the limited liability company;
- (2) the dates of filing the articles of organization and all amendments and restatements to the articles of organization;
- (3) the event causing the dissolution;
- (4) the effective date, which shall be a date certain, of the articles of dissolution if the articles of dissolution are not to be effective on filing;
- (5) the name and address of each person who has the authority to act for the limited liability company in connection with the winding up of its business and affairs;
- (6) confirmation that the limited liability company has resigned as a registered agent or is not currently a registered agent for any entity registered in New Mexico;
- (7) whether the winding up of the business and affairs of the limited liability company is being supervised by a court pursuant to the provisions of Paragraph (2) of Subsection A of Section 53-19-42 NMSA 1978; and
- (8) any other information persons signing the articles of dissolution choose to include.

C. After the articles of dissolution have been filed, only a person named in the articles of dissolution as having authority to act for the limited liability company in connection with the winding up of its business and affairs shall have such authority, including the authority to bind the limited liability company, transact business on its behalf, act as its agent and execute any instrument for it and in its name.

D. Articles of dissolution that have been filed may be amended at any time and from time to time or revoked at any time and, unless an amendment or revocation states otherwise, it shall be effective upon delivery to the office of the secretary of state for filing."

Chapter 159 Section 6 Laws 2019

SECTION 6. Section 53-19-52 NMSA 1978 (being Laws 1993, Chapter 280, Section 52) is amended to read:

"53-19-52. CANCELLATION OF REGISTRATION.--

A. A foreign limited liability company authorized to transact business in New Mexico may cancel its registration by application to the secretary of state for a certificate of cancellation. The application for cancellation shall set forth:

(1) the name of the foreign limited liability company and the state or other jurisdiction under the laws of which it is organized;

(2) that the foreign limited liability company is not transacting business in New Mexico;

(3) that the foreign limited liability company surrenders its registration to transact business in New Mexico;

(4) that the foreign limited liability company confirms the authority of its registered agent for service of process in New Mexico and consents that service of process in any action, suit or proceeding based upon any cause of action arising in New Mexico during the time that the foreign limited liability company was authorized to transact business in New Mexico also may be made on the foreign limited liability company by service upon the secretary of state;

(5) an address to which a person may mail a copy of any process against the foreign limited liability company; and

(6) confirmation that the foreign limited liability company has resigned as a registered agent or is not currently a registered agent for any entity registered in New Mexico.

B. The application for cancellation shall be in the form specified by the secretary of state and shall be executed for the foreign limited liability company by a person with authority to do so under the laws of the state or other jurisdiction of its organization or, if the foreign limited liability company is in the hands of a receiver or trustee, by the receiver or trustee on behalf of the foreign limited liability company.

C. A cancellation does not terminate the authority of the secretary of state to accept service of process on the foreign limited liability company with respect to causes of action arising out of its having done business in

New Mexico."

Chapter 159 Section 7 Laws 2019

SECTION 7. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

Senate Bill 162

Approved April 2, 2019

LAWS 2019, CHAPTER 160

AN ACT

RELATING TO BUSINESS ENTITIES; PROVIDING THAT THE SECRETARY OF STATE SHALL ACCEPT A COPY OF A SIGNATURE FOR ELECTRONIC FILINGS OF CERTAIN DOCUMENTS.

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

Chapter 160 Section 1 Laws 2019

SECTION 1. Section 53-2-11 NMSA 1978 (being Laws 2001, Chapter 200, Section 13) is amended to read:

"53-2-11. ELECTRONIC FILING AND CERTIFICATION OF DOCUMENTS--
USE OF ELECTRONIC PAYMENT OF FEES.--

A. The secretary of state may permit the electronic filing of documents, including original documents, and the certification of electronically filed documents when filing or certification is required or permitted pursuant to a provision of Chapter 53 NMSA 1978. The secretary of state may accept electronic filings for the purposes of satisfying requirements for original documents or copies. As used in this section, "electronic filing" means filing by facsimile, email or other electronic transmission. If the secretary of state accepts the filing of a document by electronic transmission, the secretary of state shall accept for filing a document by electronic transmission containing a copy of a signature, however made.

B. The secretary of state may accept a credit or debit card, in lieu of cash or check, or other means of payment specified in the secretary of state's rules, as payment of a fee pursuant to a provision of Chapter 53 NMSA 1978. The secretary of state shall determine those credit or debit cards or other means of payment that may be accepted for payment."

Chapter 160 Section 2 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

Senate Bill 167

Approved April 2, 2019

LAWS 2019, CHAPTER 161

AN ACT

RELATING TO GAMING; AUTHORIZING CERTAIN BINGO LICENSEES TO ALLOW GAMING BY PULL-TAB INDEPENDENT OF A BINGO OCCASION; DECLARING AN EMERGENCY.

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

Chapter 161 Section 1 Laws 2019

SECTION 1. Section 60-2F-15 NMSA 1978 (being Laws 2009, Chapter 81, Section 15) is amended to read:

"60-2F-15. PERSONS PERMITTED TO CONDUCT BINGO GAMES--
PREMISES.--

A. The officers of a bingo licensee shall designate a bingo manager to be in charge and primarily responsible for the conduct of all games of bingo. The bingo manager shall supervise all bingo activities on the occasion for which the bingo manager is in charge. The bingo manager shall be familiar with the provisions of the state laws, the rules of the board and the provisions of the bingo license. The bingo manager shall be present on the premises continuously during the bingo games and for a period of at least thirty minutes after the last bingo game.

B. The bingo manager shall designate a game accountant to be primarily responsible for the proper preparation of the quarterly reports in accordance with the New Mexico Bingo and Raffle Act.

C. For a bingo game, the bingo manager shall designate a bingo caller to be responsible for drawing and announcing the bingo numbers.

D. The premises where any game of chance is being held, operated or conducted or where it is intended that any equipment be used shall at all times be open to inspection by the board and its agents and employees and by peace officers of the state or any political subdivision of the state.

E. No owner or co-owner of the premises or, if a corporation is the owner of the premises, any officer, director or stockholder owning more than ten percent of the outstanding stock shall be designated as a bingo manager, a game accountant or a bingo caller."

Chapter 161 Section 2 Laws 2019

SECTION 2. A new Section 60-2F-15.1 NMSA 1978 is enacted to read:

"60-2F-15.1. PERSONS PERMITTED TO CONDUCT PULL-TAB GAMES--
PREMISES.--

A. Only a veterans' or fraternal organization or a 501(c)(3) organization that is a bingo licensee may operate pull-tab dispensers when the organization is not concurrently operating a bingo occasion.

B. The bingo licensee shall designate a bingo manager to be in charge and primarily responsible for the conduct of all games of pull-tabs. The bingo manager shall supervise all activities for which the bingo manager is in charge. The bingo manager shall be familiar with the provisions of the state laws, the rules of the board and the provisions of the bingo license. The bingo manager need not be present on the premises continuously while a veterans' or fraternal organization or a 501(c)(3) organization that is a bingo licensee is operating pull-tab games.

C. The bingo manager shall designate a game accountant to be primarily responsible for the proper preparation of the quarterly reports in accordance with the New Mexico Bingo and Raffle Act.

D. The premises where any game of chance is being held, operated or conducted, or where it is intended that any equipment be used, shall at all times be open to inspection by the board and its agents and employees and by peace officers of the state or any political subdivision of the state.

E. No owner or co-owner of the premises or, if a corporation is the owner of the premises, any officer, director or stockholder owning more than ten percent of the outstanding stock, shall be designated as a bingo manager or a game accountant.

F. Nothing in this section shall authorize a veterans' or fraternal organization or a 501(c)(3) organization to engage in class III gaming.

G. As used in this section, "501(c)(3) organization" means an organization that demonstrates to the taxation and revenue department that it has been granted exemption from the federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended or renumbered."

Chapter 161 Section 3 Laws 2019

SECTION 3. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately. _____

SCORC/Senate Bill 177, aa, w/ec

Approved April 2, 2019

LAWS 2019, CHAPTER 162

AN ACT

RELATING TO MOTOR VEHICLES; CREATING A SPECIAL REGISTRATION PLATE FOR SUPPORTERS OF POLLINATOR PROTECTION; MAKING AN APPROPRIATION.

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

Chapter 162 Section 1 Laws 2019

SECTION 1. A new section of the Motor Vehicle Code is enacted to read:

"SPECIAL SUPPORT OF POLLINATOR PROTECTION REGISTRATION PLATE.--

A. The department shall issue a standardized special registration plate in support of pollinator protection with a logo specified in Section 66-3-424 NMSA 1978 indicating that the recipient supports pollinator protection.

B. For an initial fee of twenty-five dollars (\$25.00), which shall be in addition to the regular motor vehicle registration fees, a motor vehicle owner may apply for issuance of a special registration plate as provided in Subsection A of this section. For each subsequent year, the fee shall be fifteen dollars (\$15.00) if the owner wishes to retain and renew the support of pollinator protection special registration plate.

C. The revenue from the fees imposed by Subsection B of this section for the support of pollinator protection special registration plate shall be distributed as follows:

(1) ten dollars (\$10.00) of the initial fee collected shall be retained by the department and is appropriated to the department for the manufacture and issuance of the special registration plate; and

(2) fifteen dollars (\$15.00) of the initial fee and the entire renewal fee collected shall be distributed to and are appropriated to the department of transportation for the purpose of funding pollinator protection activities, including roadside vegetation planting, educational signage and demonstration gardens in areas within the department's jurisdiction."

Approved April 2, 2019

LAWS 2019, CHAPTER 163

AN ACT

RELATING TO CHILDREN; AMENDING A SECTION OF CHAPTER 21, ARTICLE 1 NMSA 1978 TO PROVIDE FOSTER CHILDREN GREATER ACCESS TO TUITION AND FEE WAIVERS AT STATE EDUCATIONAL INSTITUTIONS.

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

Chapter 163 Section 1 Laws 2019

SECTION 1. Section 21-1-4.7 NMSA 1978 (being Laws 2014, Chapter 62, Section 1) is amended to read:

"21-1-4.7. FOSTER CHILD TUITION AND FEE WAIVER ELIGIBILITY-- NOTIFICATION.--

A. The state educational institutions set forth in Article 12, Section 11 of the constitution of New Mexico and their branches, community colleges as provided in Chapter 21, Article 13 NMSA 1978 and technical and vocational institutes as provided in Chapter 21, Article 16 NMSA 1978 shall not charge tuition or fees pursuant to Section 21-1-4 NMSA 1978 to a student for whom the children, youth and families department provides certification that the student was in the legal custody of the children, youth and families department pursuant to the Children's Code or for whom a New Mexico Indian nation, tribe or pueblo or the United States department of the interior bureau of Indian affairs division of human services provides certification that the student was in the legal custody of a New Mexico Indian nation, tribe or pueblo or the United States department of the interior bureau of Indian affairs division of human services on or after the day of the student's fourteenth birthday, who enrolls in one of the state educational institutions set forth in Article 12, Section 11 of the constitution of New Mexico and their branches, community colleges as provided in Chapter 21, Article 13 NMSA 1978 and technical and vocational institutes as provided in Chapter 21, Article 16 NMSA 1978 no later than the day of the student's twenty-fifth birthday.

B. The higher education department shall collaborate with the children, youth and families department, the New Mexico Indian nations, tribes or pueblos and the United States department of the interior bureau of Indian affairs division of human services to ensure that middle school and high school students who are or have been in the legal custody of the children, youth and families department, a New Mexico Indian

nation, tribe or pueblo or the United States department of the interior bureau of Indian affairs division of human services learn about the provisions of this section." _____

Senate Bill 251

Approved April 2, 2019

LAWS 2019, CHAPTER 164

AN ACT

RELATING TO PROFESSIONAL LICENSES; CREATING ADDITIONAL LICENSES UNDER THE FUNERAL SERVICES ACT; ADDING DEFINITIONS; MAKING TECHNICAL AND CONFORMING CHANGES.

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

Chapter 164 Section 1 Laws 2019

SECTION 1. Section 61-32-3 NMSA 1978 (being Laws 1993, Chapter 204, Section 3, as amended) is amended to read:

"61-32-3. DEFINITIONS.--As used in the Funeral Services Act:

- A. "board" means the board of funeral services;
- B. "committal service" means a service at a place of interment or entombment that follows a funeral conducted at another location;
- C. "cremains" means cremated remains;
- D. "cremation" means the reduction of a dead human body by direct flame to a residue that includes bone fragments;
- E. "crematory" means every place or premises that is devoted to or used for cremation and pulverization of the cremains;
- F. "crematory authority" means the individual who is ultimately responsible for the operation of a crematory;

G. "department" means the regulation and licensing department;

H. "direct disposer" means a person licensed to engage solely in providing direct disposition at a direct disposition establishment, licensed pursuant to the Funeral Services Act, as provided in that act;

I. "direct disposition" means only the disposition of a dead human body as quickly as possible, without a direct disposer performing or arranging a funeral, graveside service, committal service or memorial service, whether public or private, and without embalming of the body unless embalming is required by the place of disposition;

J. "direct supervision" means that the supervising funeral service practitioner is physically present with and in direct control of the person being trained;

K. "disposition" means the final disposal of a dead human body, whether it be by earth interment, above-ground interment or entombment, cremation, burial at sea or delivery to a medical school, when the medical school assumes complete responsibility for the disposal of the body following medical study;

L. "embalmer" means a person licensed to engage in embalming and preparing a dead human body for funeral service at a funeral establishment that is licensed pursuant to the Funeral Services Act;

M. "embalming" means the disinfection, preservation and restoration, when possible, of a dead human body by a licensed funeral service practitioner, licensed embalmer or a licensed funeral service intern under the supervision of a licensed funeral service practitioner;

N. "ennichement" means interment of cremains in a niche in a columbarium, whether in an urn or not;

O. "entombment" means interment of a casketed body or cremains in a crypt in a mausoleum;

P. "establishment" means every office, premises or place of business where the practice of funeral service or direct disposition is conducted or advertised as being conducted and includes commercial establishments that provide for the practice of funeral service or direct disposition services exclusively to licensed funeral or direct disposition establishments or a school of medicine;

Q. "funeral" means a period following death in which there is an organized, purposeful, time-limited,

group-centered ceremony or rite, whether religious or not, with the body of the deceased present;

R. "funeral arranger" means a person licensed to engage in arrangements and directing of funeral services at a funeral establishment that is licensed pursuant to the Funeral Services Act;

S. "funeral merchandise" means that personal property offered for sale in connection with the transportation, funeralization or disposition of a dead human body, including the enclosure into which a dead human body is or cremains are directly placed, and excluding mausoleum crypts, interment enclosures preset in a cemetery and columbarium niches;

T. "funeral service intern" means a person licensed to be in training for the practice of funeral service under the supervision and instruction of a funeral service practitioner at a funeral establishment or commercial establishment, licensed pursuant to the Funeral Services Act;

U. "funeral service practitioner" means a person licensed to engage in the practice of funeral service at a funeral establishment or commercial establishment that is licensed pursuant to the Funeral Services Act;

V. "funeral services" means those immediate post-death activities related to a dead human body and its care and disposition, whether with or without rites or ceremonies; but "funeral services" does not include disposition of the body by a school of medicine following medical study;

W. "general supervision" means that the supervising funeral service practitioner is not necessarily physically present in the establishment with the person being trained but is available for advice and assistance;

X. "graveside service" means a funeral held at the graveside only, excluding a committal service that follows a funeral conducted at another location;

Y. "jurisprudence examination" means an examination prescribed by the board on the statutes, rules and regulations pertaining to the practice of funeral service or direct disposition, including the Funeral Services Act, the rules of the board, state health regulations governing human remains and the Vital Statistics Act;

Z. "licensee in charge" means a funeral service practitioner who is ultimately responsible for the conduct of a funeral or commercial establishment and its employees;

or a direct disposer who is ultimately responsible for the conduct of a direct disposition establishment and its employees;

AA. "make arrangements" means advising or counseling about specific details for a funeral, graveside service, committal service, memorial service, disposition or direct disposition;

BB. "memorial service" means a gathering of persons for recognition of a death without the presence of the body of the deceased;

CC. "practice of funeral service" means those activities allowed under the Funeral Services Act by a funeral service practitioner, funeral arranger, embalmer or funeral service intern; and

DD. "pulverization" means the process that reduces cremains to a granular substance."

Chapter 164 Section 2 Laws 2019

SECTION 2. Section 61-32-4 NMSA 1978 (being Laws 1993, Chapter 204, Section 4, as amended) is amended to read:

"61-32-4. LICENSE REQUIRED.--

A. Unless licensed to practice under the Funeral Services Act, a person shall not:

(1) practice as a funeral service practitioner, funeral arranger, embalmer, funeral service intern or direct disposer;

(2) use the title or make any representation as being a funeral service practitioner, funeral arranger, embalmer, funeral service intern or direct disposer or use any other title, abbreviation, letters, figures, signs or devices that indicate the person is licensed to practice as a funeral service practitioner, funeral arranger, embalmer, funeral service intern or direct disposer; or

(3) maintain, manage or operate a funeral establishment, a commercial establishment, a direct disposition establishment or a crematory.

B. A person who engages in the practice or acts in the capacity of a funeral service practitioner, funeral arranger, embalmer, funeral service intern or direct disposer in this state, with or without a New Mexico license, is subject to the jurisdiction of the

state and to the administrative jurisdiction of the board and is subject to all penalties and remedies available for a violation of a provision of the Funeral Services Act.

C. A person who maintains, manages or operates a funeral establishment, commercial establishment, direct disposition establishment or crematory in this state, with or without a New Mexico establishment or crematory license, is subject to the jurisdiction of the state and to the administrative jurisdiction of the board and is subject to all penalties and remedies available for a violation of a provision of the Funeral Services Act."

Chapter 164 Section 3 Laws 2019

SECTION 3. Section 61-32-9 NMSA 1978 (being Laws 1993, Chapter 204, Section 9, as amended) is amended to read:

"61-32-9. REQUIREMENTS FOR LICENSURE--FUNERAL SERVICE PRACTITIONER--FUNERAL ARRANGER--EMBALMER--FUNERAL SERVICE INTERN--DIRECT DISPOSER--CONVERSION OF CERTAIN LICENSES--TEMPORARY LICENSES.--

A. A license to practice as a funeral service practitioner shall be issued to any person who files a completed application, accompanied by the required fees and documentation, and who submits satisfactory evidence that the person:

(1) is at least eighteen years of age;

(2) has served as a licensed funeral service intern for not less than twelve months, under the supervision of a licensed funeral service practitioner. During the training period, the applicant shall have assisted in the embalming of at least fifty bodies, making of at least fifty funeral arrangements and the directing of at least fifty funerals;

(3) has successfully completed an examination, including a jurisprudence examination, prescribed by board rules;

(4) has successfully completed both the arts and science sections of the national board examination administered by the international conference of funeral service examining boards;

(5) has not been convicted of unprofessional conduct or incompetency;
and

(6) has obtained an associate's degree in funeral science requiring the completion of at least sixty semester hours from an institution whose funeral program is accredited by the American board of funeral service education or any other successor institution offering funeral service education recognized by the United States government.

B. A license to practice as a funeral arranger shall be issued to any person who files a completed application, accompanied by the required fees and documentation, and who submits satisfactory evidence that the person:

(1) is at least eighteen years of age;

(2) has served as a licensed funeral service intern for not less than twelve months, under the supervision of a licensed funeral service practitioner. During the training period, the applicant shall have assisted in the making of at least fifty funeral arrangements and the directing of at least fifty funerals;

(3) has successfully completed an examination, including a jurisprudence examination, prescribed by board rules;

(4) has successfully completed the arts section of the national board examination administered by the international conference of funeral service examining boards;

(5) has not been convicted of unprofessional conduct or incompetency;
and

(6) has obtained an associate's degree in funeral science requiring the completion of at least sixty semester hours from an institution whose funeral program is accredited by the American board of funeral service education or any other successor institution offering funeral service education recognized by the United States government.

C. A license to practice as an embalmer shall be issued to any person who files a completed application, accompanied by the required fees and documentation, and who submits satisfactory evidence that the person:

(1) is at least eighteen years of age;

(2) has served as a licensed funeral service intern for not less than twelve months, under the supervision of a licensed funeral service practitioner. During

the training period, the applicant shall have assisted in the embalming of at least fifty bodies;

(3) has successfully completed an examination, including a jurisprudence examination, prescribed by board rules;

(4) has successfully completed the science section of the national board examination administered by the international conference of funeral service examining boards;

(5) has not been convicted of unprofessional conduct or incompetency;
and

(6) has obtained an associate's degree in funeral science requiring the completion of at least sixty semester hours from an institution whose funeral program is accredited by the American board of funeral service education or any other successor institution offering funeral service education recognized by the United States government.

D. A license to practice as a funeral service intern shall be issued to any person who files a completed application, accompanied by the required fees and documentation, and who submits satisfactory evidence that the person:

(1) is at least eighteen years of age;

(2) has graduated from high school or the equivalent;

(3) has submitted proof of employment and supervision as required by board rules. Except as may be allowed by board rule, a license as a funeral service intern is issued only for a specific funeral establishment or an establishment that is part of a multi-establishment enterprise;

(4) has successfully completed an examination, including a jurisprudence examination, prescribed by board rules; and

(5) has not been convicted of unprofessional conduct or incompetency.

E. A license to practice as a direct disposer shall be issued to any person who files a completed application, accompanied by the required fees and documentation, and who submits satisfactory evidence that the person:

(1) is at least eighteen years of age;

(2) has obtained an associate's degree in funeral science requiring the completion of at least sixty semester hours from an institution whose funeral program is accredited by the American board of funeral service education or any other successor institution offering funeral service education and recognized by the United States government;

(3) has successfully completed any examination, including a jurisprudence examination, prescribed by board rules; and

(4) has not been convicted of unprofessional conduct or incompetency.

F. On and after July 1, 2012, the board shall not issue a new license that was formerly designated an "assistant funeral services practitioner" or "associate funeral services practitioner" license under a version of the Funeral Services Act in effect on June 30, 2012. A person holding one of these licenses that is valid as of June 30, 2012 shall be considered as holding a valid, renewable funeral services intern license subject to the general supervision of a licensed funeral services practitioner pursuant to the Funeral Services Act.

G. The board may adopt by rule requirements for issuing a temporary license that will be valid until the next scheduled board meeting."

Chapter 164 Section 4 Laws 2019

SECTION 4. Section 61-32-10 NMSA 1978 (being Laws 1993, Chapter 204, Section 10, as amended) is amended to read:

"61-32-10. LICENSURE BY CREDENTIALS.--After successful completion of a jurisprudence examination, the board may license an applicant as a funeral service practitioner, funeral arranger or embalmer; provided the applicant possesses a valid license or its equivalent for the practice of funeral service issued by the appropriate examining board under the laws of any other state or territory of the United States, the District of Columbia or any foreign nation, and provided the applicant presents proof that the applicant is currently licensed in good standing in a jurisdiction that has standards for licensure that are at least equal to those for licensure in New Mexico as required by the Funeral Services Act."

Chapter 164 Section 5 Laws 2019

SECTION 5. Section 61-32-20 NMSA 1978 (being Laws 1993, Chapter 204, Section 20, as amended) is amended to read:

"61-32-20. EMBALMING.--

A. All dead human bodies not disposed of within twenty-four hours after death or release or receipt by the establishment or crematory shall be embalmed in accordance with the Funeral Services Act or stored under refrigeration as determined by board rule, unless otherwise required by regulation of the office of the state medical investigator or the secretary of health or by orders of an authorized official of the office of the state medical investigator, a court of competent jurisdiction or other authorized official.

B. A dead human body shall not be embalmed except by a funeral service practitioner, embalmer or a funeral service intern under the supervision of a funeral service practitioner.

C. When embalming is not required under the provisions of this section, a dead human body shall not be embalmed without express authorization by the:

- (1) surviving spouse or next of kin;
- (2) legal agent or personal representative of the deceased; or
- (3) person assuming responsibility for final disposition.

D. When embalming is not required, and prior to obtaining authorization for the embalming, a dead human body may be washed and other health procedures, including closing of the orifices, may be performed without authorization.

E. When a dead human body is embalmed, the funeral service practitioner or embalmer who embalms the body or the funeral service intern who embalms the body and the funeral service practitioner who supervises the embalming shall, within twenty-four hours after the embalming procedure, complete and sign an embalming case report describing the elapsed time since death, the condition of the remains before and after embalming and the embalming procedures used. The embalming case report shall be kept on file at the establishment for a period of not less than seven years following the embalming.

F. Except as provided in Subsection A of this section, embalming is not required."

Chapter 164 Section 6 Laws 2019

SECTION 6. Section 61-32-22 NMSA 1978 (being Laws 1993, Chapter 204, Section 22, as amended) is amended to read:

"61-32-22. INACTIVE STATUS.--

A. A funeral service practitioner, funeral arranger, embalmer, funeral service intern or direct disposer who has a current license may request that the license be placed on inactive status. Except as provided in Subsection E of this section, the board shall approve each request for inactive status.

B. A license placed on inactive status may be renewed within a period not to exceed five years following the date the board granted the inactive status.

C. Renewal of an inactive license requires payment of renewal and reinstatement fees as set forth by board rule and compliance with the following requirements:

(1) certification by the licensee that the licensee has not engaged in the practice of funeral service or direct disposition in this state during the inactive status;

(2) compliance with continuing education requirements established by board rule; and

(3) successful completion of an examination, which shall be administered at the discretion of the board, to certify continuing competency.

D. Disciplinary proceedings may be initiated or continued against a licensee who has been granted inactive status.

E. A license shall not be placed on inactive status if the licensee is under investigation or if disciplinary proceedings have been initiated."

Chapter 164 Section 7 Laws 2019

SECTION 7. Section 61-32-24 NMSA 1978 (being Laws 1993, Chapter 204, Section 24, as amended) is amended to read:

"61-32-24. DISCIPLINARY PROCEEDINGS--JUDICIAL REVIEW.--

A. The board, in accordance with the procedures set forth in the Uniform Licensing Act, may take disciplinary action against any licensee, temporary licensee or applicant.

B. The board has the authority to take any action set forth in Section 61-1-3 NMSA 1978 upon a finding by the board that the applicant or licensee is guilty of any of the following acts of commission or omission:

(1) conviction of an offense punishable by incarceration in a state penitentiary or federal prison; provided that the board receives a copy of the record of conviction, certified to by the clerk of the court entering the conviction, which shall be conclusive evidence of the conviction;

(2) fraud or deceit in procuring or attempting to procure a license;

(3) gross negligence or incompetence;

(4) unprofessional or dishonorable conduct, which includes:

(a) misrepresentation or fraud;

(b) false or misleading advertising;

(c) solicitation of dead human bodies by the licensee or the licensee's agents, assistants or employees, whether the solicitation occurs after death or while death is impending; provided that this shall not be deemed to prohibit general advertising;

(d) solicitation or acceptance by a licensee of a commission, bonus or rebate in consideration of recommending or causing a dead human body to be disposed of in a cemetery, mausoleum or crematory;

(e) using any funeral merchandise previously purchased, in whole or in part, except for transportation purposes, without prior written permission of the person selecting or paying for the use of the merchandise; and

(f) failing to make disposition of a dead human body in the enclosure or container that was purchased for that purpose by the arrangers;

(5) violation of the provisions of the Funeral Services Act or a rule of the board;

(6) violation of any local, state or federal ordinance, law or regulation affecting the practice of funeral service, direct disposition or cremation, including the Prearranged Funeral Plan Regulatory Law or any regulations ordered by the superintendent of insurance;

(7) willful or negligent practice beyond the scope of the license issued by the board;

(8) refusing to release properly a dead human body to the custody of the person or entity who has the legal right to effect the release, whether or not the authorized cost has been paid. If an establishment receives a dead human body for funeral services but the body is subsequently transferred to another establishment that completes or performs funeral services, the subsequent establishment shall be responsible for all reasonable nonprofessional service charges incurred by the next previous establishment prior to and including transfer of the body and the subsequent establishment shall reimburse the next previous establishment for those charges;

(9) failure to secure a necessary permit required by law for removal from this state or cremation of a dead human body;

(10) knowingly making a false statement on a certificate of death;

(11) failure to give full cooperation to the board or one of its committees, staff, inspectors or agents or an attorney for the board in the performance of official duties;

(12) having had a license, certificate or registration to practice revoked, suspended or denied in any jurisdiction, territory or possession of the United States or another country for actions of the licensee or applicant similar to acts described in this subsection. A certified copy of the record of the jurisdiction taking the disciplinary action is conclusive evidence of the violation;

(13) failure to supervise adequately subordinate personnel;

(14) conduct unbecoming a licensee or detrimental to the safety or welfare of the public;

(15) employing fraudulent billing practices; or

(16) practicing funeral service or cremation without a current license.

C. In addition to the offenses listed in Subsection B of this section, the board has the authority to take any action set forth in Section 61-1-3 NMSA 1978 upon a finding by the board that a person who is licensed as or is an applicant for a license as a funeral service practitioner, embalmer, funeral arranger or funeral service intern is guilty of any of the following acts of commission or omission:

(1) practicing funeral service without a license or aiding or abetting an unlicensed person to practice funeral service; or

(2) permitting a funeral service intern to exceed the limitations set forth in the provisions of the Funeral Services Act or the rules of the board.

D. In addition to the offenses listed in Subsection B of this section, the board has the authority to take any action set forth in Section 61-1-3 NMSA 1978 upon a finding by the board that a direct disposer licensee or a direct disposition establishment licensee is guilty of any of the following acts of commission or omission:

(1) embalming, restoring, acting as a cosmetician or in any way altering the condition of a dead human body, except for washing and dressing;

(2) causing a body to be embalmed when embalming is not required by a place of disposition;

(3) prior to interment, entombment or other final disposition of a dead human body, participating in any rites or ceremonies in connection with such final disposition of the body, or providing facilities for any such rites or ceremonies;

(4) reclaiming, transporting or causing to be transported a dead human body after written release for disposition; or

(5) practicing direct disposition without a license or aiding or abetting an unlicensed person to practice direct disposition.

E. In addition to the offenses listed in Subsection B of this section, the board has the authority to take any action set forth in Section 61-1-3 NMSA 1978 upon a finding by the board that a crematory licensee or applicant or a crematory authority is guilty of any of the following acts of commission or omission:

(1) engaging or making any representation as engaging in the practice of funeral service or direct disposition, unless the applicant or crematory authority has a license to practice funeral service or direct disposition;

(2) operating a crematory without a license or aiding and abetting a crematory to operate without a license; or

(3) engaging in conduct or activities for which a license to engage in the practice of funeral service or direct disposition is required or aiding and abetting an

unlicensed person to engage in conduct or activities for which a license to practice funeral service or direct disposition is required.

F. Unless exonerated by the board, persons who have been subjected to formal disciplinary sanctions by the board shall be responsible for the payment of costs of the disciplinary proceedings, which include costs for:

- (1) court reporters;
- (2) transcripts;
- (3) certification or notarization;
- (4) photocopies;
- (5) witness attendance and mileage fees;
- (6) postage for mailings required by law;
- (7) expert witnesses; and
- (8) depositions.

G. All fees, fines and costs imposed on an applicant, licensee, establishment or crematory shall be paid in full to the board before an initial or renewal license may be issued."

Chapter 164 Section 8 Laws 2019

SECTION 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

Senate Bill 263, aa

Approved April 2, 2019

LAWS 2019, CHAPTER 165

AN ACT

RELATING TO LIBRARIES; SUPPORTING THE PRESERVATION, DEVELOPMENT AND ESTABLISHMENT OF RURAL LIBRARIES THROUGHOUT THE STATE; CREATING THE RURAL LIBRARIES ENDOWMENT FUND AND THE RURAL LIBRARIES PROGRAM FUND; CREATING THE RURAL LIBRARIES GRANT PROGRAM; REPEALING THE RURAL LIBRARIES DEVELOPMENT ACT; MAKING APPROPRIATIONS.

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

Chapter 165 Section 1 Laws 2019

SECTION 1. A new section of Chapter 18 NMSA 1978 is enacted to read:

"RURAL LIBRARIES ENDOWMENT FUND--DISTRIBUTIONS.--

A. The "rural libraries endowment fund" is created

in the state treasury to support the preservation, development and establishment of rural libraries throughout the state by providing funding for rural libraries' operational and capital needs and funding for the delivery of specialized services to rural libraries.

B. The rural libraries endowment fund consists of

appropriations and donations to the fund and all income from investment of the fund. The state investment officer shall invest money in the fund as money in the fund described in Article 12, Section 7 of the constitution of New Mexico is invested.

C. Distributions of money from the rural libraries endowment fund shall be:

(1) in the following gross amounts:

(a) for fiscal year 2022 and each of the following five fiscal years, the difference, if positive, between all fund investment income yielded through the immediately preceding calendar year and all fund distributions, up to five percent of the year-end market value of the fund for the immediately preceding calendar year; and

(b) for fiscal year 2028 and each subsequent fiscal year, the average of fund investment income yielded in the immediately preceding five calendar years, up to five percent of the year-end market value of the fund for the immediately preceding calendar year; and

(2) in the following proportions:

(a) ninety-five percent of the gross distribution to the rural libraries program fund for grants through the rural libraries grant program; and

(b) five percent of the gross distribution to the cultural affairs department for the state's delivery of specialized services to rural libraries."

Chapter 165 Section 2 Laws 2019

SECTION 2. A new section of Chapter 18 NMSA 1978 is enacted to read:

"RURAL LIBRARIES GRANT PROGRAM--SPECIALIZED SERVICES.--

A. The "rural libraries grant program" is created. Through that program, the state librarian shall annually disburse, in the form of grants directly benefiting developing rural libraries and established rural libraries and grants for the establishment of developing rural libraries in cities, towns and villages without libraries, money from the rural libraries program fund. The state librarian shall endeavor each year to disburse the full amount available for rural libraries grants. The portion, if any, of that amount not disbursed shall be made available for the next award of grants.

B. The state librarian shall use money allocated for specialized services to rural libraries from the rural libraries endowment fund distribution to provide specialized services to rural libraries."

Chapter 165 Section 3 Laws 2019

SECTION 3. A new section of Chapter 18 NMSA 1978 is enacted to read:

"RURAL LIBRARIES PROGRAM FUND CREATED.--The "rural libraries program fund" is created in the state treasury. The fund consists of distributions from the rural libraries endowment fund that are designated for the rural libraries grant program and appropriations, gifts, interest and other money attributed to the fund. Money in the fund shall not revert at the end of a fiscal year. Money in the fund may be appropriated by the legislature to carry out the provisions of Sections 1 through 4 of this 2019 act. Expenditures from the fund shall be made upon warrant of the secretary of finance and administration pursuant to vouchers signed by the state librarian or the state librarian's authorized representative."

Chapter 165 Section 4 Laws 2019

SECTION 4. A new section of Chapter 18 NMSA 1978 is enacted to read:

"DEFINITIONS.--As used in Sections 1 through 4 of this 2019 act, and to the extent allowed by law:

A. "developing rural library" means a rural library whose library staff, whether salaried or volunteer, is dedicated to delivering library services to the public for at least fifteen hours per week and on at least two days each week;

B. "established rural library" means a rural library:

(1) with permanent, salaried staff; and

(2) that offers library services to the public for at least twenty-five hours per week;

C. "rural library" means a library that is established:

(1) through an ordinance or legal resolution adopted by a political subdivision of the state and is located in a municipality with a population at the time of the library's establishment of three thousand or less or is located in an unincorporated area of the state;

(2) by a legal resolution of a tribal government in New Mexico and is located in a census designated place with a population at the time of the library's establishment of three thousand or less; or

(3) as a corporation with tax-exempt status pursuant to Section 501(c)(3) of the United States Internal Revenue Code of 1986 and is located in a municipality with a population at the time of the library's establishment of three thousand or less or is located in an unincorporated area of the state; and

D. "specialized services" means professional development opportunities, program support, information technology support and other capacity-building services, as defined by the state librarian."

Chapter 165 Section 5 Laws 2019

SECTION 5. Section 6-8-1 NMSA 1978 (being Laws 1957, Chapter 179, Section 1, as amended) is amended to read:

"6-8-1. DEFINITIONS.--As used in Chapter 6, Article 8 NMSA 1978:

A. "council" means the state investment council;

B. "department" means the department of finance and administration;

C. "land grant permanent funds" means the permanent school fund established by Article 12, Section 2 of the constitution of New Mexico and all other permanent funds derived from lands granted or confirmed to the state by the act of congress of June 20, 1910, entitled "An Act To enable the people of New Mexico to form a constitution and state government and be admitted into the Union on an equal footing with the original States...";

D. "permanent funds" means the land grant permanent funds, rural libraries endowment fund, severance tax permanent fund, tobacco settlement permanent fund and water trust fund;

E. "secretary" means the secretary of finance and administration;

F. "severance tax permanent fund" means the fund established by Article 8, Section 10 of the constitution of New Mexico;

G. "tobacco settlement permanent fund" means the fund established by Section 6-4-9 NMSA 1978; and

H. "water trust fund" means the fund established by Article 16, Section 6 of the constitution of New Mexico."

Chapter 165 Section 6 Laws 2019

SECTION 6. TEMPORARY PROVISION--FUND TRANSFER.--On July 1, 2019, the balance in the rural library development fund is transferred to the rural libraries endowment fund.

Chapter 165 Section 7 Laws 2019

SECTION 7. REPEAL.--Sections 18-15-1 through 18-15-4 NMSA 1978 (being Laws 2007, Chapter 83, Sections 1 through 4) are repealed.

Chapter 165 Section 8 Laws 2019

SECTION 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

SFL/Senate Bill 264

Approved April 2, 2019

LAWS 2019, CHAPTER 166

AN ACT

RELATING TO PUBLIC HOLIDAYS; DECLARING OCTOBER 30 OF EACH YEAR "RUDOLFO ANAYA I LOVE TO READ DAY".

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

Chapter 166 Section 1 Laws 2019

SECTION 1. A new Section of Chapter 12, Article 5 NMSA 1978 is enacted to read:

"RUDOLFO ANAYA I LOVE TO READ DAY.--October 30 of each year shall be set apart and known as "Rudolfo Anaya I Love to Read Day" in recognition of the contributions made by Rudolfo Anaya to the culture and literature of New Mexico, of his commitment to the teaching of literature and of the critical need to improve the reading proficiency of New Mexicans, particularly children. "Rudolfo Anaya I Love to Read Day" is designated for the people of New Mexico to celebrate reading, strengthen literacy and undertake efforts and expressions in harmony with the general character of the day."__

Senate Bill 270, aa

Approved April 2, 2019

LAWS 2019, CHAPTER 167

AN ACT

RELATING TO DRIVER'S LICENSES; RENAMING DRIVER'S LICENSES AND DRIVING AUTHORIZATION CARDS; CHANGING THE VALIDITY PERIODS OF SOME DRIVER'S LICENSES AND IDENTIFICATION CARDS; REMOVING THE FINGERPRINTING REQUIREMENT FOR ISSUANCE OF CERTAIN DRIVER'S

LICENSES AND IDENTIFICATION CARDS; CHANGING PROCEDURES FOR THE ISSUANCE OF TEMPORARY LICENSES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Chapter 167 Section 1 Laws 2019

SECTION 1. Section 66-1-4.4 NMSA 1978 (being Laws 1990, Chapter 120, Section 5, as amended) is amended to read:

"66-1-4.4. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "day" means calendar day, unless otherwise provided in the Motor Vehicle Code;

B. "dealer", except as specifically excluded, means any person who sells or solicits or advertises the sale of new or used motor vehicles, manufactured homes or trailers subject to registration in this state; "dealer" does not include:

(1) receivers, trustees, administrators, executors, guardians or other persons appointed by or acting under judgment, decree or order of any court;

(2) public officers while performing their duties as such officers;

(3) persons making casual sales of their own vehicles;

(4) finance companies, banks and other lending institutions making sales of repossessed vehicles; or

(5) licensed brokers under the Manufactured Housing Act who, for a fee, commission or other valuable consideration, engage in brokerage activities related to the sale, exchange or lease purchase of pre-owned manufactured homes on a site installed for a consumer;

C. "declared gross weight" means the maximum gross vehicle weight or gross combination vehicle weight at which a vehicle or combination will be operated during the registration period, as declared by the registrant for registration and fee purposes; the vehicle or combination shall have only one declared gross weight for all operating considerations;

D. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

E. "designated accessible parking space for persons with significant mobility limitation" means any space, including an access aisle, that is marked and reserved for the parking of a passenger vehicle that carries registration plates or a parking placard with the international symbol of access issued in accordance with Section 66-3-16 NMSA 1978 and that is designated by a conspicuously posted sign bearing the international symbol of access and, if the parking space is paved, by a clearly visible depiction of this symbol painted in blue on the pavement of the space;

F. "director" means the secretary;

G. "disqualification" means a prohibition against driving a commercial motor vehicle;

H. "distinguishing number" means the number assigned by the department to a vehicle whose identifying number has been destroyed or obliterated or the number assigned by the department to a vehicle that has never had an identifying number;

I. "distributor" means a person who distributes or sells new or used motor vehicles to dealers and who is not a manufacturer;

J. "division", without further specification, "division of motor vehicles" or "motor vehicle division" means the department;

K. "driveaway-towaway operation" means an operation in which any motor vehicle, new or used, is the item being transported when one set or more of wheels of any such motor vehicle is on the roadway during the course of transportation, whether or not the motor vehicle furnishes the motive power;

L. "driver" means every person who drives or is in actual physical control of a motor vehicle, including a motorcycle, upon a highway, who is exercising control over or steering a vehicle being towed by a motor vehicle or who operates or is in actual physical control of an off-highway motor vehicle; and

M. "driver's license" means any license, permit or driving authorization card issued by a state or other jurisdiction recognized under the laws of New Mexico pertaining to the authorizing of persons to operate motor vehicles and includes a REAL ID-compliant driver's license and a standard driver's license."

Chapter 167 Section 2 Laws 2019

SECTION 2. Section 66-1-4.9 NMSA 1978 (being Laws 1990, Chapter 120, Section 10, as amended) is amended to read:

"66-1-4.9. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "identification card" means a document issued by the department or the motor vehicle administration of a state or other jurisdiction recognized under the laws of New Mexico that identifies the holder and includes a REAL ID-compliant identification card and a standard identification card;

B. "implement of husbandry" means every vehicle that is designed for agricultural purposes and exclusively used by the owner in the conduct of agricultural operations;

C. "international registration plan" means the registration reciprocity agreement among the contiguous states of the United States, the District of Columbia and provinces of Canada providing for payment of apportionable fees on the basis of total distance operated in all jurisdictions. The international registration plan is a method of registering fleets of vehicles that travel in two or more member jurisdictions and complies with the federal Intermodal Surface Transportation Efficiency Act of 1991;

D. "intersection" means:

(1) the area embraced within the prolongation or connection of the lateral curb lines or, if none, then the lateral boundary lines of the roadways of two highways that join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict; and

(2) where a highway includes two roadways thirty feet or more apart, every crossing of each roadway of that divided highway by an intersecting highway shall be regarded as a separate intersection; in the event that the intersecting highway also includes two roadways thirty feet or more apart, every crossing of two roadways of those highways shall be regarded as a separate intersection;

E. "inventory", when referring to a vehicle dealer, means a vehicle held for sale or lease in the ordinary course of business, the cost of which is used in calculating the dealer's cost of goods sold for federal income tax purposes; and

F. "jurisdiction", without modification, means "state".

Chapter 167 Section 3 Laws 2019

SECTION 3. Section 66-1-4.10 NMSA 1978 (being Laws 1990, Chapter 120, Section 11, as amended) is amended to read:

"66-1-4.10. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "laned roadway" means a roadway that is divided into two or more clearly marked lanes for vehicular traffic;

B. "law enforcement agency designated by the division" means the law enforcement agency indicated on the dismantler's notification form as the appropriate agency for the receipt of the appropriate copy of that form;

C. "lawful status" means the legal right to be present in the United States, as that phrase is used in the federal REAL ID Act of 2005;

D. "license", without modification, means any license, permit or driving authorization card issued by a state or other jurisdiction recognized under the laws of New Mexico pertaining to the authorizing of persons to operate motor vehicles and includes a REAL ID-compliant driver's license and a standard driver's license;

E. "lien" or "encumbrance" means every chattel mortgage, conditional sales contract, lease, purchase lease, sales lease, contract, security interest under the Uniform Commercial Code or other instrument in writing having the effect of a mortgage or lien or encumbrance upon, or intended to hold, the title to any vehicle in the former owner, possessor or grantor; and

F. "local authorities" means every county, municipality and any local board or body having authority to enact laws relating to traffic under the constitution and laws of this state."

Chapter 167 Section 4 Laws 2019

SECTION 4. Section 66-1-4.15 NMSA 1978 (being Laws 1990, Chapter 120, Section 16, as amended) is amended to read:

"66-1-4.15. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "railroad" means a carrier of persons or property upon cars operated upon stationary rails;

B. "railroad sign or signal" means any sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train;

C. "railroad train" means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails;

D. "REAL ID-compliant driver's license" means a license or a class of license issued by a state or other jurisdiction pertaining to the authorizing of persons to operate motor vehicles and that meets federal requirements to be accepted by federal agencies for official federal purposes;

E. "REAL ID-compliant identification card" means an identification card that meets federal requirements to be accepted by federal agencies for official federal purposes;

F. "reconstructed vehicle" means any vehicle assembled or constructed largely by means of essential parts, new or used, derived from other vehicles or that, if originally otherwise assembled or constructed, has been materially altered by the removal of essential parts, new or used;

G. "recreational travel trailer" means a camping body designed to be drawn by another vehicle;

H. "recreational vehicle" means a vehicle with a camping body that has its own motive power, is affixed to or is drawn by another vehicle and includes motor homes, travel trailers and truck campers;

I. "registration" means registration certificates and registration plates issued under the laws of New Mexico pertaining to the registration of vehicles;

J. "registration number" means the number assigned upon registration by the division to the owner of a vehicle or motor vehicle required to be registered by the Motor Vehicle Code;

K. "registration plate" means the plate, marker, sticker or tag assigned by the division for the identification of the registered vehicle;

L. "residence district" means the territory contiguous to and including a highway not comprising a business district when the property on the highway for a distance of three hundred feet or more is in the main improved with residences or residences and buildings in use for business;

M. "revocation" means that the driver's license and privilege to drive a motor vehicle on the public highways are terminated and shall not be renewed or restored, except that an application for a new license may be presented to and acted upon by the division after the expiration of at least one year after date of revocation;

N. "right of way" means the privilege of the immediate use of the roadway;

O. "road tractor" means every motor vehicle designed and used primarily for drawing other vehicles and constructed not to carry a significant load on the road tractor, either independently or as any part of the weight of a vehicle or load drawn; and

P. "roadway" means that portion of a street or highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder; when a highway includes two or more separate roadways, the term "roadway" refers to each roadway separately but not to all of the roadways collectively."

Chapter 167 Section 5 Laws 2019

SECTION 5. Section 66-1-4.16 NMSA 1978 (being Laws 1990, Chapter 120, Section 17, as amended) is amended to read:

"66-1-4.16. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "safety glazing materials" means glazing materials constructed, treated or combined with other materials to reduce substantially, in comparison with ordinary sheet glass or plate glass, the likelihood of injury to persons by objects from exterior sources or by these safety glazing materials when they are cracked and broken;

B. "safety zone" means the area or space that is officially set apart within a highway for the exclusive use of pedestrians and that is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone;

C. "salvage vehicle" means a vehicle:

(1) other than a nonrepairable vehicle, of a type subject to registration that has been wrecked, destroyed or damaged excluding, pursuant to rules issued by the department, hail damage, to the extent that the owner, leasing company, financial institution or the insurance company that insured or is responsible for repair of the vehicle considers it uneconomical to repair the vehicle and that is subsequently not repaired by or for the person who owned the vehicle at the time of the event resulting in damage; or

(2) that was determined to be uneconomical to repair and for which a total loss payment is made by an insurer, whether or not the vehicle is subsequently repaired, if, prior to or upon making payment to the claimant, the insurer obtained the agreement of the claimant to the amount of the total loss settlement and informed the claimant that, pursuant to rules of the department, the title must be branded and submitted to the department for issuance of a salvage certificate of title for the vehicle;

D. "school bus" means a commercial motor vehicle used to transport preprimary, primary or secondary school students from home to school, from school to home or to and from school-sponsored events, but not including a vehicle:

(1) operated by a common carrier, subject to and meeting all requirements of the public regulation commission but not used exclusively for the transportation of students;

(2) operated solely by a government-owned transit authority, if the transit authority meets all safety requirements of the public regulation commission but is not used exclusively for the transportation of students;

(3) operated as a per capita feeder as provided in Section 22-16-6 NMSA 1978; or

(4) that is a minimum six-passenger, full-size, extended-length, sport utility vehicle operated by a school district employee pursuant to Subsection D of Section 22-16-4 NMSA 1978;

E. "seal" means the official seal of the taxation and revenue department as designated by the secretary;

F. "secretary" means the secretary of taxation and revenue, and, except for the purposes of Sections 66-2-3 and 66-2-12 NMSA 1978, also includes the deputy secretary and any division director delegated by the secretary;

G. "semitrailer" means a vehicle without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle and so constructed that some significant part of its weight and that of its load rests upon or is carried by another vehicle;

H. "sidewalk" means a portion of street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians;

I. "slow-moving vehicle" means a vehicle that is ordinarily moved, operated or driven at a speed less than twenty-five miles per hour;

J. "solid tire" means every tire of rubber or other resilient material that does not depend upon compressed air for the support of the load;

K. "special mobile equipment" means a vehicle not designed or used primarily for the transportation of persons or property and incidentally operated or moved over the highways, including but not limited to farm tractors, road construction or maintenance machinery, ditch-digging apparatus, well-boring apparatus and concrete mixers;

L. "specially constructed vehicle" means a vehicle of a type required to be registered under the Motor Vehicle Code not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction;

M. "standard driver's license" means a license or a class of license issued by a state or other jurisdiction recognized by the laws of New Mexico that authorizes the holder to operate motor vehicles and is not guaranteed to be accepted by federal agencies for official federal purposes;

N. "standard identification card" means an identification card that is not guaranteed to be accepted by federal agencies for official federal purposes;

O. "state" means a state, territory or possession of the United States, the District of Columbia or any state of the Republic of Mexico or the Federal District of Mexico or a province of the Dominion of Canada;

P. "state highway" means a public highway that has been designated as a state highway by the legislature, the state transportation commission or the secretary of transportation;

Q. "stop", when required, means complete cessation from movement;

R. "stop, stopping or standing", when prohibited, means any stopping or standing of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal;

S. "street" or "highway" means a way or place generally open to the use of the public as a matter of right for the purpose of vehicular travel, even though it may be

temporarily closed or restricted for the purpose of construction, maintenance, repair or reconstruction;

T. "subsequent offender" means a person who was previously a first offender and who again, under state law, federal law or a municipal ordinance or a tribal law, has been adjudicated guilty of the charge of driving a motor vehicle while under the influence of intoxicating liquor or any drug that rendered the person incapable of safely driving a motor vehicle, regardless of whether the person's sentence was suspended or deferred; and

U. "suspension" means that a person's driver's license and privilege to drive a motor vehicle on the public highways are temporarily withdrawn."

Chapter 167 Section 6 Laws 2019

SECTION 6. Section 66-5-9 NMSA 1978 (being Laws 1978, Chapter 35, Section 231, as amended) is amended to read:

"66-5-9. APPLICATION FOR LICENSE OR RENEWAL.--

A. An application for a license or a renewal of a license shall be made upon a form furnished by the department. An application shall be accompanied by the proper fee. For licenses other than those issued pursuant to the New Mexico Commercial Driver's License Act, submission of a complete application with payment of the fee entitles the applicant to not more than three attempts to pass the examination within a period of six months from the date of application.

B. An application for a REAL ID-compliant driver's license, an instruction permit or provisional license, or renewal of a REAL ID-compliant driver's license, instruction permit or provisional license shall contain the applicant's full legal name; date of birth; sex; and current New Mexico residence address and shall briefly describe the applicant and indicate whether the applicant has previously been licensed as a driver and, if so, when and by what state or country and whether any such license has ever been suspended or revoked or whether an application has ever been refused and, if so, the date of and reason for the suspension, revocation or refusal.

C. An application for a standard driver's license or a renewal of a standard driver's license shall contain the applicant's full name; date of birth; sex; and New Mexico residence address of the applicant and briefly describe the applicant and indicate whether the applicant has previously been licensed as a driver and, if so, when and by what state or country and whether any such license has ever been suspended or

revoked or whether an application has ever been refused and, if so, the date of and reason for the suspension, revocation or refusal.

D. A valid license shall satisfy the department's identity, age and New Mexico residency requirements for the issuance or renewal of a standard driver's license to an applicant.

E. The secretary shall establish by regulation documents that may be accepted as evidence of the residency of the applicant. A person applying for or renewing a REAL ID-compliant driver's license shall provide documentation required by the federal government of the applicant's identity; date of birth; social security number, if applicable; address of current residence; and lawful status. For an applicant for a REAL ID-compliant driver's license or a renewal of a REAL ID-compliant driver's license, the department shall verify the applicant's lawful status and social security number, if applicable, through a method approved by the federal government.

F. Pursuant to the federal REAL ID Act of 2005, the secretary shall establish a written, defined exception process to allow a person to demonstrate the person's identity, age and lawful status. The process shall allow a person to use a certified letter of enrollment or a valid identification card issued by a federally recognized Indian nation, tribe or pueblo to demonstrate the person's identity or age or to demonstrate the person's lawful status, if applicable.

G. A person with lawful status may apply for a REAL ID-compliant driver's license or a standard driver's license.

H. An applicant shall indicate whether the applicant is applying for a REAL ID-compliant driver's license or a standard driver's license. The department shall issue a standard driver's license to an applicant who is otherwise eligible for a REAL ID-compliant driver's license but who does not provide proof of lawful status and who affirmatively acknowledges that the applicant understands that a standard driver's license may not be valid for federal purposes. An applicant who does not provide proof of lawful status shall only apply for a standard driver's license. Except as otherwise provided in the Motor Vehicle Code, the department shall treat driving authorization cards and standard driver's licenses as REAL ID-compliant driver's licenses.

I. An application by a foreign national with lawful status for a REAL ID-compliant driver's license shall contain the unique identifying number and expiration date, if applicable, of the foreign national's valid passport, valid visa, employment authorization card issued under the applicant's approved deferred action status or other arrival-departure record or document issued by the federal government that conveys lawful status. The department may issue to an eligible foreign national applicant a REAL ID-

compliant driver's license that is valid for a period not to exceed the duration of the applicant's lawful status; provided that if that date cannot be determined by the department and the applicant is not a legal permanent resident, the license shall expire one year after the effective date of the license.

J. An application for a standard driver's license shall include proof of the applicant's identity and age.

K. An applicant shall indicate whether the applicant has been convicted of driving while under the influence of intoxicating liquor or drugs in this state or in any other jurisdiction. Failure to disclose any such conviction prevents the issuance of a license for a period of one year if the failure to disclose is discovered by the department prior to issuance. If the nondisclosure is discovered by the department subsequent to issuance, the department shall revoke the license for a period of one year. Intentional and willful failure to disclose, as required in this subsection, is a misdemeanor.

L. An applicant under eighteen years of age who is making an application for a first New Mexico driver's license shall submit evidence that the applicant has:

(1) successfully completed a driver education course approved by the bureau that included a DWI prevention and education component. The bureau may accept verification of driver education course completion from another state if the driver education course substantially meets the requirements of the bureau for a course offered in New Mexico;

(2) had a provisional license for at least the twelve-month period immediately preceding the date of the application for the driver's license; provided that thirty days shall be added to the twelve-month period for each adjudication or conviction of a traffic violation committed during the time the person was driving with a provisional license;

(3) complied with restrictions on that license;

(4) not been cited for a traffic violation that is pending at the time of application; and

(5) not been adjudicated for an offense involving the use of alcohol or drugs during the twelve-month period immediately preceding the date of the application for the driver's license and that there are no pending adjudications alleging an offense involving the use of alcohol or drugs at the time of application.

M. An applicant eighteen years of age or over, but under twenty-five years of age, who is making an application to be granted a first New Mexico driver's license shall submit evidence with the application that the applicant has successfully completed a bureau-approved DWI prevention and education program.

N. An applicant twenty-five years of age or over who has been convicted of driving under the influence of intoxicating liquor or drugs and who is making an application to be granted a first New Mexico driver's license shall submit evidence with the application that the applicant has successfully completed a bureau-approved DWI prevention and education program.

O. Whenever an application is received from a person previously licensed in another jurisdiction, the department may request a copy of the driver's record from the other jurisdiction. When received, the driver's record may become a part of the driver's record in this state with the same effect as though entered on the driver's record in this state in the original instance.

P. Whenever the department receives a request for a driver's record from another licensing jurisdiction, the record shall be forwarded without charge.

Q. This section does not apply to licenses issued pursuant to the New Mexico Commercial Driver's License Act."

Chapter 167 Section 7 Laws 2019

SECTION 7. Section 66-5-15 NMSA 1978 (being Laws 1978, Chapter 35, Section 237, as amended) is amended to read:

"66-5-15. LICENSES ISSUED TO APPLICANTS.--

A. The department shall, upon payment of the required fee, issue to every qualified applicant a license as applied for. Except as provided in Subsection B of this section, the license shall bear the applicant's full legal name; date of birth; sex; current New Mexico residence address; full-face or front-view digital photograph; a unique license number; a date of issuance; an expiration date; a brief description of the licensee; the signature of the licensee; and the licensee's organ donor status. A license shall not be valid unless it bears the signature of the licensee.

B. A standard driver's license shall bear the applicant's full name; date of birth; sex; current New Mexico residence address; full-face or front-view digital photograph; a unique license number; a date of issuance; an expiration date; a brief description of the licensee; the signature of the licensee; and the licensee's organ donor status.

C. The department shall ensure that REAL ID-compliant driver's licenses and standard driver's licenses are distinguishable in color or design but only to the extent that a standard driver's license shall bear the statement: "NOT INTENDED FOR FEDERAL PURPOSES" and a REAL ID-compliant driver's license shall include a gold star pursuant to Section 66-5-15.3 NMSA 1978.

D. A REAL ID-compliant driver's license issued to a foreign national who fails to prove that the foreign national's lawful status will not expire prior to the date on which the license applied for would expire but for the person being a foreign national shall clearly indicate on its face and in the machine readable zone that it is temporary and shall bear the word "TEMPORARY".

Chapter 167 Section 8 Laws 2019

SECTION 8. Section 66-5-21 NMSA 1978 (being Laws 1978, Chapter 35, Section 243, as amended) is amended to read:

"66-5-21. EXPIRATION OF LICENSE--LIMITED ISSUANCE PERIOD--FOUR-YEAR ISSUANCE PERIOD--EIGHT-YEAR ISSUANCE PERIOD--RENEWAL.--

A. Except as provided in Subsections B through H of this section and Sections 66-5-19 and 66-5-67 NMSA 1978, all licenses shall be issued for a period of four years, and each license shall expire four years after the effective date of the license or shall expire thirty days after the applicant's seventy-ninth birthday. A license issued pursuant to Section 66-5-19 NMSA 1978 shall expire thirty days after the applicant's birthday in the year in which the license expires. Each license is renewable within ninety days prior to its expiration or at an earlier date approved by the department. The fee for the license shall be as provided in Section 66-5-44 NMSA 1978. The department may provide for renewal by mail or telephonic or electronic means of a license issued pursuant to the provisions of this subsection, pursuant to regulations adopted by the department that ensure adequate security measures to safeguard personal information that is obtained in the issuance of a license, except the department shall not renew by mail or telephonic or electronic means a license if prohibited by federal law. The department may require an examination upon renewal of the license.

B. Except as provided in Subsection E of this section, at the option of an applicant, a REAL ID-compliant driver's license may be issued for a period of eight years, provided that the applicant:

(1) pays the amount required for a REAL ID-compliant driver's license issued for a term of eight years;

(2) otherwise qualifies for a four-year REAL ID-compliant driver's license;
and

(3) will not reach the age of seventy-nine during the last four years of the eight-year REAL

ID-compliant driver's license period or reach the age of twenty-one during any year within the term of the license.

C. A REAL ID-compliant driver's license issued pursuant to the provisions of Subsection B of this section shall expire eight years after the effective date of the license.

D. A license issued prior to an applicant's twenty-first birthday shall expire thirty days after the applicant's twenty-first birthday. A license issued prior to an applicant's twenty-first birthday may be issued for a period of up to five years.

E. A REAL ID-compliant driver's license issued to a foreign national shall expire on the earliest of:

(1) thirty days after the applicant's twenty-first birthday, if issued prior to the applicant's twenty-first birthday;

(2) thirty days after the applicant's seventy-ninth birthday;

(3) four years after the effective date of the license or eight years after the effective date of the license if the applicant opted for a period of eight years pursuant to Subsection B of this section; or

(4) the expiration date of the applicant's lawful status; provided that if that date cannot be determined by the department and the applicant is not a legal permanent resident, the REAL ID-compliant driver's license shall expire one year after the effective date of the license.

F. A standard driver's license issued to an applicant shall expire on the earliest of:

(1) thirty days after the applicant's twenty-first birthday, if issued prior to the applicant's twenty-first birthday;

(2) thirty days after the applicant's seventy-ninth birthday; or

(3) four years after the effective date of the license.

G. At the option of an applicant, a standard driver's license may be issued for a period of eight years; provided that the applicant:

(1) pays the amount required for a standard driver's license issued for a term of eight years;

(2) otherwise qualifies for a four-year standard driver's license; and

(3) will not reach the age of seventy-nine during the last four years of the eight-year standard driver's license period or reach the age of twenty-one during any year within the term of the license.

H. The secretary shall adopt regulations providing for the proration of driver's license fees due to shortened licensure periods permitted pursuant to Subsection A of Section 66-5-19 NMSA 1978 and for licensure periods authorized pursuant to the provisions of this section."

Chapter 167 Section 9 Laws 2019

SECTION 9. Section 66-5-37 NMSA 1978 (being Laws 1978, Chapter 35, Section 259, as amended) is amended to read:

"66-5-37. UNLAWFUL USE OF LICENSE.--

A. It is a misdemeanor for any person to:

(1) display or cause or permit to be displayed or have in the person's possession any canceled, revoked or suspended driver's license;

(2) lend the person's driver's license to any other person or knowingly permit the use of the person's license by another;

(3) permit any unlawful use of the driver's license issued to, or received by, the person;

(4) display or represent as one's own any driver's license not issued to the person; or

(5) do any other act forbidden or fail to perform any other act required by Sections 66-5-1.1 through 66-5-47 NMSA 1978 or the provisions of the New Mexico Commercial Driver's License Act.

B. It is a felony for any person to:

(1) fail or refuse to surrender to the division upon its lawful demand any driver's license that has been suspended, revoked or canceled;

(2) knowingly or willfully provide a false or fictitious name or document in any application for a driver's license or knowingly make a false statement or knowingly conceal a material fact or otherwise commit a fraud in any such application; or

(3) induce or solicit another person or conspire with another person to violate this subsection."

Chapter 167 Section 10 Laws 2019

SECTION 10. Section 66-5-401 NMSA 1978 (being Laws 1978, Chapter 35, Section 328, as amended) is amended to read:

"66-5-401. IDENTIFICATION CARDS--APPLICATION.--

A. A person who does not have a valid New Mexico driver's license may be issued an identification card by the department. An application for an identification card or renewal of an identification card shall be made upon a form furnished by the department.

B. The department shall establish two distinct identification cards as provided in Section 66-5-405 NMSA 1978:

(1) a REAL ID-compliant identification card; and

(2) a standard identification card.

C. An application for a REAL ID-compliant identification card shall contain the applicant's full legal name; date of birth; sex; and current New Mexico residence address and shall briefly describe the applicant.

D. An application for a standard identification card shall bear the applicant's full name; date of birth; sex; and current New Mexico residence address and shall briefly describe the applicant.

E. The secretary shall establish by rule documents that may be accepted as evidence of the residency of the applicant.

F. A person applying for or renewing a REAL ID-compliant identification card shall provide documentation required by the federal government of the applicant's identity; date of birth; social security number, if applicable; address of current residence; and lawful status. The department shall verify the applicant's lawful status and social security number, if applicable, through a method approved by the federal government. Pursuant to the federal REAL ID Act of 2005, the secretary shall establish a written, defined exception process to allow a person to demonstrate the person's identity, age and lawful status. The process shall allow a person to use a certified letter of enrollment or a valid identification card issued by a federally recognized Indian nation, tribe or pueblo to demonstrate the person's identity or age or to demonstrate the person's lawful status, if applicable. A person with lawful status may apply for a REAL ID-compliant identification card or a standard identification card. Every application for an identification card shall be signed by the applicant or the applicant's parent or guardian. The secretary may, for good cause, revoke or deny the issuance of an identification card.

G. An application by a foreign national with lawful status for a REAL ID-compliant identification card shall contain the unique identifying number and expiration date, if applicable, of the foreign national's valid passport, valid visa, employment authorization card issued under the applicant's approved deferred action status or other arrival-departure record or document issued by the federal government that conveys lawful status. The department may issue to an eligible foreign national applicant a REAL ID-compliant identification card that is valid for a period not to exceed the duration of the applicant's lawful status; provided that if that date cannot be determined by the department and the applicant is not a legal permanent resident, the identification card shall expire one year after the effective date of the identification card.

H. The department shall issue a standard identification card to an applicant who is otherwise eligible but who does not provide proof of lawful status and who affirmatively acknowledges that the applicant understands that a standard identification card may not be valid for federal purposes. An applicant who does not provide proof of lawful status shall only apply for a standard identification card. An application for a standard identification card shall include proof of the applicant's identity and age.

I. The secretary may adopt rules providing for the proration of fees due to shortened validity periods authorized pursuant to the provisions of this section.

J. Within the forms prescribed by the department for identification card applications, a space shall be provided to show whether the applicant is a donor as

provided in the Jonathan Spradling Revised Uniform Anatomical Gift Act. A person applying for an identification card may indicate that person's status on the space provided on the application. The donor status indicated by the applicant shall be displayed on the identification card. The form and identification card shall be signed by the donor in the presence of a witness who shall also sign the form in the donor's presence."

Chapter 167 Section 11 Laws 2019

SECTION 11. Section 66-5-403 NMSA 1978 (being Laws 1973, Chapter 269, Section 3, as amended) is amended to read:

"66-5-403. EXPIRATION OF IDENTIFICATION CARDS-- DURATION-- RENEWAL.--

A. Except as provided in Subsections B through E of this section, every identification card shall be issued for a period not to exceed four years and shall expire four years after the effective date of the identification card.

B. An identification card may be renewed within ninety days prior to its expiration or at an earlier date approved by the department. An identification card may be renewed by mail or telephonic or electronic means pursuant to regulations adopted by the department, except the department shall not renew by mail or telephonic or electronic means a REAL ID-compliant identification card if prohibited by federal law. The regulations shall ensure adequate security measures to safeguard personal information that is obtained in the issuance of an identification card.

C. At the option of the applicant for an identification card, a card may be issued for a period of eight years, provided that the applicant pays the amount required for an identification card issued for a term of eight years. An identification card issued pursuant to the provisions of this subsection shall expire eight years after the effective date of the identification card.

D. A REAL ID-compliant identification card issued to a foreign national with lawful status shall expire on the earlier of:

(1) four years after the effective date of the identification card or eight years after the effective date of the identification card if the applicant opted for a period of eight years pursuant to Subsection C of this section; or

(2) the expiration date of the applicant's lawful status; provided that if that date cannot be determined by the department and the applicant is not a legal

permanent resident, the identification card shall expire one year after the effective date of the identification card.

E. A standard identification card shall expire four years after the effective date of the identification card."

Chapter 167 Section 12 Laws 2019

SECTION 12. Section 66-5-405 NMSA 1978 (being Laws 1978, Chapter 35, Section 332, as amended) is amended to read:

"66-5-405. CONTENTS OF CARD.--

A. A REAL ID-compliant identification card shall bear the applicant's full legal name; date of birth; sex; current New Mexico residence address; full-face or front-view digital photograph of the identification card holder; a unique identification card number; a date of issuance; an expiration date; a brief description of the identification card holder; and the signature of the holder, and the identification card shall indicate donor status.

B. A standard identification card shall bear the applicant's full name; date of birth; sex; current New Mexico residence address; full-face or front-view digital photograph of the identification card holder; a unique identification card number; a date of issuance; an expiration date; a brief description of the identification card holder; and the signature of the holder, and the identification card shall indicate donor status.

C. A valid license or identification card shall satisfy the identity, age and New Mexico residency requirements for the issuance of a standard identification card to an applicant.

D. All identification cards of persons under the age of twenty-one years shall have a printed legend indicating that the person is under twenty-one.

E. A standard identification card shall not include a gold star pursuant to Section 66-5-15.3 NMSA 1978 and shall bear the statement:

"STATE OF NEW MEXICO IDENTIFICATION

CARD NO. _____

This card is provided solely for the purpose of establishing that the bearer described on the card was not the holder of a New Mexico driver's license as of the date of issuance

of this card. This identification card is not a license. ISSUED FOR IDENTIFICATION PURPOSES ONLY. NOT INTENDED FOR FEDERAL PURPOSES."

F. A REAL ID-compliant identification card shall be distinguishable in color or design from a standard identification card but only to the extent that a standard identification card shall bear the statement: "NOT INTENDED FOR FEDERAL PURPOSES", and a REAL ID-compliant identification card shall include a gold star pursuant to Section 66-5-15.3 NMSA 1978.

G. A REAL ID-compliant identification card shall bear the statement:

"STATE OF NEW MEXICO IDENTIFICATION

CARD NO. _____

This card is provided for the purpose of establishing that the bearer described on the card was not the holder of a New Mexico driver's license as of the date of issuance of this card. This identification card is not a license. ISSUED FOR IDENTIFICATION PURPOSES ONLY."

H. A REAL ID-compliant identification card issued to a foreign national with lawful status who fails to prove that the foreign national's lawful status will not expire prior to the date on which the identification card applied for would expire but for the person being a foreign national shall clearly indicate on its face and in the machine readable zone that it is temporary and shall bear the word "TEMPORARY".

Chapter 167 Section 13 Laws 2019

SECTION 13. Section 66-8-111.1 NMSA 1978 (being Laws 1984, Chapter 72, Section 7, as amended) is amended to read:

"66-8-111.1. LAW ENFORCEMENT OFFICER AGENT FOR DEPARTMENT-- WRITTEN NOTICE OF REVOCATION AND RIGHT TO HEARING.--

A. On behalf of the department, a law enforcement officer requesting a chemical test or directing the administration of a chemical test pursuant to Section 66-8-107 NMSA 1978 shall serve immediate written notice of revocation and of right to a hearing before the administrative hearings office pursuant to the Implied Consent Act on a person who:

- (1) refuses to permit chemical testing; or

(2) submits to a chemical test the results of which indicate an alcohol concentration in the person's blood or breath of:

(a) eight one hundredths or more if the person is twenty-one years of age or older;

(b) four one hundredths or more if the person is driving a commercial motor vehicle; or

(c) two one hundredths or more if the person is less than twenty-one years of age.

B. The written notice of revocation and of a right to a hearing served on the driver shall be a temporary license valid for twenty days or, if the driver requests a hearing pursuant to Section 66-8-112 NMSA 1978, valid until the date the administrative hearings office issues the order following that hearing; provided that a written notice of revocation and right to a hearing shall not be a temporary license for a driver without any otherwise valid driving privileges in this state.

C. The law enforcement officer shall send to the department the signed statement required pursuant to Section 66-8-111 NMSA 1978."

Chapter 167 Section 14 Laws 2019

SECTION 14. A new section of the Motor Vehicle Code is enacted to read:

"DRIVER'S LICENSES AND IDENTIFICATION CARDS--ACCEPTANCE.--

A. A standard driver's license or identification card shall be accepted by every state and local public agency and every public accommodation for all of the purposes for which such public agency or public accommodation would accept a REAL ID-compliant driver's license or identification card.

B. It is unlawful for a public accommodation to refuse to accept a standard driver's license or identification card for any purpose for which it would accept a REAL ID-compliant driver's license or identification card. A person harmed by a violation of this subsection may maintain an action for damages or appropriate injunctive or declaratory relief to redress the violation in a district court of the judicial district in which the violation occurred or in which the plaintiff or defendant resides or the defendant may be found.

C. As used in this section, "public accommodation" means any establishment that provides or offers its services, facilities, accommodations or goods to the public, but does not mean a bona fide private club or other place or establishment that is by its nature and use distinctly private."

Chapter 167 Section 15 Laws 2019

SECTION 15. A new section of the Motor Vehicle Code is enacted to read:

"VALIDITY--DRIVING AUTHORIZATION CARDS.--A driving authorization card issued by the taxation and revenue department shall be treated by the state and its subdivisions as a standard driver's license and shall be valid until the card expires."

Chapter 167 Section 16 Laws 2019

SECTION 16. DELAYED REPEAL.--Section 15 of this act is repealed effective July 1, 2022.

Chapter 167 Section 17 Laws 2019

SECTION 17. REPEAL.--Section 66-5-15.2 NMSA 1978 (being Laws 2016, Chapter 79, Section 15) is repealed.

Chapter 167 Section 18 Laws 2019

SECTION 18. EFFECTIVE DATE.--The effective date of the provisions of this act is October 1, 2019. _____

SPAC/Senate Bill 278

Approved April 2, 2019

LAWS 2019, CHAPTER 168

AN ACT

RELATING TO PROFESSIONAL LICENSURE; EXTENDING SUNSET DATES OF CERTAIN BOARDS AND COMMISSIONS.

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

Chapter 168 Section 1 Laws 2019

SECTION 1. Section 61-13-17 NMSA 1978 (being Laws 1978, Chapter 206, Section 1, as amended) is amended to read:

"61-13-17. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The board of nursing home administrators is terminated on July 1, 2025 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of Chapter 61, Article 13 NMSA 1978 until July 1, 2026. Effective July 1, 2026, Chapter 61, Article 13 NMSA 1978 is repealed."

Chapter 168 Section 2 Laws 2019

SECTION 2. Section 61-17A-25 NMSA 1978 (being Laws 1993, Chapter 171, Section 27, as amended) is amended to read:

"61-17A-25. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The board of barbers and cosmetologists is terminated on July 1, 2025 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Barbers and Cosmetologists Act until July 1, 2026. Effective July 1, 2026, the Barbers and Cosmetologists Act is repealed."

Chapter 168 Section 3 Laws 2019

SECTION 3. Section 61-24B-17 NMSA 1978 (being Laws 1985, Chapter 151, Section 18, as amended) is amended to read:

"61-24B-17. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The board of landscape architects is terminated on July 1, 2025 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Landscape Architects Act until July 1, 2026. Effective July 1, 2026, the Landscape Architects Act is repealed."

Chapter 168 Section 4 Laws 2019

SECTION 4. Section 69-25A-36 NMSA 1978 (being Laws 1987, Chapter 333, Section 14, as amended) is amended to read:

"69-25A-36. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The coal surface mining commission is terminated on July 1, 2025 pursuant to the Sunset Act. The commission shall continue to operate according to the provisions of the Surface Mining Act until July 1, 2026. Effective July 1, 2026, Section 69-25A-4 NMSA 1978 is repealed."

Chapter 168 Section 5 Laws 2019

SECTION 5. Section 74-6-17 NMSA 1978 (being Laws 1987, Chapter 333, Section 15, as amended) is amended to read:

"74-6-17. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The water quality control commission is terminated on July 1, 2025 pursuant to the Sunset Act. The commission shall continue to operate according to the provisions of Chapter 74, Article 6 NMSA 1978 until July 1, 2026. Effective July 1, 2026, Sections 74-6-3 through 74-6-4 NMSA 1978 are repealed."

Chapter 168 Section 6 Laws 2019

SECTION 6. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

Senate Bill 356, aa

Approved April 2, 2019

LAWS 2019, CHAPTER 169

AN ACT

RELATING TO WATER; CREATING THE ACEQUIA AND COMMUNITY DITCH INFRASTRUCTURE FUND TO BE ADMINISTERED BY THE INTERSTATE STREAM COMMISSION; MAKING AN ANNUAL TRANSFER FROM THE NEW MEXICO IRRIGATION WORKS CONSTRUCTION FUND; MAKING AN APPROPRIATION.

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

Chapter 169 Section 1 Laws 2019

SECTION 1. A new section of Chapter 72, Article 14 NMSA 1978 is enacted to read:

"ACEQUIA AND COMMUNITY DITCH INFRASTRUCTURE FUND--CREATED.--

A. The "acequia and community ditch infrastructure fund" is created in the state treasury and shall be administered by the interstate stream commission. The fund consists of money transferred from the New Mexico irrigation works construction fund and interest accruing to the fund. Disbursements from the fund shall be made by warrant of the secretary of finance and administration pursuant to vouchers signed by the director of the interstate stream commission or the director's authorized representative. Any unexpended or unencumbered balance remaining in the fund at the end of any fiscal year shall revert to the New Mexico irrigation works construction fund.

B. Money in the fund is appropriated to the interstate stream commission to provide funding for the planning, engineering design or construction of irrigation works of acequias or community ditches, including dams, reservoirs, diversions, ditches, flumes or other appurtenances, for the purposes of restoration, repair, improvement of irrigation efficiency or protection from floods.

C. The interstate stream commission shall:

(1) in consultation with the acequia commission and the New Mexico acequia association, develop guidelines and criteria for program eligibility, applications and selection requirements;

(2) prioritize the provision of funding based on project readiness;

(3) review acequia or community ditch plans and specifications and inspect completed projects; and

(4) report biannually to the acequia commission on the progress of projects funded through the fund and the expenditure of money from the fund.

D. As used in this section, "fund" means the acequia and community ditch infrastructure fund."

Chapter 169 Section 2 Laws 2019

SECTION 2. Section 72-14-23 NMSA 1978 (being Laws 1955, Chapter 266, Section 15, as amended) is amended to read:

"72-14-23. NEW MEXICO IRRIGATION WORKS CONSTRUCTION FUND
CREATED--LIMITATION OF LIABILITY UNDER ACT--REPARATION OF DAMAGES
CAUSED IN CARRYING OUT POWERS GRANTED--AUTHORITY OF COMMISSION
TO RECEIVE CONTRIBUTIONS.--

A. There is created a fund to be known as the "New Mexico irrigation works construction fund", which shall consist of the income creditable to the permanent reservoirs for irrigation purposes income fund not otherwise pledged under Section 72-14-19 NMSA 1978 and all other money that may be appropriated by the legislature to the construction fund. The fund shall be a continuing fund and shall not revert to the general fund or to any other fund.

B. Annually, two million five hundred thousand dollars (\$2,500,000) shall be transferred from the New Mexico irrigation works construction fund to the acequia and community ditch infrastructure fund.

C. The cost of investigations and construction as authorized in Section 72-14-11 NMSA 1978 shall be paid from the New Mexico irrigation works construction fund and also the cost of all preliminary work on any project, and all expenses directly chargeable to such project, prior to the receipt of the proceeds of bonds, shall be paid from the construction fund. The amount of all such expenses on account of any project and such part of the general administrative expenses of the commission and the cost of investigation as shall be properly chargeable, in the opinion of the commission, to such project shall be reimbursed to the construction fund upon the receipt of the proceeds of bonds issued for such project. No liability or obligation shall be incurred under the provisions of Sections 72-14-9 through 72-14-28 NMSA 1978 beyond the extent to which the money has been provided under the authority of those sections. All public and private property damaged or destroyed in carrying out the powers granted under those sections shall be restored or repaired and placed in its original condition, as nearly as practicable, or adequate compensation made therefor out of funds provided by those sections.

D. The commission shall also have authority to pay the cost of such investigations and construction on any project from the New Mexico irrigation works construction fund when contracts in form satisfactory to it have been entered into whereby title to works have been mortgaged, deeded, assigned or transferred by the owner to the commission, and a program for reimbursement of all amounts expended, together with operation and maintenance charges, have been agreed upon. Provided that no construction contract shall be entered into without the prior approval of the state board of finance. The commission shall also have authority to receive and accept appropriations and contributions from any source of either money or property or other

things of value to be held, used and applied for the purposes provided in Sections 72-14-9 through 72-14-28 NMSA 1978."

Chapter 169 Section 3 Laws 2019

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2020. _____

SCONC/Senate Bill 438, aa

Approved April 2, 2019

LAWS 2019, CHAPTER 170

AN ACT

RELATING TO PUBLIC FINANCE; AMENDING SECTION 6-10-10 NMSA 1978 (BEING LAWS 1933, CHAPTER 175, SECTION 4, AS AMENDED); DEFINING TERMS; PROVIDING ADDITIONAL INVESTMENT VEHICLES FOR THE STATE TREASURER AND COUNTY AND MUNICIPAL TREASURERS.

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

Chapter 170 Section 1 Laws 2019

SECTION 1. Section 6-10-10 NMSA 1978 (being Laws 1933, Chapter 175, Section 4, as amended) is amended to read:

"6-10-10. DEPOSIT AND INVESTMENT OF FUNDS.--

A. Upon the certification or designation of a bank, savings and loan association or credit union whose deposits are insured by an agency of the United States to receive public money on deposit, the state treasurer and county or municipal treasurers who have on hand any public money by virtue of their offices shall make deposit of that money in banks and savings and loan associations and may make deposit of that money in credit unions whose deposits are insured by an agency of the United States, designated by the authority authorized by law to so designate to receive the deposits of all money thereafter received or collected by the treasurers.

B. County or municipal treasurers may deposit money in one or more accounts with any such bank, savings and loan association or credit union located in their respective counties, subject to the limitation on credit union accounts.

C. The state treasurer may deposit money in one or more accounts with any such bank, savings and loan association or credit union, subject to the limitation on credit union accounts.

D. Duplicate receipts or deposit slips shall be taken for each deposit made pursuant to Subsection A, B or C of this section. When deposits are made by the state treasurer, one copy of the receipt or deposit slip shall be retained by the state treasurer and the other copy shall be filed monthly on the first day of each month with the financial control division of the department. When deposits are made by the treasurer or any other authorized person making the deposits for a board of finance of a public or educational institution, one copy of the receipt or deposit slip shall be retained by the treasurer or authorized person making the deposit and the other copy shall be filed monthly on the first day of each month with that board of finance. When deposits are made by a county or municipal treasurer, one of the duplicate receipts or deposit slips shall be retained by the treasurer making the deposit and the other copy shall be filed monthly on the first day of each month with the secretary of the board of finance of the county or municipality for which that treasurer is acting.

E. As used in this section:

(1) "deposit" means either investment or deposit and includes share, share certificate and share draft;

(2) "investment policy" means a document drafted between the treasurer and the board of finance that describes the parameters for investing government funds and identifies the investment objectives, preferences or tolerances for risk and constraints on the investment portfolio. The investment policy applies to all financial assets including: general funds, special revenues, capital projects funds, enterprise funds, debt issuance proceeds, debt service funds, debt service reserves, permanent funds and agency funds;

(3) "supranational issuer" means an international development institution formed by two or more central governments. "Supranational issuer" includes the international bank for reconstruction and development, the international finance corporation and the inter-American development bank; and

(4) "United States government sponsored enterprises" includes federal home loan banks, the federal home loan mortgage corporation, the federal national mortgage association, the federal farm credit banks funding corporation, the federal agricultural mortgage corporation and the government national mortgage association.

F. County or municipal treasurers, with the advice and consent of their respective boards of finance charged with the supervision and control of the respective funds, may invest all sinking funds or money remaining unexpended from the proceeds of any issue of bonds or other negotiable securities of any county, municipality or school district that is entrusted to their care and custody and all money not immediately necessary for the public uses of the counties, municipalities or school districts not invested or deposited in banks, savings and loan associations or credit unions in:

(1) bonds or negotiable securities of the United States, the state or a county, municipality or school district that has a taxable valuation of real property for the last preceding year of at least one million dollars (\$1,000,000) and that has not defaulted in the payment of any interest or sinking fund obligation or failed to meet any bonds at maturity at any time within five years last preceding and that have a maturity date that does not exceed ten years from the date of purchase;

(2) securities that are issued and backed by the full faith and credit of the United States government or issued by its agencies or instrumentalities, including securities issued by federal home loan banks, the federal home loan mortgage corporation, the federal national mortgage association, the federal farm credit banks funding corporation, the federal agricultural mortgage corporation or the government national mortgage association and that have a maturity date that does not exceed ten years from the date of purchase; or

(3) federally insured obligations, including brokered certificates of deposit, certificate of deposit account registry service and federally insured cash accounts.

G. It shall be the duty of the treasurer to bring amendments to the investment policy to the board of finance and obtain consent before such amendments take effect. The investment policy shall be reviewed at least every two years. The treasurer of a class A county or the treasurer of a municipality having a population of more than sixty-five thousand according to the most recent federal decennial census and located within a class A county, with the advice and consent of the boards of finance, charged with the supervision and control of the funds as can be reflected by an investment policy that is amended by the treasurer and approved by the board of finance, may invest all sinking funds or money remaining unexpended from the proceeds of any issue of bonds or other negotiable securities of the county or municipality that is entrusted to the

treasurer's care and custody and all money not immediately necessary for the public uses of the county or municipality not invested or deposited in banks, savings and loan associations or credit unions in:

(1) shares of a diversified investment company registered pursuant to the federal Investment Company Act of 1940 that invests in fixed-income securities or debt instruments that passively match or track the components of a broad-market, fixed-income-securities market index; provided that the investment company or manager has total assets under management of at least one hundred million dollars (\$100,000,000) and provided that the board of finance of the county or municipality may allow reasonable administrative and investment expenses to be paid directly from the income or assets of these investments;

(2) shares of pooled investment funds managed by the state investment officer, as provided in Subsection I of Section 6-8-7 NMSA 1978; provided that the board of finance of the county or municipality may allow reasonable administrative and investment expenses to be paid directly from the income or assets of these investments;

(3) securities that are issued by a supranational issuer and that:

(a) are eligible for purchase and sale within the United States;

(b) are denominated in United States dollars;

(c) have a maturity date that does not exceed five years from the date of purchase; and

(d) are rated "AA" or its equivalent or better by a nationally recognized statistical rating organization;

(4) commercial paper rated "A1" or "P1", also known as "prime" quality, by a nationally recognized statistical rating organization, issued by corporations organized and operating within the United States and having a maturity at purchase of no longer than one hundred eighty days; or

(5) shares of an open-ended diversified investment company that:

(a) is registered with the United States securities and exchange commission;

(b) complies with the diversification, quality and maturity requirements of Rule 2a-7, or any successor rule, of the United States securities and exchange commission applicable to money market mutual funds; and

(c) assesses no fees pursuant to Rule 12b-1, or any successor rule, of the United States securities and exchange commission, no sales load on the purchase of shares and no contingent deferred sales charge or other similar charges, however designated, provided that the county or municipality shall not, at any time, own more than five percent of a money market mutual fund's assets.

H. A local public body, with the advice and consent of the body charged with the supervision and control of the local public body's respective funds, may invest all sinking funds or money remaining unexpended from the proceeds of any issue of bonds or other negotiable securities of the investor that is entrusted to the local public body's care and custody and all money not immediately necessary for the public uses of the investor and not otherwise invested or deposited in banks, savings and loan associations or credit unions in contracts with banks, savings and loan associations or credit unions for the present purchase and resale at a specified time in the future of specific securities at specified prices at a price differential representing the interest income to be earned by the investor. The contract shall be fully secured by obligations of the United States or the securities of its agencies, instrumentalities or United States government sponsored enterprises having a market value of at least one hundred two percent of the contract. The collateral required for investment in the contracts provided for in this subsection shall be shown on the books of the financial institution as being the property of the investor and the designation shall be contemporaneous with the investment. As used in this subsection, "local public body" includes all political subdivisions of the state and agencies, instrumentalities and institutions thereof; provided that home rule municipalities that prior to July 1, 1994 had enacted ordinances authorizing the investment of repurchase agreements may continue investment in repurchase agreements pursuant to those ordinances.

I. The state treasurer, with the advice and consent of the state board of finance, may invest money held in demand deposits and not immediately needed for the operation of state government and money held in the local government investment pool, except as provided in Section 6-10-10.1 NMSA 1978. The investments may be made in securities that are issued and backed by the full faith and credit of the United States government or issued by its agencies or instrumentalities, including securities issued by all United States government sponsored enterprises.

J. The state treasurer, with the advice and consent of the state board of finance, may also invest in contracts for the present purchase and resale at a specified time in the future, not to exceed one year or, in the case of bond proceeds, not to exceed three

years, of specific securities at specified prices at a price differential representing the interest income to be earned by the state. Such contract shall not be invested in unless the contract is fully secured by obligations of the United States, its agencies, instrumentalities or United States government sponsored enterprises or by other securities backed by the United States, its agencies, instrumentalities or United States government sponsored enterprises having a market value of at least one hundred two percent of the amount of the contract. The securities required as collateral under this subsection shall be delivered to a third-party custodian bank pursuant to a contract with the state and the counterparty or to the fiscal agent of New Mexico or its designee. Delivery shall be made simultaneously with the transfer of funds or as soon as practicable, but no later than the same day that the funds are transferred.

K. The state treasurer, with the advice and consent of the state board of finance, may also invest in contracts for the temporary exchange of state-owned securities for the use of broker-dealers, banks or other recognized institutional investors in securities, for periods not to exceed one year for a specified fee rate. Such contract shall not be invested in unless the contract is fully secured by exchange of an irrevocable letter of credit running to the state, cash or equivalent collateral of at least one hundred two percent of the market value of the securities plus accrued interest temporarily exchanged. The collateral required by this subsection shall be delivered to the state of New Mexico or its designee simultaneously with the transfer of funds or as soon as practicable, but no later than the same day that the state-owned securities are transferred.

L. Neither of the contracts in Subsection J or K of this section shall be invested in unless the contracting bank, brokerage firm or recognized institutional investor has a net worth in excess of five hundred million dollars (\$500,000,000).

M. The state treasurer, with the advice and consent of the state board of finance, may also invest in any of the following investments in an amount not to exceed forty percent of any fund that the state treasurer invests:

(1) commercial paper rated "prime" quality by a national rating service, issued by corporations organized and operating within the United States;

(2) medium-term notes and corporate notes with a maturity not exceeding five years that are rated "A" or its equivalent or better by a nationally recognized rating service and that are issued by a corporation organized and operating in the United States; or

(3) an asset-backed obligation with a maturity not exceeding five years that is rated "AAA" or its equivalent by a nationally recognized rating service.

N. The state treasurer, with the advice and consent of the state board of finance, may also invest in:

(1) shares of an open-ended diversified investment company that:

(a) is registered with the United States securities and exchange commission;

(b) complies with the diversification, quality and maturity requirements of Rule 2a-7, or any successor rule, of the United States securities and exchange commission applicable to money market mutual funds; and

(c) assesses no fees pursuant to Rule 12b-1, or any successor rule, of the United States securities and exchange commission, no sales load on the purchase of shares and no contingent deferred sales charge or other similar charges, however designated, provided that the state shall not, at any time, own more than five percent of a money market mutual fund's assets;

(2) individual, common or collective trust funds of banks or trust companies that invest in United States fixed-income securities or debt instruments authorized pursuant to Subsections I, J and M of this section, provided that the investment manager has assets under management of at least one billion dollars (\$1,000,000,000) and the investments made by the state treasurer pursuant to this paragraph are less than five percent of the assets of the individual, common or collective trust fund;

(3) the local government investment pool managed by the office of the state treasurer. Investments made pursuant to this paragraph shall, in aggregate, be no more than thirty-five percent of the total assets of the local government investment pool;

(4) securities issued by the state of New Mexico, its agencies, institutions, counties, municipalities, school districts, community college districts or other subdivisions of the state, or as otherwise provided by law;

(5) securities issued by states other than New Mexico or governmental entities in states other than New Mexico; or

(6) securities that are issued by a supranational issuer and that:

(a) are eligible for purchase and sale within the United States;

(b) are denominated in United States dollars;

(c) have a maturity date that does not exceed five years from the date of purchase; and

(d) are rated "AA" or its equivalent or better by a nationally recognized statistical rating organization.

O. Public funds to be invested in negotiable securities or loans to financial institutions fully secured by negotiable securities at current market value shall not be paid out unless there is a contemporaneous transfer of the securities at the earliest time industry practice permits, but in all cases, settlement shall be on a same-day basis either by physical delivery or, in the case of uncertificated securities, by appropriate book entry on the books of the issuer, to the purchaser or to a reputable safekeeping financial institution acting as agent or trustee for the purchaser, which agent or trustee shall furnish timely confirmation to the purchaser." _____

Senate Bill 473, aa

Approved April 2, 2019

LAWS 2019, CHAPTER 171

AN ACT

RELATING TO STATE PARKS; REQUIRING THE STATE GAME COMMISSION TO TRANSFER THIRTEEN AND THIRTY-NINE HUNDREDTHS ACRES, MORE OR LESS, OF REAL PROPERTY SITUATED IN DONA ANA COUNTY TO THE STATE PARKS DIVISION OF THE ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT FOR THE MESILLA VALLEY BOSQUE STATE PARK; DECLARING AN EMERGENCY.

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

Chapter 171 Section 1 Laws 2019

SECTION 1. TEMPORARY PROVISION.--

A. The legislature finds that:

(1) the transfer of land and buildings of the Mesilla Valley Bosque state park by the commissioner of public lands by quitclaim deed to the state game commission in June 2018 was without required legislative approval;

(2) the land and buildings of the Mesilla Valley Bosque state park are not in excess of the reasonable needs of the state parks division of the energy, minerals and natural resources department for use as a state park; and

(3) the provisions of Sections 13-6-3 and 17-4-3 NMSA 1978 shall not apply to the transfer of property required by Subsection B of this section.

B. The state game commission shall return to the energy, minerals and natural resources department by quitclaim deed for use by the state parks division of the department as a state park all land, buildings and interests in the following thirteen and thirty-nine hundredths acres, more or less, situated in Dona Ana county, New Mexico, and described as follows:

A tract of land situated within the Mesilla Civil Colony Grant in Sections 2 & 3, T.24S., R.IE., and Section 34, T.23S., R.IE., N.M.P.M. of the U.S.R.S. Surveys being U.S.R.S. Tracts Map 12-12, 12-13, 12-14, 12-15, 12-16A, 12-16C, 12-16D, 12-16E & 12-34, and being more particularly described as follows, to wit:

Beginning at a 1/2" iron rod set on the East line of the Picacho Drain for a corner of the tract herein described; whence meander corner No. 20 on the Mesilla Civil Colony Grant bears N.46 deg. 43'29"W., 4155.14 feet;

Thence from the point of beginning and leaving said Picacho Drain, N.58 deg. 30'00"E., 597.65 feet to a 1/2" iron rod set for a corner of this tract;

Thence S.31 deg. 30'00"E., 424.07 feet to a 1/2" iron rod set on the West line of a 60 foot wide road for a corner of this tract and point of curvature;

Thence along the West line of said 60 foot wide road the following courses and distances, around the arc of a curve to the left, having a radius of 1055.81 feet, through a central angle of 42 deg. 21'00" and whose long cord bears N.20 deg. 00'18"E., 762.75 feet to a 1/2" iron rod set;

Thence N.01 deg. 08'54"W., 1184.93 feet to a 1/2" iron rod set a point of curvature;

Thence around the arc of a curve to the left, having a radius of 1819.90 feet, through a central angle of 41 deg. 03'48" and whose long cord bears N.21 deg. 39'44"W., 1276.57 feet to a 1/2" iron rod set;

Thence N.42 deg. 11'36"W., 1248.73 feet to a 1/2" iron rod set for a corner of this tract;

Thence N.19 deg. 05'52"W., 152.96 feet to a 1/2" iron rod set on the West line of the Rio Grande for the most Northerly corner of this tract;

Thence along the West line of the Rio Grande the following courses and distances, S.42 deg. 11'36"E., 1389.48 feet to an I.B.C. Pipe found and point of curvature;

Thence around the arc of a curve to the right, having a radius of 1879.90 feet, an arc length of 1347.26 feet, through a central angle of 41 deg. 03'43" and whose long chord bears S.21 deg. 39'42"E., 1318.61 feet to an I.B.C. Pipe found;

Thence S.01 deg. 08'54"E., 1184.91 feet to an I.B.C. Pipe found and point of curvature;

Thence around the arc of a curve to the right, having a radius of 1115.81 feet, an arc length 1237.36 feet, through a central angle of 63 deg. 32'14" and whose long chord bears S.30 deg. 35'57"W., 1174.93 feet to an I.B.C. Pipe found;

Thence S.62 deg. 21'12"W., 161.86 feet to a 1/2" iron rod set at the Southwest intersection of the Rio Grande and Picacho Drain for Southwest corner of this tract;

Thence along East line of the Picacho Drain the following courses and distances, N.41 deg. 30'00"W., 161.24 feet to a 1/2" iron rod found and point of curvature;

Thence around the arc of a curve to the right, having a radius of 1095.90 feet, an arc length of 202.02 feet, through a central angle of 10 deg. 33'44" and whose long chord bears N.36 deg. 46'52"W., 201.74 feet to a 1/2" iron rod set;

Thence N.31 deg. 30'00"W., 158.85 feet to the point of beginning, containing 13.392 acres of land, more or less.

C. The real property transferred pursuant to Subsection B of this section shall be used to reestablish Mesilla Valley Bosque state park as that park existed prior to the transfer of the property by quitclaim deed of the commissioner of public lands on June 18, 2018.

Chapter 171 Section 2 Laws 2019

SECTION 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately. _____

Senate Bill 533, aa, w/ec

Approved April 2, 2019

LAWS 2019, CHAPTER 172

AN ACT

RELATING TO TAXATION; NARROWING A GROSS RECEIPTS TAX DEDUCTION FOR CHEMICALS AND REAGENTS.

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

Chapter 172 Section 1 Laws 2019

SECTION 1. Section 7-9-65 NMSA 1978 (being Laws 1969, Chapter 144, Section 56) is amended to read:

"7-9-65. DEDUCTION--GROSS RECEIPTS TAX--CHEMICALS AND REAGENTS.--Receipts from selling chemicals or reagents to any mining, milling or oil company for use in processing ores or oil in a mill, smelter or refinery or in acidizing oil wells, and receipts from selling chemicals or reagents in lots in excess of eighteen tons to any hard-rock mining or milling company for use in any combination of extracting, leaching, milling, smelting, refining or processing ore at a mine site, may be deducted from gross receipts. Receipts from selling explosives, blasting powder or dynamite may not be deducted from gross receipts."

Chapter 172 Section 2 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

Senate Bill 549, aa

Approved April 2, 2019

LAWS 2019, CHAPTER 173

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
PROVIDING FOR A SURVIVING SPOUSE OR DOMESTIC PARTNER TO BE
CONSIDERED A BENEFICIARY IF A DECEASED MEMBER OF THE EDUCATIONAL
RETIREMENT PLAN HAS NOT OTHERWISE DESIGNATED A BENEFICIARY.

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

Chapter 173 Section 1 Laws 2019

SECTION 1. Section 22-11-29 NMSA 1978 (being Laws 1967, Chapter 16, Section 152, as amended) is amended to read:

"22-11-29. RETIREMENT BENEFIT OPTIONS.--

A. Upon retirement pursuant to the Educational Retirement Act, a member may elect, and, except as provided in Subsection D or E of this section, such election shall be irrevocable, to receive the actuarial equivalent of the member's retirement benefit, as provided in Section 22-11-30 NMSA 1978, to be effective on the member's retirement in any one of the following optional forms:

(1) OPTION A. An unreduced retirement benefit pursuant to Section 22-11-30 NMSA 1978;

(2) OPTION B. A reduced annuity payable during the member's life with provision that upon the member's death the same annuity shall be continued during the life of and paid to the beneficiary designated by the member in writing at the time of electing this option; or

(3) OPTION C. A reduced annuity payable during the member's life with provision that upon the member's death one-half of this same annuity shall be continued during the life of and paid to the beneficiary designated by the member in writing at the time of electing this option.

B. In the case of Options B and C of Subsection A of this section, the actuarial equivalent of the member's retirement benefit shall be computed on the basis of the lives of both the member and the beneficiary.

C. In the event that the named beneficiary of a retired member who elected Option B or C of Subsection A of this section at the time of retirement predeceases the retired member, the annuity of the retired member shall be adjusted by adding an amount equal to the amount by which the annuity of the retired member was reduced at

retirement as a result of the election of Option B or C. The adjustment authorized in this subsection shall be made as follows:

(1) beginning on the first month following the month in which the named beneficiary of a retiree dies applicable to an annuity received by a retiree who retires after June 30, 1987; or

(2) beginning on July 1, 1987 applicable to an annuity received by a retiree who retired prior to July 1, 1987 and otherwise qualifies for the adjustment; provided, however, no adjustment shall be made retroactively.

D. A retired member who is being paid an adjusted annuity pursuant to Subsection C of this section because of the death of the named beneficiary may exercise a one-time irrevocable option to designate another individual as the beneficiary and may select either Option B or Option C of Subsection A of this section; provided that:

(1) the amount of the annuity under the option selected shall be recalculated and have the same actuarial present value, computed on the effective date of the designation, as the annuity being paid to the retired member prior to the designation;

(2) the designation and the amount of the annuity shall be subject to a court order as provided for in Subsection B of Section 22-11-42 NMSA 1978; and

(3) the retired member shall pay one hundred dollars (\$100) to the board to defray the cost of determining the new annuity amount.

E. A retired member who is being paid an annuity under Option B or C of Subsection A of this section with a living designated beneficiary other than the retired member's spouse or former spouse may exercise a one-time irrevocable option to deselect the designated beneficiary and elect to:

(1) designate another beneficiary; provided that:

(a) the retired member shall not have an option to change from the current form of payment;

(b) the amount of the annuity under the form of payment shall be recalculated and shall have the same actuarial present value, computed as of the effective date of the designation, as the amount of annuity paid prior to the designation; and

(c) the retired member shall pay one hundred dollars (\$100) to the board to defray the cost of determining the new annuity amount; or

(2) have future annuity payments made without a reduction as a result of Option B or C.

F. In the event of the death of the member who has not retired and who has completed at least five years' earned service credit, the member shall be considered as retiring on the first day of the month following the date of death, and the benefits due the surviving beneficiary, computed as of that date, shall, except as provided in Subsection J of this section, be commenced effective on the first day of such month in accordance with the terms of Option B of Subsection A of this section. In lieu of the provisions of Option B, the surviving beneficiary may elect to receive payment of all the contributions made by the member, plus interest at the rate set by the board reduced by the sum of any disability benefits previously received by the member, or the surviving beneficiary may choose to defer receipt of the survivor's benefit to whatever age the beneficiary chooses up to the time the member would have attained age sixty. If the benefit is thus deferred, it shall be calculated as though the member had retired on the first day of the month in which the beneficiary elects to receive the benefit. In the event of the death of the beneficiary after the death of the member and prior to the date on which the beneficiary has elected to receive the beneficiary's benefit, the estate of the beneficiary shall be entitled to a refund of the member's contributions plus interest at the rate earned by the fund during the preceding fiscal year, reduced by the sum of any disability benefits previously received by the member.

G. In the event of the death of a member who has not retired and who has completed at least five years' earned service credit, but who has not designated a beneficiary in writing pursuant to the Educational Retirement Act, the eligible surviving spouse or surviving domestic partner shall be the surviving beneficiary eligible for benefits in accordance with the provisions of Subsection F of this section.

H. In the case of death of a retired member who did not elect either Option B or C of Subsection A of this section and before the benefits paid to the member have equaled the sum of the member's accumulated contributions to the fund plus accumulated interest at the rate set by the board, the balance shall be paid to the beneficiary designated in writing to the director by the member or, if no beneficiary was designated, to the eligible surviving spouse or surviving domestic partner of the member or, if there is no eligible surviving spouse or domestic partner of the member, to the estate of the member.

I. No benefit shall be paid pursuant to this section if the member's contributions have been refunded pursuant to Section 22-11-15 NMSA 1978.

J. In the case of death of a member with less than five years' earned service credit or death of a member who has filed with the director a notice rejecting the provisions of Subsection F of this section, which notice shall be revocable by the member at any time prior to retirement, the member's contributions to the fund plus interest at the rate set by the board shall be paid to the beneficiary designated in writing to the director by the member or, if no beneficiary was designated, to the eligible surviving spouse or surviving domestic partner of the member or, if there is no eligible surviving spouse or domestic partner of the member, to the estate of the member." _____

SPAC/SJC/Senate Bill 664

Approved April 2, 2019

LAWS 2019, CHAPTER 174

AN ACT

RELATING TO PUBLIC SCHOOLS; REQUIRING SCHOOL DISTRICTS AND CHARTER SCHOOLS TO CONSULT WITH TRIBAL LEADERS AND MEMBERS AND FAMILIES OF STUDENTS WHEN CONSIDERING OPENING A PUBLIC SCHOOL ON TRIBAL LAND; REQUIRING THAT CONSULTATION MUST INCLUDE NOT JUST LAND USE BUT CULTURALLY RELEVANT PROGRAMMING, LANGUAGE IMMERSION, SCHOOL CALENDARS, ACCOUNTABILITY, PROFESSIONAL DEVELOPMENT FOR SCHOOL PERSONNEL THAT FOCUSES ON IMPROVING EDUCATIONAL OUTCOMES FOR INDIAN STUDENTS AND OTHER MATTERS IMPORTANT TO TRIBES; REQUIRING CONSULTATION WITH TRIBAL LEADERS AND MEMBERS AND FAMILIES OF STUDENTS WHEN THE PUBLIC EDUCATION DEPARTMENT, A SCHOOL DISTRICT OR A CHARTER SCHOOL IS CONSIDERING CLOSING A SCHOOL ON TRIBAL LAND, INCLUDING PLANS FOR WHERE STUDENTS WILL ATTEND SCHOOL AND HOW CULTURAL NEEDS AND EDUCATIONAL OUTCOMES FOR INDIAN STUDENTS ATTENDING NEW SCHOOLS WILL BE SATISFIED.

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

Chapter 174 Section 1 Laws 2019

SECTION 1. A new section of the Public School Code is enacted to read:

"DEPARTMENT--ADDITIONAL DUTIES--CLOSING A SCHOOL--
CONSULTATIONS WITH TRIBAL LEADERS AND MEMBERS AND FAMILIES OF
STUDENTS.--

A. Whenever the department is contemplating closing a public school on tribal land for any reason, it shall consult with tribal leaders and members and families of students attending the public school.

B. Consultation shall include, among other actions, meetings in which the department explains:

- (1) the reasons for closing the public school;
- (2) the reasons why the department has not or cannot provide additional resources to keep the public school open;
- (3) locations of other public schools in the vicinity to which students will be sent and the plan to transport students to those schools;
- (4) how the public school receiving new students will consult with tribal leaders and members and families of students attending the public school related to:
 - (a) culturally and linguistically responsive school policies;
 - (b) rigorous and culturally meaningful curricula and instructional materials;
 - (c) sensitivity to the tribe's calendar of religious and other tribal obligations when making the school calendar; and
 - (d) professional development for school personnel at the public school to ensure that the best practices used in teaching, mentoring, counseling and administration are culturally and linguistically responsive to students;
- (5) how the educational outcomes for the Indian students will be improved by attending another public school;
- (6) plans for the public school buildings that will be left empty by the closure; and
- (7) any other matters the department believes provide an adequate explanation of the reasons for closing the public school on tribal lands."

Chapter 174 Section 2 Laws 2019

SECTION 2. A new section of the Public School Code is enacted to read:

"LOCAL SCHOOL BOARD--CONSIDERATION OF OPENING OR CLOSING A PUBLIC SCHOOL ON TRIBAL LAND--CONSULTATION WITH TRIBAL LEADERS AND MEMBERS AND FAMILIES OF STUDENTS.--

A. Whenever a local school board is contemplating opening a public school on tribal land, in addition to negotiations involving land or buildings, the local school board and the local superintendent shall consult with tribal leaders and members and families of students who will be eligible to attend the public school on the design of the school's programming.

B. Consultation shall include, among other actions, meetings in which the local school board and local superintendent explain:

(1) how and why they reached the decision to approach the tribe about opening a public school on tribal land; and

(2) the level of their commitment to improving educational outcomes for Indian students by opening a public school and how that commitment will be manifested through:

(a) culturally and linguistically responsive school policies;

(b) rigorous and culturally meaningful curricula and instructional materials;

(c) sensitivity to the tribe's calendar of religious and tribal obligations when making the school calendar; and

(d) professional development for school personnel at the public school to ensure that the best practices used in teaching, mentoring, counseling and administration are culturally and linguistically responsive to students.

C. Whenever a local school board is contemplating closing a public school on tribal land for any reason, it shall consult with tribal leaders and members and families of students attending the public school.

D. Consultation shall include, among other actions, meetings in which the local board and the local superintendent explain:

- (1) the reasons for closing the public school;
- (2) the reasons why the local school board has not or cannot provide additional resources to keep the public school open;
- (3) locations of other public schools in the vicinity to which students will be sent and the plan to transport students to those schools;
- (4) how the public school receiving new students will consult with tribal leaders and members and families of students attending the public school related to:
 - (a) culturally and linguistically responsive school policies;
 - (b) rigorous and culturally meaningful curricula and instructional materials;
 - (c) sensitivity to the tribe's calendar of religious and other tribal obligations when making the school calendar; and
 - (d) professional development for school personnel at the public school to ensure that the best practices used in teaching, mentoring, counseling and administration are culturally and linguistically responsive to students;
- (5) how the educational outcomes for the Indian students will be improved by attending another public school;
- (6) plans for the public school buildings that will be left empty by the closure; and
- (7) any other matters the local school board believes provide an adequate explanation of the reasons for closing the public school on tribal lands."

Chapter 174 Section 3 Laws 2019

SECTION 3. A new section of the Charter Schools Act is enacted to read:

"CHARTER SCHOOLS--PROPOSALS TO OPEN OR CLOSE A PUBLIC SCHOOL ON TRIBAL LAND--CONSULTATION WITH TRIBAL LEADERS AND MEMBERS AND FAMILIES OF STUDENTS.--

A. If a charter school applicant wants to open a charter school on tribal land, it shall negotiate with and receive the tribal government's approval for the public school

before the charter school authorizer acts on the application. The applicant shall also consult with tribal leaders and members and families of students who will be eligible to attend the public school.

B. Consultation shall include, among other actions, meetings in which the charter school applicant shall explain:

(1) how and why the applicant reached the decision to approach the tribe about opening a public school on tribal land; and

(2) the level of the charter school applicant's commitment to improving educational outcomes for Indian students by opening a public school and how that commitment will be manifested through:

(a) culturally and linguistically responsive school policies;

(b) rigorous and culturally meaningful curricula and instructional materials;

(c) sensitivity to the tribe's calendar of religious and tribal obligations when making the school calendar; and

(d) professional development for school personnel at the public school to ensure that the best practices used in teaching, mentoring, counseling and administration are culturally and linguistically responsive to students.

C. Whenever a charter school authorizer is contemplating closing a charter school on tribal land, for any reason, it shall consult with tribal leaders and members and families of students attending the charter school.

D. Consultation shall include, among other actions, open meetings in which the charter school authorizer and the head administrator of the charter school explain:

(1) the reasons for closing the charter school;

(2) the reasons why the charter school has not or cannot provide additional resources to keep the charter school open;

(3) locations of other public schools in the vicinity to which students will be sent and the plan to transport students to those schools;

(4) how the public school receiving new students will consult with tribal leaders and members and families of students attending the public school related to:

(a) culturally and linguistically responsive school policies;

(b) rigorous and culturally meaningful curricula and instructional materials;

(c) sensitivity to the tribe's calendar of religious and other tribal obligations when making the school calendar; and

(d) professional development for school personnel at the public school to ensure that the best practices used in teaching, mentoring, counseling and administration are culturally and linguistically responsive to students;

(5) how the educational outcomes for the Indian students will be improved by attending another public school;

(6) plans for the public school buildings that will be left empty by the closure; and

(7) any other matters the charter school governing body and head administrator believe provide an adequate explanation of the reasons for closing the charter school."

Chapter 174 Section 4 Laws 2019

SECTION 4. Section 22-8B-6 NMSA 1978 (being Laws 1999, Chapter 281, Section 6, as amended) is amended to read:

"22-8B-6. CHARTER SCHOOL REQUIREMENTS--APPLICATION PROCESS-- AUTHORIZATION--STATE BOARD OF FINANCE DESIGNATION REQUIRED-- PUBLIC HEARINGS--SUBCOMMITTEES.--

A. A local school board has the authority to approve the establishment of a locally chartered charter school within that local school board's district.

B. No later than the second Tuesday of January of the year in which an application will be filed, the organizers of a proposed charter school shall provide written notification to the commission and the school district in which the charter school is proposed to be located of their intent to establish a charter school. Failure to notify may result in an application not being accepted.

C. A charter school applicant shall apply to either a local school board or the commission for a charter. If an application is submitted to a chartering authority, it must process the application. Applications for initial charters shall be submitted by June 1 to be eligible for consideration for the following fiscal year; provided that the June 1 deadline may be waived upon agreement of the applicant and the chartering authority.

D. An application shall include the total number of grades the charter school proposes to provide, either immediately or phased. A charter school may decrease the number of grades it eventually offers, but it shall not increase the number of grades or the total number of students proposed to be served in each grade.

E. An application shall include a detailed description of the charter school's projected facility needs, including projected requests for capital outlay assistance that have been approved by the director of the public school facilities authority or the director's designee. The director shall respond to a written request for review from a charter applicant within forty-five days of the request.

F. An application may be made by one or more teachers, parents or community members or by a public post-secondary educational institution or nonprofit organization. Municipalities, counties, private post-secondary educational institutions and for-profit business entities are not eligible to apply for or receive a charter.

G. An initial application for a charter school shall not be made after June 30, 2007 if the proposed charter school's proposed enrollment for all grades or the proposed charter school's proposed enrollment for all grades in combination with any other charter school's enrollment for all grades would equal or exceed ten percent of the total MEM of the school district in which the charter school will be geographically located and that school district has a total enrollment of not more than one thousand three hundred students.

H. A state-chartered charter school shall not be approved for operation unless its governing body has qualified to be a board of finance.

I. The chartering authority shall receive and review all applications for charter schools submitted to it. The chartering authority shall not charge application fees.

J. The chartering authority shall hold at least one public hearing in the school district in which the charter school is proposed to be located to obtain information and community input to assist it in its decision whether to grant a charter school application. The chartering authority may designate a subcommittee of no fewer than three members to hold the public hearing, and, if so, the hearing shall be transcribed for later

review by other members of the chartering authority. Community input may include written or oral comments in favor of or in opposition to the application from the applicant, the local community and, for state-chartered charter schools, the local school board and school district in whose geographical boundaries the charter school is proposed to be located.

K. The chartering authority shall rule on the application for a charter school in a public meeting by September 1 of the year the application was received; provided, however, that prior to ruling on the application for which a designated subcommittee was used, any member of the chartering authority who was not present at the public hearing shall receive the transcript of the public hearing together with documents submitted for the public hearing. If not ruled upon by that date, the charter application shall be automatically reviewed by the secretary in accordance with the provisions of Section 22-8B-7 NMSA 1978. The charter school applicant and the chartering authority may, however, jointly waive the deadlines set forth in this section.

L. A chartering authority may approve, approve with conditions or deny an application. A chartering authority may deny an application if:

- (1) the application is incomplete or inadequate;
- (2) the application does not propose to offer an educational program consistent with the requirements and purposes of the Charter Schools Act;
- (3) the proposed head administrator or other administrative or fiscal staff was involved with another charter school whose charter was denied or revoked for fiscal mismanagement or the proposed head administrator or other administrative or fiscal staff was discharged from a public school for fiscal mismanagement;
- (4) for a proposed state-chartered charter school, it does not request to have the governing body of the charter school designated as a board of finance or the governing body does not qualify as a board of finance;
- (5) for a proposed charter school on tribal land, it fails to receive approval from the tribal government; or
- (6) the application is otherwise contrary to the best interests of the charter school's projected students, the local community or the school district in whose geographic boundaries the charter school applies to operate.

M. If the chartering authority denies a charter school application or approves the application with conditions, it shall state its reasons for the denial or conditions in writing

within fourteen days of the meeting. If the chartering authority grants a charter, the approved charter shall be provided to the applicant together with any imposed conditions.

N. A charter school that has received a notice from the chartering authority denying approval of the charter shall have a right to a hearing by the secretary as provided in Section 22-8B-7 NMSA 1978."

Chapter 174 Section 5 Laws 2019

SECTION 5. Section 22-8B-12 NMSA 1978 (being Laws 1999, Chapter 281, Section 12, as amended) is amended to read:

"22-8B-12. CHARTER SCHOOLS--TERM--OVERSIGHT AND CORRECTIVE ACTIONS--SITE VISITS--RENEWAL OF CHARTER--GROUNDS FOR NONRENEWAL OR REVOCATION.--

A. A charter school may be approved for an initial term of six years; provided that the first year shall be used exclusively for planning and not for completing the application. A charter may be renewed for successive periods of five years each. Approvals of less than five years may be agreed to between the charter school and the chartering authority.

B. During the planning year, the charter school shall file a minimum of three status reports with the chartering authority and the department for the purpose of demonstrating that the charter school's implementation progress is consistent with the conditions, standards and procedures of its approved charter. The report content, format and schedule for submission shall be agreed to by the chartering authority and the charter school and become part of the charter contract.

C. Prior to the end of the planning year, the charter school shall demonstrate that its facilities meet the requirements of Section 22-8B-4.2 NMSA 1978.

D. A chartering authority shall monitor the fiscal, overall governance and student performance and legal compliance of the charter schools that it oversees, including reviewing the data provided by the charter school to support ongoing evaluation according to the charter contract. Every chartering authority may conduct or require oversight activities that allow the chartering authority to fulfill its responsibilities under the Charter Schools Act, including conducting appropriate inquiries and investigations; provided that the chartering authority complies with the provisions of the Charter Schools Act and the terms of the charter contract and does not unduly inhibit the autonomy granted to the charter schools that it governs.

E. As part of its performance review of a charter school, a chartering authority shall visit a charter school under its authority at least once annually to provide technical assistance to the charter school and to determine the status of the charter school and the progress of the charter school toward the performance framework goals in its charter contract.

F. If, based on the performance review conducted by the chartering authority pursuant to Subsection D of this section, a charter school's fiscal, overall governance or student performance or legal compliance appears unsatisfactory, the chartering authority shall promptly notify the governing body of the charter school of the unsatisfactory review and provide reasonable opportunity for the governing body to remedy the problem; provided that if the unsatisfactory review warrants revocation, the revocation procedures set forth in this section shall apply. A chartering authority may take appropriate corrective actions or exercise sanctions, as long as such sanctions do not constitute revocation, in response to the unsatisfactory review. Such actions or sanctions by the chartering authority may include requiring a governing body to develop and execute a corrective action plan with the chartering authority that sets forth time frames for compliance.

G. Every chartering authority shall submit an annual report to the division, including a performance report for each charter school that it oversees, in accordance with the performance framework set forth in the charter contract.

H. The department shall review the annual report received from the chartering authority to determine if the department or local school board rules and policies from which the charter school was released pursuant to the provisions of Section 22-8B-5 NMSA 1978 assisted or impeded the charter school in meeting its stated goals and objectives. The department shall use the annual reports received from the chartering authorities as part of its report to the governor, the legislative finance committee and the legislative education study committee as required by the Charter Schools Act.

I. No later than two hundred seventy days prior to the date in which the charter expires, the governing body may submit a renewal application to the chartering authority. A charter school may apply to a different chartering authority for renewal. The chartering authority shall rule in a public hearing on the renewal application no later than one hundred eighty days prior to the expiration of the charter.

J. A charter school renewal application submitted to the chartering authority shall contain:

(1) a report on the progress of meeting the academic performance, financial compliance and governance responsibilities of the charter school, including

achieving the goals, objectives, student performance outcomes, state standards of excellence and other terms of the charter contract, including the accountability requirements set forth in the Assessment and Accountability Act;

(2) a financial statement that discloses the costs of administration, instruction and other spending categories for the charter school that is understandable to the general public, that allows comparison of costs to other schools or comparable organizations and that is in a format required by the department;

(3) a copy of the charter contract executed in compliance with the provisions of Section 22-8B-9 NMSA 1978;

(4) a petition in support of the charter school renewing its charter status signed by not less than sixty-five percent of the employees in the charter school;

(5) a petition in support of the charter school renewing its charter status signed by at least seventy-five percent of the households whose children are enrolled in the charter school;

(6) a description of the charter school facilities and assurances that the facilities are in compliance with the requirements of Section 22-8B-4.2 NMSA 1978; and

(7) for charter schools located on tribal land, documentation of ongoing consultation pursuant to the Indian Education Act.

K. A charter may be suspended, revoked or not renewed by the chartering authority if the chartering authority determines that the charter school did any of the following:

(1) committed a material violation of any of the conditions, standards or procedures set forth in the charter contract;

(2) failed to meet or make substantial progress toward achievement of the department's standards of excellence or student performance standards identified in the charter contract;

(3) failed to meet generally accepted standards of fiscal management;

(4) for a charter school located on tribal land, failed to comply with ongoing consultations pursuant to the Indian Education Act; or

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

Chapter 175 Section 1 Laws 2019

SECTION 1. Section 1-19A-1 NMSA 1978 (being Laws 2003, Chapter 14, Section 1) is amended to read:

"1-19A-1. SHORT TITLE.--Chapter 1, Article 19A NMSA 1978 may be cited as the "Voter Action Act"."

Chapter 175 Section 2 Laws 2019

SECTION 2. Section 1-19A-2 NMSA 1978 (being Laws 2003, Chapter 14, Section 2, as amended) is amended to read:

"1-19A-2. DEFINITIONS.--As used in the Voter Action Act:

A. "applicant candidate" means a candidate who is running for a covered office and who is seeking to be a certified candidate in a primary or general election;

B. "certified candidate" means a candidate running for a covered office who chooses to obtain financing pursuant to the Voter Action Act and is certified as a Voter Action Act candidate;

C. "contested" means there are more candidates for a position than the number to be elected to that position;

D. "contribution" means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made or received for the purpose of supporting or opposing the nomination for election or election of a candidate for public office, including payment of a debt incurred in an election campaign and also including a coordinated expenditure, but "contribution" does not include:

(1) a qualifying contribution;

(2) the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate; or

(3) the value of the incidental use of the candidate's personal property, home or business office for campaign purposes;

E. "coordinated expenditure" means an expenditure that is made:

- (1) by a person other than a candidate or campaign committee;
- (2) at the request or suggestion of, or in cooperation, consultation or concert with, a candidate, campaign committee or political party or any agent or representative of such a candidate, campaign committee or political party; and
- (3) for the purpose of:

(a) supporting or opposing the nomination or election of a candidate; or

(b) paying for an advertisement that refers to a clearly identified candidate and that is published and disseminated to the relevant electorate in New Mexico within thirty days before the primary election or sixty days before the general election in which the candidate is on the ballot;

F. "covered office" means any office of the judicial department subject to statewide elections and the office of public regulation commissioner;

G. "expenditure" means a payment, transfer or distribution of, or a promise to pay, transfer or distribute, any money or other thing of value for the purpose of supporting or opposing the nomination or election of a candidate;

H. "fund" means the public election fund;

I. "qualifying contribution" means a donation of five dollars (\$5.00) in the form of cash, a check, a money order or an electronic form of payment, as prescribed by the secretary, and payable to the fund in support of an applicant candidate that is:

(1) made by a voter who is eligible to vote for the covered office that the applicant candidate is seeking;

(2) made during the designated qualifying period and obtained through efforts made with the knowledge and approval of the applicant candidate; and

(3) acknowledged by a receipt that identifies the contributor's name and residential address on forms provided by the bureau of elections and that is signed by the contributor, one copy of which is attached to the list of contributors and sent to the bureau of elections;

J. "qualifying period" means:

(1) for candidates who are seeking public financing for a primary election or for both a primary and a general election, the period beginning October 1 immediately preceding the election year and ending at 5:00 p.m. on the third Tuesday of March of the election year; and

(2) for candidates who are seeking public financing only for a general election, the period beginning January 1 of the election year and ending that year at 5:00 p.m. on the twenty-third day following the primary election for the office for which the candidate is running; and

K. "secretary" means the secretary of state or the office of the secretary of state."

Chapter 175 Section 3 Laws 2019

SECTION 3. Section 1-19A-3 NMSA 1978 (being Laws 2003, Chapter 14, Section 3) is amended to read:

"1-19A-3. TERMS OF PARTICIPATION--DECLARATION OF INTENT.--

A. A person choosing to obtain financing pursuant to the Voter Action Act shall first file with the secretary a declaration of intent to participate in that act as an applicant candidate for a stated covered office. The declaration of intent shall be filed with the secretary prior to or during the qualifying period according to forms and procedures developed by the secretary.

B. To become an applicant candidate and participate in the Voter Action Act, a person shall submit a declaration of intent prior to collecting any qualifying contributions or other contributions and make explicit in the declaration that the candidate has complied with and will continue to comply with that act's contribution and expenditure limits and all other requirements set forth in that act and rules issued by the secretary.

C. Except as provided in Subsection D of this section, a person shall not be eligible to become an applicant candidate if the person has accepted contributions totaling more than one hundred dollars (\$100) from any one contributor during the election cycle in which the person is running for office.

D. A person who has accepted contributions of more than one hundred dollars (\$100) from any one contributor during the election cycle in which the person decides to run for a covered office is still eligible to become an applicant candidate if:

(1) the contributions were for a candidacy for an office other than a covered office and no money was raised for or expended on any campaign-related activity for a covered office during the time those contributions were made;

(2) the person does not solicit or accept contributions for a candidacy for an office other than a covered office or for the purpose of supporting or opposing a ballot measure or another candidate after the person declares candidacy for a covered office or becomes an applicant candidate;

(3) the person places all campaign account money that was collected before the person became an applicant candidate in a segregated bank account and does not transfer any money into or out of that account for the duration of the person's campaign for a covered office; and

(4) the person agrees that, if elected to the covered office, the person will transfer all money in the campaign account to the fund."

Chapter 175 Section 4 Laws 2019

SECTION 4. Section 1-19A-6 NMSA 1978 (being Laws 2003, Chapter 14, Section 6) is amended to read:

"1-19A-6. CERTIFICATION.--

A. Upon receipt of a final submittal of qualifying contributions by an applicant candidate, the secretary shall determine from the applicant candidate's statement whether the applicant candidate has:

(1) signed and filed a declaration of intent to obtain financing pursuant to the Voter Action Act in accordance with the requirements of that act;

(2) collected and submitted the appropriate number of qualifying contributions after filing a declaration of intent;

(3) met the qualifications to be a candidate pursuant to other applicable state election law;

(4) complied with contribution and expenditure restrictions; and

(5) otherwise met the requirements for obtaining financing pursuant to the Voter Action Act.

B. The secretary shall certify applicant candidates complying with the requirements of this section as certified candidates as soon as possible and no later than ten days after final submittal of qualifying contributions and certification as a candidate pursuant to other applicable state election law.

C. A certified candidate shall comply with all requirements of the Voter Action Act after certification and throughout the primary election and general election cycles. A certified candidate who accepts public campaign finance funds for the primary election shall comply with all the requirements of the Voter Action Act for the remainder of the election cycle in question, even if the certified candidate decides not to accept such funds for the general election."

Chapter 175 Section 5 Laws 2019

SECTION 5. Section 1-19A-7 NMSA 1978 (being Laws 2003, Chapter 14, Section 7, as amended) is amended to read:

"1-19A-7. GUIDELINES AND RESTRICTIONS FOR CONTRIBUTIONS TO AND EXPENDITURES OF CERTIFIED CANDIDATES.--

A. All money distributed to a certified candidate shall be used only for that candidate's campaign-related purposes in the election in which the money was distributed.

B. Money from the fund received by a candidate shall not be used for:

(1) the candidate's personal living expenses or compensation to the candidate or the candidate's spouse, children or stepchildren;

(2) a contribution to another campaign of the candidate or a payment to retire debt from another such campaign;

(3) a contribution to the campaign of another candidate or to a political party or political committee or to a campaign supporting or opposing a ballot proposition;

(4) an expenditure supporting the election of another candidate or the passage or defeat of a ballot proposition or the defeat of any candidate other than an opponent of the certified candidate; provided that a certified candidate may purchase joint advertisements or services with other certified candidates;

(5) payment of a fine levied by a court or the secretary; or

(6) a gift or transfer for which compensating value is not received.

C. A certified candidate shall return to the fund any amount that is unspent or unencumbered at the time that person ceases to be a candidate before a primary or general election for which the fund money was distributed.

D. A certified candidate shall limit total campaign expenditures to the amount of money distributed to that candidate from the fund, money received from a political party pursuant to Section 1-19A-8 NMSA 1978 and contributions collected pursuant to Section 8 of this 2019 act. A certified candidate shall not accept contributions from any other source except the certified candidate's political party, as specified in Section 1-19A-8 NMSA 1978 and contributions collected pursuant to Section 8 of this 2019 act.

E. A certified candidate who does not remain a candidate in the general election shall, within thirty days after the primary election, transfer to the secretary for deposit in the fund any amount received from the fund, from a political party pursuant to Section 1-19A-8 NMSA 1978 or from private contributors pursuant to Section 8 of this 2019 act that remains unspent or unencumbered by the date of the primary election.

F. A certified candidate shall, within thirty days after the general election, transfer to the secretary for deposit in the fund any amount received from the fund, from a political party pursuant to Section 1-19A-8 NMSA 1978 or from private contributors pursuant to Section 8 of this 2019 act that remains unspent or unencumbered by the date of the general election.

G. If a certified candidate ceases to be a certified candidate for any reason, the previously certified candidate or candidate's campaign committee shall, within thirty days thereafter, transfer to the secretary for deposit in the fund any amount received from the fund, from a political party pursuant to Section 1-19A-8 NMSA 1978 or from private contributors pursuant to Section 8 of this 2019 act that remains unspent or unencumbered by the date the candidate ceases to be a certified candidate."

Chapter 175 Section 6 Laws 2019

SECTION 6. Section 1-19A-9 NMSA 1978 (being Laws 2003, Chapter 14, Section 9) is amended to read:

"1-19A-9. CANDIDATE REPORTING REQUIREMENTS.--

A. The secretary shall publish guidelines outlining permissible campaign-related expenditures and penalties for violations of the Voter Action Act by September 1, 2019.

B. Applicant candidates shall file a report listing contributions and expenditures with their application for certification.

C. Applicant candidates shall file qualifying contributions with the secretary during the qualifying period according to procedures developed by the secretary. In developing these procedures, the secretary shall use existing campaign reporting procedures and deadlines whenever practical.

D. Certified candidates shall report all contributions and expenditures according to the campaign reporting schedule specified in the Campaign Reporting Act."

Chapter 175 Section 7 Laws 2019

SECTION 7. Section 1-19A-10 NMSA 1978 (being Laws 2003, Chapter 14, Section 10, as amended) is amended to read:

"1-19A-10. PUBLIC ELECTION FUND--CREATION--USE.--

A. There is created in the state treasury the "public election fund" solely for the purposes of:

- (1) financing the election campaigns of certified candidates for covered offices;
 - (2) paying administrative and enforcement costs of the Voter Action Act;
- and
- (3) carrying out all other specified provisions of the Voter Action Act.

B. The state treasurer shall invest the funds as other state funds are invested, and all income derived from the fund shall be credited directly to the fund. Remaining balances at the end of a fiscal year shall remain in the fund and not revert to the general fund.

C. Money received from the following sources shall be deposited directly into the fund:

- (1) qualifying contributions that have been submitted to the secretary;
- (2) any recurring balance of unspent fund money distributed to a certified candidate who does not remain a candidate through the primary or general election period for which the money was distributed;

(3) money that remains unspent or unencumbered by a certified candidate following the date of the primary election;

(4) money that remains unspent or unencumbered by a certified candidate following the date of the general election;

(5) unspent contributions to a candidate;

(6) money distributed to the fund from funds received pursuant to the Uniform Unclaimed Property Act (1995); and

(7) money appropriated by the legislature or as otherwise provided by law.

D. A subaccount shall be established in the fund, and money in the subaccount shall only be used to pay the costs of carrying out the provisions of the Voter Action Act related to public regulation commission elections.

E. Two hundred thousand dollars (\$200,000) per year shall be collected and deposited in the subaccount for public regulation commission elections as follows:

(1) one hundred thousand dollars (\$100,000) from inspection and supervision fees collected pursuant to Section 62-8-8 NMSA 1978; and

(2) one hundred thousand dollars (\$100,000) from utility and carrier inspection fees collected pursuant to Section 63-7-20 NMSA 1978."

Chapter 175 Section 8 Laws 2019

SECTION 8. A new section of the Voter Action Act is enacted to read:

"ALLOWABLE CONTRIBUTIONS.--

A. An applicant candidate may collect contributions during the sixty days immediately preceding the qualifying period and throughout the qualifying period from qualified electors registered to vote in the state. An applicant candidate shall not accept contributions from any other source.

B. A certified candidate may collect contributions from qualified electors registered to vote in the state. A certified candidate shall not accept contributions from any other source, except as allowed pursuant to Section 1-19A-8 NMSA 1978.

C. Total contributions from a qualified elector to a candidate shall not exceed one hundred dollars (\$100) per election cycle."

Chapter 175 Section 9 Laws 2019

SECTION 9. Section 1-19A-13 NMSA 1978 (being Laws 2003, Chapter 14, Section 13, as amended) is amended to read:

"1-19A-13. AMOUNT OF FUND DISTRIBUTION.--

A. By September 1 of each odd-numbered year, the secretary shall determine the amount of money to be distributed to each certified candidate for the election cycle ending with the next general election, based on the type of election and the provisions of Subsections B through G of this section.

B. For contested primary elections, the amount of money to be distributed to a certified candidate is equal to the following:

(1) for the office of public regulation commissioner, twenty-five cents (\$.25) for each voter of the candidate's party in the district of the office for which the candidate is running; and

(2) for the office of justice of the supreme court and judge of the court of appeals, fifteen cents (\$.15) for each voter of the candidate's party in the state.

C. For uncontested primary elections in which another candidate has filed a declaration of candidacy for nomination in another party's primary for the same office and that candidate's primary is contested, the amount of money to be distributed to a certified candidate is equal to twenty percent of the amount specified in Subsection B of this section.

D. For uncontested primary elections in which another candidate has filed a declaration of candidacy for nomination in another party's primary for the same office, but no primary for the office is contested, the amount of money to be distributed to a certified candidate is equal to the average of the amount each candidate would receive pursuant to Subsection B of this section.

E. For contested general elections, the amount of money to be distributed to a certified candidate is equal to the following:

(1) for the office of public regulation commissioner, twenty-five cents (\$.25) for each voter in the district of the office for which the candidate is running; and

(2) for the office of justice of the supreme court and judge of the court of appeals, fifteen cents (\$.15) for each voter in the state.

F. If a general election race that is initially uncontested later becomes contested because of the qualification of a candidate for that race, an amount of money shall be distributed to the certified candidate to make that candidate's distribution amount equal to the amount distributed pursuant to Subsection E of this section.

G. Once the certification for candidates for the primary election has been completed, the secretary shall calculate the total amount of money to be distributed in the primary election cycle, based on the number of certified candidates and the allocations specified in this section. The secretary shall also prepare an estimate of the total amount of money that might be distributed in the general election cycle. If the total amount to be distributed in the primary election cycle and the estimated total amount to be distributed in the general election cycle taken together exceed the amount expected to be available in the fund, the secretary shall allocate the amount available between the primary and general election cycles. This allocation shall be based on the ratio of the two total amounts.

H. If the allocation specified in Subsection G of this section is greater than the total amount available for distribution, then the amounts to be distributed to individual candidates, specified in Subsections B through F of this section, shall each be reduced by the same percentage as the reduction by which the total amount needed has been reduced relative to the total amount available.

I. At least every two years after January 1, 2007, the secretary shall evaluate and modify as necessary the dollar values originally determined by Subsections B through F of this section and shall increase the amounts by the percentage of the preceding two calendar years' increase of the consumer price index for all urban consumers, United States city average for all items, published by the United States department of labor.

J. No money shall be distributed to candidates in judicial retention elections, and except as provided in Subsections C, D and F of this section, no money shall be distributed to a candidate in an uncontested election."

Chapter 175 Section 10 Laws 2019

SECTION 10. Section 1-19A-17 NMSA 1978 (being Laws 2003, Chapter 14, Section 17) is amended to read:

"1-19A-17. PENALTIES.--

A. In addition to other penalties that may be applicable, a person who violates a provision of the Voter Action Act is subject to a civil penalty of up to ten thousand dollars (\$10,000) per violation. In addition to a fine, a certified candidate found in violation of that act may be required to return to the fund all amounts distributed to the candidate from the fund. If the secretary makes a determination that a violation of that act has occurred, the secretary shall impose a fine and transmit the finding to the attorney general for criminal prosecution pursuant to Subsection B of this section. In determining whether a certified candidate is in violation of the expenditure limits of that act, the secretary may consider as a mitigating factor any circumstances out of the candidate's control.

B. A person who willfully or knowingly violates the provisions of the Voter Action Act or knowingly makes a false statement in a report required by that act is guilty of a fourth degree felony and, if the person is a certified candidate, shall return to the fund all money distributed to that candidate."

Chapter 175 Section 11 Laws 2019

SECTION 11. REPEAL.--Sections 1-19A-5 and 1-19A-14 NMSA 1978 (being Laws 2003, Chapter 14, Sections 5 and 14, as amended) are repealed.

Chapter 175 Section 12 Laws 2019

SECTION 12. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

Senate Bill 4, aa

Approved April 3, 2019

LAWS 2019, CHAPTER 176

AN ACT

RELATING TO EMPLOYMENT OF EX-CONVICTS; PROHIBITING PRIVATE EMPLOYERS FROM INQUIRING ABOUT AN APPLICANT'S HISTORY OF ARREST OR CONVICTION ON AN INITIAL EMPLOYMENT APPLICATION; PROVIDING A GRIEVANCE PROCESS.

RELATING TO EMPLOYMENT; ENACTING THE CAREGIVER LEAVE ACT TO PROVIDE EMPLOYEES OF PRIVATE ENTITIES WHO HAVE ACCRUED PAID SICK LEAVE WITH THE OPPORTUNITY TO USE SICK LEAVE FOR FAMILY CAREGIVING; ENACTING THE PUBLIC EMPLOYEE CAREGIVER LEAVE ACT TO PROVIDE PUBLIC EMPLOYEES THE RIGHT TO USE ACCRUED SICK LEAVE FOR FAMILY CAREGIVING.

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

Chapter 177 Section 1 Laws 2019

SECTION 1. SHORT TITLE.--Sections 1 through 4 of this act may be cited as the "Caregiver Leave Act".

Chapter 177 Section 2 Laws 2019

SECTION 2. DEFINITIONS.--As used in the Caregiver Leave Act:

A. "eligible employee" means, except as provided pursuant to Section 4 of the Caregiver Leave Act, an individual who is in the employ of an employer and who, in accordance with the employer's policies, is eligible to accrue sick leave;

B. "employer" means a person that employs one or more employees and that offers eligible employees sick leave;

C. "family member" means an individual who is the spouse or domestic partner of or is by blood, marriage or legal adoption a parent, grandparent, great-grandparent, child, foster child, grandchild, great-grandchild, brother, sister, niece, nephew, aunt or uncle of an eligible employee; and

D. "sick leave" means a leave of absence from employment for which an employer pays an eligible employee due to illness or injury or to receive care from a licensed or certified health professional. "Sick leave" does not include leave to which an employee is entitled under the federal Family and Medical Leave Act of 1993, regardless of whether the employee uses sick leave during that leave.

Chapter 177 Section 3 Laws 2019

SECTION 3. ACCUMULATED SICK LEAVE--APPLICATION TO FAMILY CAREGIVING.--

A. An employer that provides eligible employees with sick leave for an eligible employee's own illness or injury or to receive health care shall permit its eligible employees to use accrued sick leave to care for their family members in accordance with the same terms and procedures that the employer imposes for any other use of sick leave by eligible employees.

B. An eligible employee's employer shall not discharge or threaten to discharge, demote, suspend or retaliate or discriminate in any manner, including using the employee's use of caregiver leave as a factor in the employee's performance evaluation, against an eligible employee because that employee requests or uses caregiver leave in accordance with the employer's general sick leave policy, files a complaint with the workforce solutions department for violation of the Caregiver Leave Act, cooperates in an investigation or prosecution of an alleged violation of the Caregiver Leave Act or opposes any policy or practice established pursuant to the Caregiver Leave Act.

C. Nothing in this section shall require an employer to provide sick leave to its employees.

D. The provisions of the Caregiver Leave Act are nonexclusive and cumulative and are in addition to any other rights or remedies afforded by contract or under other provision of law. The Caregiver Leave Act does not prohibit an employer from providing greater sick leave benefits than are provided pursuant to that act.

E. The secretary of workforce solutions shall adopt and promulgate rules to implement the provisions of the Caregiver Leave Act. These rules shall include, at a minimum, grievance procedures for according eligible employees recourse for violations of the Caregiver Leave Act.

Chapter 177 Section 4 Laws 2019

SECTION 4. EXEMPTIONS.--

A. The provisions of the Caregiver Leave Act shall not apply to:

(1) an employee of an employer subject to the provisions of Title II of the federal Railway Labor Act or to an employer or employee as defined in either the federal Railroad Unemployment Insurance Act or the Federal Employers' Liability Act or other comparable federal law; or

(2) any other employment expressly exempted under rules adopted by the workforce solutions department as necessary to implement the provisions of the Caregiver Leave Act in accordance with applicable state and federal law.

B. Nothing in the Caregiver Leave Act shall be construed to invalidate, diminish or otherwise interfere with any collective bargaining agreement, nor shall it be construed to invalidate, diminish or otherwise interfere with any party's power to collectively bargain for a collective bargaining agreement.

Chapter 177 Section 5 Laws 2019

SECTION 5. A new section of Chapter 10 NMSA 1978 is enacted to read:

"SHORT TITLE.--Sections 5 through 8 of this act may be cited as the "Public Employee Caregiver Leave Act"."

Chapter 177 Section 6 Laws 2019

SECTION 6. A new section of Chapter 10 NMSA 1978 is enacted to read:

"DEFINITIONS.--As used in the Public Employee Caregiver Leave Act:

A. "eligible employee" means, except as provided pursuant to Section 8 of this 2019 act, an individual who is an officer or employee of the state or of a public school and who, in accordance with the policies of the state agency or public school employing the officer or employee, is eligible to accrue sick leave;

B. "family member" means an individual who is the spouse or domestic partner of or is by blood, marriage or legal adoption a parent, grandparent, great-grandparent, child, grandchild, great-grandchild, brother, sister, niece, nephew, aunt or uncle, or is living in the household of an eligible employee;

C. "sick leave" means a leave of absence from employment for which a state agency or public school pays an eligible employee due to illness or injury or to receive care from a licensed or certified health professional. "Sick leave" does not include leave to which an employee is entitled under the federal Family and Medical Leave Act of 1993, regardless of whether the employee uses sick leave during that leave; and

D. "state" or "state agency" means the state of New Mexico or any of its branches, agencies, departments, boards, instrumentalities or institutions."

Chapter 177 Section 7 Laws 2019

SECTION 7. A new section of Chapter 10 NMSA 1978 is enacted to read:

"ACCUMULATED SICK LEAVE--APPLICATION TO FAMILY CAREGIVING.--

A. A state agency or public school that provides eligible employees with sick leave for an eligible employee's own illness or injury or to receive health care shall permit its eligible employees to use accrued sick leave to care for their family members in accordance with the same terms and procedures that the state agency or public school imposes for any other use of sick leave by eligible employees.

B. A state agency or public school employing an eligible employee shall not discharge or threaten to discharge, demote, suspend or retaliate or discriminate in any manner, including using the employee's use of caregiver leave as a factor in the employee's performance evaluation, against an eligible employee because that employee requests or uses caregiver leave in accordance with the state agency's or public school's general sick leave policy, files a grievance for violation of the Public Employee Caregiver Leave Act, cooperates in an investigation or prosecution of an alleged violation of that act or opposes any policy or practice established pursuant to that act.

C. Nothing in this section shall require a state agency or public school to provide sick leave to its employees.

D. The provisions of the Public Employee Caregiver Leave Act are nonexclusive and cumulative and are in addition to any other rights or remedies afforded by contract or under other provision of law. The Public Employee Caregiver Leave Act does not prohibit a state agency or public school from providing greater sick leave benefits than are provided pursuant to that act.

E. Each state agency director and public school administrator shall adopt and promulgate policies to implement the provisions of the Public Employee Caregiver Leave Act. These policies shall include, at a minimum, grievance procedures for according eligible employees recourse for violations of the Public Employee Caregiver Leave Act. As used in this section, "state agency director" means:

(1) the director of the state personnel office for those state agencies to which the provisions of the Personnel Act apply; and

(2) the director of a state agency to which the provisions of the Personnel Act do not apply."

Chapter 177 Section 8 Laws 2019

SECTION 8. A new section of Chapter 10 NMSA 1978 is enacted to read:

"EXEMPTIONS.--

A. The provisions of the Public Employee Caregiver Leave Act shall not apply to any employment expressly exempted under rules adopted by the state personnel office or any other state agency.

B. Nothing in the Public Employee Caregiver Leave Act shall be construed to invalidate, diminish or otherwise interfere with any collective bargaining agreement, nor shall it be construed to invalidate, diminish or otherwise interfere with any party's power to collectively bargain for a collective bargaining agreement." _____

Senate Bill 123, aa

Approved April 3, 2019

LAWS 2019, CHAPTER 178

AN ACT

RELATING TO HIGHER EDUCATION; ALLOWING THE CREATION OF AN OFF-CAMPUS INSTRUCTIONAL CENTER IN VALENCIA COUNTY.

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

Chapter 178 Section 1 Laws 2019

SECTION 1. A new section of Chapter 21, Article 7 NMSA 1978 is enacted to read:

"OFF-CAMPUS INSTRUCTIONAL CENTER FOR UNIVERSITY OF NEW MEXICO IN VALENCIA COUNTY.--Pursuant to Section 21-1-26.9 NMSA 1978, the board of regents of the university of New Mexico is authorized to create an off-campus instructional center in Valencia county." _____

Senate Bill 163

Approved April 3, 2019

LAWS 2019, CHAPTER 179

AN ACT

RELATING TO PUBLIC SCHOOL CAPITAL OUTLAY; CREATING A PRE-KINDERGARTEN CLASSROOM FACILITIES INITIATIVE.

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

Chapter 179 Section 1 Laws 2019

SECTION 1. A new section of the Public School Capital Outlay Act is enacted to read:

"PRE-KINDERGARTEN CLASSROOM FACILITIES INITIATIVE.--

A. The council shall develop guidelines for a pre-kindergarten classroom facilities initiative in accordance with this section, including establishing and adopting pre-kindergarten classroom standards.

B. The authority shall rank all applications it receives for the pre-kindergarten classroom facilities initiative according to the methodology adopted by the council for that purpose.

C. After a public hearing, and to the extent that money is available in the fund for that purpose, the council may make pre-kindergarten classroom facilities initiative grants to school districts that the council determines are willing and able to pay for the portion of the total cost not funded with grant assistance from the fund according to those applicants' rankings.

D. The state share of the cost of an approved pre-kindergarten classroom facilities initiative shall be calculated according to the methodology outlined in Subsection B of Section 22-24-5 NMSA 1978.

E. A school district that receives a grant in accordance with this section shall expend the money within three years after the grant allocation, or the money shall revert to the fund."

Chapter 179 Section 2 Laws 2019

SECTION 2. Section 22-24-4 NMSA 1978 (being Laws 1975, Chapter 235, Section 4, as amended by Laws 2017, Chapter 142, Section 1 and by Laws 2018, Chapter 71, Section 3) is amended to read:

"22-24-4. PUBLIC SCHOOL CAPITAL OUTLAY FUND CREATED-- USE.--

A. The "public school capital outlay fund" is created. Balances remaining in the fund at the end of each fiscal year shall not revert.

B. Except as provided in Subsections G and I through Q of this section, money in the fund may be used only for capital expenditures deemed necessary by the council for an adequate educational program.

C. The council may authorize the purchase by the authority of portable classrooms to be loaned to school districts to meet a temporary requirement. Payment for these purchases shall be made from the fund. Title to and custody of the portable classrooms shall rest in the authority. The council shall authorize the lending of the portable classrooms to school districts upon request and upon finding that sufficient need exists. Application for use or return of state-owned portable classroom buildings shall be submitted by school districts to the council. Expenses of maintenance of the portable classrooms while in the custody of the authority shall be paid from the fund; expenses of maintenance and insurance of the portable classrooms while in the custody of a school district shall be the responsibility of the school district. The council may authorize the permanent disposition of the portable classrooms by the public school facilities authority with prior approval of the state board of finance.

D. Applications for assistance from the fund shall be made by school districts to the council in accordance with requirements of the council. Except as provided in Subsection K of this section, the council shall require as a condition of application that a school district have a current five-year facilities plan, which shall include a current preventive maintenance plan to which the school adheres for each public school in the school district.

E. The council shall review all requests for assistance from the fund and shall allocate funds only for those capital outlay projects that meet the criteria of the Public School Capital Outlay Act.

F. Money in the fund shall be disbursed by warrant of the department of finance and administration on vouchers signed by the secretary of finance and administration following certification by the council that an application has been approved or an expenditure has been ordered by a court pursuant to Section 22-24-5.4 NMSA 1978. At the discretion of the council, money for a project shall be distributed as follows:

(1) up to ten percent of the portion of the project cost funded with distributions from the fund or five percent of the total project cost, whichever is greater, may be paid to the school district before work commences with the balance of the grant award made on a cost-reimbursement basis; or

(2) the council may authorize payments directly to the contractor.

G. Balances in the fund may be annually appropriated for the core administrative functions of the authority pursuant to the Public School Capital Outlay Act, and, in addition, balances in the fund may be expended by the authority, upon approval of the council, for project management expenses; provided that:

(1) the total annual expenditures from the fund for the core administrative functions pursuant to this subsection shall not exceed five percent of the average annual grant assistance authorized from the fund during the three previous fiscal years; and

(2) any unexpended or unencumbered balance remaining at the end of a fiscal year from the expenditures authorized in this subsection shall revert to the fund.

H. The fund may be expended by the council for building system repair, renovation or replacement initiatives with projects to be identified by the council pursuant to Section 22-24-4.6 NMSA 1978; provided that money allocated pursuant to this subsection shall be expended within three years of the allocation.

I. The fund may be expended annually by the council for grants to school districts for the purpose of making lease payments for classroom facilities, including facilities leased by charter schools. The grants shall be made upon application by the school districts and pursuant to rules adopted by the council; provided that an application on behalf of a charter school shall be made by the school district, but, if the school district fails to make an application on behalf of a charter school, the charter school may submit its own application. The following criteria shall apply to the grants:

(1) the amount of a grant to a school district shall not exceed:

(a) the actual annual lease payments owed for leasing classroom space for schools, including charter schools, in the school district; or

(b) seven hundred dollars (\$700) multiplied by the MEM using the leased classroom facilities; provided that in fiscal year 2009 and in each subsequent fiscal year, this amount shall be adjusted by the percentage change between the penultimate calendar year and the immediately preceding calendar year of the

consumer price index for the United States, all items, as published by the United States department of labor;

(2) a grant received for the lease payments of a charter school may be used by that charter school as a state match necessary to obtain federal grants if required;

(3) at the end of each fiscal year, any unexpended or unencumbered balance of the appropriation shall revert to the fund;

(4) no grant shall be made for lease payments due pursuant to a financing agreement under which the facilities may be purchased for a price that is reduced according to the lease payments made unless:

(a) the agreement has been approved pursuant to the provisions of the Public School Lease Purchase Act; and

(b) the facilities are leased by a charter school;

(5) if the lease payments are made pursuant to a financing agreement under which the facilities may be purchased for a price that is reduced according to the lease payments made, neither a grant nor any provision of the Public School Capital Outlay Act creates a legal obligation for the school district or charter school to continue the lease from year to year or to purchase the facilities nor does it create a legal obligation for the state to make subsequent grants pursuant to the provisions of this subsection; and

(6) as used in this subsection:

(a) "MEM" means: 1) the average full-time-equivalent enrollment using leased classroom facilities on the second and third reporting dates of the prior school year; or 2) in the case of an approved charter school that has not commenced classroom instruction, the estimated full-time-equivalent enrollment that will use leased classroom facilities in the first year of instruction, as shown in the approved charter school application; provided that, after the second reporting date of the school year, the MEM shall be adjusted to reflect the full-time-equivalent enrollment on that date; and

(b) "classroom facilities" or "classroom space" includes the space needed, as determined by the minimum required under the statewide adequacy standards, for the direct administration of school activities.

J. In addition to other authorized expenditures from the fund, up to one percent of the average grant assistance authorized from the fund during the three previous fiscal years may be expended in each fiscal year by the authority to pay the state fire marshal, the construction industries division of the regulation and licensing department and local jurisdictions having authority from the state to permit and inspect projects for expenditures made to permit and inspect projects funded in whole or in part under the Public School Capital Outlay Act. The authority may enter into contracts with the state fire marshal, the construction industries division or the appropriate local authorities to carry out the provisions of this subsection. Such a contract may provide for initial estimated payments from the fund prior to the expenditures if the contract also provides for additional payments from the fund if the actual expenditures exceed the initial payments and for repayments back to the fund if the initial payments exceed the actual expenditures. Money distributed from the fund to the state fire marshal or the construction industries division pursuant to this subsection shall be used to supplement, rather than supplant, appropriations to those entities.

K. Pursuant to guidelines established by the council, allocations from the fund may be made to assist school districts in developing and updating five-year facilities plans required by the Public School Capital Outlay Act; provided that:

(1) no allocation shall be made unless the council determines that the school district is willing and able to pay the portion of the total cost of developing or updating the plan that is not funded with the allocation from the fund. Except as provided in Paragraph (2) of this subsection, the portion of the total cost to be paid with the allocation from the fund shall be determined pursuant to the methodology in Subsection B of Section 22-24-5 NMSA 1978; or

(2) the allocation from the fund may be used to pay the total cost of developing or updating the plan if:

(a) the school district has fewer than an average of six hundred full-time-equivalent students on the second and third reporting dates of the prior school year; or

(b) the school district meets all of the following requirements: 1) the school district has fewer than an average of one thousand full-time-equivalent students on the second and third reporting dates of the prior school year; 2) the school district has at least seventy percent of its students eligible for free or reduced-fee lunch; 3) the state share of the total cost, if calculated pursuant to the methodology in Subsection B of Section 22-24-5 NMSA 1978, would be less than fifty percent; and 4) for all educational purposes, the school district has a residential property tax rate of at least seven dollars (\$7.00) on each one thousand dollars (\$1,000) of taxable value, as

measured by the sum of all rates imposed by resolution of the local school board plus rates set to pay interest and principal on outstanding school district general obligation bonds.

L. Upon application by a school district, allocations from the fund may be made by the council for the purpose of demolishing abandoned school district facilities; provided that:

(1) the costs of continuing to insure an abandoned facility outweigh any potential benefit when and if a new facility is needed by the school district;

(2) there is no practical use for the abandoned facility without the expenditure of substantial renovation costs; and

(3) the council may enter into an agreement with the school district under which an amount equal to the savings to the district in lower insurance premiums are used to reimburse the fund fully or partially for the demolition costs allocated to the district.

M. Up to ten million dollars (\$10,000,000) of the fund may be expended each year for an education technology infrastructure deficiency corrections initiative pursuant to Section 22-24-4.5 NMSA 1978; provided that funding allocated pursuant to this section shall be expended within three years of its allocation.

N. For each fiscal year from 2018 through 2022, twenty-five million dollars (\$25,000,000) of the public school capital outlay fund is reserved for appropriation by the legislature to the instructional material fund or to the transportation distribution of the public school fund. The secretary shall certify the need for the issuance of supplemental severance tax bonds to meet an appropriation from the public school capital outlay fund to the instructional material fund or to the transportation distribution of the public school fund. Any portion of an amount of the public school capital outlay fund that is reserved for appropriation by the legislature for a fiscal year, but that is not appropriated before the first day of that fiscal year, may be expended by the council as provided in this section.

O. Up to ten million dollars (\$10,000,000) of the fund may be expended in each of fiscal years 2019 through 2022 for school security system project grants made in accordance with Section 22-24-4.7 NMSA 1978.

P. The fund may be expended in each of fiscal years 2020 through 2024 for a pre-kindergarten classroom facilities initiative in accordance with Section 1 of this 2019 act.

Q. The council may fund pre-kindergarten classrooms with a qualifying, awarded standards-based project; provided that pre-kindergarten classroom space shall not be included in the project prioritization calculation adopted by the council pursuant to Section 22-24-5 NMSA 1978. The council shall develop pre-kindergarten classroom standards to use when funding pre-kindergarten space."

Chapter 179 Section 3 Laws 2019

SECTION 3. Section 22-25-2 NMSA 1978 (being Laws 1975 (S.S.), Chapter 5, Section 2, as amended) is amended to read:

"22-25-2. DEFINITIONS.--As used in the Public School Capital Improvements Act:

A. "program unit" means the product of the program element multiplied by the applicable cost differential factor, as defined in Section 22-8-2 NMSA 1978; and

B. "capital improvements" means expenditures, including payments made with respect to lease-purchase arrangements as defined in the Education Technology Equipment Act or the Public School Lease Purchase Act but excluding any other debt service expenses, for:

(1) erecting, remodeling, making additions to, providing equipment for or furnishing public school buildings and pre-kindergarten classroom facilities;

(2) purchasing or improving public school or pre-kindergarten grounds;

(3) maintenance of public school buildings or public school or pre-kindergarten grounds, including the purchasing or repairing of maintenance equipment and participating in the facility information management system as required by the Public School Capital Outlay Act and including payments under contracts with regional education cooperatives for maintenance support services and expenditures for technical training and certification for maintenance and facilities management personnel, but excluding salary expenses of school district employees;

(4) purchasing activity vehicles for transporting students to extracurricular school activities;

(5) purchasing computer software and hardware for student use in public school classrooms; and

(6) purchasing and installing education technology improvements, excluding salary expenses of school district employees, but including tools used in the educational process that constitute learning and administrative resources, and that may also include:

(a) satellite, copper and fiber-optic transmission; computer and network connection devices; digital communication equipment, including voice, video and data equipment; servers; switches; portable media devices, such as discs and drives to contain data for electronic storage and playback; and the purchase or lease of software licenses or other technologies and services, maintenance, equipment and computer infrastructure information, techniques and tools used to implement technology in schools and related facilities; and

(b) improvements, alterations and modifications to, or expansions of, existing buildings or tangible personal property necessary or advisable to house or otherwise accommodate any of the tools listed in this paragraph."

Chapter 179 Section 4 Laws 2019

SECTION 4. Section 22-26-2 NMSA 1978 (being Laws 1983, Chapter 163, Section 2, as amended) is amended to read:

"22-26-2. DEFINITION.--As used in the Public School Buildings Act, "capital improvements" means expenditures, including payments made with respect to lease-purchase arrangements as defined in the Education Technology Equipment Act but excluding any other debt service expenses, for:

A. erecting, remodeling, making additions to, providing equipment for or furnishing public school buildings, including pre-kindergarten classrooms belonging to the school district or charter school located in the school district;

B. payments made pursuant to a financing agreement entered into by a school district or a charter school for the leasing of a building or other real property with an option to purchase for a price that is reduced according to payments made;

C. purchasing or improving public school grounds;

D. purchasing activity vehicles for transporting students to and from extracurricular school activities; provided that this authorization for expenditure does not apply to school districts with a student MEM greater than sixty thousand;

E. administering the projects undertaken pursuant to Subsections A and C of this section, including expenditures for facility maintenance software, project management software, project oversight and district personnel specifically related to administration of projects funded by the Public School Buildings Act; provided that expenditures pursuant to this subsection shall not exceed five percent of the total project costs; and

F. purchasing and installing education technology improvements, excluding salary expenses of school district employees, but including tools used in the educational process that constitute learning and administrative resources, and that may also include:

(1) satellite, copper and fiber-optic transmission; computer and network connection devices; digital communication equipment, including voice, video and data equipment; servers; switches; portable media devices, such as discs and drives to contain data for electronic storage and playback; and purchase or lease of software licenses or other technologies and services, maintenance, equipment and computer infrastructure information, techniques and tools used to implement technology in schools and related facilities; and

(2) improvements, alterations and modifications to, or expansions of, existing buildings or tangible personal property necessary or advisable to house or otherwise accommodate any of the tools listed in this subsection." _____

Senate Bill 230

Approved April 3, 2019

LAWS 2019, CHAPTER 180

AN ACT

RELATING TO PUBLIC SCHOOL CAPITAL OUTLAY; CLARIFYING THE CALCULATION OF STATE AND LOCAL SHARES OF PROJECTS FUNDED FROM THE PUBLIC SCHOOL CAPITAL OUTLAY FUND; AMENDING SECTIONS OF THE PUBLIC SCHOOL CAPITAL OUTLAY ACT TO MAKE RELATED CONFORMING TECHNICAL CHANGES.

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

Chapter 180 Section 1 Laws 2019

SECTION 1. Section 22-24-4 NMSA 1978 (being Laws 1975, Chapter 235, Section 4, as amended by Laws 2017, Chapter 142, Section 1 and by Laws 2018, Chapter 71, Section 3) is amended to read:

"22-24-4. PUBLIC SCHOOL CAPITAL OUTLAY FUND CREATED-- USE.--

A. The "public school capital outlay fund" is created. Balances remaining in the fund at the end of each fiscal year shall not revert.

B. Except as provided in Subsections G and I through O of this section, money in the fund may be used only for capital expenditures deemed necessary by the council for an adequate educational program.

C. The council may authorize the purchase by the authority of portable classrooms to be loaned to school districts to meet a temporary requirement. Payment for these purchases shall be made from the fund. Title to and custody of the portable classrooms shall rest in the authority. The council shall authorize the lending of the portable classrooms to school districts upon request and upon finding that sufficient need exists. Application for use or return of state-owned portable classroom buildings shall be submitted by school districts to the council. Expenses of maintenance of the portable classrooms while in the custody of the authority shall be paid from the fund; expenses of maintenance and insurance of the portable classrooms while in the custody of a school district shall be the responsibility of the school district. The council may authorize the permanent disposition of the portable classrooms by the authority with prior approval of the state board of finance.

D. Applications for assistance from the fund shall be made by school districts to the council in accordance with requirements of the council. Except as provided in Subsection K of this section, the council shall require as a condition of application that a school district have a current five-year facilities plan, which shall include a current preventive maintenance plan to which the school adheres for each public school in the school district.

E. The council shall review all requests for assistance from the fund and shall allocate funds only for those capital outlay projects that meet the criteria of the Public School Capital Outlay Act.

F. Money in the fund shall be disbursed by warrant of the department of finance and administration on vouchers signed by the secretary of finance and administration following certification by the council that an application has been approved or an

expenditure has been ordered by a court pursuant to Section 22-24-5.4 NMSA 1978. At the discretion of the council, money for a project shall be distributed as follows:

(1) up to ten percent of the portion of the project cost funded with distributions from the fund or five percent of the total project cost, whichever is greater, may be paid to the school district before work commences with the balance of the grant award made on a cost-reimbursement basis; or

(2) the council may authorize payments directly to the contractor.

G. Balances in the fund may be annually appropriated for the core administrative functions of the authority pursuant to the Public School Capital Outlay Act, and, in addition, balances in the fund may be expended by the authority, upon approval of the council, for project management expenses; provided that:

(1) the total annual expenditures from the fund for the core administrative functions pursuant to this subsection shall not exceed five percent of the average annual grant assistance authorized from the fund during the three previous fiscal years; and

(2) any unexpended or unencumbered balance remaining at the end of a fiscal year from the expenditures authorized in this subsection shall revert to the fund.

H. The fund may be expended by the council for building system repair, renovation or replacement initiatives with projects to be identified by the council pursuant to Section 22-24-4.6 NMSA 1978; provided that money allocated pursuant to this subsection shall be expended within three years of the allocation.

I. The fund may be expended annually by the council for grants to school districts for the purpose of making lease payments for classroom facilities, including facilities leased by charter schools. The grants shall be made upon application by the school districts and pursuant to rules adopted by the council; provided that an application on behalf of a charter school shall be made by the school district, but, if the school district fails to make an application on behalf of a charter school, the charter school may submit its own application. The following criteria shall apply to the grants:

(1) the amount of a grant to a school district shall not exceed:

(a) the actual annual lease payments owed for leasing classroom space for schools, including charter schools, in the school district; or

(b) seven hundred dollars (\$700) multiplied by the MEM using the leased classroom facilities; provided that in fiscal year 2009 and in each subsequent fiscal year, this amount shall be adjusted by the percentage change between the penultimate calendar year and the immediately preceding calendar year of the consumer price index for the United States, all items, as published by the United States department of labor;

(2) a grant received for the lease payments of a charter school may be used by that charter school as a state match necessary to obtain federal grants pursuant to the federal Every Student Succeeds Act;

(3) at the end of each fiscal year, any unexpended or unencumbered balance of the appropriation shall revert to the fund;

(4) no grant shall be made for lease payments due pursuant to a financing agreement under which the facilities may be purchased for a price that is reduced according to the lease payments made unless:

(a) the agreement has been approved pursuant to the provisions of the Public School Lease Purchase Act; and

(b) the facilities are leased by a charter school;

(5) if the lease payments are made pursuant to a financing agreement under which the facilities may be purchased for a price that is reduced according to the lease payments made, neither a grant nor any provision of the Public School Capital Outlay Act creates a legal obligation for the school district or charter school to continue the lease from year to year or to purchase the facilities nor does it create a legal obligation for the state to make subsequent grants pursuant to the provisions of this subsection; and

(6) as used in this subsection:

(a) "MEM" means: 1) the average full-time-equivalent enrollment using leased classroom facilities on the second and third reporting dates of the prior school year; or 2) in the case of an approved charter school that has not commenced classroom instruction, the estimated full-time-equivalent enrollment that will use leased classroom facilities in the first year of instruction, as shown in the approved charter school application; provided that, after the second reporting date of the school year, the MEM shall be adjusted to reflect the full-time-equivalent enrollment on that date; and

(b) "classroom facilities" or "classroom space" includes the space needed, as determined by the minimum required under the statewide adequacy standards, for the direct administration of school activities.

J. In addition to other authorized expenditures from the fund, up to one percent of the average grant assistance authorized from the fund during the three previous fiscal years may be expended in each fiscal year by the authority to pay the state fire marshal, the construction industries division of the regulation and licensing department and local jurisdictions having authority from the state to permit and inspect projects for expenditures made to permit and inspect projects funded in whole or in part under the Public School Capital Outlay Act. The authority may enter into contracts with the state fire marshal, the construction industries division or the appropriate local authorities to carry out the provisions of this subsection. Such a contract may provide for initial estimated payments from the fund prior to the expenditures if the contract also provides for additional payments from the fund if the actual expenditures exceed the initial payments and for repayments back to the fund if the initial payments exceed the actual expenditures. Money distributed from the fund to the state fire marshal or the construction industries division pursuant to this subsection shall be used to supplement, rather than supplant, appropriations to those entities.

K. Pursuant to guidelines established by the council, allocations from the fund may be made to assist school districts in developing and updating five-year facilities plans required by the Public School Capital Outlay Act; provided that:

(1) no allocation shall be made unless the council determines that the school district is willing and able to pay the portion of the total cost of developing or updating the plan that is not funded with the allocation from the fund. Except as provided in Paragraph (2) of this subsection, the portion of the total cost to be paid with the allocation from the fund shall be determined pursuant to the methodology in Subsection B of Section 22-24-5 NMSA 1978; or

(2) the allocation from the fund may be used to pay the total cost of developing or updating the plan if:

(a) the school district has fewer than an average of six hundred full-time-equivalent students on the second and third reporting dates of the prior school year; or

(b) the school district meets all of the following requirements: 1) the school district has fewer than an average of one thousand full-time-equivalent students on the second and third reporting dates of the prior school year; 2) the school district has at least seventy percent of its students eligible for free or reduced-fee lunch;

3) the state share of the total cost, if calculated pursuant to the methodology in Subsection B of Section 22-24-5 NMSA 1978, would be less than fifty percent; and 4) for all educational purposes, the school district has a residential property tax rate of at least seven dollars (\$7.00) on each one thousand dollars (\$1,000) of taxable value, as measured by the sum of all rates imposed by resolution of the local school board plus rates set to pay interest and principal on outstanding school district general obligation bonds.

L. Upon application by a school district, allocations from the fund may be made by the council for the purpose of demolishing abandoned school district facilities; provided that:

(1) the costs of continuing to insure an abandoned facility outweigh any potential benefit when and if a new facility is needed by the school district;

(2) there is no practical use for the abandoned facility without the expenditure of substantial renovation costs; and

(3) the council may enter into an agreement with the school district under which an amount equal to the savings to the district in lower insurance premiums are used to reimburse the fund fully or partially for the demolition costs allocated to the district.

M. Up to ten million dollars (\$10,000,000) of the fund may be expended each year for an education technology infrastructure deficiency corrections initiative pursuant to Section 22-24-4.5 NMSA 1978; provided that funding allocated pursuant to this section shall be expended within three years of its allocation.

N. For each fiscal year from 2018 through 2022, twenty-five million dollars (\$25,000,000) of the fund is reserved for appropriation by the legislature to the instructional material fund or to the transportation distribution of the public school fund. The secretary shall certify the need for the issuance of supplemental severance tax bonds to meet an appropriation from the public school capital outlay fund to the instructional material fund or to the transportation distribution of the public school fund. Any portion of an amount of the public school capital outlay fund that is reserved for appropriation by the legislature for a fiscal year, but that is not appropriated before the first day of that fiscal year, may be expended by the council as provided in this section.

O. Up to ten million dollars (\$10,000,000) of the fund may be expended in each of fiscal years 2019 through 2022 for school security system project grants made in accordance with Section 22-24-4.7 NMSA 1978."

Chapter 180 Section 2 Laws 2019

SECTION 2. Section 22-24-4.5 NMSA 1978 (being Laws 2014, Chapter 28, Section 4) is amended to read:

"22-24-4.5. EDUCATION TECHNOLOGY INFRASTRUCTURE DEFICIENCY CORRECTIONS.--

A. No later than September 1, 2014, the council, with the advice of the department and the department of information technology, shall define and develop:

(1) minimum adequacy standards for an education technology infrastructure deficiency corrections initiative to identify and determine reasonable costs for correcting education technology infrastructure deficiencies in or affecting school districts;

(2) a methodology for prioritizing projects to correct education technology infrastructure deficiencies in or affecting school districts; and

(3) a methodology for determining a school district's share of the project costs.

B. The council may approve allocations from the fund pursuant to Subsection M of Section 22-24-4 NMSA 1978 and this section for projects in or affecting a school district committing to pay its share of the project costs. The council may adjust the school district's share of the project costs in accordance with Paragraph (11) of Subsection B of Section 22-24-5 NMSA 1978 or the methodology for determining the school district's share of the project costs."

Chapter 180 Section 3 Laws 2019

SECTION 3. Section 22-24-4.6 NMSA 1978 (being Laws 2015, Chapter 93, Section 3) is amended to read:

"22-24-4.6. BUILDING SYSTEM REPAIR, RENOVATION OR REPLACEMENT.--

A. The council shall develop guidelines for a building system repair, renovation or replacement initiative pursuant to the provisions of this section.

B. A school district desiring a grant award pursuant to this section shall submit an application to the council. The application shall include an assessment of the

building system that, in the opinion of the school district, the repair, renovation or replacement of which would extend the useful life of the building itself.

C. The authority shall verify the assessment made by the school district and rank the application with similar applications pursuant to a methodology adopted by the council.

D. After a public hearing and to the extent that money is available in the fund for such purposes, the council shall approve building system repair, renovation or replacement projects on the established priority basis; provided that no project shall be approved unless the council determines that the school district is willing and able to pay the portion of the total cost of the project that is not funded with grant assistance from the fund.

E. The state share of the cost of an approved building system repair, renovation or replacement project shall be calculated pursuant to the methodology in Subsection B of Section 22-24-5 NMSA 1978.

F. A grant made pursuant to this section shall be expended by the school district within three years of the grant allocation."

Chapter 180 Section 4 Laws 2019

SECTION 4. Section 22-24-4.7 NMSA 1978 (being Laws 2018, Chapter 71, Section 1) is amended to read:

"22-24-4.7. SCHOOL SECURITY SYSTEM PROJECTS.--

A. The council shall develop guidelines for a school security system project grant initiative in accordance with this section.

B. A school district seeking a grant for a school security system project shall apply to the council on a form that includes an assessment of a school's security system and a statement of opinion by the school district that the project would improve the security of the school's buildings, property and occupants.

C. The authority shall verify the assessment made by the school district and rank all applications it receives for school security system project grants according to the methodology adopted by the council for that purpose.

D. After a public hearing, and to the extent that money is available in the fund for the purpose, the council shall make school security system project grants to school

districts that the council determines are willing and able to pay for the portion of the total project cost not funded with grant assistance from the fund and according to those applicants' ranking.

E. The state share of the cost of an approved school security system project shall be calculated according to the methodology outlined in Subsection B of Section 22-24-5 NMSA 1978.

F. A school district that receives a grant in accordance with this section shall expend the grant money within three years after the grant allocation. Money not spent in that time shall revert to the fund."

Chapter 180 Section 5 Laws 2019

SECTION 5. Section 22-24-5 NMSA 1978 (being Laws 1975, Chapter 235, Section 5, as amended) is amended to read:

"22-24-5. PUBLIC SCHOOL CAPITAL OUTLAY PROJECTS-- APPLICATION-- GRANT ASSISTANCE.--

A. Applications for grant assistance, approval of applications, prioritization of projects and grant awards shall be conducted pursuant to the provisions of this section.

B. Except as provided in Sections 22-24-4.3, 22-24-5.4 and 22-24-5.6 NMSA 1978, the following provisions govern grant assistance from the fund for a public school capital outlay project not wholly funded pursuant to Section 22-24-4.1 NMSA 1978:

(1) all school districts are eligible to apply for funding from the fund, regardless of percentage of indebtedness;

(2) priorities for funding shall be determined by using the statewide adequacy standards developed pursuant to Subsection C of this section; provided that:

(a) the council shall apply the standards to charter schools to the same extent that they are applied to other public schools;

(b) the council may award grants annually to school districts for the purpose of repairing, renovating or replacing public school building systems in existing buildings as identified in Section 22-24-4.6 NMSA 1978;

(c) the council shall adopt and apply adequacy standards appropriate to the unique needs of the constitutional special schools;

(d) the council may award school security system project grants to school districts pursuant to the provisions of Section 22-24-4.7 NMSA 1978; and

(e) in an emergency in which the health or safety of students or school personnel is at immediate risk or in which there is a threat of significant property damage, the council may award grant assistance for a project using criteria other than the statewide adequacy standards;

(3) the council shall establish criteria to be used in public school capital outlay projects that receive grant assistance pursuant to the Public School Capital Outlay Act. In establishing the criteria, the council shall consider:

(a) the feasibility of using design, build and finance arrangements for public school capital outlay projects;

(b) the potential use of more durable construction materials that may reduce long-term operating costs;

(c) concepts that promote efficient but flexible utilization of space;
and

(d) any other financing or construction concept that may maximize the dollar effect of the state grant assistance;

(4) no more than ten percent of the combined total of grants in a funding cycle shall be used for retrofitting existing facilities for technology infrastructure;

(5) no later than May 1 of each calendar year, the phase one formula value shall be calculated for each school district in accordance with the following procedure:

(a) the final prior year net taxable value for a school district divided by the MEM for that school district is calculated for each school district;

(b) the final prior year net taxable value for the whole state divided by the MEM for the state is calculated;

(c) excluding any school district for which the result calculated pursuant to Subparagraph (a) of this paragraph is more than twice the result calculated pursuant to Subparagraph (b) of this paragraph, the results calculated pursuant to Subparagraph (a) of this paragraph are listed from highest to lowest;

(d) the lowest value listed pursuant to Subparagraph (c) of this paragraph is subtracted from the highest value listed pursuant to that subparagraph;

(e) the value calculated pursuant to Subparagraph (a) of this paragraph for the subject school district is subtracted from the highest value listed in Subparagraph (c) of this paragraph;

(f) the result calculated pursuant to Subparagraph (e) of this paragraph is divided by the result calculated pursuant to Subparagraph (d) of this paragraph;

(g) the sum of the property tax mill levies for the prior tax year imposed by each school district on residential property pursuant to Chapter 22, Article 18 NMSA 1978, the Public School Capital Improvements Act, the Public School Buildings Act, the Education Technology Equipment Act and Paragraph (2) of Subsection B of Section 7-37-7 NMSA 1978 is calculated for each school district;

(h) the lowest value calculated pursuant to Subparagraph (g) of this paragraph is subtracted from the highest value calculated pursuant to that subparagraph;

(i) the lowest value calculated pursuant to Subparagraph (g) of this paragraph is subtracted from the value calculated pursuant to that subparagraph for the subject school district;

(j) the value calculated pursuant to Subparagraph (i) of this paragraph is divided by the value calculated pursuant to Subparagraph (h) of this paragraph;

(k) if the value calculated for a subject school district pursuant to Subparagraph (j) of this paragraph is less than five-tenths, then, except as provided in Subparagraph (n) or (o) of this paragraph, the value for that school district equals the value calculated pursuant to Subparagraph (f) of this paragraph;

(l) if the value calculated for a subject school district pursuant to Subparagraph (j) of this paragraph is five-tenths or greater, then that value is multiplied by five-hundredths;

(m) if the value calculated for a subject school district pursuant to Subparagraph (j) of this paragraph is five-tenths or greater, then the value calculated pursuant to Subparagraph (l) of this paragraph is added to the value calculated

pursuant to Subparagraph (f) of this paragraph. Except as provided in Subparagraph (n) or (o) of this paragraph, the sum equals the value for that school district;

(n) in those instances in which the calculation pursuant to Subparagraph (k) or (m) of this paragraph yields a value less than one-tenth, one-tenth shall be used as the value for the subject school district;

(o) in those instances in which the calculation pursuant to Subparagraph (k) or (m) of this paragraph yields a value greater than one, one shall be used as the value for the subject school district;

(p) the phase one formula value shall equal a fraction the numerator of which is the value for the subject school district in the current year plus the value for that school district in each of the two preceding years and the denominator of which is three; and

(q) as used in this paragraph, "MEM" means the average full-time-equivalent enrollment of students attending public school in a school district on the second and third reporting dates of the prior school year;

(6) no later than May 1 of each calendar year, the phase two formula value shall be calculated for each school district in accordance with the following procedure:

(a) the sum of the final prior five years net taxable value for a school district multiplied by nine ten thousandths for that school district is calculated for each school district;

(b) the maximum allowable gross square foot per student multiplied by the replacement cost per square foot divided by forty-five is calculated for each school district;

(c) the value calculated pursuant to Subparagraph (a) of this paragraph divided by the value calculated pursuant to Subparagraph (b) of this paragraph is calculated for each school district;

(d) in those instances in which the calculation pursuant to Subparagraph (c) of this paragraph yields a value equal to or greater than one, the phase two formula value shall be zero for the subject school district;

(e) in those instances in which the calculation pursuant to Subparagraph (c) of this paragraph yields a value of ninety-hundredths or more but less

than one, the phase two formula value shall be one minus the value calculated in Subparagraph (c) of this paragraph; and

(f) in those instances in which the calculation pursuant to Subparagraph (c) of this paragraph yields a value less than ninety-hundredths, the phase two formula value shall be one minus the value calculated in Subparagraph (c) of this paragraph plus the school district population density factor;

(7) the state share of a project approved by the council shall be funded within available resources pursuant to the provisions of this paragraph. Except as provided in Section 22-24-5.7 NMSA 1978 and except as adjusted pursuant to Paragraph (9), (10), (11) or (12) of this subsection, the amount to be distributed from the fund for an approved project shall equal the total project cost multiplied by the following percentage, except that in no case shall the state share be less than six percent:

(a) for fiscal years prior to fiscal year 2020, the percentage shall be the phase one formula value;

(b) for fiscal year 2020, the percentage shall be the sum of eight-tenths multiplied by the phase one formula value and two-tenths multiplied by the phase two formula value;

(c) for fiscal year 2021, the percentage shall be the sum of six-tenths multiplied by the phase one formula value and four-tenths multiplied by the phase two formula value;

(d) for fiscal year 2022, the percentage shall be the sum of four-tenths multiplied by the phase one formula value and six-tenths multiplied by the phase two formula value;

(e) for fiscal year 2023, the percentage shall be the sum of two-tenths multiplied by the phase one formula value and eight-tenths multiplied by the phase two formula value; and

(f) for fiscal year 2024 and thereafter, the percentage shall be the phase two formula value;

(8) as used in this subsection:

(a) "governmental entity" includes an Indian nation, tribe or pueblo;

(b) "phase one formula value" for a state-chartered charter school means the phase one formula value calculated pursuant to Paragraph (5) of this subsection for the school district in which the state-chartered charter school is physically located;

(c) "phase two formula value" for a state-chartered charter school means the phase two formula value calculated pursuant to Paragraph (6) of this subsection for the school district in which the state-chartered charter school is physically located;

(d) "subject school district" means the school district that has submitted the application for funding and in which the approved public school capital outlay project will be located; and

(e) "total project cost" means the total amount necessary to complete the public school capital outlay project less any insurance reimbursement received by the school district for the project;

(9) the amount to be distributed from the fund for an approved project pursuant to Paragraph (7) of this subsection shall be reduced by the following procedure:

(a) the total of all legislative appropriations made after January 1, 2003 for nonoperating purposes either directly to the subject school district or to another governmental entity for the purpose of passing the money through directly to the subject school district, and not rejected by the subject school district, is calculated; provided that: 1) an appropriation made in a fiscal year shall be deemed to be accepted by a school district unless, prior to June 1 of that fiscal year, the school district notifies the department of finance and administration and the public education department that the school district is rejecting the appropriation; 2) the total shall exclude any education technology appropriation made prior to January 1, 2005 unless the appropriation was on or after January 1, 2003 and not previously used to offset distributions pursuant to the Technology for Education Act; 3) the total shall exclude any appropriation previously made to the subject school district that is reauthorized for expenditure by another recipient; 4) the total shall exclude one-half of the amount of any appropriation made or reauthorized after January 1, 2007 if the purpose of the appropriation or reauthorization is to fund, in whole or in part, a capital outlay project that, when prioritized by the council pursuant to this section either in the immediately preceding funding cycle or in the current funding cycle, ranked in the top one hundred fifty projects statewide; 5) the total shall exclude the proportionate share of any appropriation made or reauthorized after January 1, 2008 for a capital project that will be jointly used by a governmental entity other than the subject school district. Pursuant to criteria adopted by rule of the council

and based upon the proposed use of the capital project, the council shall determine the proportionate share to be used by the governmental entity and excluded from the total; and 6) unless the grant award is made to the state-chartered charter school or unless the appropriation was previously used to calculate a reduction pursuant to this paragraph, the total shall exclude appropriations made after January 1, 2007 for nonoperating purposes of a specific state-chartered charter school, regardless of whether the charter school is a state-chartered charter school at the time of the appropriation or later opts to become a state-chartered charter school;

(b) the percentage used for the subject school district for the applicable fiscal year pursuant to Paragraph (7) of this subsection is subtracted from one;

(c) the value calculated pursuant to Subparagraph (a) of this paragraph for the subject school district is multiplied by the amount calculated pursuant to Subparagraph (b) of this paragraph for that school district;

(d) the total amount of reductions for the subject school district previously made pursuant to Subparagraph (e) of this paragraph for other approved public school capital outlay projects is subtracted from the amount calculated pursuant to Subparagraph (c) of this paragraph; and

(e) the amount to be distributed from the fund pursuant to Paragraph (7) of this subsection shall be reduced by the amount calculated pursuant to Subparagraph (d) of this paragraph;

(10) the amount calculated pursuant to Paragraph (7) of this subsection, after any reduction pursuant to Paragraph (9) of this subsection, may be increased by an additional five percent if the council finds that the subject school district has been exemplary in implementing and maintaining a preventive maintenance program. The council shall adopt such rules as are necessary to implement the provisions of this paragraph;

(11) the council may adjust the amount of local share otherwise required if it determines that a school district has made a good-faith effort to use all of its local resources. Before making any adjustment to the local share, the council shall consider whether:

(a) the school district has insufficient bonding capacity over the next four years to provide the local match necessary to complete the project and, for all educational purposes, has a residential property tax rate of at least ten dollars (\$10.00) on each one thousand dollars (\$1,000) of taxable value, as measured by the sum of all

rates imposed by resolution of the local school board plus rates set to pay interest and principal on outstanding school district general obligation bonds;

(b) the school district: 1) has fewer than an average of eight hundred full-time-equivalent students on the second and third reporting dates of the prior school year; 2) has at least seventy percent of its students eligible for free or reduced-fee lunch; 3) has a share of the total project cost, as calculated pursuant to provisions of this section, that would be greater than fifty percent; and 4) for all educational purposes, has a residential property tax rate of at least seven dollars (\$7.00) on each one thousand dollars (\$1,000) of taxable value, as measured by the sum of all rates imposed by resolution of the local school board plus rates set to pay interest and principal on outstanding school district general obligation bonds; or

(c) the school district: 1) has an enrollment growth rate over the previous school year of at least two and one-half percent; 2) pursuant to its five-year facilities plan, will be building a new school within the next two years; and 3) for all educational purposes, has a residential property tax rate of at least ten dollars (\$10.00) on each one thousand dollars (\$1,000) of taxable value, as measured by the sum of all rates imposed by resolution of the local school board plus rates set to pay interest and principal on outstanding school district general obligation bonds;

(12) the local match for the constitutional special schools shall be set at fifty percent for projects that qualify under the educational adequacy category and one hundred percent for projects that qualify in the support spaces category; provided that the council may adjust or waive the amount of any direct appropriation offset to or local share required for the constitutional special schools if an applicant constitutional special school has insufficient or no local resources available; and

(13) no application for grant assistance from the fund shall be approved unless the council determines that:

(a) the public school capital outlay project is needed and included in the school district's five-year facilities plan among its top priorities;

(b) the school district has used its capital resources in a prudent manner;

(c) the school district has provided insurance for buildings of the school district in accordance with the provisions of Section 13-5-3 NMSA 1978;

(d) the school district has submitted a five-year facilities plan that includes: 1) enrollment projections; 2) a current preventive maintenance plan that has

been approved by the council pursuant to Section 22-24-5.3 NMSA 1978 and that is followed by each public school in the district; 3) the capital needs of charter schools located in the school district; and 4) projections for the facilities needed in order to maintain a full-day kindergarten program;

(e) the school district is willing and able to pay any portion of the total cost of the public school capital outlay project that, according to Paragraph (7), (9), (10) or (11) of this subsection, is not funded with grant assistance from the fund;

(f) the application includes the capital needs of any charter school located in the school district or the school district has shown that the facilities of the charter school have a smaller deviation from the statewide adequacy standards than other district facilities included in the application; and

(g) the school district has agreed, in writing, to comply with any reporting requirements or conditions imposed by the council pursuant to Section 22-24-5.1 NMSA 1978.

C. After consulting with the public school capital outlay oversight task force and other experts, the council shall regularly review and update statewide adequacy standards applicable to all school districts. The standards shall establish the acceptable level for the physical condition and capacity of buildings, the educational suitability of facilities and the need for education technology infrastructure. Except as otherwise provided in the Public School Capital Outlay Act, the amount of outstanding deviation from the standards shall be used by the council in evaluating and prioritizing public school capital outlay projects.

D. The acquisition of a facility by a school district or charter school pursuant to a financing agreement that provides for lease payments with an option to purchase for a price that is reduced according to lease payments made may be considered a public school capital outlay project and eligible for grant assistance under this section pursuant to the following criteria:

(1) no grant shall be awarded unless the council determines that, at the time of exercising the option to purchase the facility by the school district or charter school, the facility will equal or exceed the statewide adequacy standards and the building standards for public school facilities;

(2) no grant shall be awarded unless the school district and the need for the facility meet all of the requirements for grant assistance pursuant to the Public School Capital Outlay Act;

(3) the total project cost shall equal the total payments that would be due under the agreement if the school district or charter school would eventually acquire title to the facility;

(4) the portion of the total project cost to be paid from the fund may be awarded as one grant, but disbursements from the fund shall be made from time to time as lease payments become due;

(5) the portion of the total project cost to be paid by the school district or charter school may be paid from time to time as lease payments become due; and

(6) neither a grant award nor any provision of the Public School Capital Outlay Act creates a legal obligation for the school district or charter school to continue the lease from year to year or to purchase the facility.

E. In order to encourage private capital investment in the construction of public school facilities, the purchase of a privately owned school facility that is, at the time of application, in use by a school district may be considered a public school capital outlay project and eligible for grant assistance pursuant to this section if the council finds that:

(1) at the time of the initial use by the school district, the facility to be purchased equaled or exceeded the statewide adequacy standards and the building standards for public school facilities;

(2) at the time of application, attendance at the facility to be purchased is at seventy-five percent or greater of design capacity and the attendance at other schools in the school district that the students at the facility would otherwise attend is at eighty-five percent or greater of design capacity; and

(3) the school district and the capital outlay project meet all of the requirements for grant assistance pursuant to the Public School Capital Outlay Act; provided that, when determining the deviation from the statewide adequacy standards for the purposes of evaluating and prioritizing the project, the students using the facility shall be deemed to be attending other schools in the school district.

F. It is the intent of the legislature that grant assistance made pursuant to this section allows every school district to meet the standards developed pursuant to Subsection C of this section; provided, however, that nothing in the Public School Capital Outlay Act or the development of standards pursuant to that act prohibits a school district from using other funds available to the district to exceed the statewide adequacy standards.

G. Upon request, the council shall work with, and provide assistance and information to, the public school capital outlay oversight task force.

H. The council may establish committees or task forces, not necessarily consisting of council members, and may use the committees or task forces, as well as existing agencies or organizations, to conduct studies, conduct surveys, submit recommendations or otherwise contribute expertise from the public schools, programs, interest groups and segments of society most concerned with a particular aspect of the council's work.

I. Upon the recommendation of the authority, the council shall develop building standards for public school facilities and shall promulgate other such rules as are necessary to carry out the provisions of the Public School Capital Outlay Act.

J. No later than December 15 of each year, the council shall prepare a report summarizing its activities during the previous fiscal year. The report shall describe in detail all projects funded, the progress of projects previously funded but not completed, the criteria used to prioritize and fund projects and all other council actions. The report shall be submitted to the public education commission, the governor, the legislative finance committee, the legislative education study committee and the legislature."

Chapter 180 Section 6 Laws 2019

SECTION 6. Section 22-24-5.4 NMSA 1978 (being Laws 2004, Chapter 125, Section 10, as amended) is amended to read:

"22-24-5.4. RECALCITRANT SCHOOL DISTRICTS--COURT ACTION TO ENFORCE CONSTITUTIONAL COMPLIANCE--IMPOSITION OF PROPERTY TAX.--

A. The council may bring an action against a school district pursuant to the provisions of this section if, based upon information submitted to the council by the authority, the council determines that:

(1) the physical condition of a public school facility in the school district is so inadequate that the facility or the education received by students attending the facility is below the minimum required by the constitution of New Mexico;

(2) the school district is not taking the necessary steps to bring the facility up to the constitutionally required minimum; and

(3) either:

(a) the school district has not applied for the grant assistance necessary to bring the facility up to minimum constitutional standards; or

(b) the school district is unwilling to meet all of the requirements for the approval of an application for grant assistance pursuant to Paragraph (13) of Subsection B of Section 22-24-5 NMSA 1978.

B. An action brought pursuant to this section shall be brought by the council in the name of the state against the school district in the district court for Santa Fe county.

C. After a hearing and consideration of the evidence, if the court finds that the council's determination pursuant to Subsection A of this section was correct, the court shall:

(1) order the council to expend sufficient resources necessary to bring the facility up to the minimum level required by the constitution of New Mexico;

(2) order the school district to comply with Paragraph (13) of Subsection B of Section 22-24-5 NMSA 1978 and to take all other actions necessary to facilitate the completion of the project ordered pursuant to Paragraph (1) of this subsection; and

(3) enter a judgment against the school district for court costs and attorney fees and the necessary amount to satisfy the school district share, as determined by the formula prescribed by Subsection B of Section 22-24-5 NMSA 1978, for the project ordered pursuant to Paragraph (1) of this subsection.

D. The amount of a judgment entered against a school district pursuant to Paragraph (3) of Subsection C of this section is a public debt of the school district. If the court finds that the debt cannot be satisfied with available school district funds, other than funds needed for the operation of the public schools and other existing obligations, the court shall order the imposition of a property tax on all taxable property allocated to the school district at a rate sufficient to pay the judgment, with accrued interest, within a reasonable time as determined by the court. After paying court costs and attorney fees, amounts received pursuant to this subsection shall be deposited by the council into the fund."

Chapter 180 Section 7 Laws 2019

SECTION 7. Section 22-24-5.7 NMSA 1978 (being Laws 2006, Chapter 95, Section 7) is amended to read:

"22-24-5.7. LOCAL MATCH PROVISIONS FOR QUALIFIED HIGH PRIORITY PROJECTS.--

A. For a qualified high priority project, if money has been specifically appropriated for the purposes of this section, and if the school district so requests, the money may be used to pay both the state share, as calculated by Subsection B of Section 22-24-5 NMSA 1978 and all or a portion of the district share, subject to the following criteria:

(1) the amount paid as the district's share plus any amount added pursuant to Paragraph (3) of this subsection shall be recouped by offsetting future allocations that otherwise would be made from the fund for the state share of projects qualifying for a grant award pursuant to Subsections B and C of Section 22-24-5 NMSA 1978;

(2) except as provided in Paragraph (6) of this subsection, once a project within a district has been funded pursuant to the provisions of this section, then, until the amount paid as the district's share plus any amount added pursuant to Paragraph (3) of this subsection is fully recouped, no standard-based grant awards from the fund shall be made to the district and the district shall be solely responsible for using its local resources to bring those facilities, that would otherwise be eligible for allocations from the fund pursuant to Section 22-24-5 NMSA 1978, up to the statewide adequacy standards;

(3) in determining the amount to be recouped pursuant to Paragraphs (1) and (2) of this subsection, any legislative appropriations for nonoperating purposes made either directly to the school district or to another governmental entity for the purpose of passing the money directly to the school district and not rejected by the school district shall be added to the amount advanced from the fund as the district's share for a project;

(4) the amount to be recouped pursuant to Paragraph (1) of this subsection may be reduced by payments from the school district with cash balances and other available district resources that may legally be used for such payments;

(5) allocations from the fund for the district share shall only be made if the council finds that the school district is likely to complete the project within thirty-six months after the allocation for the district share is made available to the district; and

(6) notwithstanding the requirements of Paragraph (2) of this section, two projects within a school district may be funded pursuant to this section before the recoupment process under that paragraph commences, if:

(a) both projects qualify pursuant to the provisions of Paragraph (2) of Subsection B of this section; or

(b) both projects qualify during the same awards cycle, beginning on or after July 1, 2006.

B. As used in this section, "qualified high priority project" means a project:

(1) that is approved for a grant award pursuant to Section 22-24-5 NMSA 1978 during an awards cycle occurring in 2006 and subsequent award cycles and is located in a high-growth area, as designated by the council; or

(2) that was approved for a grant award pursuant to Section 22-24-5 NMSA 1978 during the 2004-2005 or 2005-2006 awards cycle but for which the school district, as of July 1, 2006, has not obtained funding for the district share and is located in a high-growth area, as designated by the council.

C. The council may designate an area that equals a contiguous attendance area of one or more existing schools as a "high-growth area" if the council determines that:

(1) within five years of the grant allocation decision, the estimated occupancy rate of the proposed new school would be seventy percent or more of the design capacity;

(2) at the time of the application, the attendance at the existing schools in the high-growth area from which students at the new school will be drawn is above design capacity; and

(3) for the period of five years after the grant allocation decision the attendance at those existing schools will be maintained at ninety-five percent or greater of design capacity."

Chapter 180 Section 8 Laws 2019

SECTION 8. Section 22-24-6.1 NMSA 1978 (being Laws 2007, Chapter 214, Section 1, as amended) is amended to read:

"22-24-6.1. PROCEDURES FOR A STATE-CHARTERED CHARTER SCHOOL.--All of the provisions of the Public School Capital Outlay Act apply to an application by a state-chartered charter school for grant assistance for a capital project except:

A. the portion of the cost of the project to be paid from the fund shall be calculated pursuant to Subsection B of Section 22-24-5 NMSA 1978 using data from the school district in which the state-chartered charter school is located; and

B. in calculating a reduction pursuant to Paragraph (9) of Subsection B of Section 22-24-5 NMSA 1978, the amount to be used in Subparagraph (a) of that paragraph shall equal the total of all legislative appropriations made after January 1, 2007 for nonoperating expenses either directly to the charter school or to another governmental entity for the purpose of passing the money through directly to the charter school, regardless of whether the charter school was a state-chartered charter school at the time of the appropriation or later opted to become a state-chartered charter school, except that the total shall not include any such appropriation if, before the charter school became a state-chartered charter school, the appropriation was previously used to calculate a reduction pursuant to Paragraph (9) of Subsection B of Section 22-24-5 NMSA 1978."

Chapter 180 Section 9 Laws 2019

SECTION 9. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

Senate Bill 231

Approved April 3, 2019

LAWS 2019, CHAPTER 181

AN ACT

RELATING TO EDUCATION; ENACTING THE SAFE SCHOOLS FOR ALL STUDENTS ACT; REQUIRING THE PUBLIC EDUCATION DEPARTMENT TO PROMULGATE RULES THAT REQUIRE SCHOOL DISTRICTS TO DEVELOP AND IMPLEMENT BULLYING PREVENTION POLICIES AND PROGRAMS; REPEALING A SECTION OF THE PUBLIC SCHOOL CODE.

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

Chapter 181 Section 1 Laws 2019

SECTION 1. A new section of the Public School Code is enacted to read:

"SHORT TITLE.--This act may be cited as the "Safe Schools for All Students Act"."

Chapter 181 Section 2 Laws 2019

SECTION 2. A new section of the Public School Code is enacted to read:

"DEFINITIONS.--As used in the Safe Schools for All Students Act:

A. "bullying" means any severe, pervasive or persistent act or conduct that targets a student, whether physically, electronically or verbally, and that:

(1) may be based on a student's actual or perceived race, religion, color, national origin, ancestry, sex, sexual orientation, gender identity, spousal affiliation, physical or cognitive disability or any other distinguishing characteristic; or on an association with a person, or group with any person, with one or more of the actual or perceived distinguishing characteristics; and

(2) can be reasonably predicted to:

(a) place a student in reasonable fear of physical harm to the student's person or property;

(b) cause a substantial detrimental effect on a student's physical or mental health;

(c) substantially interfere with a student's academic performance or attendance; or

(d) substantially interfere with a student's ability to participate in or benefit from the services, activities or privileges provided by an agency, educational institution or grantee;

B. "cyberbullying" means any bullying that takes place through electronic communication;

C. "electronic communication" means a communication transmitted by means of an electronic device, including a telephone, cellular phone, computer, electronic tablet, pager or video or audio recording;

D. "gender identity" means a student's self-perception, or perception of that student by another, of the student's identity as a male or female based upon the student's appearance, behavior or physical characteristics that are in accord with or opposed to the student's physical anatomy, chromosomal sex or sex at birth;

E. "local school board" includes the governing body of a charter school;

F. "physical or cognitive disability" means a physical or cognitive impairment that substantially limits one or more of a student's major life activities;

G. "progressive discipline" means disciplinary action other than suspension or expulsion from school that is designed to correct and address the basic causes of a student's specific misbehavior while retaining the student in class or in school, or restorative school practices to repair the harm done to relationships and other students from the student's misbehavior, and may include:

(1) meeting with the student and the student's parents;

(2) reflective activities, such as requiring the student to write an essay about the student's misbehavior;

(3) counseling;

(4) anger management;

(5) health counseling or intervention;

(6) mental health counseling;

(7) participation in skill-building and resolution activities, such as social-emotional cognitive skills building, resolution circles and restorative conferencing;

(8) community service; and

(9) in-school detention or suspension, which may take place during lunchtime, after school or during weekends; and

H. "sexual orientation" means heterosexuality, homosexuality or bisexuality, whether actual or perceived."

Chapter 181 Section 3 Laws 2019

SECTION 3. A new section of the Public School Code is enacted to read:

"BULLYING PREVENTION POLICIES--ADOPTION AND ENFORCEMENT.--

A. By January 1, 2020, each local school board shall adopt and enforce policies to:

(1) prevent bullying:

(a) on its property, including electronic communication on or with the use of its property;

(b) at sponsored functions; and

(c) on its to-and-from-school transportation or any school-sponsored transportation; and

(2) prohibit electronic communication directed at a student, that is published with the intent that it be seen by or disclosed to that student and that substantially interferes with the student's ability to participate in or benefit from the services, activities or privileges provided by the public school.

B. Each local school board shall control the content of its policy; provided that the policy includes:

(1) the definitions as set forth in the Safe Schools for All Students Act;

(2) a statement prohibiting bullying;

(3) a statement prohibiting retaliation against persons who report or witness incidents of bullying;

(4) a list of consequences, including progressive discipline approaches that can result from an identified incident of bullying that are designed to:

(a) appropriately correct the bullying behavior;

(b) prevent another occurrence of bullying or retaliation;

(c) protect the target of the bullying;

(d) be flexible so that, in application, the consequences can be unique to the individual incident and varied in method and severity based on: 1) the nature of the incident; 2) the developmental age of the student who is bullying; and 3) any history of problem behavior from the student who is bullying; and

(e) for cyberbullying incidents, use the least restrictive means necessary to address the interference with the student's ability to participate in or benefit from the services, activities or privileges provided by the school;

(5) a procedure for reporting bullying or retaliation for reporting an act of bullying, including:

(a) a flexible reporting system that allows for reporting orally and in the student's preferred language;

(b) a method for reporting bullying anonymously; provided that no formal disciplinary measures shall be taken solely on the basis of an anonymous report; and

(c) a method for parents to file written reports of suspected bullying; and

(6) a procedure for prompt investigation of reports of violations of the policy and of complaints of bullying or retaliation, including:

(a) designation of a school administrator to investigate or supervise the investigation of all reports of bullying and to ensure that such investigation is completed promptly after the receipt of any report made under the Safe Schools for All Students Act;

(b) a procedure for notification of the parents of the student alleged to have committed an act of bullying and the parents of the students targeted by the alleged act; provided that if the administrator believes, in the administrator's professional capacity, that notifying the parents would endanger the health or well-being of a student, the administrator may delay such notification as appropriate;

(c) a benchmark that school employees who witness acts of bullying or receive reports of bullying notify the designated administrator not later than two days after the school employee witnesses or receives a report of bullying;

(d) an appeal process for a student accused of bullying or a student who is the target of bullying who is not satisfied with the outcome of the initial investigation; and

(e) development of a student safety support plan for students who are targets of bullying that addresses safety measures the school will take to protect targeted students against further acts of bullying.

C. Each local school board shall include bullying prevention policies and procedures for reporting bullying in student handbooks using developmentally and culturally appropriate language. Policies shall be produced and disseminated in appropriate languages for any school district in which a substantial portion of the student population speaks a language other than English at home.

D. Each public school shall document reports and investigations of bullying and shall maintain those records for no less than four years.

E. Each local school board shall establish procedures for public schools to report aggregate incidents of bullying and incidents of harassment under any applicable federal or state law, along with responses to these incidents, and report this information annually to the department."

Chapter 181 Section 4 Laws 2019

SECTION 4. A new section of the Public School Code is enacted to read:

"BULLYING PREVENTION PROGRAMS ESTABLISHMENT.--

A. Following adoption of a bullying prevention policy, each public school shall:

(1) establish an annual bullying prevention program for students included in New Mexico's health education content standards with benchmarks and performance standards;

(2) provide annual training on bullying prevention to all employees and volunteers who have significant contact with students; and

(3) incorporate information on the bullying prevention policy into new employee training.

B. Each school district and public school shall develop a plan for the way in which the policy is to be publicized, including:

(1) making each school district's anti-bullying policy, and developmentally, culturally and linguistically appropriate variants of the policy, available on public websites;

(2) identifying a point of contact for bullying-related concerns; and

(3) informing parents and students about the policy at least annually through student handbooks and other resources."

Chapter 181 Section 5 Laws 2019

SECTION 5. A new section of the Public School Code is enacted to read:

"DEPARTMENT DUTIES--SCHOOL DISTRICT AND CHARTER SCHOOL REPORT CARDS.--

A. The department shall:

(1) issue guidance for bullying prevention programs and policies in accordance with the Safe Schools for All Students Act; and

(2) within one hundred twenty days of the effective date of the Safe Schools for All Students Act:

(a) promulgate rules for a model policy for local school boards on bullying prevention in accordance with that act, as well as any developmentally, culturally or linguistically appropriate variants of the policy;

(b) provide guidance to local school boards relating to effective forms of progressive discipline to reduce bullying and school violence; and

(c) provide guidance to local school boards on effective bullying prevention programs to reduce bullying and school violence.

B. At the same time as or as part of the annual accountability report, each school district and charter school shall report on the status of its implementation of the provisions of the Safe Schools for All Students Act, including the aggregate number of incidents of bullying in the state, the aggregate number of incidents of harassment under any applicable federal or state laws, the aggregate number of responsive actions taken by public schools by type of action, a tabulation of the number of incidents associated with each distinguishing characteristic defined in the Safe Schools for All Students Act, the department's evaluation of the sufficiency of funding for bullying

prevention programs and any recommendations for policy or programmatic change to improve the addressing of bullying issues in the state."

Chapter 181 Section 6 Laws 2019

SECTION 6. REPEAL.--Section 22-2-21 NMSA 1978 (being Laws 2011, Chapter 50, Section 1, as amended) is repealed.

Chapter 181 Section 7 Laws 2019

SECTION 7. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

Senate Bill 288

Approved April 3, 2019

LAWS 2019, CHAPTER 182

AN ACT

RELATING TO HEALTH INSURANCE; PROHIBITING PRIOR AUTHORIZATION FOR GYNECOLOGICAL OR OBSTETRICAL ULTRASOUNDS; DECLARING AN EMERGENCY.

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

Chapter 182 Section 1 Laws 2019

SECTION 1. A new section of the Health Care Purchasing Act is enacted to read:

"PRIOR AUTHORIZATION FOR GYNECOLOGICAL OR OBSTETRICAL ULTRASOUNDS PROHIBITED.--

A. Group health coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act that provides coverage for gynecological or obstetrical ultrasounds shall not require prior authorization for gynecological or obstetrical ultrasounds.

B. Nothing in this section shall be construed to require payment for a gynecological or obstetrical ultrasound that is not:

- (1) medically necessary; or
- (2) a covered benefit.

C. As used in this section, "prior authorization" means advance approval that is required as a condition precedent to payment for medical care or related benefits rendered to a covered person, including prospective or utilization review conducted prior to the provision of covered medical care or related benefits."

Chapter 182 Section 2 Laws 2019

SECTION 2. A new section of the Public Assistance Act is enacted to read:

"PRIOR AUTHORIZATION FOR GYNECOLOGICAL OR OBSTETRICAL ULTRASOUNDS PROHIBITED.--

A. The department shall prohibit its medicaid managed care and fee-for-service contractors from requiring prior authorization for gynecological or obstetrical ultrasounds.

B. Nothing in this section shall be construed to require payment for a gynecological or obstetrical ultrasound that is not:

- (1) medically necessary; or
- (2) a covered benefit.

C. As used in this section, "prior authorization" means advance approval that is required as a condition precedent to payment for medical care or related benefits rendered to a covered person, including prospective or utilization review conducted prior to the provision of covered medical care or related benefits."

Chapter 182 Section 3 Laws 2019

SECTION 3. A new section of Chapter 59A, Article 22 NMSA 1978 is enacted to read:

"PRIOR AUTHORIZATION FOR GYNECOLOGICAL OR OBSTETRICAL ULTRASOUNDS PROHIBITED.--

A. An individual or group health insurance policy, health care plan or certificate of insurance that is delivered, issued for delivery or renewed in this state and that provides coverage for gynecological or obstetrical ultrasounds shall not require prior authorization for gynecological or obstetrical ultrasounds.

B. Nothing in this section shall be construed to require payment for a gynecological or obstetrical ultrasound that is not:

- (1) medically necessary; or
- (2) a covered benefit.

C. As used in this section, "prior authorization" means advance approval that is required by a health insurance policy, health care plan or certificate of insurance as a condition precedent to payment for medical care or related benefits rendered to a covered person, including prospective or utilization review conducted prior to the provision of covered medical care or related benefits."

Chapter 182 Section 4 Laws 2019

SECTION 4. A new section of Chapter 59A, Article 23 NMSA 1978 is enacted to read:

"PRIOR AUTHORIZATION FOR GYNECOLOGICAL OR OBSTETRICAL ULTRASOUNDS PROHIBITED.--

A. A blanket or group health insurance policy or contract that is delivered, issued for delivery or renewed in this state and that provides coverage for gynecological or obstetrical ultrasounds shall not require prior authorization for gynecological or obstetrical ultrasounds.

B. Nothing in this section shall be construed to require payment for a gynecological or obstetrical ultrasound that is not:

- (1) medically necessary; or
- (2) a covered benefit.

C. As used in this section, "prior authorization" means advance approval that is required by blanket or group health insurance policy or contract as a condition precedent to payment for medical care or related benefits rendered to a covered

person, including prospective or utilization review conducted prior to the provision of covered medical care or related benefits."

Chapter 182 Section 5 Laws 2019

SECTION 5. A new section of the Health Maintenance Organization Law is enacted to read:

"PRIOR AUTHORIZATION FOR GYNECOLOGICAL OR OBSTETRICAL ULTRASOUNDS PROHIBITED.--

A. An individual or group health maintenance organization contract that is delivered, issued for delivery or renewed in this state and that provides coverage for gynecological or obstetrical ultrasounds shall not require prior authorization for gynecological or obstetrical ultrasounds.

B. Nothing in this section shall be construed to require payment for a gynecological or obstetrical ultrasound that is not:

- (1) medically necessary; or
- (2) a covered benefit.

C. As used in this section, "prior authorization" means advance approval that is required by a health maintenance organization as a condition precedent to payment for medical care or related benefits rendered to a covered person, including prospective or utilization review conducted prior to the provision of covered medical care or related benefits."

Chapter 182 Section 6 Laws 2019

SECTION 6. A new section of the Nonprofit Health Care Plan Law is enacted to read:

"PRIOR AUTHORIZATION FOR GYNECOLOGICAL OR OBSTETRICAL ULTRASOUNDS PROHIBITED.--

A. An individual or group health insurance policy, health care plan or certificate of health insurance that is delivered, issued for delivery or renewed in this state and that provides coverage for gynecological or obstetrical ultrasounds shall not require prior authorization for gynecological or obstetrical ultrasounds.

B. Nothing in this section shall be construed to require payment for a gynecological or obstetrical ultrasound that is not:

- (1) medically necessary; or
- (2) a covered benefit.

C. As used in this section:

(1) "health care plan" means an organization that demonstrates to the office of superintendent of insurance that it has been granted exemption from the federal income tax by the United States commissioner of internal revenue as an organization described in Section 501(c)(3) of the United States Internal Revenue Code of 1986, as that section may be amended or renumbered, and is authorized by the office of superintendent of insurance to enter into contracts with subscribers and make health care expense payments; and

(2) "prior authorization" means advance approval that is required by a health care plan as a condition precedent to payment for medical care or related benefits rendered to a covered person, including prospective or utilization review conducted prior to the provision of covered medical care or related benefits."

Chapter 182 Section 7 Laws 2019

SECTION 7. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately. _____

Senate Bill 309, aa, w/ec

Approved April 3, 2019

LAWS 2019, CHAPTER 183

AN ACT

RELATING TO JUDICIAL EDUCATION; INCLUDING TRIBAL JUDGES IN THE JUDGES EDUCATED BY THE JUDICIAL EDUCATION CENTER; REMOVING A REQUIREMENT FOR TRAINING AND INSTRUCTION ON THE DISPOSITION OF DRIVING WHILE UNDER THE INFLUENCE CASES.

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

Chapter 183 Section 1 Laws 2019

SECTION 1. Section 34-13-2 NMSA 1978 (being Laws 1993, Chapter 273, Section 2) is amended to read:

"34-13-2. JUDICIAL EDUCATION CENTER CREATED--PURPOSE.--

A. The "judicial education center" is created at the institute of public law at the university of New Mexico law school.

B. The judicial education center shall provide education, training and instruction for the justices, judges, magistrates and court personnel of the state, municipalities and counties, and may provide such education for tribal judges." _____

Senate Bill 313, aa

Approved April 3, 2019

LAWS 2019, CHAPTER 184

AN ACT

RELATING TO PROFESSIONAL LICENSURE; ENACTING NEW SECTIONS OF THE MEDICAL PRACTICE ACT AND THE OSTEOPATHIC MEDICINE ACT TO PROVIDE A TEMPORARY EXEMPTION TO LICENSURE REQUIREMENTS TO VISITING PHYSICIANS WHO PROVIDE CARE TO OUT-OF-STATE SPORTS TEAM MEMBERS AND STAFF DURING SPORTING EVENTS.

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

Chapter 184 Section 1 Laws 2019

SECTION 1. A new section of the Medical Practice Act is enacted to read:

"TEMPORARY LICENSURE EXEMPTION--OUT-OF-STATE PHYSICIANS--
OUT-OF-STATE SPORTS TEAMS.--

A. An individual who is licensed in good standing to practice medicine and surgery in another state, and whom the board has not previously found to have violated a provision of the Medical Practice Act, may practice medicine without a license granted by the board if the individual has a written agreement with an out-of-state sports team to provide care to team members and staff traveling with the team for a specific sporting event to take place in this state; provided that:

(1) the individual has a written agreement with the out-of-state sports team governing body to provide health care services to an out-of-state sports team athlete or staff member at a scheduled sporting event;

(2) the individual's practice is limited to medical care to assist injured and ill players and coordinate appropriate referral to in-state health care providers as needed;

(3) the services to be provided by the individual are within the scope of practice authorized pursuant to the Medical Practice Act and rules of the board;

(4) the individual has professional liability coverage for the duration of the sporting event;

(5) the individual shall not:

(a) provide care or consultation to a resident of this state, other than a member of the out-of-state sports team during a sporting event; or

(b) practice medicine in the state, outside of the sporting event;

(6) the authorization to practice without a board-issued license pursuant to this section shall be valid only during the time of the sporting event, while the individual granted the authorization is providing care to the out-of-state sports team, and is limited to the duration of the sporting event;

(7) the individual or out-of-state sports team shall report to the board any potential:

(a) medical license violation;

(b) practice negligence; or

(c) unprofessional or dishonorable conduct, as those terms are defined in board rules;

(8) the individual's practice of medicine and surgery pursuant to this section shall be subject to board oversight, investigation and discipline in accordance with the provisions of the Medical Practice Act; and

(9) the board may report to a licensing board in a state in which an individual practicing medicine or surgery pursuant to this section is licensed to practice medicine and surgery any findings it makes pursuant to an investigation or disciplinary action that the board undertakes.

B. The board shall adopt and promulgate rules to implement the provisions of this section.

C. As used in this section:

(1) "out-of-state sports team" means an entity or organization:

(a) for which athletes engage in a sporting event;

(b) headquartered or organized under laws other than the laws of New Mexico; and

(c) a majority of whose staff and athletes are residents of another state; and

(2) "sporting event" means a scheduled sporting event involving an out-of-state sports team for which an admission fee is charged to the public, including any preparation or practice related to the activity."

Chapter 184 Section 2 Laws 2019

SECTION 2. A new section of the Osteopathic Medicine Act is enacted to read:

"TEMPORARY LICENSURE EXEMPTION--OUT-OF-STATE OSTEOPATHIC PHYSICIANS--OUT-OF-STATE SPORTS TEAMS.--

A. An individual who is licensed in good standing to practice osteopathic medicine in another state and whom the board has not previously found to have violated a provision of the Osteopathic Medicine Act, may practice osteopathic medicine without a license granted by the board if the individual has a written agreement with an out-of-state sports team to provide care to team members and staff traveling with the team for a specific sporting event to take place in this state; provided that:

(1) the individual has a written agreement with the out-of-state sports team governing body to provide health care services to an out-of-state sports team athlete or staff member at a scheduled sporting event;

(2) the individual's practice is limited to medical care to assist injured and ill players and coordinate appropriate referral to in-state health care providers as needed;

(3) the services to be provided by the individual are within the scope of practice authorized pursuant to the Osteopathic Medicine Act and rules of the board;

(4) the individual has professional liability coverage for the duration of the sporting event;

(5) the individual shall not:

(a) provide care or consultation to a resident of this state, other than a member of the out-of-state sports team during a sporting event; or

(b) practice medicine in the state, outside of the sporting event;

(6) the authorization to practice without a board-issued license pursuant to this section shall be valid only during the time of the sporting event, while the individual granted the authorization is providing care to the out-of-state sports team, and is limited to the duration of the sporting event;

(7) the individual and the out-of-state sports team shall report to the board any potential osteopathic medical license violations or practice negligence;

(8) the individual's practice of osteopathic medicine pursuant to this section shall be subject to board oversight, investigation and discipline in accordance with the provisions of the Osteopathic Medicine Act; and

(9) the board may report to a licensing board in a state in which an individual practicing medicine or surgery pursuant to this section is licensed to practice medicine and surgery any findings it makes pursuant to an investigation or disciplinary action that the board undertakes.

B. The board shall adopt and promulgate rules to implement the provisions of this section.

C. As used in this section:

projects, attract new projects and employers to New Mexico and increase high-technology employment opportunities in New Mexico.

C. A taxpayer allowed a deduction pursuant to this section shall report the amount of the deduction separately in a manner required by the department.

D. The department shall compile an annual report on the deduction provided by this section that shall include the number of taxpayers that claimed the deduction, the aggregate amount of deductions claimed and any other information necessary to evaluate the effectiveness of the deduction. Beginning in 2017 and each year thereafter that the deduction is in effect, the department and the economic development department shall present the annual report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the deduction and whether the deduction is performing the purpose for which it was created.

E. As used in this section:

(1) "directed energy" means a system, including related services, that enables the use of the frequency spectrum, including radio waves, light and x-rays;

(2) "inputs" means systems, subsystems, components, prototypes and demonstrators or products and services involving optics, photonics, electronics, advanced materials, nanoelectromechanical and microelectromechanical systems, fabrication materials and test evaluation and computer control systems related to directed energy or satellites;

(3) "qualified contractor" means a person other than an organization designated as a national laboratory by act of congress or an operator of national laboratory facilities in New Mexico; provided that the operator may be a qualified contractor with respect to the operator's receipts not connected with operating the national laboratory;

(4) "qualified directed energy and satellite-related inputs" means inputs supplied to the department of defense pursuant to a contract with that department entered into on or after January 1, 2016;

(5) "qualified research and development services" means research and development services related to directed energy or satellites provided to the department of defense pursuant to a contract with that department entered into on or after January 1, 2016; and

(6) "satellite" means composite systems assembled and packaged for use in space, including launch vehicles and related products and services."

Chapter 186 Section 2 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.

Senate Bill 425

Approved April 3, 2019

LAWS 2019, CHAPTER 187

AN ACT

RELATING TO HEALTH INSURANCE; ENACTING THE PRIOR AUTHORIZATION ACT; REQUIRING THE OFFICE OF SUPERINTENDENT OF INSURANCE TO STANDARDIZE AND STREAMLINE THE PRIOR AUTHORIZATION PROCESS FOR NON-EMERGENCY MEDICAL CARE, PHARMACEUTICAL BENEFITS OR RELATED BENEFITS; IMPOSING REQUIREMENTS ON HEALTH INSURERS WITH RESPECT TO PRIOR AUTHORIZATION; REQUIRING THE OFFICE OF SUPERINTENDENT OF INSURANCE TO REPORT DATA ON PRIOR AUTHORIZATION; PROHIBITING CONTRACTUAL ARRANGEMENTS THAT VIOLATE THE PRIOR AUTHORIZATION ACT; ENACTING NEW SECTIONS OF THE HEALTH CARE PURCHASING ACT AND THE PUBLIC ASSISTANCE ACT TO PROVIDE FOR APPLICABILITY.

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

Chapter 187 Section 1 Laws 2019

SECTION 1. A new section of the Health Care Purchasing Act is enacted to read:

"PRIOR AUTHORIZATION ACT.--Benefits administrators of group health coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act are subject to and shall comply with the Prior Authorization Act."

Chapter 187 Section 2 Laws 2019

SECTION 2. A new section of the Public Assistance Act is enacted to read:

"MEDICAL ASSISTANCE--MANAGED CARE ORGANIZATION CONTRACTS--APPLICABILITY OF PRIOR AUTHORIZATION ACT.--The secretary shall ensure that contracts with managed care organizations to provide medical assistance to medicaid recipients are subject to and comply with the Prior Authorization Act."

Chapter 187 Section 3 Laws 2019

SECTION 3. SHORT TITLE.--Sections 3 through 7 of this act may be cited as the "Prior Authorization Act".

Chapter 187 Section 4 Laws 2019

SECTION 4. DEFINITIONS.--As used in the Prior Authorization Act:

- A. "adjudicate" means to approve or deny a request for prior authorization;
- B. "auto-adjudicate" means to use technology and automation to make a near-real-time determination to approve, deny or pend a request for prior authorization;
- C. "covered person" means an individual who is insured under a health benefits plan;
- D. "emergency care" means medical care, pharmaceutical benefits or related benefits to a covered person after the sudden onset of what reasonably appears to be a medical condition that manifests itself by symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention could be reasonably expected by a reasonable layperson to result in jeopardy to a person's health, serious impairment of bodily functions, serious dysfunction of a bodily organ or part or disfigurement to a person;
- E. "health benefits plan" means a policy, contract, certificate or agreement, entered into, offered or issued by a health insurer to provide, deliver, arrange for, pay for or reimburse any of the costs of medical care, pharmaceutical benefits or related benefits;
- F. "health care professional" means an individual who is licensed or otherwise authorized by the state to provide health care services;

G. "health care provider" means a health care professional, corporation, organization, facility or institution licensed or otherwise authorized by the state to provide health care services;

H. "health insurer" means a health maintenance organization, nonprofit health care plan, provider service network, medicaid managed care organization or third-party payer or its agent;

I. "medical care, pharmaceutical benefits or related benefits" means medical, behavioral, hospital, surgical, physical rehabilitation and home health services, and includes pharmaceuticals, durable medical equipment, prosthetics, orthotics and supplies;

J. "medical necessity" means health care services determined by a health care provider, in consultation with the health insurer, to be appropriate or necessary according to:

(1) applicable, generally accepted principles and practices of good medical care;

(2) practice guidelines developed by the federal government or national or professional medical societies, boards or associations; or

(3) applicable clinical protocols or practice guidelines developed by the health insurer consistent with federal, national and professional practice guidelines, which shall apply to the diagnosis, direct care and treatment of a physical or behavioral health condition, illness, injury or disease;

K. "medical peer review" means review by a health care professional from the same or similar practice specialty that typically manages the medical condition, procedure or treatment under review for prior authorization;

L. "office" means the office of superintendent of insurance;

M. "pend" means to hold a prior authorization request for further clinical review;

N. "pharmacy benefits manager" means an agent responsible for handling prescription drug benefits for a health insurer; and

O. "prior authorization" means a pre-service determination that a health insurer makes regarding a covered person's eligibility for health care services, based on

medical necessity, the appropriateness of the site of services and the terms of the covered person's health benefits plan.

Chapter 187 Section 5 Laws 2019

SECTION 5. EMERGENCY CARE.--Emergency care provided to a covered person, regardless of where the emergency care is provided, shall not be subject to prior authorization requirements.

Chapter 187 Section 6 Laws 2019

SECTION 6. DUTIES OF OFFICE--PRESCRIBING PENALTIES.--

A. The office shall standardize and streamline the prior authorization process across all health insurers.

B. On or before September 1, 2019, the office shall, in collaboration with health insurers and health care providers, promulgate a uniform prior authorization form for medical care, pharmaceutical benefits or related benefits to be used by every health insurer and health care provider after January 1, 2020; provided that the uniform prior authorization form shall conform to the requirements established for medicare and medicaid medical and pharmacy prior authorization requests.

C. The office shall maintain a log of complaints against health insurers for failure to comply with the Prior Authorization Act. After two warnings issued by the superintendent of insurance, the office may levy a fine of not more than five thousand dollars (\$5,000) on a health insurer that fails to comply with the provisions of the Prior Authorization Act.

D. By September 1, 2019, and each September 1 thereafter, the office shall provide an annual written report to the governor and the legislature to include, at a minimum:

(1) prior authorization data for each health insurer individually and for health insurers collectively;

(2) the number and nature of complaints against individual health insurers for failure to follow the Prior Authorization Act; and

(3) actions taken by the office, including the imposition of fines, against individual health insurers to enforce compliance with the Prior Authorization Act.

E. The annual written report shall be posted on the office's website.

Chapter 187 Section 7 Laws 2019

SECTION 7. PRIOR AUTHORIZATION REQUIREMENTS.--

A. A health insurer that requires prior authorization shall:

(1) use the uniform prior authorization forms developed by the office for medical care, for pharmaceutical benefits or related benefits pursuant to Section 6 of this 2019 act and for prescription drugs pursuant to Section 59A-2-9.8 NMSA 1978;

(2) establish and maintain an electronic portal system for:

(a) the secure electronic transmission of prior authorization requests on a twenty-four-hour, seven-day-a-week basis, for medical care, pharmaceutical benefits or related benefits; and

(b) by January 1, 2021, auto-adjudication of prior authorization requests;

(3) provide an electronic receipt to the health care provider and assign a tracking number to the health care provider for the health care provider's use in tracking the status of the prior authorization request, regardless of whether or not the request is tracked electronically, through a call center or by facsimile;

(4) by January 1, 2021, auto-adjudicate all electronically transmitted prior authorization requests to approve or pend a request for benefits; and

(5) accept requests for medical care, pharmaceutical benefits or related benefits that are not electronically transmitted.

B. Prior authorization shall be deemed granted for determinations not made within seven days; provided that:

(1) an adjudication shall be made within twenty-four hours, or shall be deemed granted if not made within twenty-four hours, when a covered person's health care professional requests an expedited prior authorization and submits to the health insurer a statement that, in the health care professional's opinion that is based on reasonable medical probability, delay in the treatment for which prior authorization is requested could:

(a) seriously jeopardize the covered person's life or overall health;

(b) affect the covered person's ability to regain maximum function;

or

(c) subject the covered person to severe and intolerable pain; and

(2) the adjudication time line shall commence only when the health insurer receives all necessary and relevant documentation supporting the prior authorization request.

C. After December 31, 2020, an insurer may automatically deny a covered person's prior authorization request that is electronically submitted and that relates to a prescription drug that is not on the covered person's health benefits plan formulary; provided that the insurer shall accompany the denial with a list of alternative drugs that are on the covered person's health benefits plan formulary.

D. Upon denial of a covered person's prior authorization request based on a finding that a prescription drug is not on the covered person's health benefits plan formulary, a health insurer shall notify the person of the denial and include in a conspicuous manner information regarding the person's right to initiate a drug formulary exception request and the process to file a request for an exception to the denial.

E. An auto-adjudicated prior authorization request based on medical necessity that is pended or denied shall be reviewed by a health care professional who has knowledge or consults with a specialist who has knowledge of the medical condition or disease of the covered person for whom the authorization is requested. The health care professional shall make a final determination of the request. If the request is denied after review by a health care professional, notice of the denial shall be provided to the covered person and covered person's provider with the grounds for the denial and a notice of the right to appeal and describing the process to file an appeal.

F. A health insurer shall establish a process by which a health care provider or covered person may initiate an electronic appeal of a denial of a prior authorization request.

G. A health insurer shall have in place policies and procedures for annual review of its prior authorization practices to validate that the prior authorization requirements advance the principles of lower cost and improved quality, safety and service.

H. The office of superintendent of insurance shall establish by rule protocols and criteria pursuant to which a covered person or a covered person's health care professional may request expedited independent review of an expedited prior authorization request made pursuant to Subsection B of this section following medical peer review of a prior authorization request pursuant to the Prior Authorization Act.

Chapter 187 Section 8 Laws 2019

SECTION 8. APPLICABILITY.--The provisions of the Prior Authorization Act apply to an individual or group policy, contract, certificate or agreement to provide, deliver, arrange for, pay for or reimburse any of the costs of medical care, pharmaceutical benefits or related benefits that is entered into, offered or issued by a health insurer on or after July 1, 2019, pursuant to any of the following:

- A. Chapter 59A, Article 22 NMSA 1978;
- B. Chapter 59A, Article 23 NMSA 1978;
- C. the Health Maintenance Organization Law;
- D. the Nonprofit Health Care Plan Law; or
- E. the Health Care Purchasing Act. _____

SJC/SPAC/Senate Bill 188, aa

Approved April 3, 2019

LAWS 2019, CHAPTER 188

AN ACT

RELATING TO HEALTH COVERAGE; ENACTING SECTIONS OF THE HEALTH CARE PURCHASING ACT, THE NEW MEXICO INSURANCE CODE, THE HEALTH MAINTENANCE ORGANIZATION LAW AND THE NONPROFIT HEALTH CARE PLAN LAW TO ESTABLISH LIMITS ON COST SHARING FOR PHYSICAL REHABILITATION SERVICES.

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

Chapter 188 Section 1 Laws 2019

SECTION 1. A new section of the Health Care Purchasing Act is enacted to read:

"PHYSICAL REHABILITATION SERVICES--LIMITS ON COST SHARING.--

A. Group health coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act that offers coverage of physical rehabilitation services shall not impose a member cost share for physical rehabilitation services that is greater than that for primary care services on a coinsurance percentage basis when coinsurance is applied or on an absolute dollar amount when a copay is applied.

B. As used in this section:

(1) "physical rehabilitation services" means services aimed at maximizing an individual's level of function, returning to a prior level of function or maintaining or slowing the decline of function, which services are provided by or under the direction of a licensed physical therapist, occupational therapist or speech therapist; and

(2) "primary care services" means the first level of basic or general health care for a person's health needs, including diagnostic and treatment services, initiation of referrals for other health care services and maintenance of the continuity of care when appropriate."

Chapter 188 Section 2 Laws 2019

SECTION 2. A new section of Chapter 59A, Article 22 NMSA 1978 is enacted to read:

PHYSICAL REHABILITATION SERVICES--LIMITS ON COST SHARING.--

A. An individual or group health insurance policy, health care plan or certificate of health insurance that is delivered, issued for delivery or renewed in this state shall not impose a member cost share for physical rehabilitation services that is greater than that for primary care services on a coinsurance percentage basis when coinsurance is applied or on an absolute dollar amount when a copay is applied.

B. As used in this section:

(1) "physical rehabilitation services" means services aimed at maximizing an individual's level of function, returning to a prior level of function or maintaining or slowing the decline of function, which services are provided by or under the direction of a licensed physical therapist, occupational therapist or speech therapist; and

(2) "primary care services" means the first level of basic or general health care for a person's health needs, including diagnostic and treatment services, initiation of referrals for other health care services and maintenance of the continuity of care when appropriate."

Chapter 188 Section 3 Laws 2019

SECTION 3. A new section of Chapter 59A, Article 23 NMSA 1978 is enacted to read:

"PHYSICAL REHABILITATION SERVICES--LIMITS ON COST SHARING.—

A. A group or blanket health insurance policy, health care plan or certificate of health insurance that is delivered, issued for delivery or renewed in this state shall not impose a member cost share for physical rehabilitation services that is greater than that for primary care services on a coinsurance percentage basis when coinsurance is applied or on an absolute dollar amount when a copay is applied.

B. As used in this section:

(1) "physical rehabilitation services" means services aimed at maximizing an individual's level of function, returning to a prior level of function or maintaining or slowing the decline of function, which services are provided by or under the direction of a licensed physical therapist, occupational therapist or speech therapist; and

(2) "primary care services" means the first level of basic or general health care for a person's health needs, including diagnostic and treatment services, initiation of referrals for other health care services and maintenance of the continuity of care when appropriate."

Chapter 188 Section 4 Laws 2019

SECTION 4. A new section of the Health Maintenance Organization Law is enacted to read:

"PHYSICAL REHABILITATION SERVICES--LIMITS ON COST SHARING.--

A. An individual or group health maintenance contract that is delivered, issued for delivery or renewed in this state shall not impose a member cost share for physical rehabilitation services that is greater than that for primary care services on a coinsurance percentage basis when coinsurance is applied or on an absolute dollar amount when a copay is applied.

B. As used in this section:

(1) "physical rehabilitation services" means services aimed at maximizing an individual's level of function, returning to a prior level of function or maintaining or slowing the decline of function, which services are provided by or under the direction of a licensed physical therapist, occupational therapist or speech therapist; and

(2) "primary care services" means the first level of basic or general health care for a person's health needs, including diagnostic and treatment services, initiation of referrals for other health care services and maintenance of the continuity of care when appropriate."

Chapter 188 Section 5 Laws 2019

SECTION 5. A new section of the Nonprofit Health Care Plan Law is enacted to read:

"PHYSICAL REHABILITATION SERVICES--LIMITS ON COST SHARING.--

A. An individual or group health care plan that is delivered, issued for delivery or renewed in this state shall not impose a member cost share for physical rehabilitation services that is greater than that for primary care services on a coinsurance percentage basis when coinsurance is applied or on an absolute dollar amount when a copay is applied.

B. As used in this section:

(1) "physical rehabilitation services" means services aimed at maximizing an individual's level of function, returning to a prior level of function or maintaining or slowing the decline of function, which services are provided by or under the direction of a licensed physical therapist, occupational therapist or speech therapist; and

(2) "primary care services" means the first level of basic or general health care for a person's health needs, including diagnostic and treatment services, initiation of referrals for other health care services and maintenance of the continuity of care when appropriate."

Chapter 188 Section 6 Laws 2019

SECTION 6. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2020." _____

House Bill 81, aa

Approved April 3, 2019

LAWS 2019, CHAPTER 189

AN ACT

RELATING TO SCHOOL SAFETY; REQUIRING TRAINING FOR ARMED PUBLIC SCHOOL SECURITY PERSONNEL; PROHIBITING CERTAIN PERSONS FROM EMPLOYMENT AS ARMED PUBLIC SCHOOL PERSONNEL; PROVIDING THAT ONLY A LOCAL SCHOOL BOARD OR A GOVERNING BODY OF A CHARTER SCHOOL MAY AUTHORIZE SCHOOL SECURITY PERSONNEL TO CARRY A FIREARM ON SCHOOL PREMISES.

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

Chapter 189 Section 1 Laws 2019

SECTION 1. A new section of Chapter 22, Article 5 NMSA 1978 is enacted to read:

"LOCAL SCHOOL BOARD AUTHORITY OVER WHO MAY CARRY A FIREARM ON SCHOOL PREMISES.--Only a local school board has the authority to authorize school security personnel to carry a firearm on any public school premises or other school district property. The decision shall be made in an open meeting and shall be formalized as a policy of the board."

Chapter 189 Section 2 Laws 2019

SECTION 2. A new section of the Charter Schools Act is enacted to read:

"GOVERNING BODY AUTHORITY OVER WHO MAY CARRY A FIREARM ON CHARTER SCHOOL PROPERTY.--Only the governing body has the authority to

authorize school security personnel to carry a firearm on any charter school premises or other charter school property. The decision shall be made in an open meeting and shall be formalized as a policy of the governing body."

Chapter 189 Section 3 Laws 2019

SECTION 3. A new section of the Public School Code is enacted to read:

"SCHOOL SECURITY PERSONNEL--DEFINITIONS--REQUIRED TRAINING.--

A. As used in this section:

(1) "firearm" means a handgun recommended by the department of public safety and authorized by the public school insurance authority;

(2) "local school board" includes governing bodies of charter schools;

(3) "school district" includes charter schools;

(4) "school premises" means:

(a) the buildings and grounds, including playgrounds, playing fields and parking areas, and any school bus of a public school, whether owned by the school district or under contract, in or on which school or school-related activities are being conducted under the supervision of the local school board; or

(b) any other public buildings or grounds, including playing fields and parking areas that are not public school property, in or on which school-related and school-sanctioned activities are being performed; and

(5) "school security personnel" means retired or former certified and commissioned law enforcement officers who are employed by a school district and authorized by department rules and local school board policy to carry a firearm on school premises.

B. The department shall promulgate rules to carry out the purposes of this section.

C. The department shall promulgate rules pertaining to persons who are prohibited from employment as school security personnel, including:

(1) the applicability of Paragraph (1) or (3) of Subsection A of Section 28-2-4 NMSA 1978 for criminal offenders;

(2) the commitment of a felony; a misdemeanor involving moral turpitude that has bearing on the job of school security personnel; formal discipline for the use of excessive force; or misconduct or crimes that include inappropriate touching, sexual harassment, sexual assault, sexual abuse, discrimination, behavior intended to induce a child into engaging in illegal, immoral or other prohibited behavior, crimes against children and dependents or sexual exploitation of children; and

(3) negligent or illegal use of a firearm.

D. Prior to an offer of employment, the school district shall require for each potential school security personnel:

(1) proof that the retired or former law enforcement officer was certified and commissioned for no less than three years and left law enforcement in good standing;

(2) successful completion of school security personnel training;

(3) proof of up-to-date firearms training;

(4) a background check that indicates the person has not been convicted of a crime or engaged in behavior that violates the School Personnel Act; and

(5) any other conditions required by law, department rule or school district policy.

E. School security personnel shall not perform any other job in the school district, by title or duty, other than school security while carrying a firearm.

F. Prior to school security personnel being allowed to carry firearms authorized by department rules and local school board policy, the school security personnel must successfully pass a physical and psychological evaluation as prescribed by the department in consultation with the public school insurance authority to determine suitability to carry a firearm. The school district shall pay the cost of the physical and psychological evaluations for current and potential school security personnel.

G. The department and the public school insurance authority shall approve one or more school security personnel and firearms training programs. Approved programs must include working with students with special needs, cultural competency and

prohibited profiling practices. The department of public safety shall make recommendations for firearms training."

Chapter 189 Section 4 Laws 2019

SECTION 4. CONSTRUCTION.--Nothing in this 2019 act shall be construed as:

A. allowing an armed school security personnel to carry firearms on school premises if doing so would be a violation of state or federal law; or

B. applying to school resource officers.

Chapter 189 Section 5 Laws 2019

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2020. _____

HJC/House Bill 129, aa

Approved April 3, 2019

LAWS 2019, CHAPTER 190

AN ACT

RELATING TO CHILDREN; CLARIFYING THE ROLE OF HOSPITAL AND BIRTHING CENTER STAFF, CONTRACTORS AND VOLUNTEERS IN REPORTING CHILD ABUSE AND NEGLECT BASED SOLELY ON A FINDING OF DRUG USE BY A PREGNANT WOMAN; REQUIRING REFERRAL OF A DRUG-EXPOSED INFANT AND THE INFANT'S RELATIVES, GUARDIANS OR CARETAKERS TO A PLAN OF CARE; REQUIRING SHARING OF CERTAIN DATA; REQUIRING THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT TO WORK WITH VARIOUS STAKEHOLDERS TO CREATE GUIDELINES AND TRAINING MATERIALS FOR THE CREATION OF PLANS OF CARE; REQUIRING NOTIFICATION OF NONCOMPLIANCE WITH A PLAN OF CARE; REQUIRING MEDICAL ASSISTANCE PLANS TO ESTABLISH A PROCESS FOR CREATION AND IMPLEMENTATION OF PLANS OF CARE.

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

Chapter 190 Section 1 Laws 2019

SECTION 1. Section 32A-1-4 NMSA 1978 (being Laws 1993, Chapter 77, Section 13, as amended) is amended to read:

"32A-1-4. DEFINITIONS.--As used in the Children's Code:

- A. "adult" means a person who is eighteen years of age or older;
- B. "child" means a person who is less than eighteen years old;
- C. "council" means the substitute care advisory council established pursuant to Section 32A-8-4 NMSA 1978;
- D. "court", when used without further qualification, means the children's court division of the district court and includes the judge, special master or commissioner appointed pursuant to the provisions of the Children's Code or supreme court rule;
- E. "court-appointed special advocate" means a person appointed pursuant to the provisions of the Children's Court Rules to assist the court in determining the best interests of the child by investigating the case and submitting a report to the court;
- F. "custodian" means an adult with whom the child lives who is not a parent or guardian of the child;
- G. "department" means the children, youth and families department, unless otherwise specified;
- H. "disproportionate minority contact" means the involvement of a racial or ethnic group with the criminal or juvenile justice system at a proportion either higher or lower than that group's proportion in the general population;
- I. "foster parent" means a person, including a relative of the child, licensed or certified by the department or a child placement agency to provide care for children in the custody of the department or agency;
- J. "guardian" means a person appointed as a guardian by a court or Indian tribal authority or a person authorized to care for the child by a parental power of attorney as permitted by law;
- K. "guardian ad litem" means an attorney appointed by the children's court to represent and protect the best interests of the child in a case; provided that no party or

employee or representative of a party to the case shall be appointed to serve as a guardian ad litem;

L. "Indian child" means an unmarried person who is:

- (1) less than eighteen years old;
- (2) a member of an Indian tribe or is eligible for membership in an Indian tribe; and
- (3) the biological child of a member of an Indian tribe;

M. "Indian child's tribe" means:

- (1) the Indian tribe in which an Indian child is a member or eligible for membership; or
- (2) in the case of an Indian child who is a member or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has more significant contacts;

N. "Indian tribe" means a federally recognized Indian tribe, community or group pursuant to 25 U.S.C. Section 1903(1);

O. "judge", when used without further qualification, means the judge of the court;

P. "legal custody" means a legal status created by order of the court or other court of competent jurisdiction or by operation of statute that vests in a person, department or agency the right to determine where and with whom a child shall live; the right and duty to protect, train and discipline the child and to provide the child with food, shelter, personal care, education and ordinary and emergency medical care; the right to consent to major medical, psychiatric, psychological and surgical treatment and to the administration of legally prescribed psychotropic medications pursuant to the Children's Mental Health and Developmental Disabilities Act; and the right to consent to the child's enlistment in the armed forces of the United States;

Q. "parent" or "parents" includes a biological or adoptive parent if the biological or adoptive parent has a constitutionally protected liberty interest in the care and custody of the child;

R. "permanency plan" means a determination by the court that the child's interest will be served best by:

- (1) reunification;
- (2) placement for adoption after the parents' rights have been relinquished or terminated or after a motion has been filed to terminate parental rights;
- (3) placement with a person who will be the child's permanent guardian;
- (4) placement in the legal custody of the department with the child placed in the home of a fit and willing relative; or
- (5) placement in the legal custody of the department under a planned permanent living arrangement;

S. "person" means an individual or any other form of entity recognized by law;

T. "plan of care" means a plan created by a health care professional intended to ensure the safety and well-being of a substance-exposed newborn by addressing the treatment needs of the child and any of the child's parents, relatives, guardians, family members or caregivers to the extent those treatment needs are relevant to the safety of the child;

U. "preadoptive parent" means a person with whom a child has been placed for adoption;

V. "protective supervision" means the right to visit the child in the home where the child is residing, inspect the home, transport the child to court-ordered diagnostic examinations and evaluations and obtain information and records concerning the child;

W. "relative" means a person related to another person by blood within the fifth degree of consanguinity or through marriage by the fifth degree of affinity;

X. "reunification" means either a return of the child to the parent or to the home from which the child was removed or a return to the noncustodial parent;

Y. "tribal court" means:

- (1) a court established and operated pursuant to a code or custom of an Indian tribe; or

(2) any administrative body of an Indian tribe that is vested with judicial authority;

Z. "tribal court order" means a document issued by a tribal court that is signed by an appropriate authority, including a judge, governor or tribal council member, and that orders an action that is within the tribal court's jurisdiction; and

AA. "tribunal" means any judicial forum other than the court."

Chapter 190 Section 2 Laws 2019

SECTION 2. Section 32A-4-3 NMSA 1978 (being Laws 1993, Chapter 77, Section 97, as amended) is amended to read:

"32A-4-3. DUTY TO REPORT CHILD ABUSE AND CHILD NEGLECT--
RESPONSIBILITY TO INVESTIGATE CHILD ABUSE OR NEGLECT--PENALTY--
NOTIFICATION OF PLAN OF CARE.--

A. Every person, including a licensed physician; a resident or an intern examining, attending or treating a child; a law enforcement officer; a judge presiding during a proceeding; a registered nurse; a visiting nurse; a schoolteacher; a school official; a social worker acting in an official capacity; or a member of the clergy who has information that is not privileged as a matter of law, who knows or has a reasonable suspicion that a child is an abused or a neglected child shall report the matter immediately to:

(1) a local law enforcement agency;

(2) the department; or

(3) a tribal law enforcement or social services agency for any Indian child residing in Indian country.

B. A law enforcement agency receiving the report shall immediately transmit the facts of the report and the name, address and phone number of the reporter by telephone to the department and shall transmit the same information in writing within forty-eight hours. The department shall immediately transmit the facts of the report and the name, address and phone number of the reporter by telephone to a local law enforcement agency and shall transmit the same information in writing within forty-eight hours. The written report shall contain the names and addresses of the child and the child's parents, guardian or custodian, the child's age, the nature and extent of the child's injuries, including any evidence of previous injuries, and other information that

the maker of the report believes might be helpful in establishing the cause of the injuries and the identity of the person responsible for the injuries. The written report shall be submitted upon a standardized form agreed to by the law enforcement agency and the department.

C. The recipient of a report under Subsection A of this section shall take immediate steps to ensure prompt investigation of the report. The investigation shall ensure that immediate steps are taken to protect the health or welfare of the alleged abused or neglected child, as well as that of any other child under the same care who may be in danger of abuse or neglect. A local law enforcement officer trained in the investigation of child abuse and neglect is responsible for investigating reports of alleged child abuse or neglect at schools, daycare facilities or child care facilities.

D. If the child alleged to be abused or neglected is in the care or control of or in a facility administratively connected to the department, the report shall be investigated by a local law enforcement officer trained in the investigation of child abuse and neglect. The investigation shall ensure that immediate steps are taken to protect the health or welfare of the alleged abused or neglected child, as well as that of any other child under the same care who may be in danger of abuse or neglect.

E. A law enforcement agency or the department shall have access to any of the records pertaining to a child abuse or neglect case maintained by any of the persons enumerated in Subsection A of this section, except as otherwise provided in the Abuse and Neglect Act.

F. A person who violates the provisions of Subsection A of this section is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

G. A finding that a pregnant woman is using or abusing drugs made pursuant to an interview, self-report, clinical observation or routine toxicology screen shall not alone form a sufficient basis to report child abuse or neglect to the department pursuant to Subsection A of this section. A volunteer, contractor or staff of a hospital or freestanding birthing center shall not make a report based solely on that finding and shall make a notification pursuant to Subsection H of this section. Nothing in this subsection shall be construed to prevent a person from reporting to the department a reasonable suspicion that a child is an abused or neglected child based on other criteria as defined by Section 32A-4-2 NMSA 1978, or a combination of criteria that includes a finding pursuant to this subsection.

H. A volunteer, contractor or staff of a hospital or freestanding birthing center shall:

(1) complete a written plan of care for a substance-exposed newborn as provided for by department rule and the Children's Code; and

(2) provide notification to the department. Notification by a health care provider pursuant to this paragraph shall not be construed as a report of child abuse or neglect.

I. As used in this section, "notification" means informing the department that a substance-exposed newborn was born and providing a copy of the plan of care that was created for the child; provided that notification shall comply with federal guidelines and shall not constitute a report of child abuse or neglect."

Chapter 190 Section 3 Laws 2019

SECTION 3. A new section of the Children's Code is enacted to read:

"PLAN OF CARE--GUIDELINES--CREATION--DATA SHARING--TRAINING.--

A. By January 1, 2020, the department, in consultation with medicaid managed care organizations, private insurers, the office of superintendent of insurance, the human services department and the department of health, shall develop rules to guide hospitals, birthing centers, medical providers, medicaid managed care organizations and private insurers in the care of newborns who exhibit physical, neurological or behavioral symptoms consistent with prenatal drug exposure, withdrawal symptoms from prenatal drug exposure or fetal alcohol spectrum disorder.

B. Rules shall include guidelines to hospitals, birthing centers, medical providers, medicaid managed care organizations and private insurers regarding:

(1) participation in the discharge planning process, including the creation of a written plan of care that shall be sent to:

(a) the child's primary care physician;

(b) a medicaid managed care organization insurance plan care coordinator who will monitor the implementation of the plan of care after discharge, if the child is insured, or to a care coordinator in the children's medical services of the family health bureau of the public health division of the department of health who will monitor the implementation of the plan of care after discharge, if the child is uninsured; and

(c) the child's parent, relative, guardian or caretaker who is present at discharge who shall receive a copy upon discharge. The plan of care shall be signed by an appropriate representative of the discharging hospital and the child's parent, relative, guardian or caretaker who is present at discharge;

(2) definitions and evidence-based screening tools, based on standards of professional practice, to be used by health care providers to identify a child born affected by substance use or withdrawal symptoms resulting from prenatal drug exposure or a fetal alcohol spectrum disorder;

(3) collection and reporting of data to meet federal and state reporting requirements, including the following:

(a) by hospitals and birthing centers to the department when: 1) a plan of care has been developed; and 2) a family has been referred for a plan of care;

(b) information pertaining to a child born and diagnosed by a health care professional as affected by substance abuse, withdrawal symptoms resulting from prenatal drug exposure or a fetal alcohol spectrum disorder; and

(c) data collected by hospitals and birthing centers for use by the children's medical services of the family health bureau of the public health division of the department of health in epidemiological reports and to support and monitor a plan of care. Information reported pursuant to this subparagraph shall be coordinated with communication to insurance carrier care coordinators to facilitate access to services for children and parents, relatives, guardians or caregivers identified in a plan of care;

(4) identification of appropriate agencies to be included as supports and services in the plan of care, based on an assessment of the needs of the child and the child's relatives, parents, guardians or caretakers, performed by a discharge planner prior to the child's discharge from the hospital or birthing center, which may include:

(a) public health agencies;

(b) maternal and child health agencies;

(c) home visitation programs;

(d) substance use disorder prevention and treatment providers;

(e) mental health providers;

- (f) public and private children and youth agencies;
- (g) early intervention and developmental services;
- (h) courts;
- (i) local education agencies;
- (j) managed care organizations; or
- (k) hospitals and medical providers; and

(5) engagement of the child's relatives, parents, guardians or caretakers in order to identify the need for access to treatment for any substance use disorder or other physical or behavioral health condition that may impact the safety, early childhood development and well-being of the child.

C. Reports made pursuant to Paragraph (3) of Subsection B of this section shall be collected by the department as distinct and separate from any child abuse report as captured and held or investigated by the department, such that the reporting of a plan of care shall not constitute a report of suspected child abuse and neglect and shall not initiate investigation by the department or a report to law enforcement.

D. The department shall summarize and report data received pursuant to Paragraph (3) of Subsection B of this section at intervals as needed to meet federal regulations.

E. The children's medical services of the family health bureau of the public health division of the department of health shall collect and record data reported pursuant to Subparagraph (c) of Paragraph (3) of Subsection B of this section to support and monitor care coordination of plans of care for children born without insurance.

F. Reports made pursuant to the requirements in this section shall not be construed to relieve a person of the requirement to report to the department knowledge of or a reasonable suspicion that a child is an abused or neglected child based on criteria as defined by Section 32A-4-2 NMSA 1978.

G. The department shall work in consultation with the department of health to create and distribute training materials to support and educate discharge planners or social workers on the following:

(1) how to assess whether to make a referral to the department pursuant to the Abuse and Neglect Act;

(2) how to assess whether to make a notification to the department pursuant to Subsection B of Section 32A-4-3 NMSA 1978 for a child who has been diagnosed as affected by substance abuse, withdrawal symptoms resulting from prenatal drug exposure or a fetal alcohol spectrum disorder;

(3) how to assess whether to create a plan of care when a referral to the department is not required; and

(4) the creation and deployment of a plan of care.

H. No person shall have a cause of action for any loss or damage caused by any act or omission resulting from the implementation of the provisions of Subsection G of this section or resulting from any training, or lack thereof, required by Subsection G of this section.

I. The training, or lack thereof, required by the provisions of Subsection G of this section shall not be construed to impose any specific duty of care."

Chapter 190 Section 4 Laws 2019

SECTION 4. A new section of the Children's Code is enacted to read:

"NOTIFICATION TO THE DEPARTMENT OF NONCOMPLIANCE WITH A PLAN OF CARE.--

A. If the parents, relatives, guardians or caretakers of a child released from a hospital or freestanding birthing center pursuant to a plan of care fail to comply with that plan, the department shall be notified and the department may conduct a family assessment. Based on the results of the family assessment, the department may offer or provide referrals for counseling, training, or other services aimed at addressing the underlying causative factors that may jeopardize the safety or well-being of the child. The child's parents, relatives, guardians or caretakers may choose to accept or decline any service or program offered subsequent to the family assessment; provided that if the child's parents, relatives, guardians or caretakers decline those services or programs, the department may proceed with an investigation.

B. As used in this section, "family assessment" means a comprehensive assessment prepared by the department at the time the department receives notification of failure to comply with the plan of care to determine the needs of a child and the

child's parents, relatives, guardians or caretakers, including an assessment of the likelihood of:

- (1) imminent danger to a child's well-being;
- (2) the child becoming an abused child or neglected child; and
- (3) the strengths and needs of the child's family members, including parents, relatives, guardians or caretakers, with respect to providing for the health and safety of the child."

Chapter 190 Section 5 Laws 2019

SECTION 5. A new section of the Public Assistance Act, Section 27-2-12.24 NMSA 1978, is enacted to read:

"27-2-12.24. MEDICAL ASSISTANCE--PLAN OF CARE--PARTICIPATION REQUIRED.--

A. By January 1, 2020, the secretary shall require medical assistance plans to establish, in consultation with the department, hospitals, birthing centers, the children, youth and families department and the department of health, a process for the creation and implementation of a plan of care for a substance-exposed newborn and the relatives, parents, guardians or caretakers of a substance-exposed newborn as provided for in the Children's Code.

B. As used in this section, "plan of care" means a plan created by a health care professional pursuant to the Children's Code that is intended to ensure the safety and well-being of a substance-exposed newly born child by addressing the treatment needs of the child and any of the child's parents, relatives, guardians, family members or caregivers to the extent those treatment needs are relevant to the safety of the child." _____

HJC/House Bill 230, aa

Approved April 3, 2019

LAWS 2019, CHAPTER 191

AN ACT

RELATING TO SCHOOL PERSONNEL; PERMITTING ALTERNATIVE LEVEL ONE TEACHERS TO OBTAIN LEVEL TWO LICENSES AFTER MEETING CERTAIN REQUIREMENTS.

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

Chapter 191 Section 1 Laws 2019

SECTION 1. Section 22-10A-10 NMSA 1978 (being Laws 2003, Chapter 153, Section 41, as amended) is amended to read:

"22-10A-10. LEVEL TWO LICENSURE.--

A. A level two license is a nine-year license granted to a teacher who meets the qualifications for that level and who annually demonstrates essential competency to teach. If a level two teacher does not demonstrate essential competency in a given school year, the school district shall provide the teacher with additional professional development and peer intervention during the following school year. If by the end of that school year the teacher fails to demonstrate essential competency, a school district may choose not to contract with the teacher to teach in the classroom.

B. The department shall issue a level two license to an applicant who has successfully taught at least three, but no more than five, years as a level one teacher or an alternative level one teacher, or a combination of the two, or is granted reciprocity as provided by department rules. An applicant for a level two license shall:

(1) demonstrate essential competency required by the department as verified by the local superintendent through the highly objective uniform statewide standard of evaluation; and

(2) meet other qualifications as required by the department.

C. The department shall provide for qualifications for specific grade levels, types and subject areas of level two licensure, including early childhood, elementary, middle, secondary, special and vocational education.

D. With the adoption by the department of the statewide objective performance evaluation for level two teachers, the minimum salary for a level two teacher for a standard nine and one-half month contract shall be forty-four thousand dollars (\$44,000)."

House Bill 240

Approved April 3, 2019

LAWS 2019, CHAPTER 192

AN ACT

RELATING TO CRIMINAL JUSTICE REFORM; REQUIRING THE NEW MEXICO SENTENCING COMMISSION TO CREATE A DATA-SHARING NETWORK FOR CRIMINAL JUSTICE DATA; ADDING THREE MEMBERS TO THE NEW MEXICO SENTENCING COMMISSION; AMENDING A SECTION OF THE MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES CODE; SPECIFYING THAT PHOTOGRAPHS, FINGERPRINTS AND PALM PRINTS ARE BIOMETRIC IDENTIFYING INFORMATION OF AN ARRESTED PERSON; PROVIDING REQUIREMENTS FOR THE CONTENT AND DISPOSITION OF ARREST RECORDS; REQUIRING THE DEPARTMENT OF PUBLIC SAFETY TO SHARE DATA WITH THE NEW MEXICO SENTENCING COMMISSION; ENACTING THE CRIME REDUCTION GRANT ACT; CREATING CRIMINAL JUSTICE COORDINATING COUNCILS IN EACH JUDICIAL DISTRICT; REQUIRING CERTAIN STATE AGENCIES TO ISSUE RULES AND REPORT ANNUALLY.

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

Chapter 192 Section 1 Laws 2019

SECTION 1. Section 9-3-10 NMSA 1978 (being Laws 1977, Chapter 257, Section 11, as amended) is amended to read:

"9-3-10. NEW MEXICO SENTENCING COMMISSION--CREATION--
MEMBERSHIP--DUTIES.--

- A. There is created the "New Mexico sentencing commission".
- B. The New Mexico sentencing commission shall be composed of twenty-seven members. Appointed members shall serve at the pleasure of the appointing authority. The commission shall reflect reasonable geographical and urban-rural balances and regard for the incidence of crime and the distribution and concentration of law enforcement services in the state. The commission shall consist of the following individuals or their designees:

- (1) the attorney general;
- (2) a district attorney appointed by the New Mexico district attorney's association or its successor agency;
- (3) the chief public defender;
- (4) two district court judges, one of whom shall be a children's court judge, appointed by the district and metropolitan judges association or its successor agency;
- (5) a magistrate judge appointed by the chief justice of the supreme court;
- (6) the dean of the university of New Mexico school of law;
- (7) the secretary of corrections;
- (8) the secretary of public safety;
- (9) the secretary of children, youth and families;
- (10) the secretary of public education;
- (11) a representative from the behavioral health services division of the human services department;
- (12) a county sheriff appointed by the executive director of New Mexico counties;
- (13) two public members appointed by the governor, one of whom shall be designated as chair of the New Mexico sentencing commission by the governor;
- (14) three public members appointed by the president pro tempore of the senate;
- (15) one public member appointed by the minority floor leader of the senate;
- (16) three public members appointed by the speaker of the house of representatives;

(17) one public member appointed by the minority floor leader of the house of representatives;

(18) two public members appointed by the chief justice of the supreme court;

(19) one public member who is Native American and a practicing attorney, appointed by the president of the state bar association; and

(20) one public member appointed by the governor who is a representative of a New Mexico victims' organization.

C. A majority of the members of the New Mexico sentencing commission constitutes a quorum for the transaction of commission business.

D. The New Mexico sentencing commission shall:

(1) hold meetings at times and for periods as the commission deems necessary;

(2) hire staff as needed to assist the commission in the performance of its duties;

(3) prepare an annual budget;

(4) establish policies for the operation of the commission and supervision of the activities of commission staff;

(5) advise the executive, judicial and legislative branches of government on policy matters relating to criminal and juvenile justice;

(6) make recommendations to the legislature concerning proposed changes to laws relating to the criminal and juvenile justice systems that the commission determines would improve those systems;

(7) annually assess, monitor and report to the legislature on the impact of any enacted sentencing standards and guidelines on state and local correctional resources and programs and the need for further sentencing reform;

(8) when developing proposed sentencing reform:

(a) study sentencing models in other jurisdictions;

(b) study the Criminal Sentencing Act, the Criminal Code and all other New Mexico statutes relating to criminal law, criminal sentencing, criminal procedure and probation and parole;

(c) review past studies or reports regarding proposed changes to the Children's Code, the Criminal Code, the Criminal Sentencing Act or other New Mexico statutes relating to criminal law, criminal sentencing, criminal procedure or probation and parole;

(d) study past and current criminal sentencing and release practices and create a statistical database for simulating the impact of various sentencing policies;

(e) study the full range of prison, nonprison and intermediate sanctions;

(f) determine the principal purpose for criminal sanctions;

(g) rank criminal offenses by degree of seriousness;

(h) determine the role of criminal history in making criminal sentencing decisions;

(i) define dispositional policy that determines when adult felony offenders are confined in state prisons and county jails or sentenced to nonprison and intermediate sanctions;

(j) establish the length of criminal sentences;

(k) establish the appropriate use of community service and fines;

(l) structure proposed sentencing guidelines to ensure consistency in all aspects of criminal sentencing policy;

(m) assess the impact of commission recommendations to modify criminal sentencing policy on the availability of and need for correctional resources and programs;

(n) use the expertise of a national or state organization with experience in sentencing reform; and

(o) present proposed legislation or recommendations regarding sentencing reform to the appropriate legislative interim committee;

(9) monitor any enacted sentencing guidelines with respect to uniformity and proportionality;

(10) conduct research relating to the use and effectiveness of any enacted guidelines, prosecution standards, offense charging, plea bargaining, sentencing practices, probation and parole practices and any other matters relating to the criminal justice system;

(11) serve as a clearinghouse for the systematic collection, analysis and dissemination of information relating to felony offense charges, plea agreements, convictions, sentences imposed, incarceration time actually served and actual and projected inmate population in the state correctional system;

(12) review all proposed legislation that creates a new criminal offense, changes the classification of an offense or changes the range of punishments for an offense and make recommendations to the legislature as to whether proposed changes would improve the criminal and juvenile justice system;

(13) contingent upon the availability of funding, provide impact estimates, incorporating prison population projections, on all proposed legislation that has the potential to affect correctional resources;

(14) create and maintain a data-sharing network to receive, store, analyze and disseminate criminal justice data for and between participating criminal justice and behavioral health agencies for the purpose of evaluating local and statewide criminal justice systems and programs and supporting, encouraging and accomplishing information sharing among criminal justice agencies and criminal justice coordinating councils;

(15) provide data analysis as requested by criminal justice agencies and criminal justice coordinating councils; and

(16) promulgate rules governing the data-sharing network and data analysis pursuant to Paragraphs (14) and (15) of this subsection. The rules shall include procedures to:

(a) fulfill any requirements related to data privacy, security and protection so that information access and sharing is permitted for authorized purposes, as defined by law, court order or for business practices that are a necessary component

of the requesting agency's duties and functions and is compatible with the purpose and expectations of use under which the information was collected;

(b) guide participating agencies to ensure accuracy, completeness, currency and reliability of information reported to the data-sharing network;

(c) allow data querying and reporting tools for those authorized users who want to perform statistical analysis of some of the data collected and retained;

(d) provide safeguards to actively monitor and record: 1) access and use of the network's services and systems; and 2) the nature of information exchanges using the network; and

(e) identify and recognize authorized users who access the network.

E. The members of the New Mexico sentencing commission shall be paid pursuant to the Per Diem and Mileage Act and shall receive no other perquisite, compensation or allowance.

F. The New Mexico sentencing commission is administratively attached to the office of the governor."

Chapter 192 Section 2 Laws 2019

SECTION 2. Section 29-3-8 NMSA 1978 (being Laws 1978, Chapter 87, Section 1, as amended) is amended to read:

"29-3-8. BIOMETRIC IDENTIFYING INFORMATION OF PERSONS ARRESTED--STATE ARREST RECORDS--DISPOSITION.--

A. A booking facility shall electronically collect biometric identifying information from a person arrested for the following crimes prior to the person's release:

(1) the commission of a criminal offense amounting to a felony;

(2) the commission of a criminal offense not amounting to a felony but punishable by imprisonment for more than six months under the laws of the state or a political subdivision of the state; or

(3) the violation of a provision of Section 66-8-102 NMSA 1978 or the violation of a municipal or county ordinance prescribing criminal penalties for driving while under the influence of intoxicating liquor or drugs.

B. Biometric identifying information shall be obtained each time a person is arrested.

C. At the time biometric identifying information is collected, the booking facility shall create an arrest record with a state arrest tracking number provided by the department. The arrest record shall include:

- (1) the date of arrest;
- (2) the state arrest tracking number assigned to the arrest record;
- (3) the state personal identification number assigned to the arrestee by the department;
- (4) the arrestee's biometric identifying information; and
- (5) a completed description with charge code of each offense charged.

D. The department shall promulgate rules addressing:

- (1) collection of biometric identifying information;
- (2) submission of biometric identifying information;
- (3) creation of a state personal identification number system to identify a person arrested and charged with a crime and ensure that the same state personal identification number is assigned to the person regardless of the number of times the person is arrested or the location of the arrest within the state; and
- (4) creation of a state arrest tracking number system for each arrest record.

E. At booking, the booking facility shall immediately forward the arrest record and any other information required by department rule to the department.

F. The department shall immediately provide the:

(1) biometric identifying information to the federal bureau of investigation in Washington, D.C.;

(2) state personal identification number to agencies at all levels of government that are engaged in the apprehension, prosecution or defense, adjudication, incarceration or rehabilitation of criminal offenders; and

(3) arrest record to the administrative office of the district attorneys for submission to the appropriate prosecuting authority.

G. Biometric identifying information shall be collected from an inmate who is charged with a felony or misdemeanor offense while incarcerated, and the jail or corrections facility shall forward the offender's biometric identifying information to the department.

H. The administrative office of the courts shall provide to the department the disposition of all criminal cases assigned a state arrest tracking number. The disposition shall be provided in electronic format, promptly upon the conclusion of the case.

I. The administrative office of the district attorneys shall provide to the department the disposition of all criminal cases assigned a state arrest tracking number when the district attorney decides not to file charges in the case. The disposition shall be provided in electronic format promptly upon a district attorney's decision not to file charges in the case.

J. The department shall forward the disposition of all criminal cases to the federal bureau of investigation and the national crime information center within five business days of receipt.

K. Law enforcement agencies, the administrative office of the courts and the administrative office of the district attorneys shall allow the department access to their records for the purpose of auditing those records to ensure compliance with the provisions of this section.

L. As used in this section:

(1) "biometric identifying information" means physical characteristics used in verifying the identity of an individual, including photographs, fingerprint impressions and palm print impressions;

(2) "booking facility" means a jail, police station, sheriff's office or other place of detention;

(3) "charge code" means the unique code assigned to the crime from the master charge code table distributed by the New Mexico justice information sharing council;

(4) "state arrest tracking number" means an incident-based unique number assigned to the arrest; and

(5) "state personal identification number" means a unique number assigned to the arrestee based on the arrestee's biometric identifying information."

Chapter 192 Section 3 Laws 2019

SECTION 3. Section 29-3-11 NMSA 1978 (being Laws 2007, Chapter 37, Section 1) is amended to read:

"29-3-11. UNIFORM CRIME REPORTING SYSTEM ESTABLISHED-- DUTIES OF DEPARTMENT.--

A. The department of public safety shall develop, operate and maintain a uniform crime reporting system and shall be the central repository for the collection, storage, retrieval and analysis of crime incident and arrest reports generated by all law enforcement agencies in this state. The system shall be operational as of January 1, 2008.

B. The department shall:

(1) compile statistical data and forward such data as required to the federal bureau of investigation or the appropriate department of justice agency in accordance with standards and procedures of the national system;

(2) provide forms, standards and procedures and related training to state and local law enforcement agencies as necessary for the agencies to report incident and arrest activity for inclusion in the statewide system;

(3) in conjunction with the New Mexico sentencing commission, annually publish a report on the nature and extent of crime in New Mexico and submit the report to the governor and to the legislature;

(4) maintain the privacy and security of information in accordance with applicable state and federal laws;

(5) provide the New Mexico sentencing commission access to the data collected and maintained by the department; and

(6) establish rules as necessary to implement the provisions of this section.

C. Every law enforcement agency in the state shall:

(1) submit crime incident reports to the department of public safety on forms or in the format prescribed by the department;

(2) submit any other crime incident information as may be required by the department of public safety; and

(3) use the unique code assigned to the crime from the master charge code table distributed by the New Mexico justice information sharing council for the automated fingerprint identification system and use uniform crime incident reporting as provided by the department for all incidents and arrests.

D. The annual report and other statistical data reports generated by the department shall be made available to state and local law enforcement agencies, the administrative office of the courts and the general public."

Chapter 192 Section 4 Laws 2019

SECTION 4. Section 43-1-19 NMSA 1978 (being Laws 1977, Chapter 279, Section 18, as amended) is amended to read:

"43-1-19. DISCLOSURE OF INFORMATION.--

A. Except as otherwise provided in the code, no person shall, without the authorization of the client, disclose or transmit any confidential information from which a person well acquainted with the client might recognize the client as the described person, or any code, number or other means that can be used to match the client with confidential information regarding the client.

B. Authorization from the client shall not be required for the disclosure or transmission of confidential information in the following circumstances:

(1) when the request is from a mental health or developmental disabilities professional or from an employee or trainee working with a person with a mental disability or developmental disability, to the extent that the practice, employment or training on behalf of the client requires access to such information is necessary;

(2) when such disclosure is necessary to protect against a clear and substantial risk of imminent serious physical injury or death inflicted by the client on the client's self or another;

(3) when the disclosure is made pursuant to the provisions of the Assisted Outpatient Treatment Act, using reasonable efforts to limit protected health information to that which is minimally necessary to accomplish the intended purpose of the use, disclosure or request;

(4) when the disclosure of such information is to the primary caregiver of the client and the disclosure is only of information necessary for the continuity of the client's treatment in the judgment of the treating physician or certified psychologist who discloses the information;

(5) when such disclosure is to an insurer contractually obligated to pay part or all of the expenses relating to the treatment of the client at the residential facility. The information disclosed shall be limited to data identifying the client, facility and treating or supervising physician and the dates and duration of the residential treatment. It shall not be a defense to an insurer's obligation to pay that the information relating to the residential treatment of the client, apart from information disclosed pursuant to this section, has not been disclosed to the insurer;

(6) when the request is from a physician, a licensed psychologist or a qualified mental health professional licensed for independent practice and responsible for the continuity of care of inmates with a mental or developmental disability who are in a jail or corrections facility, and the disclosure is only of information necessary for the continuity of the client's treatment in the judgment of an equally qualified treating professional who discloses the information;

(7) when such disclosure is by a physician, a licensed psychologist or a qualified mental health professional licensed for independent practice and responsible for the treatment of inmates in a jail or corrections facility to another equally qualified treating professional responsible for the continuation of care of the inmate upon the inmate's release from a jail or corrections facility, and the disclosure is only of information necessary for the continuity of the client's treatment in the judgment of the treating professional who discloses the information; or

(8) when the disclosure is made to a governmental agency, its agent or a state educational institution, a duly organized state or county association of licensed physicians or dentists, a licensed health facility or staff committees of such a facility for the purpose of research, subject to the provisions of Section 14-6-1 NMSA 1978 and subject to the review of an institutional review board in compliance with the federal Health Insurance Portability and Accountability Act of 1996 or any succeeding legislation.

C. No authorization given for the transmission or disclosure of confidential information shall be effective unless it:

(1) is in writing and signed; and

(2) contains a statement of the client's right to examine and copy the information to be disclosed, the name or title of the proposed recipient of the information and a description of the use that may be made of the information.

D. The client has a right of access to confidential information and has the right to make copies of any information and to submit clarifying or correcting statements and other documentation of reasonable length for inclusion with the confidential information. The statements and other documentation shall be kept with the relevant confidential information, shall accompany it in the event of disclosure and shall be governed by the provisions of this section to the extent they contain confidential information. Nothing in this subsection shall prohibit the denial of access to such records when a physician or other mental health or developmental disabilities professional believes and notes in the client's medical records that such disclosure would not be in the best interests of the client. In any such case, the client has the right to petition the court for an order granting such access.

E. Where there exists evidence that the client whose consent to disclosure of confidential information is sought is incapable of giving or withholding valid consent and the client does not have a guardian or treatment guardian appointed by a court, the person seeking such authorization shall petition the court for the appointment of a treatment guardian to make a substitute decision for the client, except that if the client is less than fourteen years of age, the client's parent or guardian is authorized to consent to disclosure on behalf of the client.

F. Information concerning a client disclosed under this section shall not be released to any other person, agency or governmental entity or placed in files or computerized data banks accessible to any persons not otherwise authorized to obtain information under this section.

G. Nothing in the code shall limit the confidentiality rights afforded by federal statute or regulation.

H. A person appointed as a treatment guardian in accordance with the Mental Health and Developmental Disabilities Code may act as the client's personal representative pursuant to the federal Health Insurance Portability and Accountability Act of 1996, Sections 1171-1179 of the Social Security Act, 42 U.S.C. Section 1320d, as amended, and applicable federal regulations to obtain access to the client's protected health information, including mental health information and relevant physical health information, and may communicate with the client's health care providers in furtherance of such treatment."

Chapter 192 Section 5 Laws 2019

SECTION 5. SHORT TITLE.--Sections 5 through 10 of this act may be cited as the "Crime Reduction Grant Act".

Chapter 192 Section 6 Laws 2019

SECTION 6. DEFINITIONS.--As used in the Crime Reduction Grant Act:

- A. "commission" means the New Mexico sentencing commission; and
- B. "grant administration agency" means a state agency that receives appropriations for grants to criminal justice coordinating council members for the purposes specified in the Crime Reduction Grant Act.

Chapter 192 Section 7 Laws 2019

SECTION 7. CRIMINAL JUSTICE COORDINATING COUNCILS CREATED--COMPOSITION--DUTIES.--

A. A criminal justice coordinating council is created for each judicial district and may include representation from within the district for:

- (1) each court in the district;
- (2) the district attorney;
- (3) the district public defender office;
- (4) law enforcement agencies;

- (5) jails;
- (6) correctional facilities;
- (7) behavioral health programs; or
- (8) other agencies and entities agreed upon by the council.

B. Each criminal justice coordinating council shall be convened by the chief judge of the district court in the judicial district.

C. Each criminal justice coordinating council shall select a chair at its first meeting. The first meeting of each council shall take place by August 1, 2019, and the council shall subsequently meet at the call of the chair, but not less than ten months per year.

D. Each criminal justice coordinating council shall organize itself and adopt rules in a manner appropriate to accomplish its duties pursuant to the Crime Reduction Grant Act.

E. A criminal justice coordinating council shall, to the extent possible, develop a strategic plan to meet the requirements of this section and shall:

- (1) review the criminal justice system in the judicial district, including judicial processes, law enforcement, community corrections alternatives and sufficiency of jail and detention facilities;

- (2) identify criminal justice system problems in the judicial district;

- (3) develop data-driven policies and evidence-based best practices designed to improve public safety outcomes, cost-effective responses to crime and fair and efficient adjudication processes;

- (4) apply as necessary to grant administration agencies for crime reduction grants pursuant to the Crime Reduction Grant Act;

- (5) facilitate sharing of criminal justice information between agencies as permitted by law; and

- (6) in consultation with the commission, develop data-sharing agreements and methods of data sharing to allow system-wide analysis of criminal justice operations within the judicial district and throughout the state.

F. Executive agencies and the administrative office of the courts shall provide prompt responses to criminal justice coordinating council requests for information.

Chapter 192 Section 8 Laws 2019

SECTION 8. APPLICATIONS FOR GRANTS-- PURPOSES--CONDITIONS.--

A. A member of a criminal justice coordinating council with the consent of the council may apply to a grant administration agency for a grant to accomplish any of the enumerated purposes provided in Subsection B of this section.

B. Crime reduction grants may be made to:

(1) develop, expand and improve evidence-based treatment and supervision alternatives to incarceration;

(2) reduce barriers to participation by criminal offenders in preprosecution diversion or specialty court programs;

(3) develop or improve pretrial service programs; and

(4) purchase equipment or provide training to support any of the purposes provided in this section.

C. Crime reduction grants shall be conditioned on the criminal justice coordinating council and the recipient member complying with the following:

(1) using not more than five percent of a grant for administrative costs of the recipient;

(2) in consultation with the commission, developing data-sharing agreements and methods of data sharing among criminal justice agencies and with the commission to allow system-wide analysis of criminal justice operations within the judicial district and statewide;

(3) using or developing evidence-based best practices for any programs operated with crime reduction grants;

(4) developing performance measures in consultation with the commission and the grant administration agency relevant to the grantee's application;

(5) collecting data to evaluate the effectiveness of programs operated with crime reduction grants;

(6) evaluating quarterly the process, outputs, outcomes and other performance measures of programs funded with grants for compliance with all provisions of the Crime Reduction Grant Act;

(7) providing a quarterly report to the commission for review and comparison with other programs receiving grants for similar purposes; and

(8) providing an annual report to the grant administration agency by October 1 of each year regarding program outcomes from use of the grant.

D. The commission shall assist with the implementation of data-sharing agreements to ensure compliance with crime reduction grants.

E. Each grant administration agency shall identify and require the use or development of evidence-based best practices for programs operated with crime reduction grants distributed by that grant administration agency.

F. A grant administration agency may consider any outcome reported to it by a grant recipient from a previous year in making a determination of whether to make subsequent grants or the amount of a subsequent grant.

Chapter 192 Section 9 Laws 2019

SECTION 9. RULES.--The New Mexico sentencing commission, in consultation with each grant administration agency, shall promulgate uniform procedural rules necessary to administer the provisions of the Crime Reduction Grant Act. Each grant administration agency shall adopt the uniform procedures along with other grant award criteria unique to the grant administration agency.

Chapter 192 Section 10 Laws 2019

SECTION 10. REPORTS.--

A. Each grant administration agency shall report to the commission annually by November 1 of each year regarding the:

(1) applications for grants made during the previous fiscal year by each criminal justice coordinating council;

(2) purpose and amount of each grant approved by the grant administration agency for each member for the previous fiscal year; and

(3) processes, outputs and outcomes resulting from the use of the grant.

B. The commission shall report to the legislature annually by December 1 of each year regarding the data-sharing network, including data derived from crime reduction grant data-sharing agreements.

Chapter 192 Section 11 Laws 2019

SECTION 11. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

HAFC/HJC/House Bill 267

Approved April 3, 2019

LAWS 2019, CHAPTER 193

AN ACT

RELATING TO HIGHER EDUCATION; PROVIDING FOR FINANCIAL AID FOR STUDENTS WHO WANT TO BECOME TEACHERS; CHANGING THE TEACHER LOAN REPAYMENT ACT TO MORE SPECIFICALLY TARGET THE TYPES OF HIGH-NEED TEACHERS WHO QUALIFY FOR THE PROGRAM; ENACTING THE TEACHER PREPARATION AFFORDABILITY ACT; PROVIDING POWERS AND DUTIES; CREATING A FUND; MAKING APPROPRIATIONS.

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

Chapter 193 Section 1 Laws 2019

SECTION 1. Section 21-22H-1 NMSA 1978 (being Laws 2013, Chapter 177, Section 1) is amended to read:

"21-22H-1. SHORT TITLE.--Chapter 21, Article 22H NMSA 1978 may be cited as the "Teacher Loan Repayment Act"."

Chapter 193 Section 2 Laws 2019

SECTION 2. Section 21-22H-3 NMSA 1978 (being Laws 2013, Chapter 177, Section 3) is amended to read:

"21-22H-3. DEFINITIONS.--As used in the Teacher Loan Repayment Act:

A. "department" means the higher education department;

B. "designated high-need teacher positions" means teacher positions in specific public schools that are:

(1) for teachers who are endorsed and teach bilingual education;

(2) for teachers who are endorsed and teach early childhood education or special education;

(3) for teachers who are endorsed and teach science, technology, engineering, mathematics or career technical education courses; or

(4) for teachers who are minorities; and

(5) in a public school that is low-performing or serves a high percentage of economically disadvantaged students; and

C. "loan" means a grant of money to defray the costs incidental to a teacher education, under a contract between the federal government and a teacher, requiring repayment of principal and interest."

Chapter 193 Section 3 Laws 2019

SECTION 3. Section 21-22H-4 NMSA 1978 (being Laws 2013, Chapter 177, Section 4) is amended to read:

"21-22H-4. DEPARTMENT POWERS AND DUTIES--TEACHER ELIGIBILITY--QUALIFICATIONS.--

A. The department may grant a loan repayment award to repay loans obtained for the teacher educational expenses of a teacher upon such terms and conditions as may be imposed by rules of the department.

B. Applicants shall be licensed New Mexico teachers who are bona fide citizens and residents of the United States and of New Mexico and have taught at least three years in New Mexico. High priority shall be given to applicants who are teaching in designated high-need teacher positions in the state.

C. The department and the public education department shall jointly make a full and careful investigation of the ability and qualifications of each applicant and determine the fitness of a teacher to participate in the teacher loan repayment program."

Chapter 193 Section 4 Laws 2019

SECTION 4. Section 21-22H-5 NMSA 1978 (being Laws 2013, Chapter 177, Section 5) is amended to read:

"21-22H-5. LOAN REPAYMENT AWARD CRITERIA--CONTRACT TERMS--PAYMENT.--

A. Loan repayment award criteria shall provide that:

(1) for high-priority applicants, award amounts shall be dependent upon a specific public school's need for the designated high-need teacher position, as determined by the public education department, the teacher's total teacher education indebtedness and available balances in the teacher loan repayment fund;

(2) award amounts for other teachers shall be based on the need for a teacher position that can be filled by the applicant, as determined by the public education department, the teacher's total teacher education indebtedness and available balances in the teacher loan repayment fund;

(3) preference in making awards shall be to teachers who have graduated from a New Mexico public post-secondary educational institution;

(4) award amounts shall not exceed six thousand dollars (\$6,000) per year and may be modified based upon funding availability or other special circumstances; and

(5) the total amount of awards made to any one teacher shall not exceed the total teacher education indebtedness remaining for that teacher.

B. The following teacher education debts are not eligible for repayment pursuant to the Teacher Loan Repayment Act:

(1) amounts incurred as a result of participation in state loan-for-service programs or other state programs whose purpose states that service be provided in exchange for financial assistance;

(2) scholarships that have a service component or obligation;

(3) loans from a commercial lender;

(4) personal loans from friends or relatives; and

(5) loans that exceed individual standard school expense levels.

C. Every loan repayment award shall be evidenced by a contract between the teacher and the department acting on behalf of the state. The contract shall provide for the payment by the state of a stated sum each year to the teacher's federal government lender not to exceed six thousand dollars (\$6,000) per year and shall state the obligations of the teacher under the program, including a minimum two-school-year period of service, quarterly reporting requirements and other obligations established by the department. Execution of contracts shall occur prior to the start of a school year and the two-school-year period of service starts at the execution of the contract.

D. The department shall make annual payments pursuant to contracts only after satisfactory completion of a full year of teaching as certified by the public education department. The contract of any teacher who does not complete a full year of teaching shall be voided, and the teacher shall forfeit any right to that year's payment pursuant to the contract.

E. Each contract shall be for an initial two-year period and may be extended for three additional two-year contracts. The department shall not enter into any contracts with a single teacher for more than eight years of repayment.

F. Loan repayment awards shall be in the form of payments from the teacher loan repayment fund directly to the federal government lender of a teacher who has received the award and shall be considered a payment on behalf of the teacher pursuant to the contract between the department and the teacher. A loan repayment award shall not obligate the state or the department to the teacher's federal government lender for any other payment and shall not be considered to create any privity of contract between the state or the department and the lender.

G. The department, after consulting with the public education department, shall adopt rules to implement the provisions of the Teacher Loan Repayment Act. The rules shall provide:

(1) a procedure for determining the amount of a loan that will be repaid for each year of service; and

(2) for the disbursement of loan repayment awards to a teacher's federal government lender in annual installments after completion of each qualifying full year of teaching."

Chapter 193 Section 5 Laws 2019

SECTION 5. Section 21-22H-7 NMSA 1978 (being Laws 2013, Chapter 177, Section 7) is amended to read:

"21-22H-7. TEACHER LOAN REPAYMENT FUND CREATED--METHOD OF PAYMENT.--The "teacher loan repayment fund" is created in the state treasury. All money appropriated for the teacher loan repayment program shall be credited to the fund, and any repayment of awards and interest received by the department shall be credited to the fund. Income from the fund shall be credited to the fund, and balances in the fund shall not revert to any other fund. Money in the fund is subject to appropriation by the legislature to the department for making loan repayment awards pursuant to the Teacher Loan Repayment Act. All payments for loan repayment awards shall be made upon vouchers signed by the designated representative of the department and upon a warrant issued by the secretary of finance and administration."

Chapter 193 Section 6 Laws 2019

SECTION 6. Section 21-22H-9 NMSA 1978 (being Laws 2013, Chapter 177, Section 9) is amended to read:

"21-22H-9. REPORTS.--Prior to each regular session of the legislature, the department shall make annual reports to the governor and the legislature of the department's activities pertaining to the Teacher Loan Repayment Act; the loan repayment awards granted; the names and addresses of teachers who received loan repayment awards; the names and locations of the positions filled by those teachers; the name of each teacher who received a loan repayment award who is not serving in a designated high-need teacher position, the amount owed on each teacher's loan and the amount paid on each teacher's loan by loan repayment awards; and the number of teachers whose contracts were voided because they did not complete a full year of teaching."

Chapter 193 Section 7 Laws 2019

SECTION 7. A new section of Chapter 21 NMSA 1978 is enacted to read:

"SHORT TITLE.--Sections 7 through 14 of this act may be cited as the "Teacher Preparation Affordability Act"."

Chapter 193 Section 8 Laws 2019

SECTION 8. A new section of Chapter 21 NMSA 1978 is enacted to read:

"DEFINITIONS.--As used in the Teacher Preparation Affordability Act:

- A. "department" means the higher education department;
- B. "eligible student" means a New Mexico resident who is enrolled or enrolling at least half-time in an accredited public education department-approved teacher preparation program at a New Mexico public post-secondary educational institution or tribal college at any time later than one hundred twenty days following high school graduation or the award of a high school equivalency credential and who is pursuing a teaching degree;
- C. "scholarship" means a teacher preparation affordability scholarship; and
- D. "tribal college" means a tribally, federally or congressionally chartered tribal post-secondary educational institution located in New Mexico that is accredited by the north central association of colleges and schools."

Chapter 193 Section 9 Laws 2019

SECTION 9. A new section of Chapter 21 NMSA 1978 is enacted to read:

"CONDITIONS FOR ELIGIBILITY.--A scholarship may be awarded to an eligible student who:

- A. has not earned appropriate educational credentials to be licensed as a teacher by the public education department;
- B. has demonstrated financial need consistent with the criteria promulgated by the department; and
- C. has complied with other rules promulgated by the department to carry out the provisions of the Teacher Preparation Affordability Act."

Chapter 193 Section 10 Laws 2019

SECTION 10. A new section of Chapter 21 NMSA 1978 is enacted to read:

"SCHOLARSHIP AUTHORIZED--ADMINISTRATION--PREFERENCE IN SCHOLARSHIP AWARDS.--

A. The department shall administer the Teacher Preparation Affordability Act and shall promulgate rules to carry out the provisions of that act.

B. Scholarships shall be awarded to qualified eligible students. Qualifications shall be determined by rule of the department.

C. The department shall allocate money to public post-secondary educational institutions and tribal colleges based on a student need formula calculated according to income reported on the free application for federal student aid, on the number of students enrolled in each public education department-approved teacher preparation program at a New Mexico public post-secondary educational institution or tribal college and on the percentage of the teacher preparation program's students classified as returning adults who are otherwise ineligible for state financial aid.

D. Public post-secondary educational institutions and tribal colleges shall make awards to qualifying eligible students based on financial need in an amount not to exceed six thousand dollars (\$6,000) per year for not more than five years as determined by rule of the department.

E. Public post-secondary educational institutions and tribal colleges shall make awards first to qualifying eligible students who:

(1) are English language learners;

(2) are minority students; or

(3) have declared intent to teach in a high-need teacher position as defined by the public education department.

F. After scholarships have been awarded to eligible students pursuant to Subsection E of this section, a public post-secondary educational institution or tribal college shall award scholarships to other eligible students as determined by department rule.

G. Money for the scholarship shall be placed in an account at the public post-secondary educational institution or tribal college in the name of the eligible student,

and the money may be drawn upon to pay educational expenses charged by the institution, including tuition, fees, books and course supplies, and living expenses."

Chapter 193 Section 11 Laws 2019

SECTION 11. A new section of Chapter 21 NMSA 1978 is enacted to read:

"DURATION OF SCHOLARSHIP.--Each scholarship is for a period of one semester. A scholarship may be renewed as long as the eligible student continues to meet the conditions of eligibility, until the eligible student graduates from a public post-secondary educational institution or tribal college."

Chapter 193 Section 12 Laws 2019

SECTION 12. A new section of Chapter 21 NMSA 1978 is enacted to read:

"TERMINATION OF SCHOLARSHIP.--A scholarship is terminated upon occurrence of one or more of the following:

A. the eligible student withdraws from the public post-secondary educational institution or tribal college or from the teacher preparation program or the eligible student fails to remain at least a half-time student;

B. the eligible student fails to achieve satisfactory academic progress; or

C. the eligible student is in substantial noncompliance with the Teacher Preparation Affordability Act or the rules promulgated pursuant to that act."

Chapter 193 Section 13 Laws 2019

SECTION 13. A new section of Chapter 21 NMSA 1978 is enacted to read:

"FUND CREATED.--The "teacher preparation affordability scholarship fund" is created as a nonreverting fund in the state treasury that consists of income from investment of the fund; specified distributions; appropriations; and unspecified gifts, grants and donations to the fund. Money in the fund is subject to appropriation by the legislature to the department for scholarship awards as provided in the Teacher Preparation Affordability Act. Expenditures from the fund shall be by warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary of higher education or the secretary's authorized representative." _____

H AFC/House Bill 275, aa

Approved April 3, 2019

LAWS 2019, CHAPTER 194

AN ACT

RELATING TO CORRECTIONS; ENACTING THE RESTRICTED HOUSING ACT;
PROVIDING RESTRICTIONS ON THE USE OF RESTRICTED HOUSING;
REQUIRING REPORTING.

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

Chapter 194 Section 1 Laws 2019

SECTION 1. SHORT TITLE.--This act may be cited as the "Restricted Housing Act".

Chapter 194 Section 2 Laws 2019

SECTION 2. DEFINITIONS.--As used in the Restricted Housing Act:

A. "correctional facility" means a jail, prison or other detention facility that is used for the confinement of adult or juvenile persons, whether operated by the state or a political subdivision of the state or a private contractor on behalf of the state or a political subdivision of the state;

B. "inmate" means an adult or juvenile person who is under sentence to or confined in a correctional facility;

C. "restricted housing", whether instituted pursuant to disciplinary, administrative, inmate classification or other action, means confinement of an inmate locked in a cell or similar living quarters in a correctional facility for twenty-two or more hours each day without daily, meaningful and sustained human interaction; and

D. "serious mental disability" means:

(1) a serious mental illness, including schizophrenia, psychosis, major depression and bipolar disorder; or

(2) having a significant functional impairment along with a brain injury, organic brain syndrome or intellectual disability.

Chapter 194 Section 3 Laws 2019

SECTION 3. RESTRICTIONS ON THE USE OF RESTRICTED HOUSING.--

A. An inmate who is younger than eighteen years of age shall not be placed in restricted housing.

B. An inmate who is known to be pregnant shall not be placed in restricted housing.

Chapter 194 Section 4 Laws 2019

SECTION 4. RESTRICTIONS ON THE USE OF RESTRICTED HOUSING-- INMATE WITH SERIOUS MENTAL DISABILITY.--

A. An inmate with a serious mental disability shall not be placed in restricted housing; provided that:

(1) the inmate is:

(a) known by the correctional facility to have been diagnosed by a qualified health care professional as having a serious mental disability; or

(b) clearly exhibiting self-injurious behavior, grossly abnormal and irrational behaviors, delusions or suicidal behavior unless a qualified health care professional has determined that the behavior is unrelated to a serious mental disability;

(2) the restriction on placement in restricted housing shall not apply during the first five consecutive days of the inmate's confinement in the correctional facility;

(3) if a warden, jail administrator or person in charge of a correctional facility finds that an inmate with a serious mental disability needs to be placed in restricted housing to prevent an imminent threat of physical harm to the inmate or another person, the inmate may be placed in restricted housing for no longer than forty-eight hours, and the warden, jail administrator or other person in charge of a correctional facility shall:

(a) make a written record of the facts and circumstances that necessitated the inmate's placement in restricted housing;

(b) prepare a written action plan describing how the facility will transition the inmate out of restricted housing at the earliest opportunity; and

(c) notify the facility's health services administrator in writing that the inmate was placed in restricted housing in accordance with this subsection; and

(4) if, after fulfilling the requirements of Paragraph (3) of this subsection, a warden, jail administrator or person in charge of a correctional facility finds that an inmate with a serious mental disability poses an ongoing and realistic threat of physical harm to another person, the inmate may be placed in restricted housing for longer than forty-eight consecutive hours only if:

(a) other methods for ensuring the safety of the threatened person have been considered and determined insufficient, impractical or inappropriate;

(b) the inmate is placed in restricted housing for the shortest time period and under the least restrictive conditions practicable;

(c) the correctional facility provides regular access to medical and mental health care for the inmate; and

(d) the warden, administrator or person in charge of the correctional facility: 1) makes a written record of the facts and circumstances that necessitated the inmate's continued placement in restricted housing; 2) makes a written action plan describing how the correctional facility will transition the inmate out of restricted housing at the earliest opportunity, including a projected time line; and 3) notifies the correctional facility's health services administrator in writing that the inmate continues to be placed in restricted housing in accordance with this section.

B. For purposes of this section, "qualified health care professional" means a physician, licensed psychologist, prescribing psychologist, certified nurse practitioner, clinical nurse specialist with a specialty in mental health or a physician assistant with a specialty in mental health.

Chapter 194 Section 5 Laws 2019

SECTION 5. CORRECTIONAL FACILITIES--TRANSPARENCY AND REPORTING.--

A. Every three months, every correctional facility shall:

(1) produce a report that includes:

(a) the age, gender and ethnicity of every inmate who was placed in restricted housing during the previous three months, including every inmate who is in restricted housing at the time the report is produced;

(b) the reason restricted housing was instituted for each inmate listed in the report; and

(c) the dates on which each inmate was placed in and released from restricted housing during the previous three months; and

(2) submit a report prepared in accordance with this subsection to the:

(a) legislature, if the correctional facility is a prison; and

(b) board of county commissioners of the county in which the correctional facility is located, if the facility is a jail.

B. The corrections department shall post to its public website every report produced pursuant to Subsection A of this section.

Chapter 194 Section 6 Laws 2019

SECTION 6. PRIVATE CORRECTIONAL FACILITIES--ANTICORRUPTION AND REPORTING.--Every three months, every private correctional facility shall submit to the board of county commissioners of the county in which the private correctional facility is located and to the legislature a report of all monetary settlements that were paid to inmates, former inmates or inmates' estates as a result of lawsuits filed by the inmates, former inmates or inmates' estates against the private correctional facility or its employees related to the use of restricted confinement or any other reason.

Chapter 194 Section 7 Laws 2019

SECTION 7. REPORTS FILED WITH LEGISLATIVE LIBRARY.--On the date that a report is submitted to a board of county commissioners pursuant to Section 5 or 6 of the Restricted Housing Act, a copy of the report shall be submitted electronically to the legislative council service library.

Chapter 194 Section 8 Laws 2019

SECTION 8. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1 through 3 and 5 through 7 of this act is July 1, 2019.

B. The effective date of the provisions of Section 4 of this act is July 1, 2020.

HFL/House Bill 364

Approved April 3, 2019

LAWS 2019, CHAPTER 195

AN ACT

RELATING TO CHILD SAFETY; REQUIRING THE PUBLIC EDUCATION DEPARTMENT AND THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT TO WORK TOGETHER TO DEVELOP A SYSTEM TO TRACK CHILDREN MOVING BETWEEN PUBLIC SCHOOLS AND CHILDREN, YOUTH AND FAMILIES DEPARTMENT SERVICES; REQUIRING THE SYSTEM TO BE USABLE BY BOTH DEPARTMENTS AND PUBLIC SCHOOLS TO TRACK CHILDREN UNDER THE AGE OF EIGHTEEN; CREATING A TASK FORCE; REQUIRING THE EXPERTISE OF THE DEPARTMENT OF INFORMATION TECHNOLOGY; CLARIFYING THAT THE STUDENT IDENTIFICATION NUMBER ASSIGNED TO EACH STUDENT REQUIRED IN THE PUBLIC SCHOOL CODE IS A UNIQUE NUMBER AND SHALL NEVER BE USED FOR ANOTHER STUDENT.

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

Chapter 195 Section 1 Laws 2019

SECTION 1. A new section of the Public School Code is enacted to read:

"STUDENT IDENTIFICATION NUMBER UNIQUE TO THAT STUDENT.--The student identification number required pursuant to Section 22-2C-11 NMSA 1978 shall be unique to each student and shall not be used or assigned to another student. That number shall be on all forms, student records, transcripts and databases in which a student is identified by name. A student shall be assigned only one identification number. It shall be the responsibility of every school district and charter school in the

state to determine if the student has ever enrolled previously in a public school in New Mexico, and school districts and charter schools shall use the original student identification number."

Chapter 195 Section 2 Laws 2019

SECTION 2. TEMPORARY PROVISIONS--COMPATIBLE TRACKING SYSTEM BETWEEN PUBLIC SCHOOLS, THE PUBLIC EDUCATION DEPARTMENT AND THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT--TASK FORCE--MEMBERSHIP--DIRECTIVE--DEPARTMENT OF INFORMATION TECHNOLOGY ASSISTANCE.--

A. The public education department and the children, youth and families department shall develop a compatible student-child tracking system that is usable among public schools, the public education department and the children, youth and families department and local offices. The departments shall consider if there are other users that should be included in the system.

B. The departments shall convene a task force of public school personnel; school and children, youth and families department social workers; juvenile probation and parole personnel; children's court judges or their designees; and child advocates. The task force, with the assistance of systems analysts from the two departments and the department of information technology, shall develop the tracking system. Task force members shall be appointed by the secretaries of public education and children, youth and families.

C. The task force shall work to develop a tracking system that:

(1) provides for real-time reporting; and

(2) allows for the cross-checking of the student identification number assigned by a New Mexico public school pursuant to Section 22-2C-11 NMSA 1978, the uniform case number required by Section 32A-20-1 NMSA 1978 for neglected and abused children and any other identification numbers used by the children, youth and families department for other children it serves.

D. The task force shall report to the legislative education study committee with its design and recommendations for implementation of the tracking system by December 1, 2019. _____

House Bill 447

Approved April 3, 2019

LAWS 2019, CHAPTER 196

AN ACT

RELATING TO PUBLIC UTILITIES; REQUIRING A PUBLIC UTILITY TO SUBMIT AN APPLICATION TO THE PUBLIC REGULATION COMMISSION TO EXPAND THE USE OF ELECTRICITY TO POWER VEHICLES AND OTHER EQUIPMENT THAT TRANSPORT GOODS OR PEOPLE; PROVIDING THAT A PERSON WHO ENGAGES IN THE RETAIL DISTRIBUTION OF ELECTRICITY FOR VEHICULAR FUEL IS NOT A PUBLIC UTILITY.

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

Chapter 196 Section 1 Laws 2019

SECTION 1. A new section of the Public Utility Act is enacted to read:

"APPLICATIONS TO EXPAND TRANSPORTATION ELECTRIFICATION.--

A. No later than January 1, 2021, and thereafter upon request by the commission, but no more frequently than every two years, a public utility shall file with the commission an application to expand transportation electrification. Applications may include investments or incentives to facilitate the deployment of charging infrastructure and associated electrical equipment that support transportation electrification, including electrification of public transit and publicly owned vehicle fleets, rate designs or programs that encourage charging that supports the operation of the electric grid and customer education and outreach programs that increase awareness of such programs and of the benefits of transportation electrification.

B. When considering applications for approval, the commission shall consider whether the investments, incentives, programs and expenditures are:

(1) reasonably expected to improve the public utility's electrical system efficiency, the integration of variable resources, operational flexibility and system utilization during off-peak hours;

(2) reasonably expected to increase access to the use of electricity as a transportation fuel, with consideration given for increasing such access to low-income users and users in underserved communities;

(3) designed to contribute to the reduction of air pollution and greenhouse gases;

(4) reasonably expected to support increased consumer choices in electric vehicle charging and related infrastructure and services; allow for private capital investments and skilled jobs in related services; and provide customer information and education;

(5) reasonable and prudent, as determined by the commission; and

(6) transparent, incorporating public reporting requirements to inform program design and commission policy.

C. A public utility that undertakes measures to expand transportation electrification pursuant to this section shall have the option of recovering the public utility's reasonable costs for the expansion through a commission-approved tariff rider or base rate or both.

D. The provisions of this section do not apply to a distribution cooperative organized pursuant to the Rural Electric Cooperative Act.

E. As used in this section:

(1) "low-income" means annual household adjusted gross income, as defined in the Income Tax Act, of equal to or less than two hundred percent of the federal poverty level;

(2) "transportation electrification" means the use of electricity from external sources to power all or part of passenger vehicles, trucks, buses, trains, boats or other equipment that transport goods or people; and

(3) "underserved community" means an area in this state, including a county, municipality or neighborhood, or subset of such area, where the median income of the area is low-income."

Chapter 196 Section 2 Laws 2019

SECTION 2. Section 62-3-4 NMSA 1978 (being Laws 1967, Chapter 96, Section 4, as amended) is amended to read:

"62-3-4. LIMITATIONS AND EXCEPTIONS.--

A. The term "public utility" or "utility", when used in the Public Utility Act, shall not include:

(1) any person not otherwise a public utility who furnishes the service or commodity only to that person or that person's employees or tenants, when such service or commodity is not resold to or used by others, or who engages in the retail distribution of natural gas or electricity for vehicular fuel; or

(2) a corporation engaged in the business of operating a railroad and that does not primarily engage in the business of selling the service or commodity but that only incidentally to its railroad business or occasionally furnishes the service or commodity to another under a separate limited or revocable agreement or sells to a utility or municipality for resale, or that sells the service or commodity to another railroad, the state or federal government or a governmental agency, or that sells or gives for a consideration under revocable agreements or permits quantities of water out of any surplus of water supply acquired and held by it primarily for railroad purposes; and such railroad corporation shall not be subject to any of the provisions of the Public Utility Act.

B. The business of any public utility other than of the character defined in Subsection G of Section 62-3-3 NMSA 1978 is not subject to provisions of the Public Utility Act."

House Bill 521

Approved April 3, 2019

LAWS 2019, CHAPTER 197

AN ACT

RELATING TO NATURAL RESOURCES; ENACTING THE PRODUCED WATER ACT;
ESTABLISHING CONTROL AND RESPONSIBILITY FOR PRODUCED WATER;
ALLOWING THE USE OF TREATED OR RECYCLED PRODUCED WATER;
DECLARING CERTAIN CONTRACT PROVISIONS RELATING TO PRODUCED

WATER VOID AGAINST PUBLIC POLICY; AMENDING AND ADDING DEFINITIONS; AMENDING THE DUTIES OF THE OIL CONSERVATION DIVISION OF THE ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT AND THE WATER QUALITY CONTROL COMMISSION; MAKING CONFORMING TECHNICAL CHANGES; AMENDING THE OIL AND GAS ACT REGARDING VIOLATIONS; PROVIDING FOR PENALTIES; REQUIRING ANNUAL REPORTS; AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Chapter 197 Section 1 Laws 2019

SECTION 1. A new section of Chapter 70 NMSA 1978 is enacted to read:

"SHORT TITLE.--Sections 1 through 5 of this act may be cited as the "Produced Water Act"."

Chapter 197 Section 2 Laws 2019

SECTION 2. A new section of Chapter 70 NMSA 1978 is enacted to read:

"DEFINITIONS.--As used in the Produced Water Act:

A. "operator" means a person authorized by the oil conservation division of the energy, minerals and natural resources department to operate a unit for an oil or gas well or other oil or gas facility;

B. "produced water" means a fluid that is an incidental byproduct from drilling for or the production of oil and gas;

C. "recycled water" or "recycled produced water" means produced water that is reconditioned by a recycling facility permitted by the oil conservation division of the energy, minerals and natural resources department; and

D. "treated water" or "treated produced water" means produced water that is reconditioned by mechanical or chemical processes into a reusable form."

Chapter 197 Section 3 Laws 2019

SECTION 3. A new section of Chapter 70 NMSA 1978 is enacted to read:

"JURISDICTION.--It is the jurisdiction of:

A. the oil conservation division of the energy, minerals and natural resources department to regulate produced water as provided in the Oil and Gas Act; and

B. the water quality control commission to regulate produced water as provided in the Water Quality Act."

Chapter 197 Section 4 Laws 2019

SECTION 4. A new section of Chapter 70 NMSA 1978 is enacted to read:

"PRODUCED WATER--TRANSFERRED FOR TREATMENT--SUBSEQUENT USE.--

A. Unless otherwise provided by law, a contract, bill of sale or other legally binding document:

(1) all produced water that is produced from an oil or gas well is the responsibility of and under the control of the working interest owners and operator of that oil or gas well. The working interest owners and operator shall have a possessory interest in the produced water, including the right to take possession of the produced water and to use, handle, dispose of, transfer, sell, convey, transport, recycle, reuse or treat the produced water and to obtain proceeds for any such uses. The operator of the oil and gas well that the produced water is produced from shall handle the use, disposition, transfer, sale, conveyance, transport, recycling, reuse or treatment of the produced water as a reasonably prudent operator;

(2) when produced water is transferred, sold or conveyed to another operator, transporter, pipeline, midstream company, plant, processing facility, refinery or entity that provides recycling or treatment services for produced water, the transferee shall have control of and responsibility for the produced water until the water is transferred to another operator, transporter, pipeline, midstream company, plant, processing facility, refinery or recycling or treatment facility. A transferee shall have a possessory interest in the produced water, including the right to use, possess, handle the disposition of, transfer, sell, convey, transport, recycle, reuse or treat the produced water and to obtain proceeds for any such uses. Upon transfer of the produced water, transferees shall be liable for the use, disposition, transfer, sale, conveyance, transport, recycling, reuse or treatment of the produced water; and

(3) when an operator of an oil or gas well or a transferee listed in Paragraph (2) of this subsection takes possession of produced water for the purpose of recycling or treating the water, the operator or transferee may transfer recycled or treated water, treated product or any byproduct to another operator, transporter,

pipeline, midstream company, plant, processing facility, refinery or entity that provides recycling or treatment services for produced water. Upon transfer, the transferee shall have control and responsibility for the produced water, recycled or treated water or treated product or byproduct. A transferee shall have a possessory interest in the produced water, recycled or treated water or treated product or byproduct, including the right to use, possess, handle disposition of, transfer, sell, convey, transport, recycle, reuse or treat the produced water, and to obtain proceeds for any such uses. Upon transfer, a transferee shall be liable for the use, disposition, transfer, sale, conveyance, transport, recycling, reuse or treatment of the produced water, recycled or treated water or treated product or byproduct.

B. Subsection A of this section only applies to transfers of produced water between an operator, transporter, pipeline, midstream company, plant, processing facility, refinery or recycling or treatment entity and shall not affect liability in an action brought by other persons for damages, including damages for personal injury, death or property damage, arising from exposure to produced water, recycled or treated water or treated product or byproduct.

C. A permit or other approval from the state engineer is not required for the disposition of produced water, recycled water or treated water. The disposition of produced water, recycled water or treated water, including disposition by use, is neither an appropriation of water for beneficial use under Chapter 72 NMSA 1978 nor a waste of water, and no water right shall be established by the disposition of produced water, recycled water or treated water.

D. For uses regulated by the water quality control commission pursuant to the Water Quality Act, a person shall obtain a permit from the department of environment before using the produced water, the recycled or treated water or treated product or any byproduct of the produced water."

Chapter 197 Section 5 Laws 2019

SECTION 5. A new section of Chapter 70 NMSA 1978 is enacted to read:

"VOID AS AGAINST PUBLIC POLICY--THROUGHOUT FEES--LIMITATIONS ON USE OF RECYCLED OR TREATED PRODUCED WATER.--A provision of an agreement, covenant or promise, foreign or domestic, between private parties, entered into on or after July 1, 2019 is against public policy and void to the extent of it:

A. allows a private party to charge a tariff or fee for the movement or transport of produced water, treated water or recycled water on surface lands owned by the state, if the agreement does not provide for transportation services;

B. requires fresh water resources to be purchased for oil and gas operations when produced water, treated water or recycled water is available and able to be used and the operator elects to use that produced water, treated water or recycled water for the oil and gas operations; or

C. relates to the purchase of water and precludes an operator from purchasing or using produced water, treated water or recycled water in the operator's oil and gas operations when such water is available for the operations."

Chapter 197 Section 6 Laws 2019

SECTION 6. Section 70-2-12 NMSA 1978 (being Laws 1978, Chapter 71, Section 1, as amended) is amended to read:

"70-2-12. ENUMERATION OF POWERS.--

A. The oil conservation division of the energy, minerals and natural resources department may:

- (1) collect data;
- (2) make investigations and inspections;
- (3) examine properties, leases, papers, books and records;
- (4) examine, check, test and gauge oil and gas wells, tanks, plants, refineries and all means and modes of transportation and equipment;
- (5) hold hearings;
- (6) provide for the keeping of records and the making of reports and for the checking of the accuracy of the records and reports;
- (7) limit and prorate production of crude petroleum oil or natural gas or both as provided in the Oil and Gas Act; and
- (8) require either generally or in particular areas certificates of clearance or tenders in connection with the transportation of crude petroleum oil or natural gas or any products of either or both oil and products or both natural gas and products.

B. The oil conservation division may make rules and orders for the purposes and with respect to the subject matter stated in this subsection:

(1) to require dry or abandoned wells to be plugged in a way so as to confine the crude petroleum oil, natural gas or water in the strata in which it is found and to prevent it from escaping into other strata; pursuant to Section 70-2-14 NMSA 1978, the division shall require financial assurance conditioned for the performance of the rules;

(2) to prevent crude petroleum oil, natural gas or water from escaping from strata in which it is found into other strata;

(3) to require reports showing locations of all oil or gas wells and for the filing of logs and drilling records or reports;

(4) to prevent the drowning by water of any stratum or part thereof capable of producing oil or gas or both oil and gas in paying quantities and to prevent the premature and irregular encroachment of water or any other kind of water encroachment that reduces or tends to reduce the total ultimate recovery of crude petroleum oil or gas or both oil and gas from any pool;

(5) to prevent fires;

(6) to prevent "blow-ups" and "caving" in the sense that the conditions indicated by such terms are generally understood in the oil and gas business;

(7) to require wells to be drilled, operated and produced in such manner as to prevent injury to neighboring leases or properties;

(8) to identify the ownership of oil or gas producing leases, properties, wells, tanks, refineries, pipelines, plants, structures and all transportation equipment and facilities;

(9) to require the operation of wells with efficient gas-oil ratios and to fix such ratios;

(10) to fix the spacing of wells;

(11) to determine whether a particular well or pool is a gas or oil well or a gas or oil pool, as the case may be, and from time to time to classify and reclassify wells and pools accordingly;

(12) to determine the limits of any pool producing crude petroleum oil or natural gas or both and from time to time redetermine the limits;

(13) to regulate the methods and devices employed for storage in this state of oil or natural gas or any product of either, including subsurface storage;

(14) to permit the injection of natural gas or of any other substance into any pool in this state for the purpose of repressuring, cycling, pressure maintenance, secondary or any other enhanced recovery operations;

(15) to regulate the disposition, handling, transport, storage, recycling, treatment and disposal of produced water during, or for reuse in, the exploration, drilling, production, treatment or refinement of oil or gas, including disposal by injection pursuant to authority delegated under the federal Safe Drinking Water Act, in a manner that protects public health, the environment and fresh water resources;

(16) to determine the limits of any area containing commercial potash deposits and from time to time redetermine the limits;

(17) to regulate and, where necessary, prohibit drilling or producing operations for oil or gas within any area containing commercial deposits of potash where the operations would have the effect unduly to reduce the total quantity of the commercial deposits of potash that may reasonably be recovered in commercial quantities or where the operations would interfere unduly with the orderly commercial development of the potash deposits;

(18) to spend the oil and gas reclamation fund and do all acts necessary and proper to plug dry and abandoned oil and gas wells and to restore and remediate abandoned well sites and associated production facilities in accordance with the provisions of the Oil and Gas Act, the rules adopted under that act and the Procurement Code, including disposing of salvageable equipment and material removed from oil and gas wells being plugged by the state;

(19) to make well price category determinations pursuant to the provisions of the federal Natural Gas Policy Act of 1978 or any successor act and, by regulation, to adopt fees for such determinations, which fees shall not exceed twenty-five dollars (\$25.00) per filing. Such fees shall be credited to the account of the oil conservation division by the state treasurer and may be expended as authorized by the legislature;

(20) to regulate the construction and operation of oil treating plants and to require the posting of bonds for the reclamation of treating plant sites after cessation of operations;

(21) to regulate the disposition of nondomestic wastes resulting from the exploration, development, production or storage of crude oil or natural gas to protect public health and the environment; and

(22) to regulate the disposition of nondomestic wastes resulting from the oil field service industry, the transportation of crude oil or natural gas, the treatment of natural gas or the refinement of crude oil to protect public health and the environment, including administering the Water Quality Act as provided in Subsection E of Section 74-6-4 NMSA 1978."

Chapter 197 Section 7 Laws 2019

SECTION 7. Section 70-2-31 NMSA 1978 (being Laws 1981, Chapter 362, Section 1) is amended to read:

"70-2-31. VIOLATIONS OF THE OIL AND GAS ACT--PENALTIES.--

A. Whenever the division determines that a person violated or is violating the Oil and Gas Act or any provision of any rule, order, permit or authorization issued pursuant to that act, the division may seek compliance and civil penalties by:

(1) issuing a notice of violation;

(2) commencing a civil action in district court for appropriate relief, including injunctive relief; or

(3) issuing a temporary cessation order if the division determines that the violation is causing or will cause an imminent danger to public health or safety or a significant imminent environmental harm. The cessation order will remain in effect until the earlier of when the violation is abated or thirty days unless a hearing is held before the division and a new order is issued.

B. A notice of violation issued pursuant to Paragraph (1) of Subsection A of this section shall state with reasonable specificity the nature of the violation, shall require compliance immediately or within a specified time period, shall provide notice of the availability of an informal review and the date of a hearing before the division and shall provide notice of potential sanctions, including assessing a penalty, suspending, canceling or terminating a permit or authorization, shutting in a well and plugging and abandonment of a well and forfeiting financial assurance pursuant to Section 70-2-14 NMSA 1978.

C. If the notice of violation is not resolved informally within thirty days after service of the notice, the division shall hold a hearing and determine whether the violation should be upheld and whether any sanctions, including civil penalties, shall be assessed. In assessing a penalty authorized by this section, the division shall take into account the seriousness of the violation, any good faith efforts to comply with the applicable requirements, any history of noncompliance under the Oil and Gas Act and other relevant factors. When a decision is rendered by the division after a hearing, any party of record adversely affected shall have the right to have the matter heard de novo before the commission pursuant to Section 70-2-13 NMSA 1978.

D. Any civil penalty assessed by a court or by the division or commission pursuant to this section may not exceed two thousand five hundred dollars (\$2,500) per day of noncompliance for each violation unless the violation presents a risk either to the health or safety of the public or of causing significant environmental harm, or unless the noncompliance continues beyond a time specified in the notice of violation or order issued by the division, commission or court, whereupon the civil penalty may not exceed ten thousand dollars (\$10,000) per day of noncompliance for each violation. No penalty assessed by the division or commission after a hearing may exceed two hundred thousand dollars (\$200,000); provided that such limitation does not apply to penalties assessed by a court.

E. The commission shall make rules, pursuant to Section 70-2-12.2 NMSA 1978, providing procedures for the issuance of notices of violations, the assessment of penalties and the conduct of informal proceedings and hearings pursuant to this section.

F. It is unlawful, subject to a criminal penalty of a fine of not more than five thousand dollars (\$5,000) or imprisonment for a term not exceeding three years or both such fine and imprisonment, for any person to knowingly and willfully:

(1) violate any provision of the Oil and Gas Act or any rule, regulation or order of the commission or the division issued pursuant to that act; or

(2) do any of the following for the purpose of evading or violating the Oil and Gas Act or any rule, regulation or order of the commission or the division issued pursuant to that act:

(a) make any false entry or statement in a report required by the Oil and Gas Act or by any rule, regulation or order of the commission or division issued pursuant to that act;

(b) make or cause to be made any false entry in any record, account or memorandum required by the Oil and Gas Act or by any rule, regulation or order of the commission or division issued pursuant to that act;

(c) omit or cause to be omitted from any such record, account or memorandum full, true and correct entries; or

(d) remove from this state or destroy, mutilate, alter or falsify any such record, account or memorandum.

G. For the purposes of Subsection F of this section, each day of violation shall constitute a separate offense.

H. Any person who knowingly and willfully procures, counsels, aids or abets the commission of any act described in Subsection A or F of this section shall be subject to the same penalties as are prescribed in Subsection D or F of this section."

Chapter 197 Section 8 Laws 2019

SECTION 8. Section 70-2-33 NMSA 1978 (being Laws 1935, Chapter 72, Section 24, as amended) is amended to read:

"70-2-33. DEFINITIONS.--As used in the Oil and Gas Act:

A. "person" means:

(1) any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate or other entity; or

(2) the United States or any agency or instrumentality thereof or the state or any political subdivision thereof;

B. "pool" means an underground reservoir containing a common accumulation of crude petroleum oil or natural gas or both. Each zone of a general structure, which zone is completely separate from any other zone in the structure, is covered by the word "pool" as used in the Oil and Gas Act. "Pool" is synonymous with "common source of supply" and with "common reservoir";

C. "field" means the general area that is underlaid or appears to be underlaid by at least one pool and also includes the underground reservoir or reservoirs containing the crude petroleum oil or natural gas or both. The words "field" and "pool" mean the

same thing when only one underground reservoir is involved; however, "field", unlike "pool", may relate to two or more pools;

D. "product" means any commodity or thing made or manufactured from crude petroleum oil or natural gas and all derivatives of crude petroleum oil or natural gas, including refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, treated crude oil, fuel oil, residuum, gas oil, naphtha, distillate, gasoline, kerosene, benzine, wash oil, waste oil, lubricating oil and blends or mixtures of crude petroleum oil or natural gas or any derivative thereof;

E. "owner" means the person who has the right to drill into and to produce from any pool and to appropriate the production either for the person or for the person and another;

F. "producer" means the owner of a well capable of producing oil or natural gas or both in paying quantities;

G. "gas transportation facility" means a pipeline in operation serving gas wells for the transportation of natural gas or some other device or equipment in like operation whereby natural gas produced from gas wells connected therewith can be transported or used for consumption;

H. "correlative rights" means the opportunity afforded, so far as it is practicable to do so, to the owner of each property in a pool to produce without waste the owner's just and equitable share of the oil or gas or both in the pool, being an amount, so far as can be practicably determined and so far as can be practicably obtained without waste, substantially in the proportion that the quantity of recoverable oil or gas or both under the property bears to the total recoverable oil or gas or both in the pool and, for such purpose, to use the owner's just and equitable share of the reservoir energy;

I. "potash" means the naturally occurring bedded deposits of the salts of the element potassium;

J. "casinghead gas" means any gas or vapor or both indigenous to an oil stratum and produced from such stratum with oil, including any residue gas remaining after the processing of casinghead gas to remove its liquid components;

K. "produced water" means a fluid that is an incidental byproduct from drilling for or the production of oil and gas;

L. "commission" means the oil conservation commission; and

M. "division" means the oil conservation division of the energy, minerals and natural resources department."

Chapter 197 Section 9 Laws 2019

SECTION 9. A new section of the Oil and Gas Act is enacted to read:

"REPORTING REQUIREMENT.--No later than October 1 of each year, the division shall report to the appropriate interim committee of the legislature and to the governor and shall post on the agency website:

A. the number of notices of violation that the division issued pursuant to the Oil and Gas Act during the previous fiscal year;

B. the total amount of penalties collected by the division for violations pursuant to the Oil and Gas Act during the previous fiscal year;

C. for each penalty collected, the following information:

and (1) the name of the person penalized and the location of the violation;

and (2) the nature of the violation and the calculation of the penalty collected;

D. the number and nature of lawsuits filed for a violation of the Oil and Gas Act, including the names of defendants, the nature of the violation and the outcome of the litigation."

Chapter 197 Section 10 Laws 2019

SECTION 10. Section 74-6-2 NMSA 1978 (being Laws 1967, Chapter 190, Section 2, as amended) is amended to read:

"74-6-2. DEFINITIONS.--As used in the Water Quality Act:

A. "gray water" means untreated household wastewater that has not come in contact with toilet waste and includes wastewater from bathtubs, showers, washbasins, clothes washing machines and laundry tubs, but does not include wastewater from kitchen sinks or dishwashers or laundry water from the washing of material soiled with human excreta, such as diapers;

B. "water contaminant" means any substance that could alter, if discharged or spilled, the physical, chemical, biological or radiological qualities of water. "Water contaminant" does not mean source, special nuclear or byproduct material as defined by the federal Atomic Energy Act of 1954;

C. "water pollution" means introducing or permitting the introduction into water, either directly or indirectly, of one or more water contaminants in such quantity and of such duration as may with reasonable probability injure human health, animal or plant life or property, or to unreasonably interfere with the public welfare or the use of property;

D. "wastes" means sewage, industrial wastes or any other liquid, gaseous or solid substance that may pollute any waters of the state;

E. "sewer system" means pipelines, conduits, pumping stations, force mains or any other structures, devices, appurtenances or facilities used for collecting or conducting wastes to an ultimate point for treatment or disposal;

F. "treatment works" means any plant or other works used for the purpose of treating, stabilizing or holding wastes;

G. "sewerage system" means a system for disposing of wastes, either by surface or underground methods, and includes sewer systems, treatment works, disposal wells and other systems;

H. "water" means all water, including water situated wholly or partly within or bordering upon the state, whether surface or subsurface, public or private, except private waters that do not combine with other surface or subsurface water;

I. "person" means an individual or any other entity, including partnerships, corporations, associations, responsible business or association agents or officers, the state or a political subdivision of the state or any agency, department or instrumentality of the United States and any of its officers, agents or employees;

J. "commission" means the water quality control commission;

K. "constituent agency" means, as the context may require, any or all of the following agencies of the state:

(1) the department of environment;

(2) the state engineer and the interstate stream commission;

- (3) the department of game and fish;
- (4) the oil conservation commission;
- (5) the state parks division of the energy, minerals and natural resources department;
- (6) the New Mexico department of agriculture;
- (7) the soil and water conservation commission; and
- (8) the bureau of geology and mineral resources at the New Mexico institute of mining and technology;

L. "new source" means:

(1) any source, the construction of which is commenced after the publication of proposed regulations prescribing a standard of performance applicable to the source; or

(2) any existing source when modified to treat substantial additional volumes or when there is a substantial change in the character of water contaminants treated;

M. "source" means a building, structure, facility or installation from which there is or may be a discharge of water contaminants directly or indirectly into water;

N. "septage" means the residual wastes and water periodically pumped from a liquid waste treatment unit or from a holding tank for maintenance or disposal purposes;

O. "sludge" means solid, semi-solid or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility that is associated with the treatment of these wastes. "Sludge" does not mean treated effluent from a wastewater treatment plant;

P. "substantial adverse environmental impact" means that an act or omission of the violator causes harm or damage:

(1) to human beings; or

(2) that amounts to more than ten thousand dollars (\$10,000) damage or mitigation costs to flora, including agriculture crops; fish or other aquatic life; waterfowl

or other birds; livestock or wildlife or damage to their habitats; ground water or surface water; or the lands of the state;

Q. "federal act" means the Federal Water Pollution Control Act, its subsequent amendment and successor provisions;

R. "standards of performance" means any standard, effluent limitation or effluent standard adopted pursuant to the federal act or the Water Quality Act; and

S. "produced water" means a fluid that is an incidental byproduct from drilling for or the production of oil and gas."

Chapter 197 Section 11 Laws 2019

SECTION 11. Section 74-6-4 NMSA 1978 (being Laws 1967, Chapter 190, Section 4, as amended) is amended to read:

"74-6-4. DUTIES AND POWERS OF COMMISSION.--The commission:

A. may accept and supervise the administration of loans and grants from the federal government and from other sources, public or private, which loans and grants shall not be expended for other than the purposes for which provided;

B. shall adopt a comprehensive water quality management program and develop a continuing planning process;

C. shall not adopt or promulgate a standard or regulation that exceeds a grant of rulemaking authority listed in the statutory section of the Water Quality Act authorizing the standard or regulation;

D. shall adopt water quality standards for surface and ground waters of the state based on credible scientific data and other evidence appropriate under the Water Quality Act. The standards shall include narrative standards and, as appropriate, the designated uses of the waters and the water quality criteria necessary to protect such uses. The standards shall at a minimum protect the public health or welfare, enhance the quality of water and serve the purposes of the Water Quality Act. In making standards, the commission shall give weight it deems appropriate to all facts and circumstances, including the use and value of the water for water supplies, propagation of fish and wildlife, recreational purposes and agricultural, industrial and other purposes;

E. shall adopt, promulgate and publish regulations to prevent or abate water pollution in the state or in any specific geographic area, aquifer or watershed of the

state or in any part thereof, or for any class of waters, and to govern the disposal of septage and sludge and the use of sludge for various beneficial purposes. The regulations governing the disposal of septage and sludge may include the use of tracking and permitting systems or other reasonable means necessary to assure that septage and sludge are designated for disposal in, and arrive at, disposal facilities, other than facilities on the premises where the septage and sludge is generated, for which a permit or other authorization has been issued pursuant to the federal act or the Water Quality Act. Regulations may specify a standard of performance for new sources that reflects the greatest reduction in the concentration of water contaminants that the commission determines to be achievable through application of the best available demonstrated control technology, processes, operating methods or other alternatives, including where practicable a standard permitting no discharge of pollutants. In making regulations, the commission shall give weight it deems appropriate to all relevant facts and circumstances, including:

(1) the character and degree of injury to or interference with health, welfare, environment and property;

(2) the public interest, including the social and economic value of the sources of water contaminants;

(3) the technical practicability and economic reasonableness of reducing or eliminating water contaminants from the sources involved and previous experience with equipment and methods available to control the water contaminants involved;

(4) the successive uses, including domestic, commercial, industrial, pastoral, agricultural, wildlife and recreational uses;

(5) feasibility of a user or a subsequent user treating the water before a subsequent use;

(6) property rights and accustomed uses; and

(7) federal water quality requirements;

F. shall assign responsibility for administering its regulations to constituent agencies so as to assure adequate coverage and prevent duplication of effort. To this end, the commission may make such classification of waters and sources of water contaminants as will facilitate the assignment of administrative responsibilities to constituent agencies. The commission shall also hear and decide disputes between constituent agencies as to jurisdiction concerning any matters within the purpose of the Water Quality Act. In assigning responsibilities to constituent agencies, the

commission shall give priority to the primary interests of the constituent agencies. The department of environment shall provide technical services, including certification of permits pursuant to the federal act, and shall maintain a repository of the scientific data required by the Water Quality Act;

G. may enter into or authorize constituent agencies to enter into agreements with the federal government or other state governments for purposes consistent with the Water Quality Act and receive and allocate to constituent agencies funds made available to the commission;

H. may grant an individual variance from any regulation of the commission whenever it is found that compliance with the regulation will impose an unreasonable burden upon any lawful business, occupation or activity. The commission may only grant a variance conditioned upon a person effecting a particular abatement of water pollution within a reasonable period of time. Any variance shall be granted for the period of time specified by the commission. The commission shall adopt regulations specifying the procedure under which variances may be sought, which regulations shall provide for the holding of a public hearing before any variance may be granted;

I. may adopt regulations to require the filing with it or a constituent agency of proposed plans and specifications for the construction and operation of new sewer systems, treatment works or sewerage systems or extensions, modifications of or additions to new or existing sewer systems, treatment works or sewerage systems. Filing with and approval by the federal housing administration of plans for an extension to an existing or construction of a new sewerage system intended to serve a subdivision solely residential in nature shall be deemed compliance with all provisions of this subsection;

J. may adopt regulations requiring notice to it or a constituent agency of intent to introduce or allow the introduction of water contaminants into waters of the state;

K. shall specify in regulations the measures to be taken to prevent water pollution and to monitor water quality. The commission may adopt regulations for particular industries. The commission shall adopt regulations for the dairy industry and the copper industry. The commission shall consider, in addition to the factors listed in Subsection E of this section, the best available scientific information. The regulations may include variations in requirements based on site-specific factors, such as depth and distance to ground water and geological and hydrological conditions. The constituent agency shall establish an advisory committee composed of persons with knowledge and expertise particular to the industry category and other interested stakeholders to advise the constituent agency on appropriate regulations to be proposed for adoption by the commission. The regulations shall be developed and adopted in accordance with a

schedule approved by the commission. The schedule shall incorporate an opportunity for public input and stakeholder negotiations;

L. may adopt regulations establishing pretreatment standards that prohibit or control the introduction into publicly owned sewerage systems of water contaminants that are not susceptible to treatment by the treatment works or that would interfere with the operation of the treatment works;

M. shall not require a permit respecting the use of water in irrigated agriculture, except in the case of the employment of a specific practice in connection with such irrigation that documentation or actual case history has shown to be hazardous to public health or the environment or for the use of produced water;

N. shall not require a permit for applying less than two hundred fifty gallons per day of private residential gray water originating from a residence for the resident's household gardening, composting or landscape irrigation if:

(1) a constructed gray water distribution system provides for overflow into the sewer system or on-site wastewater treatment and disposal system;

(2) a gray water storage tank is covered to restrict access and to eliminate habitat for mosquitos or other vectors;

(3) a gray water system is sited outside of a floodway;

(4) gray water is vertically separated at least five feet above the ground water table;

(5) gray water pressure piping is clearly identified as a nonpotable water conduit;

(6) gray water is used on the site where it is generated and does not run off the property lines;

(7) gray water is applied in a manner that minimizes the potential for contact with people or domestic pets;

(8) ponding is prohibited, application of gray water is managed to minimize standing water on the surface and to ensure that the hydraulic capacity of the soil is not exceeded;

(9) gray water is not sprayed;

(10) gray water is not discharged to a watercourse; and

(11) gray water use within municipalities or counties complies with all applicable municipal or county ordinances enacted pursuant to Chapter 3, Article 53 NMSA 1978;

O. shall coordinate application procedures and funding cycles for loans and grants from the federal government and from other sources, public or private, with the local government division of the department of finance and administration pursuant to the New Mexico Community Assistance Act;

P. shall adopt regulations to be administered by the department of environment for the discharge, handling, transport, storage, recycling or treatment for the disposition of treated produced water, including disposition in road construction maintenance, roadway ice or dust control or other construction, or in the application of treated produced water to land, for activities unrelated to the exploration, drilling, production, treatment or refinement of oil or gas; and

Q. may adopt regulations to be administered by the department of environment for surface water discharges."

Chapter 197 Section 12 Laws 2019

SECTION 12. APPLICABILITY.--The provisions of this act apply to contracts entered into on and after July 1, 2019.

Chapter 197 Section 13 Laws 2019

SECTION 13. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1 through 6, 8, 10 and 11 of this act is July 1, 2019.

B. The effective date of the provisions of Sections 7 and 9 of this act is January 1, 2020. _____

HJC/HENRC/House Bill 546, aa

Approved April 3, 2019

LAWS 2019, CHAPTER 198

AN ACT

RELATING TO PUBLIC SCHOOLS; PROVIDING FOR A COMMUNITY SCHOOL FRAMEWORK; INCLUDING EARLY CHILDHOOD SERVICES AND VOLUNTARY PUBLIC PRE-KINDERGARTEN; ADJUSTING COMMUNITY SCHOOL APPLICATION REQUIREMENTS; CREATING A FUND.

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

Chapter 198 Section 1 Laws 2019

SECTION 1. Section 22-32-2 NMSA 1978 (being Laws 2013, Chapter 16, Section 2) is amended to read:

"22-32-2. PURPOSE.--The Community Schools Act is enacted to provide a strategy to organize the resources of a community to ensure student success while addressing the needs, including cultural and linguistic needs, of the whole student from early childhood programs and voluntary public pre-kindergarten through high school graduation; to partner federal, state and local and tribal governments with community-based organizations to improve the coordination, delivery, effectiveness and efficiency of services provided to students and families; and to coordinate resources, in order to align and leverage community resources and integrate funding streams."

Chapter 198 Section 2 Laws 2019

SECTION 2. A new section of the Community Schools Act is enacted to read:

"DEFINITIONS.--As used in the Community Schools Act:

A. "community school" means a public school that partners with families and the community, including tribal partners, nonprofit community-based organizations and local businesses, to provide well-rounded educational opportunities and supports for student success through the implementation of a community school framework;

B. "community school coordinator" means a full-time person employed by the lead partner agency who works within a community school as part of the site-based leadership team;

C. "community school framework" means a set of strategies implemented in a community school that include culturally and linguistically responsive instruction, programs and services and restorative practices that focus on building and maintaining relationships;

D. "community schools initiative" means the implementation of the community school framework to provide comprehensive or targeted support and improvement activities pursuant to the federal Every Student Succeeds Act;

E. "elementary school" may include early childhood services and pre-kindergarten;

F. "lead partner agency" means the agency that employs the community school coordinator and works collaboratively with the community school coordinator, the school principal and the site-based leadership team to assess, plan and carry out the community school framework;

G. "site-based leadership team" means an interdisciplinary, school-based leadership team that includes the school principal, the community school coordinator, teachers, other school employees, families, community partners, tribal partners, nonprofit organizations, unions and neighboring community residents that guides collaborative planning, implementation and oversight; and

H. "statewide coalition" means a group of community schools, members of their site-based leadership teams, foundations, businesses and other organizations, including unions, cultural and linguistic experts and tribal leaders, who have joined together to advocate for and support the development of community schools across New Mexico in alignment with an evidence-based community school framework."

Chapter 198 Section 3 Laws 2019

SECTION 3. A new section of the Community Schools Act is enacted to read:

"COMMUNITY SCHOOL FRAMEWORK--COMMUNITY SCHOOL COORDINATOR.--

A. The community school framework shall ensure the use of research- and evidence-based strategies and best practices that support students, families and communities in ensuring student success and shall include:

(1) integrated student supports that address non-academic and out-of-school barriers to learning through partnerships with social and health service agencies

and providers that may include school-based or school-linked health care, case management services and family stability supports coordinated by a community school coordinator and that are culturally and linguistically responsive to the needs of students and their families;

(2) expanded and enriched learning time and opportunities, including before-school, after-school, weekend, summer and year-round programs, that provide additional academic support, enrichment activities and other programs that may be offered in partnership with community-based organizations to enhance academic learning, social skills, emotional skills and life skills and are aligned with the school's curriculum;

(3) active family and community engagement that:

(a) values the experiences of people from diverse backgrounds as empowered partners in decision making and encourages partnerships with parents or caregivers to develop and promote a vision for student success;

(b) offers courses, activities and services for parents or caregivers and community members; and

(c) creates structures and opportunities for shared leadership; and

(4) collaborative leadership and practices that build a culture of professional learning, collective trust and shared responsibility using strategies that at a minimum include a site-based leadership team and a community school coordinator.

B. The community school framework may include:

(1) broader use of public school facilities in which school buildings become hubs for neighborhood events, activities, advocacy and civic life;

(2) community-based curriculum in which the content of instruction is centered on local knowledge, service learning and problem-solving around community issues; and

(3) public pre-kindergarten and other state and federally funded early childhood services that:

(a) support working families and help ensure that children come to kindergarten ready to learn;

(b) provide students and working parents or caregivers with full-day and after-school child care;

(c) provide high-quality pre-kindergarten programs that are aligned to early childhood professional and curricular early learning standards;

(d) provide health, vision, dental and other supports and services to children before school age; and

(e) include strong partnerships and alignment with early learning centers and child care providers that may include transportation or coordination to meet the broader early childhood community needs.

C. The lead partner agency shall employ a community school coordinator to:

(1) implement the community school framework;

(2) lead the needs and assets assessment;

(3) facilitate communication between partners as a stakeholder- and community-driven approach to problem-solving;

(4) guide data-informed continuous improvement;

(5) manage data collection; and

(6) align, leverage and coordinate resources for student and family success."

Chapter 198 Section 4 Laws 2019

SECTION 4. Section 22-32-3 NMSA 1978 (being Laws 2013, Chapter 16, Section 3, as amended) is amended to read:

"22-32-3. COMMUNITY SCHOOLS INITIATIVES--SCHOOL IMPROVEMENT FUNCTIONS--REQUIREMENTS.--

A. A community schools initiative may be created in any public school in the state and may be created as a consortium of public schools.

B. A community schools initiative shall include the following:

(1) a lead partner agency, including a public or private agency or community-based organization, to help coordinate programs and services;

(2) an annual assessment that is a meaningful and collaborative inquiry process to develop a comprehensive understanding of local needs and assets and of community resources that is conducted by the community school coordinator and informed by the site-based leadership team and that relates to the effective alignment and delivery of programs and services within the community school; and

(3) the community school framework.

C. A lead partner agency for more than three public schools shall provide a full-time position that supports the community school coordinators at those public schools.

D. Where early childhood services and supports are indicated as a need, a community school site-based leadership team shall prioritize strong partnerships and integration with early childhood providers located both on and off the public school campus, including transportation to meet community needs."

Chapter 198 Section 5 Laws 2019

SECTION 5. Section 22-32-4 NMSA 1978 (being Laws 2013, Chapter 16, Section 4, as amended) is amended to read:

"22-32-4. COMMUNITY SCHOOLS INITIATIVES--INDIRECT COSTS--GRANTS--SCHOOL DISTRICT, GROUP OF PUBLIC SCHOOLS OR PUBLIC SCHOOL DUTIES--REQUIREMENTS.--

A. A school district shall bear any indirect costs associated with the establishment and implementation of a community school within the school district.

B. Subject to the availability of funding, grants for community schools initiatives are available to a school district, a group of public schools or a single public school that has demonstrated partnerships with the local community to establish, operate and sustain the community school framework and that meets department eligibility requirements.

C. The department shall promulgate rules and procedures to distribute funds through a competitive grant program developed and designed in partnership with the coalition for community schools.

D. Applications for grants for community schools initiatives shall be in the form prescribed by the department to support a continuum of community school development.

E. A school district, a group of public schools or a single public school that uses funds under this section to transform a public school into an evidence-based community schools initiative shall:

(1) use rigorous, transparent, equitable and evidence-based evaluation systems to assess the effectiveness of the implementation of the community schools initiative;

(2) provide ongoing, high-quality professional development that:

(a) aligns with the community school's instructional program;

(b) facilitates effective teaching and learning; and

(c) supports the implementation of school reform strategies; and

(3) give the community school sufficient operational flexibility in programming, curriculum, staffing, budgeting and scheduling so that the community school can fully implement a comprehensive community school framework designed to focus on improving the community school climate, student academic achievement, attendance, behavior, family engagement and, for high schools, graduation rates and readiness for college or a career.

F. If a grantee receives funding to implement the community schools initiative at three or more public school sites, the school district shall employ a community schools director or manager to oversee and coordinate implementation across all of the covered school sites and ensure the employment of a community school coordinator by the lead partner agency at each school site.

G. A school district or public school may use Title 1 funds for its community schools initiative and the department may use Title 1 funds to invest in community schools statewide.

H. The department is authorized to provide planning, implementation and renewal grants to eligible applicants as follows:

(1) a one-year, one-time planning grant of up to fifty thousand dollars (\$50,000) for each eligible public school to conduct an initial school and community

needs assessment, identify community supports and services through asset mapping and establish a site-based leadership team; and

(2) annual implementation grants of one hundred fifty thousand dollars (\$150,000) each year for a period of three years for each eligible school; and

(3) at the conclusion of the initial three-year grant period, applicants may apply for a renewal grant for one year in an amount determined by the department.

I. Eligible applicants shall provide satisfactory documentation required by the department that the applicant intends to apply for an implementation grant within six months of receiving a planning grant.

J. Eligible applicants shall submit an application for an implementation or renewal grant to the department for each eligible community school through the grant authorization process."

Chapter 198 Section 6 Laws 2019

SECTION 6. A new section of the Community Schools Act is enacted to read:

"COALITION FOR COMMUNITY SCHOOLS.--The department shall appoint a "coalition for community schools" that is a statewide coalition of community school participants, which shall include local community school content experts, culturally responsive content experts and tribal leaders. The coalition shall provide advocacy, capacity building and technical assistance to ensure equitable distribution of resources to all school districts in New Mexico. The coalition shall assist the department in reviewing applications for grants and making recommendations for awards."

Chapter 198 Section 7 Laws 2019

SECTION 7. A new section of the Community Schools Act is enacted to read:

"COMMUNITY SCHOOLS FUND--CREATED--ACCOUNTABILITY.--

A. The "community schools fund" is created as a nonreverting fund in the state treasury. The fund consists of appropriations, gifts, grants and donations. The department shall administer the fund, and money in the fund is appropriated to the department to distribute grant awards to support the development and implementation of community schools initiatives.

B. The department shall ensure that the money expended from the community schools fund is used for the purposes stated in the Community Schools Act and shall not be used to correct for previous reductions in program services."

Chapter 198 Section 8 Laws 2019

SECTION 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

House Bill 589, aa

Approved April 3, 2019

LAWS 2019, CHAPTER 199

AN ACT

RELATING TO ELECTIONS; ENACTING THE AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT BY NATIONAL POPULAR VOTE; AMENDING THE ELECTION CODE TO CONFORM WITH THE AGREEMENT.

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

Chapter 199 Section 1 Laws 2019

SECTION 1. COMPACT ENACTED AND ENTERED INTO.--The "Agreement Among the States to Elect the President by National Popular Vote" is enacted into law and entered into on behalf of New Mexico with any and all other states legally joining therein in a form substantially as follows:

"AGREEMENT AMONG THE STATES TO ELECT THE PRESIDENT BY

NATIONAL POPULAR VOTE

ARTICLE I

Membership

Any state of the United States and the District of Columbia may become a member of this agreement by enacting this agreement.

ARTICLE II

Right of the People in Member States to Vote for President and Vice President

Each member state shall conduct a statewide popular election for president and vice president of the United States.

ARTICLE III

Manner of Appointing Presidential Electors in Member States

A. Prior to the time set by law for the meeting and voting by the presidential electors, the chief election official of each member state shall determine the number of votes for each presidential slate in each state of the United States and in the District of Columbia in which votes have been cast in a statewide popular election and shall add such votes together to produce a "national popular vote total" for each presidential slate.

B. The chief election official of each member state shall designate the presidential slate with the largest national popular vote total as the "national popular vote winner".

C. The presidential elector certifying official of each member state shall certify the appointment in that official's own state of the elector slate nominated in that state in association with the national popular vote winner.

D. At least six days before the day fixed by law for the meeting and voting by the presidential electors, each member state shall make a final determination of the number of popular votes cast in the state for each presidential slate and shall communicate an official statement of such determination within twenty-four hours to the chief election official of each other member state.

E. The chief election official of each member state shall treat as conclusive an official statement containing the number of popular votes in a state for each presidential slate made by the day established by federal law for making a state's final determination conclusive as to the counting of electoral votes by congress.

F. In event of a tie for the national popular vote winner, the presidential elector certifying official of each member state shall certify the appointment of the elector slate

nominated in association with the presidential slate receiving the largest number of popular votes within that official's own state.

G. If, for any reason, the number of presidential electors nominated in a member state in association with the national popular vote winner is less than or greater than that state's number of electoral votes, the presidential candidate on the presidential slate that has been designated as the national popular vote winner shall have the power to nominate the presidential electors for that state and that state's presidential elector certifying official shall certify the appointment of such nominees.

H. The chief election official of each member state shall immediately release to the public all vote counts or statements of votes as they are determined or obtained.

I. This article shall govern the appointment of presidential electors in each member state in any year in which this agreement is, on July 20, in effect in states cumulatively possessing a majority of the electoral votes.

ARTICLE IV

Other Provisions

A. This agreement shall take effect when states cumulatively possessing a majority of the electoral votes have enacted this agreement in substantially the same form and the enactments by such states have taken effect in each state.

B. Any member state may withdraw from this agreement, except that a withdrawal occurring six months or less before the end of a president's term shall not become effective until a president or vice president shall have been qualified to serve the next term.

C. The chief executive of each member state shall promptly notify the chief executive of all other states of when this agreement has been enacted and has taken effect in that official's state, when the state has withdrawn from this agreement and when this agreement takes effect generally.

D. This agreement shall terminate if the electoral college is abolished.

E. If any provision of this agreement is held invalid, the remaining provisions shall not be affected.

ARTICLE V

Definitions

For purposes of this agreement:

A. "chief executive" shall mean the governor of a state of the United States or the mayor of the District of Columbia;

B. "elector slate" shall mean a slate of candidates who have been nominated in a state for the position of presidential elector in association with a presidential slate;

C. "chief election official" shall mean the state official or body that is authorized to certify the total number of popular votes for each presidential slate;

D. "presidential elector" shall mean an elector for president and vice president of the United States;

E. "presidential elector certifying official" shall mean the state official or body that is authorized to certify the appointment of the state's presidential electors;

F. "presidential slate" shall mean a slate of two persons, the first of whom has been nominated as a candidate for president of the United States and the second of whom has been nominated as a candidate for vice president of the United States, or any legal successors to such persons, regardless of whether both names appear on the ballot presented to the voter in a particular state;

G. "state" shall mean a state of the United States and the District of Columbia; and

H. "statewide popular election" shall mean a general election in which votes are cast for presidential slates by individual voters and counted on a statewide basis."

Chapter 199 Section 2 Laws 2019

SECTION 2. Section 1-15-4 NMSA 1978 (being Laws 1969, Chapter 240, Section 354) is amended to read:

"1-15-4. PRESIDENTIAL ELECTORS--ELECTION.--

A. The names of the presidential elector nominees shall not be placed upon the general election ballot; instead, the secretary of state shall certify to the county clerks the names of persons nominated by each qualified political party for the offices of president and vice president of the United States.

B. The names of the nominees for president and vice president for each qualified political party shall be printed together in pairs upon the general election ballot. A vote for any pair of nominees shall be a vote for the presidential electors of the political party by which the nominees were named.

C. Except as provided in Subsection D of this section, presidential elector nominees of the party whose nominees for president and vice president receive the highest number of votes at the general election shall be the elected presidential electors for this state, and each shall be granted a certificate of election by the state canvassing board.

D. If the Agreement Among the States to Elect the President by National Popular Vote is in effect in accordance with Article III, Subsection I of that compact, the state canvassing board shall grant a certificate of election to the presidential elector nominees of the party whose nominees for president and vice president receive the largest national popular vote total in the general election." _____

House Bill 55

Approved April 3, 2019

LAWS 2019. CHAPTER 200

AN ACT

RELATING TO PUBLIC EDUCATION IMPROVEMENTS; PROVIDING FOR CULTURALLY AND LINGUISTICALLY RESPONSIVE TECHNICAL ASSISTANCE AND PROFESSIONAL DEVELOPMENT FOR TEACHERS, EDUCATIONAL ASSISTANTS AND OTHER INSTRUCTIONAL SUPPORT STAFF WHO TEACH OR OTHERWISE INTERACT WITH CULTURALLY AND LINGUISTICALLY DIVERSE STUDENT POPULATIONS.

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

Chapter 200 Section 1 Laws 2019

SECTION 1. A new section of the Regional Cooperative Education Act is enacted to read:

"CULTURALLY AND LINGUISTICALLY DIVERSE STUDENT POPULATIONS--
PROFESSIONAL DEVELOPMENT FOR SCHOOL PERSONNEL.--

A. All cooperatives that want to provide technical assistance and professional development for teachers, educational assistants and other instructional support staff in the educational needs of culturally and linguistically diverse students shall join together and submit one application to the department for funding. The group of participating cooperatives shall assign one cooperative to provide coordination, financial accounting and disbursement of funding received from the department to all participating cooperatives.

B. With council approval, each cooperative may provide or contract for technical assistance and professional development for teachers, educational assistants and other instructional support staff that are focused on the educational needs of culturally and linguistically diverse students.

C. Technical assistance and professional development programs shall be aligned with state academic content standards, benchmarks and performance standards for bilingual multicultural education and shall meet school district and charter school educational plans related to bilingual multicultural education, Indian education and Hispanic education.

D. Professional development programs shall be centered on the following:

(1) research-based bilingual multicultural education and language revitalization programs and implications for instruction;

(2) best practices in teaching English as a second language, English language development, bilingual multicultural education and language revitalization programs;

(3) classroom assessments that support academic and language development;

(4) principles of first and second language acquisition, including language revitalization, differentiated language instruction and sheltered content instruction; and

(5) effective practices of program implementation and program evaluation.

E. With council approval, a cooperative may offer professional development to school personnel in school districts and charter schools that are not members of the cooperative and may charge a course fee, which shall not be more than the actual per-participant cost of attendance at the professional development program.

F. Each participating cooperative shall provide direct technical assistance, in addition to professional development, that results in improved culturally and linguistically responsive education in public schools. The participating cooperatives shall work closely with appropriate service providers to build and support cooperative, school district and charter school internal capacity of their staff and their members' staff to ensure long-term, local, sustained support to teachers and other school personnel who work with culturally and linguistically diverse students." _____

House Bill 111, aa

Approved April 3, 2019

LAWS 2019, CHAPTER 201

AN ACT

RELATING TO FINANCIAL INSTITUTIONS; AMENDING THE NEW MEXICO BANK INSTALLMENT LOAN ACT OF 1959 AND THE NEW MEXICO SMALL LOAN ACT OF 1955; ADDING DEFINITIONS; CLARIFYING VIOLATIONS DEEMED A VIOLATION OF THE UNFAIR PRACTICES ACT; EXPANDING LENDER REPORTING REQUIREMENTS; CLARIFYING LOAN INSURANCE REQUIREMENTS; EXPANDING DISCLOSURE REQUIREMENTS; GRANTING RIGHTS OF RESCISSION; PROVIDING FOR PENALTIES.

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

Chapter 201 Section 1 Laws 2019

SECTION 1. Section 58-7-3 NMSA 1978 (being Laws 1995, Chapter 190, Section 15, as amended) is amended to read:

"58-7-3. LOANS COVERED BY ACT.--

A. The New Mexico Bank Installment Loan Act of 1959 applies to a loan that is a precomputed loan repayable in installments and that is clearly identified on the loan documents as being made under that act.

B. A loan in an amount equal to five thousand dollars (\$5,000) or less shall be made only pursuant to the New Mexico Bank Installment Loan Act of 1959 or the New Mexico Small Loan Act of 1955. A loan made pursuant to the New Mexico Bank Installment Loan Act of 1959 shall be identified in the loan documents as being made pursuant to that act.

C. The provisions of Subsection B of this section shall not apply to a federally insured depository institution."

Chapter 201 Section 2 Laws 2019

SECTION 2. Section 58-7-6 NMSA 1978 (being Laws 1959, Chapter 327, Section 6, as amended) is amended to read:

"58-7-6. PERMITTED CHARGES--LIMITATION ON PRESENTMENT.--

A. No amount, other than the total finance charge, which consists solely of interest and a fully earned processing fee not to exceed the lesser of two hundred dollars (\$200) or ten percent of the principal, shall be charged or contracted for, directly or indirectly, on or in connection with a precomputed loan transaction except as follows:

(1) delinquency charges not to exceed five cents (\$.05) for each one dollar (\$1.00) of each installment more than ten days in arrears may be charged; provided that the total of delinquency charges on any such installment shall not exceed ten dollars (\$10.00) and that only one delinquency charge shall be made on any one installment regardless of the period during which the installment remains unpaid;

(2) the lender may charge for only the actual cost of any insurance; provided, however, all insurance shall be written by companies licensed to operate within the state and at rates no higher than those approved by the superintendent of insurance; and provided further that the lender shall not require any insurance to be written or provided by or through any particular agent, broker or insurer as a condition to making the loan but shall, at the borrower's option, permit the insurance to be procured from any reputable insurer or through any reputable agent authorized by law to provide it;

(3) in the event that a borrower fails to maintain in effect any insurance required in connection with a loan transaction, the lender may purchase the required

insurance or lender's single interest insurance covering the lender's interest in the property, and the cost of that insurance shall be added to the loan and may accrue interest as provided for in the New Mexico Bank Installment Loan Act of 1959;

(4) such amounts as are necessary to reimburse the lender for fees paid to a public officer for filing, recording or releasing any instrument or lien;

(5) if a loan under the New Mexico Bank Installment Loan Act of 1959 is secured and if the borrower fails to pay any governmental or other levy arising after the date of the loan that would create a lien superior to the lien of the lender on the property standing as security, the lender, at the lender's option, may pay the levy and add the amount so paid to the balance due from the borrower;

(6) the actual expenditures, including reasonable attorney fees, for legal process or proceedings to collect on a precomputed loan; provided, however, that no attorney fees are permitted where the loan is referred for collection to an attorney who is a salaried employee of the holder of the contract; and further provided that attorney fees shall not be charged or collected unless the note or other contract has been submitted in good faith to an attorney for collection after the lender has made a diligent and good faith effort to collect and has failed; and

(7) the actual cost of charges incurred in making a real estate loan secured by a mortgage on real estate, including the charges for an abstract of title, title examination, title insurance premiums, property survey, appraisal fees, notary fees, preparation of deeds, mortgages or other documents, escrow charges, credit reports and filing and recording fees.

B. If there are insufficient funds to pay a check or other type of debit on the date of presentment by the lender, a check or debit authorization request shall not be presented to a financial institution by a lender for payment more than one time per payment due unless the consumer agrees in writing, after a check or other type of debit has been dishonored, to one additional presentment or deposit.

C. The charges permitted under this section may be added to the balance due from the borrower."

Chapter 201 Section 3 Laws 2019

SECTION 3. Section 58-7-7 NMSA 1978 (being Laws 1959, Chapter 327, Section 8, as amended) is amended to read:

"58-7-7. RESTRICTIONS.--

A. No lender shall make a loan pursuant to the New Mexico Bank Installment Loan Act of 1959 to a borrower who is also indebted to that lender pursuant to the New Mexico Small Loan Act of 1955 unless the loan made pursuant to the New Mexico Small Loan Act of 1955 is paid and released at the time the loan is made.

B. No lender other than a federally insured depository institution shall make a loan pursuant to the New Mexico Bank Installment Loan Act of 1959 if a loan has an initial stated maturity of less than one hundred twenty days.

C. No lender other than a federally insured depository institution shall make a loan pursuant to the New Mexico Bank Installment Loan Act of 1959 unless the loan is repayable in a minimum of four substantially equal installment payments of principal and interest.

D. No lender, other than a federally insured depository institution, shall make a loan pursuant to the New Mexico Bank Installment Loan Act of 1959 that has an annual percentage rate greater than one hundred seventy-five percent, calculated pursuant to 12 CFR Part 1026, known as "Regulation Z".

E. The provisions of Subsections B and C of this section shall not apply to refund anticipation loans. As used in this subsection, "refund anticipation loan" means a loan that is secured by or that the creditor arranges or expects to be repaid, directly or indirectly, from the proceeds of the consumer's federal or state personal income tax refunds or tax credits, including any sale, assignment or purchase of a tax refund or tax credit at a discount or for a fee.

F. Except as provided by Section 58-7-3.2 NMSA 1978, any rollover, renewal, refinance or modification of an existing loan agreement with a lender, except a modification without any additional cost to the consumer, shall constitute a new loan and shall require new disclosures pursuant to the federal Truth in Lending Act."

Chapter 201 Section 4 Laws 2019

SECTION 4. Section 58-7-8 NMSA 1978 (being Laws 1959, Chapter 327, Section 9, as amended) is amended to read:

"58-7-8. PENALTIES AND FORFEITURES.--

A. Any person willfully violating any of the provisions of the New Mexico Bank Installment Loan Act of 1959 is guilty of a misdemeanor and upon conviction shall be fined not less than one hundred dollars (\$100) or more than five thousand dollars (\$5,000) or imprisoned for not more than six months or both, in the discretion of the

court. A contract or loan in the making or collection of which an act is done that violates Section 58-7-6 or 58-7-7 NMSA 1978 is void and the lender has no right to collect, receive or retain any interest or charges whatsoever. A lender may not collect the principal of a loan if the lender has violated Subsection A of Section 58-15-3 NMSA 1978, or knowingly violated the provisions of Section 58-7-6 or 58-7-7 NMSA 1978.

B. The taking, receiving or reserving of a rate of charge, discount or advantage greater than allowed by the New Mexico Bank Installment Loan Act of 1959, when knowingly done, is deemed a forfeiture of the entire amount of the rate of charge or advantage that the note, bill or other evidence of debt carries with it or that has been agreed to be paid on it. In case the greater rate of charge has been paid, the person by whom it has been paid or the person's legal representatives may recover by civil action twice the amount of the rate of charge paid from the person taking or receiving it, provided that the action is commenced within two years from the time the transaction occurred.

C. A violation of a provision of the New Mexico Bank Installment Loan Act of 1959 that constitutes either an unfair or deceptive trade practice or an unconscionable trade practice pursuant to Section 57-12-2 NMSA 1978 is actionable pursuant to the Unfair Practices Act."

Chapter 201 Section 5 Laws 2019

SECTION 5. Section 58-7-9 NMSA 1978 (being Laws 1959, Chapter 327, Section 10, as amended) is amended to read:

"58-7-9. CONSTRUCTION--DEFINITIONS.--

A. None of the provisions of the New Mexico Small Loan Act of 1955 are amended or repealed by the New Mexico Bank Installment Loan Act of 1959.

B. None of the provisions of the New Mexico Bank Installment Loan Act of 1959 apply to the assignment or purchase of retail installment contracts originated under the provisions of Sections 58-19-1 through 58-19-14 NMSA 1978 or originated under the provisions of Sections 56-1-1 through 56-1-15 NMSA 1978.

C. In the event of a conflict between a requirement of the New Mexico Bank Installment Loan Act of 1959 and a requirement of the Home Loan Protection Act, the requirement of the Home Loan Protection Act shall control.

D. As used in the New Mexico Bank Installment Loan Act of 1959:

(1) "consumer" means a person who enters into a loan agreement subject to the New Mexico Bank Installment Loan Act of 1959;

(2) "consumer reporting agency" means any person that, for monetary fees or dues or on a cooperative nonprofit basis, regularly engages in the practice of assembling or evaluating, and maintaining, for the purpose of furnishing consumer reports to third parties bearing on a consumer's creditworthiness, credit standing or credit capacity, each of the following regarding consumers:

(a) public record information; or

(b) credit account information from persons who furnish that information regularly and in the ordinary course of business;

(3) "make a loan" means to originate a new loan agreement or to make any change to the terms of an existing loan agreement, including the principal amount financed, the annual percentage rate, finance charge, fees or payment schedule;

(4) "month" means one-twelfth of a year;

(5) "person" includes an individual, copartner, association, trust, corporation and any other legal entity; and

(6) "year" means three hundred sixty-five days.

E. The director of the financial institutions division of the regulation and licensing department shall issue and file as required by law interpretive regulations to effectuate the purposes of the New Mexico Bank Installment Loan Act of 1959. In issuing, amending or repealing interpretive regulations, the director shall issue the regulation amendment or repeal of the regulation as a proposed regulation amendment or repeal of a regulation and file it for public inspection in the office of the director of the financial institutions division. Distribution thereof shall be made to interested persons, and their comments shall be invited. After the proposed regulation has been on file for not less than two months, the director may issue it as a final regulation by filing as required by law. Any person who is or may be adversely affected by the adoption, amendment or repeal of a regulation under this section may file an appeal of that action in the district court in Santa Fe county within thirty days after the filing of the adopted regulation, amendment or repeal as required by law.

F. Any person complying with the regulations adopted by the director of the financial institutions division of the regulation and licensing department is deemed to

have complied with the provisions of the New Mexico Bank Installment Loan Act of 1959."

Chapter 201 Section 6 Laws 2019

SECTION 6. A new section of the New Mexico Bank Installment Loan Act of 1959 is enacted to read:

"REQUIREMENTS FOR MAKING AND PAYING LOANS--INCOMPLETE INSTRUMENTS--LIMITATIONS ON CHARGES AFTER JUDGMENT AND INTEREST.-

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A. Every lender shall:

(1) at the time a consumer becomes contractually obligated on a precomputed loan transaction, deliver to the borrower or, if there are two or more borrowers on the same obligation, to one of the borrowers, a written statement on which shall be printed a copy of Section 58-7-3 NMSA 1978, and which shall disclose in clear and distinct terms:

- (a) the amount of the loan;
- (b) the date the loan was consummated;
- (c) a schedule or a description of the payments;
- (d) the type of the security, if any, securing the loan;
- (e) the name and address of the lender;
- (f) the name of the person primarily obligated for the loan;
- (g) the amount of principal;

(h) the annual percentage rate as calculated pursuant to 12 CFR Part 1026, known as "Regulation Z", and the amount of interest payable in dollars and cents;

- (i) all other disclosures required pursuant to state and federal law;

and

(j) the charge for any other item allowable and included pursuant to the New Mexico Bank Installment Loan Act of 1959, stated so as to clearly show the allocation of each item included;

(2) for each payment made on account of a loan, give to the person making the payment a plain and complete receipt specifying the date and amount of the payment, the amount applied to interest and principal and the balance unpaid. When a payment is made in a manner other than by the borrower in person, by an agent of the borrower or by check or money order, the licensee shall mail the receipt to the borrower's last known address or retain and deliver the receipt upon request of the borrower. A licensee may deliver the receipt electronically to the borrower via text message or email, if requested to do so in writing by the borrower. A borrower may withdraw authorization for electronic delivery of receipts in writing at any time. A licensee shall not require a borrower to receive receipts electronically. The licensee shall maintain a copy of each receipt in the office of the licensee as a part of the licensee's records; and

(3) upon repayment of the loan in full, plainly mark every note and promise to pay signed by any borrower with the word "paid" or "canceled" and promptly file or record a release of any mortgage if the mortgage has been recorded, restore any pledge and cancel and return any note and any assignment given to the licensee. A licensee may mark and return a copy of the note, promise to pay or any assignment if the copy accurately reproduces the complete original.

B. A judgment obtained against a party on a loan made pursuant to the New Mexico Bank Installment Loan Act of 1959, shall not include, and the loan shall not include, from the date of the judgment, charges against a party to the loan other than costs, attorney fees and post-judgment interest as provided by law.

C. A loan made pursuant to the New Mexico Bank Installment Loan Act of 1959 that is filed and approved as a claim in any bankruptcy proceeding shall bear interest at the rate of ten percent per year beginning on the ninetieth day following the date of adjudication. This limitation shall not apply when the bankrupt is not discharged in bankruptcy or to any obligation not dischargeable under the provisions of the United States Bankruptcy Code presently in force.

D. A loan made pursuant to the New Mexico Bank Installment Loan Act of 1959 shall not bear interest in excess of ten percent per year on the unpaid principal balance of a loan after ninety days following the date of the death of the borrower; provided that the deceased borrower is the sole obligor to the loan agreement.

E. A loan made pursuant to the New Mexico Bank Installment Loan Act of 1959 shall not bear interest in excess of ten percent per year upon the unpaid principal balance of the loan after twelve months following the date of maturity of the loan."

Chapter 201 Section 7 Laws 2019

SECTION 7. A new section of the New Mexico Bank Installment Loan Act of 1959 is enacted to read:

"RIGHT OF RESCISSION.--All agreements for precomputed loan transactions shall include a provision granting the borrower the right to rescind the transaction by returning in cash, or through certified funds, one hundred percent of the amount advanced by the lender pursuant to the New Mexico Bank Installment Loan Act of 1959 no later than the close of business New Mexico time or, if the loan was made online, no later than midnight New Mexico time on the first day of business conducted by the lender following the date of execution of the loan agreement. If a borrower exercises the right of rescission pursuant to this section, no fee for the rescinded transaction shall be charged to the borrower, and the lender shall not charge or impose on the borrower a fee for exercising the right of rescission pursuant to this section. If a borrower exercises the right of rescission pursuant to this section, any fee collected by the lender shall be returned in full to the borrower."

Chapter 201 Section 8 Laws 2019

SECTION 8. Section 58-15-2 NMSA 1978 (being Laws 1955, Chapter 128, Section 2, as amended) is amended to read:

"58-15-2. DEFINITIONS.--The following words and terms when used in the New Mexico Small Loan Act of 1955 have the following meanings unless the context clearly requires a different meaning. The meaning ascribed to the singular form applies also to the plural:

A. "consumer" means a person who resides in New Mexico or who enters into a loan agreement in New Mexico;

B. "consumer reporting agency" means any person that, for monetary fees or dues or on a cooperative nonprofit basis, regularly engages in the practice of assembling or evaluating, and maintaining, for the purpose of furnishing consumer reports to third parties bearing on a consumer's creditworthiness, credit standing or credit capacity, each of the following regarding consumers:

- (1) public record information; or

(2) credit account information from persons who furnish that information regularly and in the ordinary course of business;

C. "debit authorization" means an authorization signed by a consumer to electronically transfer or withdraw funds from the consumer's account for the specific purpose of repaying a loan;

D. "division" means the financial institutions division of the regulation and licensing department;

E. "director" means the director of the division;

F. "installment loan" means a loan in an amount less than or equal to five thousand dollars (\$5,000) that is to be repaid in a minimum of four substantially equal payments of principal and interest to pay off a loan in its entirety with an initial stated maturity of not less than one hundred twenty days to maturity. "Installment loan" does not mean a refund anticipation loan;

G. "license" means a permit issued under the authority of the New Mexico Small Loan Act of 1955 to make loans and collect charges therefor strictly in accordance with the provisions of that act at a single place of business. It shall constitute and shall be construed as a grant of a revocable privilege only to be held and enjoyed subject to all the conditions, restrictions and limitations contained in the New Mexico Small Loan Act of 1955 and lawful regulations promulgated by the director and not otherwise;

H. "licensee" means a person to whom one or more licenses have been issued pursuant to the New Mexico Small Loan Act of 1955 upon the person's written application electing to become a licensee and consenting to exercise the privilege of a licensee solely in conformity with the New Mexico Small Loan Act of 1955 and the lawful regulations promulgated by the director under that act and whose name appears on the face of the license;

I. "make a loan" means to originate a new loan agreement or to make any change to the terms of an existing loan agreement, including the principal amount financed, the annual percentage rate, finance charge, fees or payment schedule;

J. "person" includes an individual, copartner, association, trust, corporation and any other legal entity;

K. "refund anticipation loan" means a loan that is secured by or that the creditor arranges or expects to be repaid, directly or indirectly, from the proceeds of the

consumer's federal or state personal income tax refunds or tax credits, including any sale, assignment or purchase of a tax refund or tax credit at a discount or for a fee; and

L. "simple interest" means a method of calculating interest in which the amount of interest is calculated based on the annual percentage rate disclosed in the loan agreement and is computed only on the outstanding principal balance of the loan."

Chapter 201 Section 9 Laws 2019

SECTION 9. Section 58-15-3 NMSA 1978 (being Laws 1955, Chapter 128, Section 3, as amended) is amended to read:

"58-15-3. APPLICABILITY OF ACT--EXEMPTIONS--EVASIONS-- PENALTY.--

A. A person shall not engage in the business of lending in amounts of five thousand dollars (\$5,000) or less for a loan without first having obtained a license from the director. Nothing contained in this subsection shall restrict or prohibit a licensee under the New Mexico Small Loan Act of 1955 from making loans in any amount under the New Mexico Bank Installment Loan Act of 1959 in accordance with the provisions of Section 58-7-2 NMSA 1978.

B. Nothing in the New Mexico Small Loan Act of 1955 shall apply to a person making individual advances of five thousand dollars (\$5,000) or less under a written agreement providing for a total loan or line of credit in excess of five thousand dollars (\$5,000).

C. A banking corporation, savings and loan association or credit union operating under the laws of the United States or of a state shall be exempt from the licensing requirements of the New Mexico Small Loan Act of 1955, nor shall that act apply to business transacted by any person under the authority of and as permitted by any such law nor to any bona fide pawnbroking business transacted under a pawnbroker's license nor to bona fide commercial loans made to dealers upon personal property held for resale. Nothing contained in the New Mexico Small Loan Act of 1955 shall be construed as abridging the rights of any of those exempted from the operations of that act from contracting for or receiving interest or charges not in violation of an existing applicable statute of this state.

D. The provisions of Subsection A of this section apply to:

(1) a person who owns an interest, legal or equitable, in the business or profits of a licensee and whose name does not specifically appear on the face of the license, except a stockholder in a corporate licensee; and

(2) a person who seeks to evade its application by any device, subterfuge or pretense whatsoever, including but not thereby limiting the generality of the foregoing:

(a) the loan, forbearance, use or sale of credit (as guarantor, surety, endorser, comaker or otherwise), money, goods or things in action;

(b) the use of collateral or related sales or purchases of goods or services or agreements to sell or purchase, whether real or pretended;

(c) receiving or charging compensation for goods or services, whether or not sold, delivered or provided; and

(d) the real or pretended negotiation, arrangement or procurement of a loan through any use or activity of a third person, whether real or fictitious.

E. A person, copartnership, trust or a trustee or beneficiary thereof or an association or corporation or a member, officer, director, agent or employee thereof who violates or participates in the violation of a provision of Subsection A of this section is guilty of a petty misdemeanor and upon conviction shall be sentenced pursuant to the provisions of Subsection B of Section 31-19-1 NMSA 1978. A contract or loan in the making or collection of which an act is done that violates Subsection A or D of this section or Section 58-15-17 or 58-15-20 NMSA 1978 is void and the lender has no right to collect, receive or retain any principal, interest or charges whatsoever.

F. A loan in an amount equal to five thousand dollars (\$5,000) or less shall be made only pursuant to the New Mexico Bank Installment Loan Act of 1959 or the New Mexico Small Loan Act of 1955.

G. A violation of a provision of the New Mexico Small Loan Act of 1955 that constitutes either an unfair or deceptive trade practice or an unconscionable trade practice pursuant to Section 57-12-2 NMSA 1978 is actionable pursuant to the Unfair Practices Act."

Chapter 201 Section 10 Laws 2019

SECTION 10. Section 58-15-10.1 NMSA 1978 (being Laws 2011, Chapter 105, Section 1, as amended) is amended to read:

"58-15-10.1. LICENSEE REPORTING REQUIREMENTS-- PENALTIES--

A. Licensees shall file with the director each year reports containing at least the following information for the preceding calendar year ending December 31 in an aggregated, nonidentifying consumer manner as specified below:

(1) a description of each loan product offered by the licensee, including:

(a) whether the loan product was secured or unsecured;

(b) whether the loan product was made pursuant to the New Mexico Small Loan Act of 1955 or the New Mexico Bank Installment Loan Act of 1959;

(c) the total dollar amount of principal loaned for that product;

(d) the percentage of the total dollar amount of all principal for that product that was repaid; and

(e) the total number of individual borrowers who took out this type of loan product;

(2) the total number of loan transactions entered into for each loan product in the following amounts:

(a) five hundred dollars (\$500) or less;

(b) five hundred one dollars (\$501) to one thousand dollars (\$1,000);

(c) one thousand one dollars (\$1,001) to three thousand dollars (\$3,000); and

(d) three thousand one dollars (\$3,001) to five thousand dollars (\$5,000);

(3) for each loan product, the number of loans made and the total dollar amount of interest and fees charged on the contracts for loans made within the following categories of annual percentage rate calculated pursuant to 12 CFR Part 1026, known as "Regulation Z":

(a) less than or equal to thirty-six percent;

(b) more than thirty-six percent through one hundred percent;

(c) more than one hundred percent through one hundred fifty percent; and

(d) more than one hundred fifty percent through one hundred seventy-five percent;

(4) for each loan product, the following aggregate amounts of fees and interest:

(a) a list of each fee charged by the lender and a description of each fee product or type, including fees charged for loan origination and credit insurance;

(b) the total dollar amount of each fee product charged by the lender and paid by the borrower; and

(c) the total dollar amount of interest charged by the lender and paid by the borrower;

(5) for each loan product:

(a) the number of loans for which the original term of the loan was: 1) less than one hundred twenty days; 2) between one hundred twenty days and three hundred sixty-five days; 3) between three hundred sixty-five days and seven hundred thirty-one days; 4) between seven hundred thirty-one days and five years; and 5) longer than five years;

(b) for each item set forth in Subparagraph (a) of this paragraph, the average actual repayment time for the given loan product and loan term; and

(c) for each item set forth in Subparagraph (a) of this paragraph, the number of loans for which payments were due: 1) every two weeks; 2) every four weeks; and 3) monthly;

(6) the number of borrowers who took out one or two loans with the lender in the previous calendar year, and the percentage of all borrowers who took out one or two loans with the lender in the previous calendar year;

(7) the number of borrowers who took out three or more loans with the lender in the previous calendar year, and the percentage of all borrowers who took out three or more loans with the lender in the previous calendar year;

(8) for each loan product, the number of loans that have been repaid in full without an extension, renewal, refinance, rollover or new loan within thirty days of repaying that loan, and for each loan product, the percentage of all borrowers who have repaid their loans in full without an extension, renewal, refinance, rollover or new loan within thirty days of repaying that loan;

(9) for each loan product, the number of borrowers who extended, renewed, refinanced or rolled over their loans prior to or at the same time as paying their loan balance in full, or took out a new loan within thirty days of repaying that loan, and for each loan product, the percentage of all borrowers who extended, renewed, refinanced or rolled over their loans prior to or at the same time as paying the loan balance in full, or took out a new loan within thirty days of repaying that loan;

(10) for each loan product, the total number of loans for which a late payment fee was charged and the percentage of the total loans for which a late payment fee was charged;

(11) for each loan product, the total number of loans for which a late payment fee was charged more than once over the term of the contract, and the percentage of the total loans for which a late payment fee was charged more than once over the term of the contract;

(12) for each loan product, the number of loans for which a borrower has defaulted on a loan, and for each loan product, the percentage of total loans of that product for which the borrower has defaulted on a loan;

(13) for each loan product, the dollar amount of loan principal and accrued interest that was charged-off or written-off, and the number of borrowers for which the lender charged-off or wrote-off loan principal and accrued interest;

(14) the number of loans and percentage of all borrowers the lender filed action against for default;

(15) the total number of loans secured by a motor vehicle and the number of those loans for which the motor vehicle was repossessed;

(16) the total number of loans secured by non-motor vehicle personal property and the number of those loans for which the non-motor vehicle personal property was repossessed;

(17) the total number and percentage of borrowers of all loan products whose sources of income, as provided by borrowers in the loan origination process, included a means-tested public benefit as defined by 8 U.S.C. Section 1613(c);

(18) the total number and percentage of borrowers of all loan products who are aged sixty-five or older;

(19) the total number of loans of all loan products that were made to borrowers in each county in New Mexico; and

(20) the percentage of all borrowers who took out a refund anticipation loan who were eligible for a federal earned income tax credit.

B. The reports required pursuant to Subsection A of this section shall be submitted to the director on or before the fifteenth day of April each year.

C. The reports required pursuant to Subsection A of this section shall be accompanied by a sworn statement by the licensee under penalty of perjury that the report is complete and accurate.

D. A licensee that fails to timely submit complete and accurate reports as required pursuant to Subsection A of this section on or before the fifteenth day of April may:

(1) be fined an amount not to exceed one thousand five hundred dollars (\$1,500) per day for each day after the fifteenth day of April, a complete and accurate report is not filed; and

(2) have a license required pursuant to the New Mexico Small Loan Act of 1955 suspended pursuant to Section 58-15-8 NMSA 1978."

Chapter 201 Section 11 Laws 2019

SECTION 11. Section 58-15-16 NMSA 1978 (being Laws 1969, Chapter 58, Section 1, as amended) is amended to read:

"58-15-16. LOAN INSURANCE ALLOWABLE--FINANCING CERTAIN PREMIUMS PROHIBITED.--

A. It is unlawful for any person licensed under the New Mexico Small Loan Act of 1955, in connection with the making of a loan under that act:

(1) to sell life insurance other than a term policy or credit life insurance on the principal borrowers;

(2) to sell term or credit life insurance the coverage of which exceeds the amount of the loan or extends beyond the term for which the loan is made;

(3) after having made a loan, to finance any premiums of any life insurance policies, other than credit life insurance, sold to the borrower by the licensee or the licensee's agent in any manner for a period of ninety days;

(4) after having made a loan, to finance any premium of any single-interest property insurance policy sold to the borrower by the licensee or the licensee's agent whereby the premium would be charged to the borrower in any manner. Nothing in this section shall preclude the sale and purchase of an insurance policy covering the dual interest of borrower and lien holder; or

(5) to sell property insurance on unsecured loans.

B. A lender may charge for only the actual cost of any insurance; provided that all insurance shall be written by a company licensed to operate within the state and at a rate not higher than those approved by the superintendent of insurance; and provided further that the lender shall not require any insurance to be written or provided by or through a particular agent, broker or insurer as a condition to making the loan, but shall, at the borrower's option, permit the insurance to be procured from any insurer or agent authorized by law to provide the insurance."

Chapter 201 Section 12 Laws 2019

SECTION 12. Section 58-15-17 NMSA 1978 (being Laws 1955, Chapter 128, Section 15, as amended) is amended to read:

"58-15-17. REQUIREMENTS FOR MAKING AND PAYING OF LOANS--
INCOMPLETE INSTRUMENTS--LIMITATIONS ON CHARGES AFTER JUDGMENT
AND INTEREST.--

A. Every licensee shall:

(1) at the time a consumer becomes contractually obligated on a loan pursuant to the New Mexico Small Loan Act of 1955, deliver to the borrower or, if there are two or more borrowers on the same obligation, to one of them, a statement on which shall be printed a copy of Section 58-15-14.1 NMSA 1978 and which shall disclose in clear and distinct terms:

- (a) the amount of the loan;
- (b) the date the loan was made;
- (c) a schedule or a description of the payments;
- (d) the type of the security, if any, for the loan;
- (e) the name and address of the licensee;
- (f) the name of the person primarily obligated for the loan;
- (g) the amount of principal;

(h) the annual percentage rate as disclosed pursuant to 12 CFR Part 1026, known as "Regulation Z", and the amount in dollars and cents;

(i) all other disclosures required pursuant to state and federal law;
and

(j) the charge for any other item allowable and included pursuant to the New Mexico Small Loan Act of 1955, so stated as to clearly show the allocation of each item included;

(2) for each payment made on account of a loan, give to the person making the payment a plain and complete receipt specifying the date and amount of the payment, the amount applied to interest and principal and the balance unpaid. When payment is made in any other manner than by the borrower in person, by an agent of the borrower or by check or money order, the licensee shall mail the receipt to the borrower's last known address or retain and deliver the receipt upon request of the borrower. A licensee may deliver the receipt electronically to the borrower via text message or email, if requested to do so in writing by the borrower. A borrower may withdraw authorization for electronic delivery of receipts in writing at any time. A licensee shall not require a borrower to receive receipts electronically. The licensee shall maintain a copy of each receipt in the office of the licensee as a part of the licensee's records; and

(3) upon repayment of the loan in full, mark plainly every note and promise to pay signed by any borrower with the word "paid" or "canceled" and promptly file or record a release of any mortgage if the mortgage has been recorded, restore any pledge and cancel and return any note and any assignment given to the licensee. A

licensee may mark and return a copy of the note, promise to pay or any assignment if the copy accurately reproduces the complete original.

B. A licensee shall not take a note or promise to pay that does not disclose the amount of the loan, a schedule of payments, or a description thereof, and the agreed charge or rate of charge or any instrument in which blanks are left to be filled in after execution.

C. A judgment against a party on a loan made pursuant to the New Mexico Small Loan Act of 1955 shall not include, and the loan shall not include, from the date of the judgment, charges against a party to the loan other than costs, attorney fees and post-judgment interest as provided by law.

D. A loan made pursuant to the New Mexico Small Loan Act of 1955 that is filed and approved as a claim in any bankruptcy proceeding shall bear interest at the rate of ten percent per year beginning on the ninetieth day following the date of adjudication. This limitation shall not apply when the bankrupt is not discharged in bankruptcy or to any obligation not dischargeable under the provisions of the United States Bankruptcy Code presently in force.

E. A loan made pursuant to the provisions of the New Mexico Small Loan Act of 1955 shall not bear interest in excess of ten percent per year on the unpaid principal balance of a loan after ninety days following the date of the death of the borrower.

F. A loan made pursuant to the New Mexico Small Loan Act of 1955 shall not bear interest in excess of ten percent per year upon the unpaid principal balance of the loan after twelve months following the date of maturity of the loan.

G. A lender shall not make a loan pursuant to the New Mexico Small Loan Act of 1955 if a loan has an initial stated maturity of less than one hundred twenty days unless the loan is a refund anticipation loan.

H. A lender shall not make a loan pursuant to the New Mexico Small Loan Act of 1955 unless the loan is an installment loan or a refund anticipation loan.

I. A lender shall not make a loan pursuant to the New Mexico Small Loan Act of 1955, other than a refund anticipation loan, unless the loan is repayable in a minimum of four substantially equal installment payments of principal and interest.

J. A lender shall not make a loan pursuant to the New Mexico Small Loan Act of 1955 that has an annual percentage rate greater than one hundred seventy-five percent, calculated pursuant to 12 CFR Part 1026, known as "Regulation Z".

K. Upon request from the borrower, all lenders licensed pursuant to the New Mexico Small Loan Act of 1955 shall give or forward to the borrower copies of all loan agreements concerning that borrower, a copy of all receipts maintained in that borrower's loan file and a written statement of that borrower's loan history, including all fees charged, amortization schedules, that borrower's payment history, including the dates and amounts of payments made, and the total amount unpaid pursuant to each contract. All lenders shall retain for seven years from the date of loan file origination or loan payoff, whichever is the later, the documentation specified in this subsection.

L. Any rollover, renewal, refinance or modification of an existing loan agreement with a licensee, except a modification without any additional cost to the borrower, shall constitute a new loan and shall require new disclosures pursuant to the Truth in Lending Act."

Chapter 201 Section 13 Laws 2019

SECTION 13. Section 58-15-20 NMSA 1978 (being Laws 1955, Chapter 128, Section 18, as amended) is amended to read:

"58-15-20. FEES AND COSTS.--

A. Notwithstanding any provision of the New Mexico Small Loan Act of 1955, lawful fees, if any, actually and necessarily paid out by the licensee to a public officer for the filing, recording or releasing in a public office of an instrument securing the loan may be charged to the borrower.

B. Notwithstanding any provision in a note or other loan contract taken or received under the New Mexico Small Loan Act of 1955, attorney fees shall not be charged or collected unless the note or other contract has been submitted in good faith to an attorney for collection who is not a salaried employee of the holder of the contract, after the licensee has made a diligent and good faith effort to collect and has failed.

C. Notary fees incident to the taking of a lien to secure a small loan or releasing such a lien shall not be charged or collected by a licensee, an officer, agent or employee of a licensee or anyone within an office, room or place of business in which a small loan office is conducted.

D. Delinquency fees shall not exceed five cents (\$.05) for each one dollar (\$1.00) of each installment more than ten days in arrears; provided that the total of delinquency charges on any such installment shall not exceed ten dollars (\$10.00) and that only one delinquency charge shall be made on any one installment regardless of the period during which the installment remains unpaid."

Chapter 201 Section 14 Laws 2019

SECTION 14. Section 58-15-20.1 NMSA 1978 (being Laws 2017, Chapter 110, Section 20) is amended to read:

"58-15-20.1. INSTALLMENT LOANS--REFUND ANTICIPATION LOANS--INSUFFICIENT FUNDS--PERMITTED CHARGES.--

A. If there are insufficient funds to pay a check or other type of debit on the date of presentment by the licensee, a check or debit authorization request shall not be presented to a financial institution by a licensee for payment more than one time per payment due unless the consumer agrees in writing, after a check or other type of debit has been dishonored, to one additional presentment or deposit.

B. A licensee shall not charge a consumer for fees, interest or charges of any kind other than those permitted pursuant to Sections 58-15-16, 58-15-17 and 58-15-20 NMSA 1978."

Chapter 201 Section 15 Laws 2019

SECTION 15. Section 58-15-39 NMSA 1978 (being Laws 2007, Chapter 86, Section 21, as amended) is amended to read:

"58-15-39. DUTIES OF DIVISION.--

A. The division shall:

(1) maintain a list of licensees, which list shall be available to interested persons and the public; and

(2) establish a complaint process whereby an aggrieved consumer or other person may file a complaint against a licensee.

B. The division shall compile from reports filed by licensees pursuant to Section 58-15-10.1 NMSA 1978 an annual report by July 1 of each year containing data regarding loans entered into by licensees, which data shall be aggregated for all licensees and non-identifiable by licensee. Annual reports shall be made available to interested parties and the general public and published on the division's website. Consistent with state law, the report shall include, at a minimum, nonidentifying consumer data from the preceding calendar year, including each of the specific categories of information set forth in Subsection A of Section 58-15-10.1 NMSA 1978.

C. The division shall, in cooperation with the office of the attorney general, develop and implement curriculum for a financial literacy program with elements that shall include a basic understanding of budgets, checking and savings accounts, credit and interest and considerations in deciding how and when to use financial services, including installment loans and refund anticipation loans. The financial literacy program developed pursuant to this subsection may be implemented through the adult basic education division of the higher education department and nonprofit public interest organizations."

Chapter 201 Section 16 Laws 2019

SECTION 16. A new section of the New Mexico Small Loan Act of 1955 is enacted to read:

"RIGHT OF RESCISSION.--All loan agreements shall include a provision granting the borrower the right to rescind the transaction by returning in cash, or through certified funds, one hundred percent of the amount advanced by the lender under the New Mexico Small Loan Act of 1955 no later than the close of business New Mexico time or, if the loan was made online, no later than midnight New Mexico time on the first day of business conducted by the lender following the date of execution of the loan agreement. If a borrower exercises the right of rescission pursuant to this section, no fee for the rescinded transaction shall be charged to the borrower, and the lender shall not charge or impose on the borrower a fee for exercising the right of rescission pursuant to this section. If a borrower exercises the right of rescission pursuant to this section, any fee collected by the lender shall be returned in full to the borrower."

Chapter 201 Section 17 Laws 2019

SECTION 17. APPLICABILITY.--The provisions of this act apply to loans subject to the New Mexico Small Loan Act of 1955 and the New Mexico Bank Installment Loan Act of 1959 that are executed on or after January 1, 2020.

Chapter 201 Section 18 Laws 2019

SECTION 18. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2020. _____

HJC/HCEDC/House Bill 150, aa

Approved April 3, 2019

LAWS 2019, CHAPTER 202

AN ACT

RELATING TO UTILITIES; AMENDING THE EFFICIENT USE OF ENERGY ACT; PROVIDING UPDATED GOALS AND COST RECOVERY PERCENTAGES; ALLOWING THE ADOPTION OF RATE ADJUSTMENT MECHANISMS TO ADDRESS DISINCENTIVES; REPEALING SECTION 62-17-2 NMSA 1978 (BEING LAWS 2005, CHAPTER 341, SECTION 2, AS AMENDED); MAKING TECHNICAL CHANGES.

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

Chapter 202 Section 1 Laws 2019

SECTION 1. Section 62-17-4 NMSA 1978 (being Laws 2005, Chapter 341, Section 4, as amended by Laws 2013, Chapter 124, Section 1 and by Laws 2013, Chapter 220, Section 1) is amended to read:

"62-17-4. DEFINITIONS.--As used in the Efficient Use of Energy Act:

A. "achievable" means those energy efficiency or load management resources available to the utility using its best efforts;

B. "commission" means the public regulation commission;

C. "cost-effective" means that the energy efficiency or load management program meets the utility cost test;

D. "customer" means a utility customer at a single, contiguous field, location or facility, regardless of the number of meters at that field, location or facility;

E. "distribution cooperative utility" means a utility with distribution facilities organized as a rural electric cooperative pursuant to Laws 1937, Chapter 100 or the Rural Electric Cooperative Act or similarly organized in other states;

F. "energy efficiency" means measures, including energy conservation measures, or programs that target consumer behavior, equipment or devices to result in a decrease in consumption of electricity and natural gas without reducing the amount or quality of energy services;

G. "large customer" means a customer with electricity consumption greater than seven thousand megawatt-hours per year or natural gas use greater than three hundred sixty thousand decatherms per year;

H. "load management" means measures or programs that target equipment or devices to result in decreased peak electricity demand or shift demand from peak to off-peak periods;

I. "program costs" means the prudent and reasonable costs of developing and implementing energy efficiency and load management programs, but "program costs" does not include charges for incentives or the removal of regulatory disincentives;

J. "public utility" means a public utility that is not also a distribution cooperative utility; and

K. "utility cost test" means a standard that is met if the monetary costs that are borne by the public utility and that are incurred to develop, acquire and operate energy efficiency or load management resources on a life-cycle basis are less than the avoided monetary costs associated with developing, acquiring and operating the associated supply-side resources."

Chapter 202 Section 2 Laws 2019

SECTION 2. Section 62-17-5 NMSA 1978 (being Laws 2005, Chapter 341, Section 5, as amended by Laws 2013, Chapter 124, Section 2 and by Laws 2013, Chapter 220, Section 2) is amended to read:

"62-17-5. COMMISSION APPROVAL--ENERGY EFFICIENCY AND LOAD MANAGEMENT PROGRAMS--DISINCENTIVES.--

A. Pursuant to the findings and purpose of the Efficient Use of Energy Act, the commission shall consider public utility acquisition of cost-effective energy efficiency and load management resources to be in the public interest.

B. The commission shall direct public utilities to evaluate and implement cost-effective programs that reduce energy demand and consumption.

C. Before the commission approves an energy efficiency and load management program for a public utility, it shall find that the portfolio of programs is cost-effective and designed to provide every affected customer class with the opportunity to participate and benefit economically. The commission shall determine the cost-effectiveness of energy efficiency and load management measures using the utility cost test. In

determining life-cycle costs and benefits of energy efficiency programs, the commission shall not adjust for taxes when selecting a discount rate. In determining life-cycle costs and benefits for energy efficiency and load management programs directed to low-income customers, the commission shall either quantify or assign a reasonable value to:

- (1) reductions in working capital;
- (2) reduced collection costs;
- (3) lower bad-debt expense;
- (4) improved customer service effectiveness; and
- (5) other appropriate factors as utility system economic benefits.

D. The commission shall act expeditiously on public utility requests for approval of energy efficiency or load management programs.

E. Public utilities shall obtain commission approval of energy efficiency and load management programs before they are implemented. Public utilities proposing new energy efficiency and load management programs shall, before seeking commission approval, solicit nonbinding recommendations on the design, implementation and use of third-party energy service contractors through competitive bidding on the programs from commission staff, the attorney general, the energy, minerals and natural resources department and other interested parties. The commission may for good cause require public utilities to solicit competitive bids for energy efficiency and load management resources.

F. The commission shall:

(1) upon petition or its own motion, identify and remove regulatory disincentives or barriers for public utility expenditures on energy efficiency and load management measures in a manner that balances the public interest, consumers' interests and investors' interests;

(2) upon petition by a public utility, remove regulatory disincentives through the adoption of a rate adjustment mechanism that ensures that the revenue per customer approved by the commission in a general rate case proceeding is recovered by the public utility without regard to the quantity of electricity actually sold by the public utility subsequent to the date the rate took effect. Regulatory disincentives removed through a rate adjustment mechanism shall be separately calculated for the rate class or classes to which the mechanism applies and collected or refunded by the utility

through a separately identified tariff rider that shall not be used to collect commission-approved energy efficiency and load management program costs and incentives;

(3) provide public utilities an opportunity to earn a profit on cost-effective energy efficiency and load management resource development that, with satisfactory program performance, is financially more attractive to the utility than supply-side utility resources; and

(4) not reduce a utility's return on equity based on approval of a disincentive removal mechanism or profit incentives pursuant to the Efficient Use of Energy Act.

G. Public utilities providing electricity and natural gas service to New Mexico customers shall, subject to commission approval, acquire the cost-effective and achievable energy efficiency and load management resources available in their service territories. This requirement, however, for public utilities providing electricity service, shall not be less than savings of five percent of 2020 total retail kilowatt-hour sales to New Mexico customer classes that have the opportunity to participate in calendar year 2025 as a result of energy efficiency and load management programs implemented in years 2021 through 2025. No later than June 30, 2025, the commission shall adopt, through rulemaking, energy savings targets for electric utilities for years 2026 through 2030 based on cost-effective and achievable energy savings and provide utility incentives based on savings achieved.

H. A public utility that determines it cannot achieve the minimum requirements established in Subsection G of this section shall report to the commission on why it cannot meet those requirements and shall propose alternative requirements based on acquiring cost-effective and achievable energy efficiency and load management resources. If the commission determines, after hearing, that the minimum requirements of Subsection G of this section exceed the achievable amount of energy efficiency and load management available to the public utility or that the program costs of energy efficiency and load management to achieve the minimum requirements of Subsection G of this section exceed the program costs funding established in Subsection A of Section 62-17-6 NMSA 1978, the commission shall establish lower minimum energy savings requirements for the utility based on the maximum amount of energy efficiency and load management that it determines can be achieved."

Chapter 202 Section 3 Laws 2019

SECTION 3. Section 62-17-6 NMSA 1978 (being Laws 2005, Chapter 341, Section 6, as amended by Laws 2013, Chapter 124, Section 3 and by Laws 2013, Chapter 220, Section 3) is amended to read:

"62-17-6. COST RECOVERY.--

A. A public utility that undertakes cost-effective energy efficiency and load management programs shall have the option of recovering its prudent and reasonable costs along with commission-approved incentives for demand-side resources and load management programs implemented after the effective date of the Efficient Use of Energy Act through an approved tariff rider or in base rates, or by a combination of the two. Program costs and incentives may be deferred for future recovery through creation of a regulatory asset. Funding for program costs shall be as follows:

(1) for investor-owned electric utilities, no less than three percent and no more than five percent of customer bills, excluding gross receipts taxes and franchise and right-of-way access fees, or seventy-five thousand dollars (\$75,000) per customer per calendar year, whichever is less, for customer classes with the opportunity to participate; and

(2) for gas utilities, no more than five percent of total annual revenues or seventy-five thousand dollars (\$75,000) per customer per calendar year.

B. Provided that the public utility's total portfolio of programs remains cost-effective, no less than five percent of the amount received by the public utility for program costs shall be specifically directed to energy-efficiency programs for low-income customers.

C. Unless otherwise ordered by the commission, a tariff rider approved by the commission shall:

(1) require language on customer bills explaining program benefits; and

(2) be applied on a monthly basis.

D. A tariff rider proposed by a public utility to fund approved energy efficiency and load management programs shall go into effect thirty days after filing, unless suspended by the commission for a period not to exceed one hundred eighty days. If the tariff rider is not approved or suspended within thirty days after filing, it shall be deemed approved as a matter of law. If the commission has not acted to approve or disapprove the tariff rider by the end of an ordered suspension period, it shall be deemed approved as a matter of law. The commission shall approve utility reconciliations of the tariff rider annually."

Chapter 202 Section 4 Laws 2019

SECTION 4. REPEAL.--Section 62-17-2 NMSA 1978 (being Laws 2005, Chapter 341, Section 2, as amended) is repealed._____

House Bill 291, aa

Approved April 3, 2019

LAWS 2019, CHAPTER 203

AN ACT

RELATING TO CRIMINAL RECORDS; CODIFYING AUTHORITY TO EXPUNGE A CRIMINAL RECORD; REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Chapter 203 Section 1 Laws 2019

SECTION 1. SHORT TITLE.--This act may be cited as the "Criminal Record Expungement Act".

Chapter 203 Section 2 Laws 2019

SECTION 2. DEFINITIONS.--As used in the Criminal Record Expungement Act:

A. "arrest records" means records of identification of a person under arrest or under investigation for a crime taken or gathered by an official; "arrest records" includes information gathered from the national crime information center or another criminal record database, photographs, fingerprints and booking sheets; except "arrest records" does not include:

- (1) driving while intoxicated citations maintained by the taxation and revenue department;
- (2) computer-aided dispatch information; or
- (3) log books relating to breath alcohol testing equipment;

B. "expungement" means the removal from access to the general public of a notation of an arrest, complaint, indictment, information, plea of guilty, conviction, acquittal, dismissal or discharge record, including a record posted on a publicly accessible court, corrections or law enforcement internet website; and

C. "public records" means documentation relating to a person's arrest, indictment, proceeding, finding or plea of guilty, conviction, acquittal, dismissal or discharge, including information posted on a court or law enforcement website; but "public records" does not include:

(1) arrest record information that:

(a) reveals confidential sources, methods, information or individuals accused but not charged with a crime and that is maintained by the state or any of its political subdivisions pertaining to any person charged with the commission of any crime; or

(b) is confidential and unlawful to disseminate or reveal, except as provided in the Arrest Record Information Act or other law;

(2) the file of a district attorney or attorney general maintained as a confidential record for law enforcement purposes and not open for inspection by members of the public;

(3) a record maintained by the children, youth and families department, the human services department or the public education department when that record is confidential under state or federal law and is required to be maintained by state or federal law for audit or other purposes; or

(4) a record received pursuant to a background check as authorized by law.

Chapter 203 Section 3 Laws 2019

SECTION 3. EXPUNGEMENT OF RECORDS UPON IDENTITY THEFT.--

A. A person who is wrongfully identified in arrest records or public records as a result of identity theft may petition the district court for an order to expunge arrest records and public records.

B. After a hearing on the petition and upon a showing that the person is a victim of identity theft, the court shall issue an order within thirty days of the hearing requiring that all arrest records and public records be expunged.

C. The court shall cause a copy of the order to be delivered to all relevant law enforcement agencies and courts. The order shall prohibit all relevant law enforcement agencies and courts from releasing copies of such records to any person, except upon order of the court.

D. After notice to and a hearing for all interested parties and in compliance with all applicable law, the court shall insert in the records the correct name and other identifying information of the offender, if known or ascertainable, in lieu of the name of the person wrongly identified.

Chapter 203 Section 4 Laws 2019

SECTION 4. EXPUNGEMENT OF RECORDS UPON RELEASE WITHOUT CONVICTION.--

A. One year from the date of the final disposition in the case, a person released without conviction for a violation of a municipal ordinance, misdemeanor or felony may petition the district court in the district in which the charges against the person originated for an order to expunge arrest records and public records related to that case.

B. A petitioner shall provide notice of the filed petition to the following parties, which parties shall be given an opportunity to provide to the district court any objections to the petition:

- (1) the district attorney for that district;
- (2) the department of public safety; and
- (3) the law enforcement agency that arrested the petitioner.

C. After a hearing on the petition, the court shall issue an order within thirty days of the hearing requiring that all arrest records and public records related to the case be expunged if it finds that no other charge or proceeding is pending against the petitioner and if the petitioner was released without a conviction, including:

- (1) an acquittal or finding of not guilty;

- (2) a nolle prosequi, a no bill or other dismissal;
- (3) a referral to a preprosecution diversion program;
- (4) an order of conditional discharge pursuant to Section 31-20-13 NMSA 1978; or
- (5) the proceedings were otherwise discharged.

D. The court shall cause a copy of the order to be delivered to all relevant law enforcement agencies and courts. The order shall prohibit all relevant law enforcement agencies and courts from releasing copies of the records to any person, except upon order of the court.

Chapter 203 Section 5 Laws 2019

SECTION 5. EXPUNGEMENT OF RECORDS UPON CONVICTION.--

A. A person convicted of a violation of a municipal ordinance, misdemeanor or felony, following the completion of the person's sentence and the payment of any fines or fees owed to the state for the conviction, may petition the district court in which the person was convicted for an order to expunge arrest records and public records related to that conviction.

B. A petitioner shall provide notice of the filed petition to the following parties, which parties shall be given an opportunity to provide to the district court any objections to the petition:

- (1) the district attorney for that district;
- (2) the department of public safety; and
- (3) the law enforcement agency that arrested the petitioner.

C. After a hearing on a petition, the court shall issue an order within thirty days of the hearing requiring that all arrest records and public records related to the conviction be expunged if the court finds that:

- (1) no other charge or proceeding is pending against the petitioner;
- (2) justice will be served by an order to expunge;

(3) the petitioner has fulfilled any victim restitution ordered by the court in connection with the petitioner's conviction; and

(4) no other criminal conviction of the petitioner has occurred for a period of:

(a) two years if the petition relates to a conviction for a violation of a municipal ordinance or a misdemeanor not otherwise provided in this paragraph;

(b) four years if the petition relates to a misdemeanor conviction for aggravated battery as provided in Subsection B of Section 30-3-5 NMSA 1978 or to a conviction for a fourth degree felony not otherwise provided in this paragraph;

(c) six years if the petition relates to a conviction for a third degree felony not otherwise provided in this paragraph;

(d) eight years if the petition relates to a conviction for a second degree felony not otherwise provided in this paragraph; or

(e) ten years if the petition relates to a conviction for a first degree felony or for any offense provided in the Crimes Against Household Members Act.

D. The court shall cause a copy of the order to be delivered to all relevant law enforcement agencies and courts. The order shall prohibit all relevant law enforcement agencies and courts from releasing copies of such records to any person, except upon order of the court.

E. To determine whether justice will be served by an order to expunge, the court shall consider:

(1) the nature and gravity of the offense or conduct that resulted in the petitioner's conviction;

(2) the petitioner's age, criminal history and employment history;

(3) the length of time that has passed since the offense was committed and the related sentence was completed;

(4) the specific adverse consequences the petitioner may be subject to if the petition is denied; and

(5) any reasons to deny expungement of the records submitted by the district attorney.

F. For the purposes of determining the time lapsed since a criminal conviction as required in Subsection C of this section, time shall be measured from the last date on which a person completed a sentence for a conviction in any jurisdiction.

G. The provisions of Subsection A of this section do not apply to an offense committed against a child, an offense that caused great bodily harm or death to another person, a sex offense as defined in Section 29-11A-3 NMSA 1978, embezzlement pursuant to Section 30-16-8 NMSA 1978 or an offense involving driving while under the influence of intoxicating liquor or drugs.

Chapter 203 Section 6 Laws 2019

SECTION 6. NOTICES--RULEMAKING.--The administrative office of the courts and the department of public safety shall develop rules and procedures to implement the Criminal Record Expungement Act, including procedures for notifying the accused of the accused's rights under that act.

Chapter 203 Section 7 Laws 2019

SECTION 7. EFFECT OF AN ORDER TO EXPUNGE.--Upon entry an of order to expunge, the proceedings shall be treated as if they never occurred, and officials and the person who received the order to expunge may reply to an inquiry that no record exists with respect to the person; provided that arrest or conviction records shall be disclosed by the person and officials in connection with any application for or query regarding qualification for employment or association with any financial institution regulated by the financial industry regulatory authority or the securities and exchange commission.

Chapter 203 Section 8 Laws 2019

SECTION 8. REPEAL.--Sections 29-3-8.1 and 31-26-16 NMSA 1978 (being Laws 2002, Chapter 46, Section 2 and Laws 2009, Chapter 95, Section 5) are repealed.

Chapter 203 Section 9 Laws 2019

SECTION 9. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2020.

House Bill 370, aa

Approved April 3, 2019

LAWS 2019, CHAPTER 204

AN ACT

RELATING TO PUBLIC FINANCE; INCREASING THE AUTHORIZED AMOUNT OF REVENUE BONDS FOR THE CANCER TREATMENT CENTER AT THE GILA REGIONAL MEDICAL CENTER; MAKING AN APPROPRIATION.

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

Chapter 204 Section 1 Laws 2019

SECTION 1. Laws 2006, Chapter 89, Section 1, as amended, is amended to read:

"Section 1. TEMPORARY PROVISION--NEW MEXICO FINANCE AUTHORITY REVENUE BONDS--PURPOSE--APPROPRIATION.--

A. The New Mexico finance authority may issue and sell revenue bonds in compliance with the New Mexico Finance Authority Act for a term not exceeding twenty years in an amount not exceeding three million dollars (\$3,000,000) for the purpose of designing, constructing, equipping and furnishing additions and improvements to a regional cancer treatment center at the Gila regional medical center in Grant county. The authority may issue and sell revenue bonds authorized by this subsection when the chair of the board of county commissioners of Grant county certifies the need for issuance of the bonds. The net proceeds from the sale of the bonds are appropriated to the local government division of the department of finance and administration for the purposes described in this subsection.

B. After the bonds have been issued pursuant to Subsection A of this section, the New Mexico finance authority may issue and sell revenue bonds in compliance with the New Mexico Finance Authority Act for a term not exceeding twenty years in an amount not exceeding one million five hundred thousand dollars (\$1,500,000) for the purpose of designing, constructing, equipping and furnishing additions and improvements to a regional cancer treatment center at the Nor-Lea general hospital in Lea county. The authority may issue and sell revenue bonds authorized by this

subsection when the chair of the board of trustees of the Nor-Lea special hospital district certifies the need for issuance of the bonds. Provided that, if the authority determines that excess balances exist in the rural county cancer treatment fund above the amount needed to service outstanding bonds, then, in lieu of issuing all or a portion of the bonds, the excess balances may be used for the cancer treatment center funded pursuant to this subsection, but the total of excess balances and bond proceeds shall not exceed one million five hundred thousand dollars (\$1,500,000). The net proceeds from the sale of the bonds and any excess balances are appropriated to the local government division of the department of finance and administration for the purposes described in this subsection.

C. After the bonds have been issued pursuant to Subsections A and B of this section, the New Mexico finance authority may issue and sell revenue bonds in compliance with the New Mexico Finance Authority Act for a term not exceeding twenty years in an amount not exceeding three million dollars (\$3,000,000) as follows:

(1) not to exceed two million two hundred fifty thousand dollars (\$2,250,000) to design, construct, equip and furnish additions and improvements to a regional cancer treatment center at the Gila regional medical center in Grant county; and

(2) not to exceed seven hundred fifty thousand dollars (\$750,000) to design, construct, equip and furnish additions and improvements to Nor-Lea general hospital in Lea county.

D. After the bonds have been issued pursuant to Subsections A, B and C of this section, the New Mexico finance authority may issue and sell revenue bonds in compliance with the New Mexico Finance Authority Act for a term not exceeding twenty years in an amount not exceeding one million two hundred fifty thousand dollars (\$1,250,000) for the following purposes at the regional cancer treatment center at the Gila regional medical center in Grant county: for the purchase of computer hardware, servers, cabling, software licenses and related services necessary for implementation and maintenance of an electronic health records system, cancer patient treatment, regulatory compliance and reporting; to design, construct, renovate, equip and furnish additions and improvements of the chemotherapy intravenous preparation clean room; for the purchase of a positron emission tomography scanner; or to prepay any loan made by the authority from the public project revolving fund to or for the benefit of the Gila regional medical center for the purposes authorized by this subsection.

E. The authority may issue and sell revenue bonds authorized by Subsection C of this section when the boards of trustees of the Gila regional medical center and the Nor-Lea special hospital district certify the need for the issuance of the bonds. If the

authority determines that there are balances in the rural county cancer treatment fund in excess of the amount needed to service outstanding bonds, the authority may use those balances in lieu of issuing all or a portion of the bonds authorized in Subsection C of this section, but the total of funding from bonds and balances shall not exceed three million dollars (\$3,000,000). The net proceeds from the sale of bonds and any excess balances are appropriated to the local government division of the department of finance and administration for the purposes described in Subsection B of this section.

F. The authority may issue and sell revenue bonds authorized by Subsection D of this section when the chair of the board of trustees of the Gila regional medical center certifies the need for issuance of the bonds. If the authority determines there are balances in the rural county cancer treatment fund in excess of the amount needed to service outstanding bonds, the authority may use those balances in lieu of issuing all or a portion of the bonds authorized in Subsection D of this section, but the total of excess balances and bond proceeds shall not exceed one million two hundred fifty thousand dollars (\$1,250,000). The net proceeds from the sale of the bonds and any excess balances are appropriated to the authority for the purposes described in this subsection.

G. The cigarette tax proceeds distributed to the authority pursuant to Subsection E of Section 7-1-6.11 NMSA 1978 shall be pledged irrevocably for the payment of the principal, interest, premiums and related expenses on the bonds and for payment of the expenses incurred by the authority related to the issuance, sale and administration of the bonds.

H. The cigarette tax proceeds distributed to the authority pursuant to Subsection E of Section 7-1-6.11 NMSA 1978 shall be deposited each month in a separate fund or account of the authority.

I. Upon payment of all principal, interest and other expenses or obligations related to the bonds, the authority shall certify to the secretary of taxation and revenue that all obligations for the bonds issued pursuant to this section have been fully discharged and shall direct the secretary of taxation and revenue to cease distributing cigarette tax proceeds to the authority pursuant to Subsection E of Section 7-1-6.11 NMSA 1978 and to distribute those cigarette tax proceeds to the general fund.

J. Any law authorizing the imposition, collection or distribution of the cigarette tax or that affects the cigarette tax shall not be amended, repealed or otherwise directly or indirectly modified so as to impair or reduce debt service coverage for any outstanding revenue bonds that may be secured by a pledge of those cigarette tax revenues, unless the revenue bonds have been discharged in full or provisions have been made for a full discharge.

K. The authority may additionally secure the revenue bonds issued pursuant to this section by a pledge of money in the public project revolving fund with a lien priority on the money in the public project revolving fund as determined by the authority.

L. The authority may purchase revenue bonds issued pursuant to this section with money in the public project revolving fund pursuant to the provisions of Section 6-21-6 NMSA 1978." _____

House Bill 558

Approved April 3, 2019

LAWS 2019, CHAPTER 205

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
PROVIDING DEFINITIONS; CREATING THE LOCAL GOVERNMENT
TRANSPORTATION PROJECT FUND; PROVIDING FOR DISTRIBUTIONS FOR
LOCAL GOVERNMENT TRANSPORTATION INFRASTRUCTURE PROJECTS;
MAKING AN APPROPRIATION.

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

Chapter 205 Section 1 Laws 2019

SECTION 1. A new section of Chapter 67, Article 3 NMSA 1978 is enacted to read:

"DEFINITIONS--LOCAL GOVERNMENT TRANSPORTATION PROJECT FUND
CREATED--DISTRIBUTIONS.--

A. As used in this section:

- (1) "fund" means the local government transportation project fund;
- (2) "local government" means a county or municipality;

(3) "local government transportation project" means environmental and other studies, planning, design, construction and acquisition of rights of way necessary for the development of transportation infrastructure in a county or municipality;

(4) "non-state money" means money that does not derive from revenue or interest into the state treasury or into a state fund; and

(5) "transportation infrastructure" means highways, streets, roadways, bridges, crossing structures and parking facilities, including all areas for vehicular use for travel, ingress, egress and parking.

B. The "local government transportation project fund" is created in the state treasury. The fund consists of appropriations, donations, interest from investment of the fund and other money distributed to the fund. The department shall administer the fund and may establish subaccounts for the fund as it deems necessary. Money in the fund is appropriated to the department for expenditure as provided in this section. Disbursements from the fund shall be made by warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary of transportation or the secretary's designee. Money in the fund shall not revert at the end of a fiscal year.

C. Money in the fund may be used to make a grant to a local government for a local government transportation project that has been approved pursuant to Subsection D of this section for up to:

(1) ninety-five percent of the total cost of a local government transportation project; provided that the local government has demonstrated an ability, and has contracted, to provide the remainder of the project costs in non-state money; or

(2) one hundred percent of the total cost of a local government transportation project if a financial hardship qualification certificate is issued to the local government by the department of finance and administration and the level of hardship assistance is approved by the state transportation commission; provided that the local government has demonstrated an ability, and has contracted, to provide the remainder of the project costs in non-state money.

D. By August 1, 2019 and by August 1 of each year thereafter, the secretary shall submit a proposed list of local government transportation projects identified by the department's metropolitan planning organization and regional transportation planning organization planning process to the state transportation commission. Subject to any direction by the legislature regarding distributions from the fund, such as minimum distributions by engineering districts or to rural or urbanized local governments, the commission shall approve a prioritized list of local government transportation projects

for funding from the fund by September 1, 2019 and by September 1 of each year thereafter. The commission may approve subsequent changes to a priority list as it deems necessary.

E. By November 30, 2019 and by November 30 of each year thereafter, the department shall provide a report to the appropriate interim legislative committee on the status of the fund, the status of the local government transportation projects for which grants have been made from the fund and the outstanding demand for assistance from the fund."

Chapter 205 Section 2 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

HTPWC/House Bill 694

Approved April 3, 2019

LAWS 2019, CHAPTER 206

AN ACT

RELATING TO PUBLIC EDUCATION; MAKING CHANGES TO THE PUBLIC SCHOOL FUNDING FORMULA; CHANGING THE DEFINITION OF "SCHOOL-AGE PERSON"; REQUIRING PERFORMANCE-BASED BUDGETING; CREATING A RURAL POPULATION RATE; LIMITING SCHOOL SIZE ADJUSTMENTS; PROVIDING FOR EXTENDED LEARNING TIME; CREATING A REFORM FUND; MAKING K-5 PLUS AN ONGOING PROGRAM; INCREASING TEACHER AND PRINCIPAL MINIMUM SALARIES; REPEALING THE K-3 PLUS PROGRAM; MAKING AN APPROPRIATION.

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

Chapter 206 Section 1 Laws 2019

SECTION 1. Section 22-1-2 NMSA 1978 (being Laws 2003, Chapter 153, Section 3, as amended by Laws 2015, Chapter 58, Section 2 and by Laws 2015, Chapter 108, Section 1) is amended to read:

"22-1-2. DEFINITIONS.--As used in the Public School Code:

A. "academic proficiency" means mastery of the subject-matter knowledge and skills specified in state academic content and performance standards for a student's grade level;

B. "charter school" means a school authorized by a chartering authority to operate as a public school;

C. "commission" means the public education commission;

D. "department" means the public education department;

E. "home school" means the operation by the parent of a school-age person of a home study program of instruction that provides a basic academic educational program, including reading, language arts, mathematics, social studies and science;

F. "instructional support provider" means a person who is employed to support the instructional program of a school district, including educational assistant, school counselor, social worker, school nurse, speech-language pathologist, psychologist, physical therapist, occupational therapist, recreational therapist, marriage and family therapist, interpreter for the deaf and diagnostician;

G. "licensed school employee" means teachers, school administrators and instructional support providers;

H. "local school board" means the policy-setting body of a school district;

I. "local superintendent" means the chief executive officer of a school district;

J. "parent" includes a guardian or other person having custody and control of a school-age person;

K. "private school" means a school, other than a home school, that offers on-site programs of instruction and that is not under the control, supervision or management of a local school board;

L. "public school" means that part of a school district that is a single attendance center in which instruction is offered by one or more teachers and is discernible as a building or group of buildings generally recognized as either an elementary, middle, junior high or high school or any combination of those and includes a charter school;

M. "school" means a supervised program of instruction designed to educate a student in a particular place, manner and subject area;

N. "school administrator" means a person licensed to administer in a school district and includes school principals, central district administrators and charter school head administrators;

O. "school-age person" means a person who is at least five years of age prior to 12:01 a.m. on September 1 of the school year, who has not received a high school diploma or its equivalent and who has not reached the person's twenty-second birthday on the first day of the school year and meets other criteria provided in the Public School Finance Act;

P. "school building" means a public school, an administration building and related school structures or facilities, including teacher housing, that is owned, acquired or constructed by the school district as necessary to carry out the functions of the school district;

Q. "school bus private owner" means a person, other than a school district, the department, the state or any other political subdivision of the state, that owns a school bus;

R. "school district" means an area of land established as a political subdivision of the state for the administration of public schools and segregated geographically for taxation and bonding purposes;

S. "school employee" includes licensed and nonlicensed employees of a school district;

T. "school principal" means the chief instructional leader and administrative head of a public school;

U. "school year" means the total number of contract days offered by public schools in a school district during a period of twelve consecutive months;

V. "secretary" means the secretary of public education;

W. "state agency" or "state institution" means the New Mexico military institute, New Mexico school for the blind and visually impaired, New Mexico school for the deaf, New Mexico boys' school, girls' welfare home, New Mexico youth diagnostic and development center, Sequoyah adolescent treatment center, Carrie Tingley crippled

children's hospital, New Mexico behavioral health institute at Las Vegas and any other state agency responsible for educating resident children;

X. "state educational institution" means an institution enumerated in Article 12, Section 11 of the constitution of New Mexico;

Y. "substitute teacher" means a person who holds a certificate to substitute for a teacher in the classroom;

Z. "teacher" means a person who holds a level one, two or three-A license and whose primary duty is classroom instruction or the supervision, below the school principal level, of an instructional program or whose duties include curriculum development, peer intervention, peer coaching or mentoring or serving as a resource teacher for other teachers;

AA. "certified school instructor" means a licensed school employee; and

BB. "certified school employee" or "certified school personnel" means a licensed school employee."

Chapter 206 Section 2 Laws 2019

SECTION 2. A new section of the Public School Code is enacted to read:

"SHORT TITLE.--Sections 2 through 5 of this act may be cited as the "K-5 Plus Act"."

Chapter 206 Section 3 Laws 2019

SECTION 3. A new section of the Public School Code is enacted to read:

"K-5 PLUS--ELIGIBILITY--REQUIREMENTS.--

A. A school district or charter school may apply to participate in the K-5 plus program and is eligible to receive program units for students enrolled in elementary schools approved by the department to participate in the K-5 plus program. In approving schools for participation in K-5 plus, the department shall prioritize elementary schools:

(1) in which eighty percent or more of the elementary school's students are eligible for free or reduced-fee lunch;

- (2) that are low-performing elementary schools;
- (3) that participated in the 2018 K-3 plus or K-5 plus program; and
- (4) that meet criteria established by department rule.

B. Each K-5 plus program shall:

- (1) provide no fewer than twenty-five additional instructional days prior to the start of the regular school year;
- (2) keep students that participate in the K-5 plus program with the same teacher and cohort of students during the regular school year;
- (3) include additional professional development for K-5 plus teachers in how young children learn to read; and
- (4) be implemented school-wide.

C. An elementary school is ineligible for K-5 plus program units if it fails to meet the requirements of Subsection B of this section."

Chapter 206 Section 4 Laws 2019

SECTION 4. A new section of the Public School Code is enacted to read:

"K-5 PLUS--OVERSIGHT--REPORTING.--

A. The department shall:

- (1) enforce the provisions of the K-5 Plus Act;
- (2) issue rules for the development and implementation of K-5 plus programs;
- (3) assist school districts and charter schools in developing and evaluating K-5 plus programs;
- (4) develop and disseminate information on best practices in the area of academic success of early learners;

(5) establish reporting and evaluation requirements, including student and program assessments, for schools participating in the program;

(6) annually report to the legislature and the governor on the efficacy of K-5 plus programs; and

(7) establish a K-5 plus advisory committee composed of representatives of school districts and charter schools that participate in the K-5 plus program, the legislative education study committee, the legislative finance committee and other stakeholders. The advisory committee shall meet twice a year to advise the department on K-5 plus implementation.

B. Students participating in K-5 plus shall be evaluated at the beginning of K-5 plus, and their progress shall be measured through department-approved summative and formative assessments."

Chapter 206 Section 5 Laws 2019

SECTION 5. A new section of the Public School Code is enacted to read:

"K-5 PLUS--APPLICATION.--

A. School districts and charter schools that wish to participate in the K-5 plus program shall apply to participate in their annual educational plans submitted to the department pursuant to the Public School Finance Act.

B. No later than October 15 of each year, a school district or charter school that wishes to apply for a new K-5 plus program for the next fiscal year shall submit to the department the actual number of students participating in its K-5 plus programs in the current year and an estimate of the number of students the school district or charter school expects will participate in K-5 plus programs in the next year. The department shall not approve a new K-5 plus program unless the school district or charter school notifies the department of its intent to start a new program as required by this section.

C. No later than November 15 of each year, the department shall notify the legislature of the number of students participating in K-5 plus programs in the current school year and of the number of students projected to participate in K-5 plus programs in the next school year."

Chapter 206 Section 6 Laws 2019

SECTION 6. Section 22-8-2 NMSA 1978 (being Laws 1978, Chapter 128, Section 3, as amended) is amended to read:

"22-8-2. DEFINITIONS.--As used in the Public School Finance Act:

- A. "ADM" or "MEM" means membership;
- B. "membership" means the total enrollment of qualified students on the current roll of a class or school on a specified day. The current roll is established by the addition of original entries and reentries minus withdrawals. Withdrawals of students, in addition to students formally withdrawn from the public school, include students absent from the public school for as many as ten consecutive school days; provided that withdrawals do not include students in need of early intervention and habitual truants the school district is required to intervene with and keep in an educational setting as provided in Section 22-12-9 NMSA 1978;
- C. "basic program ADM" or "basic program MEM" means the MEM of qualified students but excludes the full-time-equivalent MEM in early childhood education and three- and four-year-old students receiving special education services;
- D. "cost differential factor" is the numerical expression of the ratio of the cost of a particular segment of the school program to the cost of the basic program in grades four through six;
- E. "department" or "division" means the public education department;
- F. "early childhood education ADM" or "early childhood education MEM" means the full-time-equivalent MEM of students attending approved early childhood education programs;
- G. "full-time-equivalent ADM" or "full-time- equivalent MEM" is that membership calculated by applying to the MEM in an approved public school program the ratio of the number of hours per school day devoted to the program to six hours or the number of hours per school week devoted to the program to thirty hours;
- H. "operating budget" means the annual financial plan and educational plan required to be submitted by a local school board or governing body of a state-chartered charter school;
- I. "performance measure" means a quantitative indicator used to assess the output or outcome of an approved program;

J. "performance target" means the expected level of performance of a program's performance measure;

K. "program cost" is the product of the total number of program units to which a school district is entitled multiplied by the dollar value per program unit established by the legislature;

L. "program element" is that component of a public school system to which a cost differential factor is applied to determine the number of program units to which a school district is entitled, including MEM, full-time-equivalent MEM, teacher, classroom or public school;

M. "program unit" is the product of the program element multiplied by the applicable cost differential factor;

N. "public money" or "public funds" means all money from public or private sources received by a school district or state-chartered charter school or officer or employee of a school district or state-chartered charter school for public use;

O. "qualified student" means a public school student who:

(1) has not graduated from high school;

(2) is regularly enrolled in one-half or more of the minimum course requirements approved by the department for public school students; and

(3) in terms of age and other criteria:

(a) is at least five years of age prior to 12:01 a.m. on September 1 of the school year;

(b) is at least three years of age at any time during the school year and is receiving special education services pursuant to rules of the department;

(c) except as provided in Subparagraph (d) of this paragraph, has not reached the student's twenty-second birthday on the first day of the school year; or

(d) has reached the student's twenty-second birthday on the first day of the 2019-2020 school year, is counted in a school district's or charter school's MEM on the third reporting date of the 2018-2019 school year, has been continuously enrolled in the same public school since that reporting date and is still enrolled in that school;

P. "rural population rate" means that proportion of the total population within a school district's geographic boundaries that lives in a rural area and not in an urban area as defined by the United States census bureau;

Q. "staffing cost multiplier" means:

(1) for fiscal year 2019, the instructional staff training and experience index;

(2) for fiscal year 2020, the weighted average of the instructional staff training and experience index at seventy-five percent and the teacher cost index at twenty-five percent;

(3) for fiscal year 2021, the weighted average of the instructional staff training and experience index at fifty percent and the teacher cost index at fifty percent;

(4) for fiscal year 2022, the weighted average of the instructional staff training and experience index at twenty-five percent and the teacher cost index at seventy-five percent; and

(5) for fiscal year 2023 and subsequent fiscal years, the teacher cost index; and

R. "state superintendent" means the secretary of public education or the secretary's designee."

Chapter 206 Section 7 Laws 2019

SECTION 7. Section 22-8-5 NMSA 1978 (being Laws 1967, Chapter 16, Section 59, as amended) is amended to read:

"22-8-5. RULES--PROCEDURES.--

A. The department, in consultation with the state auditor, shall establish rules and procedures for a uniform system of accounting and budgeting of funds for all public schools and school districts of the state. The rules, including revisions or amendments, shall become effective upon filing with the state records center and archives and publication. A copy shall also be filed with the department of finance and administration.

B. All public schools and school districts shall comply with the rules and procedures prescribed and shall, upon request, submit additional reports concerning

finances to the department, including an accounting of the costs of services related to providing a program included in the educational plan approved by the department. In addition, upon request, all public schools and school districts shall file reports with the department containing pertinent details regarding applications for federal money or federal grants-in-aid or regarding federal money or federal grants-in-aid received, including details of programs, matching funds, personnel requirements, salary provisions and program numbers, as indicated in the catalog of federal domestic assistance, of the federal funds applied for and of those received.

C. Upon request by the department of finance and administration, the legislative finance committee or the legislative education study committee, the department shall furnish information and data obtained from public schools and school districts and information compiled by the department related to public school finances within ten business days."

Chapter 206 Section 8 Laws 2019

SECTION 8. Section 22-8-6 NMSA 1978 (being Laws 1967, Chapter 16, Section 60, as amended by Laws 1999, Chapter 281, Section 21 and by Laws 1999, Chapter 291, Section 2) is amended to read:

"22-8-6. OPERATING BUDGETS--EDUCATIONAL PLANS-- SUBMISSION-- FAILURE TO SUBMIT.--

A. Prior to April 15 of each year, each local school board shall submit to the department an operating budget for the school district and any locally chartered charter school in the school district for the ensuing fiscal year.

B. The date for the submission of the operating budget for each school district and each charter school as required by this section may be extended to a later date fixed by the secretary.

C. The operating budget required by this section may include:

(1) estimates of the cost of insurance policies for periods up to five years if a lower rate may be obtained by purchasing insurance for the longer term; or

(2) estimates of the cost of contracts for the transportation of students for terms extending up to four years.

D. The operating budget required by this section shall include a budget for each charter school of the membership projected for each charter school, the total program

units generated at that charter school and approximate anticipated disbursements and expenditures at each charter school.

E. For fiscal year 2021 and subsequent fiscal years, each school district's and each locally chartered or state-chartered charter school's educational plan shall include:

(1) information on the instructional time offered by the school district or charter school, including the number of instructional days by school site and the number of hours in each instructional day and the frequency of early- release days;

(2) a narrative explaining the identified services to improve the academic success of at-risk students;

(3) a narrative explaining the services provided to students enrolled in the following programs:

(a) extended learning time programs, including a report of how the extended learning time is used to improve the academic success of students and professional learning of teachers; and

(b) K-5 plus programs;

(4) a narrative explaining the school district's or charter school's beginning teacher mentorship programs as well as class size and teaching load information;

(5) a narrative explaining supplemental programs or services offered by the school district or charter school to ensure that the Bilingual Multicultural Education Act, the Indian Education Act and the Hispanic Education Act are being implemented by the school district or charter school;

(6) a narrative describing the amount of program cost generated for services to students with disabilities and the spending of these revenues on services to students with disabilities, which shall include the following:

(a) program cost generated for students enrolled in approved special education programs;

(b) budgeted expenditures of program cost, for students enrolled in approved special education programs, on students with disabilities;

(c) the amount of program cost generated for personnel providing ancillary and related services to students with disabilities

(d) budgeted expenditures of program cost for personnel providing ancillary and related services to students with disabilities, on special education ancillary and related services personnel; and

(e) a description of the steps taken to ensure that students with disabilities have access to a free and appropriate public education; and

(7) a common set of performance targets and performance measures, as determined by the department in consultation with the department of finance and administration, the legislative finance committee and the legislative education study committee.

F. If a local school board or governing board of a charter school fails to submit an operating budget pursuant to this section, the department shall prepare the operating budget for the school district or charter school for the ensuing fiscal year. A local school board or governing board of a charter school shall be considered as failing to submit an operating budget pursuant to this section if the budget submitted exceeds the total projected resources of the school district or charter school or if the budget submitted does not comply with the law or with rules and procedures of the department."

Chapter 206 Section 9 Laws 2019

SECTION 9. Section 22-8-6.1 NMSA 1978 (being Laws 1993, Chapter 227, Section 8, as amended) is amended to read:

"22-8-6.1. CHARTER SCHOOL OPERATING BUDGETS--MAXIMUM MEM.--

A. Each state-chartered charter school shall submit to the charter schools division of the department a school-based operating budget. The operating budget shall be submitted to the division for approval or amendment pursuant to the Public School Finance Act and the Charter Schools Act. Thereafter, the operating budget shall be submitted to the commission for review.

B. Each locally chartered charter school shall submit to the local school board a school-based operating budget for approval or amendment. The approval or amendment authority of the local school board relative to the charter school operating budget is limited to ensuring that sound fiscal practices are followed in the development of the operating budget and that the charter school operating budget is within the

allotted resources. The local school board shall have no veto authority over individual line items within the charter school's proposed financial budget or over any item in the educational plan, but shall approve or disapprove the operating budget in its entirety. Upon final approval of the charter school operating budget by the local school board, the individual charter school operating budget shall be included separately in the budget submission to the department required pursuant to the Public School Finance Act and the Charter Schools Act.

C. For its first year of operation, a charter school's operating budget shall be based on the projected number of program units generated by the school and its students using the at-risk index and the staffing cost multiplier of the school district in which the charter school is located, and the charter school's operating budget shall be adjusted using the qualified MEM on the first reporting date of the current school year. For its second and subsequent fiscal years of operation, a charter school's operating budget shall be based on the number of program units generated by the charter school and its students using the average of the MEM on the second and third reporting dates of the prior year, the at-risk index of the school district in which the charter school is located and the charter school's staffing cost multiplier."

Chapter 206 Section 10 Laws 2019

SECTION 10. Section 22-8-9 NMSA 1978 (being Laws 1967, Chapter 16, Section 63, as amended) is amended to read:

"22-8-9. BUDGETS--MINIMUM REQUIREMENTS.--

A. An operating budget for a school district shall not be approved by the department if the educational plan does not provide for:

(1) a school year and school day as provided in Section 22-2-8.1 NMSA 1978; and

(2) a pupil-teacher ratio or class or teaching load as provided in Section 22-10A-20 NMSA 1978.

B. The department shall, by rule, establish the requirements for an instructional day, the standards for an instructional hour and the standards for a full-time teacher and for the equivalent thereof."

Chapter 206 Section 11 Laws 2019

SECTION 11. Section 22-8-10 NMSA 1978 (being Laws 1967, Chapter 16, Section 65, as amended) is amended to read:

"22-8-10. BUDGETS--FIXING THE OPERATING BUDGET.--

A. Prior to June 20 of each year, each local school board and each governing board of a charter school shall, at a public hearing of which notice has been published by the local school board or governing board of a charter school, fix the operating budget for the school district or charter school for the ensuing fiscal year. At the discretion of the secretary or the local school board or governing body of a charter school, the department may participate in the public hearing.

B. Prior to the public hearing held to fix the operating budget for the school district or charter school, the local school board or governing body of a charter school shall give notice to parents explaining the budget process and inviting parental involvement and input in that process prior to the date for the public hearing. The educational plan submitted by the local school board or the governing body of a charter school to the department shall include information on parental involvement and input."

Chapter 206 Section 12 Laws 2019

SECTION 12. Section 22-8-11 NMSA 1978 (being Laws 1967, Chapter 16, Section 66, as amended) is amended to read:

"22-8-11. BUDGETS--APPROVAL OF OPERATING BUDGET.--

A. The department shall:

(1) on or before July 1 of each year, approve and certify to each local school board and governing body of a charter school an operating budget for use by the school district or charter school;

(2) ensure that each program in a school district or charter school's operating budget meets the requirements of law and the department's rules and procedures and that no school district or charter school generates program units for a program not meeting the requirements of law and the department's rules or procedures;

(3) make corrections, revisions and amendments to the operating budgets fixed by the local school boards or governing bodies of charter schools and the secretary to conform the operating budgets to the requirements of law and to the department's rules and procedures; and

(4) ensure that a local school board or governing body of a charter school is prioritizing resources toward proven programs and methods that are linked to improved student achievement.

B. No school district or charter school or officer or employee of a school district or charter school shall make any expenditure or incur any obligation for the expenditure of public funds unless that expenditure or obligation is made in accordance with an operating budget approved by the department. This prohibition does not prohibit the transfer of funds pursuant to the department's rules and procedures.

C. The department shall not approve and certify an operating budget of any school district or charter school that fails to demonstrate that parental involvement in the budget process was solicited.

D. The department shall not approve and certify an operating budget of any school district or charter school that the secretary determines has failed to provide sufficient data and information to determine if the school district or charter school is meeting the requirements of law or the department's rules and procedures."

Chapter 206 Section 13 Laws 2019

SECTION 13. Section 22-8-18 NMSA 1978 (being Laws 1974, Chapter 8, Section 8, as amended) is amended to read:

"22-8-18. PROGRAM COST CALCULATION--LOCAL RESPONSIBILITY.--

A. The total program units for the purpose of computing the program cost shall be calculated by multiplying the sum of the program units itemized as Paragraphs (1) and (2) in this subsection by the staffing cost multiplier and adding the program units itemized as Paragraphs (3) through (16) in this subsection. The itemized program units are as follows:

(1) early childhood education;

(2) basic education;

(3) special education, adjusted by subtracting the units derived from membership in class D special education programs in private, nonsectarian, nonprofit training centers;

(4) bilingual multicultural education;

- (5) fine arts education;
- (6) elementary physical education;
- (7) size adjustment;
- (8) at-risk;
- (9) enrollment growth or new district adjustment;
- (10) special education units derived from membership in class D special education programs in private, nonsectarian, nonprofit training centers;
- (11) national board for professional teaching standards certification;
- (12) home school student;
- (13) home school student activities;
- (14) charter school student activities;
- (15) K-5 plus; and
- (16) extended learning time.

B. The total program cost calculated as prescribed in Subsection A of this section includes the cost of early childhood, special, bilingual multicultural, fine arts and vocational education and other remedial or enrichment programs. It is the responsibility of the local school board or governing body of a charter school to determine its priorities in terms of the needs of the community served by that board. Except as otherwise provided in this section, funds generated under the Public School Finance Act are discretionary to local school boards and governing bodies of charter schools; provided that the special program needs as enumerated in this section are met; and provided further that the department shall ensure that the local school board or governing body of a charter school is prioritizing resources for the public school toward proven programs and methods linked to improved student achievement."

Chapter 206 Section 14 Laws 2019

SECTION 14. Section 22-8-23 NMSA 1978 (being Laws 1975, Chapter 119, Section 1, as amended) is amended to read:

"22-8-23. SIZE ADJUSTMENT PROGRAM UNITS.--

A. An approved public school, including a charter school, with a MEM of fewer than four hundred, including early childhood education full-time-equivalent MEM but excluding membership in class C and class D programs and excluding full-time-equivalent membership in three- and four-year-old developmentally disabled programs, that is geographically located in a school district with fewer than two thousand MEM, is eligible for additional program units. Separate schools established to provide special programs, including but not limited to vocational and alternative education, shall not be classified as public schools for purposes of generating size adjustment program units. The number of additional program units to which a school district or charter school is entitled under this subsection is the sum of elementary-junior high units and senior high units computed in the following manner:

Elementary-Junior High Units

200 - MEM

_____ x 1.0 x MEM = Units

200

where MEM is equal to the membership of an approved elementary or junior high school, including early childhood education full-time-equivalent membership but excluding membership in class C and class D programs and excluding full-time-equivalent membership in three- and four-year-old developmentally disabled programs;

Senior High Units

200 - MEM

_____ x 2.0 x MEM = Units

200

or,

Senior High Units

400 - MEM

_____ x 1.6 x MEM = Units

whichever calculation for senior high units is higher, where MEM is equal to the membership of an approved senior high school excluding membership in class C and class D programs.

B. An approved public school with a MEM of fewer than four hundred, including early childhood education full-time-equivalent MEM but excluding MEM in class C and class D programs and excluding full-time-equivalent MEM in three- and four-year-old developmentally disabled programs, geographically located in a school district with two thousand MEM or more is eligible for additional program units computed in the following manner:

(1) for fiscal year 2020, eighty percent of the sum of elementary-junior high units and senior high units as prescribed in Subsection A of this section;

(2) for fiscal year 2021, sixty percent of the sum of elementary-junior high units and senior high units as prescribed in Subsection A of this section;

(3) for fiscal year 2022, forty percent of the sum of elementary-junior high units and senior high units as prescribed in Subsection A of this section;

(4) for fiscal year 2023, twenty percent of the sum of elementary-junior high units and senior high units as prescribed in Subsection A of this section; and

(5) for fiscal year 2024 and subsequent fiscal years, no elementary-junior high units and senior high units as prescribed in Subsection A of this section.

C. A school district with total MEM of fewer than four thousand, including early childhood education full-time-equivalent MEM, is eligible for additional program units. The number of additional program units to which a school district is entitled under this subsection is the number of district units computed in the following manner:

District Units

4,000 - MEM

_____ x 0.15 x MEM = Units

4,000

where MEM is equal to the total district membership, including early childhood education full-time-equivalent membership.

D. A school district, as defined in Subsection R of Section 22-1-2 NMSA 1978, with a MEM of fewer than two hundred, including early childhood education full-time-equivalent MEM, is eligible for additional program units if the department certifies that the school district has implemented practices to reduce scale inefficiencies, including shared service agreements with regional education cooperatives or other school districts for noninstructional functions and distance education. The numbers of additional program units to which a school district is entitled under this subsection is the number of units computed in the following manner:

$$200 - \text{MEM} = \text{Units}$$

where MEM is equal to the total district MEM, including early childhood education full-time-equivalent MEM.

E. A school district with a rural population rate greater than forty percent or a charter school initially chartered before July 1, 2018 and geographically located in a school district with a rural population rate greater than forty percent is eligible for additional program units. The number of additional program units to which a school district or charter school is entitled pursuant to this subsection is determined by multiplying the full-time-equivalent MEM by the rural population rate and the cost differential factor of 0.03 for fiscal year 2020, 0.06 for fiscal year 2021, 0.09 for fiscal year 2022, 0.12 for fiscal year 2023 and 0.15 for fiscal year 2024 and subsequent fiscal years."

Chapter 206 Section 15 Laws 2019

SECTION 15. Section 22-8-23.3 NMSA 1978 (being Laws 1997, Chapter 40, Section 7, as amended) is amended to read:

"22-8-23.3. AT-RISK PROGRAM UNITS.--

A. A school district is eligible for additional program units if it establishes within its department-approved educational plan identified services to assist students to reach their full academic potential. A school district receiving additional at-risk program units shall include a report of specified services implemented to improve the academic success of at-risk students. The report shall identify the ways in which the school district and individual public schools use funding generated through the at-risk index and the intended outcomes. For purposes of this section, "at-risk student" means a student who meets the criteria to be included in the calculation of the three-year

average total rate in Subsection B of this section. The number of additional units to which a school district is entitled under this section is computed in the following manner:

$$\text{At-Risk Index} \times \text{MEM} = \text{Units}$$

where MEM is equal to the total district membership, including early childhood education, full-time-equivalent membership and special education membership and where the at-risk index is calculated in the following manner:

$$\text{Three-Year Average Total Rate} \times 0.25 = \text{At-Risk Index.}$$

B. To calculate the three-year average total rate, the department shall compute a three-year average of the school district's percentage of membership used to determine its Title 1 allocation, a three-year average of the percentage of membership classified as English language learners using criteria established by the office for civil rights of the United States department of education and a three-year average of the percentage of student mobility. The department shall then add the three-year average rates. The number obtained from this calculation is the three-year average total rate.

C. The department shall recalculate the at-risk index for each school district every year.

D. For purposes of this section, "services" means research-based or evidence-based social, emotional or academic interventions, such as:

- (1) case management, tutoring, reading interventions and after-school programs that are delivered by social workers, counselors, teachers or other professional staff;
- (2) culturally relevant professional and curriculum development, including those necessary to support language acquisition, bilingual and multicultural education;
- (3) additional compensation strategies for high-need schools;
- (4) whole school interventions, including school-based health centers and community schools;
- (5) educational programming intended to improve career and college readiness of at-risk students, including dual or concurrent enrollment, career and technical education, guidance counseling services and coordination with post-secondary institutions; and

(6) services to engage and support parents and families in the education of students."

Chapter 206 Section 16 Laws 2019

SECTION 16. A new section of the Public School Finance Act is enacted to read:

"EXTENDED LEARNING TIME PROGRAM.--

A. A school district or charter school is eligible for additional program units if it establishes within its department-approved educational plan an extended learning time program that meets the requirements of Subsection B, C or D of this section.

B. An extended learning time program shall include:

(1) a minimum of one hundred ninety [~~instructional~~] days per school year, with at least five and one-half instructional hours per instructional day for kindergarten through sixth grade and at least six instructional hours per day for seventh through twelfth grade; *LINE-ITEM VETO*

(2) after-school program opportunities for academic learning or extracurricular enrichment to students that do not supplant federally funded programs; and

(3) a minimum of eighty noninstructional hours per school year for professional development for instructional staff.

C. An extended learning time program in a school district operating a four-day school week in fiscal year 2019 or in a school district with fewer than one thousand MEM operating a four-day school week shall include:

(1) a minimum of one hundred sixty [~~instructional~~] days per school year with at least six and one-half hours per instructional day for kindergarten through sixth grade and at least seven instructional hours per instructional day for seventh through twelfth grade; *LINE-ITEM VETO*

(2) after-school program opportunities for academic learning or extracurricular enrichment to students that do not supplant federally funded programs; and

(3) a minimum of eighty noninstructional hours per school year for professional development for instructional staff.

D. With department approval, an elementary school that has an extended learning time program that qualifies for extended learning time program units pursuant to Subsection B or C of this section that also has a qualifying K-5 plus program pursuant to the K-5 Plus Act may structure the school year to provide the additional instructional time required pursuant to the applicable subsection of this section by extending existing instructional days.

E. The number of additional units to which a school district or charter school is entitled under this section is computed in the following manner:

$$\text{MEM} \times 0.11."$$

Chapter 206 Section 17 Laws 2019

SECTION 17. A new section of the Public School Finance Act is enacted to read:

"K-5 PLUS PROGRAM UNITS.--The number of K-5 plus program units is determined by multiplying the MEM in department-approved K-5 plus programs by the cost differential factor of 0.3. For each reporting date, MEM in K-5 plus programs shall be equal to the number of qualified students on a reporting date chosen by the department."

Chapter 206 Section 18 Laws 2019

SECTION 18. A new section of the Public School Finance Act is enacted to read:

"NEW PROGRAM FUNDING.--For the first year of programs operating pursuant to the K-5 Plus Act, the Bilingual Multicultural Education Act, the Fine Arts Education Act or for extended learning time programs, a school district or charter school shall generate the applicable program units. A school district's or charter school's budget shall be based on the projected number of program units for the program's first year of operation and shall be adjusted using the qualified MEM on the first reporting date of the current school year."

Chapter 206 Section 19 Laws 2019

SECTION 19. A new section of the Public School Finance Act is enacted to read:

"PUBLIC EDUCATION REFORM FUND CREATED.--

A. The "public education reform fund" is created as a nonreverting fund in the state treasury and consists of appropriations; unspecified gifts, grants and donations to the fund; and income from investment of the fund.

B. Subject to legislative appropriation, money in the fund is appropriated to the department for the purposes of implementing evidence-based public education initiatives related to high-quality teaching and school leadership, extended learning opportunities for students, educational interventions for at-risk students, effective and efficient school administration or promoting public education accountability."

Chapter 206 Section 20 Laws 2019

SECTION 20. Section 22-8B-6 NMSA 1978 (being Laws 1999, Chapter 281, Section 6, as amended) is amended to read:

"22-8B-6. CHARTER SCHOOL REQUIREMENTS--APPLICATION PROCESS--
AUTHORIZATION--STATE BOARD OF FINANCE DESIGNATION REQUIRED--
PUBLIC HEARINGS--SUBCOMMITTEES.--

A. A local school board has the authority to approve the establishment of a locally chartered charter school within that local school board's district.

B. No later than the second Tuesday of January of the year in which an application will be filed, the organizers of a proposed charter school shall provide written notification to the commission and the school district in which the charter school is proposed to be located of their intent to establish a charter school. Failure to notify may result in an application not being accepted.

C. A charter school applicant shall apply to either a local school board or the commission for a charter. If an application is submitted to a chartering authority, the chartering authority shall process the application. Applications for initial charters shall be submitted by June 1 to be eligible for consideration for the following fiscal year; provided that the June 1 deadline may be waived upon agreement of the applicant and the chartering authority.

D. An application shall include the total number of grades the charter school proposes to provide, either immediately or phased. A charter school may decrease the

number of grades it eventually offers, but it shall not increase the number of grades or the total number of students proposed to be served in each grade.

E. An application shall include the total number of students the charter school proposes to serve in each of the charter school's first three years of operation. No later than June 15, each local school board and the commission shall notify the department as to the number of students each charter school applicant proposes to serve in each year.

F. An application shall include a detailed description of the charter school's projected facility needs, including projected requests for capital outlay assistance that have been approved by the director of the public school facilities authority or the director's designee. The director shall respond to a written request for review from a charter applicant within forty-five days of the request.

G. An application may be made by one or more teachers, parents or community members or by a public post-secondary educational institution or nonprofit organization. Municipalities, counties, private post-secondary educational institutions and for-profit business entities are not eligible to apply for or receive a charter.

H. An initial application for a charter school shall not be made after June 30, 2007 if the proposed charter school's proposed enrollment for all grades or the proposed charter school's proposed enrollment for all grades in combination with any other charter school's enrollment for all grades would equal or exceed ten percent of the total MEM of the school district in which the charter school will be geographically located and that school district has a total enrollment of not more than one thousand three hundred students.

I. A state-chartered charter school shall not be approved for operation unless its governing body has qualified to be a board of finance.

J. The chartering authority shall receive and review all applications for charter schools submitted to it. The chartering authority shall not charge application fees.

K. The chartering authority shall hold at least one public hearing in the school district in which the charter school is proposed to be located to obtain information and community input to assist it in its decision whether to grant a charter school application. The chartering authority may designate a subcommittee of no fewer than three members to hold the public hearing, and, if so, the hearing shall be transcribed for later review by other members of the chartering authority. Community input may include written or oral comments in favor of or in opposition to the application from the applicant, the local community and, for state-chartered charter schools, the local school

board and school district in whose geographical boundaries the charter school is proposed to be located.

L. The chartering authority shall rule on the application for a charter school in a public meeting by September 1 of the year the application was received; provided, however, that prior to ruling on the application for which a designated subcommittee was used, any member of the chartering authority who was not present at the public hearing shall receive the transcript of the public hearing together with documents submitted for the public hearing. If not ruled upon by that date, the charter application shall be automatically reviewed by the secretary in accordance with the provisions of Section 22-8B-7 NMSA 1978. The charter school applicant and the chartering authority may, however, jointly waive the deadlines set forth in this section.

M. A chartering authority may approve, approve with conditions or deny an application. A chartering authority may deny an application if:

- (1) the application is incomplete or inadequate;
- (2) the application does not propose to offer an educational program consistent with the requirements and purposes of the Charter Schools Act;
- (3) the proposed head administrator or other administrative or fiscal staff was involved with another charter school whose charter was denied or revoked for fiscal mismanagement or the proposed head administrator or other administrative or fiscal staff was discharged from a public school for fiscal mismanagement;
- (4) for a proposed state-chartered charter school, it does not request to have the governing body of the charter school designated as a board of finance or the governing body does not qualify as a board of finance; or
- (5) the application is otherwise contrary to the best interests of the charter school's projected students, the local community or the school district in whose geographic boundaries the charter school applies to operate.

N. If the chartering authority denies a charter school application or approves the application with conditions, it shall state its reasons for the denial or conditions in writing within fourteen days of the meeting. If the chartering authority grants a charter, the approved charter shall be provided to the applicant together with any imposed conditions.

O. A charter school that has received a notice from the chartering authority denying approval of the charter shall have a right to a hearing by the secretary as provided in Section 22-8B-7 NMSA 1978."

Chapter 206 Section 21 Laws 2019

SECTION 21. Section 22-10A-7 NMSA 1978 (being Laws 2003, Chapter 153, Section 38, as amended) is amended to read:

"22-10A-7. LEVEL ONE LICENSURE.--

A. A level one license is a provisional five-year license for beginning teachers that requires as a condition of licensure that the licensee undergo a formal mentorship program for at least one full school year and an annual intensive performance evaluation by a school administrator for at least three full school years before applying for a level two license.

B. Each school district, in accordance with department rules, shall provide for the mentorship and evaluation of level one teachers. At the end of each year and at the end of the license period, the level one teacher shall be evaluated for competency. If the teacher fails to demonstrate satisfactory progress and competence annually, the teacher may be terminated as provided in Section 22-10A-24 NMSA 1978. If the teacher has not demonstrated satisfactory progress and competence by the end of the five-year period, the teacher shall not be granted a level two license.

C. Except in exigent circumstances defined by department rule, a level one license shall not be extended beyond the initial period.

D. The department shall issue a standard level one license to an applicant who is at least eighteen years of age who:

(1) holds a baccalaureate degree from an accredited educational institution;

(2) has successfully completed a department-approved teacher preparation program from a nationally accredited or state-approved educational institution;

(3) has passed the New Mexico teacher assessments examination, including for elementary licensure beginning January 1, 2013, a rigorous assessment of the candidate's knowledge of the science of teaching reading; and

(4) meets other qualifications for level one licensure, including clearance of the required background check.

E. The department shall issue an alternative level one license to an applicant who meets the requirements of Section 22-10A-8 NMSA 1978.

F. The department shall establish competencies and qualifications for specific grade levels, types and subject areas of level one licensure, including early childhood, elementary, middle school, secondary, special and vocational education.

G. The minimum salary for a level one teacher is forty thousand dollars (\$40,000) for a standard nine and one-half month contract; provided that teachers in an extended learning program or K-5 plus program shall receive additional salary at the same rate as their base salary for that teaching time."

Chapter 206 Section 22 Laws 2019

SECTION 22. Section 22-10A-10 NMSA 1978 (being Laws 2003, Chapter 153, Section 41, as amended) is amended to read:

"22-10A-10. LEVEL TWO LICENSURE.--

A. A level two license is a nine-year license granted to a teacher who meets the qualifications for that level and who annually demonstrates essential competency to teach. If a level two teacher does not demonstrate essential competency in a given school year, the school district shall provide the teacher with additional professional development and peer intervention during the following school year. If by the end of that school year the teacher fails to demonstrate essential competency, a school district may choose not to contract with the teacher to teach in the classroom.

B. The department shall issue a level two license to an applicant who successfully completes the level one license or is granted reciprocity as provided by department rules; demonstrates essential competency required by the department as verified by the local superintendent through the highly objective uniform statewide standard of evaluation; and meets other qualifications as required by the department.

C. The department shall provide for qualifications for specific grade levels, types and subject areas of level two licensure, including early childhood, elementary, middle, secondary, special and vocational education.

D. The minimum salary for a level two teacher is fifty thousand dollars (\$50,000) for a standard nine and one-half month contract; provided that teachers in an extended

learning program or K-5 plus program shall receive additional salary at the same rate as their base salary for that teaching time."

Chapter 206 Section 23 Laws 2019

SECTION 23. Section 22-10A-11 NMSA 1978 (being Laws 2003, Chapter 153, Section 42, as amended) is amended to read:

"22-10A-11. LEVEL THREE LICENSURE--TRACKS FOR TEACHERS.--

A. A level three-A license is a nine-year license granted to a teacher who meets the qualifications for that level and who annually demonstrates instructional leader competencies. If a level three-A teacher does not demonstrate essential competency in a given school year, the school district shall provide the teacher with additional professional development and peer intervention during the following school year. If by the end of that school year the teacher fails to demonstrate essential competency, a school district may choose not to contract with the teacher to teach in the classroom.

B. The department shall grant a level three-A license to an applicant who has been a level two teacher for at least three years and holds a post-baccalaureate degree or national board for professional teaching standards certification; demonstrates instructional leader competence as required by the department and verified by the local superintendent through the highly objective uniform statewide standard of evaluation; and meets other qualifications for the license.

C. The minimum salary for a level three-A teacher is sixty thousand dollars (\$60,000) for a standard nine and one-half month contract; provided that teachers in an extended learning program or K-5 plus program shall receive additional salary at the same rate as their base salary for that teaching time.

D. The minimum salary for a counselor who holds a level three or three-A license as provided in the School Personnel Act and rules promulgated by the department shall be the same as provided for level three-A teachers pursuant to Subsection C of this section."

Chapter 206 Section 24 Laws 2019

SECTION 24. Section 22-10A-11.4 NMSA 1978 (being Laws 2015, Chapter 74, Section 2) is amended to read:

"22-10A-11.4. LEVEL THREE-B ADMINISTRATOR'S LICENSE--TRACKS FOR SCHOOL ADMINISTRATOR LICENSURE.--

A. A level three-B administrator's license is a five-year license granted to an applicant who meets the qualifications for that license. Licenses may be renewed upon satisfactory annual demonstration of instructional leader and administrative competency.

B. The department shall grant a level three-B administrator's license to an applicant who:

(1) has completed a department-approved administrator preparation program;

(2) holds a current level two or level three teacher's license; and

(3) holds a post-baccalaureate degree or national board for professional teaching standards certification.

C. The minimum annual salary for a licensed school principal or assistant school principal is the minimum salary for a level three-A teacher multiplied by the applicable responsibility factor.

D. The department shall adopt a highly objective uniform statewide standard of evaluation, including data sources linked to student achievement and an educational plan for student success progress, for school principals and assistant school principals and rules for the implementation of that evaluation system linked to the level of responsibility at each school level.

E. As used in this section, "level three-B administrator's license" means a five-year license granted to an applicant who meets the qualifications pursuant to this section and department rules."

Chapter 206 Section 25 Laws 2019

SECTION 25. TEMPORARY PROVISION--FUND TRANSFER. --Any unexpended or unencumbered balances remaining in the K-3 plus fund on June 30, 2019 shall be transferred to the state-support reserve fund and up to three million dollars (\$3,000,000) shall be transferred to the public education department to implement the provisions of Section 26 of this 2019 act in fiscal year 2020.

Chapter 206 Section 26 Laws 2019

SECTION 26. TEMPORARY PROVISION--PROTECTION FROM PROGRAM COST REDUCTIONS.--Using funds provided in Section 25 of this 2019 act for fiscal

year 2020, the public education department shall supplement a school district's or charter school's calculated program cost if for fiscal year 2020 the school district's or charter school's program cost is less than its final program cost in the previous fiscal year in an amount equal to one hundred percent of the reduction attributable to the implementation of Section 6 of this 2019 act amending the age of a qualified student.

Chapter 206 Section 27 Laws 2019

SECTION 27. REPEAL.--Sections 22-13-28 and 22-13-28.2 NMSA 1978 (being Laws 2007, Chapter 12, Section 1 and Laws 2016, Chapter 62, Section 1, as amended) are repealed.

Chapter 206 Section 28 Laws 2019

SECTION 28. DELAYED REPEAL.--Section 22-13-28.1 NMSA 1978 (being Laws 2012, Chapter 21, Section 2) is repealed effective July 1, 2020.

Chapter 206 Section 29 Laws 2019

SECTION 29. APPLICABILITY.--The provisions of Sections 2 through 19 of this act apply to the program cost calculation in fiscal year 2020 and subsequent fiscal years. The provisions of Sections 21 through 24 of this act apply to school personnel contracted to provide services for summer 2019 K-5 plus programs in fiscal year 2019 and to all school personnel in fiscal year 2020 and subsequent fiscal years. _____

Senate Bill 1, aa, partial veto

Approved April 3, 2019

LAWS 2019, CHAPTER 207

AN ACT

RELATING TO PUBLIC EDUCATION; MAKING CHANGES TO THE PUBLIC SCHOOL FUNDING FORMULA; CHANGING THE DEFINITION OF "SCHOOL-AGE PERSON"; REQUIRING PERFORMANCE-BASED BUDGETING; CREATING A RURAL POPULATION RATE; LIMITING SCHOOL SIZE ADJUSTMENTS; PROVIDING FOR EXTENDED LEARNING TIME; CREATING A REFORM FUND; MAKING K-5 PLUS AN

ONGOING PROGRAM; INCREASING TEACHER AND PRINCIPAL MINIMUM SALARIES; REPEALING THE K-3 PLUS PROGRAM; MAKING AN APPROPRIATION.

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

Chapter 207 Section 1 Laws 2019

SECTION 1. Section 22-1-2 NMSA 1978 (being Laws 2003, Chapter 153, Section 3, as amended by Laws 2015, Chapter 58, Section 2 and by Laws 2015, Chapter 108, Section 1) is amended to read:

"22-1-2. DEFINITIONS.--As used in the Public School Code:

A. "academic proficiency" means mastery of the subject-matter knowledge and skills specified in state academic content and performance standards for a student's grade level;

B. "charter school" means a school authorized by a chartering authority to operate as a public school;

C. "commission" means the public education commission;

D. "department" means the public education department;

E. "home school" means the operation by the parent of a school-age person of a home study program of instruction that provides a basic academic educational program, including reading, language arts, mathematics, social studies and science;

F. "instructional support provider" means a person who is employed to support the instructional program of a school district, including educational assistant, school counselor, social worker, school nurse, speech-language pathologist, psychologist, physical therapist, occupational therapist, recreational therapist, marriage and family therapist, interpreter for the deaf and diagnostician;

G. "licensed school employee" means teachers, school administrators and instructional support providers;

H. "local school board" means the policy-setting body of a school district;

I. "local superintendent" means the chief executive officer of a school district;

J. "parent" includes a guardian or other person having custody and control of a school-age person;

K. "private school" means a school, other than a home school, that offers on-site programs of instruction and that is not under the control, supervision or management of a local school board;

L. "public school" means that part of a school district that is a single attendance center in which instruction is offered by one or more teachers and is discernible as a building or group of buildings generally recognized as either an elementary, middle, junior high or high school or any combination of those and includes a charter school;

M. "school" means a supervised program of instruction designed to educate a student in a particular place, manner and subject area;

N. "school administrator" means a person licensed to administer in a school district and includes school principals, central district administrators and charter school head administrators;

O. "school-age person" means a person who is at least five years of age prior to 12:01 a.m. on September 1 of the school year, who has not received a high school diploma or its equivalent and who has not reached the person's twenty-second birthday on the first day of the school year and meets other criteria provided in the Public School Finance Act;

P. "school building" means a public school, an administration building and related school structures or facilities, including teacher housing, that is owned, acquired or constructed by the school district as necessary to carry out the functions of the school district;

Q. "school bus private owner" means a person, other than a school district, the department, the state or any other political subdivision of the state, that owns a school bus;

R. "school district" means an area of land established as a political subdivision of the state for the administration of public schools and segregated geographically for taxation and bonding purposes;

S. "school employee" includes licensed and nonlicensed employees of a school district;

T. "school principal" means the chief instructional leader and administrative head of a public school;

U. "school year" means the total number of contract days offered by public schools in a school district during a period of twelve consecutive months;

V. "secretary" means the secretary of public education;

W. "state agency" or "state institution" means the New Mexico military institute, New Mexico school for the blind and visually impaired, New Mexico school for the deaf, New Mexico boys' school, girls' welfare home, New Mexico youth diagnostic and development center, Sequoyah adolescent treatment center, Carrie Tingley crippled children's hospital, New Mexico behavioral health institute at Las Vegas and any other state agency responsible for educating resident children;

X. "state educational institution" means an institution enumerated in Article 12, Section 11 of the constitution of New Mexico;

Y. "substitute teacher" means a person who holds a certificate to substitute for a teacher in the classroom;

Z. "teacher" means a person who holds a level one, two or three-A license and whose primary duty is classroom instruction or the supervision, below the school principal level, of an instructional program or whose duties include curriculum development, peer intervention, peer coaching or mentoring or serving as a resource teacher for other teachers;

AA. "certified school instructor" means a licensed school employee; and

BB. "certified school employee" or "certified school personnel" means a licensed school employee."

Chapter 207 Section 2 Laws 2019

SECTION 2. A new section of the Public School Code is enacted to read:

"SHORT TITLE.--Sections 2 through 5 of this act may be cited as the "K-5 Plus Act"."

Chapter 207 Section 3 Laws 2019

SECTION 3. A new section of the Public School Code is enacted to read:

"K-5 PLUS--ELIGIBILITY--REQUIREMENTS.--

A. A school district or charter school may apply to participate in the K-5 plus program and is eligible to receive program units for students enrolled in elementary schools approved by the department to participate in the K-5 plus program. In approving schools for participation in K-5 plus, the department shall prioritize elementary schools:

- (1) in which eighty percent or more of the elementary school's students are eligible for free or reduced-fee lunch;
- (2) that are low-performing elementary schools;
- (3) that participated in the 2018 K-3 plus or K-5 plus program; and
- (4) that meet criteria established by department rule.

B. Each K-5 plus program shall:

- (1) provide no fewer than twenty-five additional instructional days prior to the start of the regular school year;
- (2) keep students that participate in the K-5 plus program with the same teacher and cohort of students during the regular school year;
- (3) include additional professional development for K-5 plus teachers in how young children learn to read; and
- (4) be implemented school-wide.

C. An elementary school is ineligible for K-5 plus program units if it fails to meet the requirements of Subsection B of this section."

Chapter 207 Section 4 Laws 2019

SECTION 4. A new section of the Public School Code is enacted to read:

"K-5 PLUS--OVERSIGHT--REPORTING.--

A. The department shall:

- (1) enforce the provisions of the K-5 Plus Act;

(2) issue rules for the development and implementation of K-5 plus programs;

(3) assist school districts and charter schools in developing and evaluating K-5 plus programs;

(4) develop and disseminate information on best practices in the area of academic success of early learners;

(5) establish reporting and evaluation requirements, including student and program assessments, for schools participating in the program;

(6) annually report to the legislature and the governor on the efficacy of K-5 plus programs; and

(7) establish a K-5 plus advisory committee composed of representatives of school districts and charter schools that participate in the K-5 plus program, the legislative education study committee, the legislative finance committee and other stakeholders. The advisory committee shall meet twice a year to advise the department on K-5 plus implementation.

B. Students participating in K-5 plus shall be evaluated at the beginning of K-5 plus, and their progress shall be measured through department-approved summative and formative assessments."

Chapter 207 Section 5 Laws 2019

SECTION 5. A new section of the Public School Code is enacted to read:

"K-5 PLUS--APPLICATION.--

A. School districts and charter schools that wish to participate in the K-5 plus program shall apply to participate in their annual educational plans submitted to the department pursuant to the Public School Finance Act.

B. No later than October 15 of each year, a school district or charter school that wishes to apply for a new K-5 plus program for the next fiscal year shall submit to the department the actual number of students participating in its K-5 plus programs in the current year and an estimate of the number of students the school district or charter school expects will participate in K-5 plus programs in the next year. The department shall not approve a new K-5 plus program unless the school district or charter school notifies the department of its intent to start a new program as required by this section.

C. No later than November 15 of each year, the department shall notify the legislature of the number of students participating in K-5 plus programs in the current school year and of the number of students projected to participate in K-5 plus programs in the next school year."

Chapter 207 Section 6 Laws 2019

SECTION 6. Section 22-8-2 NMSA 1978 (being Laws 1978, Chapter 128, Section 3, as amended) is amended to read:

"22-8-2. DEFINITIONS.--As used in the Public School Finance Act:

A. "ADM" or "MEM" means membership;

B. "membership" means the total enrollment of qualified students on the current roll of a class or school on a specified day. The current roll is established by the addition of original entries and reentries minus withdrawals. Withdrawals of students, in addition to students formally withdrawn from the public school, include students absent from the public school for as many as ten consecutive school days; provided that withdrawals do not include students in need of early intervention and habitual truants the school district is required to intervene with and keep in an educational setting as provided in Section 22-12-9 NMSA 1978;

C. "basic program ADM" or "basic program MEM" means the MEM of qualified students but excludes the full-time-equivalent MEM in early childhood education and three- and four-year-old students receiving special education services;

D. "cost differential factor" is the numerical expression of the ratio of the cost of a particular segment of the school program to the cost of the basic program in grades four through six;

E. "department" or "division" means the public education department;

F. "early childhood education ADM" or "early childhood education MEM" means the full-time-equivalent MEM of students attending approved early childhood education programs;

G. "full-time-equivalent ADM" or "full-time-equivalent MEM" is that membership calculated by applying to the MEM in an approved public school program the ratio of the number of hours per school day devoted to the program to six hours or the number of hours per school week devoted to the program to thirty hours;

H. "operating budget" means the annual financial plan and educational plan required to be submitted by a local school board or governing body of a state-chartered charter school;

I. "performance measure" means a quantitative indicator used to assess the output or outcome of an approved program;

J. "performance target" means the expected level of performance of a program's performance measure;

K. "program cost" is the product of the total number of program units to which a school district is entitled multiplied by the dollar value per program unit established by the legislature;

L. "program element" is that component of a public school system to which a cost differential factor is applied to determine the number of program units to which a school district is entitled, including MEM, full-time-equivalent MEM, teacher, classroom or public school;

M. "program unit" is the product of the program element multiplied by the applicable cost differential factor;

N. "public money" or "public funds" means all money from public or private sources received by a school district or state-chartered charter school or officer or employee of a school district or state-chartered charter school for public use;

O. "qualified student" means a public school student who:

(1) has not graduated from high school;

(2) is regularly enrolled in one-half or more of the minimum course requirements approved by the department for public school students; and

(3) in terms of age and other criteria:

(a) is at least five years of age prior to 12:01 a.m. on September 1 of the school year;

(b) is at least three years of age at any time during the school year and is receiving special education services pursuant to rules of the department;

(c) except as provided in Subparagraph (d) of this paragraph, has not reached the student's twenty-second birthday on the first day of the school year; or

(d) has reached the student's twenty-second birthday on the first day of the 2019-2020 school year, is counted in a school district's or charter school's MEM on the third reporting date of the 2018-2019 school year, has been continuously enrolled in the same public school since that reporting date and is still enrolled in that school;

P. "rural population rate" means that proportion of the total population within a school district's geographic boundaries that lives in a rural area and not in an urban area as defined by the United States census bureau;

Q. "staffing cost multiplier" means:

(1) for fiscal year 2019, the instructional staff training and experience index;

(2) for fiscal year 2020, the weighted average of the instructional staff training and experience index at seventy-five percent and the teacher cost index at twenty-five percent;

(3) for fiscal year 2021, the weighted average of the instructional staff training and experience index at fifty percent and the teacher cost index at fifty percent;

(4) for fiscal year 2022, the weighted average of the instructional staff training and experience index at twenty-five percent and the teacher cost index at seventy-five percent; and

(5) for fiscal year 2023 and subsequent fiscal years, the teacher cost index; and

R. "state superintendent" means the secretary of public education or the secretary's designee."

Chapter 207 Section 7 Laws 2019

SECTION 7. Section 22-8-5 NMSA 1978 (being Laws 1967, Chapter 16, Section 59, as amended) is amended to read:

"22-8-5. RULES--PROCEDURES.--

A. The department, in consultation with the state auditor, shall establish rules and procedures for a uniform system of accounting and budgeting of funds for all public schools and school districts of the state. The rules, including revisions or amendments, shall become effective upon filing with the state records center and archives and publication. A copy shall also be filed with the department of finance and administration.

B. All public schools and school districts shall comply with the rules and procedures prescribed and shall, upon request, submit additional reports concerning finances to the department, including an accounting of the costs of services related to providing a program included in the educational plan approved by the department. In addition, upon request, all public schools and school districts shall file reports with the department containing pertinent details regarding applications for federal money or federal grants-in-aid or regarding federal money or federal grants-in-aid received, including details of programs, matching funds, personnel requirements, salary provisions and program numbers, as indicated in the catalog of federal domestic assistance, of the federal funds applied for and of those received.

C. Upon request by the department of finance and administration, the legislative finance committee or the legislative education study committee, the department shall furnish information and data obtained from public schools and school districts and information compiled by the department related to public school finances within ten business days."

Chapter 207 Section 8 Laws 2019

SECTION 8. Section 22-8-6 NMSA 1978 (being Laws 1967, Chapter 16, Section 60, as amended by Laws 1999, Chapter 281, Section 21 and by Laws 1999, Chapter 291, Section 2) is amended to read:

"22-8-6. OPERATING BUDGETS--EDUCATIONAL PLANS-- SUBMISSION-- FAILURE TO SUBMIT.--

A. Prior to April 15 of each year, each local school board shall submit to the department an operating budget for the school district and any locally chartered charter school in the school district for the ensuing fiscal year.

B. The date for the submission of the operating budget for each school district and each charter school as required by this section may be extended to a later date fixed by the secretary.

C. The operating budget required by this section may include:

(1) estimates of the cost of insurance policies for periods up to five years if a lower rate may be obtained by purchasing insurance for the longer term; or

(2) estimates of the cost of contracts for the transportation of students for terms extending up to four years.

D. The operating budget required by this section shall include a budget for each charter school of the membership projected for each charter school, the total program units generated at that charter school and approximate anticipated disbursements and expenditures at each charter school.

E. For fiscal year 2021 and subsequent fiscal years, each school district's and each locally chartered or state-chartered charter school's educational plan shall include:

(1) information on the instructional time offered by the school district or charter school, including the number of instructional days by school site and the number of hours in each instructional day and the frequency of early- release days;

(2) a narrative explaining the identified services to improve the academic success of at-risk students;

(3) a narrative explaining the services provided to students enrolled in the following programs:

(a) extended learning time programs, including a report of how the extended learning time is used to improve the academic success of students and professional learning of teachers; and

(b) K-5 plus programs;

(4) a narrative explaining the school district's or charter school's beginning teacher mentorship programs as well as class size and teaching load information;

(5) a narrative explaining supplemental programs or services offered by the school district or charter school to ensure that the Bilingual Multicultural Education Act, the Indian Education Act and the Hispanic Education Act are being implemented by the school district or charter school;

(6) a narrative describing the amount of program cost generated for services to students with disabilities and the spending of these revenues on services to students with disabilities, which shall include the following:

- (a) program cost generated for students enrolled in approved special education programs;
 - (b) budgeted expenditures of program cost, for students enrolled in approved special education programs, on students with disabilities;
 - (c) the amount of program cost generated for personnel providing ancillary and related services to students with disabilities;
 - (d) budgeted expenditures of program cost for personnel providing ancillary and related services to students with disabilities, on special education ancillary and related services personnel; and
 - (e) a description of the steps taken to ensure that students with disabilities have access to a free and appropriate public education; and
- (7) a common set of performance targets and performance measures, as determined by the department in consultation with the department of finance and administration, the legislative finance committee and the legislative education study committee.

F. If a local school board or governing board of a charter school fails to submit an operating budget pursuant to this section, the department shall prepare the operating budget for the school district or charter school for the ensuing fiscal year. A local school board or governing board of a charter school shall be considered as failing to submit an operating budget pursuant to this section if the budget submitted exceeds the total projected resources of the school district or charter school or if the budget submitted does not comply with the law or with rules and procedures of the department."

Chapter 207 Section 9 Laws 2019

SECTION 9. Section 22-8-6.1 NMSA 1978 (being Laws 1993, Chapter 227, Section 8, as amended) is amended to read:

"22-8-6.1. CHARTER SCHOOL OPERATING BUDGETS--MAXIMUM MEM.--

A. Each state-chartered charter school shall submit to the charter schools division of the department a school-based operating budget. The operating budget shall be submitted to the division for approval or amendment pursuant to the Public School Finance Act and the Charter Schools Act. Thereafter, the operating budget shall be submitted to the commission for review.

B. Each locally chartered charter school shall submit to the local school board a school-based operating budget for approval or amendment. The approval or amendment authority of the local school board relative to the charter school operating budget is limited to ensuring that sound fiscal practices are followed in the development of the operating budget and that the charter school operating budget is within the allotted resources. The local school board shall have no veto authority over individual line items within the charter school's proposed financial budget or over any item in the educational plan, but shall approve or disapprove the operating budget in its entirety. Upon final approval of the charter school operating budget by the local school board, the individual charter school operating budget shall be included separately in the budget submission to the department required pursuant to the Public School Finance Act and the Charter Schools Act.

C. For its first year of operation, a charter school's operating budget shall be based on the projected number of program units generated by the school and its students using the at-risk index and the staffing cost multiplier of the school district in which the charter school is located, and the charter school's operating budget shall be adjusted using the qualified MEM on the first reporting date of the current school year. For its second and subsequent fiscal years of operation, a charter school's operating budget shall be based on the number of program units generated by the charter school and its students using the average of the MEM on the second and third reporting dates of the prior year, the at-risk index of the school district in which the charter school is located and the charter school's staffing cost multiplier."

Chapter 207 Section 10 Laws 2019

SECTION 10. Section 22-8-9 NMSA 1978 (being Laws 1967, Chapter 16, Section 63, as amended) is amended to read:

"22-8-9. BUDGETS--MINIMUM REQUIREMENTS.--

A. An operating budget for a school district shall not be approved by the department if the educational plan does not provide for:

(1) a school year and school day as provided in Section 22-2-8.1 NMSA 1978; and

(2) a pupil-teacher ratio or class or teaching load as provided in Section 22-10A-20 NMSA 1978.

B. The department shall, by rule, establish the requirements for an instructional day, the standards for an instructional hour and the standards for a full-time teacher and for the equivalent thereof."

Chapter 207 Section 11 Laws 2019

SECTION 11. Section 22-8-10 NMSA 1978 (being Laws 1967, Chapter 16, Section 65, as amended) is amended to read:

"22-8-10. BUDGETS--FIXING THE OPERATING BUDGET.--

A. Prior to June 20 of each year, each local school board and each governing board of a charter school shall, at a public hearing of which notice has been published by the local school board or governing board of a charter school, fix the operating budget for the school district or charter school for the ensuing fiscal year. At the discretion of the secretary or the local school board or governing body of a charter school, the department may participate in the public hearing.

B. Prior to the public hearing held to fix the operating budget for the school district or charter school, the local school board or governing body of a charter school shall give notice to parents explaining the budget process and inviting parental involvement and input in that process prior to the date for the public hearing. The educational plan submitted by the local school board or the governing body of a charter school to the department shall include information on parental involvement and input."

Chapter 207 Section 12 Laws 2019

SECTION 12. Section 22-8-11 NMSA 1978 (being Laws 1967, Chapter 16, Section 66, as amended) is amended to read:

"22-8-11. BUDGETS--APPROVAL OF OPERATING BUDGET.--

A. The department shall:

(1) on or before July 1 of each year, approve and certify to each local school board and governing body of a charter school an operating budget for use by the school district or charter school;

(2) ensure that each program in a school district or charter school's operating budget meets the requirements of law and the department's rules and procedures and that no school district or charter school generates program units for a program not meeting the requirements of law and the department's rules or procedures;

(3) make corrections, revisions and amendments to the operating budgets fixed by the local school boards or governing bodies of charter schools and the secretary to conform the operating budgets to the requirements of law and to the department's rules and procedures; and

(4) ensure that a local school board or governing body of a charter school is prioritizing resources toward proven programs and methods that are linked to improved student achievement.

B. No school district or charter school or officer or employee of a school district or charter school shall make any expenditure or incur any obligation for the expenditure of public funds unless that expenditure or obligation is made in accordance with an operating budget approved by the department. This prohibition does not prohibit the transfer of funds pursuant to the department's rules and procedures.

C. The department shall not approve and certify an operating budget of any school district or charter school that fails to demonstrate that parental involvement in the budget process was solicited.

D. The department shall not approve and certify an operating budget of any school district or charter school that the secretary determines has failed to provide sufficient data and information to determine if the school district or charter school is meeting the requirements of law or the department's rules and procedures."

Chapter 207 Section 13 Laws 2019

SECTION 13. Section 22-8-18 NMSA 1978 (being Laws 1974, Chapter 8, Section 8, as amended) is amended to read:

"22-8-18. PROGRAM COST CALCULATION--LOCAL RESPONSIBILITY.--

A. The total program units for the purpose of computing the program cost shall be calculated by multiplying the sum of the program units itemized as Paragraphs (1) and (2) in this subsection by the staffing cost multiplier and adding the program units itemized as Paragraphs (3) through (16) in this subsection. The itemized program units are as follows:

(1) early childhood education;

(2) basic education;

(3) special education, adjusted by subtracting the units derived from membership in class D special education programs in private, nonsectarian, nonprofit training centers;

(4) bilingual multicultural education;

(5) fine arts education;

(6) elementary physical education;

(7) size adjustment;

(8) at-risk;

(9) enrollment growth or new district adjustment;

(10) special education units derived from membership in class D special education programs in private, nonsectarian, nonprofit training centers;

(11) national board for professional teaching standards certification;

(12) home school student;

(13) home school student activities;

(14) charter school student activities;

(15) K-5 plus; and

(16) extended learning time.

B. The total program cost calculated as prescribed in Subsection A of this section includes the cost of early childhood, special, bilingual multicultural, fine arts and vocational education and other remedial or enrichment programs. It is the responsibility of the local school board or governing body of a charter school to determine its priorities in terms of the needs of the community served by that board. Except as otherwise provided in this section, funds generated under the Public School Finance Act are discretionary to local school boards and governing bodies of charter schools; provided that the special program needs as enumerated in this section are met; and provided further that the department shall ensure that the local school board or governing body of a charter school is prioritizing resources for the public school toward proven programs and methods linked to improved student achievement."

Chapter 207 Section 14 Laws 2019

SECTION 14. Section 22-8-23 NMSA 1978 (being Laws 1975, Chapter 119, Section 1, as amended) is amended to read:

"22-8-23. SIZE ADJUSTMENT PROGRAM UNITS.--

A. An approved public school, including a charter school, with a MEM of fewer than four hundred, including early childhood education full-time-equivalent MEM but excluding membership in class C and class D programs and excluding full-time-equivalent membership in three- and four-year-old developmentally disabled programs, that is geographically located in a school district with fewer than two thousand MEM, is eligible for additional program units. Separate schools established to provide special programs, including but not limited to vocational and alternative education, shall not be classified as public schools for purposes of generating size adjustment program units. The number of additional program units to which a school district or charter school is entitled under this subsection is the sum of elementary-junior high units and senior high units computed in the following manner:

Elementary-Junior High Units

200 - MEM

_____ x 1.0 x MEM = Units

200

where MEM is equal to the membership of an approved elementary or junior high school, including early childhood education full-time-equivalent membership but excluding membership in class C and class D programs and excluding full-time-equivalent membership in three- and four-year-old developmentally disabled programs;

Senior High Units

200 - MEM

_____ x 2.0 x MEM = Units

200

or,

Senior High Units

400 - MEM

_____ x 1.6 x MEM = Units

400

whichever calculation for senior high units is higher, where MEM is equal to the membership of an approved senior high school excluding membership in class C and class D programs.

B. An approved public school with a MEM of fewer than four hundred, including early childhood education full-time-equivalent MEM but excluding MEM in class C and class D programs and excluding full-time-equivalent MEM in three- and four-year-old developmentally disabled programs, geographically located in a school district with two thousand MEM or more is eligible for additional program units computed in the following manner:

(1) for fiscal year 2020, eighty percent of the sum of elementary-junior high units and senior high units as prescribed in Subsection A of this section;

(2) for fiscal year 2021, sixty percent of the sum of elementary-junior high units and senior high units as prescribed in Subsection A of this section;

(3) for fiscal year 2022, forty percent of the sum of elementary-junior high units and senior high units as prescribed in Subsection A of this section;

(4) for fiscal year 2023, twenty percent of the sum of elementary-junior high units and senior high units as prescribed in Subsection A of this section; and

(5) for fiscal year 2024 and subsequent fiscal years, no elementary-junior high units and senior high units as prescribed in Subsection A of this section.

C. A school district with total MEM of fewer than four thousand, including early childhood education full-time-equivalent MEM, is eligible for additional program units. The number of additional program units to which a school district is entitled under this subsection is the number of district units computed in the following manner:

District Units

4,000 - MEM

$$\frac{\text{_____}}{4,000} \times 0.15 \times \text{MEM} = \text{Units}$$

where MEM is equal to the total district membership, including early childhood education full-time-equivalent membership.

D. A school district, as defined in Subsection R of Section 22-1-2 NMSA 1978, with a MEM of fewer than two hundred, including early childhood education full-time-equivalent MEM, is eligible for additional program units if the department certifies that the school district has implemented practices to reduce scale inefficiencies, including shared service agreements with regional education cooperatives or other school districts for noninstructional functions and distance education. The numbers of additional program units to which a school district is entitled under this subsection is the number of units computed in the following manner:

$$200 - \text{MEM} = \text{Units}$$

where MEM is equal to the total district MEM, including early childhood education full-time-equivalent MEM.

E. A school district with a rural population rate greater than forty percent or a charter school initially chartered before July 1, 2018 and geographically located in a school district with a rural population rate greater than forty percent is eligible for additional program units. The number of additional program units to which a school district or charter school is entitled pursuant to this subsection is determined by multiplying the full-time-equivalent MEM by the rural population rate and the cost differential factor of 0.03 for fiscal year 2020, 0.06 for fiscal year 2021, 0.09 for fiscal year 2022, 0.12 for fiscal year 2023 and 0.15 for fiscal year 2024 and subsequent fiscal years."

Chapter 207 Section 15 Laws 2019

SECTION 15. Section 22-8-23.3 NMSA 1978 (being Laws 1997, Chapter 40, Section 7, as amended) is amended to read:

"22-8-23.3. AT-RISK PROGRAM UNITS.--

A. A school district is eligible for additional program units if it establishes within its department-approved educational plan identified services to assist students to reach their full academic potential. A school district receiving additional at-risk program units shall include a report of specified services implemented to improve the academic

success of at-risk students. The report shall identify the ways in which the school district and individual public schools use funding generated through the at-risk index and the intended outcomes. For purposes of this section, "at-risk student" means a student who meets the criteria to be included in the calculation of the three-year average total rate in Subsection B of this section. The number of additional units to which a school district is entitled under this section is computed in the following manner:

$$\text{At-Risk Index} \times \text{MEM} = \text{Units}$$

where MEM is equal to the total district membership, including early childhood education, full-time-equivalent membership and special education membership and where the at-risk index is calculated in the following manner:

$$\text{Three-Year Average Total Rate} \times 0.25 = \text{At-Risk Index.}$$

B. To calculate the three-year average total rate, the department shall compute a three-year average of the school district's percentage of membership used to determine its Title 1 allocation, a three-year average of the percentage of membership classified as English language learners using criteria established by the office for civil rights of the United States department of education and a three-year average of the percentage of student mobility. The department shall then add the three-year average rates. The number obtained from this calculation is the three-year average total rate.

C. The department shall recalculate the at-risk index for each school district every year.

D. For purposes of this section, "services" means research-based or evidence-based social, emotional or academic interventions, such as:

- (1) case management, tutoring, reading interventions and after-school programs that are delivered by social workers, counselors, teachers or other professional staff;
- (2) culturally relevant professional and curriculum development, including those necessary to support language acquisition, bilingual and multicultural education;
- (3) additional compensation strategies for high-need schools;
- (4) whole school interventions, including school-based health centers and community schools;

(5) educational programming intended to improve career and college readiness of at-risk students, including dual or concurrent enrollment, career and technical education, guidance counseling services and coordination with post-secondary institutions; and

(6) services to engage and support parents and families in the education of students."

Chapter 207 Section 16 Laws 2019

SECTION 16. A new section of the Public School Finance Act is enacted to read:

"EXTENDED LEARNING TIME PROGRAM.--

A. A school district or charter school is eligible for additional program units if it establishes within its department-approved educational plan an extended learning time program that meets the requirements of Subsection B, C or D of this section.

B. An extended learning time program shall include:

(1) a minimum of one hundred ninety [~~instructional~~] days per school year, with at least five and one-half instructional hours per instructional day for kindergarten through sixth grade and at least six instructional hours per day for seventh through twelfth grade; *LINE-ITEM VETO*

(2) after-school program opportunities for academic learning or extracurricular enrichment to students that do not supplant federally funded programs; and

(3) a minimum of eighty noninstructional hours per school year for professional development for instructional staff.

C. An extended learning time program in a school district operating a four-day school week in fiscal year 2019 or in a school district with fewer than one thousand MEM operating a four-day school week shall include:

(1) a minimum of one hundred sixty [~~instructional~~] days per school year with at least six and one-half hours per instructional day for kindergarten through sixth grade and at least seven instructional hours per instructional day for seventh through twelfth grade; *LINE-ITEM VETO*

(2) after-school program opportunities for academic learning or extracurricular enrichment to students that do not supplant federally funded programs; and

(3) a minimum of eighty noninstructional hours per school year for professional development for instructional staff.

D. With department approval, an elementary school that has an extended learning time program that qualifies for extended learning time program units pursuant to Subsection B or C of this section that also has a qualifying K-5 plus program pursuant to the K-5 Plus Act may structure the school year to provide the additional instructional time required pursuant to the applicable subsection of this section by extending existing instructional days.

E. The number of additional units to which a school district or charter school is entitled under this section is computed in the following manner:

MEM x 0.11."

Chapter 207 Section 17 Laws 2019

SECTION 17. A new section of the Public School Finance Act is enacted to read:

"K-5 PLUS PROGRAM UNITS.--The number of K-5 plus program units is determined by multiplying the MEM in department-approved K-5 plus programs by the cost differential factor of 0.3. For each reporting date, MEM in K-5 plus programs shall be equal to the number of qualified students on a date specified by department rule."

Chapter 207 Section 18 Laws 2019

SECTION 18. A new section of the Public School Finance Act is enacted to read:

"NEW PROGRAM FUNDING.--For the first year of programs operating pursuant to the K-5 Plus Act, the Bilingual Multicultural Education Act, the Fine Arts Education Act or for extended learning time programs, a school district or charter school shall generate the applicable program units. A school district's or charter school's budget shall be based on the projected number of program units for the program's first year of operation and shall be adjusted using the qualified MEM on the first reporting date of the current school year."

Chapter 207 Section 19 Laws 2019

SECTION 19. A new section of the Public School Finance Act is enacted to read:

"PUBLIC EDUCATION REFORM FUND CREATED.--

A. The "public education reform fund" is created as a nonreverting fund in the state treasury and consists of appropriations; unspecified gifts, grants and donations to the fund; and income from investment of the fund.

B. Subject to legislative appropriation, money in the fund is appropriated to the department for the purposes of implementing evidence-based public education initiatives related to high-quality teaching and school leadership, extended learning opportunities for students, educational interventions for at-risk students, effective and efficient school administration or promoting public education accountability."

Chapter 207 Section 20 Laws 2019

SECTION 20. Section 22-8B-6 NMSA 1978 (being Laws 1999, Chapter 281, Section 6, as amended) is amended to read:

"22-8B-6. CHARTER SCHOOL REQUIREMENTS--APPLICATION PROCESS--
AUTHORIZATION--STATE BOARD OF FINANCE DESIGNATION REQUIRED--
PUBLIC HEARINGS--SUBCOMMITTEES.--

A. A local school board has the authority to approve the establishment of a locally chartered charter school within that local school board's district.

B. No later than the second Tuesday of January of the year in which an application will be filed, the organizers of a proposed charter school shall provide written notification to the commission and the school district in which the charter school is proposed to be located of their intent to establish a charter school. Failure to notify may result in an application not being accepted.

C. A charter school applicant shall apply to either a local school board or the commission for a charter. If an application is submitted to a chartering authority, the chartering authority shall process the application. Applications for initial charters shall be submitted by June 1 to be eligible for consideration for the following fiscal year; provided that the June 1 deadline may be waived upon agreement of the applicant and the chartering authority.

D. An application shall include the total number of grades the charter school proposes to provide, either immediately or phased. A charter school may decrease the number of grades it eventually offers, but it shall not increase the number of grades or the total number of students proposed to be served in each grade.

E. An application shall include the total number of students the charter school proposes to serve in each of the charter school's first three years of operation. No later than June 15, each local school board and the commission shall notify the department as to the number of students each charter school applicant proposes to serve in each year.

F. An application shall include a detailed description of the charter school's projected facility needs, including projected requests for capital outlay assistance that have been approved by the director of the public school facilities authority or the director's designee. The director shall respond to a written request for review from a charter applicant within forty-five days of the request.

G. An application may be made by one or more teachers, parents or community members or by a public post-secondary educational institution or nonprofit organization. Municipalities, counties, private post-secondary educational institutions and for-profit business entities are not eligible to apply for or receive a charter.

H. An initial application for a charter school shall not be made after June 30, 2007 if the proposed charter school's proposed enrollment for all grades or the proposed charter school's proposed enrollment for all grades in combination with any other charter school's enrollment for all grades would equal or exceed ten percent of the total MEM of the school district in which the charter school will be geographically located and that school district has a total enrollment of not more than one thousand three hundred students.

I. A state-chartered charter school shall not be approved for operation unless its governing body has qualified to be a board of finance.

J. The chartering authority shall receive and review all applications for charter schools submitted to it. The chartering authority shall not charge application fees.

K. The chartering authority shall hold at least one public hearing in the school district in which the charter school is proposed to be located to obtain information and community input to assist it in its decision whether to grant a charter school application. The chartering authority may designate a subcommittee of no fewer than three members to hold the public hearing, and, if so, the hearing shall be transcribed for later review by other members of the chartering authority. Community input may include

written or oral comments in favor of or in opposition to the application from the applicant, the local community and, for state-chartered charter schools, the local school board and school district in whose geographical boundaries the charter school is proposed to be located.

L. The chartering authority shall rule on the application for a charter school in a public meeting by September 1 of the year the application was received; provided, however, that prior to ruling on the application for which a designated subcommittee was used, any member of the chartering authority who was not present at the public hearing shall receive the transcript of the public hearing together with documents submitted for the public hearing. If not ruled upon by that date, the charter application shall be automatically reviewed by the secretary in accordance with the provisions of Section 22-8B-7 NMSA 1978. The charter school applicant and the chartering authority may, however, jointly waive the deadlines set forth in this section.

M. A chartering authority may approve, approve with conditions or deny an application. A chartering authority may deny an application if:

(1) the application is incomplete or inadequate;

(2) the application does not propose to offer an educational program consistent with the requirements and purposes of the Charter Schools Act;

(3) the proposed head administrator or other administrative or fiscal staff was involved with another charter school whose charter was denied or revoked for fiscal mismanagement or the proposed head administrator or other administrative or fiscal staff was discharged from a public school for fiscal mismanagement;

(4) for a proposed state-chartered charter school, it does not request to have the governing body of the charter school designated as a board of finance or the governing body does not qualify as a board of finance; or

(5) the application is otherwise contrary to the best interests of the charter school's projected students, the local community or the school district in whose geographic boundaries the charter school applies to operate.

N. If the chartering authority denies a charter school application or approves the application with conditions, it shall state its reasons for the denial or conditions in writing within fourteen days of the meeting. If the chartering authority grants a charter, the approved charter shall be provided to the applicant together with any imposed conditions.

O. A charter school that has received a notice from the chartering authority denying approval of the charter shall have a right to a hearing by the secretary as provided in Section 22-8B-7 NMSA 1978."

Chapter 207 Section 21 Laws 2019

SECTION 21. Section 22-10A-7 NMSA 1978 (being Laws 2003, Chapter 153, Section 38, as amended) is amended to read:

"22-10A-7. LEVEL ONE LICENSURE.--

A. A level one license is a provisional five-year license for beginning teachers that requires as a condition of licensure that the licensee undergo a formal mentorship program for at least one full school year and an annual intensive performance evaluation by a school administrator for at least three full school years before applying for a level two license.

B. Each school district, in accordance with department rules, shall provide for the mentorship and evaluation of level one teachers. At the end of each year and at the end of the license period, the level one teacher shall be evaluated for competency. If the teacher fails to demonstrate satisfactory progress and competence annually, the teacher may be terminated as provided in Section 22-10A-24 NMSA 1978. If the teacher has not demonstrated satisfactory progress and competence by the end of the five-year period, the teacher shall not be granted a level two license.

C. Except in exigent circumstances defined by department rule, a level one license shall not be extended beyond the initial period.

D. The department shall issue a standard level one license to an applicant who is at least eighteen years of age who:

(1) holds a baccalaureate degree from an accredited educational institution;

(2) has successfully completed a department-approved teacher preparation program from a nationally accredited or state-approved educational institution;

(3) has passed the New Mexico teacher assessments examination, including for elementary licensure beginning January 1, 2013, a rigorous assessment of the candidate's knowledge of the science of teaching reading; and

(4) meets other qualifications for level one licensure, including clearance of the required background check.

E. The department shall issue an alternative level one license to an applicant who meets the requirements of Section 22-10A-8 NMSA 1978.

F. The department shall establish competencies and qualifications for specific grade levels, types and subject areas of level one licensure, including early childhood, elementary, middle school, secondary, special and vocational education.

G. The minimum salary for a level one teacher is provided that teachers in an extended learning time program or K-5 plus program shall receive additional salary at the same rate as their base salary for that teaching time."

Chapter 207 Section 22 Laws 2019

SECTION 22. Section 22-10A-10 NMSA 1978 (being Laws 2003, Chapter 153, Section 41, as amended) is amended to read:

"22-10A-10. LEVEL TWO LICENSURE.--

A. A level two license is a nine-year license granted to a teacher who meets the qualifications for that level and who annually demonstrates essential competency to teach. If a level two teacher does not demonstrate essential competency in a given school year, the school district shall provide the teacher with additional professional development and peer intervention during the following school year. If by the end of that school year the teacher fails to demonstrate essential competency, a school district may choose not to contract with the teacher to teach in the classroom.

B. The department shall issue a level two license to an applicant who successfully completes the level one license or is granted reciprocity as provided by department rules; demonstrates essential competency required by the department as verified by the local superintendent through the highly objective uniform statewide standard of evaluation; and meets other qualifications as required by the department.

C. The department shall provide for qualifications for specific grade levels, types and subject areas of level two licensure, including early childhood, elementary, middle, secondary, special and vocational education.

D. The minimum salary for a level two teacher is provided that teachers in an extended learning time program or K-5 plus program shall receive additional salary at the same rate as their base salary for that teaching time."

Chapter 207 Section 23 Laws 2019

SECTION 23. Section 22-10A-11 NMSA 1978 (being Laws 2003, Chapter 153, Section 42, as amended) is amended to read:

"22-10A-11. LEVEL THREE LICENSURE--TRACKS FOR TEACHERS.--

A. A level three-A license is a nine-year license granted to a teacher who meets the qualifications for that level and who annually demonstrates instructional leader competencies. If a level three-A teacher does not demonstrate essential competency in a given school year, the school district shall provide the teacher with additional professional development and peer intervention during the following school year. If by the end of that school year the teacher fails to demonstrate essential competency, a school district may choose not to contract with the teacher to teach in the classroom.

B. The department shall grant a level three-A license to an applicant who has been a level two teacher for at least three years and holds a post-baccalaureate degree or national board for professional teaching standards certification; demonstrates instructional leader competence as required by the department and verified by the local superintendent through the highly objective uniform statewide standard of evaluation; and meets other qualifications for the license.

C. The minimum salary for a level three-A teacher is provided that teachers in an extended learning time program or K-5 plus program shall receive additional salary at the same rate as their base salary for that teaching time.

D. The minimum salary for a counselor who holds a level three or three-A license as provided in the School Personnel Act and rules promulgated by the department shall be the same as provided for level three-A teachers pursuant to Subsection C of this section."

Chapter 207 Section 24 Laws 2019

SECTION 24. Section 22-10A-11.4 NMSA 1978 (being Laws 2015, Chapter 74, Section 2) is amended to read:

"22-10A-11.4. LEVEL THREE-B ADMINISTRATOR'S LICENSE--TRACKS FOR SCHOOL ADMINISTRATOR LICENSURE.--

A. A level three-B administrator's license is a five-year license granted to an applicant who meets the qualifications for that license. Licenses may be renewed upon

satisfactory annual demonstration of instructional leader and administrative competency.

B. The department shall grant a level three-B administrator's license to an applicant who:

- (1) has completed a department-approved administrator preparation program;
- (2) holds a current level two or level three teacher's license; and
- (3) holds a post-baccalaureate degree or national board for professional teaching standards certification.

C. The minimum annual salary for a licensed school principal or assistant school principal is the minimum salary for a level three-A teacher multiplied by the applicable responsibility factor.

D. The department shall adopt a highly objective uniform statewide standard of evaluation, including data sources linked to student achievement and an educational plan for student success progress, for school principals and assistant school principals and rules for the implementation of that evaluation system linked to the level of responsibility at each school level.

E. As used in this section, "level three-B administrator's license" means a five-year license granted to an applicant who meets the qualifications pursuant to this section and department rules."

Chapter 207 Section 25 Laws 2019

SECTION 25. TEMPORARY PROVISION--FUND TRANSFER.--Any unexpended or unencumbered balances remaining in the K-3 plus fund on June 30, 2019 shall be transferred to the state-support reserve fund and up to three million dollars (\$3,000,000) shall be transferred to the public education department to implement Section 26 of this 2019 act in fiscal year 2020.

Chapter 207 Section 26 Laws 2019

SECTION 26. TEMPORARY PROVISION--PROTECTION FROM PROGRAM COST REDUCTIONS.--Using funds provided in Section 25 of this 2019 act for fiscal year 2020, the public education department shall supplement a school district's or charter school's calculated program cost if for fiscal year 2020 the school district's or

charter school's program cost is less than its final program cost in the previous fiscal year in an amount equal to one hundred percent of the reduction attributable to the implementation of Section 6 of this 2019 act amending the age of a qualified student.

Chapter 207 Section 27 Laws 2019

SECTION 27. REPEAL.--Sections 22-13-28 and 22-13-28.2 NMSA 1978 (being Laws 2007, Chapter 12, Section 1 and Laws 2016, Chapter 62, Section 1, as amended) are repealed.

Chapter 207 Section 28 Laws 2019

SECTION 28. DELAYED REPEAL.--Section 22-13-28.1 NMSA 1978 (being Laws 2012, Chapter 21, Section 2) is repealed effective July 1, 2020.

Chapter 207 Section 29 Laws 2019

SECTION 29. APPLICABILITY.--The provisions of Sections 2 through 19 of this act apply to the program cost calculation in fiscal year 2020 and subsequent fiscal years. The provisions of Sections 21 through 24 of this act apply to school personnel contracted to provide services for summer 2019 K-5 plus programs in fiscal year 2019 and to all school personnel in fiscal year 2020 and subsequent fiscal years. _____

House Bill 5, aa, partial veto

Approved April 3, 2019

LAWS 2019, CHAPTER 208

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; EXCLUDING THE ACQUISITION OF WATER RIGHTS FROM THE PERMISSIBLE USES OF LOCAL ECONOMIC DEVELOPMENT ACT FUNDS.

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

Chapter 208 Section 1 Laws 2019

SECTION 1. Section 5-10-3 NMSA 1978 (being Laws 1993, Chapter 297, Section 3, as amended) is amended to read:

"5-10-3. DEFINITIONS.--As used in the Local Economic Development Act:

A. "arts and cultural district" means a developed district of public and private uses that is created pursuant to the Arts and Cultural District Act;

B. "broadband telecommunications network facilities" means the electronics, equipment, transmission facilities, fiber-optic cables and any other item directly related to a system capable of transmission of internet protocol or other formatted data at current federal communications commission minimum speed standard, all of which will be owned and used by a provider of internet access services;

C. "cultural facility" means a facility that is owned by the state, a county, a municipality or a qualifying entity that serves the public through preserving, educating and promoting the arts and culture of a particular locale, including theaters, museums, libraries, galleries, cultural compounds, educational organizations, performing arts venues and organizations, fine arts organizations, studios and media laboratories and live-work housing facilities;

D. "department" means the economic development department;

E. "economic development project" or "project" means the provision of direct or indirect assistance to a qualifying entity by a local or regional government and includes the purchase, lease, grant, construction, reconstruction, improvement or other acquisition or conveyance of land, buildings or other infrastructure; rights-of-way infrastructure, including trenching and conduit, for the placement of new broadband telecommunications network facilities; public works improvements essential to the location or expansion of a qualifying entity; payments for professional services contracts necessary for local or regional governments to implement a plan or project; the provision of direct loans or grants for land, buildings or infrastructure; technical assistance to cultural facilities; loan guarantees securing the cost of land, buildings or infrastructure in an amount not to exceed the revenue that may be derived from the municipal infrastructure gross receipts tax or the county infrastructure gross receipts tax; grants for public works infrastructure improvements essential to the location or expansion of a qualifying entity; grants or subsidies to cultural facilities; purchase of land for a publicly held industrial park or a publicly owned cultural facility; and the construction of a building for use by a qualifying entity; but does not include the purchase, lease, grant or other acquisition or conveyance of water rights;

F. "governing body" means the city council, city commission or board of trustees of a municipality or the board of county commissioners of a county;

G. "local government" means a municipality or county;

H. "municipality" means an incorporated city, town or village;

I. "person" means an individual, corporation, association, partnership or other legal entity;

J. "qualifying entity" means a corporation, limited liability company, partnership, joint venture, syndicate, association or other person that is one or a combination of two or more of the following:

(1) an industry for the manufacturing, processing or assembling of agricultural or manufactured products;

(2) a commercial enterprise for storing, warehousing, distributing or selling products of agriculture, mining or industry, but, other than as provided in Paragraph (5), (6) or (9) of this subsection, not including any enterprise for sale of goods or commodities at retail or for distribution to the public of electricity, gas, water or telephone or other services commonly classified as public utilities;

(3) a business, including a restaurant or lodging establishment, in which all or part of the activities of the business involves the supplying of services to the general public or to governmental agencies or to a specific industry or customer, but, other than as provided in Paragraph (5) or (9) of this subsection, not including businesses primarily engaged in the sale of goods or commodities at retail;

(4) an Indian nation, tribe or pueblo or a federally chartered tribal corporation;

(5) a telecommunications sales enterprise that makes the majority of its sales to persons outside New Mexico;

(6) a facility for the direct sales by growers of agricultural products, commonly known as farmers' markets;

(7) a business that is the developer of a metropolitan redevelopment project;

(8) a cultural facility; and

"9-16-6. SUPERINTENDENT--DUTIES AND GENERAL POWERS.--

A. The superintendent is responsible to the governor for the operation of the department. It is the superintendent's duty to manage all operations of the department and to administer and enforce the laws with which the superintendent or the department is charged.

B. To perform the superintendent's duties, the superintendent has every power expressly enumerated in the laws, whether granted to the superintendent or the department or any division of the department, except where authority conferred upon any division is explicitly exempted from the superintendent's authority by statute. In accordance with these provisions, the superintendent shall:

(1) except as otherwise provided in the Regulation and Licensing Department Act, exercise general supervisory and appointing authority over all department employees, subject to any applicable personnel laws and regulations;

(2) delegate authority to subordinates as the superintendent deems necessary and appropriate, clearly delineating such delegated authority and the limitations thereto;

(3) organize the department into those organizational units the superintendent deems will enable it to function most efficiently, subject to any provisions of law requiring or establishing specific organizational units;

(4) within the limitations of available appropriations and applicable laws, employ and fix the compensation of those persons necessary to discharge the superintendent's duties;

(5) take administrative action by issuing orders and instructions, not inconsistent with the law, to assure implementation of and compliance with the provisions of law for whose administration or execution the superintendent is responsible and to enforce those orders and instructions by appropriate administrative action or actions in the courts;

(6) conduct research and studies that will improve the operations of the department and the provision of services to the residents of the state;

(7) provide courses of instruction and practical training for employees of the department and other persons involved in the administration of programs, with the objective of improving the operations and efficiency of administration;

(8) prepare an annual budget of the department;

(9) provide cooperation, at the request of heads of administratively attached agencies, in order to:

(a) minimize or eliminate duplication of services and jurisdictional conflicts;

(b) coordinate activities and resolve problems of mutual concern;
and

(c) resolve by agreement the manner and extent to which the department shall provide budgeting, recordkeeping and related clerical assistance to administratively attached agencies;

(10) appoint, with the governor's consent, a "director" for each division. These appointed positions are exempt from the provisions of the Personnel Act. Persons appointed to these positions shall serve at the pleasure of the superintendent;

(11) give bond in the penal sum of twenty-five thousand dollars (\$25,000) and require directors to each give bond in the penal sum of ten thousand dollars (\$10,000) conditioned upon the faithful performance of duties, as provided in the Surety Bond Act. The department shall pay the costs of these bonds; and

(12) require performance bonds of such department employees and officers as the superintendent deems necessary, as provided in the Surety Bond Act. The department shall pay the costs of these bonds.

C. The superintendent may apply for and receive, with the governor's approval, in the name of the department any public or private funds, including United States government funds, available to the department to carry out its programs, duties or services.

D. The superintendent may make and adopt such reasonable and procedural rules and regulations as may be necessary to carry out the duties of the department and its divisions; provided that where a licensing entity requires submission of fingerprints as part of the initial license application, and a licensee has provided fingerprints and the license has been issued, the licensing entity shall not require a licensee to submit fingerprints again to renew the license, but a licensee shall submit to a background investigation if required; and provided further that the prohibition against requiring additional fingerprints shall not apply to the financial institutions division of the department when utilizing the nationwide multistate licensing system and registry. No

rule or regulation promulgated by the director of any division in carrying out the functions and duties of the division shall be effective until approved by the superintendent, unless otherwise provided by statute. Unless otherwise provided by statute, no regulation affecting any person or agency outside the department shall be adopted, amended or repealed without a public hearing on the proposed action before the superintendent or a hearing officer designated by the superintendent. The public hearing shall be held in Santa Fe unless otherwise permitted by statute. Notice of the subject matter of the regulation, the action proposed to be taken, the time and place of the hearing, the manner in which interested persons may present their views and the method by which copies of the proposed regulation, proposed amendment or repeal of an existing regulation may be obtained shall be published once at least thirty days prior to the hearing date in a newspaper of general circulation and mailed at least thirty days prior to the hearing date to all persons who have made a written request for advance notice of hearing. All rules and regulations shall be filed in accordance with the State Rules Act."

Chapter 209 Section 2 Laws 2019

SECTION 2. Section 22-10A-5 NMSA 1978 (being Laws 1997, Chapter 238, Section 1, as amended) is amended to read:

"22-10A-5. BACKGROUND CHECKS--KNOWN CONVICTIONS--ALLEGED ETHICAL MISCONDUCT--REPORTING REQUIRED--PENALTY FOR FAILURE TO REPORT.--

A. As used in this section, "ethical misconduct" means unacceptable behavior or conduct engaged in by a licensed school employee and includes inappropriate touching, sexual harassment, discrimination and behavior intended to induce a child into engaging in illegal, immoral or other prohibited behavior.

B. An applicant for initial licensure shall be fingerprinted only upon initial licensure and shall provide two fingerprint cards or the equivalent electronic fingerprints to the department to obtain the applicant's federal bureau of investigation record. Convictions of felonies or misdemeanors contained in the federal bureau of investigation record shall be used in accordance with the Criminal Offender Employment Act. Other information contained in the federal bureau of investigation record, if supported by independent evidence, may form the basis for the denial, suspension or revocation of a license for good and just cause. Records and related information shall be privileged and shall not be disclosed to a person not directly involved in the licensure or employment decisions affecting the specific applicant. The applicant for initial licensure shall pay for the cost of obtaining the federal bureau of investigation record.

C. Local school boards and regional education cooperatives shall develop policies and procedures to require background checks on an applicant who has been offered employment, a contractor or a contractor's employee with unsupervised access to students at a public school.

D. An applicant for employment who has been initially licensed within twenty-four months of applying for employment with a local school board, regional education cooperative or a charter school shall not be required to submit to another background check if the department has copies of the applicant's federal bureau of investigation records on file. An applicant who has been offered employment, a contractor or a contractor's employee with unsupervised access to students at a public school shall provide two fingerprint cards or the equivalent electronic fingerprints to the local school board, regional education cooperative or charter school to obtain the applicant's federal bureau of investigation record. The applicant, contractor or contractor's employee who has been offered employment by a regional education cooperative or at a public school may be required to pay for the cost of obtaining a background check. At the request of a local school board, regional education cooperative or charter school, the department is authorized to release copies of federal bureau of investigation records that are on file with the department and that are not more than twenty-four months old. Convictions of felonies or misdemeanors contained in the federal bureau of investigation record shall be used in accordance with the Criminal Offender Employment Act; provided that other information contained in the federal bureau of investigation record, if supported by independent evidence, may form the basis for the employment decisions for good and just cause. Records and related information shall be privileged and shall not be disclosed to a person not directly involved in the employment decision affecting the specific applicant who has been offered employment, contractor or contractor's employee with unsupervised access to students at a public school.

E. A local superintendent, charter school administrator or regional education cooperative shall report to the department any known conviction of a felony or misdemeanor involving moral turpitude of a licensed school employee that results in any type of action against the licensed school employee.

F. A local superintendent, charter school administrator or director of a regional education cooperative or their respective designees shall investigate all allegations of ethical misconduct about any licensed school employee who resigns, is being discharged or terminated or otherwise leaves employment after an allegation has been made. If the investigation results in a finding of wrongdoing, the local superintendent, charter school administrator or director of a regional education cooperative shall report the identity of the licensed school employee and attendant circumstances of the ethical misconduct on a standardized form to the department and the licensed school employee within thirty days following the separation from employment. Copies of that

form shall not be maintained in public school, school district or regional education cooperative records. No agreement between a departing licensed school employee and the local school board, school district, charter school or regional education cooperative shall diminish or eliminate the responsibility of investigating and reporting the alleged ethical misconduct, and any such agreement to the contrary is void. Unless the department has commenced its own investigation of the licensed school employee prior to receipt of the form, the department shall serve the licensed school employee with a notice of contemplated action involving that employee's license within ninety days of receipt of the form. If that notice of contemplated action is not served on the licensed school employee within ninety days of receipt of the form, the form, together with any documents related to the alleged ethical misconduct, shall be expunged from the licensed school employee's records with the department and shall not be subject to public inspection.

G. The secretary may suspend, revoke or refuse to renew the license of a local superintendent, charter school administrator or regional education cooperative director who fails to report as required by Subsections E and F of this section."

Chapter 209 Section 3 Laws 2019

SECTION 3. Section 60-1A-7 NMSA 1978 (being Laws 2007, Chapter 9, Section 7) is amended to read:

"60-1A-7. ALL LICENSE APPLICATIONS--BACKGROUND INVESTIGATIONS--RULES.--

A. A person applying for a license pursuant to the Horse Racing Act shall submit to a background investigation to be conducted by the board. The commission and the board shall adopt rules to coordinate the manner in which the background investigations are conducted. The rules shall at minimum require that:

(1) an applicant for a license shall submit two fingerprint cards to the commission, with one card to be submitted to the board for a statewide check and the other card to be submitted to the federal bureau of investigation for a nationwide check;

(2) arrest record information from a law enforcement agency or the federal bureau of investigation and information obtained as a result of the background investigation conducted by the board is privileged and shall not be disclosed to persons not directly involved in the decision affecting the specific applicant;

(3) an applicant shall provide all of the information required by the commission; and

(4) the cost of the background investigation shall be paid by the applicant.

B. An applicant for a license who is denied the license by the commission shall have an opportunity to inspect and challenge the validity of the record on which the denial of the license was based."

Chapter 209 Section 4 Laws 2019

SECTION 4. A new section of the Uniform Licensing Act is enacted to read:

"FINGERPRINTS NOT REQUIRED FOR LICENSE RENEWAL.--When a professional or occupational board requires submission of fingerprints as part of the initial license application, and a licensee has provided fingerprints and the license has been issued, the board shall not require a licensee to submit fingerprints again to renew the license, but a licensee shall submit to a background investigation if required."

Chapter 209 Section 5 Laws 2019

SECTION 5. Section 61-9-11.2 NMSA 1978 (being Laws 2009, Chapter 51, Section 4) is amended to read:

"61-9-11.2. CRIMINAL BACKGROUND CHECKS.--

A. The board may adopt rules that provide for criminal background checks for all licensees to include:

(1) requiring criminal history background checks of applicants for licensure pursuant to the Professional Psychologist Act;

(2) requiring applicants for licensure to be fingerprinted only upon initial licensure;

(3) providing for an applicant who has been denied licensure to inspect or challenge the validity of the background check record;

(4) establishing a fingerprint and background check fee not to exceed seventy-five dollars (\$75.00) to be paid by the applicant; and

(5) providing for submission of an applicant's fingerprint cards to the federal bureau of investigation to conduct a national criminal history background check and to the department of public safety to conduct a state criminal history check.

B. Arrest record information received from the department of public safety and the federal bureau of investigation shall be privileged and shall not be disclosed to persons not directly involved in the decision affecting the applicant.

C. Electronic live fingerprint scans may be used when conducting criminal history background checks."

Chapter 209 Section 6 Laws 2019

SECTION 6. Section 61-27B-34 NMSA 1978 (being Laws 2007, Chapter 115, Section 34) is amended to read:

"61-27B-34. BACKGROUND INVESTIGATIONS.--

A. The department shall adopt rules that:

(1) are developed in conjunction with the department of public safety that require background investigations of all persons licensed or registered pursuant to the Private Investigations Act to determine if the person has a criminal history;

(2) require all applicants for licensure or registration to be fingerprinted only upon initial licensure or registration on two fingerprint cards or electronically as required for submission to the federal bureau of investigation to conduct a national criminal history investigation and for submission to the department of public safety to conduct a state criminal history investigation;

(3) provide for an applicant to inspect or challenge the validity of the record developed by the background investigation if the applicant is denied a license or registration; and

(4) establish a fee for fingerprinting and conducting a background investigation for an applicant.

B. Arrest record information received from the federal bureau of investigation and department of public safety shall be privileged and shall not be disclosed to individuals not directly involved in the decision affecting the specific applicant or employee.

C. The applicant shall pay the cost of obtaining criminal history information from the federal bureau of investigation and the department of public safety.

D. Electronic live scans may be used for conducting criminal history investigations."

Chapter 209 Section 7 Laws 2019

SECTION 7. Section 61-29-4.4 NMSA 1978 (being Laws 2005, Chapter 35, Section 6, as amended) is amended to read:

"61-29-4.4. ADDITIONAL POWERS OF COMMISSION--FINGERPRINTING AND CRIMINAL HISTORY BACKGROUND CHECKS.--

A. All applicants for licensure as provided for in Chapter 61, Article 29 NMSA 1978 shall:

(1) be required to provide fingerprints only upon initial licensure on two fingerprint cards for submission to the federal bureau of investigation to conduct a national criminal history background check and to the department of public safety to conduct a state criminal history background check;

(2) pay the cost of obtaining the fingerprints and criminal history background checks; and

(3) have the right to inspect or challenge the validity of the records resulting from the background check if the applicant is denied licensure as established by commission rule.

B. Electronic live scans may be used for conducting criminal history background checks.

C. Criminal history records obtained by the commission pursuant to the provisions of this section are confidential. The commission is authorized to use criminal history records obtained from the federal bureau of investigation and the department of public safety to conduct background checks on applicants for certification as provided for in Chapter 61, Article 29 NMSA 1978.

D. Criminal history records obtained by the commission pursuant to the provisions of this section shall not be used for any purpose other than conducting background checks. Criminal history records obtained pursuant to the provisions of this section and the information contained in those records shall not be released or disclosed to any other person or agency, except pursuant to a court order or with the written consent of the person who is the subject of the records.

E. A person who releases or discloses the criminal history records or information contained in those records in violation of the provisions of this section is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978."

Chapter 209 Section 8 Laws 2019

SECTION 8. Section 61-30-15.1 NMSA 1978 (being Laws 2014, Chapter 33, Section 20) is amended to read:

"61-30-15.1. CRIMINAL HISTORY BACKGROUND CHECKS.--

A. The board may adopt rules that provide for criminal history background checks for all registrants, certified licensees and licensees to include:

(1) requiring criminal history background checks of applicants for registration, certified licensure or licensure pursuant to the Real Estate Appraisers Act;

(2) requiring applicants for registration, or certified licensure or licensure to be fingerprinted only upon initial licensure or registration;

(3) providing for an applicant who has been denied registration or certified licensure or licensure to inspect or challenge the validity of the criminal history background check record;

(4) establishing a fingerprint and criminal history background check fee not to exceed fees as determined by the department of public safety to be paid by the applicant; and

(5) providing for submission of an applicant's fingerprint cards to the federal bureau of investigation to conduct a national criminal history background check and to the department of public safety to conduct a state criminal history background check.

B. Arrest record information received from the department of public safety and the federal bureau of investigation shall be privileged and shall not be disclosed to persons not directly involved in the decision affecting the applicant.

C. Electronic live fingerprint scans may be used when conducting criminal history background checks."

Chapter 209 Section 9 Laws 2019

SECTION 9. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2020.

House Bill 98, aa

Approved April 3, 2019

LAWS 2019, CHAPTER 210

AN ACT

RELATING TO TAXATION; PROVIDING THAT THE REVENUE FROM THE COUNTY AREA AND COUNTYWIDE EMERGENCY COMMUNICATIONS AND EMERGENCY MEDICAL AND BEHAVIORAL HEALTH SERVICES TAXES MAY BE USED FOR THE CONSTRUCTION, IMPROVEMENT, REMODEL OR PURCHASE OF BUILDINGS TO USE AS AN EMERGENCY COMMUNICATIONS CENTER.

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

Chapter 210 Section 1 Laws 2019

SECTION 1. Section 4-62-1 NMSA 1978 (being Laws 1992, Chapter 95, Section 1, as amended) is amended to read:

"4-62-1. REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF REVENUES--LIMITATION ON TIME OF ISSUANCE.--

A. In addition to any other law authorizing a county to issue revenue bonds, a county may issue revenue bonds pursuant to Chapter 4, Article 62 NMSA 1978 for the purposes specified in this section. The term "pledged revenues", as used in Chapter 4, Article 62 NMSA 1978, means the revenues, net income or net revenues authorized to be pledged to the payment of particular revenue bonds as specifically provided in Subsections B through N of this section.

B. Gross receipts tax revenue bonds may be issued for one or more of the following purposes:

(1) constructing, purchasing, furnishing, equipping, rehabilitating, making additions to or making improvements to one or more public buildings or purchasing or improving the ground of the building or buildings;

(2) acquiring or improving county or public parking lots, structures or facilities;

(3) purchasing, acquiring or rehabilitating firefighting equipment;

(4) acquiring, extending, enlarging, bettering, repairing or otherwise improving or maintaining storm sewers and other drainage improvements, sanitary sewers, sewage treatment plants, water utilities or other water, wastewater or related facilities, which may include the acquisition of rights of way and water and water rights;

(5) reconstructing, resurfacing, maintaining, repairing or otherwise improving existing alleys, streets, roads or bridges or laying off, opening, constructing or otherwise acquiring new alleys, streets, roads or bridges, which may include the acquisition of rights of way;

(6) purchasing, acquiring, constructing, making additions to, enlarging, bettering, extending or equipping airport facilities, which may include the acquisition of land, easements or rights of way;

(7) purchasing, otherwise acquiring or clearing land or purchasing, otherwise acquiring or beautifying land for open space;

(8) acquiring, constructing, purchasing, equipping, furnishing, making additions to, renovating, rehabilitating, beautifying or otherwise improving public parks, public recreational buildings or other public recreational facilities;

(9) acquiring, constructing, extending, enlarging, bettering, repairing, otherwise improving or maintaining solid waste disposal equipment, equipment for operation and maintenance of sanitary landfills, sanitary landfills or solid waste facilities; and

(10) acquiring, constructing, extending, bettering, repairing or otherwise improving public transit systems or regional transit systems or facilities.

A county may pledge irrevocably any or all of the revenue from the first one-eighth increment, the third one-eighth increment and the one-sixteenth increment of the county gross receipts tax and any increment of the county infrastructure gross receipts tax and county capital outlay gross receipts tax for payment of principal and interest due in connection with, and other expenses related to, gross receipts tax revenue bonds for any of the purposes authorized in this section or specific purposes or for any area of county government services. If the revenue from the first one-eighth increment, the third one-eighth increment or the one-sixteenth increment of the county gross receipts

tax or any increment of the county infrastructure gross receipts tax or county capital outlay gross receipts tax is pledged for payment of principal and interest as authorized by this subsection, the pledge shall require the revenues received from that increment of the county gross receipts tax or any increment of the county infrastructure gross receipts tax or county capital outlay gross receipts tax to be deposited into a special bond fund for payment of the principal, interest and expenses. At the end of each fiscal year, money remaining in the special bond fund after the annual obligations for the bonds are fully met may be transferred to any other fund of the county.

Revenues in excess of the annual principal and interest due on gross receipts tax revenue bonds secured by a pledge of gross receipts tax revenue may be accumulated in a debt service reserve account. The governing body of the county may appoint a commercial bank trust department to act as trustee of the proceeds of the tax and to administer the payment of principal of and interest on the bonds.

C. Fire protection revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping or rehabilitating an independent fire district project or facility, including, as applicable, purchasing, otherwise acquiring or improving the ground for the project. A county may pledge irrevocably any or all of the county fire protection excise tax revenue for payment of principal and interest due in connection with, and other expenses related to, fire protection revenue bonds. These bonds may be referred to in Chapter 4, Article 62 NMSA 1978 as "fire protection revenue bonds".

D. Environmental revenue bonds may be issued for the acquisition and construction of solid waste facilities, water facilities, wastewater facilities, sewer systems and related facilities. A county may pledge irrevocably any or all of the county environmental services gross receipts tax revenue for payment of principal and interest due in connection with, and other expenses related to, environmental revenue bonds. These bonds may be referred to in Chapter 4, Article 62 NMSA 1978 as "environmental revenue bonds".

E. Gasoline tax revenue bonds may be issued for the acquisition of rights of way for and the construction, reconstruction, resurfacing, maintenance, repair or other improvement of county roads and bridges. A county may pledge irrevocably any or all of the county gasoline tax revenue for payment of principal and interest due in connection with, and other expenses related to, county gasoline tax revenue bonds. These bonds may be referred to in Chapter 4, Article 62 NMSA 1978 as "gasoline tax revenue bonds".

F. Utility revenue bonds or joint utility revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing or otherwise improving water

facilities, sewer facilities, gas facilities or electric facilities. A county may pledge irrevocably any or all of the net revenues from the operation of the utility or joint utility for which the particular utility or joint utility bonds are issued to the payment of principal and interest due in connection with, and other expenses related to, utility or joint utility revenue bonds. These bonds may be referred to in Chapter 4, Article 62 NMSA 1978 as "utility revenue bonds" or "joint utility revenue bonds".

G. Project revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping or rehabilitating any revenue-producing project, including, as applicable, purchasing, otherwise acquiring or improving the ground for the project and acquiring and improving parking lots. The county may pledge irrevocably any or all of the net revenues from the operation of the revenue-producing project for which the particular project revenue bonds are issued to the payment of the interest on and principal of the project revenue bonds. The net revenues of any revenue-producing project shall not be pledged to the project revenue bonds issued for any other revenue-producing project that is clearly unrelated in nature; but nothing in this subsection prevents the pledge to any of the project revenue bonds of the revenues received from existing, future or disconnected facilities and equipment that are related to and that may constitute a part of the particular revenue-producing project. A general determination by the governing body that facilities or equipment is reasonably related to and constitutes a part of a specified revenue-producing project shall be conclusive if set forth in the proceedings authorizing the project revenue bonds. As used in Chapter 4, Article 62 NMSA 1978:

(1) "project revenue bonds" means the bonds authorized in this subsection; and

(2) "project revenues" means the net revenues of revenue-producing projects that may be pledged to project revenue bonds pursuant to this subsection.

H. Fire district revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping and rehabilitating a fire district project, including, as applicable, purchasing, otherwise acquiring or improving the ground for the project. The county may pledge irrevocably any or all of the revenues received by the fire district from the fire protection fund as provided in the Fire Protection Fund Law and any or all of the revenues provided for the operation of the fire district project for which the particular bonds are issued to the payment of the interest on and principal of the bonds. The revenues of a fire district project shall not be pledged to the bonds issued for a fire district project that clearly is unrelated in its purpose; but nothing in this section prevents the pledge to such bonds of revenues received from existing, future or disconnected facilities and equipment that are related to and that may constitute a part of the particular fire district

project. A general determination by the governing body of the county that facilities or equipment is reasonably related to and constitutes a part of a specified fire district project shall be conclusive if set forth in the proceedings authorizing the fire district revenue bonds.

I. Law enforcement protection revenue bonds may be issued for the repair and purchase of law enforcement apparatus and equipment that meet nationally recognized standards. The county may pledge irrevocably any or all of the revenues received by the county from the law enforcement protection fund distributions pursuant to the Law Enforcement Protection Fund Act to the payment of the interest on and principal of the law enforcement protection revenue bonds.

J. Hospital emergency gross receipts tax revenue bonds may be issued for acquiring, equipping, remodeling or improving a county hospital or county health facility. A county may pledge irrevocably to the payment of the interest on and principal of the hospital emergency gross receipts tax revenue bonds any or all of the revenues received by the county from a county hospital emergency gross receipts tax imposed pursuant to Section 7-20E-12.1 NMSA 1978 and dedicated to payment of bonds or a loan for acquiring, equipping, remodeling or improving a county hospital or county health facility.

K. Economic development gross receipts tax revenue bonds may be issued for the purpose of furthering economic development projects as defined in the Local Economic Development Act. A county may pledge irrevocably any or all of the county infrastructure gross receipts tax to the payment of the interest on and principal of the economic development gross receipts tax revenue bonds for the purpose authorized in this subsection.

L. County education gross receipts tax revenue bonds may be issued for public school or off-campus instruction program capital projects as authorized in Section 7-20E-20 NMSA 1978. A county may pledge irrevocably any or all of the county education gross receipts tax revenue to the payment of interest on and principal of the county education gross receipts tax revenue bonds for the purpose authorized in this section.

M. County area emergency communications and emergency medical and behavioral health services tax revenue bonds and countywide emergency communications and emergency medical and behavioral health services tax revenue bonds may be issued for the purpose of constructing, improving, remodeling or purchasing one or more buildings to use as an emergency communications center that has been determined by the local government division of the department of finance and administration to be a consolidated public safety answering point or purchasing

emergency communications equipment for an emergency communications center that has been determined by the local government division of the department of finance and administration to be a consolidated public safety answering point if the useful life of the equipment exceeds the term in which the bonds mature. A county may pledge irrevocably any or all of the county area emergency communications and emergency medical and behavioral health services tax revenue and the countywide emergency communications and emergency medical and behavioral health services tax revenue to the payment of interest on and principal of county area emergency communications and emergency medical and behavioral health services tax revenue bonds and countywide emergency communications and emergency medical and behavioral health services tax revenue bonds for the purpose authorized in this section.

N. PILT revenue bonds may be issued by a county to repay all or part of the principal and interest of an outstanding loan owed by the county to the New Mexico finance authority. A county may pledge irrevocably all or part of PILT revenue to the payment of principal of and interest on new loans or preexisting loans provided by the New Mexico finance authority to finance a public project as "public project" is defined in Subsection E of Section 6-21-3 NMSA 1978.

O. Except for the purpose of refunding previous revenue bond issues, no county may sell revenue bonds payable from pledged revenue after the expiration of two years from the date of the ordinance authorizing the issuance of the bonds or, for bonds to be issued and sold to the New Mexico finance authority as authorized in Subsection C of Section 4-62-4 NMSA 1978, after the expiration of two years from the date of the resolution authorizing the issuance of the bonds. However, any period of time during which a particular revenue bond issue is in litigation shall not be counted in determining the expiration date of that issue.

P. No bonds may be issued by a county, other than an H class county, a class B county as defined in Section 4-36-8 NMSA 1978 or a class A county as described in Section 4-36-10 NMSA 1978, to acquire, equip, extend, enlarge, better, repair or construct a utility unless the utility is regulated by the public regulation commission pursuant to the Public Utility Act and the issuance of the bonds is approved by the commission. For purposes of Chapter 4, Article 62 NMSA 1978, a "utility" includes a water, wastewater, sewer, gas or electric utility or joint utility serving the public. H class counties shall obtain public regulation commission approvals required by Section 3-23-3 NMSA 1978.

Q. Any law that imposes or authorizes the imposition of a county gross receipts tax, a county environmental services gross receipts tax, a county fire protection excise tax, a county infrastructure gross receipts tax, the county education gross receipts tax, a county capital outlay gross receipts tax, the gasoline tax, the county hospital emergency

gross receipts tax, the countywide emergency communications and emergency medical and behavioral health services tax or the county area emergency communications and emergency medical and behavioral health services tax, or that affects any of those taxes, shall not be repealed or amended in such a manner as to impair outstanding revenue bonds that are issued pursuant to Chapter 4, Article 62 NMSA 1978 and that may be secured by a pledge of those taxes unless the outstanding revenue bonds have been discharged in full or for which provision has been fully made.

R. As used in this section:

(1) "county area emergency communications and emergency medical and behavioral health services tax revenue" means the revenue from the county area emergency communications and emergency medical and behavioral health services tax transferred pursuant to Section 7-1-6.13 NMSA 1978;

(2) "county capital outlay gross receipts tax revenue" means the revenue from the county capital outlay gross receipts tax transferred to the county pursuant to Section 7-1-6.13 NMSA 1978;

(3) "county education gross receipts tax revenue" means the revenue from the county education gross receipts tax transferred to the county pursuant to Section 7-1-6.13 NMSA 1978;

(4) "county environmental services gross receipts tax revenue" means the revenue from the county environmental services gross receipts tax transferred to the county pursuant to Section 7-1-6.13 NMSA 1978;

(5) "county fire protection excise tax revenue" means the revenue from the county fire protection excise tax transferred to the county pursuant to Section 7-1-6.13 NMSA 1978;

(6) "county gross receipts tax revenue" means the revenue attributable to the first one-eighth increment, the third one-eighth increment and the one-sixteenth increment of the county gross receipts tax transferred to the county pursuant to Section 7-1-6.13 NMSA 1978 and any distribution related to the first one-eighth increment made pursuant to Section 7-1-6.16 NMSA 1978;

(7) "county infrastructure gross receipts tax revenue" means the revenue from the county infrastructure gross receipts tax transferred to the county pursuant to Section 7-1-6.13 NMSA 1978;

(8) "countywide emergency communications and emergency medical and behavioral health services tax revenue" means the revenue from the countywide emergency communications and emergency medical and behavioral health services tax transferred to the county pursuant to Section 7-1-6.13 NMSA 1978;

(9) "gasoline tax revenue" means the revenue from that portion of the gasoline tax distributed to the county pursuant to Sections 7-1-6.9 and 7-1-6.26 NMSA 1978;

(10) "PILT revenue" means revenue received by the county from the federal government as payments in lieu of taxes; and

(11) "public building" includes fire stations, police buildings, county or regional jails, county or regional juvenile detention facilities, libraries, museums, auditoriums, convention halls, hospitals, buildings for administrative offices, courthouses and garages for housing, repairing and maintaining county vehicles and equipment.

S. As used in Chapter 4, Article 62 NMSA 1978, "bond" means any obligation of a county issued under Chapter 4, Article 62 NMSA 1978, whether designated as a bond, note, loan, warrant, debenture, lease-purchase agreement or other instrument, evidencing an obligation of a county to make payments."

Chapter 210 Section 2 Laws 2019

SECTION 2. Section 7-20E-22 NMSA 1978 (being Laws 2002, Chapter 14, Section 1, as amended) is amended to read:

"7-20E-22. COUNTY EMERGENCY COMMUNICATIONS AND EMERGENCY MEDICAL AND BEHAVIORAL HEALTH SERVICES TAX--AUTHORITY TO IMPOSE COUNTYWIDE OR ONLY IN THE COUNTY AREA--ORDINANCE REQUIREMENTS--USE OF REVENUE--ELECTION.--

A. The majority of the members of the governing body of an eligible county that does not have in effect a tax imposed pursuant to Subsection B of this section may enact an ordinance imposing an excise tax at a rate not to exceed one-fourth percent of the gross receipts of a person engaging in business in the county for the privilege of engaging in business. The tax imposed by this subsection may be referred to as the "countywide emergency communications and emergency medical and behavioral health services tax".

B. The majority of the members of the governing body of an eligible county that does not have in effect a tax imposed pursuant to Subsection A of this section may

enact an ordinance imposing an excise tax at a rate not to exceed one-fourth percent of the gross receipts of a person engaging in business in the county area for the privilege of engaging in business. The tax imposed by this subsection may be referred to as the "county area emergency communications and emergency medical and behavioral health services tax".

C. The taxes authorized in Subsections A and B of this section may be imposed in one or more increments of one-sixteenth percent not to exceed an aggregate rate of one-fourth percent.

D. The governing body, at the time of enacting an ordinance imposing a rate of tax authorized in Subsection A or B of this section, shall dedicate the revenue to one or more of the following purposes:

(1) operation of an emergency communications center that has been determined by the local government division of the department of finance and administration to be a consolidated public safety answering point. That operation may include the construction, improvement, remodel or purchase of one or more buildings to use as an emergency communications center or the purchase of emergency communications equipment for the center;

(2) operation of emergency medical services provided by the county, including the purchase of ambulatory transport vehicles; or

(3) provision of behavioral health services, including alcohol abuse and substance abuse treatment.

E. An ordinance imposing any increment of the countywide emergency communications and emergency medical and behavioral health services tax or the county area emergency communications and emergency medical and behavioral health services tax shall not go into effect until after an election is held and a majority of the voters voting in the election votes in favor of imposing the tax. In the case of an ordinance imposing an increment of the countywide emergency communications and emergency medical and behavioral health services tax, the election shall be conducted countywide. In the case of an ordinance imposing the county area emergency communications and emergency medical and behavioral health services tax, the election shall be conducted only in the county area. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax. The question may be submitted to the voters as a separate question at a general election or at a special election called for that purpose by the governing body. A special election shall be called, conducted and canvassed in substantially the same manner as provided by law for general elections.

In any election held, the ballot shall clearly state the purpose to which the revenue will be dedicated pursuant to Subsection D of this section. If a majority of the voters voting on the question approves the imposition of the countywide emergency communications and emergency medical and behavioral health services tax or the county area emergency communications and emergency medical and behavioral health services tax, the ordinance shall become effective in accordance with the provisions of the County Local Option Gross Receipts Taxes Act. If the question of imposing the tax fails, the governing body shall not again propose the imposition of any increment of either tax for a period of one year from the date of the election.

F. For the purposes of this section, "eligible county" means:

(1) a county that operates or, pursuant to a joint powers agreement, is served by an emergency communications center that has been determined by the local government division of the department of finance and administration to be a consolidated public safety answering point; or

(2) in the case of a county imposing the tax for the purposes provided in Paragraph (3) of Subsection D of this section, a county that operates or contracts for the operation of a behavioral health services facility providing alcohol abuse, substance abuse and inpatient and outpatient behavioral health treatment."

Chapter 210 Section 3 Laws 2019

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019_____

House Bill 157, aa

Approved April 3, 2019

LAWS 2019, CHAPTER 211

AN ACT

RELATING TO CRIMINAL JUSTICE REFORM; PROVIDING FOR ASSISTANCE TO OFFENDERS WITH BEHAVIORAL HEALTH DIAGNOSES; REVISING PROCEDURES RELATED TO A PERSON INCARCERATED IN A COUNTY JAIL; REVISING PROTECTIONS FOR PERSONS INVOLVED WITH AN ALCOHOL- OR DRUG-RELATED OVERDOSE; PROVIDING PROCEDURES FOR POST-CONVICTION

PETITIONS; REVISING REQUIREMENTS FOR PREPROSECUTION DIVERSION PROGRAMS; REVISING PAROLE AUTHORITY; REVISING REQUIREMENTS FOR CRIME VICTIMS' REPARATIONS; ESTABLISHING THE RIGHT OF CRIME VICTIMS TO RECEIVE NOTICE; AMENDING CERTAIN PROCEDURES IN THE CRIME VICTIMS REPARATION ACT; ENACTING THE ACCURATE EYEWITNESS IDENTIFICATION ACT; REVISING DUTIES OF THE NEW MEXICO SENTENCING COMMISSION; REQUIRING EYEWITNESS IDENTIFICATION POLICIES AND TRAINING.

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

Chapter 211 Section 1 Laws 2019

SECTION 1. Section 9-8-7.1 NMSA 1978 (being Laws 2007, Chapter 325, Section 4) is amended to read:

"9-8-7.1. BEHAVIORAL HEALTH SERVICES DIVISION--POWERS AND DUTIES OF THE HUMAN SERVICES DEPARTMENT.--Subject to appropriation, the department shall:

A. contract for behavioral health treatment and support services, including mental health, alcoholism and other substance abuse services;

B. establish standards for the delivery of behavioral health services, including quality management and improvement, performance measures, accessibility and availability of services, utilization management, credentialing and recredentialing, rights and responsibilities of providers, preventive behavioral health services, clinical treatment and evaluation and the documentation and confidentiality of client records;

C. ensure that all behavioral health services, including mental health and substance abuse services, that are provided, contracted for or approved are in compliance with the requirements of Section 9-7-6.4 NMSA 1978;

D. assume responsibility for and implement adult mental health and substance abuse services in the state in coordination with the children, youth and families department;

E. create, implement and continually evaluate the effectiveness of a framework for targeted, individualized interventions for adult and juvenile offenders with behavioral health diagnoses who are incarcerated in a state, county or municipal correctional facility, which framework shall address those persons' behavioral health needs while they are incarcerated and connect them to resources and services immediately upon

release that reduce the likelihood of recidivism, detention and incarceration, such as supportive housing, public assistance, medical assistance, behavioral health treatment and employment training;

F. establish criteria for determining individual eligibility for behavioral health services; and

G. maintain a management information system in accordance with standards for reporting clinical and fiscal information."

Chapter 211 Section 2 Laws 2019

SECTION 2. A new section of the Human Services Department Act is enacted to read:

"INCARCERATED INDIVIDUALS--BEHAVIORAL HEALTH SERVICES-- COUNTY FUNDING PROGRAM.--To carry out the provisions of Subsection E of Section 9-8-7.1 NMSA 1978 and to provide behavioral health services to individuals who are incarcerated in a county correctional facility:

A. the secretary shall adopt and promulgate rules:

(1) pursuant to which a county may apply for and be awarded funding through the department; and

(2) to establish priorities and guidelines for the award of funding to counties; and

B. the department shall distribute funds, as funding permits, to the county health care assistance funds of those counties:

(1) that apply for behavioral health services funding in accordance with department rules; and

(2) that have proposed utilization of funding pursuant to this section that meets the priorities and guidelines for the awarding of behavioral health services funding established in department rules."

Chapter 211 Section 3 Laws 2019

SECTION 3. Section 30-31-27.1 NMSA 1978 (being Laws 2007, Chapter 260, Section 1) is amended to read:

"30-31-27.1. OVERDOSE PREVENTION--LIMITED IMMUNITY.--

A. A person who, in good faith, seeks medical assistance for someone experiencing an alcohol- or drug-related overdose shall not be arrested, charged, prosecuted or otherwise penalized, nor shall the property of the person be subject to civil forfeiture, for violating any of the following if the evidence for the alleged violation was obtained as a result of the need for seeking medical assistance:

- (1) the provisions of Section 30-31-23 NMSA 1978 or Subsection A of Section 30-31-25.1 NMSA 1978;
- (2) a restraining order; or
- (3) the conditions of probation or parole.

B. A person who experiences an alcohol- or drug-related overdose and is in need of medical assistance shall not be arrested, charged, prosecuted or otherwise penalized, nor shall the property of the person be subject to civil forfeiture, for violating any of the following if the evidence for the alleged violation was obtained as a result of the overdose and the need for seeking medical assistance:

- (1) the provisions of Section 30-31-23 NMSA 1978 or Subsection A of Section 30-31-25.1 NMSA 1978;
- (2) a restraining order; or
- (3) the conditions of probation or parole.

C. The act of seeking medical assistance for someone who is experiencing an alcohol- or drug-related overdose may be used as a mitigating factor in a criminal prosecution pursuant to the Controlled Substances Act for which immunity is not provided pursuant to this section.

D. For the purposes of this section, "seeking medical assistance" means:

- (1) reporting an alcohol- or drug-related overdose or other medical emergency to law enforcement, the 911 system or another emergency dispatch system, a poison control center or a health care provider; or
- (2) assisting an individual who is reporting an alcohol- or drug-related overdose or providing care to an individual who is experiencing an alcohol- or drug-

related overdose or other medical emergency while awaiting the arrival of a health care provider."

Chapter 211 Section 4 Laws 2019

SECTION 4. Section 31-1A-2 NMSA 1978 (being Laws 2003, Chapter 27, Section 1) is amended to read:

"31-1A-2. PROCEDURES FOR POST-CONVICTION CONSIDERATION OF DNA EVIDENCE--REQUIREMENTS.--

A. A person convicted of a felony, who claims that DNA evidence will establish the person's innocence, may petition the district court of the judicial district in which the person was convicted to order the disclosure, preservation, production and testing of evidence that can be subjected to DNA testing. A copy of the petition shall be served on the district attorney for the judicial district in which the district court is located. A petitioner shall be granted full, fair and prompt proceedings upon filing a petition.

B. As a condition to the district court's acceptance of the person's petition, the petitioner shall:

- (1) submit to DNA testing ordered by the district court; and
- (2) authorize the district attorney's use of the DNA test results to investigate all aspects of the case that the petitioner is seeking to reopen.

C. DNA samples obtained pursuant to Subsection B of this section shall be submitted for DNA testing according to the procedures in the DNA Identification Act, and the DNA record shall be entered into the federal bureau of investigation's national DNA index system for storage and exchange of DNA records submitted by forensic DNA laboratories.

D. The petitioner shall show, by a preponderance of the evidence, that:

- (1) the petitioner was convicted of a felony;
- (2) evidence exists that can be subjected to DNA testing;
- (3) the evidence to be subjected to DNA testing:
 - (a) has not previously been subjected to DNA testing;

(b) has not previously been subjected to the type of DNA testing that is now being requested; or

(c) was previously subjected to DNA testing, but was tested incorrectly or interpreted incorrectly;

(4) the DNA testing the petitioner is requesting will be likely to produce admissible evidence; and

(5) identity was an issue in the petitioner's case or that if the DNA testing the petitioner is requesting had been performed prior to the petitioner's conviction and the results had been exculpatory, there is a reasonable probability that the petitioner would not have pled guilty or been found guilty.

E. If the petitioner satisfies the requirements set forth in Subsection D of this section, the district court shall appoint counsel for the petitioner, unless the petitioner waives counsel or retains the petitioner's own counsel.

F. After reviewing a petition, the district court may dismiss the petition, order a response by the district attorney or issue an order for DNA testing.

G. The district court shall order all evidence secured that is related to the petitioner's case and that could be subjected to DNA testing. The evidence shall be preserved during the pendency of the proceeding. The district court may impose appropriate sanctions, including dismissal of the petitioner's conviction or criminal contempt, if the court determines that evidence was intentionally destroyed after issuance of the court's order to secure evidence.

H. The district court shall order DNA testing if the petitioner satisfies the requirements set forth in Subsections B and D of this section.

I. If the results of the DNA testing are exculpatory, the district court may set aside the petitioner's judgment and sentence, may dismiss the charges against the petitioner with prejudice, may grant the petitioner a new trial or may order other appropriate relief.

J. The cost of DNA testing ordered pursuant to this section shall be borne by the state or the petitioner, as the district court may order in the interest of justice. Provided, that a petitioner shall not be denied DNA testing because of the petitioner's inability to pay for the cost of DNA testing. Testing under this provision shall only be performed by a laboratory that meets the minimum standards of the national DNA index system.

K. The provisions of this section shall not be interpreted to limit:

(1) other circumstances under which a person may obtain DNA testing;
or

(2) post-conviction relief a petitioner may seek pursuant to other provisions of law.

L. The petitioner shall have the right to appeal a district court's denial of the requested DNA testing, a district court's final order on a petition or a district court's decision regarding relief for the petitioner. The state shall have the right to appeal any final order issued by the district court. An appeal shall be filed by a party within thirty days to the court of appeals.

M. The state shall preserve all evidence that is secured in relation to an investigation or prosecution of a crime and that could be subjected to DNA testing, for not less than the period of time that a person remains subject to incarceration or on probation or parole in connection with the investigation or prosecution.

N. The state may dispose of evidence before the expiration of the time period set forth in Subsection M of this section if:

(1) no other law, regulation or court order requires that the evidence be preserved;

(2) the evidence must be returned to its rightful owner;

(3) preservation of the evidence is impractical due to the size, bulk or physical characteristics of the evidence; and

(4) the state takes reasonable measures to remove and preserve portions of the evidence sufficient to permit future DNA testing.

O. In proceedings under this section, the Rules of Evidence and the Rules of Civil Procedure for the District Courts shall apply.

P. As used in this section, "DNA" means deoxyribonucleic acid."

Chapter 211 Section 5 Laws 2019

SECTION 5. Section 31-16A-4 NMSA 1978 (being Laws 1981, Chapter 33, Section 4) is amended to read:

"31-16A-4. ELIGIBILITY.--

A. A defendant shall meet the following minimum criteria to be eligible for a preprosecution diversion program:

(1) the defendant shall have no prior felony convictions for a violent crime;

(2) the defendant is willing to participate in the program and submit to all program requirements;

(3) any additional criteria set by the district attorney.

B. A person who meets all of the criteria pursuant to Subsection A of this section may be entered into the preprosecution diversion program; provided that the district attorney may elect not to divert a person to the preprosecution diversion program even though that person meets the minimum criteria set forth in this section.

C. A decision by the district attorney not to divert a person to the preprosecution diversion program is not subject to appeal and shall not be raised as a defense to any prosecution or habitual offender proceeding."

Chapter 211 Section 6 Laws 2019

SECTION 6. Section 31-16A-7 NMSA 1978 (being Laws 1981, Chapter 33, Section 7, as amended) is amended to read:

"31-16A-7. PROGRAM PARTICIPATION--REASONABLE CONDITIONS--
TERMINATION.--

A. A defendant may be diverted to a preprosecution diversion program for no less than six months and no longer than two years. A district attorney may extend the diversion period for a defendant as a disciplinary measure or to allow adequate time for restitution; provided that the extension coupled with the original period does not exceed two years.

B. A district attorney may require as a program requirement that a defendant agree to such reasonable conditions as the district attorney deems necessary to ensure that the defendant will observe the laws of the United States and the various states and the ordinances of any municipality.

C. If a defendant does not comply with the terms, conditions and requirements of a preprosecution diversion program, the defendant's participation in the program may be terminated, and the district attorney may proceed with the suspended criminal prosecution of the defendant.

D. If the participation of a defendant in a preprosecution diversion program is terminated, the district attorney shall state in writing the specific reasons for the termination, which reasons shall be available for review by the defendant and the defendant's counsel."

Chapter 211 Section 7 Laws 2019

SECTION 7. Section 31-18-15 NMSA 1978 (being Laws 1977, Chapter 216, Section 4, as amended) is amended to read:

"31-18-15. SENTENCING AUTHORITY--NONCAPITAL FELONIES--BASIC SENTENCES AND FINES--PAROLE AUTHORITY--MERITORIOUS DEDUCTIONS.--

A. If a person is convicted of a noncapital felony, the basic sentence of imprisonment is as follows:

- (1) for a first degree felony resulting in the death of a child, life imprisonment;
- (2) for a first degree felony for aggravated criminal sexual penetration, life imprisonment;
- (3) for a first degree felony, eighteen years imprisonment;
- (4) for a second degree felony resulting in the death of a human being, fifteen years imprisonment;
- (5) for a second degree felony for a sexual offense against a child, fifteen years imprisonment;
- (6) for a second degree felony for sexual exploitation of children, twelve years imprisonment;
- (7) for a second degree felony, nine years imprisonment;
- (8) for a third degree felony resulting in the death of a human being, six years imprisonment;

(9) for a third degree felony for a sexual offense against a child, six years imprisonment;

(10) for a third degree felony for sexual exploitation of children, eleven years imprisonment;

(11) for a third degree felony, three years imprisonment;

(12) for a fourth degree felony for sexual exploitation of children, ten years imprisonment; or

(13) for a fourth degree felony, eighteen months imprisonment.

B. The appropriate basic sentence of imprisonment shall be imposed upon a person convicted and sentenced pursuant to Subsection A of this section, unless the court alters the sentence pursuant to the provisions of the Criminal Sentencing Act.

C. A period of parole shall be imposed only for felony convictions wherein a person is sentenced to imprisonment of more than one year, unless the parties to a proceeding agree that a period of parole should be imposed. If a period of parole is imposed, the court shall include in the judgment and sentence of each person convicted and sentenced to imprisonment in a corrections facility designated by the corrections department authority for a period of parole to be served in accordance with the provisions of Section 31-21-10 NMSA 1978 after the completion of any actual time of imprisonment and authority to require, as a condition of parole, the payment of the costs of parole services and reimbursement to a law enforcement agency or local crime stopper program in accordance with the provisions of that section. If imposed, the period of parole shall be deemed to be part of the sentence of the convicted person in addition to the basic sentence imposed pursuant to Subsection A of this section together with alterations, if any, pursuant to the provisions of the Criminal Sentencing Act.

D. When a court imposes a sentence of imprisonment pursuant to the provisions of Section 31-18-15.1, 31-18-16 or 31-18-17 NMSA 1978 and suspends or defers the basic sentence of imprisonment provided pursuant to the provisions of Subsection A of this section, the period of parole shall be served in accordance with the provisions of Section 31-21-10 NMSA 1978 for the degree of felony for the basic sentence for which the inmate was convicted. For the purpose of designating a period of parole, a court shall not consider that the basic sentence of imprisonment was suspended or deferred and that the inmate served a period of imprisonment pursuant to the provisions of the Criminal Sentencing Act.

E. The court may, in addition to the imposition of a basic sentence of imprisonment, impose a fine not to exceed:

(1) for a first degree felony resulting in the death of a child, seventeen thousand five hundred dollars (\$17,500);

(2) for a first degree felony for aggravated criminal sexual penetration, seventeen thousand five hundred dollars (\$17,500);

(3) for a first degree felony, fifteen thousand dollars (\$15,000);

(4) for a second degree felony resulting in the death of a human being, twelve thousand five hundred dollars (\$12,500);

(5) for a second degree felony for a sexual offense against a child, twelve thousand five hundred dollars (\$12,500);

(6) for a second degree felony for sexual exploitation of children, five thousand dollars (\$5,000);

(7) for a second degree felony, ten thousand dollars (\$10,000);

(8) for a third degree felony resulting in the death of a human being, five thousand dollars (\$5,000);

(9) for a third degree felony for a sexual offense against a child, five thousand dollars (\$5,000);

(10) for a third degree felony for sexual exploitation of children, five thousand dollars (\$5,000);

(11) for a third or fourth degree felony, five thousand dollars (\$5,000); or

(12) for a fourth degree felony for sexual exploitation of children, five thousand dollars (\$5,000).

F. When the court imposes a sentence of imprisonment for a felony offense, the court shall indicate whether or not the offense is a serious violent offense, as defined in Section 33-2-34 NMSA 1978. The court shall inform an offender that the offender's sentence of imprisonment is subject to the provisions of Sections 33-2-34, 33-2-36, 33-2-37 and 33-2-38 NMSA 1978. If the court fails to inform an offender that the offender's sentence is subject to those provisions or if the court provides the offender

with erroneous information regarding those provisions, the failure to inform or the error shall not provide a basis for a writ of habeas corpus.

G. No later than October 31 of each year, the New Mexico sentencing commission shall provide a written report to the secretary of corrections, all New Mexico criminal court judges, the administrative office of the district attorneys and the chief public defender. The report shall specify the average reduction in the sentence of imprisonment for serious violent offenses and nonviolent offenses, as defined in Section 33-2-34 NMSA 1978, due to meritorious deductions earned by prisoners during the previous fiscal year pursuant to the provisions of Sections 33-2-34, 33-2-36, 33-2-37 and 33-2-38 NMSA 1978. The corrections department shall allow the commission access to documents used by the department to determine earned meritorious deductions for prisoners."

Chapter 211 Section 8 Laws 2019

SECTION 8. Section 31-22-7 NMSA 1978 (being Laws 1981, Chapter 325, Section 7, as amended) is amended to read:

"31-22-7. ELIGIBILITY FOR REPARATION.--

A. If a person is injured or killed by an act or omission of another person coming within the criminal jurisdiction of the state after July 1, 1981, which act or omission includes a crime enumerated in Section 31-22-8 NMSA 1978, and upon application for reparation, the commission may award reparation in accordance with the Crime Victims Reparation Act:

(1) to the victim;

(2) in the case of the victim's death, to or for the benefit of any one or more of the deceased victim's dependents; or

(3) to any individual who voluntarily assumes funeral or medical expenses of the victim.

B. For the purpose of the Crime Victims Reparation Act, a person shall be deemed to have intentionally committed an act or omission constituting a crime, notwithstanding that by reason of age, insanity, drunkenness or otherwise the person was legally incapable of forming a criminal intent.

C. In determining whether to make an order under this section, the commission may consider any circumstances it determines to be relevant. The commission shall

consider the behavior of the victim and whether, because of provocation or otherwise, the victim bears responsibility for the act or omission constituting a crime that caused the victim's injury or death and shall reduce the amount of reparation in accordance with its assessment of the degree of responsibility attributable to the victim.

D. An order may be made under this section whether or not any person is prosecuted for or convicted of a crime enumerated in Section 31-22-8 NMSA 1978; provided an arrest has been made or the act or omission constituting a crime has been reported to the police in a reasonable time or the act or omission constituting a crime has been reported to a licensed medical, mental health or counseling provider, or tribal health provider. No order may be made under this section unless the commission finds that:

(1) the act or omission constituting a crime did occur;

(2) the injury or death of the victim resulted from the act or omission constituting a crime; and

(3) the claimant or victim fully cooperated with the appropriate law enforcement agencies or the commission finds that the claimant or victim acted reasonably under the circumstances.

E. Upon application from the district attorney of the appropriate district, the commission may suspend proceedings under the Crime Victims Reparation Act for such period as it deems desirable on the grounds that a prosecution for the act or omission constituting a crime has commenced or is imminent."

Chapter 211 Section 9 Laws 2019

SECTION 9. Section 31-22-14 NMSA 1978 (being Laws 1981, Chapter 325, Section 14, as amended) is amended to read:

"31-22-14. LIMITATIONS ON AWARD--COLLATERAL RECOVERY--
PRELIMINARY AWARD.--

A. No order for the payment of reparation shall be made unless application has been made within two years after the date of the injury or death and the injury or death was the result of a crime enumerated in Section 31-22-8 NMSA 1978. An application for reparation shall be made within two years after the injury or death, except for minors who are victims of criminal activity under the provisions of Section 30-6-1 NMSA 1978, regarding abandonment or abuse of a child, Section 30-9-11 NMSA 1978, regarding

criminal sexual penetration, or Section 30-9-13 NMSA 1978, regarding criminal sexual contact of a minor.

B. No award of reparation shall be in excess of twenty thousand dollars (\$20,000) per victim, except that the commission may award up to an additional thirty thousand dollars (\$30,000) for extraordinary pecuniary losses, if the personal injury to a victim is catastrophic and results in a permanent total disability. The extraordinary losses compensated may include:

- (1) loss of wages;
- (2) the cost of home health care;
- (3) the cost of making a home or automobile accessible;
- (4) the cost of training in the use of special application; or
- (5) job training.

C. Except as provided by Subsection E of this section, the commission shall deduct from any reparation awarded any payments received from a collateral source or from the United States or the state or any of its political subdivisions for injury or death subject to reparation under the Crime Victims Reparation Act. If the claimant receives an award of reparation from the commission and also receives payment as set forth in the preceding sentence for which no deduction was made, the claimant shall refund to the state the lesser of the amount of reparation paid or the sums not so deducted.

D. If the claimant receives an award of reparation from the commission and also receives an award pursuant to a civil judgment arising from a criminal occurrence for which a reparation award was paid, the claimant shall refund to the state the amount of the reparation paid to the claimant. The commission may negotiate a reasonable settlement regarding repayment of the reparation award if special circumstances exist.

E. If it appears that a final award of reparation will be made by the commission, a preliminary award may be authorized by the director of the commission or the commission's designee when the commission chair concurs. The amount of the preliminary award shall be deducted from any final award made by the commission."

Chapter 211 Section 10 Laws 2019

SECTION 10. Section 31-26-4 NMSA 1978 (being Laws 1994, Chapter 144, Section 4, as amended) is amended to read:

"31-26-4. VICTIM'S RIGHTS.--A victim shall have the right to:

- A. be treated with fairness and respect for the victim's dignity and privacy throughout the criminal justice process;
- B. timely disposition of the case;
- C. be reasonably protected from the accused throughout the criminal justice process;
- D. notification of court proceedings;
- E. attend all public court proceedings the accused has the right to attend;
- F. confer with the prosecution;
- G. make a statement to the court at sentencing and at any post-sentencing hearings for the accused;
- H. restitution from the person convicted of the criminal offense that caused the victim's loss or injury;
- I. information about the conviction, sentencing, imprisonment, escape or release of the accused;
- J. have the prosecuting attorney notify the victim's employer, if requested by the victim, of the necessity of the victim's cooperation and testimony in a court proceeding that may necessitate the absence of the victim from work for good cause;
- K. promptly receive any property belonging to the victim that is being held for evidentiary purposes by a law enforcement agency or the prosecuting attorney, unless there are compelling evidentiary reasons for retention of the victim's property;
- L. be informed by the court at a sentencing proceeding that the offender is eligible to earn meritorious deductions from the offender's sentence and the amount of meritorious deductions that may be earned by the offender; and
- M. be notified by the district attorney of the availability of and procedures to apply for crime victims reparation."

Chapter 211 Section 11 Laws 2019

SECTION 11. A new section of Chapter 60, Article 7B NMSA 1978 is enacted to read:

"SUBSTANCE-RELATED POISONING PREVENTION--LIMITED IMMUNITY.--

A. A person who, in good faith, seeks medical assistance for someone experiencing an alcohol- or drug-related overdose shall not be arrested, charged, prosecuted or otherwise penalized, nor shall the property of the person be subject to civil forfeiture, for violating any of the following if the evidence for the alleged violation was obtained as a result of the need for seeking medical assistance:

- (1) the provisions of Section 60-7B-1 or 60-7B-9 NMSA 1978;
- (2) a restraining order; or
- (3) the conditions of probation or parole.

B. A person who experiences an alcohol- or drug-related overdose and is in need of medical assistance shall not be arrested, charged, prosecuted or otherwise penalized, nor shall the property of the person be subject to civil forfeiture, for violating any of the following if the evidence for the alleged violation was obtained as a result of the overdose and the need for seeking medical assistance:

- (1) the provisions of Section 60-7B-1 or 60-7B-9 NMSA 1978;
- (2) a restraining order; or
- (3) the conditions of probation or parole.

C. The act of seeking medical assistance for someone who is experiencing an alcohol- or drug-related overdose may be used as a mitigating factor in a criminal prosecution pursuant to the Liquor Control Act for which immunity is not provided pursuant to this section.

D. For the purposes of this section, "seeking medical assistance" means:

(1) reporting an alcohol- or drug-related overdose or other medical emergency to law enforcement, the 911 system or another emergency dispatch system, a poison control center or to a health care provider; or

(2) assisting an individual who is reporting an alcohol- or drug-related overdose or providing care to an individual who is experiencing an alcohol- or drug-

related overdose or other medical emergency while awaiting the arrival of a health care provider."

Chapter 211 Section 12 Laws 2019

SECTION 12. SHORT TITLE.--Sections 12 through 15 of this act may be cited as the "Accurate Eyewitness Identification Act".

Chapter 211 Section 13 Laws 2019

SECTION 13. DEFINITIONS.--As used in the Accurate Eyewitness Identification Act:

- A. "administrator" means a person conducting a photo lineup or live lineup;
- B. "blind" means the administrator does not know the identity of the suspect;
- C. "blinded" means the administrator may know who the suspect is but does not know which lineup member is being viewed by the eyewitness;
- D. "eyewitness" means a person who observes another person at or near the scene of an offense;
- E. "filler" means either a person or a photograph of a person who is not suspected of an offense and is included in an identification procedure;
- F. "live lineup" means an identification procedure in which a group of persons, including the suspected perpetrator of an offense and other persons not suspected of the offense, is displayed to an eyewitness for the purpose of determining whether the eyewitness identifies the suspect as the perpetrator;
- G. "photo lineup" means an identification procedure in which an array of photographs, including a photograph of the suspected perpetrator of an offense and additional photographs of other persons not suspected of the offense, is displayed to an eyewitness either in hard copy form or via computer for the purpose of determining whether the eyewitness identifies the suspect as the perpetrator;
- H. "showup" means an identification procedure in which an eyewitness is presented with a single suspect for the purpose of determining whether the eyewitness identifies this individual as the perpetrator; and

I. "suspect" means a person believed by law enforcement to be the possible perpetrator of the crime.

Chapter 211 Section 14 Laws 2019

SECTION 14. EYEWITNESS IDENTIFICATION PROCEDURES.--

A. Not later than January 1, 2020, a criminal justice entity conducting eyewitness identification procedures shall adopt and comply with written policies for using an eyewitness to make a decision about whether a suspect is the perpetrator of a crime upon viewing the suspect in person in a live lineup or showup or upon viewing a representation of the suspect in a photo lineup.

B. Each governmental entity in New Mexico that administers eyewitness identification procedures shall provide a copy of its written policies to the secretary of public safety no later than February 1, 2020 and the secretary shall make those policies available to the public.

C. A law enforcement agency shall biennially review policies adopted pursuant to this section to incorporate new scientifically supported protocols.

D. In developing and revising policies pursuant to this section, a law enforcement agency shall adopt those practices shown by reliable evidence to enhance the accuracy of identification procedures. Each governmental entity in New Mexico that administers eyewitness identification procedures shall submit its updated written policies to the secretary of public safety no later than February 1 of each odd-numbered year.

E. A law enforcement agency shall include in policies adopted pursuant to this section practices to enhance the objectivity and reliability of eyewitness identifications and to minimize the possibility of mistaken identifications, including the following:

(1) having a blind administrator or blinded administrator perform the live lineup or photo lineup;

(2) documenting a description of the suspect provided by the eyewitness, including a description of the circumstances under which the suspect was seen by the eyewitness, the time of day, the length of time the suspect was seen, the perceived or actual distance from the eyewitness to the suspect and the lighting conditions;

(3) providing the eyewitness with instructions that minimize the likelihood of an inaccurate identification, including that the perpetrator may or may not be in the

identification procedure and that the investigation will continue regardless of whether an identification is made;

(4) composing the lineup so that the fillers generally resemble the eyewitness's description of the perpetrator so that the suspect does not unduly stand out from the fillers;

(5) using at least four fillers in a live lineup and at least five fillers in a photo lineup;

(6) ensuring, when practicable, that a photograph of the suspect used in a photo lineup is contemporary and resembles the suspect's appearance at the time of the offense;

(7) presenting separate photo lineups and live lineups when there are multiple eyewitnesses, ensuring that the same suspect is placed in a different position for each identification procedure;

(8) having the administrator seek and document a clear statement from the eyewitness, at the time of the identification and in the eyewitness's own words, as to the eyewitness's confidence level that the person identified is the person who committed the crime;

(9) minimizing factors at any point in time that influence an eyewitness to identify a suspect or affect the eyewitness's confidence level in identifying a suspect, including verbal or nonverbal statements by or reactions from the administrator;

(10) presenting lineup members one at a time;

(11) adopting relevant practices shown to enhance the reliability of an eyewitness participating in a showup procedure, such as:

(a) identifying the circumstances under which a showup is warranted;

(b) transporting the eyewitness to a neutral, non-law enforcement location where the detained suspect is being held;

(c) removing the suspect from the law enforcement squad car;

(d) removing restraints from the suspect when the suspect is being observed by the eyewitness; and

(e) administering the showup procedure close in time to the commission of the crime;

(12) video recording the entirety of the photo lineup and live lineup and, where practicable, the showup procedure, unless the recording equipment is not reasonably available or the recording equipment fails and obtaining replacement equipment is not feasible; and

(13) preserving photographic documentation of all live lineup and photo lineup members and showup suspects, as well as all descriptions provided by the eyewitness of the perpetrator.

F. All written departmental eyewitness identification policies shall be made available to the public upon request.

Chapter 211 Section 15 Laws 2019

SECTION 15. TRAINING OF LAW ENFORCEMENT OFFICERS.--The secretary of public safety shall create, administer and conduct training programs for law enforcement officers and recruits on the methods and technical aspects of the eyewitness identification practices and procedures shown by reliable evidence to enhance the accuracy of eyewitness evidence referenced in the Accurate Eyewitness Identification Act.

Chapter 211 Section 16 Laws 2019

SECTION 16. LEGISLATION TO INCREASE, DECREASE OR CREATE PERIODS OF IMPRISONMENT--FISCAL IMPACT STATEMENTS--PROCEDURE.--

A. The New Mexico sentencing commission shall prepare a fiscal impact statement as provided in this section for a bill that:

(1) creates a new crime or repeals an existing crime for which imprisonment is authorized;

(2) increases or decreases the period of imprisonment authorized for an existing crime;

(3) imposes or removes mandatory minimum terms of imprisonment; or

(4) modifies the law governing release of inmates in such a way that the time served in prison will increase or decrease.

B. A fiscal impact statement shall reflect the estimated change in annual operating costs for the corrections department attributable to the bill if it becomes law. The estimated change in annual operating costs shall reflect the largest annual change from the projected change for the six fiscal years following the effective date of the law and shall be calculated in current dollars. The fiscal impact statement shall include details concerning any increase or decrease in the inmate population.

C. If the New Mexico sentencing commission does not have sufficient information to project the fiscal impact, the fiscal impact statement shall state that there is insufficient information to estimate the fiscal impact.

D. The corrections department shall annually provide the New Mexico sentencing commission with:

(1) the average operating costs per inmate and the number of inmates in adult correctional facilities; and

(2) admissions and release data for all inmates in adult correctional facilities.

E. The judiciary shall annually provide the New Mexico sentencing commission with requested data necessary to prepare fiscal impact statements.

F. As used in this section, "operating costs" means all costs other than capital outlay costs for state-operated adult correctional facilities and privately operated adult correctional facilities.

Chapter 211 Section 17 Laws 2019

SECTION 17. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

HJC/House Bill 342, aa

Approved April 3, 2019

LAWS 2019, CHAPTER 212

AN ACT

RELATING TO ELECTIONS; AMENDING THE ELECTION CODE; PROVIDING DEFINITIONS OF TERMS FOR THE ELECTION CODE; PROVIDING A STANDARD DEFINITION FOR "QUALIFIED ELECTOR" FOR ALL ELECTIONS HELD PURSUANT TO THE ELECTION CODE; CHANGING THE NAME OF "PRECINCT BOARD" TO "ELECTION BOARD"; PROVIDING FOR ELECTION BOARD APPOINTMENT AND TRAINING; PROVIDING FOR MESSENGER COMPENSATION AND QUALIFICATIONS; CHANGING PROVISIONS GOVERNING CHALLENGERS, WATCHERS AND COUNTY AND STATE CANVASS OBSERVERS; AMENDING THE PRECINCT BOUNDARY ADJUSTMENT ACT AND PROVISIONS RELATED TO PRECINCTS; PROVIDING FOR VOTER CONVENIENCE CENTERS; PROVIDING FOR REGISTRATION OF QUALIFIED RESIDENTS AND QUALIFIED ELECTORS; PROVIDING PROVISIONS GOVERNING BOARDS OF REGISTRATION; ALLOWING MUNICIPALITIES AND LOCAL GOVERNMENTS TO ENTER INTO AGREEMENTS WITH THE SECRETARY OF STATE FOR ACCESS TO THE VOTER REGISTRATION ELECTRONIC MANAGEMENT SYSTEM; CHANGING PROCEDURES RELATING TO ABSENTEE VOTING AND OVERSEAS MILITARY VOTING; ENACTING THE RECALL ACT TO GOVERN RECALL ELECTIONS; ENACTING THE NONPARTISAN JUDICIAL RETENTION ACT; SYNCHRONIZING POLITICAL SUBDIVISION ELECTION PROCEDURES WITH THE PROVISIONS OF THE LOCAL ELECTION ACT; REQUIRING THE SECRETARY OF STATE TO ISSUE PROCLAMATIONS FOR CERTAIN ELECTIONS; CHANGING PROVISIONS RELATED TO PRIMARY ELECTIONS AND NOMINATING PETITIONS; REMOVING ANNUAL ASSESSMENTS ON LOCAL GOVERNMENTS FOR ADMINISTERING REGULAR LOCAL ELECTIONS; CHANGING THE NAME OF THE LOCAL ELECTION FUND AND PROVIDING FOR BUDGETARY AUTHORITY OVER THE FUND BY THE SECRETARY OF STATE; REVISING WRITE-IN CANDIDATE PROCEDURES; CREATING A MAILED BALLOT AND A PROVISIONAL BALLOT REGISTER; ALLOWING A VOTER TO COMMUNICATE THE VOTER'S BALLOT INFORMATION TO OTHERS; PROHIBITING A PERSON FROM SOLICITING A VOTER TO REVEAL THE VOTER'S BALLOT INFORMATION; PRESCRIBING PROCEDURES FOR THE HANDLING OF NON-TABULATED PAPER BALLOTS AND CERTIFICATES OF RETURN AND THE CANVASSING OF RETURNS; CHANGING AUTOMATIC RECOUNT PROVISIONS; REVISING PROCEDURES FOR FILLING UNITED STATES REPRESENTATIVE VACANCIES; CHANGING PROVISIONS REGARDING ANALYSIS AND PUBLICATION OF PROPOSED CONSTITUTIONAL AMENDMENTS; REVISING DEFINITIONS IN THE LOCAL ELECTION ACT; REVISING MUNICIPAL OFFICER ELECTION PROCEDURES; REVISING SPECIAL ELECTION PROCEDURES; CHANGING USE OF THE TERM "QUALIFIED ELECTOR" IN CERTAIN STATUTES; MAKING LEGISLATIVE FINDINGS CONCERNING THE PROVISIONS OF ARTICLE 9, SECTION 12 OF THE CONSTITUTION OF NEW MEXICO AND ITS EFFECT ON THE VOTING RIGHTS OF CERTAIN PROPERTY OWNERS; REMOVING THE RIGHT OF NONRESIDENT MUNICIPAL ELECTORS TO VOTE IN MUNICIPAL BOND

ELECTIONS; CHANGING REQUIREMENTS FOR THE FORMATION OF AND ELECTIONS FOR PUBLIC IMPROVEMENT DISTRICTS AND TAX INCREMENT DEVELOPMENT DISTRICTS; REQUIRING A STANDARD FORM FOR A PUBLIC REGULATION COMMISSION CANDIDATE QUALIFICATIONS AFFIDAVIT; AMENDING CIRCUMSTANCES CAUSING A VACANCY IN LOCAL OFFICE; AWARDED PUBLIC EMPLOYEES RETIREMENT SERVICE CREDIT TO OFFICERS WHOSE TERMS ARE SHORTENED; CHANGING PROVISIONS IN THE FINANCIAL DISCLOSURE ACT; PROVIDING FOR A DELAY IN MAILING OF PROPERTY TAX BILLS FOR CERTAIN COUNTIES; CHANGING PROVISIONS RELATED TO LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY ELECTIONS; CHANGING PROVISIONS RELATING TO WATER AND SANITATION DISTRICT BOARD ELECTIONS; MAKING TECHNICAL AND CONFORMING CHANGES TO LAWS RELATED TO ELECTIONS; AMENDING, REPEALING, ENACTING AND RECOMPILING SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

Chapter 212 Section 1 Laws 2019

SECTION 1. Section 1-1-3.3 NMSA 1978 (being Laws 2011, Chapter 137, Section 2) is amended to read:

"1-1-3.3. ELECTION-RELATED ORGANIZATION.--As used in the Election Code, "election-related organization" means an organization registered with the secretary of state that is involved in election monitoring or voter turnout activities, but does not include a qualified political party in an election in which the political party is represented on the ballot."

Chapter 212 Section 2 Laws 2019

SECTION 2. Section 1-1-4 NMSA 1978 (being Laws 1969, Chapter 240, Section 4, as amended) is amended to read:

"1-1-4. QUALIFIED ELECTOR.--

A. As used in the Election Code and rules promulgated by the secretary of state, "qualified elector" means any resident of this state who is qualified to vote under the provisions of the constitution of New Mexico and the constitution of the United States and includes any qualified resident.

B. As used in all other statutes and rules of New Mexico, unless otherwise defined, "qualified elector" means a "voter" as that term is defined in Section 1-1-5 NMSA 1978."

Chapter 212 Section 3 Laws 2019

SECTION 3. Section 1-1-5 NMSA 1978 (being Laws 1969, Chapter 240, Section 5, as amended) is amended to read:

"1-1-5. VOTER.--As used in the Election Code, "voter" means any qualified elector or federal qualified elector who is registered to vote under the provisions of the Election Code."

Chapter 212 Section 4 Laws 2019

SECTION 4. Section 1-1-5.2 NMSA 1978 (being Laws 2003, Chapter 356, Section 9, as amended) is amended to read:

"1-1-5.2. DEFINITION OF A VOTE--MACHINE-TABULATED--HAND-TALLIED--WRITE-IN.--

A. For a paper ballot that is machine-tabulated on a vote tabulation system certified for use in this state, a vote shall be counted if the:

- (1) voter's selection of a candidate or answer to a ballot question is indicated in the voting response area of the paper ballot; and
- (2) ballot is marked in accordance with the instructions for that ballot type.

B. For a paper ballot that is hand-tallied, a vote shall be counted if:

- (1) the ballot is marked in accordance with the instructions for that ballot type;
- (2) the preferred candidate's name or answer to a ballot question is circled;
- (3) there is a distinct marking, such as a cross or check, within the voting response area for the preferred candidate or answer to a ballot question; or

(4) the presiding judge and election judges hand-tallying the ballot unanimously agree that the voter's intent is clearly discernable.

C. For a paper ballot that is machine-tabulated or hand-tallied and that contains a write-in vote, the write-in vote shall be counted if the name is:

(1) the name of a declared write-in candidate for that office and position and is on the proper line provided for a write-in vote for that office and position; and

(2) written as first and last name; first name, middle name or initial and last name; one or two initials and last name; or last name alone if there is no other declared write-in candidate for the office or position that is the same or so similar as to tend to confuse the candidates' identities; provided that:

(a) when the presiding judge and election judges reviewing the write-in vote unanimously agree that the voter's intent is clearly discernable, an abbreviation, misspelling or other minor variation in the form of the name of a declared write-in candidate shall be accepted as a valid vote; and

(b) as used in this subsection, "write-in" and "written" do not include the imprinting of any name by stamp or similar method or device or the use of a stencil or a preprinted sticker or label."

Chapter 212 Section 5 Laws 2019

SECTION 5. Section 1-1-11 NMSA 1978 (being Laws 1969, Chapter 240, Section 10) is amended to read:

"1-1-11. PRECINCT.--As used in the Election Code, "precinct" means a designated division of a county for election and redistricting purposes."

Chapter 212 Section 6 Laws 2019

SECTION 6. Section 1-1-12 NMSA 1978 (being Laws 1969, Chapter 240, Section 11, as amended by Laws 2011, Chapter 131, Section 1 and by Laws 2011, Chapter 137, Section 7) is amended to read:

"1-1-12. CONSOLIDATED PRECINCT.--

A. As used in the Election Code, "consolidated precinct" means a single precinct or the combination of two or more precincts into one polling place for the

purpose of establishing a voter convenience center pursuant to the provisions of Section 1-3-4 NMSA 1978.

B. When consolidated precincts are used to establish a voter convenience center in a statewide election, references to "precincts" in the voting process shall be applicable to consolidated precincts."

Chapter 212 Section 7 Laws 2019

SECTION 7. Section 1-1-13 NMSA 1978 (being Laws 1969, Chapter 240, Section 12, as amended) is amended to read:

"1-1-13. ELECTION BOARD.--As used in the Election Code, "election board" means the judges of election in accordance with Article 7, Section 1 of the constitution of New Mexico and the election clerks that are appointed pursuant to Section 1-2-12 NMSA 1978 and serving in a polling place or tallying ballots that have been cast in a statewide or special election."

Chapter 212 Section 8 Laws 2019

SECTION 8. Section 1-1-15 NMSA 1978 (being Laws 1969, Chapter 240, Section 15, as amended) is amended to read:

"1-1-15. POSTING.--

A. As used in the Election Code, "posting" means posting from the date a posting is required until forty-five days after adjournment of the state or county canvassing board or until forty-five days following any recount, contest or other judicial inquiry, whichever is later.

B. A posting as described in Subsection A of this section is satisfied by posting on the website and in a public area in the office of:

(1) the secretary of state, when the secretary of state has the duty to post; or

(2) the county clerk, when the county clerk has the duty to post."

Chapter 212 Section 9 Laws 2019

SECTION 9. Section 1-8-31 NMSA 1978 (being Laws 1973, Chapter 228, Section 5, as amended) is recompiled in Chapter 1, Article 1 NMSA 1978 and is amended to read:

"PETITIONS--NOMINATIONS--SIGNATURES TO BE COUNTED.--

A. A person who signs a nominating petition shall sign only one petition for the same office unless more than one candidate is to be elected to that office, and in that case, a person may sign not more than the number of nominating petitions equal to the number of candidates to be elected to the office.

B. A person who signs a nominating petition shall indicate the person's registration address. If the person does not have a standard street address, the person may provide the mailing address as shown on the person's certificate of registration.

C. A signature shall be counted on a nominating petition unless there is evidence presented that the petition does not provide the information required by the nominating petition for each person signing or the person signing:

(1) is not a voter of the state, district, county or area to be represented by the office for which the person seeking the nomination is a candidate;

(2) has signed more than one petition for the same office, except as provided in Subsection A of this section, and if the person has signed more than one petition for the same office and in the same election cycle, none of the challenged signatures from that person shall count toward the total number of signatures required for any candidate for that office;

(3) has signed one petition more than once, in which case only one signature from that person shall count toward the total number of signatures required for that candidate for office;

(4) in a primary election, is not of the same political party as the candidate named in the nominating petition as shown by the signer's certificate of registration; or

(5) is not the person whose name appears on the nominating petition.

D. The procedures set forth in this section shall be used to validate signatures on any petition required by the Election Code, except that Paragraph (4) of Subsection C of this section shall not apply to petitions filed by unaffiliated candidates or petitions filed by candidates of minor political parties."

Chapter 212 Section 10 Laws 2019

SECTION 10. A new section of Chapter 1, Article 1 NMSA 1978 is enacted to read:

"BALLOT QUESTION.--As used in the Election Code, "ballot question" means a question submitted to the voters of the state or a local government on a ballot pursuant to the provisions of the Election Code and does not include a candidate nomination, election contest or nonpartisan judicial retention election."

Chapter 212 Section 11 Laws 2019

SECTION 11. A new section of Chapter 1, Article 1 NMSA 1978 is enacted to read:

"COUNTY.--As used in the Election Code, "county" means a county in this state, including a combined city and county corporation, incorporated county, urban county or single urban government."

Chapter 212 Section 12 Laws 2019

SECTION 12. A new section of Chapter 1, Article 1 NMSA 1978 is enacted to read:

"MUNICIPALITY.--As used in the Election Code, "municipality" means an incorporated city, town or village, whether incorporated under general act, special act, special charter or territorial charter, but does not mean a combined city and county corporation, an incorporated county or a single urban government."

Chapter 212 Section 13 Laws 2019

SECTION 13. A new section of Chapter 1, Article 1 NMSA 1978 is enacted to read:

"PETITIONS--NOMINATIONS--REQUIREMENTS BEFORE SIGNED BY VOTERS--INVALIDATED PETITIONS.--

A. The following information shall be listed in the appropriate space at the top of a nominating petition before the petition has been signed by a voter:

- (1) the candidate's name as it appears on the candidate's certificate of registration;
- (2) the address where the candidate resides;
- (3) the office sought by the candidate;
- (4) if the office sought is a districted office or a division within a judicial district or has been assigned a position number for purposes of the election, the district, division or position number of the office sought;
- (5) if the office sought will be on the general election ballot, the party affiliation of the candidate or that the candidate is unaffiliated with any qualified political party; and
- (6) if the office sought will be nominated at a political party primary, the party affiliation of voters permitted to sign the petition.

B. With or without a showing of fraud or a reasonable opportunity for fraud, a nominating petition page, including all signatures on the petition page, shall be invalid if any of the information required by Subsection A of this section is not listed on the petition before the petition page is signed by a voter or if any of the required information is subsequently changed in any way."

Chapter 212 Section 14 Laws 2019

SECTION 14. A new section of Chapter 1, Article 1 NMSA 1978 is enacted to read:

"PROPER FILING OFFICER.--As used in the Election Code, "proper filing officer" means, for the purposes of filing:

- A. reports required by the Campaign Reporting Act and the School District Campaign Reporting Act, the secretary of state;
- B. declarations of candidacy and candidate qualification documents by any candidate for statewide or federal office, the secretary of state; and
- C. declarations of candidacy and candidate qualification documents by all other candidates, the county clerk of the county in which the candidate resides."

Chapter 212 Section 15 Laws 2019

SECTION 15. A new section of Chapter 1, Article 1 NMSA 1978 is enacted to read:

"QUALIFIED RESIDENT.--As used in the Election Code, "qualified resident" means an individual who is under the age of eighteen and, except for the age requirement, otherwise satisfies the state's voter eligibility requirements as a qualified elector or a federal qualified elector."

Chapter 212 Section 16 Laws 2019

SECTION 16. A new section of Chapter 1, Article 1 NMSA 1978 is enacted to read:

"SPECIAL ELECTION.--As used in the Election Code, "special election" means an election at which only ballot questions are considered and that is held at a time other than a statewide election."

Chapter 212 Section 17 Laws 2019

SECTION 17. A new section of Chapter 1, Article 1 NMSA 1978 is enacted to read:

"STATEWIDE ELECTION.--As used in the Election Code, "statewide election" means:

- A. a general election;
- B. a political party primary;
- C. a regular local election; or
- D. with respect to the applicable counties and precincts, an election called to fill a vacancy in the office of United States representative."

Chapter 212 Section 18 Laws 2019

SECTION 18. A new section of Chapter 1, Article 1 NMSA 1978 is enacted to read:

"UNITED STATES.--As used in the Election Code, "United States" means the several states and the District of Columbia, but does not mean Puerto Rico, the United

States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States."

Chapter 212 Section 19 Laws 2019

SECTION 19. Section 1-2-6 NMSA 1978 (being Laws 1969, Chapter 240, Section 28, as amended) is amended to read:

"1-2-6. ELECTION BOARD--APPOINTMENT.--

A. The county clerk on or before forty-two days next preceding a statewide election shall appoint the necessary election boards for that election, and before twenty-one days next preceding a special election the county clerk shall appoint the necessary election boards for that election. The appointment of the members of each election board shall be in writing and delivered to the person receiving the appointment.

B. The county clerk shall maintain in a public place in the county clerk's office a list of the members of the election board, the positions of the election board members and the assignments of the election board members. The list shall be made available at least forty days before a statewide election and at least twenty days before a special election and shall be updated when changed until forty-five days after adjournment of the state or county canvassing board or until forty-five days following any recount, contest or other judicial inquiry, whichever is later."

Chapter 212 Section 20 Laws 2019

SECTION 20. Section 1-2-7 NMSA 1978 (being Laws 1969, Chapter 240, Section 29, as amended) is amended to read:

"1-2-7. ELECTION BOARD--QUALIFICATION OF MEMBERS--
QUALIFICATION OF PRESIDING JUDGES--QUALIFICATION OF MINORS.--

A. In order to qualify as a member of the election board, a person shall:

- (1) be a voter of the county in which the person is appointed to serve;
- (2) be able to read and write;
- (3) have the necessary capacity to carry out an election board member's functions with acceptable skill and dispatch; and
- (4) execute the election board member's oath of office.

B. Before serving as a presiding judge of an election board, a person shall receive training in the duties of that position and be certified for the position by the county clerk.

C. No person shall be qualified for appointment or service on an election board:

(1) who is a candidate to be voted for at the election;

(2) who is a spouse, parent, child, brother or sister of any candidate to be voted for at the election;

(3) who is married to a parent, child, brother or sister of any candidate to be voted for at the election or who is the parent of the spouse of any candidate to be voted for at the election; or

(4) who is a sheriff, deputy sheriff, marshal, deputy marshal or state or municipal police officer.

D. A county clerk may appoint not more than two minors to serve on an election board under the direct supervision of the presiding judge. A minor appointed by the county clerk shall:

(1) meet the qualifications set forth in Subsection A of this section, except the minor need not be eligible to vote;

(2) be sixteen or seventeen years of age at the time of the election in which the minor is serving as a member of an election board;

(3) be a citizen at the time of the election for which the minor will be serving as a member of an election board;

(4) have the approval of the minor's parent or legal guardian, unless the minor is emancipated;

(5) attend at least one school of instruction in accordance with the provisions of Section 1-2-17 NMSA 1978; and

(6) be appointed to an election board in the county in which the minor's parent or legal guardian resides, in accordance with the provisions of Section 1-2-11 NMSA 1978.

E. A minor appointed to an election board shall not serve as the presiding judge or as an election judge."

Chapter 212 Section 21 Laws 2019

SECTION 21. Section 1-2-9 NMSA 1978 (being Laws 1975, Chapter 255, Section 15, as amended) is amended to read:

"1-2-9. ELECTION BOARD--STANDBY LIST.--

A. Not less than twenty-one days prior to the date for appointing members of election boards, the county clerk shall publish a notice once in a newspaper of general circulation to the effect that election boards are to be appointed for the specified number of precincts, stating the number of persons composing each board and that applications for the standby list will be accepted at the county clerk's office.

B. The county clerk shall then compile from the individual applicants a standby list of election board members. The persons on the standby list shall have the same qualifications and comply with the same requirements as provided for election board members."

Chapter 212 Section 22 Laws 2019

SECTION 22. Section 1-2-11 NMSA 1978 (being Laws 1977, Chapter 222, Section 5, as amended) is amended to read:

"1-2-11. ELECTION BOARD--ASSIGNMENT.--Wherever possible, the county clerk shall assign persons appointed as election board members to serve in precincts wherein they reside or in precincts located in the representative district wherein they reside. In the event of a shortage or absence of election board members in certain precincts, the county clerk may, in the best interest of the election process, assign appointed election board members to serve on any election board in the county; provided that such appointed board members shall not change the proportionate representation of each party on the board."

Chapter 212 Section 23 Laws 2019

SECTION 23. Section 1-2-12 NMSA 1978 (being Laws 1969, Chapter 240, Section 32, as amended) is amended to read:

"1-2-12. ELECTION BOARD--POSITIONS ON EACH BOARD.--

A. Each election board shall consist of:

- (1) a presiding judge;
- (2) two election judges; and
- (3) election clerks who are appointed to assist the presiding judge and election judges.

B. The county clerk shall appoint presiding judges and election judges so that not more than two of the three judges belong to the same political party at the time of their appointment; provided that:

(1) a judge of an election board shall not have changed party registration in the two years next preceding the judge's appointment in such a manner that the judge's prior party registration would make the judge ineligible to serve on the assigned election board; and

(2) a judge of an election board shall not continue to serve on an election board if the judge changes party registration after the date of appointment in such a manner to make the judge ineligible to serve on the assigned election board.

C. The county clerk may appoint teams of presiding judges and election judges for alternate voting locations, absent voter precincts, recounts and special elections; provided that each team meets the requirements of Subsection B of this section.

D. The county clerk may appoint election clerks to the election board as necessary to assist the presiding judge and election judges if the county clerk determines that additional election board members are needed.

E. County clerk employees may be assigned by the county clerk to provide support to an election board or polling location."

Chapter 212 Section 24 Laws 2019

SECTION 24. Section 1-2-14 NMSA 1978 (being Laws 1969, Chapter 240, Section 34, as amended) is amended to read:

"1-2-14. ELECTION BOARDS--NOTICE OF APPOINTMENT.--

A. Immediately after the appointment of the election boards, the county clerk shall:

(1) make and certify a list of the names of the appointees for each polling location and send a copy of the list to the county chair of each political party participating in a partisan election and to the secretary of state; and

(2) notify each person appointed, request the person's acceptance and keep a record of all notifications and acceptances.

B. If any person appointed to an election board fails to accept the appointment within two weeks after the notice was sent or communicated, the county clerk shall appoint another qualified person for the election board."

Chapter 212 Section 25 Laws 2019

SECTION 25. Section 1-2-15 NMSA 1978 (being Laws 1991, Chapter 105, Section 6) is amended to read:

"1-2-15. ELECTION BOARD--VACANCIES.--

A. If for any cause a member of the election board fails to appear for the assigned duty to which the member was appointed, the remaining board members shall immediately notify the county clerk.

B. In the event of a vacancy in an election board position by reason of death, removal from the county, disqualification, refusal to serve, failure to appear for an assigned duty or excusal by the county clerk for sufficient cause, the county clerk may appoint a qualified person to fill the vacancy.

C. No vacancy shall prevent the remaining board members from proceeding to open the polls or otherwise perform their duties for the election in their assigned location."

Chapter 212 Section 26 Laws 2019

SECTION 26. Section 1-2-16 NMSA 1978 (being Laws 1969, Chapter 240, Section 36, as amended) is amended to read:

"1-2-16. ELECTION BOARD--COMPENSATION.--

A. Members of an election board shall be compensated for their services at the rate of not less than the federal minimum hourly wage rate nor more than two hundred dollars (\$200) for an election day.

B. Members of an election board assigned to alternate voting or alternate mobile voting locations or absent voter precincts may be compensated at an hourly rate set by the county clerk.

C. Compensation shall be paid within thirty days following the date of election.

D. For purposes of determining eligibility for membership in the public employees retirement association and pursuant to the provisions of Subsection B of Section 10-11-3 NMSA 1978, election board members are designated as seasonal employees."

Chapter 212 Section 27 Laws 2019

SECTION 27. Section 1-2-17 NMSA 1978 (being Laws 1969, Chapter 240, Section 37, as amended) is amended to read:

"1-2-17. ELECTION BOARD--SCHOOLS OF INSTRUCTION.--

A. The county clerk shall cause to be held a public school of instruction for all election board members and others who will be officially concerned with the conduct of an election.

B. The schools of instruction provided for in this section shall be held following an election board member's appointment and before the member performs assigned duties in an election.

C. All major details of the conduct of elections shall be covered by the county clerk or the clerk's authorized representative at such school, with special emphasis being given to recent changes in the Election Code.

D. The school of instruction shall be open to any interested person, and the county clerk shall post notice of the school at least four days before the school is to be held. Each member of an election board shall be notified at least seven days prior to commencement of the school.

E. A person shall not serve as a member of an election board in any election unless that person has attended at least one such school of instruction for the election at which the person is appointed to serve and has been certified by the county clerk with respect to the person's completion of the school of instruction. This subsection shall not apply to filling of vacancies on election day as provided in Subsection B of Section 1-2-15 NMSA 1978."

Chapter 212 Section 28 Laws 2019

SECTION 28. Section 1-2-18 NMSA 1978 (being Laws 1969, Chapter 240, Section 38) is amended to read:

"1-2-18. ELECTION BOARD MEMBERS--IDENTIFICATION BADGES.--At all times on election day while performing their duties, members of the election board shall wear uniform identification badges. Such badges shall be furnished by the county clerk. The secretary of state shall prescribe the form and material of such identification badges, which shall include the identification of the election board member's name, title and political party."

Chapter 212 Section 29 Laws 2019

SECTION 29. Section 1-2-20 NMSA 1978 (being Laws 1969, Chapter 240, Section 39, as amended) is amended to read:

"1-2-20. MESSENGERS--COMPENSATION.--

A. The county clerk may appoint messengers to deliver ballot boxes, poll books, keys, election supplies and other materials pertaining to the election. Messengers may also be authorized to collect absentee ballots and removable media storage devices from polling places and deliver them to locations designated by the county clerk.

B. Messengers may be compensated at the same daily or hourly rate as provided for election board members or at a rate established by the county clerk. Messengers may be paid mileage as provided in the Per Diem and Mileage Act each way over the usually traveled route when the messenger travels by private vehicle. The compensation and mileage shall be paid within thirty days following the date of election.

C. Messengers shall take an oath of office before entering into service as a messenger. Messengers may be appointed to serve solely in that capacity or may be election board members or county employees also appointed to serve as messengers."

Chapter 212 Section 30 Laws 2019

SECTION 30. Section 1-2-21 NMSA 1978 (being Laws 1969, Chapter 240, Section 40, as amended) is amended to read:

"1-2-21. CHALLENGERS--APPOINTMENT.--

A. The county chair of each political party represented on the ballot in a partisan election may appoint in writing challengers for each polling location. If more than one challenger is appointed to a polling location, the challengers shall be listed in ranking order.

B. If any county chair fails to make such appointments or if there is no county chair, the state chair of the political party may in a partisan election appoint in writing one challenger for each polling location in the county."

Chapter 212 Section 31 Laws 2019

SECTION 31. Section 1-2-25 NMSA 1978 (being Laws 1969, Chapter 240, Section 44, as amended) is amended to read:

"1-2-25. CHALLENGERS, WATCHERS, COUNTY CANVASS OBSERVERS-- PERMITTED AND PROHIBITED ACTIVITIES.--

A. Challengers, watchers and county canvass observers shall:

- (1) not be permitted to perform any duty of an election board member;
- (2) not handle the ballots, signature rosters, checklist of voters or voting machines or take any part in the counting or tallying of the ballots or the county canvass;
- (3) not be allowed to view a voter's full date of birth or any portion of the voter's social security number;
- (4) not interfere with the orderly conduct of the election, the counting or tallying of the ballots or the county canvass;
- (5) be allowed in the room in which the voting is being conducted at a polling location; provided that at any given time, each political party, candidate or election-related organization may have no more than one person present; and
- (6) be allowed in the room in which the absent voter election board, the recount election board or the election board for a special election conducts its business or, in the case of county canvass observers, in which the county canvass is conducted; provided that each political party, candidate or election-related organization shall have no more than:

(a) two persons present at any given time in counties with more than ten thousand registered voters;

(b) four persons present at any given time in counties with more than fifty thousand registered voters; or

(c) fifteen persons present at any given time in counties with more than one hundred fifty thousand registered voters.

B. Subject to permission granted by the county clerk, additional challengers may be present in the room in which the absent voter election board, the recount election board or the election board for a special election conducts its business in a partisan election; provided that the number of additional challengers allowed pursuant to this subsection is identical for each political party participating in the election."

Chapter 212 Section 32 Laws 2019

SECTION 32. Section 1-2-27 NMSA 1978 (being Laws 1969, Chapter 240, Section 46, as amended) is amended to read:

"1-2-27. WATCHERS--APPOINTMENT.--

A. An election-related organization may in a statewide or special election appoint watchers in a county if the organization provides a written notice to the secretary of state at least seven days prior to serving as a watcher during early voting, the election date or the ballot qualification period for mailed ballots in a statewide or a special election and specifies the names of the qualified appointees. The secretary of state shall notify the county clerk of the qualified appointees at least five days before the election.

B. Any group of three candidates for elected office in a statewide election may appoint watchers in a county if the candidates provide a written notice to the secretary of state at least seven days prior to serving as a watcher during early voting, the election date or the ballot qualification period for mailed ballots in a statewide or special election and specify the names of the qualified appointees. The secretary of state shall notify the county clerk of the qualified appointees at least five days before the election."

Chapter 212 Section 33 Laws 2019

SECTION 33. Section 1-2-31 NMSA 1978 (being Laws 2005, Chapter 270, Section 15, as amended) is amended to read:

"1-2-31. COUNTY CANVASS OBSERVERS.--

A. The county chair of each political party represented on a partisan ballot may appoint in writing county canvass observers. A candidate for elected office and an election-related organization in a statewide or special election may each appoint county canvass observers in a county if the candidate or organization makes a written request to the secretary of state and specifies the names of the qualified appointees. The secretary of state shall immediately notify the county clerk of the qualified appointees.

B. County canvass observers shall be voters of a precinct located in that county to which they are appointed. No person shall be qualified for appointment or service as a county canvass observer who is a sheriff, deputy sheriff, marshal, deputy marshal or state or municipal police officer.

C. A county canvass observer or an election observer, upon presentation of the observer's written appointment, shall be permitted to be present at any time from the time the county canvassing begins until the completion of the canvass.

D. A county canvass observer or election observer is strictly limited to observing and documenting the canvassing process and shall not interrupt the canvassing process.

E. County canvass observers and election observers shall not interfere with the orderly conduct of the canvass and may be removed by the county clerk if the observer does not comply with the law.

F. As used in this section, "county canvass" means the process in the office of the county clerk of qualifying and verifying paper ballots and counting and tallying votes for each precinct beginning upon the closing of the polls and ending with the certification and announcement of the results by the county canvassing board."

Chapter 212 Section 34 Laws 2019

SECTION 34. Section 1-2-32 NMSA 1978 (being Laws 2011, Chapter 137, Section 11) is amended to read:

"1-2-32. STATE CANVASS OBSERVERS.--

A. The state chair of each political party represented on a partisan ballot may appoint in writing state canvass observers. A candidate for elected office in a statewide election and an election-related organization in a statewide or special election may each appoint state canvass observers if the candidate or organization makes a

written request to the secretary of state and specifies the names of the qualified appointees.

B. State canvass observers shall be voters of the state. No person shall be qualified for appointment or service as a state canvass observer who is a sheriff, deputy sheriff, marshal, deputy marshal or state or municipal police officer.

C. The state canvass observer or election observer, upon presentation of the observer's written appointment, shall be permitted to be present at any time from the time the state canvassing begins until the completion of the canvass.

D. A state canvass observer or election observer is strictly limited to observing and documenting the canvassing process and shall not interrupt the canvassing process.

E. State canvass observers shall not interfere with the orderly conduct of the canvass and may be removed by the secretary of state if the observer does not comply with the law.

F. As used in this section, "state canvass" means the process in the office of the secretary of state or by such person as the state canvassing board may appoint to examine election returns and certificates issued by the county canvassing boards and ending with the certification and announcement of the results by the state canvassing board."

Chapter 212 Section 35 Laws 2019

SECTION 35. Section 1-3-1 NMSA 1978 (being Laws 1969, Chapter 240, Section 50, as amended) is amended to read:

"1-3-1. NATURE OF A PRECINCT--MAPS.--

A. Each precinct as nearly as practicable shall be composed of contiguous and compact areas having clearly definable boundaries. All precinct boundaries shall comply with the provisions of the Precinct Boundary Adjustment Act.

B. A precinct shall be divided or its boundaries adjusted if the precinct has had more than:

(1) seven hundred fifty votes cast by voters of that precinct at a general election, based on the two most recent general elections; or

(2) two thousand five hundred persons residing within the boundaries of the precinct, based on the most recent federal decennial census.

C. A precinct may be combined with another precinct or its boundaries adjusted if the precinct has had less than:

(1) one hundred votes cast by voters of that precinct at a general election, based on the two most recent general elections; or

(2) five hundred persons residing within the boundaries of the precinct, based on the most recent federal decennial census.

D. A precinct shall not be combined with an adjoining precinct as provided in Subsection C of this section if the combination of the two precincts would:

(1) violate the maximum votes cast or population requirements of Subsection B of this section; or

(2) cross any local, state or federal district or districted boundary lines.

E. The secretary of state shall provide and maintain a suitable map showing the current geographical boundaries with designation of each precinct, local government, representative district and senatorial district in the county. The size and form of such maps shall be prescribed by the secretary of state. A word description of the geographical boundaries shall be attached to each map, along with a description of the changes from the previous map of the area. The map, with attached description, is a public record."

Chapter 212 Section 36 Laws 2019

SECTION 36. Section 1-3-2 NMSA 1978 (being Laws 1969, Chapter 240, Section 51, as amended) is amended to read:

"1-3-2. PRECINCTS--DUTIES OF COUNTY COMMISSIONERS.-- For the conduct of any statewide election during the period beginning January 1 of the next succeeding even-numbered year until December 31 of the odd-numbered year thereafter, in June or July of each odd-numbered year, the board of county commissioners shall by resolution:

A. designate the polling place of each precinct that shall provide individuals with physical mobility limitations an unobstructed access to at least one voting machine;

B. consolidate any precincts pursuant to Section 1-3-4 NMSA 1978;

C. designate any mail ballot election precincts pursuant to Section 1-6-22.1 NMSA 1978; and

D. create additional polling places in existing precincts pursuant to Section 1-3-7.1 NMSA 1978."

Chapter 212 Section 37 Laws 2019

SECTION 37. Section 1-3-4 NMSA 1978 (being Laws 1975, Chapter 255, Section 30, as amended) is amended to read:

"1-3-4. CONSOLIDATION OF PRECINCTS--VOTER CONVENIENCE CENTERS.--

A. The board of county commissioners may permit voters in the county to cast ballots in statewide elections at voter convenience centers through the use of consolidated precincts authorized pursuant to this section.

B. When precincts are consolidated and voter convenience centers are established for statewide elections:

(1) the resolution required by Section 1-3-2 NMSA 1978, in addition to the other matters required by law, shall state therein which precincts have been consolidated and the location of the voter convenience center within that consolidated precinct;

(2) any voter of the county shall be allowed to vote on a regular ballot at any voter convenience center in the county;

(3) each voter convenience center shall be a consolidated precinct composed of no more than ten precincts;

(4) each voter convenience center shall comply with the provisions of Section 1-3-7 NMSA 1978;

(5) each voter convenience center shall have a broadband internet connection and real-time access to the voter registration electronic management system;

(6) the county clerk may maintain any alternate voting locations or mobile alternate voting locations previously used in the same election open for voting on election day as a voter convenience center, in addition to the voter convenience center established within each consolidated precinct; provided that the locations otherwise meet the requirements of a voter convenience center; and

(7) the board of county commissioners may permit certain precincts to be exempted from operating as a voter convenience center or being a part of a consolidated precinct; provided that if the precinct is not designated as a mail ballot election precinct pursuant to Section 1-6-22.1 NMSA 1978 and the polling place for that precinct does not have real-time access to the voter registration electronic management system, voters registered in a precinct as described in this paragraph are permitted to vote at any voter convenience center on election day only by use of a provisional paper ballot, which shall be counted after the county clerk confirms that the voter did not also vote in the same election on any other ballot.

C. Unless the county clerk receives a written waiver from the secretary of state specifying the location and specific provision being waived, each voter convenience center shall:

(1) have ballots available for voters from every precinct authorized to vote at that voter convenience center;

(2) have at least one optical scan tabulator programmed to read every ballot style able to be cast at that voter convenience center;

(3) have at least one voting system available to assist disabled voters to cast and record their votes;

(4) have sufficient spaces for at least five voters to simultaneously and privately mark their ballots, with at least one of those spaces wheelchair-accessible;

(5) have sufficient check-in stations to accommodate voters throughout the day as provided in Section 1-9-5 NMSA 1978;

(6) have a secure area for storage of preprinted ballots or for storage of paper ballot stock and a system designed to print ballots at a polling location;

(7) issue a ballot to voters who have provided the required voter identification after the voter has signed a signature roster or an electronic equivalent approved by the voting system certification committee or after the voter has subscribed an application to vote on a form approved by the secretary of state; and

(8) be in a location that is accessible and compliant with the requirements of the federal Americans with Disabilities Act of 1990.

D. As a prerequisite to consolidation, the authorizing resolution must find that consolidation will make voting more convenient and accessible to voters of the consolidated precinct and will not result in delays for voters in the voting process and that the voter convenience center will be centrally located within the consolidated precinct. The board of county commissioners shall give due consideration to input received from any local public body in the county regarding the location of voter convenience centers."

Chapter 212 Section 38 Laws 2019

SECTION 38. Section 1-3-5 NMSA 1978 (being Laws 1969, Chapter 240, Section 55, as amended) is amended to read:

"1-3-5. PRECINCTS--POWERS OF COUNTY COMMISSIONERS.--

A. The board of county commissioners shall by resolution:

(1) create additional precincts to meet the requirements of Section 1-3-1 NMSA 1978; and

(2) divide, abolish, combine or adjust the boundaries of any precincts as necessary to meet legal and constitutional requirements for redistricting.

B. Any necessary precinct boundary adjustments shall be submitted to the secretary of state no later than the first Monday in December of each odd-numbered year to become effective January 1 next succeeding the approval of the boundary adjustment. No precinct shall be created, divided, abolished or combined or the boundaries adjusted less than four months prior to a statewide election, except by order of the district court.

C. The county clerk shall notify the secretary of state in writing of any proposed changes in precincts or the designation of polling places made by the board of county commissioners and shall furnish the current geographical boundaries, designation and word description of each new polling place and each new or changed precinct.

D. The secretary of state shall review all new or changed precinct maps submitted pursuant to this section for compliance under the Precinct Boundary Adjustment Act and Section 1-3-1 NMSA 1978.

E. Precincts shall be designated solely by whole numbers."

Chapter 212 Section 39 Laws 2019

SECTION 39. Section 1-3-6 NMSA 1978 (being Laws 1969, Chapter 240, Section 56, as amended) is amended to read:

"1-3-6. PRECINCTS--BOUNDARIES--PROTEST.--

A. Any twenty-five or more voters of a precinct dissatisfied with the boundaries fixed for a precinct or location of the polling place designated by the board of county commissioners for that precinct may, within one hundred eighty days from the date a change to the boundaries of a precinct was approved in the case of a protest to the boundaries of a precinct, or at any time not less than one hundred twenty days prior to any statewide election, petition the district court of that county, setting forth the facts and reasons for their dissatisfaction and requesting that the board of county commissioners be required by mandamus to change the boundaries or polling place as set forth in the petition.

B. Upon filing of the petition, the court shall fix a time and place for hearing, which time shall not be more than twenty days from the date the petition was filed. Each member of the board of county commissioners and the person whose name appears first on the petition as a signer shall immediately be given notice by the court of the filing of the petition and the date set for hearing.

C. On the date set for the hearing on the petition, the court shall hear the evidence, decide the issues involved and issue its order as the law and facts require."

Chapter 212 Section 40 Laws 2019

SECTION 40. Section 1-3-7 NMSA 1978 (being Laws 1969, Chapter 240, Section 57, as amended) is amended to read:

"1-3-7. POLLING PLACES.--

A. No less than one polling place shall be provided for each precinct that is not a mail ballot election precinct; provided that in a local election, a precinct that lies partly within and partly without a district may be located in a single polling place and use a single election board.

B. The board of county commissioners shall designate as the polling place or places, as the case may be, in each precinct, other than a mail ballot election precinct,

the most convenient and suitable public building or public school building in the precinct that can be obtained.

C. If no public building or public school building is available, the board of county commissioners shall provide some other suitable place, which shall be the most convenient and appropriate place obtainable in the precinct, considering the purpose for which it is to be used pursuant to the Election Code.

D. If, in a precinct that is not a mail ballot election precinct or a consolidated precinct, there is no public building or public school building available in the precinct, and there is no other suitable place obtainable in the precinct, the board of county commissioners may designate as a polling place for the precinct the most convenient and suitable building or public school building nearest to that precinct that can be obtained. No polling place shall be designated outside the boundary of the precinct as provided in this subsection until such designated polling place is approved by written order of the district court of the county in which the precinct is located.

E. Upon application of the board of county commissioners, the governing board of any school district shall permit the use of any school building or a part thereof for registration purposes and the conduct of any election; provided that the building or the part used for the election complies with the standards set out in the federal Voting Accessibility for the Elderly and Handicapped Act. Application for use of a school building or any part thereof for the conduct of a statewide election shall be made by delivering to the superintendent of the school district the resolution adopted pursuant to Section 1-3-2 NMSA 1978.

F. On the day of any statewide election for which application was made pursuant to Subsection E of this section, the board of education of a school district shall provide exclusive use of any school building or the part thereof to be used in the conduct of the election and shall provide sufficient parking for election officials and to permit voters to exercise the elective franchise."

Chapter 212 Section 41 Laws 2019

SECTION 41. Section 1-3-12 NMSA 1978 (being Laws 1984 (1st S.S.), Chapter 3, Section 4, as amended) is amended to read:

"1-3-12. ADJUSTING PRECINCT BOUNDARIES.--

A. Before each federal decennial census, every precinct shall comply with the requirements of Section 1-3-1 NMSA 1978, and if necessary its boundary shall be adjusted to coincide with a feature or a boundary that is:

(1) shown on the standard base maps developed pursuant to Subsection B of this section;

(2) a designated census block boundary on the proposed federal PL 94-171 2020 census block maps; or

(3) approved by the secretary of state and the United States bureau of the census.

B. Prior to commencement of the federal decennial census, the secretary of state shall have prepared and shall furnish to each county clerk standard base maps of the county. The standard base map for urban and nonurban areas of the county shall, as nearly as practical, show:

(1) all state and federal highways;

(2) all numbered and named county roads that have been certified to the department of transportation;

(3) all military installation boundaries and federal and state prison boundaries;

(4) all major railroad lines;

(5) federal, state and county political boundaries, municipal boundaries and school district boundaries;

(6) all streets within urban areas; and

(7) other major terrain features, such as flowing rivers and streams, arroyos, power lines, pipelines, roads, trails and ridgelines and other acceptable census block boundaries.

C. The board of county commissioners, upon receipt of the standard base maps from the secretary of state and upon the recommendation of the county clerk, shall:

(1) adjust all precinct boundaries to coincide with numbered or named street boundaries or suitable visible terrain features shown on the standard base map; provided that the precincts shall be composed of contiguous and compact areas, and state, county, municipal, school district and other special district or political boundary lines shall serve as precinct boundaries whenever possible; and

(2) upon the completion of the precinct boundary adjustments as required in this section, indicate on the standard base maps the boundaries for both urban and nonurban precincts and, together with a written description of the precincts, shall send an electronic copy to the secretary of state for approval.

D. The precincts shown upon the standard base maps submitted pursuant to the provisions of this section and as revised and approved by the secretary of state pursuant to the Precinct Boundary Adjustment Act shall become the official precincts of each county for the 2021 redistricting. For the 2022 and subsequent statewide elections, changes in precincts shall be made in accordance with the provisions of Chapter 1, Article 3 NMSA 1978.

E. In the same calendar year in which the state receives the results of a federal decennial census, the state legislature shall redistrict federal representative districts, each chamber of the legislature, public regulation commission districts, public education commission districts and any other state districts requiring redistricting.

F. In the calendar year following the receipt of the results of a federal decennial census, each local public body subject to districting shall create or redraw districts for the local public body. A local public body, when creating or redrawing districts, shall not split a precinct into two or more districts for any elected office unless necessary to comply with federal law or to preserve communities of interest."

Chapter 212 Section 42 Laws 2019

SECTION 42. Section 1-3-13 NMSA 1978 (being Laws 1983, Chapter 223, Section 4, as amended) is amended to read:

"1-3-13. SECRETARY OF STATE POWERS AND DUTIES.--

A. Prior to commencement of the federal decennial census, the secretary of state shall review all county precinct maps submitted pursuant to Section 1-3-12 NMSA 1978 for compliance with the provisions of the Precinct Boundary Adjustment Act and Section 1-3-1 NMSA 1978. Those county precinct maps determined not to be in compliance with the precinct boundary criteria set forth in Subsection A of Section 1-3-12 NMSA 1978 or Section 1-3-1 NMSA 1978 shall be rejected and returned to the appropriate county clerk with a written statement setting forth those instances in which the map does not comply. The county clerk and the board of county commissioners shall make the required adjustments within thirty days after receiving notice of noncompliance.

B. Following receipt of the results of a federal decennial census, the secretary of state shall again follow the procedures outlined in Subsection A of this section to allow the counties to make any necessary adjustments. For any county that does not make the required adjustments within thirty days after receiving notice of noncompliance following receipt of the results of a federal decennial census, the secretary of state shall send a second notice of noncompliance, and no later than June 30 of the same year, if any precinct boundary adjustments are necessary to meet the legal requirements of redistricting, pursuant to Sections 1-3-1 and 1-3-12 NMSA 1978, the secretary of state shall adjust the boundaries of the precincts only to the extent necessary to achieve compliance with the requirements of those sections and notify the county of those boundary adjustments."

Chapter 212 Section 43 Laws 2019

SECTION 43. Section 1-3-18 NMSA 1978 (being Laws 1989, Chapter 199, Section 1, as amended) is amended to read:

"1-3-18. POLLING PLACES--BUILDING REQUIREMENTS--INSPECTION.--

A. The location of each polling place within a building shall be clearly designated by appropriate signs, displayed prominently and clearly. Signs for each polling place shall also be clearly displayed outside the building where polling takes place.

B. Not less than thirty days prior to each election at which a building is intended for use as an alternate voting location, a mobile alternate voting location or an election day polling place, the county clerk or the clerk's designated representative shall physically inspect each such facility to determine its suitability for use as a polling place and its capability of handling heavy voter traffic in the most expeditious manner with a maximum efficiency and minimum discomfort of the voter. The county clerk shall maintain a log of the day and time each facility was physically inspected, whether the inspection was performed by the county clerk, and if the inspection was not performed by the county clerk, the name of the person designated by the county clerk to perform the inspection.

C. Each polling place shall be furnished and have available equipment necessary to assist voters in reading the ballot."

Chapter 212 Section 44 Laws 2019

SECTION 44. Section 1-3-19 NMSA 1978 (being Laws 2013, Chapter 189, Section 1 and Laws 2015, Chapter 145, Section 12) is amended to read:

"1-3-19. ELECTION-DAY POLLING PLACES--ADEQUATE RESOURCES.--

A. Each election-day polling place in a statewide election that does not contain mail ballot election precincts or precincts consolidated pursuant to Section 1-3-4 NMSA 1978 shall comply with the requirements for polling places and precincts as provided in Subsections B and C of this section, unless the county clerk receives a written waiver from the secretary of state specifying the location and specific provision being waived.

B. Each election-day polling place shall:

(1) have at least one voting system available to assist disabled voters to cast and record their votes; and

(2) be in a location that is accessible and compliant with the requirements of the federal Americans with Disabilities Act of 1990.

C. Each precinct polling place located within a single polling place shall have:

(1) a separate election board and signature roster for the precinct;

(2) at least one optical scan tabulator for the precinct; and

(3) sufficient spaces for at least five voters to simultaneously and privately mark their ballots, with at least one of those spaces wheelchair-accessible, for the precinct."

Chapter 212 Section 45 Laws 2019

SECTION 45. Section 1-4-1.1 NMSA 1978 (being Laws 2015, Chapter 145, Section 19) is amended to read:

"1-4-1.1. AUTHORIZATION TO VERIFY VOTER REGISTRATION INFORMATION--INVESTIGATION AND RECONCILIATION.--

A. The secretary of state may:

(1) provide to the chief election officer of another state or a consortium of chief election officers of other states information that is requested, including social security numbers, dates of birth, driver's licenses and identification card numbers and other information that the secretary of state deems necessary for the chief election officer of that state or for the consortium to maintain a voter registration list, if the

secretary of state is satisfied that the information provided pursuant to this paragraph will be used only for the maintenance of that voter registration list; and

(2) request from the chief election officer of another state or a consortium of chief election officers of other states information that the secretary of state deems necessary to maintain the statewide voter registration list.

B. The secretary of state may enter into a written agreement with an agency or political subdivision of this state or with a department of the federal government pursuant to which the state agency, political subdivision or federal department shall provide to the secretary of state information that is in the possession of the state agency, political subdivision or federal department and that the secretary of state deems necessary to maintain the statewide voter registration list.

C. The secretary of state shall enter into a written agreement with the secretary of taxation and revenue to match information in the database of the voter registration electronic management system with information in the database of the motor vehicle division of the taxation and revenue department to the extent required to enable each official to verify the accuracy of the information provided on applications for voter registration. Upon the execution of the written agreement, the secretary of taxation and revenue shall enter into an agreement with the federal commissioner of social security pursuant to 42 U.S.C. Section 15483 (now 52 U.S.C. Section 21083), for the purpose of verifying applicable information.

D. The secretary of state shall provide to the appropriate county clerk in this state and to no other person necessary information or documentation received by the secretary of state from or through an agency or political subdivision of this state, a federal department, the chief election officer of another state or a consortium of chief election officers of other states that calls into question the information provided on a certificate of registration; that raises questions regarding the status of a person registered to vote in this state; or that suggests that a voter may have voted in two states during the same election. The county clerk shall only disclose information received from the secretary of state pursuant to this subsection to complete an investigation pursuant to this section.

E. The county clerk shall investigate or reconcile the information received from the secretary of state. The secretary of state shall develop and maintain a manual for county clerks that describes best practices in investigating and reconciling information that is derived from comparisons of different databases, including safeguards to ensure that eligible voters are not removed in error from the official list of voters."

Chapter 212 Section 46 Laws 2019

SECTION 46. Section 1-4-2 NMSA 1978 (being Laws 1969, Chapter 240, Section 60, as amended) is amended to read:

"1-4-2. REGISTRATION OF QUALIFIED RESIDENTS--RIGHT TO VOTE IN PRIMARY.--

A. Any qualified resident of New Mexico shall be permitted within the provisions of the Election Code to submit a voter registration certificate in paper form, through the online voter registration portal provided by the secretary of state, electronically when conducting an in-person transaction at the motor vehicle division of the taxation and revenue department or as otherwise prescribed by the secretary of state. The certificate shall be processed by the county clerk in the same manner as for a qualified elector, but the qualified resident shall not become a voter nor be considered a voter except as provided by this section.

B. If a qualified resident submits a voter registration certificate in accordance with the provisions of Subsection A of this section and pursuant to the requirements of Section 1-4-8 NMSA 1978, the qualified resident shall:

- (1) become a voter upon the qualified resident's eighteenth birthday;
- (2) be considered a voter for the purpose of participation in a statewide or special election where the qualified resident will turn eighteen on or before the day of the statewide or special election; or
- (3) be considered a voter for the purpose of participation in a political party primary election where the qualified resident will turn eighteen on or before the day of the general election immediately succeeding the primary election.

C. Any resident of New Mexico who may be a qualified elector upon the resident's eighteenth birthday, who obtains a license, permit or identification card from the motor vehicle division of the taxation and revenue department and who has not submitted a voter registration certificate pursuant to Subsection A of this section shall be sent a notification by the secretary of state advising the resident of the requirements and opportunity to register to vote and a uniform resource locator for a web page where the resident may submit a voter registration certificate online. When applicable, a notification shall be sent to a resident described in this subsection within the sixty days following the resident's seventeenth birthday, when the resident obtained a license, permit or identification card from the motor vehicle division prior to the resident's seventeenth birthday and within thirty days prior to the resident's eighteenth birthday."

Chapter 212 Section 47 Laws 2019

SECTION 47. Section 1-4-5.1 NMSA 1978 (being Laws 1993, Chapter 314, Section 7 and Laws 1993, Chapter 316, Section 7, as amended) is amended to read:

"1-4-5.1. METHOD OF REGISTRATION--FORM.--

A. A qualified elector may apply for registration using the paper form by mail, in the office of the secretary of state or county clerk or with a registration agent or officer.

B. A person may request certificate of registration forms from the secretary of state or any county clerk in person, by telephone or by mail for that person or for other persons.

C. A qualified elector who wishes to register to vote shall fill out completely and sign the certificate of registration. The qualified elector may seek the assistance of any person in completing the certificate of registration.

D. A qualified elector who has filed for an order of protection pursuant to the provisions of the Family Violence Protection Act and who presents a copy of that order from a state or tribal court to the registration officer shall be referred to the confidential address program administered by the secretary of state pursuant to the Confidential Substitute Address Act.

E. Completed certificates of registration may be mailed or presented in person by the registrant or any other person to the secretary of state, to the county clerk of the county in which the registrant resides or to any other county clerk in this state.

F. If the registrant wishes to vote in the next election, the completed and signed certificate of registration shall be delivered or mailed and postmarked within the time frame provided in Subsection A of Section 1-4-8 NMSA 1978.

G. Within one business day after receipt of a certificate of registration, the secretary of state shall send the certificate to the county clerk in the county where the qualified elector resides. Within one business day after receipt of a certificate of registration of another county, a county clerk shall send the certificate of registration to the county clerk in the county where the qualified elector resides.

H. Only when the certificate of registration is properly filled out, signed by the qualified elector and accepted for filing by the county clerk as evidenced by the county clerk's signature or stamp and the date of acceptance thereon shall it constitute an official public record of the registration of the qualified elector. A qualified elector complies with a voter registration deadline established in the Election Code when a

properly filled-out voter registration certificate has been received by a county clerk or the secretary of state, regardless of the date the certificate is processed.

I. The secretary of state shall prescribe the form of the certificate of registration, which form shall be a postpaid mail-in format and shall be printed in Spanish and English. The certificate of registration form shall be clear and understandable to the average person and shall include brief but sufficient instructions to enable the qualified elector to complete the form without assistance. The form shall also include:

(1) the question "Are you a citizen of the United States of America?" and boxes for the applicant to check to indicate whether the applicant is or is not a citizen;

(2) the statement "If you checked 'no', do not complete this form.";

(3) a statement informing the applicant that:

(a) if the form is submitted by mail by the applicant and the applicant is registering for the first time in New Mexico, the applicant must submit with the form a copy of: 1) a photo identification issued by a government or educational institution; or 2) a current utility bill, bank statement, government check, paycheck, student identification card or other government document, including identification issued by an Indian nation, tribe or pueblo, that shows the name and current address of the applicant; and

(b) if the applicant does not submit the required documentary identification, the applicant will be required to do so when voting in person or absentee; and

(4) a statement requiring the applicant to swear or affirm that the information supplied by the applicant is true."

Chapter 212 Section 48 Laws 2019

SECTION 48. Section 1-4-5.4 NMSA 1978 (being Laws 1969, Chapter 240, Section 125, as amended) is amended to read:

"1-4-5.4. REGISTRATION--FORM.--

A. The secretary of state shall prescribe the paper form and ensure that the certificate of registration to be used in any county is compatible with the data processing systems. The secretary of state shall also prescribe the form produced by an online or electronic voter registration transaction.

B. The certificate of registration form shall require the following elements of information concerning the applicant for registration: name, gender, residence, municipality, post office, county of former registration, date of birth, political party affiliation, zip code, telephone number at the applicant's option and statement of qualification for voting. The paper form shall contain a space for the qualified elector to provide a driver's license or state identification number issued by the motor vehicle division of the taxation and revenue department or the last four digits of the qualified elector's social security number, while the form resulting from an online or electronic voter registration transaction shall contain the qualified elector's full social security number.

C. Provision shall be made for the usual signature or mark of the applicant, for the signature of the county clerk and for the dates of such signatures.

D. The certificate form may be multipurpose by providing for an indication of whether the certificate of registration is for a new registration, a change in the existing registration or a cancellation of an existing registration. Provision shall be made on any multipurpose form for entry of any existing registered information for which a change may be requested.

E. The certificate of registration forms shall be serially numbered and shall be furnished promptly and in adequate supply by the secretary of state upon application from the county clerk.

F. The secretary of state shall maintain on the secretary's website a Privacy Act notice in conformance with the federal Privacy Act of 1974."

Chapter 212 Section 49 Laws 2019

SECTION 49. Section 1-4-8 NMSA 1978 (being Laws 1969, Chapter 240, Section 66, as amended) is amended to read:

"1-4-8. DUTIES OF COUNTY CLERK--ACCEPTANCE OF REGISTRATION--CLOSE OF REGISTRATION--LATE REGISTRATION.--For qualified electors seeking to register to vote or update an existing voter registration in the state, the following provisions shall apply:

A. to participate in an election, the deadline to register to vote or update an existing voter registration is twenty-eight days prior to that election;

B. the county clerk shall receive certificates of registration at all times during normal working hours, except that the clerk shall not process any certificate of

registration subscribed and sworn beginning the first business day after the deadline to register to vote or update an existing voter registration before an election if the residential address on the certificate of registration indicates that the registration is for a:

- (1) statewide election, within the county; or
- (2) special election, within any precinct in the county in which votes may be cast in the special election;

C. between the deadline to register to vote or update an existing voter registration through the day of the election, the county clerk shall process all:

- (1) new voter registrations that meet the requirements of this section;
- (2) updates to existing voter registrations in this state that meet the requirements of this section; provided that an update to an existing registration in this state shall not be processed if the voter has requested or been sent a ballot in the election, unless the voter executes an affidavit stating that the voter has not and will not vote the ballot that was issued and the ballot register does not show that a ballot from the voter has been cast in the election; and
- (3) pending cancellations of existing voter registrations in this state through the day of the election; provided that a cancellation of an existing voter registration shall not be processed if the voter has requested or been sent a ballot in the election;

D. certificates of registration and cancellations of existing voter registrations not processed pursuant to Subsection B or C of this section shall be processed beginning thirty-five days after an election, at which time a voter information document shall be mailed to the registrant at the address shown on the certificate of registration; provided that if there is a subsequent election scheduled at which a qualified elector or voter would be eligible to vote if the certificate of registration were processed on an earlier date, the certificate of registration for that qualified elector or voter shall be processed by the county clerk on a day and in a manner to ensure the ability of the qualified elector or voter to vote in the subsequent election;

E. when the deadline to register to vote or update an existing voter registration prior to an election referred to in this section is a Saturday, Sunday or state holiday, registration certificates shall be accepted through the next succeeding business day for the office of the county clerk; and

F. the county clerk shall accept for filing and process any certificate of registration that is subscribed and dated on or before the deadline to register to vote or update an existing voter registration prior to an election and:

(1) received by the county clerk by the end of the last regular business day of the week for the office of the county clerk immediately following the deadline to register to vote or update an existing voter registration prior to an election;

(2) mailed and postmarked on or before the day of the deadline to register to vote or update an existing voter registration prior to any election referred to in this section; or

(3) accepted at a state agency designated pursuant to Section 1-4-5.2 NMSA 1978."

Chapter 212 Section 50 Laws 2019

SECTION 50. Section 1-4-11 NMSA 1978 (being Laws 1969, Chapter 240, Section 67, as amended) is amended to read:

"1-4-11. DUTIES OF COUNTY CLERK--UPON RECEIPT OF CERTIFICATES.-

A. Upon receipt of a complete certificate of registration, if the certificate of registration is in proper form, the county clerk shall determine if the qualified elector applying for registration is already registered in the registration records of the county. If the qualified elector is not already registered in the county and if the certificate of registration is received within the time allowed by law for filing certificates of registration in the county clerk's office, the county clerk shall sign or stamp, in the space provided therefor on each copy of the certificate, the qualified elector's name and the date the certificate was accepted for filing in the county registration records. Voter information shall be handed or mailed immediately to the qualified elector and to no other person.

B. If the applicant's certificate of registration is rejected for any reason, the county clerk shall stamp or write the word "rejected" on the new certificate of registration and hand or mail it, if possible, to the applicant with an explanation of why the new certificate of registration was rejected and what remedial action, if any, the applicant must take to bring the registration up to date or into compliance with the Election Code.

C. The county clerk shall reject any certificate of registration that does not contain the qualified elector's name, address and date of birth, along with a signature or usual mark. If the qualified elector is a new voter, the county clerk shall reject any

certificate of registration that does not contain the qualified elector's driver's license or state identification number issued by the motor vehicle division of the taxation and revenue department, social security number or last four digits of the qualified elector's social security number. The county clerk shall reject any certificate of registration in which the question regarding citizenship is not answered or is answered in the negative.

D. A social security number is required to finish processing a new voter registration in this state. If the certificate of registration does not contain a social security number, the county clerk shall ascertain the qualified elector's social security number from the qualified elector's previous certificate of registration, from the motor vehicle division of the taxation and revenue department or from the secretary of state.

E. If the county clerk rejects a certificate of registration because required information is not provided on the certificate or cannot ascertain the qualified elector's social security number, the county clerk shall indicate this on the qualified elector's certificate of registration and shall make the appropriate notation in the voter file, indicating that the voter may only vote on a provisional ballot. The provisional ballot shall be counted once the required information is provided or the voter's social security number is ascertained.

F. If the qualified elector does not register in person, has not previously voted in an election in New Mexico and does not provide the registration officer with the required documentary identification, the registration officer shall indicate this on the qualified elector's certificate of registration and the county clerk shall note this on the appropriate precinct signature roster."

Chapter 212 Section 51 Laws 2019

SECTION 51. Section 1-4-16 NMSA 1978 (being Laws 1969, Chapter 240, Section 72, as amended by Laws 1993, Chapter 314, Section 15 and also by Laws 1993, Chapter 316, Section 15) is amended to read:

"1-4-16. REGISTRATION--WHEN PARTY AFFILIATION SHALL NOT BE MADE.--

A. No designation of party affiliation shall be made or changed on an existing certificate of registration at any time during which registration is closed.

B. Every person appearing as a candidate on the primary or general election ballot shall be a candidate only under the name and party affiliation designation appearing on the person's existing certificate of registration on file in the county clerk's office on the date of the secretary of state's general election proclamation."

Chapter 212 Section 52 Laws 2019

SECTION 52. Section 1-4-22 NMSA 1978 (being Laws 1969, Chapter 240, Section 78, as amended) is amended to read:

"1-4-22. CANCELLATION OF REGISTRATION--PETITION TO DISTRICT COURT.--

A. At any time not less than one hundred twenty days prior to and following a statewide election, the secretary of state may file and present to the district court a verified petition alleging, on information and belief, that certain persons registered, named in the petition, are not qualified electors in the precincts named in the petition. The petition shall contain a brief statement of the facts upon which such allegation is made.

B. Upon filing and presentation of the petition, the court shall by order fix a day for hearing thereon, which date shall be not less than fourteen days nor more than twenty-one days after such order. The court shall direct the county clerk to use the address on the certificates of registration to forthwith notify the persons named in the petition whose registration is sought to be canceled of the date and purpose of the hearing and that each person should contact the county clerk no later than the close of business the day before the hearing or be present at the hearing if the person desires to oppose the cancellation.

C. If, after hearing, the court finds that the registration of any of the persons named in the petition should be canceled, it shall by order direct the county clerk to cancel the registrations.

D. Within thirty days following a hearing held pursuant to this section, the secretary of state shall report the results of the hearing to the United States election assistance commission and to the voting section of the civil rights division of the United States department of justice. The report required by this subsection shall be posted on the secretary of state's website for one year following the hearing."

Chapter 212 Section 53 Laws 2019

SECTION 53. Section 1-4-24 NMSA 1978 (being Laws 1969, Chapter 240, Section 80, as amended) is amended to read:

"1-4-24. CANCELLATION OF REGISTRATION--COUNTY CLERK--
GROUNDS.--The county clerk shall cancel certificates of registration for the following reasons:

- A. death of the voter;
- B. a felony conviction of the voter;
- C. at the request of the voter; or
- D. at the direction of the board of registration."

Chapter 212 Section 54 Laws 2019

SECTION 54. Section 1-4-28 NMSA 1978 (being Laws 1975, Chapter 255, Section 46, as amended) is amended to read:

"1-4-28. CANCELLATION OF REGISTRATION--CHANGE OF RESIDENCE--NOTICE.--

A. The secretary of state, county clerks and boards of registration, in compliance with the federal National Voter Registration Act of 1993, shall remove from the official list of eligible voters the names of voters who are ineligible to vote due to change of residence.

B. The secretary of state shall conduct a general program that identifies voters who may no longer reside at their address of registration. This program shall use information supplied by the United States postal service national change of address service. This program may also include, among other practices, identification of voters whose official election-related mail is returned and periodic mailings to voters to verify continued residency at their address of registration, provided such practices are uniform, nondiscriminatory and in compliance with the federal Voting Rights Act of 1965.

C. Between ninety and one hundred twenty days before the next general election, the secretary of state shall send to each voter who it appears has changed address from the voter's precinct of registration a notice, sent by forwardable mail, that shall include a postage prepaid and pre-addressed return card. The notice shall state that:

(1) if the voter did not change residency, the voter should return the card no later than twenty-eight days before the next general election;

(2) if the voter does not return the card, the voter may be provided an opportunity to update the voter's registration address before the voter casts a ballot in any election during the period beginning on the date of the notice and ending on the day after the second general election that occurs after the date of the notice;

(3) if the voter does not vote in any election during the period beginning on the date of that notice and ending on the day after the second general election that occurs after the date of the notice, the voter's registration may be canceled; and

(4) if the voter has changed residence within the same county, the voter should complete the place on the return card for the voter to indicate the address of the new residence and a request to have the voter's registration moved to that address in the same county.

D. If the voter returned the card indicating a new address and the address is:

(1) in the same county, the county clerk shall correct the official list of eligible voters in accordance with the change of residence information obtained on the return card; or

(2) in another county, the county clerk shall forward the return card to the appropriate county clerk, who shall process the change of residence as a new registration in the county.

E. No later than the fifteenth day of March following a general election, the board of registration shall review the list of eligible voters. The board of registration shall direct the county clerk to cancel the registration of any voter who has been sent notice in conformance with this section and who:

(1) has failed to respond to the notice sent in conformance with this section and has not voted or appeared to vote in any election during the period beginning on the date of the notice and ending on the day after the second general election that occurs after the date of the notice; or

(2) has confirmed in writing that the voter has changed residence to a place outside the state."

Chapter 212 Section 55 Laws 2019

SECTION 55. Section 1-4-34 NMSA 1978 (being Laws 1969, Chapter 240, Section 90, as amended) is amended to read:

"1-4-34. BOARD OF REGISTRATION--BOARD OF COUNTY COMMISSIONERS--APPOINTMENT.--

A. The board of county commissioners shall, at its first regular scheduled meeting in June of each odd-numbered year, appoint five voters who shall constitute the

board of registration for the county; provided that a class B county as defined in Section 4-44-1 NMSA 1978 shall appoint three voters who shall constitute the board of registration for the county.

B. Members of the board of registration shall not during their service be county employees, elected officials or candidates for public office, and not more than two members of the board of registration shall be members of the same political party at the time of their appointment; provided that:

(1) a member of the board of registration shall not have changed party registration in the two years next preceding the member's appointment in such a manner that the member's prior party registration would make the member ineligible to serve on the board of registration; and

(2) a member of the board of registration shall not continue to serve on the board of registration if the member changes party registration after the date of appointment in such a manner to make the member ineligible to serve on the board of registration.

C. In the event that a position on the board of registration becomes vacant for any of the reasons described in Section 10-3-1 NMSA 1978, the board of county commissioners shall appoint a replacement who shall qualify pursuant to Subsection B of this section and serve until the expiration of the original term."

Chapter 212 Section 56 Laws 2019

SECTION 56. Section 1-4-35 NMSA 1978 (being Laws 1969, Chapter 240, Section 91) is amended to read:

"1-4-35. BOARD OF REGISTRATION--SECRETARY.--The county clerk or the county clerk's authorized deputy shall be secretary to the board of registration."

Chapter 212 Section 57 Laws 2019

SECTION 57. Section 1-4-37 NMSA 1978 (being Laws 1969, Chapter 240, Section 93) is amended to read:

"1-4-37. BOARD OF REGISTRATION--TERM--QUALIFICATION.--

A. The term of office of members of the board of registration is from July 1 of an odd-numbered year until June 30 of the next succeeding odd-numbered year.

Members of the board of registration shall hold office until their successors are appointed and qualified.

B. Members of the board of registration shall qualify by taking and filing in the office of the county clerk the oath required of county officials."

Chapter 212 Section 58 Laws 2019

SECTION 58. Section 1-4-38 NMSA 1978 (being Laws 1969, Chapter 240, Section 94, as amended) is amended to read:

"1-4-38. BOARD OF REGISTRATION--MEETINGS.--

A. All meetings of the board of registration shall be open meetings held in accordance with the Open Meetings Act.

B. All reports and other records of the board of registration shall be open to public inspection pursuant to the Inspection of Public Records Act.

C. A person's month and day of birth, and any part of a person's driver's license number or other identifier assigned by the motor vehicle division of the taxation and revenue department, state or federal tax identification number or social security number shall not be disclosed in any meeting or in any record of the board of registration made available to the public. This subsection does not preclude disclosure of a person's unique identifier as defined in Section 1-1-23 NMSA 1978.

D. Members of the board of registration are entitled to receive per diem and mileage as provided in the Per Diem and Mileage Act, to be paid out of the election funds appropriated to the county clerk from the county general fund."

Chapter 212 Section 59 Laws 2019

SECTION 59. Section 1-5-30 NMSA 1978 (being Laws 1989, Chapter 298, Section 1, as amended) is amended to read:

"1-5-30. SECRETARY OF STATE--VOTER REGISTRATION ELECTRONIC MANAGEMENT SYSTEM.--

A. The secretary of state shall develop, implement, establish and supervise a voter registration electronic management system that complies with the federal Help America Vote Act of 2002 to facilitate voter registration and to provide a central database containing voter registration information for New Mexico.

B. The voter registration electronic management system shall:

- (1) provide for the establishment and maintenance of a central database for all voter registration information;
- (2) permit the offices of all county clerks to add, modify and delete county information from the system to provide for accurate and up-to-date records;
- (3) permit the offices of the county clerks and the bureau of elections to have access to the central database for review and search capabilities;
- (4) provide security and protection for all information in the central database and monitor the central database to ensure the prevention of unauthorized entry;
- (5) provide procedures for the electronic receipt of voter registration application and update information, including digitized and electronic signatures, photographs and other data provided by the motor vehicle division of the taxation and revenue department or the federal social security administration;
- (6) permit a proper filing officer to upload declarations of candidacy and candidate qualification documents, as prescribed by the Election Code, and resolutions approving a ballot question within one day of being filed with the proper filing officer;
- (7) provide procedures for entering data into the central database; and
- (8) provide a centralized system for each county to enter the precinct to which a voter should be assigned for voting purposes.

C. Based on written agreements with the secretary of state, the secretary of state shall provide access to the voter registration electronic management system to municipalities and other local governments based upon statutory responsibilities for administration of elections or to administer procedures related to elections that do not conflict with the provisions of the Election Code. The agreements shall include the scope of access, required initial and continuing training, job titles for persons with login credentials and security requirements associated with accessing the voter registration electronic management system."

Chapter 212 Section 60 Laws 2019

SECTION 60. A new Section 1-6-1.1 NMSA 1978 is enacted to read:

"1-6-1.1. DEFINITIONS.--As used in the Absent Voter Act:

A. "absentee" means the ability of a voter to receive, fill out and return a ballot at a place and time other than a polling location on the day of the election;

B. "early voting location" means the office of the county clerk, an alternate voting location or a mobile alternate voting location;

C. "mailed ballot" means a ballot that is sent to a voter pursuant to the provisions of the Election Code and does not include a ballot that is provided to a voter in person at an early voting location; and

D. "registered ballot" means a ballot that has been filled out by the voter and whose votes have been recorded and retained by an electronic voting system before the day of the election pursuant to the provisions of the Election Code."

Chapter 212 Section 61 Laws 2019

SECTION 61. Section 1-6-3 NMSA 1978 (being Laws 1969, Chapter 240, Section 129, as amended) is amended to read:

"1-6-3. RIGHT TO VOTE ABSENTEE.--A voter may vote absentee in all candidate contests and on all ballot questions as if the voter had appeared on the day of the election to vote in person at a polling location."

Chapter 212 Section 62 Laws 2019

SECTION 62. Section 1-6-4 NMSA 1978 (being Laws 1969, Chapter 240, Section 130, as amended) is amended to read:

"1-6-4. MAILED BALLOT APPLICATION.--

A. In a statewide election, application by a voter for a mailed ballot shall be made only on a paper form or its online equivalent. The form shall identify the applicant and contain information to establish the applicant's qualification for issuance of a mailed ballot under the Absent Voter Act; provided that only on the application form for a primary election ballot there shall be a box, space or place provided for designation of the voter's political party affiliation.

B. Each application on a paper form for a mailed ballot shall be signed by the applicant and shall require the applicant's printed name, registration address and year of birth to be supplied by the applicant, which shall constitute the required form of

identification. When submitted by the voter, the county clerk shall accept an application for a mailed ballot pursuant to this subsection regardless of whether the application for a mailed ballot is delivered to the county clerk on paper or by electronic means. When submitted by a third party, the county clerk shall not accept an application for a mailed ballot pursuant to this subsection if the application for a mailed ballot is delivered by electronic means.

C. The secretary of state shall allow a voter to submit an online application for a mailed ballot through a website authorized by the secretary of state; provided that the voter shall have a current or expired New Mexico driver's license or state identification card issued by the motor vehicle division of the taxation and revenue department. An online request for a mailed ballot shall contain all of the information that is required for a paper form. The voter shall also provide the person's full New Mexico driver's license number or state identification card number.

D. When a voter requests a mailed ballot pursuant to this section, the voter shall mark the box associated with the following statement, which shall be included as part of the online mailed ballot request form:

"By clicking the boxes below, I swear or affirm all of the following:

I am the person whose name and identifying information is provided on this form and I desire to request a mailed ballot to vote in the state of New Mexico; and

All of the information that I have provided on this form is true and correct as of the date I am submitting this form."

E. Online applications for mailed ballots shall retain the dates of submission by the qualified elector and of acceptance by the county clerk. For purposes of deadlines contained in the Election Code, the time and date of the submission by the voter shall be considered the time and date when the application for a mailed ballot is received by the county clerk.

F. New registrants who registered for the first time in this state by mail and at that time did not provide acceptable documentary identification as required by federal law shall be informed of the need to comply with federal identification requirements when returning the requested ballot. The secretary of state shall issue rules to exempt voters from submitting identification only as required by federal law and shall review and, if necessary, update these rules no later than March 15 of even-numbered years.

G. A person who willfully and with knowledge and intent to deceive or mislead any voter, election board, canvassing board, county clerk or other election official and

who falsifies any information on an absentee ballot request form or who affixes a signature or mark other than the person's own on a mailed ballot request form is guilty of a fourth degree felony."

Chapter 212 Section 63 Laws 2019

SECTION 63. Section 1-6-4.3 NMSA 1978 (being Laws 2005, Chapter 270, Section 41, as amended) is amended to read:

"1-6-4.3. THIRD PARTY AGENTS COLLECTING APPLICATIONS FOR MAILED BALLOTS.--

A. A person or organization that is not part of a government agency and that collects applications for mailed ballots shall submit the applications to the appropriate office for filing within forty-eight hours of their completion or the next business day if the appropriate office is closed for that forty-eight-hour period.

B. A person who collects applications for mailed ballots and fails to submit a voter's completed application is guilty of a petty misdemeanor.

C. A person who intentionally alters another voter's completed application for a mailed ballot is guilty of a fourth degree felony."

Chapter 212 Section 64 Laws 2019

SECTION 64. Section 1-6-5 NMSA 1978 (being Laws 1969, Chapter 240, Section 131, as amended) is amended to read:

"1-6-5. PROCESSING APPLICATION--ISSUANCE OF BALLOT.--

A. The county clerk shall mark each completed application for a mailed ballot with the date and time of receipt in the clerk's office and enter the required information in the ballot register. The county clerk shall then determine if the applicant is a voter and if the voter is a uniformed-service voter or an overseas voter. If the applicant is a uniformed-service voter or overseas voter, the application shall be processed pursuant to the Uniform Military and Overseas Voters Act.

B. If the applicant does not have a valid certificate of registration on file in the county, a mailed ballot shall not be issued and the county clerk shall mark the application "rejected", file the application in a separate file from those accepted and notify the applicant in writing with an explanation why the application was rejected.

C. When required by federal law, if the applicant has on file with the county a valid certificate of registration that indicates that the applicant is a voter who is a new registrant in the state and who registered by mail without submitting the required documentary identification, the county clerk shall notify the voter that the voter must submit with the mailed ballot a form of documentary identification from the list in Paragraph (3) of Subsection I of Section 1-4-5.1 NMSA 1978. The county clerk shall note on the ballot register and signature roster that the applicant's mailed ballot must be returned with the required voter identification.

D. If the applicant has on file with the county a valid certificate of registration, the county clerk shall mark the application "accepted" and deliver a mailed ballot to the voter and the required envelopes for use in returning the ballot.

E. Upon the mailing of a mailed ballot to an applicant who is a voter, an appropriate designation shall be made on the signature line of the signature roster next to the name of the voter.

F. A mailed ballot shall not be delivered by the county clerk to any person other than the applicant for the ballot. Mailed ballots shall be sent to applicants beginning twenty-eight days before the election. For each application for a mailed ballot received twenty-three or more days before the election, the county clerk shall send either the ballot or a notice of rejection to the applicant as soon as practicable; provided that the ballot or a notice of rejection is sent not later than twenty-two days before the election. For each application for a mailed ballot received within twenty-two days of election day, the county clerk shall send either the mailed ballot or a notice of rejection to the applicant within twenty-four hours after receipt of the voter's application for a mailed ballot. A mailed ballot shall be requested not later than the Thursday immediately prior to the date of the election and shall be sent to the voter not later than the Friday immediately prior to the date of the election."

Chapter 212 Section 65 Laws 2019

SECTION 65. Section 1-6-5.6 NMSA 1978 (being Laws 2003, Chapter 357, Section 6, as amended) is amended to read:

"1-6-5.6. EARLY VOTING--ALTERNATE VOTING LOCATIONS--PROCEDURES.--The county clerk shall:

A. ensure that voters have adequate access to early voting in the county, taking into consideration population density and travel time to the location of voting;

B. ensure that early voters are not allowed to vote in person on election day;

C. ensure that adequate interpreters are available at alternate voting locations in those precincts having a majority of qualified electors who are part of a recognized language minority; and

D. based on rules adopted by the secretary of state, allow for mobile alternate voting locations that may be set up temporarily in specified precincts of the county during the period when early voting is allowed at alternate voting locations."

Chapter 212 Section 66 Laws 2019

SECTION 66. Section 1-6-5.7 NMSA 1978 (being Laws 2005, Chapter 270, Section 40, as amended) is amended to read:

"1-6-5.7. EARLY VOTING--USE OF ABSENTEE VOTING PROCEDURES--COUNTY CLERK'S OFFICE--ALTERNATE VOTING LOCATIONS.--

A. Commencing on the twenty-eighth day preceding the election during the regular hours and days of business at the county clerk's office and from 10:00 a.m. to 6:00 p.m. on the Saturday immediately prior to the date of the election, early voting shall be conducted in each office of the county clerk; provided that:

(1) when marking a ballot in person at the county clerk's office, the voter shall provide the required voter identification to the county clerk or the clerk's authorized representative. If the voter does not provide the required voter identification, the voter shall be allowed to vote on a provisional ballot. If the voter provides the required voter identification, the voter, after subscribing an application for an absentee ballot, shall be allowed to vote by inserting the ballot into an optical scan tabulator certified for in-person absentee voting at the county clerk's office. The county clerk or the clerk's authorized representative shall make an appropriate designation indicating that the voter has voted. In marking the ballot, the voter may be assisted pursuant to the provisions of Section 1-12-15 NMSA 1978;

(2) the act of marking the ballot in the office of the county clerk shall be a convenience to the voter in the delivery of the ballot and does not make the office of the county clerk a polling place subject to the requirements of a polling place in the Election Code; and

(3) if the county clerk establishes an additional alternate voting location near the clerk's office, ballots may be marked in person at that location during the regular hours and days of business beginning on the twenty-eighth day preceding the election and during the hours for voting at alternate voting locations commencing on the third Saturday prior to the election through the Saturday immediately prior to the

election. The additional alternate voting location may be operated by the county clerk and the county clerk's staff.

B. Commencing on the third Saturday prior to a statewide election and ending on the Saturday immediately prior to the date of the election, an early voter may vote in person on a voting system at alternate voting locations that may be established by the county clerk; provided that:

(1) the county clerk shall establish:

(a) in counties with more than ten thousand voters, not fewer than one alternate voting location;

(b) in counties with more than fifty thousand voters, not fewer than four alternate voting locations; and

(c) in counties with more than one hundred fifty thousand voters, not fewer than fifteen alternate voting locations; and

(2) not later than ninety days before each statewide election, the county clerk shall post the location and hours of operation for early voting locations in the county, which shall open no earlier than 7:00 a.m. and shall close no later than 9:00 p.m. Within ninety days of a statewide election, a county clerk may not modify the location or hours of operation of early voting locations except with the written approval of the secretary of state and upon posting the approved changes. Early voting locations shall be open each day of early voting for at least eight consecutive hours. Alternate voting locations may be closed Sundays and Mondays during the early voting period.

C. Each early voting location shall comply with the following provisions, unless the county clerk receives a written waiver from the secretary of state specifying the location and specific provision being waived:

(1) have ballots available for voters from every precinct in the county;

(2) have at least one optical scan tabulator programmed to read every ballot style in the county;

(3) have at least one voting system available to assist disabled voters to cast and record their votes;

(4) have a broadband internet connection;

(5) have sufficient spaces for at least five voters to simultaneously and privately mark their ballots, with at least one of those spaces wheelchair-accessible;

(6) have a secure area for storage of pre-printed ballots or for storage of a paper ballot stock and a system designed to print ballots at a polling location; and

(7) be in a location that is accessible and compliant with the requirements of the federal Americans with Disabilities Act of 1990.

D. When voting at an early voting location, the voter shall provide the required voter identification to the election board, county clerk or the clerk's authorized representative. If the voter does not provide the required voter identification, the voter shall be allowed to vote on a provisional ballot. If the voter provides the required voter identification, the voter shall be allowed to vote after subscribing an application to vote on a form approved by the secretary of state or its electronic equivalent approved by the voting system certification committee. The county clerk or the clerk's authorized representative shall make an appropriate designation on the signature roster or register next to the voter's name indicating that the voter has voted early."

Chapter 212 Section 67 Laws 2019

SECTION 67. Section 1-6-5.8 NMSA 1978 (being Laws 2009, Chapter 251, Section 2) is amended to read:

"1-6-5.8. EARLY VOTING--NATIVE AMERICAN EARLY VOTING LOCATIONS.--A county clerk shall provide at least one alternate voting or mobile alternate voting location on Indian nation, tribal or pueblo land when requested by the Indian nation, tribe or pueblo in the county; provided that:

A. the Indian nation, tribe or pueblo submits a written request to the county clerk no later than the first Monday in November of each odd-numbered year;

B. the alternate voting or mobile alternate voting location may operate for less than the full early voting period, to be decided upon between the Indian nation, tribe or pueblo and the county clerk;

C. any voter of the county shall have access to and be permitted to vote at the alternate voting or mobile alternate voting location;

D. the location of the alternate voting or mobile alternate voting location on Indian nation, tribal or pueblo land conforms to the requirements for alternate voting locations, except as specified in this section;

E. the county clerk provides federally mandated language translators at the alternate voting or mobile alternate voting locations;

F. the Indian nation, tribe or pueblo provides the facility and services for the alternate voting or mobile alternate voting location; and

G. the costs of voting equipment and personnel for the alternate voting or mobile alternate voting locations on Indian nation, tribal or pueblo land pursuant to this section are reimbursed to the county by the secretary of state."

Chapter 212 Section 68 Laws 2019

SECTION 68. Section 1-6-6 NMSA 1978 (being Laws 1969, Chapter 240, Section 132, as amended) is amended to read:

"1-6-6. BALLOT REGISTER.--

A. For each statewide election, the county clerk shall keep an "absentee ballot register", in which the county clerk shall enter:

- (1) the name and address of each absentee ballot applicant;
- (2) the date and time of receipt of the application;
- (3) whether the application was accepted or rejected;
- (4) the date of issue of an absentee ballot at an early voting location or the mailing of an absentee ballot to the applicant;
- (5) the applicant's precinct;
- (6) whether the applicant is a voter and whether the voter is a uniformed-service voter or an overseas voter;
- (7) whether the voter is required to submit documentary identification pursuant to Section 1-6-5 NMSA 1978; and
- (8) the date and time the completed mailed ballot was received from the voter by the county clerk or the absent voter registered a ballot early in person in the county clerk's office or at an alternate location.

B. For each special election, the county clerk shall keep a "mailed ballot register", in which the county clerk shall enter:

- (1) the name and address of each voter to whom a mailed ballot was sent;
- (2) the date of mailing of a mailed ballot to the voter;
- (3) the applicant's precinct;
- (4) whether the voter is a uniformed-service voter or an overseas voter;
- (5) whether the voter is required to submit a documentary identification pursuant to Section 1-6-5 NMSA 1978; and
- (6) the date and time the completed mailed ballot was received from the voter by the county clerk.

C. Each ballot register is a public record open to public inspection in the county clerk's office during regular office hours. The county clerk shall have an updated ballot register available for public inspection Monday through Friday during regular office hours.

D. The county clerk shall deliver to the absent voter election board on election day a complete list of all absentee ballot applicants and early voters with applicable information shown in the absentee ballot register for each applicant and early voter up to 6:00 p.m. on the Saturday preceding a statewide election. The county clerk shall deliver a signature roster containing the same information as the lists to the absent voter election board.

E. Upon request, the county clerk shall transmit to the county chair of each of the political parties participating in a partisan election in the county a complete copy of entries made in the absentee ballot register. Such transmissions shall be made once each week beginning four weeks immediately prior to the election. A final copy shall be transmitted on the Saturday immediately following the election.

F. If the county clerk has available the technology to do so, at the request of a candidate or chair of a political party of the county, the county clerk shall electronically transmit to the candidate or chair via the internet the information, when updated, on the absentee ballot register indicating voters who have requested absentee ballots, returned their absentee ballots or voted early in person."

Chapter 212 Section 69 Laws 2019

SECTION 69. Section 1-6-8 NMSA 1978 (being Laws 1969, Chapter 240, Section 134, as amended) is amended to read:

"1-6-8. MAILED BALLOT ENVELOPES.--

A. The secretary of state shall prescribe the form of, procure and distribute to each county clerk a supply of:

- (1) official inner envelopes for use in sealing the completed mailed ballot;
- (2) official mailing envelopes for use in returning the official inner envelope to the county clerk, which shall be postage-paid; provided that only the official mailing envelope for absentee ballots in a political party primary shall contain a designation of party affiliation;
- (3) mailed ballot instructions, describing proper methods for completion of the ballot and returning it; and
- (4) official transmittal envelopes for use by the county clerk in sending mailed ballot materials.

B. Official transmittal envelopes and official mailing envelopes for transmission of mailed ballot materials to and from the county clerk and voters shall be printed in black in substantially similar form. All official inner envelopes shall be printed in black.

C. The reverse of each official mailing envelope shall contain a form to be executed by the voter completing the mailed ballot. The form shall identify the voter and shall contain the following statement: "I have not and will not vote any other ballot in this election". The official mailing envelope shall contain a space for the voter to record the voter's name, registration address and year of birth. The envelope shall have a security flap to cover this information."

Chapter 212 Section 70 Laws 2019

SECTION 70. Section 1-6-9 NMSA 1978 (being Laws 1969, Chapter 240, Section 135, as amended) is amended to read:

"1-6-9. MAILED BALLOTS--MANNER OF VOTING--DELIVERY METHODS.--

A. When voting a mailed ballot, the voter shall secretly mark the mailed ballot in the manner provided in the Election Code for marking paper ballots, place it in the official inner envelope and securely seal the envelope. The voter shall then place the official inner envelope inside the official mailing envelope and securely seal the envelope. The voter shall then complete the form on the reverse of the official mailing envelope, which shall include a statement by the voter under penalty of perjury that the facts stated in the form are true and the voter's name, registration address and year of birth. The voter or another person authorized by law shall then return the official mailing envelope containing the voted ballot to the county clerk of the voter's county of residence. If returned by a person other than the voter, the official mailing envelope shall contain the signature, printed name and relationship to the voter of the person returning the ballot.

B. The official mailing envelope may be returned by mail using the United States postal service. The secretary of state shall implement a free-access tracking system for each voter to be able to see the status of the voter's mailed ballot while en route to the voter as well as when returned to the county clerk.

C. The official mailing envelope may be returned using a commercial delivery service; provided that unless the secretary of state has approved the use of a specific commercial delivery service, the voter shall be responsible for the costs of delivery by means of such service.

D. The official mailing envelope may be returned in person to the office of the county clerk or to an alternate voting location, mobile alternate voting location or election day voting location.

E. The official mailing envelope may be returned by depositing the official mailing envelope in a secured container made available by the county clerk to receive voted mailed ballots for that election; provided that:

(1) the location of the containers and the days and times the containers will be available to receive ballots are posted by the county clerk at least ninety days before a statewide election or forty-two days before a special election;

(2) the location of a secured container is considered a polling place for purposes of electioneering too close to the polling place in violation of Section 1-20-16 NMSA 1978;

(3) all secured containers shall be monitored by video surveillance cameras and the video recorded by that system shall be retained by the county clerk as a record related to voting pursuant to the provisions of Section 1-12-69 NMSA 1978;

(4) signage at the location of a secured container shall inform voters and those dropping off ballots at the location:

(a) that it is a violation of law for any person who is not an immediate family member to collect and deliver a ballot for another person;

(b) that electioneering is prohibited within one hundred feet of the secured container; and

(c) of the dates and approximate time the ballots will be collected;
and

(5) at least once a day, the county clerk or a full-time deputy county clerk shall collect the ballots from the secured containers, register the date and time stamp on each official mailing envelope and identify the location of the secured container in the ballot register."

Chapter 212 Section 71 Laws 2019

SECTION 71. Section 1-6-10 NMSA 1978 (being Laws 1969, Chapter 240, Section 136, as amended) is amended to read:

"1-6-10. RECEIPT OF MAILED BALLOTS BY CLERK.--

A. The county clerk shall mark on each completed official mailing envelope the date and time of receipt in the clerk's office, record this information in the absentee or mailed ballot register and safely keep the official mailing envelope unopened in a locked and number-sealed ballot box until it is delivered to the proper election board, counted in the county canvass or canceled and destroyed in accordance with law.

B. In a statewide election, if the unopened official mailing envelope is received by the county clerk from an election board before the absent voter election board has adjourned, the unopened official mailing envelope shall be logged and transmitted to the absent voter election board to be tallied immediately. If the unopened official mailing envelope is received by the county clerk from an election board after the absent voter election board has adjourned, the unopened official mailing envelope shall be logged and transmitted to be tallied and included in the canvass report of that county for the appropriate precinct.

C. Completed official mailing envelopes shall be accepted until 7:00 p.m. on election day.

D. Any completed official mailing envelope received after that time shall not be qualified or opened but shall be preserved by the county clerk for the applicable retention period provided in Section 1-12-69 NMSA 1978. The county clerk shall report the number of late ballots from voters, uniformed-service voters and overseas voters and report the number from each category to date on the final absentee ballot report and as part of the county canvass report. If additional late ballots are received, the county clerk shall update the number of late ballots from each category to the secretary of state."

Chapter 212 Section 72 Laws 2019

SECTION 72. Section 1-6-10.1 NMSA 1978 (being Laws 2003, Chapter 357, Section 5, as amended) is amended to read:

"1-6-10.1. ABSENTEE BALLOT--DELIVERY TO COUNTY CLERK.--

A. A voter, caregiver to that voter or member of that voter's immediate family may deliver that voter's absentee ballot to the county clerk in person or by mail; provided that the voter has subscribed the official mailing envelope of the absentee ballot.

B. As used in this section, "immediate family" means the spouse, children, parents or siblings of a voter."

Chapter 212 Section 73 Laws 2019

SECTION 73. Section 1-6-14 NMSA 1978 (being Laws 1971, Chapter 317, Section 11, as amended) is amended to read:

"1-6-14. HANDLING MAILED BALLOTS.--

A. At any time after mailed ballots have been sent to voters and until the fifth day before the election, the county clerk may convene an election board to meet during the normal business hours of the office of the county clerk to qualify the mailed ballots that are returned. Before opening an official mailing envelope, the presiding judge and the election judges shall determine that the required information has been completed on the reverse side of the official mailing envelope.

B. If the voter's signature or the required voter identification is missing, the presiding judge shall write "Rejected" on the front of the official mailing envelope. The judge or election clerk shall enter the voter's name in the signature rosters or register and shall write the notation "Rejected--Missing Signature" or "Rejected--Missing

Required Voter Identification" in the "Notations" column of the register. The presiding judge shall place the official mailing envelope unopened in a container provided for rejected ballots.

C. A lawfully appointed challenger may view the official mailing envelope and may challenge the ballot of any mailed ballot voter for the following reasons:

(1) the official mailing envelope has been opened by someone other than the voter prior to being received by the absent voter election board;

(2) the official mailing envelope does not contain a signature;

(3) the official mailing envelope does not contain the required voter identification; or

(4) the person offering to vote is not a voter as provided in the Election Code.

D. If a challenge is upheld by unanimous vote of the presiding judge and the election judges, the official mailing envelope shall not be opened but shall be placed in a container provided for challenged ballots. If the reason for the challenge is satisfied by the voter before the conclusion of the county canvass or as part of an appeal, the official mailing envelope shall be opened and the vote counted.

E. If the official mailing envelope has been properly subscribed and the voter has not been challenged,

the judges or election clerks shall enter the voter's name and residence address as shown on the official mailing envelope and shall make the appropriate notation opposite the voter's name in the "Notations" column of the register.

F. For any election in which fewer than ten thousand mailed ballots were sent to the voters of a county, only between 8:00 a.m. and 10:00 p.m. on the five days preceding the election, and beginning at 7:00 a.m. on election day, under the personal supervision of the presiding election judge, shall the election judges open the official mailing envelope and the official inner envelope and insert the enclosed ballot into an electronic voting machine to be registered and retained until votes are counted and canvassed following the closing of the polls on election night.

G. For any election in which ten thousand or more mailed ballots were sent to the voters of a county, only during the regular business hours of the office of the county clerk during the two weeks preceding the election, between 8:00 a.m. and 10:00 p.m. on

the four days preceding the election and beginning at 7:00 a.m. on election day, under the personal supervision of the presiding election judge, shall the election judges open the official mailing envelope and the official inner envelope and insert the enclosed ballot into an electronic voting machine to be registered and retained until votes are counted and canvassed following the closing of the polls on election night.

H. It is unlawful for a person to disclose the results of a count and tally or the registration on a voting machine of mailed ballots prior to the later of the closing of the polls or the deadline for receiving mailed ballots pursuant to Section 1-6-10 NMSA 1978.

I. Mailed ballots shall be counted and tallied, where possible, on an electronic voting machine as provided in the Election Code.

J. If a mailed ballot is rejected for any reason, it shall be handled in the same manner as a disqualified provisional paper ballot in accordance with the Election Code."

Chapter 212 Section 74 Laws 2019

SECTION 74. Section 1-6-16 (being Laws 1969, Chapter 240, Section 141, as amended) is repealed and a new Section 1-6-16 NMSA 1978 is enacted to read:

"1-6-16. MAILED BALLOTS--REPLACEMENT AND PROVISIONAL PAPER BALLOTS.--

A. A voter who has applied for a mailed ballot or who has been sent a mailed ballot may execute an affidavit stating that the person did not and will not vote the mailed ballot that was issued. Upon receipt of the sworn affidavit, if the ballot register does not show that a ballot from the voter has been cast in that election, the county clerk shall void the mailed ballot that was previously issued to the voter.

B. A voter shall be mailed a replacement ballot to be returned to the county clerk for tabulation by the absent ballot election board if the voter:

(1) communicates with the office of the county clerk and requests a replacement mailed ballot be delivered to the voter; and

(2) has executed the affidavit required by Subsection A of this section and the county clerk has voided the mailed ballot previously issued to the voter.

C. A voter shall be issued a replacement ballot to be filled out and fed by the voter into the electronic vote tabulator if the voter:

(1) appears at the office of the county clerk, an alternate voting location or a mobile alternate voting location:

(a) at any time during the period for early voting if the county clerk has real-time synchronization between the early voting locations and the qualification of mailed ballots; or

(b) during the period for early voting until the time the county clerk begins qualifying mailed ballots if the county clerk does not have real-time synchronization between the early voting locations and the qualification of mailed ballots; and

(2) has executed the affidavit required by Subsection A of this section and the county clerk has voided the mailed ballot previously issued to the voter.

D. If the county clerk does not have real-time synchronization between the early voting locations and the qualification of mailed ballots, a voter shall be issued a provisional paper ballot to be filled out and delivered to the county clerk for tabulation during the county canvass if:

(1) the voter appears at an early voting location after the time the county clerk begins qualifying mailed ballots; and

(2) the voter has executed the affidavit required by Subsection A of this section and the county clerk has voided the mailed ballot previously issued to the voter.

E. A provisional paper ballot issued pursuant to this section shall be qualified and tabulated once the county clerk determines that the voter did not vote any other ballot in the same election and if no challenge is successfully interposed.

F. The secretary of state shall prescribe the form of the affidavit and the manner in which the county clerk shall void the previously requested absentee ballot."

Chapter 212 Section 75 Laws 2019

SECTION 75. Section 1-6-16.1 NMSA 1978 (being Laws 1989, Chapter 368, Section 1, as amended) is amended to read:

"1-6-16.1. ABSENTEE BALLOT--CONDUCT OF ELECTION--WHEN NOT TIMELY RECEIVED--EMERGENCY PROCEDURE FOR VOTING AND COUNTING.--

A. A voter who applies for a mailed ballot but has not received or returned the ballot by mail as of the date of the election may go to the voter's assigned polling place or a voter convenience center and, after executing an affidavit stating that the person did not and will not vote the mailed ballot that was issued, shall be permitted to vote on a provisional paper ballot.

B. If the county clerk has real-time synchronization between the election-day polling places and the qualification of ballots received by mail, the voter shall be issued a replacement ballot to be filled out and fed by the voter into the electronic vote tabulator."

Chapter 212 Section 76 Laws 2019

SECTION 76. Section 1-6-16.2 NMSA 1978 (being Laws 1993, Chapter 353, Section 1, as amended) is amended to read:

"1-6-16.2. ADDITIONAL EMERGENCY PROCEDURE FOR VOTING.--

A. After the close of the period for requesting a mailed ballot, any voter who is unable to go to the polls due to unforeseen illness or disability resulting in the voter's confinement in a hospital, sanatorium, nursing home or residence and who is unable to vote in person may request in writing that a provisional paper ballot be made available to the voter. The written request shall be signed by the voter and a health care provider under penalty of perjury.

B. The provisional paper ballot shall be made available by the county clerk of the county in which the voter resides to any authorized representative of the voter who through the representative has presented the written request to the office of the county clerk.

C. The voter shall mark the provisional paper ballot, place it in an identification envelope, fill out and sign the envelope and return the ballot to the office of the county clerk of the county in which the voter resides no later than the time of closing of the polls on election day. A provisional paper ballot issued pursuant to this section shall be qualified and tabulated once the county clerk determines that the person did not cast any other ballot and if no challenge is successfully interposed."

Chapter 212 Section 77 Laws 2019

SECTION 77. Section 1-6B-2 NMSA 1978 (being Laws 2015, Chapter 145, Section 26, as amended) is amended to read:

"1-6B-2. DEFINITIONS.--As used in the Uniform Military and Overseas Voters Act:

A. "federal postcard application" means the application prescribed under the federal Uniformed and Overseas Citizens Absentee Voting Act;

B. "federal write-in absentee ballot" means the ballot approved pursuant to the federal Uniformed and Overseas Citizens Absentee Voting Act; and

C. "military-overseas ballot" means a ballot sent to a federal qualified elector by the county clerk or cast in accordance with the provisions of the Uniform Military and Overseas Voters Act."

Chapter 212 Section 78 Laws 2019

SECTION 78. Section 1-6B-3 NMSA 1978 (being Laws 2015, Chapter 145, Section 27, as amended) is amended to read:

"1-6B-3. ELECTIONS COVERED--FORM OF BALLOT AND BALLOT MATERIALS--BENEFITS OF THE UNIFORM MILITARY AND OVERSEAS VOTERS ACT.--

A. The procedures in the Uniform Military and Overseas Voters Act apply to elections conducted pursuant to the Election Code.

B. A federal qualified elector may vote for all candidates and on all ballot questions as if the voter were able to cast a ballot in person.

C. The form of the military-overseas ballot shall be the same as the ballot provided to all other voters. The form of the military-overseas ballot materials shall be the same as the ballot materials provided to all other voters, except as required by the Uniform Military and Overseas Voters Act.

D. To receive the benefits of the Uniform Military and Overseas Voters Act, a federal qualified elector shall inform the county clerk that the individual is a federal qualified elector. Methods of informing the county clerk include:

(1) the use of a federal postcard application or federal write-in absentee ballot;

(2) the use of an army post office, fleet post office or diplomatic post office address in the correct format as a mailing address on a certificate of registration or as a delivery address on an absentee ballot application;

(3) the use of an overseas address as a mailing address on a certificate of registration or as a delivery address on an absentee ballot application; or

(4) the inclusion on a certificate of registration or an absentee ballot application or other information sufficient to identify the voter as a federal qualified elector."

Chapter 212 Section 79 Laws 2019

SECTION 79. Section 1-6B-4 NMSA 1978 (being Laws 2015, Chapter 145, Section 28, as amended) is amended to read:

"1-6B-4. ROLE OF SECRETARY OF STATE--FEDERAL UNIFORMED AND OVERSEAS CITIZENS ABSENTEE VOTING ACT.--

A. The secretary of state shall make available to federal qualified electors information regarding voter registration procedures for federal qualified electors and procedures for casting military-overseas ballots.

B. The secretary of state shall maintain a web page dedicated to federal qualified electors. The dedicated web page shall be accessible from international internet connections and may be segregated from the main website for the office of the secretary of state. The secretary of state shall establish an electronic transmission system through which a federal qualified elector may apply for and receive voter registration materials, military-overseas ballots and other information pursuant to the Uniform Military and Overseas Voters Act. The secretary of state shall ensure that the electronic transmission system is capable of accepting a federal postcard application, any other approved electronic registration application and any other approved electronic military-overseas ballot application sent to a county clerk.

C. Official transmittal envelopes and official mailing envelopes for transmission of mailed ballot materials to and from federal qualified electors shall be in the same form as those used in the jurisdiction where the voter is registered except as modified to comply with the Uniform Military and Overseas Voters Act or federal law. The secretary of state may, to the extent reasonably possible, coordinate with other states to develop standardized materials for voting by mail, including privacy and transmission envelopes and their electronic equivalents, authentication materials and voting

instructions, to be used with the military-overseas ballot of a voter authorized to vote in any jurisdiction in this state.

D. The secretary of state shall prescribe the form and content of a declaration for use by a federal qualified elector to swear or affirm specific representations pertaining to the voter's identity, eligibility to vote, status as a federal qualified elector and timely and proper completion of a military-overseas ballot. The declaration shall be based on the declaration prescribed to accompany a federal write-in absentee ballot, as modified to be consistent with the Uniform Military and Overseas Voters Act. The secretary of state shall ensure that a form for the execution of the declaration, including an indication of the date of execution of the declaration, is a prominent part of all balloting materials for which the declaration is required.

E. The secretary of state shall prescribe to the county clerk the form of and distribute to each county clerk a supply of:

(1) official inner envelopes for use in sealing the completed mailed ballot;

(2) official mailing envelopes for use in returning the official inner envelope to the county clerk, which shall be postage-paid within the United States postal system; provided that only the official mailing envelope for mailed ballots in a political party primary shall contain a designation of party affiliation;

(3) mailed ballot instructions describing the proper methods for completion and return of the ballot, including instructions for those federal qualified electors returning a ballot electronically;

(4) official transmittal envelopes for use by the county clerk in mailing ballot materials; and

(5) official holding envelopes for ballots returned electronically by federal qualified electors."

Chapter 212 Section 80 Laws 2019

SECTION 80. Section 1-6B-5 NMSA 1978 (being Laws 2015, Chapter 145, Section 29) is amended to read:

"1-6B-5. METHODS OF REGISTERING TO VOTE.--

A. A federal qualified elector may register to vote using any of the following methods; provided that the document is received by the county clerk by the deadline for registering to vote as provided in Section 1-4-8 NMSA 1978:

- (1) using the procedures provided in Chapter 1, Article 4 NMSA 1978; or
- (2) using a federal postcard application or the application's approved electronic equivalent.

B. A voter's certificate of registration completed pursuant to the Uniform Military and Overseas Voters Act shall remain valid until canceled in accordance with the procedures specified in Chapter 1, Article 4 NMSA 1978.

C. In registering to vote, a federal qualified elector shall use and must be assigned to the voting precinct of the address of:

- (1) the residence of the voter, if the voter resides in this state; or
- (2) the last place of residence of the voter in this state, or the last place of residence in this state of the parent or legal guardian of the voter if the voter did not reside in this state; provided that if that address is no longer a recognized residential address, the voter shall be assigned an address or other location within that precinct."

Chapter 212 Section 81 Laws 2019

SECTION 81. Section 1-6B-6 NMSA 1978 (being Laws 2015, Chapter 145, Section 30, as amended) is amended to read:

"1-6B-6. METHODS OF APPLYING FOR MILITARY-OVERSEAS BALLOT--TIMELINESS--SCOPE OF APPLICATION FOR MILITARY-OVERSEAS BALLOT.--

A. A federal qualified elector who is currently registered to vote in this state may, by the deadline specified in the Absent Voter Act for receipt of mailed ballot applications, apply for a military-overseas ballot by:

- (1) using a mailed ballot application pursuant to the Absent Voter Act; or
- (2) using the federal postcard application or the application's electronic equivalent.

B. A federal qualified elector who is not currently registered to vote in this state may, by the deadline in the Election Code for registering to vote, simultaneously register

to vote and apply for a military-overseas ballot by using a federal postcard application or the application's electronic equivalent.

C. An application for a military-overseas ballot for a primary election, whether or not timely, is effective as an automatic application for a military-overseas ballot for the general election.

D. An application for a military-overseas ballot is effective as an automatic application for a military-overseas ballot for a top-two runoff election necessary to conclude the election for which the application was submitted."

Chapter 212 Section 82 Laws 2019

SECTION 82. Section 1-6B-7 NMSA 1978 (being Laws 2015, Chapter 145, Section 31, as amended) is amended to read:

"1-6B-7. TRANSMISSION OF UNVOTED MILITARY-OVERSEAS BALLOTS TO FEDERAL QUALIFIED ELECTORS.--

A. Not later than forty-five days before an election, even if the forty-fifth day before an election falls on a weekend or a holiday, the county clerk shall transmit a ballot and balloting materials to all federal qualified electors who by that date submit a valid military-overseas ballot application.

B. The county clerk shall transmit a ballot and balloting materials as soon as practicable when the ballot application from a federal qualified elector arrives after the forty-fifth day before the election and before absentee ballots are transmitted to other voters pursuant to the Absent Voter Act.

C. The county clerk shall transmit a ballot and balloting materials in accordance with the procedures for processing of all other absentee ballot applications for that jurisdiction when the ballot application from a federal qualified elector arrives after the county clerk has begun transmitting ballots and balloting materials to other voters.

D. A federal qualified elector may request that the ballot and balloting materials be sent by secured electronic transmission available to the county clerk where the ballot and balloting materials are sent directly by the clerk to the federal qualified elector. The clerk shall determine the most reasonable expedited means of delivery for a ballot and balloting materials for a federal qualified elector who does not request secured electronic transmission."

Chapter 212 Section 83 Laws 2019

SECTION 83. Section 1-6B-8 NMSA 1978 (being Laws 2015, Chapter 145, Section 32) is amended to read:

"1-6B-8. RECEIPT OF VOTED MILITARY-OVERSEAS BALLOTS FROM FEDERAL QUALIFIED ELECTORS.--

A. A military-overseas ballot shall be considered timely if it is received by the county clerk no later than the deadline for receiving mailed ballots in Section 1-6-10 NMSA 1978.

B. A federal qualified elector may transmit, and the county clerk shall accept, a military-overseas ballot by secured electronic transmission available to the county clerk when the military-overseas ballot is sent directly by the voter to that clerk; provided that, when sending a military-overseas ballot as described in this subsection:

(1) the federal qualified elector signs an affidavit waiving the right of secrecy of the federal qualified elector's ballot;

(2) the federal qualified elector transmits the affidavit with the military-overseas ballot; and

(3) the county clerk places the received ballot in a holding envelope provided by the secretary of state for this purpose and delivers the ballot to the appropriate election board."

Chapter 212 Section 84 Laws 2019

SECTION 84. Section 1-6B-9 NMSA 1978 (being Laws 2015, Chapter 145, Section 33) is amended to read:

"1-6B-9. EMERGENCY RESPONSE PROVIDERS.--

A. An emergency response provider may benefit from the ability to apply for a mailed ballot and to return the marked ballot in the same manner as provided in the Uniform Military and Overseas Voters Act for federal qualified electors; provided that the emergency response provider may not use the federal postcard application or the federal write-in absentee ballot.

B. The county clerk shall transmit to, receive from and process a mailed ballot of an emergency response provider in the same manner as provided in the Uniform Military and Overseas Voters Act for a federal qualified elector.

C. As used in this section, "emergency response provider" means a resident of this state who otherwise satisfies this state's voter eligibility requirements and who, in response to an emergency, is temporarily assigned by a governmental or nongovernmental relief agency or employer to provide support to the victims of the emergency or to rebuild the infrastructure in the affected area and:

(1) the assignment is for a period beginning on or after the thirty-five days immediately prior to an election;

(2) the affected area is outside the individual's county of residence; and

(3) the president of the United States or the governor of a state has declared an emergency in the affected area."

Chapter 212 Section 85 Laws 2019

SECTION 85. Section 1-6B-10 NMSA 1978 (being Laws 2015, Chapter 145, Section 34) is amended to read:

"1-6B-10. USE OF FEDERAL WRITE-IN ABSENTEE BALLOT--
QUALIFICATION.--

A. A federal qualified elector may use a federal write-in absentee ballot to vote for all offices and ballot questions in an election.

B. In completing the federal write-in absentee ballot, the federal qualified elector may designate a candidate by writing in the name of the candidate. In a general election when voting for a specified office, a federal qualified elector may in the alternate complete the federal write-in absentee ballot by writing in the name of a political party, in which case the ballot shall be counted for the candidate of that political party.

C. A qualified federal write-in absentee ballot shall be processed by the canvassing board in the same manner as a provisional ballot. A federal write-in absentee ballot from a federal qualified elector shall not be qualified if the federal qualified elector voted on any other type of ballot. A federal write-in absentee ballot of an overseas voter shall not be qualified if the ballot is submitted from any location in the United States."

Chapter 212 Section 86 Laws 2019

SECTION 86. Section 1-6B-12 NMSA 1978 (being Laws 2015, Chapter 145, Section 36) is amended to read:

"1-6B-12. USE OF VOTER'S ELECTRONIC-MAIL ADDRESS.--

A. The county clerk shall request an electronic-mail address from each federal qualified elector who registers to vote. An electronic-mail address provided by a federal qualified elector shall not be made available to the public and is exempt from disclosure pursuant to the Inspection of Public Records Act. The electronic-mail address may be used only for official communication with the voter about the voting process, including the secured transmission of military-overseas ballots and ballot materials if the voter has requested secured transmission, and verifying the voter's mailing address and physical location. The request for an electronic-mail address shall describe the purposes for which the electronic-mail address may be used and include a statement that any other use or disclosure of the electronic-mail address is prohibited.

B. If a mailed ballot is transmitted to a federal qualified elector via secured transmission, the county clerk shall note in the ballot register the voter's registration address, that the ballot was delivered to the voter electronically and the date on which it was sent, but shall not disclose the voter's electronic-mail address.

C. A federal qualified elector who provides an electronic-mail address may request that the voter's application for a military-overseas ballot be considered a standing request for secured electronic delivery of a ballot for all elections in the election cycle. The county clerk shall provide a military-overseas ballot to a voter who makes a standing request for each election to which the request is applicable as an automatic application for a military-overseas ballot."

Chapter 212 Section 87 Laws 2019

SECTION 87. Section 1-8-2 NMSA 1978 (being Laws 1969, Chapter 240, Section 152, as amended by Laws 2014, Chapter 40, Section 3 and by Laws 2014, Chapter 81, Section 3) is amended to read:

"1-8-2. NOMINATION BY MINOR POLITICAL PARTY--CONVENTION--
DESIGNATED NOMINEES.--

A. If the rules of a minor political party require nomination by political convention:

(1) the chair and secretary of the state political convention shall certify to the secretary of state the names of their party's nominees for United States senator,

United States representative, all elective state offices, legislative offices elected from multicounty districts, the public regulation commission, all elective judicial officers in the judicial department and all offices representing a district composed of more than one county; and

(2) the chair and secretary of the county political convention shall certify to the county clerk the names of their party's nominees for elected county offices and for legislative offices elected from a district located wholly within one county or that is composed of only one county.

B. The names certified to the secretary of state shall be filed on the twenty-third day following the primary election in the year of the general election and shall be accompanied by nominating petitions containing the signatures of voters totaling not less than one percent of the total number of votes cast for governor at the last preceding general election at which a governor was elected:

(1) in the state for statewide offices; and

(2) in the district for offices other than statewide offices.

The petition shall contain a statement that the voters signing the petition are residents of the area to be represented by the office for which the person being nominated is a candidate.

C. The names certified to the county clerk shall be filed on the twenty-third day following the primary election in the year of the general election and shall be accompanied by a nominating petition containing the signatures of voters totaling not less than one percent of the total number of votes cast for governor at the last preceding general election at which a governor was elected:

(1) in the county for countywide offices; and

(2) in the district for offices other than countywide offices.

The petition shall contain a statement that the voters signing the petition are residents of the area to be represented by the office for which the person being nominated is a candidate.

D. Except in the case of a political party certified in the year of the election, persons certified as candidates shall be members of that party on the day the secretary of state issues the general election proclamation.

E. When a political party is certified in the year of the general election, and after the day the secretary of state issues the general election proclamation, a person certified as a candidate shall be:

(1) a member of that party not later than the date the political party filed its rules and qualifying petitions pursuant to Sections 1-7-2 and 1-7-4 NMSA 1978; and

(2) a resident in the district of the office for which the person is a candidate on the date of the secretary of state's proclamation for the general election or in the case of a person seeking the office of United States senator or United States representative, a resident within New Mexico on the date of the secretary of state's proclamation for the general election. No person who is a candidate for a party in a primary election may be certified as a candidate for a different party in the general election in the same election cycle.

F. No voter shall sign a petition prescribed by this section for more persons than the number of candidates necessary to fill the office at the next ensuing general election."

Chapter 212 Section 88 Laws 2019

SECTION 88. Section 1-8-7 NMSA 1978 (being Laws 1969, Chapter 240, Section 157, as amended) is amended to read:

"1-8-7. VACANCY ON GENERAL ELECTION BALLOT--DEATH OF CANDIDATE OR RESIGNATION OR DEATH OF OFFICE HOLDER BEFORE PRIMARY.--

A. Vacancies on the general election ballot may be filled as provided in Subsection B of this section if after a primary election there is no nominee of a major political party for a public office to be filled in the general election and if the vacancy was caused by:

(1) the death of a candidate after filing of the declaration of candidacy or after certification as a convention-designated nominee and before the primary election;

(2) the failure of a major political party to nominate a candidate for lieutenant governor; provided that the major political party nominated a candidate for governor; or

(3) the resignation or death of a person holding a public office after the last Friday before the first Tuesday in March, when such office was not included in the

general election proclamation and is required by law to be filled at the next succeeding general election after the vacancy is created.

B. The vacancy may be filled subsequent to the primary election by the central committee of the state or county political party, as the case may be, as provided by Subsection A of Section 1-8-8 NMSA 1978.

C. The name of the person to fill the vacancy on the general election ballot shall be filed with the proper filing officer on a form approved by the secretary of state on the twenty-third day after the primary election, along with a declaration of candidacy subscribed and sworn by the selected nominee and the required form for candidates pursuant to the Campaign Reporting Act.

D. When the name of a nominee is filed as provided in this section, the name shall be placed on the general election ballot as the party's candidate for that office."

Chapter 212 Section 89 Laws 2019

SECTION 89. Section 1-8-8 NMSA 1978 (being Laws 1969, Chapter 240, Section 158, as amended) is amended to read:

"1-8-8. VACANCY ON GENERAL ELECTION BALLOT--OCCURRING AFTER PRIMARY.--

A. If after a primary election, but seventy or more days before the general election, a vacancy occurs, for any cause, in the list of the nominees of a qualified political party for any public office to be filled in the general election, or a vacancy occurs because of the resignation or death of a person holding a public office not included in the secretary of state's general election proclamation and which office is required by law to be filled at the next succeeding general election, or a vacancy occurs because a new public office is created and was not included in the secretary of state's general election proclamation but is capable by law of being filled at the next succeeding general election, the vacancy on the general election ballot may be filled by:

(1) the central committee of the state political party filing the name of its nominee for the office with the proper filing officer when the office is a federal office, state office, district office or multicounty legislative district office; and

(2) the central committee of the county political party filing the name of its nominee for the office with the proper filing officer when the office is a magistrate office, county office or legislative district office where the district is entirely within the boundaries of a single county.

B. Appointments made pursuant to Subsection A of this section shall qualify pursuant to Section 1-8-18 NMSA 1978.

C. The county or state central committee members making the appointment pursuant to Subsection A of this section shall be as provided for in the rules of the respective party; provided that, at a minimum, the committee shall include those members residing within the boundaries of the area to be represented by the public office.

D. Appointments to fill vacancies in the list of a party's nominees shall be made and filed with the proper filing officer using a form approved by the secretary of state at least sixty-three days prior to the general election, along with a declaration of candidacy subscribed and sworn by the selected nominee and the required form for candidates pursuant to the Campaign Reporting Act.

E. When the name of a nominee is filed as provided in this section, the name shall be placed on the general election ballot as the party's candidate for that office."

Chapter 212 Section 90 Laws 2019

SECTION 90. Section 1-8-12 NMSA 1978 (being Laws 1969, Chapter 240, Section 161, as amended) is amended to read:

"1-8-12. PRIMARY ELECTION LAW--PROCLAMATION CALLING PRIMARY AND GENERAL ELECTIONS.--

A. The secretary of state shall issue a public proclamation calling a general election to be held in each county and precinct of the state on the date prescribed by Article 20, Section 6 of the constitution of New Mexico.

B. The general election proclamation shall also call a primary election for the nomination of general election candidates by each major political party to be held in each county and precinct of the state on the date prescribed by the Primary Election Law.

C. The proclamation shall be filed by the secretary of state in the office of the secretary of state on the last Monday in January of each even-numbered year."

Chapter 212 Section 91 Laws 2019

SECTION 91. Section 1-8-13 NMSA 1978 (being Laws 1969, Chapter 240, Section 162, as amended) is amended to read:

"1-8-13. PRIMARY ELECTION LAW--CONTENTS OF PROCLAMATION.--The general election proclamation calling a primary and general election shall contain:

- A. the names of the major political parties participating in the primary election;
- B. the offices to be elected at the general election and for which each political party shall nominate candidates; provided that if any law is enacted by the legislature in the year in which the primary election is held and the law does not take effect until after the date to amend the proclamation but prior to the date to fill vacancies pursuant to Section 1-8-7 or 1-8-8 NMSA 1978, the secretary of state shall conform the proclamation to the intent of the law with respect to the offices for which each political party shall nominate candidates;
- C. the date on which declarations of candidacy and nominating petitions for United States representative, any office voted upon by all the voters of the state, a legislative office, the office of district judge, district attorney, public education commission, public regulation commission or magistrate shall be filed and the places where they shall be filed in order to have the candidates' names printed on the official ballot of their party at the primary election or in order to have the candidates' names printed on the official ballot at the general election, as applicable;
- D. the date on and place at which declarations of candidacy shall be filed for any other office and filing fees paid or, in lieu thereof, a pauper's statement of inability to pay;
- E. the final date on and place at which candidates for the office of United States representative and for any statewide office seeking preprimary convention designation by the major parties shall file petitions and declarations of candidacy;
- F. the final date on which the major political parties shall hold state preprimary conventions for the designation of candidates;
- G. the final date on and place at which certificates of designation of primary election candidates shall be filed by political parties with the secretary of state;
- H. the date on which declarations of candidacy for minor party candidates shall be filed and the places where the declarations of candidacy shall be filed in order to have the minor party candidate names printed on the official ballot of the general election;
- I. the date on which declarations of candidacy for unaffiliated candidates shall be filed and the places where the declarations of candidacy shall be filed in order to

have the unaffiliated candidate names printed on the official ballot of the general election;

J. the date on which declarations of candidacy for nonpartisan judicial retention shall be filed and the places where the declarations of candidacy shall be filed in order to have the judicial retention names printed on the official ballot of the general election; and

K. the date on which declarations to be a write-in candidate are to be filed and the places where the declarations of candidacy shall be filed in order to have write-in votes counted and canvassed at the political party primary or general election."

Chapter 212 Section 92 Laws 2019

SECTION 92. Section 1-8-18 NMSA 1978 (being Laws 1969, Chapter 240, Section 167, as amended) is amended to read:

"1-8-18. PRIMARY ELECTION LAW--WHO MAY BECOME A CANDIDATE.--

A. No person shall become a candidate for nomination by a political party or have the person's name printed on the primary election ballot unless the person's record of voter registration shows:

(1) affiliation with that political party on the date of the secretary of state's general election proclamation; and

(2) residence in the district of the office for which the person is a candidate on the date of the secretary of state's general election proclamation or in the case of a person seeking the office of United States senator or United States representative, residence within New Mexico on the date of the secretary of state's general election proclamation.

B. A voter may challenge the candidacy of a person seeking nomination by a political party for the reason that the person does not meet the requirements of Subsection A of this section by filing a petition in the district court within ten days after the last day for filing a declaration of candidacy or a statement of candidacy for convention designation. The district court shall hear and render a decision on the matter within ten days after the filing of the petition. The decision of the district court may be appealed to the supreme court within five days after the decision is rendered. The supreme court shall hear and render a decision on the appeal forthwith."

Chapter 212 Section 93 Laws 2019

SECTION 93. Section 1-8-26 NMSA 1978 (being Laws 1975, Chapter 295, Section 12, as amended) is amended to read:

"1-8-26. PRIMARY ELECTION LAW--TIME OF FILING--DOCUMENTS NECESSARY TO QUALIFY FOR BALLOT--CHALLENGE.--

A. Declarations of candidacy by preprimary convention designation for any statewide office or for the office of United States representative shall be filed with the proper filing officer on the first Tuesday in February of each even-numbered year between the hours of 9:00 a.m. and 5:00 p.m.

B. Declarations of candidacy for any other office to be nominated in the primary election shall be filed with the proper filing officer on the second Tuesday of March of each even-numbered year between the hours of 9:00 a.m. and 5:00 p.m.

C. Certificates of designation shall be submitted to the secretary of state on the first Tuesday following the preprimary convention at which the candidate's designation took place between the hours of 9:00 a.m. and 5:00 p.m.

D. No name shall be placed on the ballot until the person has been notified in writing by the proper filing officer that the certificate of registration on file, the declaration of candidacy and the petition, if required, are in proper order and that the person, based on those documents, is qualified to be a candidate. The proper filing officer shall mail the notice no later than 5:00 p.m. on the Tuesday following the filing date.

E. If a person is notified by the proper filing officer that the person is not qualified to be a candidate, the person may challenge that decision by filing a petition with the district court within ten days of the notification. The district court shall hear and render a decision on the matter within ten days after the petition is filed. The decision of the district court may be appealed to the supreme court within five days after the decision is rendered. The supreme court shall hear and render a decision on the appeal forthwith."

Chapter 212 Section 94 Laws 2019

SECTION 94. Section 1-8-29 NMSA 1978 (being Laws 1973, Chapter 228, Section 3, as amended by Laws 1993, Chapter 55, Section 5 and by Laws 1993, Chapter 314, Section 46 and also by Laws 1993, Chapter 316, Section 46) is amended to read:

"1-8-29. PRIMARY ELECTION LAW--DECLARATION OF CANDIDACY--
FORM.--In making a declaration of candidacy by nominating petition or by pre-primary
convention designation, the candidate shall submit substantially the following form:

"DECLARATION OF CANDIDACY

BY PRE-PRIMARY CONVENTION DESIGNATION

(OR BY NOMINATING PETITION)

I, _____, (candidate's name on certificate of registration) being
first duly sworn, say that I reside at _____, as shown by my certificate
of registration as a voter of Precinct No. _____ of the county of
_____, State of New Mexico;

I am a member of the _____ party as shown by my certificate
of registration and I have not changed such party affiliation subsequent to the secretary
of state's general election proclamation calling the primary in which I seek to be a
candidate;

I desire to become a candidate for the office of _____ at the
primary election to be held on the date set by law for this year, and if the office be that
of a member of the legislature or that of a member of the public education commission,
that I actually reside at the address designated on my certificate of voter registration;

I will be eligible and legally qualified to hold this office at the beginning of its term;

If a candidate for any office for which a nominating petition is required, I am
submitting with this statement a nominating petition in the form and manner as
prescribed by the Primary Election Law; and

I make the foregoing affidavit under oath, knowing that any false statement
herein constitutes a felony punishable under the criminal laws of New Mexico.

(Declarant)

(Mailing Address)

(Residence Address)

Subscribed and sworn to before me this ____ day of _____, 20 ____.

(Notary Public)

My commission expires:

_____ ". "

Chapter 212 Section 95 Laws 2019

SECTION 95. Section 1-8-36.1 NMSA 1978 (being Laws 1981, Chapter 156, Section 1, as amended) is amended to read:

"1-8-36.1. PRIMARY ELECTION LAW--WRITE-IN CANDIDATES.--

A. Write-in candidates are permitted in the primary election only for the offices of United States representative, members of the legislature, district judges, district attorneys, public regulation commission, public education commission, magistrates and any office voted upon by all voters of the state.

B. A person may be a write-in candidate only for nomination by the major political party with which the person is affiliated as shown by the certificate of registration, and such person shall have the qualifications to be a candidate in the primary election for the political party for which the person is a write-in candidate.

C. A person desiring to be a write-in candidate for one of the offices listed in Subsection A of this section in the primary election shall file with the proper filing officer a declaration of intent to be a write-in candidate. Such declaration of intent shall be filed between 9:00 a.m. and 5:00 p.m. on the third Tuesday in March.

D. At the time of filing the declaration of intent to be a write-in candidate, the write-in candidate shall be considered a candidate for all purposes and provisions relating to candidates in the Election Code, including the obligations to report pursuant to the Campaign Reporting Act, except that the write-in candidate's name shall not be printed on the ballot."

Chapter 212 Section 96 Laws 2019

SECTION 96. Section 1-8-45 NMSA 1978 (being Laws 1977, Chapter 322, Section 1, as amended) is amended to read:

"1-8-45. INDEPENDENT CANDIDATES FOR GENERAL OR UNITED STATES REPRESENTATIVE ELECTIONS--DEFINITION.--

A. As used in the Election Code, an independent candidate means a person who:

(1) is a candidate for any state or county office to be voted on at a general election:

(a) whose certificate of voter registration shows affiliation with no qualified political party on the date of the secretary of state's general election proclamation and, if applicable, shows residence on the date of the secretary of state's proclamation in the district or county of the office for which the person is a candidate; and

(b) who has complied with the nomination procedures set forth in the Election Code for independent candidates;

(2) is a candidate for United States senator or United States representative:

(a) whose certificate of voter registration, if any, shows affiliation with no qualified political party on the date of the secretary of state's general election proclamation;

(b) who will be a resident of New Mexico when elected; and

(c) who has complied with the nomination procedures set forth in the Election Code for independent candidates; or

(3) is a candidate for the office of president or vice president who:

(a) has complied with the nomination procedures set forth in the Election Code for independent candidates; and

(b) was not a major party candidate for the same office on the primary election ballot.

B. No person shall become an independent candidate for any office, and the person's name shall not be printed on the general election ballot, unless the person complies with the requirements of this section.

C. Any voter may challenge the candidacy of any person seeking to become an independent candidate for any office for the reason that the person does not meet the requirements of this section or because the nominating petitions, if required, do not meet the requirements of Section 1-8-31 NMSA 1978 by filing a petition in the district court within ten days after the last day for filing a declaration of candidacy. The district court shall hear and render a decision on the matter within ten days after the filing of the petition. The decision of the district court may be appealed to the supreme court within five days after the decision is rendered. The supreme court shall hear and render a decision on the appeal forthwith."

Chapter 212 Section 97 Laws 2019

SECTION 97. Section 1-8-48 NMSA 1978 (being Laws 1977, Chapter 322, Section 4, as amended) is amended to read:

"1-8-48. INDEPENDENT CANDIDATES FOR GENERAL OR UNITED STATES REPRESENTATIVE ELECTIONS--DECLARATION OF INDEPENDENT CANDIDACY AND NOMINATING PETITION.--

A. Nomination as an independent candidate shall be made by filing a declaration of independent candidacy and a nominating petition with the proper filing officer.

B. In making a declaration of independent candidacy, the candidate for an office other than that of president or vice president shall submit a sworn statement in the following form:

"DECLARATION OF INDEPENDENT CANDIDACY

I, _____ (candidate's name), being first duly sworn, say that:

I reside at _____;

I did not designate any current affiliation with a qualified political party on my certificate of registration on or before the date of issuance of the secretary of state's general election proclamation in the year of the general election at which I seek to be a candidate;

I meet the qualifications listed in Section 1-8-45 NMSA 1978 for the office that I seek;

I desire to become a candidate for the office of _____,
District _____ at the general election to be held on the date set by law for this year;

if the office I seek be a state or county district office, I actually reside within the district of the office for which I declare my candidacy, and if the office I seek be a countywide office, I actually reside in the county of the office for which I declare my candidacy;

I will be eligible and legally qualified to hold this office at the beginning of its term;

if a candidate for any office for which a nominating petition is required, I am submitting with this statement a nominating petition in the form and manner as prescribed by the Election Code; and

I make the foregoing affidavit under oath or affirmation knowing that any false statement herein constitutes a felony punishable under the criminal laws of New Mexico.

(Declarant)

(Residence Address)

(Mailing Address, if different)

Subscribed and sworn to or affirmed before me this _____ day of

_____, _____.

(month) (year)

(Notary Public)

My commission expires:

_____".

C. The secretary of state shall prescribe and furnish the form for the declaration of independent candidacy for the office of president and vice president."

Chapter 212 Section 98 Laws 2019

SECTION 98. Section 1-8-51 NMSA 1978 (being Laws 1977, Chapter 322, Section 7, as amended) is amended to read:

"1-8-51. INDEPENDENT CANDIDATES FOR GENERAL OR UNITED STATES REPRESENTATIVE ELECTIONS--NOMINATING PETITIONS--REQUIRED NUMBER OF SIGNATURES.--

A. The basis of percentage for the total number of votes cast in each instance referred to in this section shall be the total vote cast for governor at the last preceding general election at which a governor was elected.

B. Nominating petitions for an independent candidate for president of the United States shall be signed by a number of voters equal to the number of signatures required to form a new political party.

C. Nominating petitions for an independent candidate for United States senator or any other statewide elective office shall be signed by a number of voters equal to at least two percent of the total number of votes cast in the state.

D. Nominating petitions for an independent candidate for United States representative shall be signed by a number of voters equal to at least two percent of the total number of votes cast in the district.

E. Nominating petitions for an independent candidate for a member of the legislature, public regulation commission, district judge, district attorney, member of the public education commission, magistrate or county office shall be signed by a number of voters equal to at least two percent of the total number of votes cast in the district, division or county, as the case may be.

F. When a vacancy for any office occurs on the general election ballot pursuant to Section 1-8-7 or 1-8-8 NMSA 1978 in which all political parties may name a general election candidate or when a vacancy occurs in the office of United States representative pursuant to Section 1-15-18.1 NMSA 1978, an independent candidate

may file a declaration of candidacy on or by the same deadline applicable to the political parties. The nominating petitions for an independent candidate in such circumstances shall be signed by the number of voters provided in this section, unless there are fewer than:

(1) sixty days from the announcement of the vacancy to the last day to file a declaration of candidacy, in which case an independent candidate shall submit nominating petitions signed by a number of voters equal to two-thirds the number of voters otherwise required by this section for an independent candidate; or

(2) thirty days from the announcement of the vacancy to the last day to file a declaration of candidacy, in which case an independent candidate shall submit nominating petitions signed by a number of voters equal to one-third the number of voters otherwise required by this section for an independent candidate.

G. A voter shall not sign a petition for an independent candidate as provided in this section if the voter has signed a petition for another independent candidate for the same office."

Chapter 212 Section 99 Laws 2019

SECTION 99. Section 1-10-4 NMSA 1978 (being Laws 1977, Chapter 222, Section 27, as amended) is amended to read:

"1-10-4. BALLOTS--PREPARATION.--

A. In a primary election, not less than sixty days before the election, each county clerk shall group each candidate who has been qualified by a proper filing officer and a space for any offices with a declared write-in candidate, separated by political party and certify in writing a separate ballot for each precinct in the county for each major political party to be voted on at the primary election.

B. In a general election, not less than sixty days before the election, each county clerk shall certify in writing the ballot for each precinct in the county containing the name of each candidate that has been certified as the nominee of a qualified political party, each unaffiliated candidate who has been qualified by a proper filing officer, a space for any offices with a declared write-in candidate and any ballot questions to be voted on at the general election.

C. In a regular local election, not less than sixty days before the election, each county clerk shall certify in writing the ballot for each precinct in the county containing the name of each candidate who has been qualified by a proper filing officer, a space

for any offices with a declared write-in candidate and any ballot questions to be voted on at the regular local election.

D. In a special local election, not less than sixty days before the election, each county clerk shall certify in writing the ballot for each precinct in the county containing any ballot questions to be voted on at the special election.

E. In a special state election, not less than sixty days before the election, the secretary of state shall certify in writing the ballot containing any ballot questions to be voted on at the special state election.

F. In an election to fill a vacancy in the office of United States representative and except as provided in Subsection G of this section, not less than fifty-three days before the election, the secretary of state shall certify in writing the ballot containing the name of each candidate that has been certified as the nominee of a qualified political party, each unaffiliated candidate who has been qualified and a space for any declared write-in candidate to be voted on at the election to fill a vacancy in the office of United States representative.

G. In an election to fill a vacancy in the office of United States representative in extraordinary circumstances pursuant to 2 U.S.C. Section 8(b), not more than seventeen days after the announcement of a vacancy in the office of United States representative, the secretary of state shall certify in writing the ballot containing the name of each candidate that has been certified as the nominee of a qualified political party, each unaffiliated candidate who has been qualified and a space for any declared write-in candidate to be voted on at the election to fill a vacancy in the office of United States representative.

H. On the date specified for each election in this section, each ballot certified pursuant to this section shall be sent to the ballot printer or other person preparing the ballot for use by voters and sent to the secretary of state to keep on file for twelve months, after which the certified ballot shall be transferred to be a permanent record at the state records center. Upon request of the county chair of a political party participating in a partisan election, the county clerk shall furnish proof sheets or a copy of the proof sheets of the certified ballot as soon as they become available."

Chapter 212 Section 100 Laws 2019

SECTION 100. Section 1-10-5 NMSA 1978 (being Laws 1977, Chapter 222, Section 28, as amended) is amended to read:

"1-10-5. **BALLOTS--PRINTING.**--The county clerk shall have access to sufficient ballots to send to federal qualified electors no later than the last business day before the forty-fifth day prior to an election. All other pre-printed ballots shall be in the possession of the county clerk at least forty days before the election. When a county is using a system that is designed to print ballots at a polling location, the system shall be programmed and capable of operation at least forty days before the election."

Chapter 212 Section 101 Laws 2019

SECTION 101. Section 1-10-6 NMSA 1978 (being Laws 1977, Chapter 222, Section 29, as amended by Laws 1993, Chapter 314, Section 52 and also by Laws 1993, Chapter 316, Section 52) is amended to read:

"1-10-6. **BALLOTS--NAME TO BE PRINTED--SIMILAR NAMES--NAMES NOT TO BE PRINTED.**--

A. In the preparation of ballots for a statewide election, the candidate's name shall be printed on the ballot as it appears on the candidate's certificate of registration that is on file in the county clerk's office on the day the secretary of state issues the proclamation for that election; provided that:

- (1) the last name printed on the ballot shall match the candidate's legal last name;
- (2) academic, honorific and elected titles shall not be printed;
- (3) periods after initials shall not be printed;
- (4) punctuation common to names, other than a period, shall be printed as it appears on the candidate's certificate of registration; and
- (5) only letters and punctuation used in roman typefaces shall be printed.

B. If it appears that the names of two or more candidates for any office to be voted on at the election are the same or are so similar as to tend to confuse the voter as to the candidates' identities, the occupation and, if further differentiation is necessary, the year of birth, of each such candidate shall be printed immediately under the candidate's name on the ballot.

C. A candidate's name shall not be printed on the ballot if at least seventy days before a general election, sixty-three days before a primary election or regular local

election or seven days after the filing day for declarations of candidacy for any other election:

(1) the candidate files with the proper filing officer a signed and notarized statement of withdrawal as a candidate in that election;

(2) a judicial determination is made that the candidate does not qualify to be a candidate for the office sought;

(3) the voter registration of the candidate is updated by the candidate in such manner that the candidate does not qualify to be a candidate for the office sought; or

(4) the voter registration of the candidate is canceled for any reason provided in Chapter 1, Article 4 NMSA 1978."

Chapter 212 Section 102 Laws 2019

SECTION 102. Section 1-10-7 NMSA 1978 (being Laws 1977, Chapter 222, Section 30, as amended) is amended to read:

"1-10-7. BALLOTS--NAME SHALL APPEAR BUT ONCE-- EXCEPTIONS.--

A. In a primary or general election, no candidate's name shall appear more than once on the ballot, except in the case of a candidate who is also a candidate for president or vice president of the United States.

B. In a regular local election, a candidate's name:

(1) shall not appear more than once to be elected to any position with the same local government; and

(2) may appear more than once to be elected to any position with different local governments."

Chapter 212 Section 103 Laws 2019

SECTION 103. Section 1-10-8 NMSA 1978 (being Laws 1977, Chapter 222, Section 31, as amended) is repealed and a new Section 1-10-8 NMSA 1978 is enacted to read:

"1-10-8. BALLOTS--ORDER OF OFFICES AND BALLOT QUESTIONS.--

A. In the year in which the president of the United States is elected, the ballot in a primary election and general election shall contain, when applicable, partisan offices to be voted on in the following order:

- (1) in a presidential primary, president;
- (2) in a general election, president and vice president as a ticket;
- (3) United States senator;
- (4) United States representative;
- (5) state senator;
- (6) state representative;
- (7) supreme court;
- (8) court of appeals;
- (9) public regulation commission districts with odd-numbered designations;
- (10) public education commission districts with odd-numbered designations;
- (11) district court;
- (12) metropolitan court;
- (13) county clerk;
- (14) county treasurer; and
- (15) county commission districts and positions with odd-numbered designations.

B. In the year in which the governor is elected, the ballot in a primary election and general election shall contain, when applicable, partisan offices to be voted on in the following order:

- (1) United States senator;

- (2) United States representative;
- (3) in a major political party primary, governor;
- (4) in a major political party primary, lieutenant governor;
- (5) in a general election, governor and lieutenant governor as a ticket;
- (6) secretary of state;
- (7) attorney general;
- (8) state auditor;
- (9) state treasurer;
- (10) commissioner of public lands;
- (11) state representative;
- (12) supreme court;
- (13) court of appeals;
- (14) public regulation commission districts with even-numbered designations;
- (15) public education commission districts with even-numbered designations;
- (16) district court;
- (17) district attorney;
- (18) metropolitan court;
- (19) magistrate court;
- (20) county sheriff;
- (21) county assessor;

(22) county commission districts and positions with even-numbered designations; and

(23) probate judge.

C. The ballot in a regular local election shall contain, when applicable, nonpartisan offices to be voted on in the following order:

(1) municipal, with elective executive officers listed first, governing board members listed second and judicial officers listed third;

(2) board of education of a school district;

(3) community college, branch community college, technical and vocational institute district or learning center district; and

(4) special districts listed in order by voting population of each special district, with the most populous listed first and the least populous listed last.

D. The ballot in a statewide election shall contain, when applicable, nonpartisan judicial retention and in a statewide or special election, when applicable, ballot questions to be voted on in the following order, unless a different order is prescribed by the secretary of state:

(1) judicial retention;

(2) proposed state constitutional amendments;

(3) other state ballot questions;

(4) county ballot questions; and

(5) local government ballot questions listed in the same order as the list of local governments in Subsection C of this section.

E. When multiple positions for the same nonjudicial office are listed on the same ballot and each position is to be elected individually:

(1) offices designated by district number shall appear on the ballot in ascending numerical order of the districts;

(2) offices not designated by district number shall appear on the ballot in ascending numerical order of the position; provided that the secretary of state shall numerically designate the positions on the ballot as "position one", "position two" and such additional consecutively numbered positions as are necessary, and only one member shall be elected for each position; and

(3) whenever two or more positions for the same office are to be elected to represent the same area with terms of different lengths of time, the secretary of state shall first group the offices with the shorter length of time and shall designate each position with "for a term expiring ____", specifying the date the term expires.

F. When multiple positions for the same judicial office are listed on the same ballot and each position is to be elected or voted on individually:

(1) district, metropolitan and magistrate court positions, either for partisan election or for nonpartisan judicial retention, shall appear on the ballot in ascending numerical order of the division number assigned to each position;

(2) supreme court and court of appeals for partisan election shall appear on the ballot in ascending numerical order of the position number designated by the secretary of state for that election, based on the date of the vacancy causing the position to be listed on the ballot; provided that if multiple vacancies occurred on the same day, the positions shall appear on the ballot based on the order of seniority of the justice or judge who vacated the position, with the highest seniority listed first; and

(3) supreme court and court of appeals for nonpartisan judicial retention shall appear on the ballot in ascending numerical order of the position number designated by the secretary of state for that election, based on the seniority of the justice or judge seeking retention, with the highest seniority listed first."

Chapter 212 Section 104 Laws 2019

SECTION 104. Section 1-10-8.1 NMSA 1978 (being Laws 1981, Chapter 166, Section 1, as amended) is amended to read:

"1-10-8.1. BALLOTS--ORDER OF CANDIDATE NAMES--PARTY POSITION ON BALLOT.--

A. Except as provided in this section, the order of candidates for the same office in a statewide election shall be determined using a randomization method provided by rule based on candidate name or determined by lot.

B. In a general election, the order of candidates for the same office shall be determined using a randomization method provided by rule based on political party or candidate name or determined by lot.

C. Candidates designated and certified by state convention pursuant to Section 1-8-21.1 NMSA 1978 shall be placed on the respective political party primary ballot before other candidates for the same office in descending order of the vote received at the applicable state convention; provided that the order of names on the respective political party primary ballot of two or more candidates receiving an equal number of votes for designation by convention for the same office shall be determined using a randomization method provided by rule based on candidate name or determined by lot."

Chapter 212 Section 105 Laws 2019

SECTION 105. Section 1-10-13 NMSA 1978 (being Laws 1977, Chapter 222, Section 50, as amended) is amended to read:

"1-10-13. BALLOTS--WRITE-IN CANDIDATES.--When a write-in candidate has been qualified by the proper filing officer pursuant to the Election Code:

A. a space for entering the name of the write-in candidate shall be clearly designated by the use of the heading "Declared Write-in Candidate" after the listing of other candidates for that office; and

B. the write-in candidate's name shall not be pre-printed on the ballot, nor displayed or otherwise provided in any polling place by any election official or member of an election board."

Chapter 212 Section 106 Laws 2019

SECTION 106. Section 1-11-1 NMSA 1978 (being Laws 1969, Chapter 240, Section 211) is amended to read:

"1-11-1. NOTICE OF ELECTION.--The county clerk shall, at least twenty-one days prior to a statewide election, give notice of the election."

Chapter 212 Section 107 Laws 2019

SECTION 107. Section 1-11-2 NMSA 1978 (being Laws 1969, Chapter 240, Section 212, as amended) is amended to read:

"1-11-2. NOTICE OF ELECTION--CONTENTS.--The notice of election shall, as applicable:

- A. give notice of the election;
- B. set forth the purpose of the election;
- C. list the ballot question or questions to be voted on by voters of any precinct of the county other than those questions that have been published by the secretary of state;
- D. list the final day and time when absentee or mailed ballots will be accepted by the county clerk; and
- E. for a statewide election:
 - (1) list the offices to be filled by voters of any precinct of the county;
 - (2) list all qualified candidates for those offices whose names shall appear on the ballot and, except in the case of a regular local election, list their party affiliation;
 - (3) list all qualified candidates for nonpartisan judicial retention;
 - (4) list all qualified declared write-in candidates for each of the offices to be filled; and
 - (5) give the address or location and the hours of operation where the election is to be held at:
 - (a) the office of the county clerk;
 - (b) each alternate voting location and mobile alternate voting location; and
 - (c) each election day polling place."

Chapter 212 Section 108 Laws 2019

SECTION 108. Section 1-11-3 NMSA 1978 (being Laws 1969, Chapter 240, Section 213, as amended) is amended to read:

"1-11-3. NOTICE OF ELECTION--PUBLICATION--POSTING.--

A. The notice of election shall be published at least once, not more than twenty-one nor less than seven days before election day.

B. The notice of election shall be published in a legal newspaper as provided in Section 14-11-2 NMSA 1978.

C. If no legal newspaper is published in the county, the notice of election shall be published in a legal newspaper of general circulation in the county.

D. The county clerk shall post the notice of election beginning no later than twenty days before the election. The county clerk shall also place on the county website the proclamation for the election or provide a link to the proclamation posted on the secretary of state's website.

E. The notice of election shall be printed in English and Spanish.

F. The notice of election shall be broadcast on a radio station in the appropriate Native American languages in those counties affected by the federal Voting Rights Act of 1965, as amended."

Chapter 212 Section 109 Laws 2019

SECTION 109. Section 1-11-4 NMSA 1978 (being Laws 1969, Chapter 240, Section 214) is amended to read:

"1-11-4. NOTICE OF ELECTION--ERRORS AND OMISSIONS.--

A. The county clerk may amend the notice of election between the time of its issuance and the day of election to provide for any corrections or to supply any omissions.

B. Upon petition of any voter that an error or omission has occurred in the notice of election, the district court may forthwith order the county clerk to correct the error or to supply the omission or immediately show cause why the error should not be corrected or the omission should not be supplied."

Chapter 212 Section 110 Laws 2019

SECTION 110. Section 1-22-20 NMSA 1978 (being Laws 2018, Chapter 79, Section 33) is recompiled in Chapter 1, Article 11 NMSA 1978 and is amended to read:

"COSTS OF ELECTIONS--LOCAL ELECTION ASSESSMENT-- ELECTION FUND ESTABLISHED.--

A. There is created in the state treasury the "election fund" solely for the purposes of:

(1) paying the costs of conducting and administering statewide elections required by the Election Code;

(2) reimbursing the counties for the costs of conducting and administering statewide elections required by the Election Code;

(3) paying the administrative costs of the office of the secretary of state for administering elections required by the Election Code and for administering the election fund; and

(4) carrying out all other specified provisions of the Election Code not already covered by another fund administered by the secretary of state.

B. The state treasurer shall invest the election fund as other state funds are invested, and all income derived from the fund shall be credited directly to the fund. Remaining balances at the end of a fiscal year shall remain in the fund and not revert to the general fund. Money in the fund is appropriated to the office of the secretary of state for the purposes authorized in Subsection A of this section. Money in the fund shall only be expended on warrants of the department of finance and administration pursuant to vouchers signed by the secretary of state or the secretary's designee.

C. Money received from the following sources shall be deposited directly into the election fund:

(1) money appropriated to the fund by the legislature;

(2) reimbursements from the state or a local government for elections costs; and

(3) grants received by the secretary of state.

D. In the event that current year balances in the election fund do not cover the costs of elections, the secretary of state may apply to the state board of finance for an emergency grant to cover those costs pursuant to Section 6-1-2 NMSA 1978."

Chapter 212 Section 111 Laws 2019

SECTION 111. Section 1-12-12 NMSA 1978 (being Laws 1969, Chapter 240, Section 265, as amended) is amended to read:

"1-12-12. CONDUCT OF ELECTION--ELIGIBILITY FOR ASSISTANCE.--A voter may request assistance in voting only if the voter:

A. is blind;

B. is physically disabled;

C. is unable to read or write;

D. is a member of a language minority who has an inability to read well enough to exercise the elective franchise; or

E. requires assistance in operating the voting system provided for voting access for people with disabilities."

Chapter 212 Section 112 Laws 2019

SECTION 112. Section 1-12-19.1 NMSA 1978 (being Laws 1981, Chapter 156, Section 2, as amended by Laws 2014, Chapter 40, Section 9 and by Laws 2014, Chapter 81, Section 9) is recompiled as Section 1-8-66 NMSA 1978 and amended to read:

"1-8-66. GENERAL ELECTIONS--WRITE-IN CANDIDATES.--

A. A person desiring to be a write-in candidate in a general election shall file with the proper filing officer between 9:00 a.m. and 5:00 p.m. on the twenty-third day after the primary election a declaration of intent to be a write-in candidate.

B. The form of the declaration of intent shall be prescribed by the secretary of state and shall contain a sworn statement by the person that the person is qualified to be a candidate for and to hold the office for which the person is filing.

C. At the time of filing the declaration of intent to be a write-in candidate, the write-in candidate shall be considered a candidate for all purposes and provisions relating to candidates in the Election Code, including the obligation to report under the Campaign Reporting Act, except that the candidate shall not be entitled to have the candidate's name printed on the ballot.

D. The secretary of state shall, not more than ten days after the filing date, certify the names of the declared write-in candidates to the county clerks of every county affected by such candidacy.

E. No person shall be a write-in candidate in the general election who was a candidate or who filed a declaration of candidacy in the primary election immediately prior to the general election. A write-in candidate for governor or lieutenant governor in the general election shall have a companion write-in candidate, and they shall be candidates to be elected jointly by the casting by a voter of a single vote applicable to both offices."

Chapter 212 Section 113 Laws 2019

SECTION 113. Section 1-12-25.4 NMSA 1978 (being Laws 2003, Chapter 356, Section 7, as amended) is amended to read:

"1-12-25.4. PROVISIONAL PAPER BALLOTS--DISPOSITION.--

A. Upon closing of the polls, provisional paper ballots shall be delivered to the county clerk, who shall determine if the ballots will be counted prior to certification of the election.

B. A provisional paper ballot shall not be counted if the registered voter did not sign either the signature roster or the ballot's envelope.

C. If there is no record of the voter ever having been registered in the county, the voter shall be offered the opportunity to register, the provisional paper ballot shall not be counted and the voter registration certificate shall be processed following the canvass of the election.

D. If the voter was registered in the county, the registration was later canceled and the county clerk determines that the cancellation was in error, or that the voter continues to reside in the same precinct, or that the voter's name should not have been placed on the list of voters whose registrations were to be canceled, the voter's registration shall be immediately restored and the provisional paper ballot counted.

E. If the county clerk determines that the cancellation was not in error, the voter shall be offered the opportunity to register at the voter's correct address, and the provisional paper ballot shall not be counted.

F. If the voter is a registered voter in the county but has voted on a provisional paper ballot other than the ballot of the voter's correct precinct, the county canvassing

board shall ensure that only those votes for the positions or measures for which the voter was eligible to vote are counted.

G. If the county clerk finds that the voter who voted on a provisional paper ballot at the polls has also voted an absentee ballot in that election, the provisional paper ballot shall not be counted.

H. The county clerk shall maintain a provisional ballot register that shall be in the same form and made available in the same manner as the absentee ballot register and the mailed ballot register. The county clerk shall prepare a tally displaying the number of provisional paper ballots received, the number found valid and counted, the number rejected and not counted and the reason for not counting the ballots as part of the canvassing process and forward it to the secretary of state immediately upon certification of the election.

I. The secretary of state shall issue rules to ensure securing the secrecy of the provisional paper ballots, especially during canvassing, reviewing or recounting, and protecting against fraud in the voting process."

Chapter 212 Section 114 Laws 2019

SECTION 114. Section 1-12-31 NMSA 1978 (being Laws 1969, Chapter 240, Section 291, as amended) is amended to read:

"1-12-31. CONDUCT OF ELECTION--DISPOSITION OF BALLOT BOXES AND OTHER ELECTION MATERIALS.--

A. The following election returns and materials shall not be placed in the ballot box and shall be returned immediately to the county clerk along with the locked ballot box:

- (1) the number on the numbered seal affixed to secure the ballot box or one ballot box key in an envelope addressed to the county clerk;
- (2) one signature roster;
- (3) one certificate of returns for the polling place;
- (4) the envelope containing any provisional paper ballots cast at the polling place;

(5) the envelope containing any absentee or mailed ballots delivered to the polling place by the voter or an immediate family member of the voter;

(6) the envelope containing paper ballots that were not tabulated by the electronic vote tabulator;

(7) the envelope containing machine-tabulated paper ballots with write-in votes; and

(8) all unused election supplies not destroyed pursuant to the Election Code.

B. The removable media storage device shall not be placed in the ballot box and shall be returned immediately to the county clerk either by messenger or along with the locked ballot box.

C. The election judge of the party different from that of the presiding judge shall place the number on the numbered seal affixed to secure the ballot box or the other ballot box key in the envelope addressed to the district court and immediately mail it to the district court."

Chapter 212 Section 115 Laws 2019

SECTION 115. Section 1-12-57 NMSA 1978 (being Laws 1977, Chapter 222, Section 60, as amended) is amended to read:

"1-12-57. PAPER BALLOTS--PROCEDURE AFTER MARKING.--After marking and preparing a paper ballot in a polling place, the voter:

A. shall not show it to any person in the polling place in such a way as to reveal its contents; and

B. shall feed the paper ballot into the electronic vote tabulator."

Chapter 212 Section 116 Laws 2019

SECTION 116. Section 1-12-59 NMSA 1978 (being Laws 1977, Chapter 222, Section 62, as amended) is amended to read:

"1-12-59. VIEWING MARKED PAPER BALLOT.--

A. A voter may, on the voter's own initiative and using whatever form of communication or media chosen by the voter, voluntarily communicate any information regarding:

(1) the name of any candidate in a candidate contest for whom the voter voted or for whom the voter abstained from voting;

(2) the affirmative or negative vote cast by the voter on a ballot question or nonpartisan judicial retention election; or

(3) any other information regarding the manner in which a voter marked a paper ballot in an election.

B. No person shall solicit a voter to show the voter's marked paper ballot or coerce a voter to reveal any of the information listed in Subsection A of this section.

C. No person shall disclose without the consent of the voter any of the information listed in Subsection A of this section.

D. A violation of Subsection B or C of this section may constitute the crime of offering a bribe, coercion of employees, coercion of voters, intimidation or conspiracy to violate the Election Code."

Chapter 212 Section 117 Laws 2019

SECTION 117. Section 1-12-65 NMSA 1978 (being Laws 1977, Chapter 222, Section 68, as amended) is amended to read:

"1-12-65. EMERGENCY SITUATIONS--PAPER BALLOTS--COUNTING AND TALLYING PROCEDURES.--

A. The presiding judge and the election judges, assisted by the election clerks, shall count the number of paper ballots that were not tabulated by the electronic vote tabulator, write the number of such ballots on each copy of the certificate of returns for that polling place and place the paper ballots that were not tabulated by the electronic vote tabulator in an envelope provided for that purpose. The envelope shall not be locked in the ballot box but shall instead be transmitted directly to the county clerk for machine-tabulation or hand-tallying of the ballots.

B. The presiding judge and the election judges, assisted by the election clerks, shall count the number of machine-tabulated paper ballots with write-in votes, write the number of such ballots on each copy of the certificate of returns for that polling place

and place those paper ballots with write-in votes in an envelope provided for that purpose. The envelope shall not be locked in the ballot box but shall instead be transmitted directly to the county clerk for manual counting of the write-in votes.

C. The tallying of paper ballots that were not tabulated by the electronic vote tabulator at the polling place and the counting of ballots with write-in votes shall be in accordance with procedures prescribed by the secretary of state."

Chapter 212 Section 118 Laws 2019

SECTION 118. Section 1-12-66 NMSA 1978 (being Laws 1977, Chapter 222, Section 69, as amended) is amended to read:

"1-12-66. PAPER BALLOTS--SIGNATURE ROSTERS, CHECKLIST OF VOTERS AND TALLY SHEETS--DISPOSITION.--

A. After all certificates have been executed, the presiding judge and the two election judges shall place the checklist of voters and one copy of the certificate of returns in that polling place in the stamped, addressed envelope provided for that purpose and an election judge shall immediately mail it to the secretary of state.

B. The signature roster and the original certificate of returns in that polling place shall be returned to the county clerk. The signature roster and the certificate of returns shall not be placed in the ballot box.

C. Signature rosters, checklists of registered voters, certificates of returns and tally sheets in the custody of the county clerk and the secretary of state may be destroyed only pursuant to Section 1-12-69 NMSA 1978."

Chapter 212 Section 119 Laws 2019

SECTION 119. Section 1-12-67 NMSA 1978 (being Laws 1977, Chapter 222, Section 70, as amended) is amended to read:

"1-12-67. PAPER BALLOTS TO BE PLACED IN BALLOT BOX.--After all certificates have been executed, the election board shall place the bundles of tabulated paper ballots in the ballot box and the ballot box shall be closed and locked."

Chapter 212 Section 120 Laws 2019

SECTION 120. Section 1-13-1 NMSA 1978 (being Laws 1969, Chapter 240, Section 303) is amended to read:

"1-13-1. POST-ELECTION DUTIES--COUNTY CANVASSING BOARD.--

A. The board of county commissioners is ex officio the county canvassing board in each county.

B. The board of county commissioners may designate the board of registration to serve as the county canvassing board for the county. The designation shall be made in the polling place resolution adopted pursuant to Section 1-3-2 NMSA 1978 and is valid for all statewide and special elections conducted within the county until the expiration of the resolution."

Chapter 212 Section 121 Laws 2019

SECTION 121. Section 1-13-4 NMSA 1978 (being Laws 1969, Chapter 240, Section 306, as amended) is amended to read:

"1-13-4. POST-ELECTION DUTIES--COUNTY CANVASS--METHOD.--The county clerk shall:

A. prepare the report of the canvass of the election returns by carefully examining the returns of each precinct to ascertain if they contain the properly executed certificates required by the Election Code and to ascertain whether any discrepancy, omission or error appears on the face of the election returns; and

B. present the report of the canvass to the county canvassing board for the board's consideration and approval."

Chapter 212 Section 122 Laws 2019

SECTION 122. Section 1-13-12 NMSA 1978 (being Laws 1969, Chapter 240, Section 315) is amended to read:

"1-13-12. POST-ELECTION DUTIES--MANDAMUS TO COMPEL CANVASS.--

The district court, upon petition of any voter, may issue a writ of mandamus to the county canvassing board to compel it to approve the report of the county canvass and certify the election returns."

Chapter 212 Section 123 Laws 2019

SECTION 123. Section 1-13-13 NMSA 1978 (being Laws 1969, Chapter 240, Section 316, as amended) is amended to read:

"1-13-13. POST-ELECTION DUTIES--COUNTY CANVASSING BOARD--
CERTIFYING RESULTS.--

A. The county canvassing board shall meet to approve the report of the canvass of the returns and declare the results no sooner than six days and no later than ten days from the date of the election. A county canvassing board in a county with more than one hundred fifty thousand voters shall meet to approve the report of the canvass of the returns and declare the results no sooner than six days and no later than thirteen days from the date of the election.

B. The county canvassing board, immediately upon approval of the report of the canvass of the returns of an election, shall issue a certificate of canvass of the results of the election and send one copy of the certified results to:

- (1) the county clerk;
- (2) each local governing body with a candidate or ballot question receiving votes from any precinct in the county;
- (3) the secretary of state;
- (4) the state records center;
- (5) the state canvassing board, in the case of a statewide election or a special state election and the results are for candidates or ballot questions voted on by the voters of more than one county; and
- (6) in the case of a municipality whose laws provide for a top-two runoff, the municipality and the county clerk, if the results indicate the need for a top-two runoff election.

C. On the thirty-first day after any primary or general election, the secretary of state shall issue to those candidates entitled by law election certificates, or certificate of nomination in the case of the primary election, to all county officers, magistrates and to members of the legislature elected from districts wholly within the county. In addition, the county canvassing board, immediately after completion of the canvass, shall declare the results of the election and of all ballot questions affecting only precincts within the county."

Chapter 212 Section 124 Laws 2019

SECTION 124. Section 1-13-15 NMSA 1978 (being Laws 1969, Chapter 240, Section 318, as amended) is amended to read:

"1-13-15. POST-ELECTION DUTIES--STATEWIDE ELECTION--STATE CANVASS.--

A. The state canvassing board shall meet in the state capitol on the third Tuesday after each statewide election and proceed to approve the report of the canvass and declare the results of the election or nomination of each candidate voted upon by the entire state and by the voters of more than one county.

B. The state canvassing board shall also meet in the state capitol on the third Tuesday after each statewide election or special state election to approve the report of the canvass and declare the result of the vote on any constitutional amendment or any ballot question voted upon by the voters of more than one county.

C. Upon the completion of the state canvass, the secretary of state shall notify each county clerk of that fact."

Chapter 212 Section 125 Laws 2019

SECTION 125. Section 1-13-16 NMSA 1978 (being Laws 1969, Chapter 240, Section 319, as amended) is amended to read:

"1-13-16. POST-ELECTION DUTIES--SECRETARY OF STATE DUTIES.--

A. The report of the state canvass shall be made from the election returns transmitted directly to the secretary of state from each of the election boards and, in the case of candidates voted upon by a district composed of two or more counties, from the certificates transmitted by the county canvassing boards. The secretary of state shall prepare the report of the state canvass; provided that the state canvassing board may designate a person or persons to compare the totals appearing on the election returns, statements of canvass and certificates and to certify the results of their findings to the state canvassing board.

B. Upon approval of the report of the state canvass, but not sooner than the thirty-first day after any primary or general election, the secretary of state shall issue to those candidates entitled by law the appropriate certificate of election or, in the case of a primary election, a certificate of nomination.

C. Upon receipt of the reports of the county canvass of a local election from each county, the secretary of state shall:

(1) not sooner than the twenty-fourth day after a regular local election, issue to those candidates entitled by law the appropriate certificate of election;

(2) not sooner than the seventh day following a top-two runoff election and no later than the last business day before the first day of the new term of office, issue to those candidates entitled by law the appropriate certificate of election; and

(3) no later than the seventeenth day following a special local election in which votes were cast by the voters of more than one county, declare the result of the vote on any ballot question and issue a certificate of canvass of the results of the special election."

Chapter 212 Section 126 Laws 2019

SECTION 126. Section 1-13-21 NMSA 1978 (being Laws 1971, Chapter 317, Section 21, as amended) is amended to read:

"1-13-21. CLEARING VOTING SYSTEMS--TRANSFERRING BALLOTS.--

A. The county clerk shall not clear the votes recorded on the removable storage media devices until at least forty-five days after adjournment of the county or state canvassing board, whichever is later.

B. The county clerk shall not clear and shall keep locked those removable media storage devices from voting systems used to tabulate votes for precincts where a recount, judicial inquiry or inspection is sought, subject to order of the district court or other authority having jurisdiction of the contest or inspection.

C. Beginning forty-five days after the adjournment of the state or county canvassing board, whichever is later, or forty-five days after completion of a recount or judicial inquiry, the county clerk may transfer ballots from the locked ballot boxes for disposition pursuant to Section 1-12-69 NMSA 1978."

Chapter 212 Section 127 Laws 2019

SECTION 127. Section 1-22-17 NMSA 1978 (being Laws 2018, Chapter 79, Section 30) is recompiled in Chapter 1, Article 13 NMSA 1978 and is amended to read:

"POST-ELECTION DUTIES--RECORDS.--

A. The returns and certificates of the result of the county canvass are public documents, subject to inspection and retention as provided by Section 1-12-69 NMSA

1978. The certificate of results of the canvass of the election shall, forty-five days after the election or recount after any contest has been settled by the court, be preserved as a permanent record in the state records center. A copy of the certificate of results of the canvass of the election shall be preserved as a permanent record in the office of the county clerk in a separate book maintained for recording the results of elections.

B. The returns and certificates of the result of the state canvass are public documents, subject to inspection and retention as provided by Section 1-12-69 NMSA 1978. The certificate of results of the canvass of the election shall, forty-five days after the election or recount after any contest has been settled by the court, be preserved as a permanent record in the state records center. A copy of the certificate of results of the canvass of the election shall be preserved as a permanent record in the office of the secretary of state in a separate book maintained for recording the results of elections."

Chapter 212 Section 128 Laws 2019

SECTION 128. A new section of Chapter 1, Article 13 NMSA 1978 is enacted to read:

"POST-ELECTION DUTIES--UNOPPOSED WRITE-IN CANDIDATES.--

A. In a general election, the proper canvassing board shall not certify the election of an unopposed write-in candidate unless the candidate receives at least the number of write-in votes equal to two percent of the total vote in the state, district or county in which the candidate seeks election that were cast for governor in the last preceding general election in which a governor was elected.

B. In a regular local election, the secretary of state shall not issue a certificate of election to an unopposed write-in candidate unless the candidate receives either one hundred votes or the number of write-in votes equal to at least ten percent of the total number of ballots on which the office appears that are cast in the regular local election.

C. In a primary election, the proper canvassing board shall not certify the nomination of an unopposed write-in candidate unless the candidate receives at least the number of write-in votes in the primary election as the write-in candidate would need for signatures on a nominating petition pursuant to the requirements set out in Section 1-8-33 NMSA 1978.

D. In an election to fill a vacancy in the office of United States representative, the state canvassing board shall not certify the election of an unopposed write-in candidate unless the candidate receives at least the number of write-in votes equal to two percent of the total vote in the congressional district in which the candidate seeks

election that were cast for governor in the last preceding general election in which a governor was elected."

Chapter 212 Section 129 Laws 2019

SECTION 129. Section 1-14-22 NMSA 1978 (being Laws 2005, Chapter 270, Section 76, as amended) is amended to read:

"1-14-22. CONTESTS AND RECOUNTS--PROVISIONAL, ABSENTEE AND OTHER PAPER BALLOTS--USE OF BALLOT IMAGES.--

A. The secretary of state shall issue rules governing and allowing procedures for reviewing the qualification of provisional ballot envelopes, absentee and other paper ballots in the case of a contest or recount of election results. All rejected provisional paper ballot envelopes shall be included in any contest or recount of election results, and a review of the qualification of provisional ballot envelopes shall occur in a recount.

B. Upon petition by the secretary of state or a county clerk, the district court may permit a review of ballot images in place of paper ballots whenever there are defective or missing returns in an election and when the voting system technology captures an image of each ballot in an election."

Chapter 212 Section 130 Laws 2019

SECTION 130. Section 1-14-24 NMSA 1978 (being Laws 2008, Chapter 41, Section 1, as amended) is amended to read:

"1-14-24. AUTOMATIC RECOUNTS--ELECTIONS FOR STATE AND FEDERAL OFFICES--PROCEDURES.--

A. An automatic recount of the vote is required when the canvass of returns indicates that the margin between the two candidates receiving the greatest number of votes for an office, the margin between those supporting and those opposing a ballot question or the margin affecting the outcome of a nonpartisan judicial retention election is less than:

- (1) one-fourth percent of the total votes cast in that election:
 - (a) for that office in the case of a federal or statewide office;
 - (b) on a ballot question in the case of a state ballot question; or

(c) on a nonpartisan judicial retention election in the case of the supreme court or the court of appeals;

(2) one-half percent of the total votes cast in that election:

(a) for that office in the case of a public regulation commissioner, public education commissioner, district attorney or any office elected countywide in a county with more than one hundred fifty thousand registered voters;

(b) on a ballot question in the case of a local ballot question; or

(c) on a nonpartisan judicial retention election in the case of a district court or the metropolitan court; or

(3) one percent of the total votes cast in that election for that office in the case of any other office.

B. For an office for which ballots were cast in more than one county, the secretary of state shall file notice with the state canvassing board upon the completion of the state canvass that an automatic recount is required, and the state canvassing board shall order a recount of the ballots for the specified office. For an office in which ballots were cast solely within one county, the secretary of state shall file notice with the state canvassing board within seven days after receiving notice from the county clerk following the completion of the county canvass that an automatic recount is required, and the state canvassing board shall order a recount of the ballots for the specified office.

C. Automatic recounts shall be conducted pursuant to the recount procedures established in Sections 1-14-16 and 1-14-18 through 1-14-23 NMSA 1978."

Chapter 212 Section 131 Laws 2019

SECTION 131. Section 1-15-18.1 NMSA 1978 (being Laws 1983, Chapter 232, Section 16, as amended) is amended to read:

"1-15-18.1. UNITED STATES REPRESENTATIVE--VACANCY.--

A. Within ten days after a vacancy occurs in the office of United States representative, the secretary of state shall, by proclamation, call an election to be held not less than seventy-seven nor more than ninety-one days after the date of the vacancy for the purpose of filling the vacancy, except as provided in Subsections H and I of this section.

B. The proclamation shall forthwith be filed by the secretary of state in the office of the secretary of state. The proclamation shall specify the:

- (1) date on which the election will be held;
- (2) purpose for which the election is called;
- (3) date on which declarations of candidacy are to be filed;
- (4) date on which declarations of intent to be a write-in candidate are to be filed; and
- (5) date certificates of registration are to be subscribed and sworn to participate in the election as required by law.

C. After the proclamation is issued pursuant to Subsection B of this section, the secretary of state shall within five days certify the proclamation to each county clerk with precincts located in the United States representative district in which the vacancy exists. Beginning not less than sixty-three days before the date of the election, the secretary of state shall publish the proclamation once each week for two consecutive weeks in a newspaper of general circulation.

D. Upon the issuance of the proclamation, each qualified political party may nominate in the manner provided by the rules of that party a candidate to fill the vacancy in the office of United States representative; provided that such nomination is certified to the secretary of state by the state chair of that party no later than 5:00 p.m. on the fifty-sixth day preceding the date of the election.

E. Declarations of unaffiliated candidacy to fill the vacancy in the office of United States representative and nominating petitions pertaining thereto shall be filed with the secretary of state no later than 5:00 p.m. on the fifty-sixth day preceding the date of the election.

F. Declarations of intent to be a write-in candidate to fill a vacancy in the office of United States representative shall be filed with the secretary of state no later than 5:00 p.m. on the fifty-sixth day preceding the date of the election.

G. Elections called for the purpose of filling a vacancy in the office of United States representative shall be conducted in accordance with the provisions of the Election Code for general elections; provided, however, if there is a conflict between this section and other provisions of the Election Code, the provisions of this section shall control. The secretary of state shall, only when necessary, adjust the day provided in

the Uniform Military and Overseas Voters Act to send ballots to federal qualified electors in an election to fill a vacancy in the office of United States representative. The adjusted day shall be immediately posted on the website of the secretary of state and reported to the federal voting assistance program.

H. If a vacancy occurs in the office of United States representative beginning one hundred sixty days and no less than sixty-three days before a statewide election, the vacancy shall be filled at the next statewide election; provided that when filling a vacancy:

(1) at a general election, candidates seeking the office of United States representative in that general election for the next succeeding term shall be deemed to be candidates for the unexpired term as well, and the candidate elected shall take office upon the certification of the election results; or

(2) at a political party primary or a regular local election, each ballot shall contain the election to fill the vacancy in the office of United States representative listed before the contests in the political party primary or regular local election, and ballots containing only the election of the vacancy in the office of United States representative shall be available to voters who do not otherwise qualify to vote in the political party primary or that regular local election.

I. If a vacancy occurs in the office of United States representative in extraordinary circumstances when there are more than one hundred vacancies in the United States house of representatives and there are more than seventy-five days before a regularly scheduled election, then pursuant to 2 U.S.C. Section 8(b):

(1) the governor shall immediately issue a writ of election, upon which the secretary of state shall, by proclamation, call an election to be held not more than forty-nine days after the vacancy is announced and file the proclamation along with the writ in the office of the secretary of state;

(2) the secretary of state shall immediately certify the proclamation to each county clerk with precincts located in the United States representative district in which the vacancy exists, and beginning not less than thirty-five days before the date of the election, the secretary of state shall publish the proclamation once each week for two consecutive weeks in a newspaper of general circulation;

(3) each qualified political party may nominate in the manner provided by the rules of that party a candidate to fill the vacancy in the office of United States representative; provided that such nomination is certified to the secretary of state by the

state chair of that party no later than 5:00 p.m. on the tenth business day following announcement of the vacancy;

(4) declarations of independent candidacy to fill the vacancy in the office of United States representative and nominating petitions pertaining thereto shall be filed with the secretary of state no later than 5:00 p.m. on the tenth business day following announcement of the vacancy; and

(5) declarations of intent to be a write-in candidate to fill the vacancy in the office of United States representative shall be filed with the secretary of state no later than 5:00 p.m. on the tenth business day following announcement of the vacancy.

J. The state shall pay all costs of an election to fill a vacancy in the office of United States representative when the election is not held on the same ballot as a statewide election."

Chapter 212 Section 132 Laws 2019

SECTION 132. Section 1-15-20 NMSA 1978 (being Laws 1969, Chapter 240, Section 370) is amended to read:

"1-15-20. EXPIRING TERM AND NEXT SUCCEEDING TERM IN SAME ELECTION.--

A. In all instances where the expiring term of the office of United States senator or representative and the term next succeeding the expiring term are to be voted upon at the same general election, the same individual may be a candidate for both the expiring term and next succeeding term, whether at a primary election, nominating convention or general election.

B. In those instances where a person is initially elected for a next succeeding term of the office of United States senator or representative at a general election and there becomes a vacancy in the expiring term of that office at any time beginning seventy days before the general election through the first day of the next succeeding term, the person initially elected for the next succeeding term and in possession of the certificate of election from the general election shall be declared elected for the remainder of the expiring term."

Chapter 212 Section 133 Laws 2019

SECTION 133. Section 1-16-1 NMSA 1978 (being Laws 1969, Chapter 240, Section 374) is amended to read:

"1-16-1. BALLOT QUESTIONS--APPLICATION OF ELECTION CODE.--At all elections at which any ballot question is submitted to the voters, the election shall be called, conducted and canvassed in accordance with the Election Code."

Chapter 212 Section 134 Laws 2019

SECTION 134. Section 1-16-2 NMSA 1978 (being Laws 1969, Chapter 240, Section 375) is amended to read:

"1-16-2. BALLOT QUESTIONS--STATE BALLOT QUESTIONS--LOCAL GOVERNMENT BALLOT QUESTIONS.--

A. A state ballot question includes any:

- (1) proposed amendment to the constitution of New Mexico, as provided in a joint resolution passed by the legislature;
- (2) tax authorization for general obligation bonds or mill levy, as provided by law;
- (3) referendum, as provided in Article 4, Section 1 of the constitution of New Mexico; and
- (4) other questions, as provided by statute or the constitution of New Mexico.

B. A local government ballot question includes any:

- (1) tax authorization for bond sales, mill levy or gross receipts tax, as required by law;
- (2) recall of county, school board or certain municipal officers, as provided by law or by municipal home rule charter;
- (3) petition for the creation of a special district or consideration of a statutory local option, as provided by law;
- (4) referendum on local governing body taxation authority, as provided by law;
- (5) referendum on local government ordinances, as provided by the charter of a home rule municipality, by an incorporated or urban county or by law;

(6) change in the laws of a home rule municipality, as provided by the municipal charter or by law;

(7) changes in the charter of an incorporated or urban county, as provided by the charter of the incorporated or urban county or by law; and

(8) other questions, as provided by state statute or the constitution of New Mexico."

Chapter 212 Section 135 Laws 2019

SECTION 135. Section 1-16-3 NMSA 1978 (being Laws 1969, Chapter 240, Section 376, as amended) is amended to read:

"1-16-3. BALLOT QUESTIONS--CERTIFICATION.--

A. Whenever a state ballot question is to be submitted to the voters of the entire state on a general election or regular local election ballot, not less than seventy days before the election, the secretary of state shall certify the state ballot question to the county clerk of each county.

B. Whenever a local government ballot question is to be submitted to the voters of a local government on a general election or regular local election ballot, not less than seventy days before the election at which the ballot question is proposed to be submitted to the voters, the local government shall file a resolution proposing the ballot question with the county clerk of each county containing any precinct in which votes may be cast for or against the local government ballot question. Not less than sixty-seven days before the election, each county clerk shall certify the local government ballot question to the secretary of state.

C. Whenever a state or local government ballot question is to be submitted to the voters in a special election, the proclamation calling the election shall be filed with or certified to the county clerk of each county containing any precinct in which votes may be cast pursuant to the provisions of the Special Election Act."

Chapter 212 Section 136 Laws 2019

SECTION 136. Section 1-16-4 NMSA 1978 (being Laws 1969, Chapter 240, Section 377) is amended to read:

"1-16-4. BALLOT QUESTIONS--STATE CONSTITUTIONAL AMENDMENTS--PUBLICATION.--

A. The secretary of state shall cause a proposed constitutional amendment to be published as provided in Article 19, Section 1 of the constitution of New Mexico.

B. The secretary of state shall post a proposed constitutional amendment beginning no later than seventy days prior to the election at which the amendment is to be submitted to the voters of the state for their approval or rejection.

C. Each county clerk shall post a proposed constitutional amendment beginning no later than sixty-seven days prior to the election at which the amendment is to be submitted to the voters of the state for their approval or rejection."

Chapter 212 Section 137 Laws 2019

SECTION 137. Section 1-16-7 NMSA 1978 (being Laws 1977, Chapter 222, Section 96, as amended) is amended to read:

"1-16-7. BALLOT QUESTIONS--FORM.--

A. The secretary of state shall by rule prescribe uniform guidelines for a state or local ballot question to appear on the ballot.

B. For a proposed constitutional amendment, the form of the ballot question shall include the full title of the joint resolution proposing the constitutional amendment and the constitutional amendment number assigned to the joint resolution by the secretary of state."

Chapter 212 Section 138 Laws 2019

SECTION 138. Section 1-16-8 NMSA 1978 (being Laws 1969, Chapter 240, Section 380, as amended) is amended to read:

"1-16-8. BALLOT QUESTIONS--PROHIBITION ON NONBINDING OR ADVISORY QUESTIONS.--In no case shall a nonbinding or merely advisory question be placed on the ballot for any election held pursuant to the Election Code."

Chapter 212 Section 139 Laws 2019

SECTION 139. Section 1-16-9 NMSA 1978 (being Laws 1969, Chapter 240, Section 381, as amended) is amended to read:

"1-16-9. BALLOT QUESTIONS--SINGLE BALLOT--SPACE ON BALLOT.--

A. Ballot questions submitted to the voters at any election shall be printed on one ballot only.

B. State ballot questions certified by the secretary of state shall be printed on the ballot as provided in the Election Code.

C. Local government ballot questions authorized by law shall be printed on the ballot of each county containing any precinct in which votes may be cast for or against the local government ballot question.

D. If, after printing any offices required to be elected and the state ballot questions certified by the secretary of state, there is insufficient space on a single-page ballot using both sides of the page to accommodate the various ballot questions submitted by local governments:

(1) priority for printing local government ballot questions shall be in the order the approved ballot questions were filed with the county clerk; provided that for multicounty jurisdictions, exclusion from one county's ballot excludes that local government ballot question from the ballot in all applicable counties;

(2) a local government ballot question that, based on the order received by the county clerk, would require the ballot to be on more than one page shall be included on the ballot only if the local government submitting the ballot question pays the additional costs of any subsequent ballot page; provided that if more than one local government submits ballot questions that would require the ballot to be on more than one page, those local governments shall share the additional costs of any subsequent ballot page;

(3) a single ballot that is printed on more than one page may permit voters to cast on the first page a vote for or against any local government ballot question printed on a subsequent ballot page; and

(4) regardless of the order in which local government ballot questions are filed with the county clerk, the ballot questions shall be printed on the ballot in the order provided in Section 1-10-8 NMSA 1978."

Chapter 212 Section 140 Laws 2019

SECTION 140. Section 1-22-2 NMSA 1978 (being Laws 2018, Chapter 79, Section 17) is amended to read:

"1-22-2. DEFINITIONS.--As used in the Local Election Act:

- A. "local election" means a local government election;
- B. "local governing body" means a board, council or commission, as appropriate for a given local government;
- C. "local government" means a:
 - (1) political subdivision of the state with authority to levy taxes pursuant to Article 8, Section 9 of the constitution of New Mexico and its enabling legislation, but does not include a conservancy district governed pursuant to Chapter 73, Article 14 or 18 NMSA 1978 or a county; and
 - (2) political subdivision of the state without authority to levy taxes pursuant to Article 8, Section 9 of the constitution of New Mexico or its enabling legislation, but whose statutory provisions provide for election of officers or ballot questions to be decided pursuant to the Local Election Act;
- D. "municipal officers" means the local governing body and any executive and judicial officers of a municipality;
- E. "regular local election" means the biennial local election at which local governing body members are elected pursuant to the provisions of the Local Election Act; and
- F. "special local election" means a local election conducted at a time other than a statewide election at which only ballot questions are considered pursuant to the provisions of the Special Election Act."

Chapter 212 Section 141 Laws 2019

SECTION 141. Section 1-22-2 NMSA 1978 (being Laws 2018, Chapter 79, Section 17, as amended by Section 140 of this act) is repealed and a new Section 1-22-2 NMSA 1978 is enacted to read:

- "1-22-2. DEFINITIONS.--As used in the Local Election Act:
- A. "local election" means a local government election;
 - B. "local governing body" means a board, council or commission, as appropriate for a given local government;
 - C. "local government" means a:

(1) political subdivision of the state with authority to levy taxes pursuant to Article 8, Section 9 of the constitution of New Mexico and its enabling legislation, but does not include a county; and

(2) political subdivision of the state without authority to levy taxes pursuant to Article 8, Section 9 of the constitution of New Mexico or its enabling legislation, but whose statutory provisions provide for election of officers or ballot questions to be decided pursuant to the Local Election Act;

D. "municipal officers" means the local governing body and any elective executive and judicial officers of a municipality;

E. "regular local election" means the biennial local election at which local governing body members are elected pursuant to the provisions of the Local Election Act; and

F. "special local election" means a local election conducted at a time other than a statewide election at which only ballot questions are considered pursuant to the provisions of the Special Election Act."

Chapter 212 Section 142 Laws 2019

SECTION 142. Section 1-22-3 NMSA 1978 (being Laws 2018, Chapter 79, Section 18) is amended to read:

"1-22-3. REGULAR LOCAL ELECTIONS--SPECIAL LOCAL ELECTIONS--BALLOT QUESTIONS--QUALIFICATIONS OF CANDIDATES.--

A. A regular local election shall be held on the first Tuesday after the first Monday in November of each odd-numbered year. A regular local election shall be held to elect qualified persons to membership on a local governing body and, where applicable, to elective municipal executive office and to municipal judicial office.

B. A regular local election shall be a nonpartisan election, and the names of all candidates shall be listed on the ballot with no party or slate designation. No person shall become a candidate in a regular local election unless the person physically resides within the boundaries of the district or districted area in which the person desires to be elected or to represent and the person's record of voter registration shows that the person is both a qualified elector of the state and was registered to vote in the area to be elected to represent on the date the proclamation calling a local election is filed in the office of the secretary of state.

C. A local government may propose a ballot question to be considered by the voters of the local government:

(1) at a regular local election or a general election as provided by Subsection B of Section 1-16-3 NMSA 1978; or

(2) at a special local election called, conducted and canvassed as provided in the Special Election Act.

D. Except as otherwise provided in the Local Election Act, local elections shall be called, conducted and canvassed as provided in the Election Code."

Chapter 212 Section 143 Laws 2019

SECTION 143. Section 1-22-3.1 NMSA 1978 (being Laws 2018, Chapter 79, Section 34) is amended to read:

"1-22-3.1. MUNICIPAL OFFICER ELECTION DAY--PROCEDURES--EXCEPTIONS.--

A. All municipalities shall elect their municipal officers pursuant to this section on the municipal officer election day, which is the first Tuesday in March of even-numbered years, unless the municipality has opted in to the election of its municipal officers at the regular local election.

B. Except as provided in Subsection C of this section, any municipality may by ordinance opt in to the election of its municipal officers in the regular local election if the municipality passes an ordinance and files the ordinance with the secretary of state no later than June 30 of the year in which the next regular local election is scheduled. The ordinance shall also determine if the terms of office for current office holders will be lengthened or shortened to correspond with the new election date. Following the second regular local election at which its municipal officers are elected at the regular local election, a municipality that has passed an ordinance pursuant to this subsection may rescind the ordinance opting in to the election of its municipal officers in the regular local election and file the rescission with the secretary of state no later than June 30 of the year in which the next regular local election is scheduled.

C. A home rule municipality that pursuant to its charter is implementing a form of required voter identification that supersedes the provisions of Section 1-1-24 NMSA 1978 shall not elect its municipal officers at the regular local election.

D. For municipalities that elect their officers on municipal officer election day:

(1) all provisions of the Local Election Act as supplemented by the Election Code apply, except as provided in this section;

(2) for a municipal officer election, when the Local Election Act or the Election Code references a process or procedure to be conducted by the county clerk in the administration of a regular local election, the process or procedure shall instead be fulfilled and administered by the municipal clerk;

(3) for a special local election, the municipal clerk shall fulfill the duties of the county clerk pursuant to the Special Election Act in the conduct of administering a special local election by the municipality, unless the municipal clerk has entered into a memorandum of understanding with the county clerk to administer the special local election on behalf of the municipality;

(4) for a recall election, notwithstanding the laws of any municipality to the contrary, the county clerk shall at all times conduct a municipal recall election pursuant to the provisions of the Recall Act;

(5) in an election administered by the municipal clerk, the secretary of state shall provide to the municipal clerk access to the list of voters of the municipality through the voter registration electronic management system;

(6) the provisions of the Uniform Military and Overseas Voters Act apply to an election administered by the municipal clerk; provided that for the municipal officer election, military-overseas ballots shall be sent to federal qualified electors beginning thirty-five days before the election;

(7) upon the approval of the governing body of a municipality, a local government ballot question may appear on the ballot for an election conducted pursuant to this section at the request of a county, school or special district;

(8) the governing body of a municipality may act in relation to the duties of the board of county commissioners set forth in Section 1-3-2 NMSA 1978 in setting polling places and consolidating precincts for the municipal officer election; provided that if the governing body of a municipality does not pass a resolution as provided by Section 1-3-2 NMSA 1978, the polling places set by the board of county commissioners within the boundaries of the municipality shall be used for municipal officer elections;

(9) the provisions of Section 1-22-3.2 NMSA 1978 apply to a municipality conducting elections pursuant to this section; provided that the adjustment of dates in the laws of the municipality shall accord with the schedule imposed by the Election Code for the conduct of the municipal officer election; and

(10) a municipality that elects its municipal officers pursuant to this section shall bear the costs of administering the municipal officer election.

E. Candidate procedures for municipalities that elect their officers on municipal officer election day are as follows:

(1) the secretary of state shall, in accordance with the provisions of Section 1-22-4 NMSA 1978, issue the proclamation calling for the municipal officer election for all municipalities conducting the election of their officers pursuant to this section. The municipal clerk shall post those portions of the proclamation relevant to the municipality and publish what is posted in accordance with the schedule and procedures provided in Subsection D of Section 1-22-4 NMSA 1978, and each county clerk shall post the entire proclamation on the county clerk's website along with a notice of which municipalities in the county are conducting elections pursuant to this section;

(2) each declaration of candidacy shall be delivered for filing in person by the eligible candidate or by a person acting by virtue of written authorization. The proper filing officer shall not accept for filing from any one individual more than one declaration of candidacy;

(3) declarations of candidacy for municipal officer elections shall be filed between 9:00 a.m. and 5:00 p.m. on the fifty-sixth day before the election. No name shall be placed on the ballot until the person has been notified in writing by the municipal clerk that the certificate of registration of the candidate on file with the county clerk, the declaration of candidacy and the petition, if required, are in proper order and that the person, based on those documents, is qualified to be a candidate. The municipal clerk shall deliver the notice to the person no later than 5:00 p.m. on the Friday following the filing date;

(4) write-in candidates for municipal officer elections shall file declarations of candidacy between 9:00 a.m. and 5:00 p.m. on the forty-ninth day before the election. No space shall appear on the ballot for a write-in candidate until the person has been notified in writing by the municipal clerk that the certificate of registration of the candidate on file with the county clerk and the declaration of candidacy are in proper order and that the person, based on those documents, is qualified to be a declared write-in candidate. The municipal clerk shall deliver the notice to the person no later than 5:00 p.m. on the Friday following the filing date;

(5) any voter may challenge the candidacy of any person seeking election to municipal office for the reason that the person does not meet the requirements for the office sought by filing a petition in the district court within seven days after the deadline for filing a declaration of candidacy. The district court shall hear

and render a decision on the matter within ten days after the filing of the petition. The decision of the district court may be appealed to the supreme court within five days after the decision is rendered. The supreme court shall hear and render a decision on the appeal forthwith; and

(6) the municipal clerk shall certify in writing the ballot for each precinct in the municipality containing the name of each candidate who has been qualified, a space for any offices with a declared write-in candidate and any ballot questions to be voted on at the municipal officer election. The order of candidates for the same office in a municipal officer election shall follow the randomization method established by rule by the secretary of state for the regular local election. Each ballot certified pursuant to this paragraph shall, no later than forty-two days before the election, be sent to the ballot printer or other person preparing the ballot for use by the voters and a certified copy sent to the secretary of state. A copy of each certification shall be kept on file in the office of the secretary of state for twelve months, after which the ballot certification shall be transferred to be a permanent record at the state records center.

F. Except for municipalities that provide for a top-two runoff election pursuant to Section 1-22-16 NMSA 1978, the term of office for municipalities holding elections pursuant to this section shall begin the first day of the month following the election. For municipalities that provide for a top-two runoff election, the term of office for municipalities holding elections pursuant to this section shall begin the first day of the month following the runoff election.

G. When the Municipal Code:

(1) provides for vacancies in municipal office to be filled by election at the next regular local election, the vacancies shall instead be filled by election at the next municipal officer election; or

(2) references a ballot question that may be placed on the regular local election or general election ballot, the reference shall also permit placing the ballot question on the municipal officer election ballot."

Chapter 212 Section 144 Laws 2019

SECTION 144. Section 1-22-3.2 NMSA 1978 (being Laws 2018, Chapter 79, Section 35) is amended to read:

"1-22-3.2. MUNICIPALITIES--MUNICIPAL ELECTION PROVISIONS--
ADJUSTMENT OF DATES AND CHARTER AMENDMENTS FOR PROCEDURES
AFFECTED BY THE ELECTION CODE--PUBLIC FINANCING.--

A. Election provisions or procedures in the laws of a municipality that operate in addition to and do not conflict with the provisions of the Election Code continue in effect as long as such provisions do not conflict with the Election Code or until amended or repealed by the municipality. Election provisions or procedures in an ordinance or charter of a municipality that conflict with the Election Code or other applicable state or federal law are not operable and shall not be enforced. Election provisions or procedures in an ordinance or charter of a municipality that do not conflict with the Election Code shall be administered pursuant to the ordinances or charter of the municipality, unless the municipal clerk and the county clerk have signed a memorandum of understanding for the county clerk to conduct election provisions or procedures on behalf of the municipality.

B. A municipality with election provisions or procedures in an ordinance or its charter that do not conflict with the Election Code shall adjust the calendar dates that implement those election provisions and procedures to accord with the schedules imposed by the Election Code. At the discretion of the municipality, the adjustment of calendar dates may be done administratively, by ordinance or as otherwise provided by the charter of the municipality. The municipal clerk shall post the adjusted dates no later than June 30 of each odd-numbered year.

C. At the discretion of the municipality, a municipality with a charter may amend its charter by ordinance or as otherwise provided by the municipality to conform its ordinances or charter with the requirements of the Election Code and other applicable state or federal laws related to elections.

D. In any municipality implementing public financing for its municipal elections consistent with this section and notwithstanding any provision to the contrary in the ordinances or charter of the municipality:

(1) the municipality shall require as a precondition to the receipt of public financing that a person first be qualified as a candidate;

(2) if the date in the ordinances or charter of the municipality for submitting documents to be approved for public financing is an earlier date than the filing date for declarations of candidacy provided in the Local Election Act, the municipal clerk shall accept declarations of candidacy and other candidate qualification documents from persons seeking to be approved for public financing on the date provided in the ordinances or charter of the municipality upon which the municipal clerk shall deliver to the county clerk the candidate qualification documents of each person seeking to be approved for public financing;

(3) the county clerk shall notify the municipal clerk in writing no later than 5:00 p.m. on the third day following receipt of the candidate qualification documents that the certificate of registration of the candidate, the declaration of candidacy and the petition, if any, are in proper order and whether the person, based on those documents, is qualified to be a candidate;

(4) any voter may challenge the determination of candidacy qualification by the county clerk of a person seeking election to municipal office for the reason that the person does not meet the candidate qualification requirements by filing a petition in the district court within seven days after the deadline for the municipal clerk to approve candidates to receive public financing. The district court shall hear and render a decision on the matter within ten days after the filing of the petition. The decision of the district court may be appealed to the supreme court within five days after the decision is rendered. The supreme court shall hear and render a decision on the appeal forthwith; and

(5) on the day provided in the Local Election Act to submit declarations of candidacy, any qualified person may file a declaration of candidacy for municipal office and other candidate qualification documents, including a person who failed to be approved for public financing but who otherwise qualifies to be a candidate, but not including a person who previously sought public financing in the same election but was not qualified to be a candidate; provided that any candidate qualification requirements imposed by the municipality other than those pertinent to public financing and the date for filing a declaration of candidacy must be fulfilled by a person who submits a declaration of candidacy on the day provided in the Local Election Act.

E. Until December 31, 2019, a municipality with a population greater than one hundred thousand, based on the latest federal decennial census, shall use the provisions of this section that existed prior to the effective date of this 2019 act. After December 31, 2019, all municipalities shall use the provisions of this section as it exists on the effective date of this 2019 act."

Chapter 212 Section 145 Laws 2019

SECTION 145. Section 1-22-3.2 NMSA 1978 (being Laws 2018, Chapter 79, Section 35, as amended by Section 144 of this act) is repealed and a new Section 1-22-3.2 NMSA 1978 is enacted to read:

"1-22-3.2. MUNICIPALITIES--MUNICIPAL ELECTION PROVISIONS--
ADJUSTMENT OF DATES AND CHARTER AMENDMENTS FOR PROCEDURES
AFFECTED BY THE ELECTION CODE--PUBLIC FINANCING.--

A. Election provisions or procedures in the laws of a municipality that operate in addition to and do not conflict with the provisions of the Election Code continue in effect as long as such provisions do not conflict with the Election Code or until amended or repealed by the municipality. Election provisions or procedures in an ordinance or charter of a municipality that conflict with the Election Code or other applicable state or federal law are not operable and shall not be enforced. Election provisions or procedures in an ordinance or charter of a municipality that do not conflict with the Election Code shall be administered pursuant to the ordinances or charter of the municipality, unless the municipal clerk and the county clerk have signed a memorandum of understanding for the county clerk to conduct election provisions or procedures on behalf of the municipality.

B. A municipality with election provisions or procedures in an ordinance or its charter that do not conflict with the Election Code shall adjust the calendar dates that implement those election provisions and procedures to accord with the schedules imposed by the Election Code. At the discretion of the municipality, the adjustment of calendar dates may be done administratively, by ordinance or as otherwise provided by the charter of the municipality. The municipal clerk shall post the adjusted dates no later than June 30 of each odd-numbered year.

C. At the discretion of the municipality, a municipality with a charter may amend its charter by ordinance or as otherwise provided by the municipality to conform its ordinances or charter with the requirements of the Election Code and other applicable state or federal laws related to elections.

D. In any municipality implementing public financing for its municipal elections consistent with this section and notwithstanding any provision to the contrary in the ordinances or charter of the municipality:

(1) the municipality shall require as a precondition to the receipt of public financing that a person first be qualified as a candidate;

(2) if the date in the ordinances or charter of the municipality for submitting documents to be approved for public financing is an earlier date than the filing date for declarations of candidacy provided in the Local Election Act, the municipal clerk shall accept declarations of candidacy and other candidate qualification documents from persons seeking to be approved for public financing on the date provided in the ordinances or charter of the municipality upon which the municipal clerk shall deliver to the county clerk the candidate qualification documents of each person seeking to be approved for public financing;

(3) the county clerk shall notify the municipal clerk in writing no later than 5:00 p.m. on the third day following receipt of the candidate qualification documents that the certificate of registration of the candidate, the declaration of candidacy and the petition, if any, are in proper order and whether the person, based on those documents, is qualified to be a candidate;

(4) any voter may challenge the candidacy of a person seeking election to municipal office by the county clerk for the reason that the person does not meet the candidate qualification requirements by filing a petition in the district court within seven days after the deadline for the municipal clerk to approve candidates to receive public financing. The district court shall hear and render a decision on the matter within ten days after the filing of the petition. The decision of the district court may be appealed to the supreme court within five days after the decision is rendered. The supreme court shall hear and render a decision on the appeal forthwith; and

(5) on the day provided in the Local Election Act to submit declarations of candidacy, any qualified person may file a declaration of candidacy for municipal office and other candidate qualification documents, including a person who failed to be approved for public financing but who otherwise qualifies to be a candidate, but not including a person who previously sought public financing in the same election but was not qualified to be a candidate; provided that any candidate qualification requirements imposed by the municipality other than those pertinent to public financing and the date for filing a declaration of candidacy must be fulfilled by a person who submits a declaration of candidacy on the day provided in the Local Election Act."

Chapter 212 Section 146 Laws 2019

SECTION 146. Section 1-22-4 NMSA 1978 (being Laws 2018, Chapter 79, Section 19) is amended to read:

"1-22-4. REGULAR LOCAL ELECTION--PROCLAMATION--PUBLICATION.--

A. Between one hundred twenty and one hundred fifty days before the next regular local election, each local government shall notify the county clerk of the county in which the primary administrative office of the local government is situated of all local government positions that are to be filled at the next regular local election. Each county clerk shall inform the secretary of state of all positions to be filled no later than one hundred twelve days before the regular local election.

B. The secretary of state shall by resolution issue a public proclamation in Spanish and English calling a regular local election. The proclamation shall be issued and filed by the secretary of state in the office of the secretary of state ninety days

preceding the date of the regular local election, and upon filing the proclamation, the secretary of state shall post the proclamation and certify it to each county clerk.

C. The proclamation shall specify:

- (1) the date when the election will be held;
- (2) each elective office, local governing body and judicial position to be filled;
- (3) the date on which declarations of candidacy are to be filed;
- (4) the date on which declarations of intent to be a write-in candidate are to be filed; and
- (5) the municipalities subject to a ranked-choice voting runoff election and those subject to a top-two runoff election and the date of the top-two runoff election should one be necessary.

D. After receipt of the proclamation from the secretary of state, the county clerk shall post the entire proclamation on the county clerk's website and, not less than seventy-five days before the date of the election, shall publish portions of the proclamation relevant to the county at least once in a newspaper of general circulation within the county. The publication of the proclamation shall conform to the requirements of the federal Voting Rights Act of 1965, as amended, and shall specify:

- (1) the date when the election will be held;
- (2) for each local government situated in whole or in part in the county, each elective executive, local governing body and judicial position to be filled by voters of any precinct in the county;
- (3) the date on which declarations of candidacy are to be filed and the date on which declarations of intent to be a write-in candidate are to be filed;
- (4) the location, days and hours for voting at the office of the county clerk;
- (5) the location, days and hours for early voting at each alternate voting location and mobile alternate voting location;

(6) the location, date and hours for voting at each election day polling place; and

(7) the date certificates of registration shall be subscribed and sworn as required by law.

E. Whenever two or more members of a local governing body are to be elected at large for terms of the same length of time, the secretary of state shall numerically designate the positions on the ballot as "position one", "position two" and such additional consecutively numbered positions as are necessary, but only one member shall be elected for each position. Whenever two or more members of a local governing body are to be elected to represent the same area with terms of different lengths of time, the secretary of state shall list the office with the shorter length of time first and shall designate each position with "for a term expiring ____".

Chapter 212 Section 147 Laws 2019

SECTION 147. Section 1-22-7 NMSA 1978 (being Laws 2018, Chapter 79, Section 20) is amended to read:

"1-22-7. DECLARATION OF CANDIDACY--FILING DATE-- PENALTY.--

A. A candidate for a position that will be filled at a regular local election shall file a declaration of candidacy with the proper filing officer between 9:00 a.m. and 5:00 p.m. on the seventieth day before the date of the regular local election.

B. A candidate shall file for only one position in the same local government but may file for a position in more than one local government on the same filing day.

C. A declaration of candidacy shall not be amended after it has been filed with the proper filing officer.

D. Each declaration of candidacy shall be delivered for filing in person by the eligible candidate or by a person acting by virtue of written authorization. The proper filing officer shall not accept for filing from any one individual more than one declaration of candidacy.

E. Whoever knowingly makes a false statement in a declaration of candidacy is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978."

Chapter 212 Section 148 Laws 2019

SECTION 148. Section 1-22-8 NMSA 1978 (being Laws 2018, Chapter 79, Section 21) is amended to read:

"1-22-8. DECLARATION OF CANDIDACY--SWORN STATEMENT OF INTENT--FORM.--In making a declaration of candidacy, the candidate shall submit a sworn statement of intent in substantially the following form:

"DECLARATION OF CANDIDACY--STATEMENT OF INTENT

I, _____ (candidate's name on certificate of registration), being first duly sworn, say that I am a voter of the county of _____, State of New Mexico. I reside at

_____ and was registered to vote at that place on the date of the proclamation calling this election;

I reside within and am registered to vote in the area to be elected to represent;

I desire to become a candidate for the office of _____ at the regular local election to be held in November of the year this declaration is filed;

I will be eligible and legally qualified to hold this office at the beginning of its term; and

I make the foregoing affidavit under oath, knowing that any false statement herein constitutes a felony punishable under the criminal laws of New Mexico.

(Signature of Declarant)

(Mailing Address)

(Residence Address)

Subscribed and sworn to before me by _____ this _____ day of _____, 20 _____.

_____.

(Notary Public)

My commission expires:

_____ " "

Chapter 212 Section 149 Laws 2019

SECTION 149. Section 1-22-8.1 NMSA 1978 (being Laws 2018, Chapter 79, Section 22) is amended to read:

"1-22-8.1. WRITE-IN CANDIDATES.--

- A. Write-in candidates shall be permitted in regular local elections.
- B. A person may be a write-in candidate only if the person has the qualifications to be a candidate for the position for which the person is running.
- C. A person desiring to be a write-in candidate for an office shall file with the proper filing officer a declaration of candidacy. The declaration shall be filed between 9:00 a.m. and 5:00 p.m. on the sixty-third day preceding the date of the election. The county clerk shall ensure that a declaration of candidacy filed pursuant to this section specifies that it is for a write-in candidate.
- D. At the time of filing the declaration of candidacy, the write-in candidate shall be considered a candidate for all purposes and provisions relating to candidates in the Local Election Act, except that the write-in candidate's name shall not be printed on the ballot nor posted in any polling place."

Chapter 212 Section 150 Laws 2019

SECTION 150. Section 1-22-10 NMSA 1978 (being Laws 2018, Chapter 79, Section 24) is amended to read:

"1-22-10. CANDIDATE QUALIFICATION--CHALLENGES--BALLOTS.--

- A. The proper filing officer shall determine whether a candidate filing a declaration of candidacy is registered to vote within the area to be elected to represent and, if required for the office being sought, whether the candidate's nominating petition for that office has been filed with a number of signatures that is equal to or greater than the number required for that office. If the candidate is so qualified and no withdrawal of candidacy has been filed as provided in the Local Election Act, the proper filing officer

shall place the candidate's name on the ballot for the position specified in the declaration of candidacy and notify each candidate in writing no later than 5:00 p.m. on the sixtieth day before the local election.

B. Any voter may challenge the candidacy of any person seeking election at the regular local election for the reason that the person does not meet the requirements for the office sought by filing a petition in the district court within seven days after the day for filing a declaration of candidacy. The district court shall hear and render a decision on the matter within ten days after the filing of the petition. The decision of the district court may be appealed to the supreme court within five days after the decision is rendered. The supreme court shall hear and render a decision on the appeal forthwith.

C. Ballots for the regular local election shall be prepared by the proper filing officer and printed in accordance with the provisions of Section 1-10-5 NMSA 1978.

D. The printed ballot shall contain the name of each person who is a candidate and the position for which the person is a candidate.

E. The ballot shall also contain all ballot questions that are to be submitted to the voters as certified by a local governing body to the county clerk in each county in which the local government is situate and shall conform to the requirements for ballot questions on the regular local election ballot as provided in Chapter 1, Article 16 NMSA 1978."

Chapter 212 Section 151 Laws 2019

SECTION 151. Section 1-22-16 NMSA 1978 (being Laws 2018, Chapter 79, Section 29) is amended to read:

"1-22-16. MUNICIPAL RUNOFF ELECTIONS.--

A. All runoff elections authorized by Article 7, Section 5 of the constitution of New Mexico shall be conducted pursuant to this section as a top-two runoff election or as a ranked-choice runoff election as follows:

(1) a top-two runoff election shall be conducted on a separate ballot when the candidate receiving the most votes for an office did not receive the percentage of votes required by the laws of the municipality to be elected in the first round of voting. When ordered, the top-two runoff election shall be held following the regular local election and allow the voter to select between the two candidates who in the first round of voting received the highest number of votes for an office; and

(2) a ranked-choice runoff election shall be conducted on the same ballot as the regular local election and allow the voter to rank the candidates for an office in the order of preference for the voter.

B. If a municipality whose laws provide for top-two runoff elections is notified by the proper canvassing board that a runoff election is required following the regular local election, the top-two runoff election shall be conducted in accordance with those election provisions and procedures in the ordinances or charter of the municipality that do not conflict with the Election Code or administrative rules issued by the secretary of state; provided that in a municipality in which the first round of voting is conducted at the regular local election:

(1) the county clerk shall perform the duties of administering the top-two runoff election; and

(2) the municipality shall reimburse the secretary of state the actual cost of conducting the runoff election.

C. A municipality whose laws provide for a runoff election shall conduct the election in the manner provided by the municipality's ordinance or charter; provided that a municipality may by ordinance choose between conducting a top-two runoff election and a ranked-choice runoff election. The ordinance shall be filed with the secretary of state no later than June 30 of the year the next regular local election is scheduled.

D. The secretary of state shall issue rules to implement top-two and ranked-choice runoff elections."

Chapter 212 Section 152 Laws 2019

SECTION 152. Section 1-22-19 NMSA 1978 (being Laws 2018, Chapter 79, Section 32) is amended to read:

"1-22-19. EARLY VOTING--MUNICIPAL EARLY VOTING LOCATIONS.--In a regular local election, a county clerk shall provide at least one alternate voting or mobile alternate voting location in a municipality when requested by a municipality in the county; provided that the:

A. municipality elects its municipal officers at the regular local election and submits a written request to the county clerk no later than January 30 of the year of the local election;

B. alternate voting or mobile alternate voting location may operate for less than the full early voting period, to be decided upon between the municipality and the county clerk;

C. location of the alternate voting or mobile alternate voting location in the municipality conforms to the requirements for alternate voting locations; and

D. municipality provides the facility and services for the alternate voting or mobile alternate voting location."

Chapter 212 Section 153 Laws 2019

SECTION 153. Section 1-24-1 NMSA 1978 (being Laws 1989, Chapter 295, Section 1, as amended) is amended to read:

"1-24-1. SHORT TITLE--SPECIAL ELECTION ACT--APPLICATION -- PROHIBITION.--

A. Chapter 1, Article 24 NMSA 1978 may be cited as the "Special Election Act".

B. Notwithstanding any state or local laws to the contrary, the provisions of the Special Election Act govern the conduct of all special elections conducted by the state or any local public body.

C. No special election shall be held beginning the seventieth day prior to any statewide election and until:

(1) the one hundredth day following a general or regular local election; or

(2) the seventieth day following a major political party primary or an election to fill a vacancy in the office of united states representative."

Chapter 212 Section 154 Laws 2019

SECTION 154. Section 1-24-6 NMSA 1978 (being Laws 2018, Chapter 79, Section 39) is recompiled as Section 1-24-1.1 NMSA 1978 and is amended to read:

"1-24-1.1. DEFINITION.--As used in the Special Election Act, "local public body" means:

A. a county;

B. a local government subject to the Local Election Act; or

C. a special district not subject to the Local Election Act."

Chapter 212 Section 155 Laws 2019

SECTION 155. Section 1-24-2 NMSA 1978 (being Laws 1989, Chapter 295, Section 2, as amended) is amended to read:

"1-24-2. SPECIAL ELECTION PROCEDURES--PROCLAMATION--
PUBLICATION.--

A. Whenever a local public body determines that it is necessary or desirable to conduct a special election:

(1) the governing body shall by resolution issue a public proclamation calling the election. The proclamation shall forthwith be filed with the county clerk no later than seventy days prior to the date for the special election. If the boundaries of the local public body include precincts in multiple counties, the proclamation shall forthwith be filed with each county clerk no later than seventy days prior to the election;

(2) the proclamation shall specify:

(a) the date on which the special election will be held;

(b) the purpose for which the special election is called; and

(c) the text of the ballot question or ballot questions to be voted on;

(3) after filing with the county clerk or clerks the proclamation issued pursuant to this subsection, each county clerk shall post the proclamation beginning no later than sixty-seven days before the election and, beginning not less than sixty-three days before the date of the election, each county clerk shall publish the proclamation once each week for two consecutive weeks in a newspaper of general circulation within the boundaries of the local public body; provided that if the boundaries of the local public body include precincts in multiple counties that share the same newspaper of general circulation, the county clerks may jointly publish the proclamation;

(4) the posting and publication pursuant to this subsection shall also inform the public that the special election will be conducted by mailed ballot, of the date

ballots will be initially mailed to voters and of the last day to register to vote or to update an existing registration in advance of the special election; and

(5) the proclamation shall conform to the requirements of the federal Voting Rights Act of 1965, as amended.

B. Whenever the state determines that it is necessary or desirable to conduct a special election:

(1) the secretary of state shall by resolution issue a public proclamation calling the election. The proclamation shall forthwith be filed with the secretary of state no later than seventy-five days prior to the election;

(2) the proclamation shall specify:

(a) the date on which the special election will be held;

(b) the purpose for which the special election is called; and

(c) the text of the ballot question or ballot questions to be voted upon;

(3) after filing with the secretary of state the proclamation issued pursuant to this subsection, the secretary of state shall within five days certify the proclamation to each county clerk in the state;

(4) the proclamation shall be posted and published in the same manner as provided for a proposed state constitutional amendment pursuant to Section 1-16-4 NMSA 1978;

(5) the posting and publication pursuant to this subsection shall also inform the public that the special election will be conducted by mailed ballot, of the date ballots will be initially mailed to voters and of the last day to register to vote or to update an existing registration in advance of the special election; and

(6) the proclamation shall conform to the requirements of the federal Voting Rights Act of 1965, as amended."

Chapter 212 Section 156 Laws 2019

SECTION 156. Section 1-24-3 NMSA 1978 (being Laws 1989, Chapter 295, Section 3, as amended) is repealed and a new Section 1-24-3 NMSA 1978 is enacted to read:

"1-24-3. SPECIAL ELECTION PROCEDURES--CONDUCT.--

A. All special elections in this state shall be conducted absentee. Mailed ballots shall be used exclusively for voting in special elections. Except as otherwise provided in the Special Election Act, all special elections in this state shall be conducted and canvassed as provided in the Election Code.

B. Without requiring a voter to file an application to receive a ballot, the county clerk shall send a mailed ballot to every voter of the county or local public body, except a voter:

(1) who was sent a notice pursuant to Subsection C of Section 1-4-28 NMSA 1978 and who has not returned the prepaid and pre-addressed return card sent pursuant to that section and has not filed a new certificate of registration with a new address; or

(2) whose official election-related mail sent through a uniform, nondiscriminatory process was returned to the county clerk or the secretary of state as undeliverable and the voter has not communicated with the county clerk that the official election-related mail was returned as undeliverable in error or filed a certificate of registration with a new address.

C. Forty-two days before the election, the county clerk shall send to each voter of the county or local public body described in Paragraphs (1) and (2) of Subsection B of this section notice, sent by forwardable mail, that the voter will not be sent a ballot for the special election unless the voter updates the voter's address as provided by the Election Code or informs the county clerk that the address on the certificate of registration is valid. The notice shall include contact information for the office of the county clerk and an internet address where the voter may update the voter's address or communicate with the county clerk. The mailed ballot register shall note which voters were sent a notice pursuant to this subsection.

D. Between the twenty-seventh and twenty-fifth day before the election, pursuant to Subsection B of this section, the county clerk shall send to each voter a ballot for the special election, along with a postage-paid return envelope, a notice that there will be no traditional polling places for the election, the deadline for the ballot to be received by the county clerk and a list of the times and locations of secured containers available in addition to the United States postal service for a voter to return the ballot.

E. Beginning twenty-two days before the election, the county clerk shall issue replacement and provisional ballots as provided in the Absent Voter Act for the mailed ballot process. In addition, the county clerk shall send a ballot to any voter described in Paragraphs (1) and (2) of Subsection B of this section who has not previously been sent a ballot if the voter submits an application pursuant to Section 1-6-4 NMSA 1978.

F. When required by federal law, if the voter has on file with the county a valid certificate of registration that indicates that the voter is a new registrant in the state and who registered by mail without submitting the required voter identification, the county clerk shall notify the voter that the voter must submit with the mailed ballot the required documentary identification from the list in Paragraph (3) of Subsection I of Section 1-4-5.1 NMSA 1978. The county clerk shall note on the mailed ballot register and signature roster that the applicant's mailed ballot must be returned with the required voter identification."

Chapter 212 Section 157 Laws 2019

SECTION 157. Section 1-24-4 NMSA 1978 (being Laws 1989, Chapter 295, Section 4) is amended to read:

"1-24-4. SPECIAL ELECTION PROCEDURES--ELECTION BOARD--RECORDS.--

A. Upon the filing in the office of the county clerk of a proclamation calling a special election, the county clerk shall appoint election boards for the special election pursuant to the provisions of Sections 1-2-6 through 1-2-18 NMSA 1978. The county clerk shall keep a log of how each person was notified and confirmation that the notice was received. Presiding judges and election judges on the election board for the special election shall be appointed from among those persons who served as election board members in a recent statewide election. The handling of mailed ballots returned to the county clerk in a special election shall be pursuant to the provisions of Section 1-6-14 NMSA 1978. The election board for the special election shall tally the votes for each ballot question in the special election ballot in the presence of the county clerk and any other person who may desire to be present; provided that such person does not interfere with the duties of the election board for the special election. After completion of the tally, the election board for the special election shall replace the ballots in the ballot boxes or ballot containers and lock the ballot boxes or ballot containers, and the election board for the special election shall certify for the county canvassing report the results of the special election.

B. The returns of the results of special elections are public documents, subject to retention and inspection pursuant to Section 1-12-69 NMSA 1978."

Chapter 212 Section 158 Laws 2019

SECTION 158. Section 1-24-5 NMSA 1978 (being Laws 2018, Chapter 79, Section 42) is amended to read:

"1-24-5. SPECIAL ELECTION PROCEDURES--COSTS OF ELECTION--PROHIBITION ON NONGOVERNMENTAL ENTITIES.--

A. The costs of conducting a special election shall be paid for by the state or local public body calling for the election.

B. When the proclamation is issued by:

(1) the secretary of state, the state shall pay all costs of the special election, including reasonable costs incurred by each county clerk; and

(2) a local public body:

(a) unless the local public body has made appropriate arrangements with the county clerk by means of a written memorandum of understanding or has provided the county clerk with written documentation that the local public body has made arrangements for payment with an election vendor, the local public body shall deposit the estimated actual amount for all costs associated with the conduct of the special local election with the county clerk no later than forty-nine days before the special local election; and if multiple local public bodies jointly conduct a special local election, each local public body shall post a pro rata share of the estimated actual cost of conducting the special local election;

(b) a county clerk may refuse to print or mail ballots for a special local election if the estimated actual cost of the election has not been deposited with the county clerk no later than forty-nine days before the special local election and the local public body has not made appropriate arrangements with the county clerk by means of a written memorandum of understanding;

(c) within sixty days following the special local election, the county clerk shall provide an accounting of expenses along with a refund for any funds not expended or a bill for the remainder of the expenses to be paid by the local public body within ninety days following the special local election; and

(d) the secretary of state shall maintain current on the secretary's website guidance for calculating the estimated actual cost of a special local election.

C. No individual, corporation, person, political action committee or other nongovernmental entity shall pay for or reimburse the state or a local public body for the costs associated with conducting a special election. Upon a finding of a violation of this subsection, the district court shall nullify the votes cast in the special election and shall void the result of the special election."

Chapter 212 Section 159 Laws 2019

SECTION 159. Section 22-7-1 NMSA 1978 (being Laws 1977, Chapter 308, Section 1, as amended) is recompiled as Section 1-25-1 NMSA 1978 and is amended to read:

"1-25-1. SHORT TITLE.--Chapter 1, Article 25 NMSA 1978 may be cited as the "Recall Act"."

Chapter 212 Section 160 Laws 2019

SECTION 160. Section 22-7-3 NMSA 1978 (being Laws 1977, Chapter 308, Section 3, as amended) is recompiled as Section 1-25-2 NMSA 1978 and is amended to read:

"1-25-2. DEFINITIONS.--As used in the Recall Act:

A. "canvasser" means a person who circulates a petition and collects signatures;

B. "county clerk" means:

(1) the clerk of the county in which the local jurisdiction is situate;

(2) in the case of a multicounty jurisdiction, the clerk of the county in which the primary administrative office of the local jurisdiction is situate; and

(3) the clerk of each county containing any precinct in which votes may be cast for or against the recall of a named official;

C. "face sheet" means the first page of a petition containing the information required in the Recall Act;

D. "filing date" means the date on which the county clerk receives signed petitions for the recall of one or more named officials;

E. "initiation date" means the date on which the district court stamps the face sheet of the petition after entering an order finding that probable cause exists to proceed with the recall process;

F. "malfeasance" means wrongful conduct that affects, interrupts or interferes with the performance of official duties; provided that if the act is discretionary, the act was performed with an improper or corrupt motive;

G. "misfeasance" means performing a legal act in an improper or illegal manner and the conduct evinces an improper or corrupt motive;

H. "named official" means an elected official of a local jurisdiction subject to the Recall Act and who is named on a petition;

I. "petition" means a document consisting of a completed face sheet or exact duplicate thereof and as many subsequent pages as are necessary for signatures;

J. "petitioner" means a person, group or organization initiating the petition;

K. "subsequent page" means the pages in a petition after the face sheet; and

L. "violation of oath of office" means to refuse or neglect to perform, without any just cause, any of the duties that are or shall be required by law of the named official."

Chapter 212 Section 161 Laws 2019

SECTION 161. Section 22-7-4 NMSA 1978 (being Laws 1977, Chapter 308, Section 4) is recompiled as Section 1-25-3 NMSA 1978 and is amended to read:

"1-25-3. RECALL--ELECTED OFFICIALS SUBJECT TO RECALL--
LIMITATIONS.--

A. An elected official of the following local jurisdictions is subject to recall pursuant to the provisions of the Recall Act:

(1) a school district, pursuant to Article 12, Section 14 of the constitution of New Mexico;

(2) a county, pursuant to Article 10, Section 9 of the constitution of New Mexico;

(3) a commission-manager municipality, pursuant to Section 3-14-16 NMSA 1978; and

(4) a home rule municipality, if the charter of the home rule municipality provides for recall of elective officers and notwithstanding any election provisions or procedures in the laws of the municipality that may conflict with the Recall Act; provided that if the recall procedures of a home rule municipality provide greater due process than the Recall Act, the recall procedures of the home rule municipality shall be utilized in place of the due process procedures of the Recall Act.

B. Recall of elected officials of the local jurisdictions listed in Subsection A of this section is subject to the following limitations:

(1) the cited grounds for recall shall be based upon acts or failures to act constituting malfeasance in office, misfeasance in office or violation of oath of office occurring during the current term of the named official sought to be recalled;

(2) no petition for recall of a named official shall be submitted more than once during the same term of office to which the official is elected; and

(3) an election to recall a named official shall not be conducted:

(a) later than one hundred eighty days from the end of the term for the office for which the recall of a named official is sought, in the case of any office subject to recall; and

(b) after May 1 in the calendar year in which an election is to be held for the office for which the recall of a named official is sought, in the case of a county official who is a candidate for reelection."

Chapter 212 Section 162 Laws 2019

SECTION 162. Section 22-7-6 NMSA 1978 (being Laws 1977, Chapter 308, Section 6, as amended) is recompiled as Section 1-25-4 NMSA 1978 and is amended to read:

"1-25-4. RECALL--PETITION.--

A. The recall petition shall be composed of a face sheet and a subsequent page. An individual, group or organization desiring to initiate the recall process may obtain the forms from the district court.

B. The petition shall be on eight and one-half inch by eleven inch paper.

C. All information written on the petition form shall be in compliance with the federal Voting Rights Act of 1965, as amended.

D. Each face sheet of a petition shall contain the following:

(1) a space for the initiation date;

(2) a notice at the top of the sheet stating: "Recall is a local decision to be funded by local money. State funds will not be advanced to support recall.";

(3) a space for the name of the named official;

(4) a space for the name of the local jurisdiction in which the named official has been elected;

(5) a space for the name of the individual, group or organization initiating the petition;

(6) a space in which to list the specific charges to support recall of the named official that constitute malfeasance in office, misfeasance in office or violation of oath of office; and

(7) a notice stating "Signatures are valid for a maximum of ninety days from the initiation date.".

E. The remaining portion of the face sheet shall be substantially in the following form:

"I, the undersigned, a registered voter and a resident of the _____ (name of local jurisdiction), hereby petition for the recall of the named official on the face sheet of this petition.

1. _____

Usual Signature	Name Printed	Address As	City Or	Date
	As Registered	Registered	Zip Code	Signed

2. _____

Usual Signature	Name Printed	Address As	City Or	Date
	As Registered	Registered	Zip Code	Signed".

F. One completed face sheet or duplicate thereof shall be the first page of all circulated petitions.

G. Each subsequent page shall describe the purpose of the petition, provide the name of the named official sought to be recalled and indicate that additional details are contained on the face sheet and be substantially in the form provided in this section."

Chapter 212 Section 163 Laws 2019

SECTION 163. Section 22-7-8 NMSA 1978 (being Laws 1977, Chapter 308, Section 8, as amended) is recompiled as Section 1-25-5 NMSA 1978 and is amended to read:

"1-25-5. RECALL--RESPONSIBILITIES OF PETITIONER.--

The petitioner shall complete the following portions of the face sheet:

- A. name of the named official;
- B. name of the local jurisdiction in which the named official has been elected;
- C. name of the individual, group or organization initiating the petition; and
- D. the specific charges to support recall of the named official, which shall constitute malfeasance in office, misfeasance in office or violation of oath of office."

Chapter 212 Section 164 Laws 2019

SECTION 164. Section 22-7-9.1 NMSA 1978 (being Laws 1987, Chapter 142, Section 2) is recompiled as Section 1-25-6 NMSA 1978 and is amended to read:

"1-25-6. RECALL--COURT HEARING.--

- A. The petitioner shall file the completed face sheet along with a petition in the district court of the county in which the named official resides, requesting a hearing for a determination by the court of whether sufficient facts and probable cause exist to allow the petitioner to continue with the recall process. A separate face sheet and petition shall be filed for each named official.

B. Upon the filing of the application, the district court shall set a hearing date on the issue of sufficiency of the facts alleged, which hearing shall be held not more than fourteen days from the date the petitioner files the face sheet and petition. The court shall notify the county clerk of the date for the hearing. At the hearing, the petitioner and the named official shall each be given an opportunity to present evidence and cross-examine witnesses.

C. The district court's decision is appealable by the petitioner or the named official only to the supreme court, and notice of appeal shall be filed within five days after the decision of the district court. The supreme court shall hear and render a decision on the appeal forthwith."

Chapter 212 Section 165 Laws 2019

SECTION 165. Section 22-7-9 NMSA 1978 (being Laws 1977, Chapter 308, Section 9, as amended) is recompiled as Section 1-25-7 NMSA 1978 and is amended to read:

"1-25-7. RECALL--DUTIES OF COUNTY CLERK.--

A. Upon receipt of completed petitions, the county clerk shall stamp the petitions with the filing date. All completed petitions for the recall of one or more named officials shall be filed with the county clerk on the same day within ninety days from the date of initiation.

B. For each petition that is accompanied by the required affidavit pursuant to the Recall Act, the county clerk shall verify the signatures on the completed petitions within fifteen days and determine whether the verified signatures meet the required minimum number.

C. The minimum number of verified signatures required to validate a petition is thirty-three and one-third percent of the total number of voters who voted for all candidates for the elected position currently occupied by the named official at the last election where the official was elected.

D. Within five days of making a determination whether the verified signatures meet the required minimum number, the county clerk shall notify the petitioner and the named official in writing of the determination, and if the county clerk determines that sufficient signatures have been submitted, the clerk shall initiate procedures for a recall election as provided in the Local Election Act; provided that the order of the district court shall serve as the proclamation calling the recall election."

Chapter 212 Section 166 Laws 2019

SECTION 166. Section 22-7-7 NMSA 1978 (being Laws 1977, Chapter 308, Section 7, as amended) is recompiled as Section 1-25-8 NMSA 1978 and is amended to read:

"1-25-8. RECALL--AFFIDAVIT WITH PETITION--PENALTY.--

A. When submitted to the county clerk, each petition shall have a notarized affidavit attached. The affidavit shall state that the canvasser circulated that particular petition and witnessed each signature and any other information recorded on the petition.

B. According to the best information and belief of the canvasser, the canvasser shall ensure the following:

(1) each signature is the signature of the person whose name it purports to be;

(2) each signer is a registered voter of the local jurisdiction listed on the petition;

(3) each signature was obtained on or after the filing date; and

(4) each signer had an opportunity to read the information on the completed face sheet or an exact duplicate thereof.

C. Any knowingly false statement made in the affidavit constitutes a fourth degree felony."

Chapter 212 Section 167 Laws 2019

SECTION 167. Section 22-7-10 NMSA 1978 (being Laws 1977, Chapter 308, Section 10, as amended) is recompiled as Section 1-25-9 NMSA 1978 and is amended to read:

"1-25-9. RECALL--SIGNATURES.--

A. No signature may be signed on the petition prior to the initiation date.

B. Signatures are valid for a maximum of ninety days from the date of initiation.

C. Each signer of a recall petition shall sign but one petition for each named official of a local jurisdiction in which the signer is registered to vote.

D. The signature shall not be counted unless the entire line is filled in full and is upon the form prescribed by the Recall Act.

E. A signature shall be counted on a recall petition unless there is evidence presented that the person signing:

(1) is not a registered voter of the local jurisdiction listed on the face sheet of the petition, and in the case of a named official serving in a districted position, is not a registered voter of that district within the local jurisdiction;

(2) has signed more than one recall petition page seeking to recall the same named official or has signed one petition page more than once; or

(3) is not the person whose name appears as a signer of the recall petition."

Chapter 212 Section 168 Laws 2019

SECTION 168. Section 22-7-12 NMSA 1978 (being Laws 1977, Chapter 308, Section 12, as amended) is recompiled as Section 1-25-10 NMSA 1978 and is amended to read:

"1-25-10. RECALL--LIMITATION ON APPEALS OF VALIDITY OF RECALL PETITION.--

A. Any person filing any court action challenging a recall petition provided for in the Recall Act shall do so within seven days after the determination of the county clerk as to whether sufficient signatures have been submitted. Challenges to the recall petition shall be directed to:

(1) the validity of the signatures on the petitions; or

(2) the determination of the county clerk as to the minimum number of signatures.

B. Within ten days after the filing of the action, the district court shall hear and render a decision on the matter. The decision shall be appealable only to the supreme court, and notice of appeal shall be filed within five days after the decision of the district court. The supreme court shall hear and render a decision on the appeal forthwith."

Chapter 212 Section 169 Laws 2019

SECTION 169. Section 22-7-13 NMSA 1978 (being Laws 1977, Chapter 308, Section 13, as amended) is recompiled as Section 1-25-11 NMSA 1978 and is amended to read:

"1-25-11. RECALL--ELECTION.--

A. Except as otherwise provided in the Recall Act, recall elections shall be conducted and canvassed pursuant to the provisions of the Local Election Act.

B. The date of the recall election shall be set no later than ninety days after the date of the determination by the county clerk; provided that:

(1) the date is not in conflict with the provisions of Section 1-24-1 NMSA 1978; and

(2) if the date of the determination by the county clerk is within ninety days but no less than forty-nine days before a statewide election, the recall election shall be the first ballot question following the election or nomination of candidates on the statewide election ballot; and if the statewide election is a political party primary or the regular local election, ballots containing only the recall ballot question shall be available to voters who do not otherwise qualify to vote in the statewide election.

C. The question to be submitted to the voters at the recall election shall be whether the named official shall be recalled and shall present the voter the choice of voting "for the removal of" the named official or "against the removal of" the named official. The ballot or ballot question shall be in compliance with the federal Voting Rights Act of 1965, as amended."

Chapter 212 Section 170 Laws 2019

SECTION 170. Section 22-7-5 NMSA 1978 (being Laws 1977, Chapter 308, Section 5, as amended) is recompiled as Section 1-25-12 NMSA 1978 and is amended to read:

"1-25-12. RECALL--EXPENSES.--Following a decision of the district court, if the county clerk proceeds to initiate proceedings for a recall election as a special local election, the local jurisdiction shall ensure payment of the cost of the recall election as provided in the Special Election Act."

Chapter 212 Section 171 Laws 2019

SECTION 171. Section 22-7-14 NMSA 1978 (being Laws 1977, Chapter 308, Section 14) is recompiled as Section 1-25-13 NMSA 1978 and is amended to read:

"1-25-13. RECALL--VACANCY.--

A. The vacancy created by a recalled official shall be filled as provided by law for vacancies in office for the local jurisdiction.

B. Under no circumstances may a recalled official be appointed to fill any vacancy for the remainder of the term of office for which the recalled official was elected and from which the official was recalled."

Chapter 212 Section 172 Laws 2019

SECTION 172. A new section of the Election Code is enacted to read:

"SHORT TITLE.--Sections 172 through 177 of this act may be cited as the "Nonpartisan Judicial Retention Act"."

Chapter 212 Section 173 Laws 2019

SECTION 173. A new section of the Election Code is enacted to read:

"JUDICIAL RETENTION--ELIGIBILITY FOR RETENTION--DEFINITIONS.--

A. A justice of the supreme court, judge of the court of appeals, district court judge or metropolitan court judge is eligible for nonpartisan judicial retention after the justice or judge has first been elected to that position in a partisan election.

B. In the last year of the term of office for the position to which an eligible justice or eligible judge was elected in a partisan election or by a previous nonpartisan retention election, the eligible justice or judge desiring to continue to serve in that position shall be subject to a nonpartisan judicial retention election as provided in the Nonpartisan Judicial Retention Act.

C. Declarations of candidacy for nonpartisan judicial retention for the supreme court, court of appeals, district court or metropolitan court shall be filed with the proper filing officer between the hours of 9:00 a.m. and 5:00 p.m. on the twenty-third day after the primary election.

D. Each declaration of candidacy for nonpartisan judicial retention shall be delivered for filing in person by the eligible justice or judge therein named or by a person

acting by virtue of written authorization. The proper filing officer shall not accept for filing from any one individual more than one declaration of candidacy for nonpartisan judicial retention.

E. As used in the Nonpartisan Judicial Retention Act, "eligible justice" or "eligible judge" means a justice or judge who has been elected to that position in a partisan election."

Chapter 212 Section 174 Laws 2019

SECTION 174. A new section of the Election Code is enacted to read:

"JUDICIAL RETENTION--SUPREME COURT JUSTICES.--

A. Each eligible justice of the supreme court shall be subject to retention or rejection at the general election in the last year of the eight-year term of office for the position in which the justice is serving.

B. Terms of office for positions on the supreme court shall be staggered so that at least one term of office shall expire each even-numbered year; provided that no more than two terms of office shall expire in the same year.

C. The administrative office of the courts shall maintain current on its website a list of the names of the currently serving justices of the supreme court and the year in which the term of office for each position on the supreme court expires."

Chapter 212 Section 175 Laws 2019

SECTION 175. A new section of the Election Code is enacted to read:

"JUDICIAL RETENTION--APPEALS COURT JUDGES.--

A. Each eligible judge of the court of appeals shall be subject to retention or rejection at the general election in the last year of the eight-year term of office for the position in which the judge is serving.

B. Terms of office for positions on the court of appeals shall be staggered so that at least two terms of office shall expire each even-numbered year; provided that no more than three terms of office shall expire in the same year.

C. The administrative office of the courts shall maintain current on its website a list of the names of the currently serving judges of the court of appeals and the year in which the term of office for each position on the court of appeals expires."

Chapter 212 Section 176 Laws 2019

SECTION 176. A new section of the Election Code is enacted to read:

"JUDICIAL RETENTION--DISTRICT COURT JUDGES.--

A. Each eligible district court judge shall be subject to retention or rejection at the general election in the last year of the six-year term of office for the position in which the judge is serving.

B. Terms of office for positions on the district court in each judicial district shall be staggered, as follows:

(1) the term of office for division 1 and for every third division number thereafter shall expire in 2020 and every six years thereafter;

(2) the term of office for division 2 and for every third division number thereafter shall expire in 2022 and every six years thereafter; and

(3) the term of office for division 3 and for every third division number thereafter shall expire in 2024 and every six years thereafter.

C. The administrative office of the courts shall maintain current on its website a list of the names of the currently serving judges of each judicial district and the year in which the term of office for each position expires.

D. As used in this section, "division" means the divisions established pursuant to Section 34-6-18 NMSA 1978."

Chapter 212 Section 177 Laws 2019

SECTION 177. A new section of the Election Code is enacted to read:

"JUDICIAL RETENTION--METROPOLITAN COURT JUDGES.--

A. Each eligible metropolitan court judge shall be subject to retention or rejection at the general election in the last year of the four-year term of office for the position in which the judge is serving.

B. Terms of office for positions on each metropolitan court shall be staggered, as follows:

(1) the term of office for division 1 and for every second division number thereafter shall expire in 2022 and every four years thereafter; and

(2) the term of office for division 2 and for every second division number thereafter shall expire in 2024 and every four years thereafter.

C. The administrative office of the courts shall maintain current on its website a list of the names of the currently serving judges of the metropolitan court and the year in which the term of office for each position expires.

D. As used in this section, "division" means the divisions established pursuant to Subsection B of Section 34-8A-4 NMSA 1978."

Chapter 212 Section 178 Laws 2019

SECTION 178. Section 3-1-2 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-1-2, as amended) is amended to read:

"3-1-2. DEFINITIONS.--As used in the Municipal Code:

A. "acquire" or "acquisition" means purchase, construct, accept or any combination of purchasing, constructing or accepting;

B. "business" means any person, occupation, profession, trade, pursuit, corporation, institution, establishment, utility, article, commodity or device engaged in making a profit, but does not include an employee;

C. "census" means any enumeration of population of a municipality conducted under the direction of the government of the United States, the state of New Mexico or the municipality;

D. "county" means the county in which the municipality or land is situated;

E. "district court" means the district court of the district in which the municipality or land is situated;

F. "governing body" means the city council or city commission of a city, the board of trustees of a town or village, the council of incorporated counties and the board of county commissioners of H class counties;

G. "municipal" or "municipality" means any incorporated city, town or village, whether incorporated under general act, special act or special charter, incorporated counties and H class counties;

H. "municipal utility" means sewer facilities, water facilities, gas facilities, electric facilities, generating facilities or any interest in jointly owned generating facilities owned by a municipality and serving the public. A municipality that owns both electric facilities and any interest in jointly owned generating facilities may, by ordinance, designate such interest in jointly owned generating facilities as part of its electric facilities. Generating facilities shall be considered as part of a municipality's electric facilities unless the municipality designates, by ordinance, the generating facilities as a separate municipal utility, such designation being conclusive subject to any existing property rights or contract rights;

I. "public ground" means any real property owned or leased by a municipality;

J. "publish" or "publication" means printing in a newspaper that maintains an office in the municipality and is of general circulation within the municipality or, if such newspaper is a nondaily paper that will not be circulated to the public in time to meet publication requirements or if there is no newspaper that maintains an office in the municipality and is of general circulation within the municipality, then "publish" or "publication" means posting in six public places within the municipality on the first day that publication is required in a newspaper that maintains an office in the municipality and is of general circulation within the municipality. One of the public places where posting shall be made is the office of the municipal clerk, who shall maintain the posting during the length of time necessary to comply with the provisions relating to the number of times publication is required in a newspaper of general circulation within the municipality. The municipal clerk may, in addition to posting, publish one or more times in a newspaper of general circulation in the municipality;

K. "qualified elector" means any person who is a resident of the municipality and is registered to vote under the provisions of the Election Code. Persons who would otherwise be qualified electors if land on which they reside is annexed to a municipality shall be deemed to be qualified electors:

(1) upon the effective date of the municipal ordinance effectuating the terms of the annexation as certified by the board of arbitration pursuant to Section 3-7-10 NMSA 1978;

(2) upon thirty days after the filing of an order of annexation by the municipal boundary commission pursuant to Sections 3-7-15 and 3-7-16 NMSA 1978 if

no appeal is filed or, if an appeal is filed, upon the filing of a nonappealable court order effectuating the annexation; or

(3) upon thirty days after the filing of an ordinance pursuant to Section 3-7-17 NMSA 1978 if no appeal is filed or, if an appeal is filed, upon the filing of a nonappealable court order effectuating the annexation;

L. "revenue producing project" means any municipally owned self-liquidating projects that furnish public services to a municipality and its citizens, including but not necessarily limited to public buildings; facilities and equipment for the collection or disposal of trash, refuse or garbage; swimming pools; golf courses and other recreational facilities; cemeteries or mausoleums or both; airports; off-street parking garages; and transportation centers, which may include but are not limited to office facilities and customary terminal facilities for airlines, trains, monorails, subways, intercity and intracity buses and taxicabs. "Revenue producing project" does not mean a municipal utility as defined in Subsection H of this section;

M. "street" means any thoroughfare that can accommodate pedestrian or vehicular traffic, is open to the public and is under the control of the municipality;

N. "warrant" means a warrant, check or other negotiable instrument issued by a municipality in payment for goods or services acquired by the municipality or for the payment of a debt incurred by the municipality;

O. "mayor" means the chief executive officer of municipalities having the mayor-council form of government. In municipalities having other forms of government, the presiding officer of the governing body and the official head of the government, without executive powers, may be designated mayor by the governing body. Wherever the Municipal Code requires an act to be performed by the mayor with the consent of the governing body, in municipalities not having the mayor-council form of government, the act shall be performed by the governing body;

P. "generating facility" means any facility located within or outside the state necessary or incidental to the generation or production of electric power and energy by any means and includes:

(1) any facility necessary or incidental to the acquisition of fuel of any kind for the production of electric power and energy, including the acquisition of fuel deposits, the extraction of fuel from natural deposits, the conversion of fuel for use in another form, the burning of fuel in place and the transportation and storage of such fuel; and

(2) any facility necessary or incidental to the transfer of the electric power and energy to the municipality, including without limitation step-down substations or other facilities used to reduce the voltage in a transmission line in order that electric power and energy may be distributed by the municipality to its retail customers;

Q. "jointly owned generating facility" means any generating facility in which a municipality owns any undivided or other interest, including without limitation any right to entitlement or capacity; and

R. "joint participant" means any municipality in New Mexico or any other state; any public entity incorporated under the laws of any other state having the power to enter into the type of transaction contemplated by the Municipal Electric Generation Act; the state of New Mexico; the United States; Indian tribes; and any public electric utility, investor-owned electric utility or electric cooperative subject to general or limited regulation by the public regulation commission or a similar commission of any other state."

Chapter 212 Section 179 Laws 2019

SECTION 179. Section 3-2-3 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-2-3, as amended) is amended to read:

"3-2-3. URBANIZED TERRITORY--INCORPORATION LIMITED WITHIN URBANIZED TERRITORY.--

A. Urbanized territory is that territory within the same county and within five miles of the boundary of any municipality having a population of five thousand or more persons and that territory within the same county and within three miles of a municipality having a population of less than five thousand persons, except that territory in a class B county with a population between ninety-five thousand and ninety-nine thousand five hundred, based on the 1990 federal decennial census, declared by an ordinance of the board of county commissioners to be a traditional historic community shall not be considered urbanized territory and shall not be annexed by a municipality unless it is considered for annexation pursuant to a petition requesting annexation signed by a majority of the qualified electors within the traditional historic community.

B. No territory within an urbanized territory shall be incorporated as a municipality unless the:

(1) municipality or municipalities causing the urbanized territory approve, by resolution, the incorporation of the territory as a municipality;

(2) residents of the territory proposed to be incorporated have filed with the municipality a valid petition to annex the territory proposed to be incorporated and the municipality fails, within one hundred twenty days after the filing of the annexation petition, to annex the territory proposed to be incorporated; or

(3) residents of the territory proposed to be annexed conclusively prove that the municipality is unable to provide municipal services within the territory proposed to be incorporated within the same period of time that the proposed municipality could provide municipal service.

C. A traditional historic community may become incorporated even though it is located within what is defined as urbanized territory pursuant to Subsection A of this section, by following the procedures set forth in Sections 3-2-5 through 3-2-9 NMSA 1978."

Chapter 212 Section 180 Laws 2019

SECTION 180. Section 3-7-1 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-7-1, as amended by Laws 1995, Chapter 170, Section 2 and also by Laws 1995, Chapter 211, Section 1) is amended to read:

"3-7-1. METHODS OF ANNEXATION.--

A. There shall be three methods of annexing territory to a municipality:

(1) the arbitration method as provided in Sections 3-7-5 through 3-7-10 NMSA 1978;

(2) the boundary commission method as provided in Sections 3-7-11 through 3-7-16 NMSA 1978; and

(3) the petition method as provided in Section 3-7-17 NMSA 1978.

B. Territory may be annexed to a municipality by any one of the three methods of annexation provided for in Sections 3-7-5 through 3-7-18 NMSA 1978 except where limitations of annexation are provided by law. The provisions of this section apply to annexations of all municipalities except those that are otherwise specifically provided by law. The arbitration method of annexation may be used for municipal annexation of a traditional historic community only upon petition of a majority of the qualified electors of the territory within the traditional historic community."

Chapter 212 Section 181 Laws 2019

SECTION 181. Section 3-7-1.1 NMSA 1978 (being Laws 1995, Chapter 170, Section 5 and Laws 1995, Chapter 211, Section 4) is amended to read:

"3-7-1.1. TRADITIONAL HISTORIC COMMUNITY-- QUALIFICATIONS-- ANNEXATION RESTRICTIONS.--

A. To qualify as a traditional historic community, an area shall:

(1) be an unincorporated area of a class B county with a population between ninety-five thousand and ninety-nine thousand five hundred, based on the 1990 federal decennial census;

(2) be an identifiable village, community, neighborhood or district that can be documented as having existed for more than one hundred years;

(3) include structures or landmarks that are associated with the identity of the specific village, community, neighborhood or district seeking designation as a traditional historic community;

(4) have a distinctive character or traditional quality that can be distinguished from surrounding areas or new developments in the vicinity; and

(5) be declared a traditional historic community by an ordinance of the board of county commissioners of the county in which the petitioning village, community, neighborhood or district is located.

B. A traditional historic community may be annexed by a municipality only by petition of a majority of the qualified electors of the territory within the traditional historic community proposed to be annexed by the municipality or by the arbitration method of annexation only upon petition of a majority of the qualified electors of the territory within the traditional historic community."

Chapter 212 Section 182 Laws 2019

SECTION 182. Section 3-14-16 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-13-16, as amended) is amended to read:

"3-14-16. COMMISSION--MANAGER--RECALL--ELECTION.--

A. In any commission-manager municipality, any elective executive or commissioner is subject to a recall election for malfeasance in office, misfeasance in office or a violation of oath of office based upon acts or failures to act occurring during

the current term of the official sought to be recalled. Recall of an elective executive or commissioner in a commissioner-manager municipality shall be conducted pursuant to the provisions of the Recall Act.

B. If all commissioners are recalled at the same election, the district court shall order an election."

Chapter 212 Section 183 Laws 2019

SECTION 183. Section 3-21-1 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-20-1, as amended by Laws 2007, Chapter 46, Section 3 and by Laws 2007, Chapter 270, Section 1) is amended to read:

"3-21-1. ZONING--AUTHORITY OF COUNTY OR MUNICIPALITY.--

A. For the purpose of promoting health, safety, morals or the general welfare, a county or municipality is a zoning authority and may regulate and restrict within its jurisdiction the:

- (1) height, number of stories and size of buildings and other structures;
- (2) percentage of a lot that may be occupied;
- (3) size of yards, courts and other open space;
- (4) density of population; and

(5) location and use of buildings, structures and land for trade, industry, residence or other purposes.

B. The county or municipal zoning authority may:

(1) divide the territory under its jurisdiction into districts of such number, shape, area and form as is necessary to carry out the purposes of Sections 3-21-1 through 3-21-14 NMSA 1978; and

(2) regulate or restrict the erection, construction, reconstruction, alteration, repair or use of buildings, structures or land in each district. All such regulations shall be uniform for each class or kind of buildings within each district, but regulation in one district may differ from regulation in another district.

C. All state-licensed or state-operated community residences for persons with a mental or developmental disability and serving ten or fewer persons may be considered a residential use of property for purposes of zoning and may be permitted use in all districts in which residential uses are permitted generally, including particularly residential zones for single-family dwellings.

D. A board of county commissioners of the county in which the greatest amount of the territory of the petitioning village, community, neighborhood or district lies may declare by ordinance that a village, community, neighborhood or district is a "traditional historic community" upon petition by twenty-five percent or more of the qualified electors of the territory within the village, community, neighborhood or district requesting the designation. The number of qualified electors shall be based on county records as of the date of the last general election.

E. Any village, community, neighborhood or district that is declared a traditional historic community shall be excluded from the extraterritorial zone and extraterritorial zoning authority of any municipality whose extraterritorial zoning authority extends to include all or a portion of the traditional historic community and shall be subject to the zoning jurisdiction of the county in which the greatest portion of the traditional historic community lies.

F. Zoning authorities, including zoning authorities of home rule municipalities, shall accommodate multigenerational housing by creating a mechanism to allow up to two kitchens within a single-family zoning district, such as conditional use permits.

G. For the purpose of this section, "multigenerational" means any number of persons related by blood, common ancestry, marriage, guardianship or adoption."

Chapter 212 Section 184 Laws 2019

SECTION 184. Section 3-30-1 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-29-1) is repealed and a new Section 3-30-1 NMSA 1978 is enacted to read:

"3-30-1. BOND ELECTIONS--FINDINGS--QUALIFIED ELECTORS.--

A. The legislature finds that the provisions of Article 9, Section 12 of the constitution of New Mexico regarding nonresident municipal electors violate the rights of property owners who are not qualified electors of the county where such city, town or village is situated compared to nonresident property owners who are qualified electors of the county where such city, town or village is located, and further finds that providing voting rights based on property ownership violates the franchise provisions in Article 7, Section 1 of the constitution of New Mexico.

B. Voting for all purposes in all public elections in a municipality shall be based exclusively on voter registration by qualified electors of the municipality as provided in the Municipal Code and Election Code."

Chapter 212 Section 185 Laws 2019

SECTION 185. Section 3-30-6 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-29-6, as amended) is amended to read:

"3-30-6. BOND ELECTION--QUALIFICATIONS OF VOTERS-- SEPARATION OF ITEMS--TIME--PUBLICATION OR POSTING--BALLOTS.--

A. Before bonds are issued, the governing body of the municipality shall submit to a vote of the qualified electors of the municipality the question of issuing the bonds. The election may be held at the same time as the regular local election or at any special election held pursuant to Article 9, Section 12 of the constitution of New Mexico.

B. The governing body of the municipality shall give notice of the time and place of holding the election and the purpose for which the bonds are to be issued. The election shall be conducted pursuant to the provisions of the Local Election Act.

C. The question shall state the purpose for which the bonds are to be issued and the amount of the issue. If bonds are to be issued for more than one purpose, a separate question shall be submitted to the voter for each purpose to be voted upon. The ballots shall contain words indicating the purpose of the bond issue and a place for a vote "For . . . (designate type) bonds" and "Against . . . (designate type) bonds" for each bond issue. The ballots shall be deposited in a separate ballot box unless voting machines are used."

Chapter 212 Section 186 Laws 2019

SECTION 186. Section 3-33-14.1 NMSA 1978 (being Laws 2001, Chapter 312, Section 5) is amended to read:

"3-33-14.1. IMPOSITION OF IMPROVEMENT DISTRICT PROPERTY TAX--LIMITATIONS.--

A. If in connection with the creation of the improvement district the governing body determines that it is in the best interest of the municipality to finance the district improvements by the imposition of an improvement district property tax and the issuance of improvement district general obligation bonds, the governing body shall enact an ordinance making the determination and provide in the ordinance the

improvement district property tax rate to be imposed; the date, which may be a predetermined date or a date to be established in the future after completion of the improvements, of commencement of the tax; the amount of the bonds to be issued to finance the improvements; and any other matters the governing body deems necessary or appropriate. The governing body shall call an election within the improvement district for the purpose of authorizing the governing body to issue general obligation bonds, the proceeds of the sale of which shall be used for constructing the improvements for which the district was created and to impose improvement district property taxes on all taxable property within the district for the purpose of paying the principal, debt service and other expenses incidental to the issuance and sale of the bonds. The election shall be conducted as prescribed by the Local Election Act and pursuant to the requirements of the property tax division of the taxation and revenue department.

B. If at the election described in Subsection A of this section the property tax imposition and the issuance of improvement district general obligation bonds are approved by a majority of the voters voting on the issues, the governing body shall impose the tax at a rate sufficient to pay the debt service on the bonds and retire them at maturity.

C. Imposition and collection of the improvement district property tax authorized in this section shall be made at the same time and in the same manner as impositions and collections of property taxes for use by municipalities and counties are made.

D. Bonds issued by the governing body for payment of the specified improvement district improvements shall be sold at a price that does not result in a net effective interest rate exceeding the maximum net effective interest rate permitted by the Public Securities Act. The bonds may be sold at public or private sale and may be in denominations that the governing body determines.

E. The form and terms of the bonds, including a final maturity of thirty years and provisions for their payment and redemption, shall be as determined by the governing body. The bonds shall be executed in the name of and on behalf of the improvement district by the mayor and clerk of the municipality. The bonds may be executed and sealed in accordance with the provisions of the Uniform Facsimile Signature of Public Officials Act.

F. To provide for the payment of the interest and principal of the bonds issued and sold pursuant to this section, the governing body shall annually impose a property tax on all taxable property in the district in an amount sufficient to produce a sum equal to the principal and interest on all bonds as they mature.

G. The bonds authorized in this section are general obligation bonds of the district, and the full faith and credit of the district are pledged to the payment of the bonds. The proceeds obtained from the issuance of the bonds shall not be diverted or expended for any purposes other than those provided in Chapter 3, Article 33 NMSA 1978.

H. All bonds issued by an improvement district shall be fully negotiable and constitute negotiable instruments within the meaning of and for all the purposes of the Uniform Commercial Code. If lost or completely destroyed, any bond may be reissued in the form and tenor of the lost or destroyed bond upon the owner furnishing to the satisfaction of the governing body:

- (1) proof of ownership;
- (2) proof of loss or destruction;
- (3) a surety bond in twice the face amount of the bond and coupons; and
- (4) payment of the cost of preparing and issuing the new bond and coupons.

I. The governing body may in any proceeding authorizing improvement district bonds provide for the initial issuance of one or more bonds aggregating the amount of the entire issue or may make provision for installment payments of the principal amount of any bond as it may consider desirable.

J. The governing body may issue bonds to be denominated refunding bonds, for the purpose of refunding any of the general obligation bonded indebtedness of the improvement district. Whenever the governing body deems it expedient to issue refunding bonds, it shall adopt an ordinance setting out the facts making the issuance of the refunding bonds necessary or advisable, the determination of the necessity or advisability by the governing body and the amount of refunding bonds that the governing body deems necessary and advisable to issue. The ordinance shall fix the form of the bonds; the rate or rates of interest of the bonds, but the net effective interest rate of the bonds shall not exceed the maximum net effective interest rate permitted by the Public Securities Act; the date of the refunding bonds; the denominations of the refunding bonds; the maturity dates; and the place or places of payment within or without the state of both principal and interest. Refunding bonds when issued, except for bonds issued in book entry or similar form without the delivery of physical securities, shall be negotiable in form and shall bear the signature or the facsimile signature of the mayor and clerk of the municipality. All refunding bonds may be exchanged dollar for dollar for the bonds to be refunded or they may be sold as directed by the governing

body, and the proceeds of the sale shall be applied only to the purpose for which the bonds were issued and the payment of any incidental expenses.

K. The principal amount of improvement district general obligation bonds that may be issued by the governing body for any improvement district shall not exceed twenty-five percent of the final estimated value of properties in the district after completion of the projects to be financed with the improvement district general obligation bonds and after development of the properties in the improvement district in accordance with their planned use, as determined by the governing body with the assistance of the engineer and other qualified professionals.

L. In connection with an improvement district project to be financed with the proceeds of improvement district general obligation bonds issued pursuant to this section, a property owner subject to the improvement district property tax or the governing body may enter into contracts to design, engineer, finance, construct or acquire a project with contractors and professionals, on such terms and with such persons as a property owner subject to the improvement district property tax or the governing body determines to be appropriate, without following the procedures or meeting the requirements of the Procurement Code or the requirements of Sections 6-15-1 through 6-15-22 NMSA 1978."

Chapter 212 Section 187 Laws 2019

SECTION 187. Section 3-52-3 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-53-3, as amended) is amended to read:

"3-52-3. AUTHORIZATION.--

A. A municipality may invoke the authority contained in the Municipal Transit Law on finding all of the following state of facts to exist:

- (1) general transportation of persons is necessary and convenient;
- (2) privately owned public transportation facilities in operation are inadequate;
- (3) it is impossible for existing franchise operators to render necessary service with adequate resulting return on the investment of capital; and
- (4) assignment of the existing franchise by the holder or release of the existing franchise and granting of a new franchise by the city will not afford adequate service. Such finding, if made, shall be by resolution adopted by the governing body

on the affirmative recorded vote of at least two-thirds of the elected members of the governing body. The resolution shall be published in full in a daily newspaper of general circulation in the municipality. It shall not take effect until thirty days after the publication. If within the thirty days of the publication a petition signed by qualified voters in number equal to twenty percent of the number of voters at the preceding city election on which members of the governing body were elected asks that the resolution in question be submitted to a vote of the people for adoption or rejection, the measure shall not take effect until an election is held as petitioned. The governing body may then rescind the resolution or, in its discretion, call an election within ninety days, at which time the proposition shall be submitted to the voters; provided that the date is not in conflict with the provisions of Section 1-24-1 NMSA 1978. The governing body shall provide for the election pursuant to the provisions of the Local Election Act. If a majority of the votes cast at such election are against the measure, it shall be void. If a majority of the votes cast favor the measure, the governing body may proceed to acquire and operate a transit system as provided in the Municipal Transit Law. If a majority of those voting on the proposition disapprove the proposition, the matter may not again be submitted by the governing body until the next election at which city commissioners are chosen.

B. Any transit department so established is declared to be a public utility."

Chapter 212 Section 188 Laws 2019

SECTION 188. Section 4-33-3 NMSA 1978 (being Laws 1947, Chapter 196, Section 3, as amended) is amended to read:

"4-33-3. CONTEST--NOTICE OF ELECTION.--Immediately upon the filing of a petition under Section 4-33-2 NMSA 1978, it shall be the duty of the board of county commissioners with which the petition is filed to cause a notice to be published in some newspaper of general circulation in each county affected. Within thirty days after the publication of the notice, but not thereafter, any resident of either of the counties affected, on behalf of the resident and all others similarly situated, may bring an action in the district court of the county in which the area proposed to be annexed is located, against any one or more of the signers of the petition, alleging that the petition has not been executed by the requisite number of signers or that the area to be annexed is not accurately described or that the conditions described in Section 4-33-1 NMSA 1978 do not exist. The judge, after hearing, shall make a determination as to whether the allegations of the petition are well taken. If the judge shall determine that the allegations of the petition are well taken, the judge shall enter an order. If the order is not stayed, it shall be the duty of the board of county commissioners to call an election to be held within ninety days within the county of the area proposed to be annexed; provided that the date is not in conflict with the provisions of Section 1-24-1 NMSA

1978. The county clerk shall cause a notice of election to be published two times in a newspaper of general circulation in the county, the last publication thereof to be at least seven days before the date of the election. The notice shall specify whether the proposed annexation shall appear as a ballot question in a statewide election or specify the date a special election will be held as prescribed in the Election Code. At the election, all qualified electors who reside within the county shall be entitled to vote."

Chapter 212 Section 189 Laws 2019

SECTION 189. Section 4-48A-6 NMSA 1978 (being Laws 1978, Chapter 29, Section 6, as amended) is amended to read:

"4-48A-6. BOARD OF TRUSTEES--TERMS--VACANCIES--REMOVAL.--

A. Subject to the requirements of Section 4-48A-3 NMSA 1978, the board of trustees of a special hospital district shall consist of the greater of five members or a number of members equal to the number of counties which agree to form a special hospital district. In the case of a special hospital district:

(1) included wholly within a county, the members shall be elected at large or from single-member districts as provided in the Special Hospital District Act; or

(2) that includes all or a portion of two or more counties, one member of the board shall be elected from each subdistrict by the qualified electors who reside in that subdistrict and the remainder shall be elected at large by the qualified electors who reside in the special hospital district.

B. Members shall be elected as follows:

(1) for the purposes of the first election of a board of trustees, the board of county commissioners shall designate in its proclamation five positions to be filled so that:

(a) two members shall be elected for an initial term of two years;
and

(b) three members shall be elected for an initial term of four years.

Thereafter, all members shall be elected for four-year terms; and

(2) for the purposes of staggering the terms of any nonstaggered terms of a board of trustees elected under the provisions of the Special Hospital District Act,

the board of county commissioners may call an election to provide for five positions to be filled so that:

and (a) two members shall be elected for an initial term of two years;

(b) three members shall be elected for an initial term of four years.

Thereafter, all members shall be elected for four-year terms.

C. Vacancies on the board of trustees created by a member elected from a subdistrict or a single-member district shall be filled by the board of county commissioners of the county in which the subdistrict or single-member district is located, and vacancies created by a member elected at large shall be filled by the remaining members of the board of trustees for the remainder of the unexpired term of the member creating the vacancy.

D. Members of the board of trustees shall be suspended or removed from office only as provided in Sections 10-4-1 through 10-4-29 NMSA 1978 or as provided in Section 4-48A-7 NMSA 1978."

Chapter 212 Section 190 Laws 2019

SECTION 190. Section 5-5-3 NMSA 1978 (being Laws 1959, Chapter 300, Section 3, as amended) is amended to read:

"5-5-3. DEFINITIONS.--As used in the Joint City-County Building Law, the following words or phrases shall be defined as follows:

A. "city" means any incorporated city, town or village that is a county seat in the state of New Mexico, whether incorporated or governed under a general act, special act or special charter of any type and includes any combination of such cities, towns or villages located in adjacent counties;

B. "council" or "city council" means the city council, city commission, board of commissioners, board of trustees or other governing body of a city in which the legislative powers of the city are vested. "Councilmen" means the members of the council;

C. "county" means any county or combination of adjacent counties in the state of New Mexico;

D. "board" means the board of county commissioners. "Commissioners" or "county commissioners" means the members of a board;

E. "municipality" means a city or county;

F. "governing body" means a council or board;

G. "building" means any building for use as a county courthouse, city hall, jail, regional jail, library, museum, utility office, garage for housing county and city vehicles, transportation office, communications office, maintenance shop, warehouse, cafeteria and restaurant facilities for county and city personnel, sheriff's office, police station, fire station, records office and administration building and for similar uses, or any combination thereof, to be acquired and jointly owned by a county and a city as tenants in common;

H. "site" means land and any estate, interest or right therein on which to locate a building. Any building site may include landscaped grounds and off-street parking facilities, including improved or unimproved parking lots and buildings erected above or below the surface of the land for the accommodation of parked motor and other vehicles;

I. "acquisition" or "acquire" means the acquisition by purchase, construction, installation, reconstruction, condemnation, lease, rent, gift, grant, endowment, bequest, devise, contract and other acquisition as may be deemed necessary or desirable by the board and council, or any combination thereof;

J. "improvement" or "improve" means the extension, betterment, alteration, reconstruction, repair and other improvement as may be deemed necessary or desirable by the board and council, or any combination thereof;

K. "equipment" or "equip" means furnishing all necessary or desirable, related or appurtenant, facilities, or any combination thereof;

L. "project" means any building site therefor, structure, facility and undertaking of any kind that a county and a city are authorized by the Joint City-County Building Law to acquire, improve, equip, maintain and operate. A project may consist of any kind or all kinds of personal and real property, including land, improvements and fixtures thereon, property of any nature appurtenant thereto or used in connection therewith and every estate, interest and right therein, legal or equitable, including terms for years, or any combination thereof;

M. "disposition" or "dispose" means the sale, lease, exchange, transfer, assignment and other disposition as may be deemed necessary or desirable by the board and council, or any combination thereof;

N. "federal government" means the United States or any federal agency, instrumentality or corporation;

O. "state" means the state of New Mexico or, except where the subject matter or context is repugnant thereto, any state agency, instrumentality or corporation;

P. "publication" or "publish" means publication once a week for at least three consecutive weeks commencing at least twenty days prior to the election in any newspaper published in a county;

Q. for the purpose of computing any period of time prescribed in the Joint City-County Building Law, including publications, the day of the first publication, other act or designated time shall be excluded and the day of the last publication, other act or designated time shall be included; and

R. whenever such construction is applicable, words used in the Joint City-County Building Law importing singular or plural number may be construed so that one number includes both; words importing masculine gender shall be construed to apply to the feminine gender as well; and the word "person" may extend to and include a firm and corporation, except in any reference to any election; provided, however, that these rules of construction shall not apply to any part of that law containing express provisions excluding such construction or where the subject matter or context is repugnant thereto."

Chapter 212 Section 191 Laws 2019

SECTION 191. Section 5-5-9 NMSA 1978 (being Laws 1959, Chapter 300, Section 9, as amended) is amended to read:

"5-5-9. LIMITATIONS UPON INCURRING DEBTS.--No general obligation bonds or other evidences of indebtedness, the payment of which is secured wholly or in part by a pledge of any proceeds of general ad valorem property taxes or to which the full faith and credit of a municipality are pledged, shall be issued, except as follows:

A. a county shall so borrow money only for the purpose of erecting necessary public buildings in connection with any project, and in any such case only after the proposition to create such debt shall have been submitted at a general or special

election to the qualified electors of the county and approved by a majority of those voting thereon;

B. a city shall so contract any such debt only by an ordinance that shall be irrevocable until the indebtedness therein provided for shall have been fully paid or discharged and that shall specify the purposes to which the funds to be raised shall be applied. No such debt shall be created unless the question of incurring the debt shall, at a regular election for councilmen or other officers of the city, have been submitted to a vote of the qualified electors thereof and a majority of those voting on the question shall have voted in favor of creating the debt; and

C. no municipality shall ever become indebted to an amount in the aggregate, including existing indebtedness, exceeding four percent on the value of the taxable property within the municipality as shown by the last preceding assessment for state or county taxes, but excluding debts contracted by a city for the construction or purchase of a system for supplying water or of a sewer system for the city; and all bonds or obligations issued in excess of that amount shall be void."

Chapter 212 Section 192 Laws 2019

SECTION 192. Section 5-11-2 NMSA 1978 (being Laws 2001, Chapter 305, Section 2, as amended) is amended to read:

"5-11-2. DEFINITIONS.--As used in the Public Improvement District Act:

A. "allowable base" means the sum of the appraised value, not including the value of public infrastructure improvements, of:

(1) taxable property in a district that is owned by persons other than the applicant or the applicant's related entities;

(2) commercial, industrial or retail property in a district that is owned by the applicant or the applicant's related entities for which a certificate of completion has been issued; and

(3) all other taxable property in a district not described in Paragraphs (1) and (2) of this subsection, to the extent that its appraised value is less than or equal to the appraised value of property described in Paragraph (1) of this subsection;

B. "applicant" means a person that applies for the formation of a district pursuant to the Public Improvement District Act;

C. "clerk" means the clerk of the municipality or county, or any person appointed by the district board to be the district clerk pursuant to Section 5-11-6 NMSA 1978;

D. "county" means a county that forms a public improvement district pursuant to the Public Improvement District Act in an unincorporated area or in an incorporated area with the municipality's consent;

E. "debt service" means the principal of, interest on and premium, if any, on the bonds, when due, whether at maturity or prior redemption; the fees and costs of registrars, trustees, paying agents or other agents necessary to handle the bonds; and the costs of credit enhancement or liquidity support;

F. "development agreement" means an agreement between a property owner or developer and the county, municipality or district, concerning the improvement of specific property within the district, which agreement may be used to establish obligations of the owner or developer, the county or municipality or the district concerning the zoning, subdivision, improvement, impact fees, financial responsibilities and other matters relating to the development, improvement and use of real property within a district;

G. "district" means a public improvement district formed pursuant to the Public Improvement District Act by a municipality or by a county in an unincorporated area or in an incorporated area with the municipality's consent;

H. "district board" means the board of directors of the district, which shall be composed of members of the governing body, ex officio, or, at the option of the governing body, five directors appointed by the governing body of the municipality or county in which the district is located, until replaced by elected directors, which shall occur not later than six years after the date on which the resolution establishing the district is enacted, as provided in Section 5-11-9 NMSA 1978;

I. "election" means an election held in compliance with the provisions of Sections 5-11-6 and 5-11-7 NMSA 1978 and pursuant to the provisions of the Local Election Act;

J. "enhanced services" means public services provided by a municipality or county within the district at a higher level or to a greater degree than otherwise available to the land located in the district from the municipality or county, including such services as public safety, fire protection, street or sidewalk cleaning or landscape maintenance in public areas. "Enhanced services" does not include the basic operation and

maintenance related to infrastructure improvements financed by the district pursuant to the Public Improvement District Act;

K. "general plan" means the general plan described in Section 5-11-3 NMSA 1978, as the plan may be amended from time to time;

L. "governing body" means the body or board that by law is constituted as the governing body of the municipality or county in which the public improvement district is located;

M. "municipality" means an incorporated city, village or town;

N. "owner" means:

(1) the person who is listed as the owner of real property in the district on the current property tax assessment roll in effect at the time that the action, proceeding, hearing or election has begun. For purposes of voting in elections held pursuant to the Public Improvement District Act, when the owner of record title is a married person, only one spouse in whose name title is held may vote at such election. Where record title is held in more than one name, each owner may vote the number of fractions of acres represented by the owner's legal interest or proportionate share of and in the lands within the district;

(2) the administrator or executor of an estate holding record title to land within the district;

(3) the guardian of a minor or incompetent person holding record title to land within the district, appointed and qualified under the laws of the state;

(4) an officer of a corporation holding record title to land within the district, which officer has been authorized by resolution of the corporation's board of directors to act with respect to such land;

(5) the general partner of a partnership holding record title to land within the district;

(6) the trustee of a trust holding record title to land within the district; or

(7) the manager or member of a limited liability company holding record title to land within the district who has been authorized to represent the company;

O. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, joint venture, syndicate or other association;

P. "public infrastructure improvements" means all improvements listed in this subsection and includes both on-site improvements and off-site improvements that directly or indirectly benefit the district. Such improvements include necessary or incidental work, whether newly constructed, renovated or existing, and all necessary or desirable appurtenances. "Public infrastructure improvements" includes:

(1) sanitary sewage systems, including collection, transport, storage, treatment, dispersal, effluent use and discharge;

(2) drainage and flood control systems, including collection, transport, diversion, storage, detention, retention, dispersal, use and discharge;

(3) water systems for domestic, commercial, office, hotel or motel, industrial, irrigation, municipal or fire protection purposes, including production, collection, storage, treatment, transport, delivery, connection and dispersal;

(4) highways, streets, roadways, bridges, crossing structures and parking facilities, including all areas for vehicular use for travel, ingress, egress and parking;

(5) trails and areas for pedestrian, equestrian, bicycle or other nonmotor vehicle use for travel, ingress, egress and parking;

(6) pedestrian malls, parks, recreational facilities and open space areas for the use of members of the public for entertainment, assembly and recreation;

(7) landscaping, including earthworks, structures, lakes and other water features, plants, trees and related water delivery systems;

(8) public buildings, public safety facilities and fire protection and police facilities;

(9) electrical generation, transmission and distribution facilities;

(10) natural gas distribution facilities;

(11) lighting systems;

(12) cable or other telecommunications lines and related equipment;

(13) traffic control systems and devices, including signals, controls, markings and signage;

(14) school sites and facilities with the consent of the governing board of the public school district for which the site or facility is to be acquired, constructed or renovated;

(15) library and other public educational or cultural facilities;

(16) equipment, vehicles, furnishings and other personalty related to the items listed in this subsection; and

(17) inspection, construction management and program management costs;

Q. "public infrastructure purpose" means:

(1) planning, design, engineering, construction, acquisition or installation of public infrastructure, including the costs of applications, impact fees and other fees, permits and approvals related to the construction, acquisition or installation of such infrastructure;

(2) acquiring, converting, renovating or improving existing facilities for public infrastructure, including facilities owned, leased or installed by an owner;

(3) acquiring interests in real property or water rights for public infrastructure, including interests of an owner;

(4) establishing, maintaining and replenishing reserves in order to secure payment of debt service on bonds;

(5) funding and paying from bond proceeds interest accruing on bonds for a period not to exceed three years from their date of issuance;

(6) funding and paying from bond proceeds fiscal, financial and legal consultant fees, trustee fees, discount fees, district formation and election costs and all costs of issuance of bonds issued pursuant to the Public Improvement District Act, including fees and costs for bond counsel, financial advisors, consultants and underwriters, costs of obtaining credit ratings, bond insurance premiums, fees for letters of credit and other credit enhancement costs and printing costs;

(7) providing for the timely payment of debt service on bonds or other indebtedness of the district;

(8) refinancing any outstanding bonds with new bonds, including through the formation of a new public improvement district; and

(9) incurring expenses of the district incident to and reasonably necessary to carry out the purposes specified in this subsection;

R. "related entities" means two or more entities that are owned in an amount greater than fifty percent by the same person, either directly or through one or more persons;

S. "special levy" means a levy imposed against real property within a district that may be apportioned according to direct or indirect benefits conferred upon affected real property, as well as acreage, front footage, the cost of providing public infrastructure for affected real property, or other reasonable method, as determined by the governing body or district board, as applicable; and

T. "treasurer" means the treasurer of the governing body or the person appointed by the district board as the district treasurer pursuant to Section 5-11-6 NMSA 1978."

Chapter 212 Section 193 Laws 2019

SECTION 193. Section 5-11-6 NMSA 1978 (being Laws 2001, Chapter 305, Section 6, as amended) is amended to read:

"5-11-6. ORDER FORMING DISTRICT--FORMATION DETERMINATION--ELECTION.--

A. After the hearing, the governing body shall determine whether the district should be formed based upon the interests, convenience or necessity of the owners, residents of the district and citizens of the municipality or county in which the proposed district would be located. If the governing body determines that the district should be formed, it shall adopt a resolution ordering that the district be formed, deleting any property determined not to be directly or indirectly benefited by the district or modifying the general plan and then ordering that a formation determination be conducted and an election be held on the question whether to form the district. A resolution ordering a formation of the district shall state that the district will be governed by a district board consisting of members of the governing body, ex officio, or, upon determination of the governing body, five directors appointed by the governing body, and shall contain the

names of the five initial directors and the terms of office of each. If the governing body appoints a district board, it shall appoint a treasurer and a clerk from the appointed members.

B. Before submitting the question of formation of the district to the qualified electors of the proposed district, a formation determination shall be conducted by the governing body among the owners unless a petition is presented to the governing body pursuant to Subsection F of Section 5-11-7 NMSA 1978. In the formation determination, each owner shall have the number of votes or portions of votes equal to the number of acres or portions of acres rounded upward to the nearest one-fifth of an acre owned by that owner in the submitted district.

C. A formation or other determination shall not be a local election for purposes of the Local Election Act. The governing body or the district board may establish local procedures for noticing, conducting and canvassing determinations, which may include determinations made by unanimous written approval of the owners in affidavits executed by the owners and confirmed in a review by the district board.

D. Should the formation determination by the owners result in a three-fourths' majority vote in favor of formation, the question shall also be submitted to a vote of the qualified electors of the proposed district. The conduct of a formation election by qualified electors shall meet the requirements of Section 5-11-7 NMSA 1978.

E. The right of the qualified electors to vote on the question of formation of the district shall not be assigned or delegated to the property owners, or related entities of the property owners, signing a petition submitted to the governing body for formation of a district."

Chapter 212 Section 194 Laws 2019

SECTION 194. Section 5-11-7 NMSA 1978 (being Laws 2001, Chapter 305, Section 7) is amended to read:

"5-11-7. NOTICE AND CONDUCT OF ELECTION--WAIVER.--

A. Any election by qualified electors pursuant to the Public Improvement District Act shall be a nonpartisan election called, conducted and canvassed pursuant to the provisions of the Election Code. In addition to those matters required for notice as provided in the Local Election Act, the notice of election shall state:

(1) if the election is a formation election, the boundaries of the proposed district;

(2) if the election is a bond election, the amount of bonds to be authorized for the district, the maximum rate of interest to be paid on the bonds and the maximum term of the bonds, not exceeding thirty years;

(3) if the election is a property tax levy election pursuant to Section 5-11-19 NMSA 1978, the maximum tax rate per one thousand dollars (\$1,000) of assessed valuation to be imposed, the purposes for which the revenues raised will be used and the existing maximum tax rate, if any;

(4) that a general plan is on file with the clerk;

(5) the purposes for which the property taxes or the special levies will be imposed, and the revenues raised will be used, including a description of the public improvements to be financed with tax revenues, special levies, district revenues or bond proceeds; and

(6) that the imposition of property taxes or special levies will result in a lien for the payment thereof on property within the district.

B. The district board or, in the case of a formation election, the governing body, shall determine the date of the election by passing a resolution to place the ballot question on a regular local election or general election ballot or by adopting a proclamation calling for a special election.

C. Except as otherwise provided by this section, the election shall comply with the Local Election Act. The ballot material provided to each qualified elector shall include:

(1) for a formation election, an impartial description of the district improvements contemplated and a brief description of arguments for and against the formation of the district, if any;

(2) for an election concerning the imposition of property taxes, an impartial description of the taxes to be imposed, the method of apportionment, collection and enforcement and other details sufficient to enable each elector to determine the amount of tax it will be obligated to pay; a brief description of arguments for and against the imposition of taxes that are the subject of the election, if any; and a statement that the imposition of property taxes is for the provision of certain but not necessarily all public infrastructure improvements and services that may be needed or desirable within the district, and that other taxes, levies or assessments by other governmental entities may be presented for approval by owners and qualified electors; and

(3) for a formation election, the ballot, which shall pose the question to be voted upon as "district, yes" and "district, no"; for a bond election, "bonds, yes" and "bonds, no"; for a property tax election, if no tax is in place, "property tax, yes" and "property tax, no"; and for an election to change an existing maximum or eliminate an existing tax, "tax change, yes" and "tax change, no", specifying the type of tax to which the proposed change pertains.

D. At least a three-fourths' majority of the votes cast by qualified electors at the election shall be required for formation, issuing the bonds, imposing the tax or special levy or changing the tax or special levy. Failure of a required majority to vote in favor of the matter submitted shall not prejudice the submission of the same or similar matters at a later election.

E. If a person listed on the assessment roll is no longer the owner of land in the district and the name of the successor owner becomes known to the governing body or the district board, as applicable, and is verified by recorded deed or other similar evidence of transfer of ownership, the successor owner is deemed to be the owner for the purposes of the Public Improvement District Act.

F. Notwithstanding any other provision of the Public Improvement District Act, if a petition for formation is signed by owners of all of the land in the district described in the petition and is approved by the municipality or county, the municipality or county may waive any or all requirements of posting, publication, mailing, notice, hearing and owner determination. On receipt of such a petition, and after approval by an election of qualified electors, if any, the municipality or county shall declare the district formed without being required to comply with the provisions of the Public Improvement District Act for posting, publication, mailing, notice, hearing or owner determination.

G. If no person is registered to vote within the district or proposed district areas within seventy days immediately preceding any scheduled election date, the election required to be held pursuant to the Public Improvement District Act shall be canceled. Under such circumstances, when the question is on the formation of the district, the results of the formation determination of the owners shall prevail, unless the formation determination was waived by the governing body pursuant to Subsection F of this section. To the extent allowable by the constitution of New Mexico, when the question is on any other allowable action otherwise requiring a vote of the qualified electors, the owners or the owners of the proposed district areas shall make a determination, the result of which shall prevail."

Chapter 212 Section 195 Laws 2019

SECTION 195. Section 5-11-9 NMSA 1978 (being Laws 2001, Chapter 305, Section 9, as amended) is amended to read:

"5-11-9. APPOINTMENT OF DIRECTORS--QUALIFICATIONS--TERMS--RESUMPTION OF GOVERNANCE BY GOVERNING BODY.--

A. The governing body, at its option, may authorize the appointment of a separate district board. In the case of an appointed district board, three of the appointed directors shall serve an initial term to expire following a regular local election and not to exceed six years. Two of the appointed directors shall serve an initial term to expire following a regular local election and not to exceed four years. The resolution forming the district shall state which directors shall serve the longer terms and which shall serve the shorter terms. If a vacancy occurs on the district board because of death, resignation or inability of the director to discharge the duties of director, the governing body shall appoint a director to fill the vacancy, who shall hold office for the remainder of the unexpired term until a successor is appointed or elected.

B. At the end of the appointed directors' terms, the governing body shall resume governance of the district as its board either directly or through the governing body's designees or, at the governing body's option, shall hold an election of new directors by majority vote of the qualified electors or if the election is canceled pursuant to Subsection G of Section 5-11-7 NMSA 1978, an owner's determination conducted by ballot shall decide the new directors."

Chapter 212 Section 196 Laws 2019

SECTION 196. Section 5-11-13 NMSA 1978 (being Laws 2001, Chapter 305, Section 13) is amended to read:

"5-11-13. CHANGE IN DISTRICT BOUNDARIES OR GENERAL PLAN.--

A. Following formation of the district, an area may be deleted from the district only following a hearing on notice to the owners of land in the district given in the manner prescribed for the formation hearing, adoption of a resolution of intention to do so by the district board, a determination by the owners and voter approval by the qualified electors as provided in the local Election Act and the Public Improvement District Act. Lands within the district that are subject to the lien of property taxes, special levies or other charges imposed pursuant to the Public Improvement District Act shall not be deleted from the district while there are bonds outstanding that are payable by such taxes, special levies or charges.

B. Following formation of the district, an area may be added to the district upon a determination by the owners of land in the proposed addition area and the approval of the qualified electors residing therein, as well as a determination by the owners of land in the district and approval of the qualified electors of the district, as provided in the Local Election Act and the Public Improvement District Act.

C. The district board, following a hearing on notice to the owners of real property located in the district given in the manner prescribed for the formation hearing, may amend the general plan in any manner that it determines will not substantially reduce the benefits to be received by any land in the district from the public infrastructure on completion of the work to be performed under the general plan. No election shall be required solely for the purposes of this subsection."

Chapter 212 Section 197 Laws 2019

SECTION 197. Section 5-11-19 NMSA 1978 (being Laws 2001, Chapter 305, Section 19, as amended) is amended to read:

"5-11-19. GENERAL OBLIGATION BONDS--TAX LEVY--EXCEPTION.--

A. At any time after the hearing on formation of the district, the district board, or, if before formation, the governing body may from time to time order that the question of authorizing the issuance of general obligation bonds to provide money for public infrastructure purposes consistent with the general plan be presented to the owners for a determination and that a general obligation bond election be called to submit the question to the qualified electors. The question shall include authorization for a levy, including a limitation on the levy, of a property tax to pay debt service on the bonds. The election shall be held pursuant to the provisions of the Local Election Act and may be held in conjunction with the formation election.

B. If general obligation bonds are approved by a determination of the owners and approved at an election, the district board may issue and sell general obligation bonds of the district; provided that the district board shall have determined by resolution that the principal amount of all district general obligation bonds currently outstanding and the district general obligation bonds proposed for issuance and sale shall not result in a total annual debt service that exceeds five-tenths percent of the allowable base.

C. Bonds may be sold in a public offering or in a negotiated sale.

D. After the bonds are issued, the district board shall enter in its minutes a record of the bonds sold and their numbers and dates and shall annually levy and cause a property tax to be collected, at the same time and in the same manner as other

property taxes are levied and collected on all taxable property in the district, sufficient, together with any money from the sources described in Section 5-11-17 NMSA 1978 to pay debt service on the bonds when due. Money derived from the levy of property taxes that are pledged to pay the debt service on the bonds shall be kept separately from other funds of the district. Property tax revenues not pledged to pay debt service on bonds may be used to pay other costs of the district, including costs of formation, administration, operation and maintenance, services or enhanced services. A district's levy of property taxes shall constitute a lien on all taxable property within the district, including, without limitation, all leased property or improvements to leased land, which shall be subject to foreclosure in the same manner as other property tax liens under the laws of this state. The lien shall include delinquencies and interest thereon at a rate not to exceed ten percent per year, the actual costs of foreclosure and any other costs of the district resulting from the delinquency. The proceeds of any foreclosure sale shall be deposited in the special bond fund for payment of any obligations secured thereby.

E. Subject to the determination and election provisions of this section, a district may issue general obligation bonds at such times and in such amounts as the district deems appropriate to carry out a project or projects in phases.

F. Pursuant to this section, the district may issue and sell refunding bonds to refund general obligation bonds of the district authorized by the Public Improvement District Act. No determination or election is required in connection with the issuance and sale of refunding bonds. Refunding bonds issued pursuant to this section shall have a final maturity date no later than the final maturity date of the bonds being refunded."

Chapter 212 Section 198 Laws 2019

SECTION 198. Section 5-11-23 NMSA 1978 (being Laws 2001, Chapter 305, Section 23) is amended to read:

"5-11-23. DISTRICT TAXES--ANNUAL FINANCIAL ESTIMATE-- ANNUAL FINANCIAL ESTIMATE AND BUDGET--CERTIFICATION TO LOCAL GOVERNMENT DIVISION.--

A. All property taxes for the operation and maintenance expenses of the district shall not exceed an amount equal to three dollars (\$3.00) per one thousand dollars (\$1,000) of net taxable value for all real and personal property in the district, unless a higher rate is approved by a vote of the qualified electors voting at an election conducted pursuant to the provisions of the Local Election Act not less than three years after the date of the formation of the district.

B. Once approved at an election or, in the case of a special levy, by resolution of the district board, the maximum rate of a property tax shall remain in effect until increased or decreased at a subsequent election, and the maximum rate of a special levy shall remain in effect until increased or decreased by resolution of the district board at a subsequent hearing.

C. If a maximum property tax rate is in effect, the district board, on petition of twenty-five percent of the qualified electors, or by the owners of twenty-five percent of the land area of the district, shall call an election pursuant to the provisions of the Local Election Act to reduce the maximum tax rate but not below the lesser of that rate determined by the district board to be necessary to maintain the district's facilities and improvements where the tax was authorized for operation and maintenance, or the actual rate then in effect, but in no event shall the rate be reduced below the rate necessary to satisfy the district's obligations in connection with any outstanding bonds issued pursuant to the Public Improvement District Act.

D. If a maximum special levy is in effect, the district board, on petition of twenty-five percent of the qualified electors, or by the owners of twenty-five percent of the land area of the district, shall hold a hearing to determine whether to reduce the maximum special levy but not below the lesser of that rate determined by the district board to be necessary to maintain the district's facilities and improvements, where the special levy was authorized for operation and maintenance, or the actual rate then in effect, but in no event shall the rate be reduced below the rate necessary to satisfy the district's obligations in connection with any outstanding bonds issued pursuant to the Public Improvement District Act.

E. Upon presentation to the district board of a petition signed by the owners of a majority of the property in the district, the district board shall adopt a resolution to reduce or eliminate the portion of the tax or special levy, beginning the next fiscal year, required for one or more services or enhanced services specified in the petition. Signatures on a petition to reduce or eliminate a tax or special levy shall be valid for a period of sixty days.

F. When levying property tax or imposing a special levy, the district board shall make annual statements and estimates of the operation and maintenance expenses of the district, the costs of public improvements to be financed by the taxes or special levy and the amount of all other expenditures for public infrastructure improvements and enhanced services proposed to be paid from the taxes or special levy and of the amount to be raised to pay general obligation bonds of the district or special levy bonds, all of which shall be provided for by the levy and collection of property taxes on the net taxable value of the real property in the district or by the imposition and collection of special levies. The district board shall file the annual statements and estimates with

the clerk. The district board shall publish a notice of the filing of the estimate, shall hold hearings on the portions of the estimate not relating to debt service on general obligation bonds or special levy bonds and shall adopt a budget. The district board, on or before the date set by law for certifying the annual budget of the municipality or county, shall fix, levy and assess the amounts to be raised by property taxes or special levies of the district and shall cause certified copies of the order to be delivered to the local government division of the department of finance and administration. All statutes relating to the levy and collection of property taxes, including the collection of delinquent taxes and sale of property for nonpayment of taxes, apply to district property taxes and to special levies, except to the extent that the district board has provided for other imposition, collection and foreclosure procedures in connection with special levies."

Chapter 212 Section 199 Laws 2019

SECTION 199. Section 5-15-3 NMSA 1978 (being Laws 2006, Chapter 75, Section 3) is amended to read:

"5-15-3. DEFINITIONS.--As used in the Tax Increment for Development Act:

A. "base gross receipts taxes" means:

(1) the total amount of gross receipts taxes collected within a tax increment development district, as estimated by the governing body that adopted a resolution to form that district, in consultation with the taxation and revenue department, in the calendar year preceding the formation of the tax increment development district or, when an area is added to an existing district, the amount of gross receipts taxes collected in the calendar year preceding the effective date of the modification of the tax increment development plan and designated by the governing body to be available as part of the gross receipts tax increment; and

(2) any amount of gross receipts taxes that would have been collected in such year if any applicable additional gross receipts taxes imposed after that year had been imposed in that year;

B. "base property taxes" means:

(1) the portion of property taxes produced by the total of all property tax levied at the rate fixed each year by each governing body levying a property tax on the assessed value of taxable property within the tax increment development area last certified for the year ending immediately prior to the year in which a tax increment development plan is approved for the tax increment development area, or, when an area is added to an existing tax increment development area, "base property taxes"

means that portion of property taxes produced by the total of all property tax levied at the rate fixed each year by each governing body levying a property tax upon the assessed value of taxable property within the tax increment development area on the date of the modification of the tax increment development plan and designated by the governing body to be available as part of the property tax increment; and

(2) any amount of property taxes that would have been collected in such year if any applicable additional property taxes imposed after that year had been imposed in that year;

C. "county option gross receipts taxes" means gross receipts taxes imposed by counties pursuant to the County Local Option Gross Receipts Taxes Act and designated by the governing body of the county to be available as part of the gross receipts tax increment;

D. "district" means a tax increment development district;

E. "district board" means a board formed in accordance with the provisions of the Tax Increment for Development Act to govern a tax increment development district;

F. "enhanced services" means public services provided by a municipality or county within the district at a higher level or to a greater degree than otherwise available to the land located in the district from the municipality or county, including such services as public safety, fire protection, street or sidewalk cleaning or landscape maintenance in public areas; provided that "enhanced services" does not include the basic operation and maintenance related to infrastructure improvements financed by the district pursuant to the Tax Increment for Development Act;

G. "governing body" means the city council or city commission of a city, the board of trustees or council of a town or village or the board of county commissioners of a county;

H. "gross receipts tax increment" means the gross receipts taxes collected within a tax increment development district in excess of the base gross receipts taxes collected for the duration of the existence of a tax increment development district and distributed to the district in the same manner as distributions are made under the provisions of the Tax Administration Act;

I. "gross receipts tax increment bonds" means bonds issued by a district in accordance with the Tax Increment for Development Act, the pledged revenue for which is a gross receipts tax increment;

J. "local government" means a municipality or county;

K. "municipal option gross receipts taxes" means those gross receipts taxes imposed by municipalities pursuant to the Municipal Local Option Gross Receipts Taxes Act and designated by the governing body of the municipality to be available as part of the gross receipts tax increment;

L. "municipality" means an incorporated city, town or village;

M. "owner" means a person owning real property within the boundaries of a district;

N. "person" means an individual, corporation, association, partnership, limited liability company or other legal entity;

O. "project" means a tax increment development project;

P. "property tax increment" means all property tax collected on real property within the designated tax increment development area that is in excess of the base property tax until termination of the district and distributed to the district in the same manner as distributions are made under the provisions of the Tax Administration Act;

Q. "property tax increment bonds" means bonds issued by a district in accordance with the Tax Increment for Development Act, the pledged revenue for which is a property tax increment;

R. "public improvements" means on-site improvements and off-site improvements that directly or indirectly benefit a tax increment development district or facilitate development within a tax increment development area and that are dedicated to the governing body in which the district lies. "Public improvements" includes:

(1) sanitary sewage systems, including collection, transport, treatment, dispersal, effluent use and discharge;

(2) drainage and flood control systems, including collection, transport, storage, treatment, dispersal, effluent use and discharge;

(3) water systems for domestic, commercial, office, hotel or motel, industrial, irrigation, municipal or fire protection purposes, including production, collection, storage, treatment, transport, delivery, connection and dispersal;

(4) highways, streets, roadways, bridges, crossing structures and parking facilities, including all areas for vehicular use for travel, ingress, egress and parking;

(5) trails and areas for pedestrian, equestrian, bicycle or other non-motor vehicle use for travel, ingress, egress and parking;

(6) pedestrian and transit facilities, parks, recreational facilities and open space areas for the use of members of the public for entertainment, assembly and recreation;

(7) landscaping, including earthworks, structures, plants, trees and related water delivery systems;

(8) public buildings, public safety facilities and fire protection and police facilities;

(9) electrical generation, transmission and distribution facilities;

(10) natural gas distribution facilities;

(11) lighting systems;

(12) cable or other telecommunications lines and related equipment;

(13) traffic control systems and devices, including signals, controls, markings and signage;

(14) school sites and facilities with the consent of the governing board of the public school district for which the facility is to be acquired, constructed or renovated;

(15) library and other public educational or cultural facilities;

(16) equipment, vehicles, furnishings and other personal property related to the items listed in this subsection;

(17) inspection, construction management, planning and program management and other professional services costs incidental to the project;

(18) workforce housing; and

(19) any other improvement that the governing body determines to be for the use or benefit of the public;

S. "state gross receipts tax" means the gross receipts tax imposed pursuant to the Gross Receipts and Compensating Tax Act, but does not include that portion distributed to municipalities pursuant to Sections 7-1-6.4 and 7-1-6.46 NMSA 1978 or to counties pursuant to Section 7-1-6.47 NMSA 1978;

T. "sustainable development" means land development that achieves sustainable economic and social goals in ways that can be supported for the long term by conserving resources, protecting the environment and ensuring human health and welfare using mixed-use, pedestrian-oriented, multimodal land use planning;

U. "tax increment development area" means the land included within the boundaries of a tax increment development district;

V. "tax increment development district" means a district formed for the purposes of carrying out tax increment development projects;

W. "tax increment development plan" means a plan for the undertaking of a tax increment development project;

X. "tax increment development project" means activities undertaken within a tax increment development area to enhance the sustainability of the local, regional or statewide economy; to support the creation of jobs, schools and workforce housing; and to generate tax revenue for the provision of public improvements and may include:

(1) acquisition of land within a designated tax increment development area or a portion of that tax increment development area;

(2) demolition and removal of buildings and improvements and installation, construction or reconstruction of streets, utilities, parks, playgrounds and improvements necessary to carry out the objectives of the Tax Increment for Development Act;

(3) installation, construction or reconstruction of streets, water utilities, sewer utilities, parks, playgrounds and other public improvements necessary to carry out the objectives of the Tax Increment for Development Act;

(4) disposition of property acquired or held by a tax increment development district as part of the undertaking of a tax increment development project

at the fair market value of such property for uses in accordance with the Tax Increment for Development Act;

(5) payments for professional services contracts necessary to implement a tax increment development plan or project;

(6) borrowing to purchase land, buildings or infrastructure in an amount not to exceed the revenue stream that may be derived from the gross receipts tax increment or the property tax increment estimated to be received by a tax increment development district; and

(7) grants for public improvements essential to the location or expansion of a business;

Y. "taxing entity" means the governing body of a political subdivision of the state, the gross receipts tax increment or property tax increment of which may be used for a tax increment development project; and

Z. "workforce housing" means decent, safe and sanitary dwellings, apartments, single-family dwellings or other living accommodations that are affordable for persons or families earning less than eighty percent of the median income within the county in which the tax increment development project is located; provided that an owner-occupied housing unit is affordable to a household if the expected sales price is reasonably anticipated to result in monthly housing costs that do not exceed thirty-three percent of the household's gross monthly income; provided that:

(1) determination of mortgage amounts and payments is to be based on down payment rates and interest rates generally available to lower- and moderate-income households; and

(2) a renter-occupied housing unit is affordable to a household if the unit's monthly housing costs, including rent and basic utility and energy costs, do not exceed thirty-three percent of the household's gross monthly income."

Chapter 212 Section 200 Laws 2019

SECTION 200. Section 5-15-7 NMSA 1978 (being Laws 2006, Chapter 75, Section 7) is amended to read:

"5-15-7. PUBLIC HEARING.--

A. At a public hearing conducted pursuant to the Tax Increment for Development Act, the governing body shall hear all relevant evidence and testimony and make findings. A record of the hearing shall be kept and may consist of a transcription by a court reporter, an electronic recording or minutes taken by a designated person. The record shall be preserved in the official records of the governing body and shall be open to public inspection pursuant to the Inspection of Public Records Act.

B. Testimony at a hearing is not required to be given under oath.

C. At the conclusion of a hearing, the governing body shall determine whether the tax increment development district should be formed based upon the interests, convenience or necessity of the owners, the residents of the proposed tax increment development district and the residents of the municipality or county in which the proposed tax increment development district is to be located. The governing body shall make the following findings before adopting a resolution to approve the formation of a district:

(1) the tax increment development plan reasonably protects the interests of the governing body in meeting its goals to support:

(a) job creation;

(b) workforce housing;

(c) public school facility creation and improvement, including the creation and improvement of facilities for charter schools; and

(d) underdeveloped area or historical area redevelopment;

(2) the tax increment development plan demonstrates elements of innovative planning techniques, including mixed-use transit-oriented development, traditional neighborhood design or sustainable development techniques, that are deemed by the governing body to benefit community development;

(3) the tax increment development plan incorporates sustainable development considerations; and

(4) the tax increment development plan conforms to general or long-term planning of the governing body.

D. If the governing body determines that the district should be formed, it shall:

(1) adopt a resolution ordering that the tax increment development district be formed;

(2) order that a formation determination among the owners of real property within the proposed district be conducted or declare that the formation determination is waived pursuant to Subsection B of Section 5-15-8 NMSA 1978; and

(3) set the matter for an election or declare that an election is canceled pursuant to Subsection I of Section 5-15-8 NMSA 1978."

Chapter 212 Section 201 Laws 2019

SECTION 201. Section 5-15-8 NMSA 1978 (being Laws 2006, Chapter 75, Section 8) is amended to read:

"5-15-8. FORMATION DETERMINATION--ELECTION.--

A. The formation determination and election procedures set forth in this section shall be used for:

(1) formation of a new tax increment development district;

(2) selection of a district board member;

(3) adoption of a property tax levy by a tax increment development district;

(4) use of property tax increment financing by a tax increment development district; or

(5) issuing of property tax increment bonds to be repaid by funds raised by property tax increments.

B. A formation determination may be waived and a tax increment development district shall be formed upon the governing body's adoption of a resolution to form a tax increment development district if a petition is presented to a governing body in accordance with the Tax Increment for Development Act and if the petition contains the signatures of all owners of the real property within the proposed tax increment development area and states that the owners waive the right to a formation determination.

C. A formation or other determination shall not be a local election for purposes of the Local Election Act. The governing body or district board may establish local procedures for noticing, conducting and canvassing determinations, which may include determinations by unanimous written approval of the owners in affidavits executed by the owners and confirmed in a review by the district board.

D. An election by the qualified electors pursuant to the Tax Increment for Development Act shall be a nonpartisan election called, conducted and canvassed pursuant to the provisions of the Election Code.

E. In addition to the notice requirements in the Local Election Act, the notice of election shall state:

(1) if the election is a formation election, the boundaries of the proposed tax increment development district;

(2) if the election is a bond election, the purpose for which the bonds are to be issued and the amount of the issue;

(3) if the election is a property tax levy election, the maximum tax rate per one thousand dollars (\$1,000) of assessed valuation to be imposed, the purposes for which the revenues raised will be used and the existing maximum tax rate, if any;

(4) that an approved tax increment development plan is on file with the clerk of the governing body;

(5) the purposes for which property taxes will be imposed and for which the revenues raised will be used, including a description of the public improvements to be financed with tax revenues, bond proceeds or other revenues of the tax increment development district; and

(6) that the imposition of property taxes will result in a lien for the payment on property within the district.

F. The district board, or, in the case of a formation election, the governing body, shall determine the date of the election, which shall comply with the provisions of the Local Election Act. The ballot material provided to each qualified electors shall include:

(1) for a formation election, an impartial description of the tax increment development plan and a brief description of arguments for and against the formation of the tax increment development district, if any;

(2) for an election concerning the imposition of property taxes, an impartial description of the taxes to be imposed, the method of apportionment, collection and enforcement and other details sufficient to enable each qualified elector to determine the amount of tax it will be obligated to pay; a brief description of arguments for and against the imposition of taxes that are the subject of the election, if any; and a statement that the imposition of property taxes is for the provision of certain, but not necessarily all, public improvements that may be needed or desirable within the tax increment development district, and that other taxes, levies or assessments by other governmental entities may be presented for approval by owners and qualified electors;

(3) for an election concerning the use of property tax increment financing, an impartial description of the estimated increment to be generated over the life of the

project and the nature and extent of the public improvements to be constructed and maintained using such financing;

(4) for a formation election, the question to be voted upon as "district, yes" and "district, no";

(5) for a property tax imposition election, the question to be voted upon as "property tax, yes" and "property tax, no";

(6) for an election to change an existing maximum tax or eliminate an existing tax, the question to be voted upon as "tax change, yes" and "tax change, no" and shall specify the type of tax to which the proposed change pertains; and

(7) for an election concerning the use of property tax increment bonds, the ballot shall pose the question to be voted upon as "bonds, yes" and "bonds, no".

G. Failure of a majority to vote in favor of the matter submitted shall not prejudice the submission of the same or similar matters at a later election; provided that an election on the same question shall not be held within one year of the failure of a majority to vote in favor of that question.

H. If a person transfers real property located in a district and the name of the successor owner becomes known to the governing body or the district board, as applicable, and is verified by recorded deed or other similar evidence of transfer of ownership, the successor owner is deemed to be the owner of the real property for the purposes of the Tax Increment for Development Act.

I. If there are no persons registered to vote within a district or proposed district areas within seventy days immediately preceding a scheduled election date, an election required to be held pursuant to the Tax Increment for Development Act shall be canceled and the determination made by the owners of property within the district or proposed district areas shall prevail, unless an election is otherwise required by the constitution of New Mexico or the determination was waived by the governing body pursuant to Subsection B of this section. Each owner shall have the number of votes or portion of votes equal to the number of acres or portion of acres rounded upward to the nearest one-fifth of an acre owned in the district by that owner."

Chapter 212 Section 202 Laws 2019

SECTION 202. Section 5-15-9 NMSA 1978 (being Laws 2006, Chapter 75, Section 9, as amended) is amended to read:

"5-15-9. FORMATION OF A DISTRICT.--

A. If the formation of the tax increment development district is approved in accordance with the provisions of Section 5-15-8 NMSA 1978, the governing body shall deliver a copy of the resolution ordering formation of the tax increment development district to each of the following persons or entities:

(1) the county assessor, the county treasurer and the clerk of the county in which the district is located;

(2) the school district within which any portion of the property located within a tax increment development area lies;

(3) any other taxing entities within which any portion of the property located within a tax increment development area lies;

(4) the taxation and revenue department;

(5) the local government division of the department of finance and administration; and

(6) the director of the legislative finance committee.

B. A notice of the formation showing the number and date of the resolution and giving a description of the land included in the district shall be recorded with the clerk of the county in which the district is located.

C. A tax increment development district shall be a political subdivision of the state, separate and apart from a municipality or county."

Chapter 212 Section 203 Laws 2019

SECTION 203. Section 5-15-10 NMSA 1978 (being Laws 2006, Chapter 75, Section 10, as amended) is amended to read:

"5-15-10. GOVERNANCE OF THE DISTRICT.--

A. Following formation of a tax increment development district, a district board shall administer in a reasonable manner the implementation of the tax increment development plan as approved by the governing body.

B. The district shall be governed by the governing body that adopted a resolution to form the district or by a five-member board composed of four members appointed by that governing body; provided, however, that the fifth member of the five-member board is the secretary of finance and administration or the secretary's designee with full voting privileges.

C. Two of the appointed directors shall serve an initial term to expire following a regular local election and not to exceed six years. Two of the appointed directors shall serve an initial term to expire following a regular local election and not to exceed four years. The resolution forming the district shall state which directors shall serve the longer terms and which shall serve the shorter terms. If a vacancy occurs on the district board because of the death, resignation or inability of the director to discharge the duties of the director, the governing body shall appoint a director to fill the vacancy, and the director shall hold office for the remainder of the unexpired term until a successor is appointed or elected.

D. In the case of an appointed board of directors that is not the governing body, at the end of the appointed directors' initial terms, the board shall hold an election of new directors by majority vote of qualified electors in accordance with the Local Election Act and the Tax Increment for Development Act. If the election is canceled pursuant to Subsection I of Section 5-15-8 NMSA 1978, a determination by the owners conducted by ballot shall select the new directors."

Chapter 212 Section 204 Laws 2019

SECTION 204. Section 5-15-13 NMSA 1978 (being Laws 2006, Chapter 75, Section 13) is amended to read:

"5-15-13. AUTHORITY TO IMPOSE PROPERTY TAX LEVY.--A district has the power to establish a property tax levy upon real property located within the tax increment development area, with the following limitations:

A. the maximum property tax levy a district may impose is five dollars (\$5.00) on each one thousand dollars (\$1,000) of net taxable value, as that term is defined in the Property Tax Code, which may be used for operation, maintenance and capital improvements, in furtherance of the purposes of the Tax Increment for Development Act;

B. a district may impose a property tax levy only after authorization through a determination made by the owners of real property in the district and by a majority of votes cast by the qualified resident electors of a district in an election held in accordance with the Local Election Act and the Tax Increment for Development Act; and

C. a property tax levy imposed by a district shall not be effective for more than four years."

Chapter 212 Section 205 Laws 2019

SECTION 205. Section 5-15-14 NMSA 1978 (being Laws 2006, Chapter 75, Section 14) is amended to read:

"5-15-14. PROPERTY TAX LEVY RESCISSION ELECTION.--

A. A property tax levy imposed by a district may be rescinded within the four-year period during which a property tax levy imposed by a district is effective if:

(1) thirty-three and one-third percent of the number of persons who voted in the election for the imposition of that property tax levy sign a petition to rescind the property tax levy; and

(2) each person who signs the petition is a qualified elector of the district or an owner of real property within the tax increment development area.

B. The petition shall be filed with the district board for verification of the signatures, as to both number and qualifications of the persons signing. If the district board verifies that the petition contains the requisite number of signatures by persons qualified to sign the petition pursuant to Subsection A of this section, the question of rescission of the property tax levy imposed by the district shall be placed on the ballot for:

(1) a special election held in accordance with the special election procedures of the Election Code that is called and held within ninety days; provided that the date does not conflict with the provisions of Section 1-24-1 NMSA 1978; or

(2) the next occurring regular local election or general election if that election is to be held within less than one hundred twenty days.

C. A petition for rescission of a property tax levy imposed by a district may be submitted only once each year during the four-year period during which a property tax levy by a district is effective."

Chapter 212 Section 206 Laws 2019

SECTION 206. Section 5-15-18 NMSA 1978 (being Laws 2006, Chapter 75, Section 18) is amended to read:

"5-15-18. BONDING AUTHORITY--PROPERTY TAX INCREMENT.--

A. Subject to the limitations and in accordance with Article 9 of the constitution of New Mexico and Sections 6-15-1 and 6-15-2 NMSA 1978, a district board may issue and dispose of property tax increment bonds for the purpose of securing funds for undertaking tax increment development projects within the purposes of the Tax Increment for Development Act.

B. Before property tax increment bonds are issued, the district board shall submit the question of authorizing the issuance of property tax increment bonds to the owners for a determination and to a vote of the qualified electors within the tax increment development area.

C. The district board shall give notice of a property tax increment bond election as required by the Local Election Act and the Tax Increment for Development Act.

D. The ballot question shall state the purpose for which the property tax increment bonds are to be issued and the amount of the issue. If property tax increment bonds are to be issued for more than one purpose, a separate ballot question shall be submitted to the voters for each purpose to be voted upon. The ballot question shall contain words indicating the purpose of the bond issued and a place for a vote in favor of or in opposition to each property tax increment bond issue.

E. Except as otherwise provided in the Tax Increment for Development Act, property tax increment bonds:

(1) may have interest, principal value or any part thereof payable at intervals or at maturity, as determined by the governing body;

(2) may be subject to a prior redemption at the district's option at a time or upon terms and conditions with or without payment of premium or premiums, as determined by the district board;

(3) may mature at any time not exceeding twenty-five years after the date of issuance;

(4) may be serial in form and maturity or may consist of one bond payable at one time or in installments or may be in another form, as determined by the district board;

(5) shall be sold for cash at, above or below par and at a price that results in a net effective interest rate that does not exceed the maximum permitted by the Public Securities Act and the Public Securities Short-Term Interest Rate Act; and

(6) may be sold at public or negotiated sale.

F. Except as otherwise provided by law, the district board shall determine the denominations, places of payment, terms and conditions and the form of property tax increment bonds.

G. The secretary and treasurer of the district board shall sign property tax increment bonds.

H. The property tax increment bonds may be executed in the manner provided by the Uniform Facsimile Signature of Public Officials Act."

Chapter 212 Section 207 Laws 2019

SECTION 207. Section 5-15-25 NMSA 1978 (being Laws 2006, Chapter 75, Section 25) is amended to read:

"5-15-25. MODIFICATION OF TAX INCREMENT DEVELOPMENT AREA BOUNDARIES OR TAX INCREMENT DEVELOPMENT PLAN.--

A. Following formation of a district, an area may be eliminated from the tax increment development area only following a hearing conducted upon notice given to the owners of land in the tax increment development area in the manner prescribed for the formation hearing, adoption of a resolution of intention to do so by the district board,

a determination by the owners of real property within the district to eliminate the area and voter approval by the qualified electors as provided in the Local Election Act and the Tax Increment for Development Act. Real property within the tax increment development area that is subject to the lien of property taxes, special levies or other charges imposed pursuant to the Tax Increment for Development Act shall not be eliminated from the district while there are bonds outstanding that are payable by those taxes, special levies or charges.

B. Following formation of a district, an area may be added to the district upon a determination by the owners of real property in the proposed additional area and the approval of the qualified electors residing therein, as well as a determination by the owners of real property in the district and approval of the qualified electors, as provided in the Local Election Act and the Tax Increment for Development Act.

C. The district board, following a hearing conducted upon notice given to the owners of real property located in the district in the manner prescribed for the formation hearing, may, subject to the approval of the governing body that approved the district's tax increment development plan, amend the tax increment development plan in any manner that it determines will not substantially reduce the benefits to be received by any land in the district from the public infrastructure on completion of the work to be performed under the general plan. A determination by the owners and an election shall not be required solely for the purposes of this subsection."

Chapter 212 Section 208 Laws 2019

SECTION 208. Section 6-21-5.1 NMSA 1978 (being Laws 1998, Chapter 65, Section 1) is amended to read:

"6-21-5.1. BONDS FOR COUNTY CORRECTIONAL FACILITY LOANS.--The authority may issue bonds for a county to design, construct, equip, furnish and otherwise improve a county correctional facility pursuant to the County Correctional Facility Gross Receipts Tax Act only after a majority of the qualified electors of the county has voted to allow the county to impose a county correctional facility gross receipts tax in the amount needed to repay bonds issued by the authority for the purpose of designing, constructing, equipping, furnishing and otherwise improving a county correctional facility."

Chapter 212 Section 209 Laws 2019

SECTION 209. A new Section of Chapter 7, Article 38 NMSA 1978 is enacted to read:

"PROCEDURES TO DELAY THE MAILING OF PROPERTY TAX BILLS FOR COUNTIES FOR WHICH A PROPERTY TAX LEVY IS IMPOSED AT THE NOVEMBER 2019 or 2021 REGULAR LOCAL ELECTION TO PUT THE QUESTION OF IMPOSING OR RENEWING A LEVY BEFORE THE VOTERS.--

A. In 2019 and 2021:

(1) if a local government desires to impose or renew a property tax levy, the local government shall file a resolution with the county clerk and the local government division of the department of finance and administration no later than July 15 calling for the imposition or renewal of a property tax levy and indicate the local government's intent to place the question of imposing or renewing the property tax levy on the regular local election ballot in November;

(2) no later than September 1, and following the procedures provided in Section 7-38-33 NMSA 1978, the local government division of the department of finance and administration shall by written order set two property tax rates for the properties under the jurisdiction of the local governments that submitted a resolution pursuant to Paragraph (1) of this subsection. One set of rates shall assume that the question of the property tax levy will be approved by the voters, and a second set of rates shall assume that the question of the property tax levy will not be approved by the voters. A copy of the property tax rate-setting order with both rates shall be sent to each board of county commissioners and each county assessor of each affected county and the taxation and revenue department within five days of the date the order is made;

(3) within five days of receiving the rate-setting order, the board of county commissioners of each affected county shall issue a written order imposing a tax at the rates set on the net taxable value of property allocated to the appropriate governmental units pursuant to Section 7-38-34 NMSA 1978 for both of the property tax rates set pursuant to Paragraph (2) of this subsection. The order shall provide notice of both rates. A copy of each order shall be delivered immediately to the county assessor;

(4) no later than October 1, and following the procedures provided in Section 7-38-35 NMSA 1978, the county assessor for each affected county shall prepare a property tax schedule for all property subject to property taxation in the county for both of the property tax rates set pursuant to Paragraph (2) of this subsection;

(5) pursuant to Section 7-38-36 NMSA 1978, the county assessor shall deliver a copy of the property tax schedule prepared pursuant to Paragraph (4) of this subsection to the county treasurer on October 1, with a notice that the property tax bill for those properties shall be mailed pursuant to Paragraph (6) of this subsection;

(6) after the regular local election is held in November and the voters have answered the question of the property tax levy, the county treasurer for each affected county shall prepare and mail property tax bills no later than November 24, notwithstanding Section 7-38-36 NMSA 1978, reflecting the appropriate rate and amount due, to either the owner of the property or any person other than the owner to whom the tax bill is to be sent; and

(7) notwithstanding Section 7-38-38 NMSA 1978, the first installment of property taxes is due on December 6, and shall become delinquent if not paid within thirty days pursuant to Section 7-38-49 NMSA 1978.

B. As used in this section:

(1) "affected county" means a county within which a local government is situate that files a resolution indicating the local government's intent to place the question of imposing or renewing a property tax levy on the regular local election ballot in November 2019 or 2021 pursuant to Subsection A of this section; and

(2) "local government" means "local government" as that term is defined in the Local Election Act."

Chapter 212 Section 210 Laws 2019

SECTION 210. Section 8-8-3.1 NMSA 1978 (being Laws 2013, Chapter 64, Section 1) is amended to read:

"8-8-3.1. QUALIFICATIONS OF COMMISSIONERS.--

A. In addition to other requirements imposed by law, in order to be elected or appointed as a commissioner, a person must be qualified for office by:

(1) having at least ten years of professional experience in an area regulated by the commission or in the energy sector and involving a scope of work that includes accounting, public or business administration, economics, finance, statistics, engineering or law; or

(2) having a total of ten years of combined professional experience as described in Paragraph (1) of this subsection and higher education resulting in at least a professional license or a baccalaureate degree from an institution of higher education that has been accredited by a regional or national accrediting body in an area regulated by the commission, including accounting, public or business administration, economics, finance, statistics, engineering or law.

B. As used in this section, "professional experience" means employment in which the candidate or prospective appointee for commissioner regularly made decisions requiring discretion and independent judgment and:

(1) engaged in policy analysis, research or implementation in an area regulated by the commission or in the energy sector;

(2) managed, as the head, deputy head or division director, a federal, state, tribal or local government department or division responsible for utilities, transportation or construction; or

(3) managed a business or organization regulated by the commission or in the energy sector that had five or more employees during the time it was managed by the candidate or prospective appointee.

C. A candidate for election to the office of commissioner shall certify by notarized affidavit that the candidate meets the requirements of Subsection A of this section to be filed with the declaration of candidacy. The affidavit shall be on a form provided by the secretary of state that shall permit a candidate to list with particularity the candidate's specific professional experience or higher education that meets the requirements of Subsection A of this section.

D. A voter may challenge the candidacy for election to the office of commissioner of any person seeking nomination for the reason that the person seeking nomination does not meet the requirements of Subsection A of this section or that the affidavit of the person seeking nomination does not contain sufficient information to determine if the person meets the requirements of Subsection A of this section. The challenge shall be made by filing a petition in the district court within ten days after the last day for filing a declaration of candidacy or a statement of candidacy for convention designation, which petition shall be heard in the same manner as provided in Subsection E of Section 1-8-26 NMSA 1978."

Chapter 212 Section 211 Laws 2019

SECTION 211. Section 10-3-1 NMSA 1978 (being Laws 1909, Chapter 36, Section 3, as amended) is amended to read:

"10-3-1. CIRCUMSTANCES CAUSING VACANCY IN LOCAL OFFICE.--Any office of a political subdivision of the state subject to election by the qualified electors within the political subdivision becomes vacant under any of the following circumstances:

- A. by resignation or death of the party in office;
- B. removal of the officer as provided by Sections 10-4-1 through 10-4-29 NMSA 1978;
- C. failure of the officer to qualify as provided by law;
- D. expiration of the term of office when no successor has been chosen as provided by law;
- E. when the officer removes from the area from which the officer was elected to represent and, in case of an officer serving pursuant to an appointment, when the officer removes from the area the officer was appointed to represent;
- F. absence from the political subdivision in which the officer serves for six consecutive months; but this provision does not apply to those officers wherein the law provides that the duties may be discharged by a deputy, when such absence is due to illness or other unavoidable cause;
- G. by an officer accepting and undertaking an employment relationship with the political subdivision in which the officer serves in a position subject to election; or
- H. by an officer taking the oath of office or undertaking to discharge the duties of another incompatible office."

Chapter 212 Section 212 Laws 2019

SECTION 212. Section 10-3-3 NMSA 1978 (being Laws 1907, Chapter 6, Section 2, as amended) is amended to read:

"10-3-3. VACANCY IN COUNTY OFFICE--APPOINTMENT.-- Whenever any vacancy in any county office in any of the counties of this state, other than a vacancy in the office of county commissioner, occurs by reason of death, resignation or otherwise, it is the duty of the board of county commissioners of the county where such vacancy has occurred to fill the vacancy by appointment, and the appointee shall be entitled to hold the office until the end of the unexpired term of office."

Chapter 212 Section 213 Laws 2019

SECTION 213. A new section of the Public Employees Retirement Act is enacted to read:

"ELECTED OFFICIAL--AWARD OF SERVICE CREDIT FOR SHORTENED TERM OF OFFICE--LOCAL ELECTION ACT.--A member shall be credited an award of service to the member's service credit account:

A. if, but for the shortening under the Local Election Act of a term in elected office served by the member, the member would meet the service requirement for normal retirement; and

B. in the minimum amount of service credit needed for the member to meet the requirement for normal retirement, but no more than three months."

Chapter 212 Section 214 Laws 2019

SECTION 214. Section 10-16A-3 NMSA 1978 (being Laws 1993, Chapter 46, Section 41, as amended) is amended to read:

"10-16A-3. REQUIRED DISCLOSURES FOR CERTAIN CANDIDATES AND PUBLIC OFFICERS AND EMPLOYEES--CONDITION FOR PLACEMENT ON BALLOT OR APPOINTMENT.--

A. A person holding a legislative or statewide office shall file with the secretary of state a financial disclosure statement during the month of January every year that the person holds public office.

B. A candidate for legislative or statewide office who has not already filed a financial disclosure statement with the secretary of state in the same calendar year shall file with the proper filing officer, as defined in the Election Code, a financial disclosure statement at the time of filing a declaration of candidacy. If the proper filing officer is not the secretary of state, the proper filing officer shall forward a copy of the financial disclosure statement to the secretary of state within three days.

C. A state agency head, an official whose appointment to a board or commission is subject to confirmation by the senate or a member of the insurance nominating committee shall file with the secretary of state a financial disclosure statement within thirty days of appointment and during the month of January every year thereafter that the person holds public office.

D. The financial disclosure statement shall include for any person identified in Subsection A, B or C of this section and the person's spouse the following information for the prior calendar year:

(1) the full name, mailing address and residence address of each person covered in the disclosure statement, except the address of the spouse need not be disclosed; the name and address of the person's and spouse's employer and the title or position held; and a brief description of the nature of the business or occupation;

(2) all sources of gross income of more than five thousand dollars (\$5,000) to each person covered in the disclosure statement, identified by general category descriptions that disclose the nature of the income source, in the following broad categories: law practice or consulting operation or similar business, finance and banking, farming and ranching, medicine and health care, insurance (as a business and not as payment on an insurance claim), oil and gas, transportation, utilities, general stock market holdings, bonds, government, education, manufacturing, real estate, consumer goods sales with a general description of the consumer goods and the category "other", with direction that the income source be similarly described. In describing a law practice, consulting operation or similar business of the person or spouse, the major areas of specialization or income sources shall be described, and if the spouse or a person in the reporting person's or spouse's law firm, consulting operation or similar business is or was during the reporting calendar year or the prior calendar year a registered lobbyist under the Lobbyist Regulation Act, the names and addresses of all clients represented for lobbying purposes during those two years shall be disclosed;

(3) a general description of the type of real estate owned in New Mexico, other than a personal residence, and the county where it is located;

(4) all other New Mexico business interests not otherwise listed of ten thousand dollars (\$10,000) or more in a New Mexico business or entity, including any position held and a general statement of purpose of the business or entity;

(5) all memberships held by the reporting individual and the individual's spouse on boards of for-profit businesses in New Mexico;

(6) all New Mexico professional licenses held;

(7) each state agency that was sold goods or services in excess of five thousand dollars (\$5,000) during the prior calendar year by a person covered in the disclosure statement; and

(8) each state agency, other than a court, before which a person covered in the disclosure statement represented or assisted clients in the course of the person's employment during the prior calendar year.

E. A complete financial disclosure statement shall be filed every year. The secretary of state shall deliver to each elected official required to file a financial disclosure statement a copy of any statement the person filed the previous year.

F. The financial disclosure statements filed pursuant to this section are public records open to public inspection during regular office hours and shall be retained by the state for five years from the date of filing.

G. A person who files a financial disclosure statement may file an amended statement at any time to reflect significant changed circumstances that occurred since the last statement was filed.

H. A person who files to be a candidate for a legislative or statewide office who fails or refuses to file a financial disclosure statement required by this section before the final date for qualification of the person as a candidate as provided for in the Election Code shall not be qualified by the proper filing officer as a candidate.

I. For a state agency head, an official whose appointment to a board or commission is subject to confirmation by the senate or a member of the insurance nominating committee, the filing of the financial disclosure statement required by this section is a condition of entering upon and continuing in state employment or holding an appointed position."

Chapter 212 Section 215 Laws 2019

SECTION 215. Section 21-2A-10 NMSA 1978 (being Laws 1995, Chapter 224, Section 16) is amended to read:

"21-2A-10. PROCEDURE FOR ELECTION.--

A. In all elections held under the College District Tax Act, the board shall issue a resolution calling for an election. The resolution shall be filed with each county clerk in the college district.

B. All elections held under the College District Tax Act shall be conducted and canvassed pursuant to the provisions of the Local Election Act.

C. Any person or corporation may institute, in the district court of any county in which the college district affected lies, an action or suit to contest the validity of any proceedings held under the College District Tax Act, but no such suit or action shall be maintained unless it is instituted within ten days after the issuance by the proper official of a certificate or notification of the results of the election."

Chapter 212 Section 216 Laws 2019

SECTION 216. Section 21-13-21 NMSA 1978 (being Laws 1963, Chapter 17, Section 16, as amended) is amended to read:

"21-13-21. ADDITION OF SCHOOL DISTRICTS TO EXISTING COMMUNITY COLLEGE DISTRICTS.--

A. The school board of a school district, group of school districts within a county or school districts in an adjoining county, not included in the community college district as originally formed, may by resolution petition the higher education department to be added to the community college district. The resolution may be initiated by the school board or upon presentation to the school board of a petition signed by ten percent of the qualified electors of the district.

B. In reviewing the resolution, the higher education department shall ascertain the attitude of the community college board and ensure that the petitioning district is not already within another institution's service area. If the department finds that the proposed addition of the petitioning district is not within another institution's service area and the proposed addition is acceptable to the community college district, it shall approve the resolution. Thereafter, the petitioning district and the established community college district shall call an election pursuant to the provisions of the Local Election Act on the question of the inclusion of the area in the community college district.

C. If it appears on canvass of the results of the election a majority of the votes cast in each of the petitioning areas and within the established community college district was in favor of the addition of the petitioning area, the secretary of higher education shall declare the extension of the boundaries of the community college district to include the petitioning area in which the proposed addition referendum carried by a majority vote. The addition shall take effect on the next succeeding July 1.

D. The territory within each school district added to any existing community college district shall automatically be subject to any special levy on taxable property approved for the community college district for the maintenance of facilities and services and for support of bond issues."

Chapter 212 Section 217 Laws 2019

SECTION 217. Section 21-14-2 NMSA 1978 (being Laws 1963, Chapter 162, Section 2, as amended) is amended to read:

"21-14-2. BOARD DUTIES--RELATIONSHIP WITH PARENT INSTITUTION--
ELECTIONS.--

A. As used in Chapter 21, Article 14 NMSA 1978, "board" means either the local school board or the combined local school boards acting as a single board of the school district or the board of the branch community college elected pursuant to Section 21-14-2.1 NMSA 1978.

B. The duties of the board are to:

(1) enter into written agreements with the board of regents of the parent institution, subject thereafter to biennial review by all parties concerned and to the review and commentary of the higher education department;

(2) act in an advisory capacity to the board of regents of the parent institution in all matters relating to the conduct of the branch community college;

(3) approve an annual budget for the branch community college for recommendation to the board of regents of the parent institution;

(4) certify to the board of county commissioners the tax levy; and

(5) issue the proclamation for the election for tax levies for the branch community college if the tax levies are to be presented to the voters of the district at a special election, or approve the ballot question if the tax levies are to be presented to the voters of the district at either the general or regular local election.

C. The board and the board of regents of the parent institution of the branch community college shall jointly conduct a search for qualified candidates for director. The board of regents of the parent institution, after consultation with the board, shall then select a director for the branch community college.

D. The board and the board of regents of the parent institution shall enter into a written agreement, which shall include provisions for:

(1) the higher education institution to have full authority and responsibility in relation to all academic matters;

(2) the higher education institution to honor all credits earned by students as though they were earned on the parent campus;

(3) the course of study and program offered;

(4) the cooperative use of physical facilities and teaching staff;

(5) consideration of applications of local qualified people before employing teachers of the local school system; and

(6) the detailed agreement of financing and financial control of the branch community college.

E. The agreement shall be binding upon both the board and the board of regents of the parent institution; however, it may be terminated by mutual consent or it may be terminated by either board upon six months' notice. However, if the branch community college has outstanding general obligation or revenue bonds, neither the board nor the board of regents may terminate the agreement until the outstanding bonds are retired, except as provided by Section 21-13-24.1 NMSA 1978. This provision shall apply to all agreements in existence between the branch community college and the board of regents of the parent institution.

F. All taxes levied to pay for principal and interest on bonds of the branch community college shall be in addition to the taxes levied for operating, maintaining and providing facilities for the branch community college pursuant to the College District Tax Act.

G. For the purpose of relating branch community colleges to existing laws, branch community college districts or branch community colleges shall not:

(1) be considered a part of the uniform system of free public schools pursuant to Article 12, Section 1 and Article 21, Section 4 of the constitution of New Mexico;

(2) benefit from the permanent school fund and from the current school fund under Article 12, Sections 2 and 4 of the constitution of New Mexico;

(3) be subject, except as it relates to technical and vocational education, to the control, management and direction of the public education department; and

(4) be considered school districts insofar as the restrictions of Article 9, Section 11 of the constitution of New Mexico are concerned.

H. All elections held pursuant to the branch community college laws shall be conducted and canvassed pursuant to the provisions of the Local Election Act.

I. The territory of a branch of community college may be extended to include additional school districts in the same manner as provided for community colleges in Section 21-13-21 NMSA 1978.

J. Any person or corporation may institute in the district court of any county in which the branch community college district affected lies an action or suit to contest the validity of any proceedings held under the branch community college laws, but no such suit or action shall be maintained unless it is instituted within ten days after the issuance by the proper officials of a certificate or notification of the results of the election and the canvassing of the election returns.

K. The tax rolls of the school districts comprising the branch community college district shall be adopted as the tax rolls of the branch community college district."

Chapter 212 Section 218 Laws 2019

SECTION 218. Section 21-14-2.1 NMSA 1978 (being Laws 1985, Chapter 238, Section 29) is amended to read:

"21-14-2.1. BRANCH COMMUNITY COLLEGE BOARD--LOCAL OPTION.--

A. A majority of the local board of education or the combined boards of education acting as a single board may cease to operate as the branch community college board and provide for an elected branch community college board. In that event, the majority of the local board of education or the combined boards of education acting as a single board shall elect five persons as members of the branch community college board. Board members shall be qualified electors and residents of the branch community college district. The members of the board shall continue to serve until the next regular local election, at which time five board members shall be elected by the qualified electors of the branch community college district. The candidates shall file for and be elected to a particular position number. At the first board meeting after the election, the five members shall draw lots for the following terms: two for terms of two years and three for terms of four years. Thereafter, board members shall be elected for terms of four years. All vacancies caused in any other manner than by the expiration of the term of office shall be filled by appointment by the remaining members.

B. Immediately after the election of the five members by the assembled board of education members, the board shall select from its members a chair and secretary who shall serve in these offices until the next regular local election. In January after each regular local election, the members shall proceed to reorganize.

C. The duties of the board shall continue as set out in Chapter 21, Article 14 NMSA 1978."

Chapter 212 Section 219 Laws 2019

SECTION 219. Section 21-14A-3 NMSA 1978 (being Laws 1982, Chapter 42, Section 3, as amended) is amended to read:

"21-14A-3. ESTABLISHMENT AUTHORIZED--BOARD-- DETERMINATION OF NEED--AGREEMENTS.--

A. An off-campus instruction program may be established in a school district upon the showing of need by the local board of education. An off-campus instruction program may be established to include more than one school district, in which instance the two or more local boards of education shall act as a single board and, if the off-campus instruction program is established, shall continue to act as a single board.

B. As used in the Off-Campus Instruction Act, "off-campus board" means the local board of education, or the combined local boards of education acting as a single board, of the school district.

C. The duties of the off-campus board are to:

(1) initiate and conduct the survey provided for in Subsection D of this section;

(2) select one or more parent institutions, which shall be one of the state educational institutions as specified in Article 12, Section 11 of the constitution of New Mexico or one of the state educational institutions established pursuant to Chapter 21 NMSA 1978;

(3) request approval of the off-campus instruction program by the higher education department;

(4) enter into written agreements with the board of regents of the selected parent institution, which agreements shall be subject to biennial review of all parties concerned and to the review and commentary of the higher education department;

(5) act in an advisory capacity to the board of regents of the parent institution in all matters relating to the conduct of the off-campus instruction program;

(6) approve an annual budget for the off-campus instruction program for recommendation to the board of regents of the parent institution;

(7) certify to the board of county commissioners the tax levy; and

(8) issue the proclamation for the election for tax levies for the off-campus instruction program if the tax levies are to be presented to the voters of the district at a special election; or approve the ballot question if the tax levies are to be presented to the voters of the district at either the general or regular local election.

D. Upon evidence of a demand for an off-campus instruction program, the off-campus board shall cause a survey to be made. The higher education department shall develop criteria for the establishment of an off-campus instruction program, and no such program shall be established without the written authorization of the department.

E. If need is established, the off-campus board, in accordance with the higher education department criteria for initiating an off-campus instruction program, shall consult with the board of regents of the state educational institution selected to be a parent institution, and, if the off-campus board and the board of regents agree to conduct an off-campus instruction program in the area, they shall transmit a proposal to establish an off-campus instruction program to the department. The department shall evaluate the need and shall notify the off-campus board and the board of regents of approval or disapproval of the proposal.

F. If the proposal is approved, the off-campus board and the board of regents of the parent institution shall enter into a written agreement, which shall include provisions for:

(1) the state educational institution to have full authority and responsibility in relation to all academic matters;

(2) the state educational institution to honor all credits earned by students as though they were earned on the parent campus;

(3) the course of study and program approved by the higher education department and offered to the students;

(4) the cooperative use of physical facilities and teaching staff; and

(5) the detailed agreement of financing and financial control of the off-campus instruction program.

G. The agreement shall be binding upon both the off-campus board and the board of regents of the parent institution; however, it may be terminated by mutual consent or it may be terminated by either board upon six months' notice.

H. For the purpose of relating off-campus instruction programs to existing laws, off-campus instruction program districts or off-campus instruction programs shall not:

(1) be considered a part of the uniform system of free public schools pursuant to Article 12, Section 1 and Article 21, Section 4 of the constitution of New Mexico;

(2) benefit from the permanent school fund and from the current school fund under Article 12, Sections 2 and 4 of the constitution of New Mexico;

(3) be subject, except as it relates to technical and vocational education, to the control, management and direction of the public education department under Article 12, Section 6 of the constitution of New Mexico;

(4) be considered school districts insofar as the restrictions of Article 9, Section 11 of the constitution of New Mexico are concerned; and

(5) include the major attendance center of northern New Mexico college at Espanola.

I. All elections held pursuant to the Off-Campus Instruction Act shall be called, conducted and canvassed pursuant to the Local Election Act.

J. Any person or corporation may institute in the district court of any county in which the off-campus instruction program district affected lies an action or suit to contest the validity of any proceedings held under the Off-Campus Instruction Act, but no such suit or action shall be maintained unless it is instituted within ten days after the issuance by the proper officials of a certificate or notification of the results of the election and the canvassing of the election returns.

K. The tax rolls of the school districts comprising the off-campus instruction program district shall be adopted as the tax rolls of the off-campus instruction program district."

Chapter 212 Section 220 Laws 2019

SECTION 220. Section 22-18-2 NMSA 1978 (being Laws 1967, Chapter 16, Section 229, as amended) is amended to read:

"22-18-2. BOND ELECTIONS--QUALIFICATION OF VOTERS--CALLING FOR BOND ELECTIONS.--

A. Before any general obligation bonds are issued, a local school board of a school district shall submit to a vote of the qualified electors of the school district the question of creating a debt by issuing the bonds, and a majority of those persons voting on the question shall vote for issuing the general obligation bonds.

B. The election on the question of creating a debt by issuing general obligation bonds shall be held pursuant to the provisions of the Local Election Act. The question shall be submitted to a vote at a district election upon the initiative of a local school board or upon a petition being filed with a local school board signed by qualified electors of the school district. The number of signatures required on the petition shall be at least ten percent of the number of votes cast for governor in the school district in the last preceding general election. For the purpose of determining the number of votes cast for governor in the school district at the last preceding general election, any portion of a voting division within the school district shall be construed to be wholly within the school district. A local school board shall call for a bond election at the next regular local or special election within ninety days following the date a properly signed petition is filed with it; provided that the timing of the election does not conflict with the provisions of Section 1-24-1 NMSA 1978."

Chapter 212 Section 221 Laws 2019

SECTION 221. Section 22-18-4 NMSA 1978 (being Laws 1967, Chapter 16, Section 231, as amended) is amended to read:

"22-18-4. BOND ELECTIONS--CONDUCT.--

A. A person is required to be a qualified elector to vote in a bond election in a school district.

B. Bond elections in a school district shall be conducted pursuant to the Local Election Act."

Chapter 212 Section 222 Laws 2019

SECTION 222. Section 22-25-3 NMSA 1978 (being Laws 1975 (S.S.), Chapter 5, Section 3, as amended) is amended to read:

"22-25-3. AUTHORIZATION FOR LOCAL SCHOOL BOARD TO SUBMIT QUESTION OF CAPITAL IMPROVEMENTS TAX IMPOSITION.--

A. A local school board may adopt a resolution to submit to the qualified electors of the school district the question of whether a property tax should be imposed upon the net taxable value of property allocated to the school district under the Property Tax Code at a rate not to exceed that specified in the resolution for the purpose of capital improvements in the school district. The resolution shall:

(1) identify the capital improvements for which the revenue proposed to be produced will be used;

(2) specify the rate of the proposed tax, which shall not exceed two dollars (\$2.00) on each one thousand dollars (\$1,000) of net taxable value of property allocated to the school district under the Property Tax Code;

(3) limit the imposition of the proposed tax to no more than six property tax years; and

(4) indicate the regular election on which the ballot question shall appear or specify the date a special election will be held to submit the question of imposition of the tax to the qualified electors of the district.

B. A resolution submitted to the qualified electors pursuant to Subsection A of this section shall include capital improvements funding for a locally chartered or state-chartered charter school located within the school district if the charter school timely provides the necessary information to the school district for inclusion in the resolution that identifies the capital improvements of the charter school for which the revenue proposed to be produced will be used."

Chapter 212 Section 223 Laws 2019

SECTION 223. Section 22-25-4 NMSA 1978 (being Laws 1975 (S.S.), Chapter 5, Section 4) is amended to read:

"22-25-4. AUTHORIZING RESOLUTION--TIME LIMITATION.--The resolution authorized under Section 22-25-3 NMSA 1978 shall be adopted within the time frames required by the Election Code and pursuant to the requirements of the property tax division of the taxation and revenue department."

Chapter 212 Section 224 Laws 2019

SECTION 224. Section 22-25-5 NMSA 1978 (being Laws 1975 (S.S.), Chapter 5, Section 5, as amended) is amended to read:

"22-25-5. CONDUCT OF ELECTION--NOTICE--BALLOT.--

A. An election on the question of imposing a tax under the Public School Capital Improvements Act shall be conducted as prescribed in the Local Election Act.

B. The proclamation authorizing the ballot question or calling for a special election shall include as the question to be submitted to the voters whether a property tax at a rate not to exceed the rate specified in the authorizing resolution should be imposed for the specified number of property tax years not exceeding six years upon the net taxable value of all property allocated to the school district for the capital improvements specified in the authorizing resolution.

C. The ballot shall include the information specified in Subsection B of this section and shall present the voter the choice of voting "for the public school capital improvements tax" or "against the public school capital improvements tax".

Chapter 212 Section 225 Laws 2019

SECTION 225. Section 22-25-6 NMSA 1978 (being Laws 1975 (S.S.), Chapter 5, Section 6, as amended) is amended to read:

"22-25-6. ELECTION RESULTS--CANVASS--CERTIFICATION.--The canvass and certification of the results of an election held on the question of imposition of a public school capital improvements tax shall be as prescribed in the Local Election Act and in addition to the reporting of results as required by the Election Code, and a copy of the certificate of results shall be delivered immediately to the director."

Chapter 212 Section 226 Laws 2019

SECTION 226. Section 22-25-7 NMSA 1978 (being Laws 1975 (S.S.), Chapter 5, Section 7, as amended) is amended to read:

"22-25-7. IMPOSITION OF TAX--LIMITATION ON EXPENDITURES.--

A. If as a result of an election held in accordance with the Public School Capital Improvements Act a majority of the qualified electors voting on the question votes in favor of the imposition of the tax, the tax rate shall be certified, unless the local school board requests by resolution that a rate be discontinued, by the department of finance and administration at the rate specified in the resolution authorized under Section 22-25-3 NMSA 1978 or at any lower rate required by operation of the rate limitation provisions of Section 7-37-7.1 NMSA 1978 upon the rate specified in the resolution and

be imposed at the rate certified in accordance with the provisions of the Property Tax Code.

B. The revenue produced by the tax and, except as provided in Subsection F, G or H of Section 22-25-9 NMSA 1978, any state distribution resulting to the district under the Public School Capital Improvements Act shall be expended only for the capital improvements specified in the authorizing resolution.

C. The amount of tax revenue to be distributed to each charter school that was included in the resolution shall be determined each year and shall be in the same proportion as the average full-time-equivalent enrollment of the charter school on the first reporting date of the prior school year is to the total such enrollment in the school district; provided that no distribution shall be made to an approved charter school that had not commenced classroom instruction in the prior school year. Each year, the department shall certify to the county treasurer of the county in which the eligible charter schools in the school district are located the percentage of the revenue to be distributed to each charter school. The county treasurer shall distribute the charter school's share of the property tax revenue directly to the charter school."

Chapter 212 Section 227 Laws 2019

SECTION 227. Section 22-25-8 NMSA 1978 (being Laws 1975 (S.S.), Chapter 5, Section 8, as amended) is amended to read:

"22-25-8. TAX TO BE IMPOSED FOR A MAXIMUM OF SIX YEARS.--A tax imposed in a school district as a result of an election under the Public School Capital Improvements Act shall be imposed for a specified number of property tax years not exceeding six years. The local school board may discontinue, by resolution, the Public School Capital Improvements Act tax levy at the end of any property tax year. The local school board shall direct that the Public School Capital Improvements Act tax levy be decreased by the amount required for any year in which the decrease is required by operation of the rate limitation provisions of Section 7-37-7.1 NMSA 1978."

Chapter 212 Section 228 Laws 2019

SECTION 228. Section 22-26-3 NMSA 1978 (being Laws 1983, Chapter 163, Section 3, as amended) is amended to read:

"22-26-3. AUTHORIZATION FOR LOCAL SCHOOL BOARD TO SUBMIT QUESTION OF CAPITAL IMPROVEMENTS TAX IMPOSITION.--

A. A local school board may adopt a resolution to submit to the qualified electors of the school district the question of whether a property tax at a rate not to exceed the rate specified in the resolution should be imposed upon the net taxable value of property allocated to the school district under the Property Tax Code for the purpose of capital improvements to public schools in the school district. The resolution shall:

(1) identify the capital improvements for which the revenue proposed to be produced will be used;

(2) specify the rate of the proposed tax, which shall not exceed ten dollars (\$10.00) on each one thousand dollars (\$1,000) of net taxable value of property allocated to the school district under the Property Tax Code;

(3) limit the imposition of the proposed tax to no more than six property tax years; and

(4) indicate the regular election on which the ballot question shall appear or specify the date a special election will be held to submit the question of imposition of the tax to the qualified electors of the district.

B. A resolution submitted to the qualified electors pursuant to Subsection A of this section shall include capital improvements funding for a locally chartered or state-chartered charter school located within the school district if:

(1) the charter school timely provides the necessary information to the school district for inclusion on the resolution that identifies the capital improvements of the charter school for which the revenue proposed to be produced will be used; and

(2) the capital improvements are included in the five-year facilities plan:

(a) of the school district, if the charter school is a locally chartered charter school; or

(b) of the charter school, if the charter school is a state-chartered charter school."

Chapter 212 Section 229 Laws 2019

SECTION 229. Section 22-26-4 NMSA 1978 (being Laws 1983, Chapter 163, Section 4) is amended to read:

"22-26-4. AUTHORIZING RESOLUTION--TIME LIMITATION.--The resolution authorized under Section 22-26-3 NMSA 1978 shall be adopted within the time frames required by the Election Code and pursuant to the requirements of the property tax division of the taxation and revenue department."

Chapter 212 Section 230 Laws 2019

SECTION 230. Section 22-26-5 NMSA 1978 (being Laws 1983, Chapter 163, Section 5, as amended) is amended to read:

"22-26-5. CONDUCT OF ELECTION--NOTICE--BALLOT.--

A. An election on the question of imposing a tax under the Public School Buildings Act shall be held as prescribed in the Local Election Act.

B. The resolution authorizing the ballot question or calling for a special election shall include as the question to be submitted to the voters whether a property tax at a rate not to exceed the rate specified in the authorizing resolution should be imposed for the specified number of property tax years not exceeding six years upon the net taxable value of all property allocated to the school district for capital improvements.

C. The ballot shall include the information specified in Subsection B of this section and shall present the voter the choice of voting "for the public school buildings tax" or "against the public school buildings tax".

Chapter 212 Section 231 Laws 2019

SECTION 231. Section 22-26-6 NMSA 1978 (being Laws 1983, Chapter 163, Section 6, as amended) is amended to read:

"22-26-6. ELECTION RESULTS--CERTIFICATION.--The certification of the results of an election held on the question of imposition of a public school buildings tax shall be as prescribed in the Local Election Act, and in addition to the reporting of results required by the Election Code, a copy of the certificate of results shall be delivered immediately to the secretary."

Chapter 212 Section 232 Laws 2019

SECTION 232. Section 22-26-8 NMSA 1978 (being Laws 1983, Chapter 163, Section 8, as amended) is amended to read:

"22-26-8. TAX TO BE IMPOSED FOR A MAXIMUM OF SIX YEARS.--A tax imposed in a school district as a result of an election under the Public School Buildings Act shall be imposed for one, two, three, four, five or six years. The local school board may direct that such levy be decreased or not made for any year if, in its judgment, the total levy is not necessary for such year and shall direct that the levy be decreased by the amount required if a decrease is required by operation of the rate limitation provisions of Section 7-37-7.1 NMSA 1978."

Chapter 212 Section 233 Laws 2019

SECTION 233. Section 22-26-9 NMSA 1978 (being Laws 2007, Chapter 366, Section 23, as amended) is amended to read:

"22-26-9. CHARTER SCHOOLS--RECEIPT OF LOCAL PROPERTY TAX REVENUE.--If the qualified electors of a school district have voted in favor of the imposition of a property tax as provided in Section 22-26-3 NMSA 1978, the amount of tax revenue to be distributed to each charter school that was included in the resolution shall be determined each year and shall be in the same proportion as the average full-time-equivalent enrollment of the charter school on the first reporting date of the prior school year is to the total such enrollment in the district; provided that, in the case of an approved charter school that had not commenced classroom instruction in the prior school year, the estimated full-time-equivalent enrollment in the first year of instruction, as shown in the approved charter school application, shall be used, subject to adjustment after the first reporting date. Each year, the department shall certify to the county treasurer of the county in which the eligible charter schools in the school district are located the percentage of the revenue to be distributed to each charter school. The county treasurer shall distribute the charter school's share of the property tax revenue directly to the charter school."

Chapter 212 Section 234 Laws 2019

SECTION 234. Section 36-1-8.3 NMSA 1978 (being Laws 1981, Chapter 25, Section 2, as amended) is amended to read:

"36-1-8.3. DISTRICT ATTORNEYS--ELECTION--RESIDENCE.-- The district attorney in division 1 shall be elected by the qualified electors of San Juan county and the district attorney in division 2 shall be elected by the qualified electors in McKinley county. Each district attorney shall have all the duties and powers vested in a district attorney."

Chapter 212 Section 235 Laws 2019

SECTION 235. Section 60-5A-1 NMSA 1978 (being Laws 1981, Chapter 39, Section 15, as amended) is amended to read:

"60-5A-1. ELECTIONS FOR LOCAL OPTION.--Any municipality containing more than five thousand persons according to the latest United States census, whether the county in which that municipality is situated has adopted the local option provisions of the Liquor Control Act or any former act or not, or any county in the state may adopt local option in the county or municipality upon the following terms and conditions:

A. the qualified electors of a proposed local option district may petition the governing body by filing a petition in the appropriate office to hold an election for the purpose of determining whether the county or municipality shall adopt the local option provisions of the Liquor Control Act. If the number of the signatures of the electors on the petition equals or exceeds five percent of the number of qualified electors of the district, the governing body shall call an election within ninety days of the verification of the petition; provided that the date is not in conflict with the provisions of Section 1-24-1 NMSA 1978. The governing body shall refuse to recognize the petition if more than three months have elapsed between the date of the first signature and the filing of the petition. The election also may be initiated by a resolution adopted by the governing body of the proposed local option district without a petition having been submitted;

B. the election shall be called, conducted, counted and canvassed pursuant to the provisions of the Local Election Act;

C. except as otherwise provided in this section, contests, recounts and rechecks shall be permitted as provided for in the case of candidates. Applications for contests, recounts or rechecks may be filed by any person who voted in the election, and service shall be made upon the county clerk or municipal clerk as the case may be;

D. if a majority of all the votes cast at the election is cast in favor of the sale, service or public consumption of alcoholic beverages in the county or municipality, the chair of the governing body shall declare by order entered upon the records of the county or municipality that the county or municipality has adopted the local option provisions of the Liquor Control Act and shall notify the department of the results;

E. if an election is held under the provisions of the Liquor Control Act in a county that contains within its limits a municipality of more than five thousand persons according to the latest United States census, it is not necessary for the qualified electors in the municipality to file a separate petition asking for a separate or different vote on the question of adopting the local option provisions of the Liquor Control Act by the municipality. The election in the county shall be conducted so as to separate the votes in the municipality from those in the remaining parts of the county. If a majority of the

voters in the county, including the voters in the municipality, votes against the sale, service or public consumption of alcoholic beverages in the county, the county shall not adopt the local option provisions of the Liquor Control Act; but if a majority of the votes in the municipality is in favor of the sale, service or public consumption of alcoholic beverages, the municipality shall have adopted the local option provisions of the Liquor Control Act. Nothing contained in this subsection shall prevent any municipality from having a separate election under the terms of this section;

F. a county or municipality composing a local option district under the provisions of the Liquor Control Act or a former act may vote to discontinue the sale, service or public consumption of alcoholic beverages in the local option district; the discontinuance shall become effective on the ninetieth day after the local option election is held; and

G. nothing in this section shall invalidate any local option election held pursuant to any former act prior to July 1, 1981."

Chapter 212 Section 236 Laws 2019

SECTION 236. Section 60-6A-4 NMSA 1978 (being Laws 1981, Chapter 39, Section 21, as amended) is amended to read:

"60-6A-4. RESTAURANT LICENSE.--

A. A local option district may approve the issuance of restaurant licenses for the sale of beer and wine by holding an election on that question pursuant to the procedures set out in Section 60-5A-1 NMSA 1978. The election also may be initiated by a resolution adopted by the governing body of the local option district without a petition from qualified electors having been submitted.

B. After the approval of restaurant licenses by the qualified electors of the local option district and upon completion of all requirements in the Liquor Control Act for the issuance of licenses, a restaurant located or to be located within the local option district may receive a restaurant license to sell, serve or allow the consumption of beer and wine subject to the following requirements and restrictions:

(1) the applicant shall submit evidence to the department that the applicant has a current valid food service establishment permit;

(2) the applicant shall satisfy the director that the primary source of revenue from the operation of the restaurant will be derived from meals and not from the sale of beer and wine;

(3) the director shall condition renewal upon a requirement that no less than sixty percent of gross receipts from the preceding twelve months' operation of the licensed restaurant was derived from the sale of meals;

(4) upon application for renewal, the licensee shall submit an annual report to the director indicating the annual gross receipts from the sale of meals and from beer and wine sales;

(5) restaurant licensees shall not sell beer and wine for consumption off the licensed premises;

(6) all sales, services and consumption of beer and wine authorized by a restaurant license shall cease at the time meal sales and services cease or at 11:00 p.m., whichever time is earlier;

(7) if Sunday sales have been approved in the local option district, a restaurant licensee may serve beer and wine on Sundays until the time meal sales and services cease or 11:00 p.m., whichever time is earlier; and

(8) a restaurant license shall not be transferable from person to person or from one location to another.

C. The provisions of Section 60-6A-18 NMSA 1978 shall not apply to restaurant licenses.

D. Nothing in this section shall prevent a restaurant licensee from receiving other licenses pursuant to the Liquor Control Act."

Chapter 212 Section 237 Laws 2019

SECTION 237. Section 60-7A-1 NMSA 1978 (being Laws 1981, Chapter 39, Section 47, as amended) is amended to read:

"60-7A-1. HOURS AND DAYS OF BUSINESS--SUNDAY SALES--CHRISTMAS DAY SALES--SALES FOR CONSUMPTION OFF THE LICENSED PREMISES--ELECTIONS.--

A. Provided that nothing in this section shall prohibit the consumption at any time of alcoholic beverages in guest rooms of hotels, alcoholic beverages shall be sold, served and consumed on licensed premises only during the following hours and days:

(1) on Mondays from 7:00 a.m. until midnight;

(2) on Tuesdays through Saturdays from after midnight of the previous day until 2:00 a.m., then from 7:00 a.m. until midnight, except as provided in Subsections E and G of this section; and

(3) on Sundays only after midnight of the previous day until 2:00 a.m., except as provided in Subsections D and F of this section and Section 60-7A-2 NMSA 1978.

B. Except as provided in Subsection C of this section, alcoholic beverages may be sold by a dispenser or a retailer in unbroken packages, for consumption off the licensed premises and not for resale, only on Mondays through Saturdays from 7:00 a.m. until midnight, except as provided in Subsections E and G of this section.

C. The governing body of a local option district that is a class B county with a population greater than seventy thousand and less than seventy-six thousand according to the most recent federal decennial census or that is a municipality located within a class B county with a population greater than seventy thousand and less than seventy-six thousand according to the most recent federal decennial census may pass an ordinance to place restrictions, in addition to those provided in this section, on the hours during which a dispenser or retailer may sell alcoholic beverages in unbroken packages for consumption off the licensed premises and not for resale. The ordinance may restrict sales between 7:00 a.m. and 10:00 a.m. and shall provide the hours between 7:00 a.m. and 10:00 a.m., if any, during which a dispenser or retailer may sell alcoholic beverages in unbroken packages for consumption off the licensed premises and not for resale.

D. A dispenser, restaurant licensee or club may, upon payment of an additional fee of one hundred dollars (\$100), obtain a permit to sell, serve or permit the consumption of alcoholic beverages by the drink on the licensed premises on Sundays, subject to approval obtained pursuant to the process set forth in Subsection F of this section. Alcoholic beverages may be sold, served and consumed from 11:00 a.m. until midnight as set forth in the licensee's Sunday sales permit, and in those years when December 31 falls on a Sunday, from 11:00 a.m. until 2:00 a.m. of the following day, except as otherwise provided for a restaurant licensee in Section 60-6A-4 NMSA 1978. The Sunday sales permit shall expire on June 30 of each year and may be renewed from year to year upon application for renewal and payment of the required fee. The permit fee shall not be prorated. Sales made pursuant to this subsection or Subsection H of this section shall be called "Sunday sales".

E. Retailers, dispensers, canopy licensees that were replaced by dispenser's licensees pursuant to Section 60-6B-16 NMSA 1978, restaurant licensees, club licensees and governmental licensees or their lessees shall not sell, serve, deliver or

allow the consumption of alcoholic beverages on the licensed premises from 2:00 a.m. on Christmas day until 7:00 a.m. on the day after Christmas, except as permitted pursuant to Subsection G of this section.

F. Sunday sales pursuant to the provisions of Subsection D of this section are permitted in a local option district that voted to permit them. If in that election a majority of the voters in a local option district voted "no" on the question "Shall Sunday sales of alcoholic beverages by the drink for consumption on the licensed premises of licensees be allowed in this local option district?", Sunday sales are unlawful in that local option district upon certification of the election returns unless the provisions of Subsection K of this section apply. The question shall not again be placed on the ballot in that local option district until at least one year has passed and:

(1) the local governing body of the local option district passes a resolution calling for the question to be placed on a regular election ballot or adopts a proclamation calling for the question to be placed before the voters in a special local election; or

(2) a petition is filed with the local governing body bearing the signatures of qualified electors of the local option district equal in number to ten percent of the number of votes cast and counted in the local option district for governor in the last preceding general election in which a governor was elected. The signatures on the petition shall be verified by the clerk of the county in which the local option district is situated.

G. On and after July 1, 2002, dispensers, canopy licensees that were replaced by dispenser's licensees pursuant to Section 60-6B-16 NMSA 1978, restaurant licensees, club licensees and governmental licensees or lessees of these licensees; provided that the licensees have current, valid food service establishment permits, may sell, serve or allow the consumption of alcoholic beverages by the drink on licensed premises from noon until 10:00 p.m. on Christmas day, except in a local option district in which, pursuant to election under this subsection, a majority of the voters voting on the question votes against continuing such sales or consumption on Christmas day. An election shall be held on the question of whether to continue to allow the sale, service or consumption of alcoholic beverages by the drink on licensed premises from noon until 10:00 p.m. on Christmas day in a local option district, if a petition requesting the governing body of that district to call the election is signed by at least ten percent of the registered voters of the district and is filed with the clerk of the governing body of the district. Upon verification by the clerk that the petition contains the required number of signatures of registered voters, the governing body shall pass a resolution calling for the question to be placed on a regular election ballot or adopt a proclamation calling for the question of allowing the sale, service or consumption of alcoholic beverages by the

drink on licensed premises from noon until 10:00 p.m. on Christmas day to be placed before the voters in a special local election. The election may also be initiated by a resolution adopted by the governing body of the local option district without a petition from qualified electors having been submitted. The election shall be held pursuant to the Local Election Act. If a majority of the voters voting on the question votes against continuing the sale, service or consumption of alcoholic beverages by the drink on licensed premises from noon until 10:00 p.m. on Christmas day, then such sales and consumption shall be prohibited. If a majority of the voters voting on the question votes to allow continued sale, service and consumption of alcoholic beverages by the drink on licensed premises from noon until 10:00 p.m. on Christmas day, then such sales and consumption shall be allowed to continue. The question then shall not be submitted again to the voters within two years of the date of the last election on the question.

H. Notwithstanding the provisions of Subsection F of this section, any Indian nation, tribe or pueblo whose lands are wholly situated within the state that has, by statute, ordinance or resolution, elected to permit the sale, possession or consumption of alcoholic beverages on lands within the territorial boundaries of the Indian nation, tribe or pueblo may, by statute, ordinance or resolution of the governing body of the Indian nation, tribe or pueblo, permit Sunday sales by the drink on the licensed premises of licensees on lands within the territorial boundaries of the Indian nation, tribe or pueblo; provided that a certified copy of such enactment is filed with the office of the director and with the secretary of state.

I. Subject to the provisions of Subsection J of this section, a dispenser or retailer, upon payment of an additional fee of one hundred dollars (\$100), may obtain a permit to sell alcoholic beverages in unbroken packages for consumption off the licensed premises on Sundays from noon until midnight, and in those years when December 31 falls on a Sunday, from noon on December 31 until 2:00 a.m. of the following day. The permit shall expire on June 30 of each year and may be renewed from year to year upon application for renewal and payment of the required fee. The permit fee shall not be prorated. Sales made pursuant to the provisions of this subsection shall be called "Sunday package sales".

J. If a petition requesting the governing body of a local option district to call an election on the question of continuing to allow sales of alcoholic beverages in unbroken packages for consumption off the licensed premises on Sundays is filed with the clerk of the governing body and that petition is signed by at least ten percent of the number of registered voters of the local option district and the clerk of the governing body verifies the petition signatures, the governing body shall pass a resolution calling for the question to be placed on a regular election ballot or adopt a proclamation calling for the question to be placed before the voters in a special local election on the question. The election may also be initiated by a resolution adopted by the governing body of the local

option district without a petition from qualified electors having been submitted. The election shall be held within ninety days of the date that the petition is verified pursuant to the provisions of the Local Election Act; provided that the date of the election is not in conflict with the provisions of Section 1-24-1 NMSA 1978. If a majority of the voters of the local option district voting in the election votes to allow the sale of alcoholic beverages in unbroken packages for consumption off the licensed premises, then those sales shall continue to be allowed. If a majority of the voters of the local option district voting in the election votes not to allow the Sunday package sales, then those Sunday package sales shall be prohibited commencing the first Sunday after the results of the election are certified. Following the election, the question of allowing the Sunday package sales shall not be submitted again to the voters within two years of the date of the last election on the question.

K. Sunday sales of alcoholic beverages shall be permitted at resorts and at horse racetracks statewide pursuant to the provisions of Section 60-7A-2 NMSA 1978."

Chapter 212 Section 238 Laws 2019

SECTION 238. Section 72-18-3 NMSA 1978 (being Laws 1981, Chapter 377, Section 3) is amended to read:

"72-18-3. DEFINITIONS.--As used in the Flood Control District Act:

A. "acquisition" or "acquire" includes the opening, laying out, establishment, purchase, construction, securing, installation, reconstruction, lease, gift or grant from the federal government, any public body or person or any endowment, bequest, devise, condemnation, transfer, assignment, option to purchase, other contract or other acquirement of facilities, other property, any project or an interest authorized by the Flood Control District Act;

B. "board" means the board of directors of a district, which board shall consist of five directors;

C. "chair" means the chair of the board and president of a district;

D. "cost" or "cost of the project" means all or any part of the cost designated by the board of any facilities, project or interest in any facilities or project being acquired, and of all or any property, rights, easements, privileges, agreements and franchises deemed by the district to be necessary or useful and convenient in connection with the facilities or project, which cost, at the option of the board, may include all or any part of the incidental costs pertaining to the project and all other expenses necessary or desirable and appertaining to any project, as estimated by the board;

E. "director" means a member of the board of a district;

F. "disposal" or "dispose" includes the sale, destruction, razing, loan, lease, gift, grant, transfer, assignment, mortgage, option to sell, other contract or other disposition of facilities, other property or any project or an interest in any facilities, property or project authorized by the Flood Control District Act;

G. "district" means a flood control district created pursuant to the Flood Control District Act;

H. "equipment" or "equip" includes the furnishing of all necessary or desirable, related or appurtenant facilities appertaining to any facilities, property, project or interest in any facilities, property or project authorized by the Flood Control District Act;

I. "facility" includes any of the sewer facilities or other property appertaining to the flood control system of any district;

J. "federal government" means the United States or any agency, instrumentality or corporation thereof;

K. "federal securities" means bills, certificates of indebtedness, notes, bonds or other obligations that are direct obligations of, or the principal and interest of which obligations are unconditionally guaranteed by, the United States;

L. "improvement" or "improve" means the extension, widening, lengthening, betterment, alteration, reconstruction, repair or other improvement of facilities, other property or any project, or any interest in any facilities, property or project, authorized by the Flood Control District Act;

M. "person" means an individual, association, partnership, firm or corporation, excluding a public body and excluding the federal government;

N. "president" means the president of a district and the chair of the board of the district;

O. "project" includes any structure, facility or system relating to the flood control system that a district is authorized by the Flood Control District Act to acquire, improve, equip, maintain or operate, which may be located within and without the district's boundaries;

P. "publication" or "publish" means publication in at least one newspaper published in the district or proposed district in the English language at least once a

week and of general circulation in the district or proposed district or, if no such newspaper is published in the district or proposed district, then in a newspaper published in the state in the English language at least once a week and of general circulation in the district or proposed district, which publication shall be at least once a week for three consecutive weeks by three weekly insertions. It is not necessary that publication be made on the same day of the week in each of the three calendar weeks, but not less than fourteen days shall intervene between the first publication and the last publication;

Q. "public body" means the state or any agency, instrumentality or corporation or any political subdivision of the state, excluding districts and excluding the federal government;

R. "revenues" means income, other than tax proceeds, of a district;

S. "secretary" means the secretary of a district;

T. "securities" means any notes, warrants, bonds or interim debentures or other obligations of a district authorized by the Flood Control District Act;

U. "sewer facilities" includes any one or more of the various devices used in the collection, channeling, impounding or disposition of storm, flood or surface drainage waters, including all inlets, collection, drainage or disposal lines, canals, intercepting sewers, outfall sewers, all pumping, power and other equipment and appurtenances, all extensions, improvements, remodeling, additions and alterations and any rights or interest in the sewer facilities; and

V. "treasurer" means the treasurer of a district."

Chapter 212 Section 239 Laws 2019

SECTION 239. Section 72-18-5 NMSA 1978 (being Laws 1981, Chapter 377, Section 5) is amended to read:

"72-18-5. PETITION.--

A. The organization of a district shall be initiated by a petition filed in the office of the clerk of the district court in a county in which all or a part of the real property in the proposed district is located. The petition shall be signed by qualified electors of the proposed district numbering not less than ten percent of those voting in the preceding general election in the state in voting precincts partially or wholly included in the area of the proposed district. The petition and all other instruments relating to the formation of

the district shall be filed with the county clerk of the county in which there is the court that accepted the petition. Any municipality or county in which all or a portion of the proposed district is located may, upon proper action of its governing body alone, file the petition required by this section.

B. The petition shall set forth:

(1) the name of the proposed district, consisting of a chosen name preceding the words "flood control district";

(2) a general description of the facilities to be acquired or improved within and for the district;

(3) a general description of the boundaries of the district, with such certainty as to enable a property owner to determine whether the owner's property is within the proposed district; and

(4) a prayer for the organization of the district.

C. No petition with the requisite number of valid signatures shall be declared void on account of alleged defects, but the court may at any time permit the petition to be amended to conform to the facts by correcting any errors in the description of the territory or in any other particular. Similar petitions or duplicate copies of the same petition for the organization of the same district may be filed and shall together be regarded as one petition. All petitions filed before the hearing on the first petition filed shall be considered by the court the same as though filed with the first petition."

Chapter 212 Section 240 Laws 2019

SECTION 240. Section 72-18-8 NMSA 1978 (being Laws 1981, Chapter 377, Section 8) is amended to read:

"72-18-8. HEARING.--

A. Upon the hearing, if the court finds that no petition has been signed and presented in conformity with the Flood Control District Act or that the material facts are not as set forth in the petition filed, it shall dismiss the proceedings and adjudge the costs against the signers of the petition in the proportion as it deems just and equitable.

B. Upon the hearing, if it appears that a valid petition for the organization of the district has been signed and presented in conformity with the requirements of the Flood Control District Act and that the allegations of the petition are true, the court shall order

that the question of the organization of the district be submitted to the qualified electors of the proposed district at an election to be held for that purpose pursuant to the provisions of the Local Election Act."

Chapter 212 Section 241 Laws 2019

SECTION 241. Section 72-18-9 NMSA 1978 (being Laws 1981, Chapter 377, Section 9) is amended to read:

"72-18-9. NOMINATIONS FOR INITIAL BOARD.--A nomination for director may be made by petition signed by not less than five qualified electors and filed with the district court having jurisdiction not less than ninety days before the date of the organizational election. Any petition so filed shall designate the name of each nominee and shall state that the petitioners and the nominee or nominees designated in the petition are qualified electors of the proposed district. No qualified elector shall nominate more than one person for director. The name of each nominee so designated shall appear on the organizational ballot."

Chapter 212 Section 242 Laws 2019

SECTION 242. Section 72-18-10 NMSA 1978 (being Laws 1981, Chapter 377, Section 10) is amended to read:

"72-18-10. ORGANIZATIONAL ELECTION.--

A. At the election, the qualified electors may vote for or against the organization of the district and for up to five qualified electors of the district who shall constitute the board of directors of the district.

B. If a majority of the votes cast at the election are in favor of the organization, the district court shall declare the district organized and give it a corporate name by which in all proceedings it shall thereafter be known and shall designate the first board of directors elected, and thereupon the district shall be a political subdivision of the state. The certificate shall be conclusively presumed correct as to the facts stated therein."

Chapter 212 Section 243 Laws 2019

SECTION 243. Section 72-18-14 NMSA 1978 (being Laws 1981, Chapter 377, Section 14, as amended) is amended to read:

"72-18-14. ELECTION OF DIRECTORS.--Flood control district elections shall be held pursuant to the Local Election Act. At each local election after organization of the district, there shall be elected by the qualified electors of the district one or two members of the board to serve for a term of six years. Except for the initial board of directors and except for any director chosen to fill an unexpired term, the term of each director runs for six years. Each director shall serve until a successor has been duly chosen and qualified."

Chapter 212 Section 244 Laws 2019

SECTION 244. Section 72-18-20 NMSA 1978 (being Laws 1981, Chapter 377, Section 20, as amended) is amended to read:

"72-18-20. ADDITIONAL POWERS.--The board of the district may:

- A. adopt, have and use a corporate seal and alter the same at pleasure;
- B. sue and be sued and be a party to suits, actions and proceedings;
- C. acquire, improve, equip, maintain and operate any project or facility;
- D. protect the watercourses, watersheds, public highways, life and property in the district from floods or storm waters;
- E. exercise the right of eminent domain within the district as provided in the Eminent Domain Code and take any property necessary to carry out any of the objects or purposes of the Flood Control District Act;
- F. commence, maintain, intervene in, defend, compromise, terminate by settlement or otherwise and otherwise participate in and assume the cost and expense of any and all actions and proceedings appertaining to the district, its board, its officers, agents or employees; or any of the district's duties, privileges, immunities, rights, liabilities and disabilities; or the district's flood control system, other property of the district or any project;
- G. enter into contracts and agreements, including contracts with the federal government and any public body;
- H. borrow money and issue securities evidencing any loan to or amount due by the district, provide for and secure the payment of any securities and the rights of the holders thereof and purchase, hold and dispose of securities;

I. refund any loan or obligation of the district and issue refunding securities to evidence such loan or obligation without an election;

J. purchase, trade, exchange, encumber and otherwise acquire, maintain and dispose of real and personal property and interests therein;

K. levy and cause to be collected a property tax on all property subject to property taxation within the district. The total tax levy for any fiscal year for general purposes shall not exceed an aggregate total of fifty cents (\$.50), or any lower maximum amount required by operation of the rate limitation provisions of Section 7-37-7.1 NMSA 1978 upon this tax levy, on each one thousand dollars (\$1,000) of net taxable value, as that term is defined in the Property Tax Code, unless the qualified electors approve a greater tax not to exceed two dollars (\$2.00) on each one thousand dollars (\$1,000) of net taxable value; provided that any tax levy approved in excess of fifty cents (\$.50) on each one thousand dollars (\$1,000) of net taxable value shall be subject to the rate limitation provisions of Section 7-37-7.1 NMSA 1978. The rate of levy for the payment of any debt of the district authorized by the qualified electors of the district shall be without limitation as to rate or amount. The board shall certify on or before July 15 of each year in which the board determines to levy a tax, to the board of county commissioners of each county wherein the district has any territory, the rate so fixed, with directions that at the time and in the manner required by law for levying taxes for other purposes, the board of county commissioners shall levy a tax upon the net taxable value of all property subject to property taxation within the district;

L. hire and retain officers, agents, employees, engineers, attorneys and any other persons, permanent or temporary, necessary or desirable to effect the purposes of the Flood Control District Act; defray any expenses incurred thereby in connection with the district; and acquire office space, equipment, services, supplies, fire and extended coverage insurance, use and occupancy insurance, workers' compensation insurance, property damage insurance, public liability insurance for the district and its officers, agents and employees and other types of insurance as the board may determine; provided, however, that no provision authorizing the acquisition of insurance shall be construed as waiving any immunity of the district or any director, officer or agent of the district otherwise existing under the laws of the state;

M. acquire, improve, equip, hold, operate, maintain and dispose of a flood control system, project and appurtenant works;

N. pay or otherwise defray the cost of any project;

O. deposit any money of the district in any banking institution within or without the state and secured in such manner and subject to such terms and conditions as the board may determine;

P. invest any surplus money in the district treasury, including money in any sinking or reserve fund established for the purpose of retiring any securities of the district, which is not required for the immediate necessities of the district in its own securities or in federal securities, by direct purchase of any issue of such securities, or part thereof, at the original sale of the same or by the subsequent purchase of such securities;

Q. sell any securities purchased and held pursuant to Subsection P of this section;

R. accept contributions or loans from the federal government for the purpose of financing the planning, acquisition, improvement, equipment, maintenance and operation of any enterprise in which the district is authorized to engage, and enter into contracts and cooperate with, and accept cooperation and participation from, the federal government for these purposes;

S. enter, without an election, into joint operating or service contracts and agreements, acquisition, improvement, equipment or disposal contracts or other arrangements, for any term not exceeding fifty years, with the federal government, any public body or any person concerning sewer facilities or any project, whether acquired by the district or by the federal government, any public body or any person, and accept grants and contributions from the federal government, any public body or any person in connection therewith;

T. cooperate and act in conjunction with a public body, the federal government or any person in the acquisition, improvement or equipment of any project for the controlling of flood or storm waters of the district, or for the protection of life or property therein, or for any other works, acts or purposes provided for in the Flood Control District Act, and adopt and carry out any definite plan or system of work for any such purpose; and

U. make all contracts, execute all instruments and do all things necessary or convenient in the exercise of the powers granted by the Flood Control District Act, or in the performance of the district's covenants or duties, or in order to secure the payment of its securities; provided no encumbrance, mortgage or other pledge of property, excluding any money, of the district is created thereby and provided no property, excluding money, of the district is liable to be forfeited or taken in payment of the securities."

Chapter 212 Section 245 Laws 2019

SECTION 245. Section 72-18-30 NMSA 1978 (being Laws 1981, Chapter 377, Section 30) is amended to read:

"72-18-30. DISSOLUTION--HEARINGS--COURT POWERS.--

A. No application for dissolution shall be declared void on account of alleged defects, but the court may at any time permit the petition to be amended to conform to the facts by correcting any errors in the description of the territory or in any other particular.

B. The court shall order an election in the district on the question of dissolution if it finds the application for dissolution to be in order and finds that the district has no outstanding securities or other financial obligations or that the district's securities and other financial obligations will be adequately provided for before dissolution by means of escrow funds or federal securities to secure payment thereof.

C. If the district has outstanding securities or other financial obligations and no escrow plan, the court shall determine whether the continuation of functions provided for in the plan for dissolution adequately provides for payment of the securities and other financial obligations of the district. If the court determines that the application and the plan for dissolution are sufficient and that an agreement exists for continuation of functions, the court shall order an election of the qualified electors of the district pursuant to the provisions of the Local Election Act on the question of dissolving the district or, if there is a plan for dissolution, on the question of dissolving the district in accordance with the plan for dissolution. If, at any time after the filing of an application for dissolution, the court determines that no agreement can be reached concerning the plan for dissolution or that the other requirements of Section 72-18-28 NMSA 1978 cannot be met, it shall dismiss the dissolution proceedings."

Chapter 212 Section 246 Laws 2019

SECTION 246. Section 72-18-32 NMSA 1978 (being Laws 1981, Chapter 377, Section 32) is amended to read:

"72-18-32. DISSOLUTION--LIMITATION ON ELECTIONS.--The question of dissolution of a district may be resubmitted to the qualified electors of the district after the same or similar question has previously been rejected by the electors, but no such question shall be submitted at any election held less than twelve months after a previous submission of such question."

Chapter 212 Section 247 Laws 2019

SECTION 247. Section 72-18-35 NMSA 1978 (being Laws 1981, Chapter 377, Section 35, as amended) is amended to read:

"72-18-35. ELECTION.--Wherever in the Flood Control District Act an election of the qualified electors of a district is permitted or required, the election shall be held pursuant to the Local Election Act."

Chapter 212 Section 248 Laws 2019

SECTION 248. Section 72-18-48 NMSA 1978 (being Laws 1981, Chapter 377, Section 48) is amended to read:

"72-18-48. ISSUANCE OF BONDS AND INCURRENCE OF DEBT.--A district is authorized to borrow money in anticipation of taxes or other revenues and to issue bonds to evidence the amount so borrowed. No bonded indebtedness nor any other indebtedness not payable in full within one year, except for interim debentures as provided in Sections 72-18-49 and 72-18-63 through 72-18-65 NMSA 1978, shall be created by the district without first submitting the proposition of issuing the bonds to the qualified electors of the district, which proposition shall be approved by a majority of the qualified electors voting at an election held for that purpose in accordance with Sections 72-18-35 and 72-18-35.1 NMSA 1978. Bonds so authorized may be issued in one series or more and may mature at such time, not exceeding forty years from their issuance, as the board may determine. The total of all outstanding indebtedness at any one time shall not exceed four percent of the value of the taxable property in the district as shown by the last preceding assessment for county taxes for each county in which the district is located."

Chapter 212 Section 249 Laws 2019

SECTION 249. Section 72-18-63 NMSA 1978 (being Laws 1981, Chapter 377, Section 63) is amended to read:

"72-18-63. ISSUANCE OF INTERIM DEBENTURES AND PLEDGE OF BONDS AS COLLATERAL SECURITY.--Whenever a majority of the qualified electors of a district voting on a proposal to issue bonds has authorized the district to issue bonds for an authorized purpose, the district may borrow money without any other election in anticipation of taxes, the proceeds of the bonds or any other revenues of the district, and may issue interim debentures to evidence the amount so borrowed. Interim debentures may mature at such time not exceeding a period of time equal to the estimated time needed to effect the purpose for which the bonds are so authorized to be

issued, plus two years, as the board may determine. Except as otherwise provided in this section and in Sections 72-18-64 and 72-18-65 NMSA 1978, interim debentures shall be issued as provided for securities in Sections 72-18-49 through 72-18-61 NMSA 1978. Taxes, other revenues of the district, including without limiting the generality of the foregoing proceeds of bonds to be thereafter issued or reissued or bonds issued for the purpose of securing the payment of interim debentures, may be pledged for the purpose of securing the payment of the interim debentures. Bonds pledged as collateral security for the payment of any interim debentures shall mature at such time as the board may determine, not exceeding forty years from the date of either any of such bonds or any such interim debentures, whichever date is earlier. Any such bonds pledged as collateral security shall not be issued in an aggregate principal amount exceeding the aggregate principal amount of the interim debentures secured by a pledge of such bonds."

Chapter 212 Section 250 Laws 2019

SECTION 250. Section 72-20-8 NMSA 1978 (being Laws 2007, Chapter 99, Section 8, as amended) is amended to read:

"72-20-8. BOARD OF DIRECTORS.--

A. The governing body of the authority is a board of directors consisting of three qualified electors of the authority; provided that, after single-member districts are created pursuant to Subsection B of Section 72-20-10 NMSA 1978 and after the expiration of the terms of any directors-at-large who are serving at the time that single-member districts are created:

- (1) each director shall reside within and represent a specified district; and
- (2) if a director no longer resides within the district that the director represents, the director's position shall be deemed vacant and a successor shall be appointed to serve the unexpired term pursuant to Section 72-20-12 NMSA 1978.

B. All powers, rights, privileges and duties vested in or imposed upon the authority are exercised and performed by and through the board of directors; provided that the exercise of any executive, administrative and ministerial powers may be, by the board, delegated and redelegated to officers and employees of the authority or to any officer or employee contracted by agreement to manage and administer the operations of the authority. Except for the first directors appointed as provided for in Section 72-20-9 NMSA 1978 or elected as provided in Section 72-20-10 NMSA 1978 and except for any director chosen to fill an unexpired term, and except for the first directors serving after the authority is divided into single-member districts, the term of each director runs

for six years. Each director, subject to such exceptions, shall serve a six-year term, and each director shall serve until a successor has been duly chosen and qualified."

Chapter 212 Section 251 Laws 2019

SECTION 251. Section 73-20-1 NMSA 1978 (being Laws 1957, Chapter 210, Section 1) is amended to read:

"73-20-1. SHORT TITLE.--Sections 73-20-1 through 73-20-24 NMSA 1978 may be cited as the "Watershed District Act"."

Chapter 212 Section 252 Laws 2019

SECTION 252. Section 73-20-9 NMSA 1978 (being Laws 1957, Chapter 210, Section 9, as amended) is amended to read:

"73-20-9. REFERENDUM.--After the board of supervisors has made and recorded a determination that there is need, in the interest of the public health, safety and welfare, for creation of the proposed watershed district, it shall consider the question whether the operation of a district within the proposed boundaries with the powers conferred upon such districts in Section 73-20-13 NMSA 1978 is administratively practicable and feasible. To assist the board of supervisors in this determination, the board shall, within a reasonable time after entry of the finding that there is need for the organization of the district and the determination of the boundaries of the district, hold a referendum within the proposed district upon the proposition of the creation of the district. Due notice of the referendum shall be given as provided in the Local Election Act."

Chapter 212 Section 253 Laws 2019

SECTION 253. Section 73-20-11 NMSA 1978 (being Laws 1957, Chapter 210, Section 11, as amended) is amended to read:

"73-20-11. VOTES--RESULTS.--If a majority of the votes cast favors creation of the district, the county canvassing board shall certify the results to the county clerk in the county involved. Upon proper recording of the action, the watershed district shall be duly created. After recording, the certification shall be filed with the New Mexico department of agriculture."

Chapter 212 Section 254 Laws 2019

SECTION 254. Section 73-20-12 NMSA 1978 (being Laws 1957, Chapter 210, Section 12, as amended) is amended to read:

"73-20-12. DIRECTORS--ELECTION.--

A. At the next regular local election held pursuant to the Local Election Act after a watershed district is created, the board of supervisors of the soil and water conservation district involved shall cause an election to be held for the election of a board of directors of the watershed district. The board shall consist of five members. The first board shall determine by lot from among its membership two members to serve terms of two years and three members to serve terms of four years. Thereafter, as these initial terms expire, their replacements shall be elected for terms of four years. Vacancies occurring before the expiration of a term shall be filled by the remaining members of the board for the unexpired term. Two or more vacancies occurring simultaneously shall be filled by appointment by the board of supervisors. The board of directors shall, under the supervision of the board of supervisors, be the governing body of the watershed district.

B. If the territory embraced within a watershed district lies within more than one soil and water conservation district, each additional soil and water conservation district having a minority of the land involved in the watershed shall be entitled to elect three additional directors. These additional directors after their election shall determine by lot one of their number to serve a term of two years and two a term of four years. Thereafter, their successors shall be elected for terms of four years. The representatives of each of these minority districts shall fill vacancies in the district's membership for the unexpired term.

C. The board of directors shall annually elect from its membership a chair, secretary and treasurer. The treasurer shall execute an official bond for the faithful performance of the duties of office to be approved by the board of directors. The bond shall be executed with at least three solvent personal sureties whose solvency shall exceed the amount of the bond, or by a surety company authorized to do business in this state, and shall be in an amount determined by the board of directors. If the treasurer is required to execute a surety company bond, the premium of the bond shall be paid by the board of directors.

D. The board of directors shall prepare and submit to the department of finance and administration such reports as it may require from among those required to be submitted by other political subdivisions.

E. Each person desiring to be a director of a watershed district shall file a nominating petition with the proper filing office in accordance with the provisions of the Local Election Act, signed by ten or more qualified electors."

Chapter 212 Section 255 Laws 2019

SECTION 255. Section 73-20-14 NMSA 1978 (being Laws 1957, Chapter 210, Section 14, as amended) is amended to read:

"73-20-14. BONDS.--

A. Bonds authorized by Section 73-20-13 NMSA 1978 shall not be issued until proposed by order or resolution of the board of directors, specifying the purpose for which the funds are to be used, and the proposed undertaking, the amount of bonds to be issued, the rate of interest they are to bear and the amount of any necessary assessment levy in excess of the maximum authorized in Section 73-20-17 NMSA 1978 to establish a sinking fund for the liquidation of bonds as provided in Section 73-20-17 NMSA 1978. A copy of the order or resolution shall be certified to the board of supervisors.

B. The board of supervisors shall conduct a hearing on the proposal after notice given pursuant to Section 73-20-8 NMSA 1978. If it appears that the proposal is within the scope and purpose of the Watershed District Act and meets all other requirements of the law, the proposal shall be submitted to the qualified electors of the district at an election held pursuant to the Local Election Act.

C. If two-thirds of the qualified electors voting on the ballot question favor the proposal, the bonds may be issued."

Chapter 212 Section 256 Laws 2019

SECTION 256. Section 73-20-21 NMSA 1978 (being Laws 1957, Chapter 210, Section 20, as amended) is amended to read:

"73-20-21. ADDITION OF LAND.--

A. Any one or more owners of land may petition the board of supervisors to have their lands added to a watershed district. The petition shall define the boundaries of the land desired to be annexed, the number of acres of land involved and other information pertinent to the proposal. When the boundary described embraces lands of others than the petitioners, the petition shall so state and shall be signed by twenty-five

or more of the landowners in the territory described, if fifty or more such owners are involved, or by a majority if fewer than fifty landowners are involved.

B. Within thirty days after the petition is filed, the board shall cause due notice to be given as provided in Section 73-20-8 NMSA 1978 of a hearing on the petition. All interested parties shall have a right to attend the hearing and be heard. The board shall determine whether the lands described in the petition or any portion of them shall be included in the district. If all the landowners in the territory involved are not petitioners, a referendum shall be held within the territory in accordance with the provisions of the Local Election Act. If it is determined by the qualified electors of the district that the land should be added, this fact shall be certified by the board of supervisors to the county clerk in the county involved. After recording, the certification shall be filed with the New Mexico department of agriculture."

Chapter 212 Section 257 Laws 2019

SECTION 257. Section 73-20-23 NMSA 1978 (being Laws 1957, Chapter 210, Section 22, as amended by Laws 2013, Chapter 17, Section 2 and by Laws 2013, Chapter 169, Section 2) is amended to read:

"73-20-23. DISCONTINUANCE OF DISTRICTS.--

A. At any time after five years from the organization of a watershed district, a majority of the landowners in the district may file a petition with the board of supervisors and the board of directors requesting that the existence of the district be discontinued if all obligations of the district have been met. The petition shall state the reasons for discontinuance and demonstrate that all obligations of the district have been met.

B. After giving notice as defined in Section 73-20-8 NMSA 1978, the board of supervisors may conduct hearings on the petition as may be necessary to assist it in making a determination.

C. Within ninety days after petition is filed, an election shall be held pursuant to the provisions of the Local Election Act; provided that the date of the election is not in conflict with the provisions of Section 1-24-1 NMSA 1978.

D. If a majority of the votes cast in the referendum favors the discontinuance of the district and it is found that all obligations have been met, the board of supervisors shall make a determination that the watershed district shall be discontinued. A copy of the determination shall be certified by the clerk of the county involved for recording. After recording, the certification shall be filed with the New Mexico department of agriculture."

Chapter 212 Section 258 Laws 2019

SECTION 258. A new section of the Soil and Water Conservation District Act is enacted to read:

"ASSESSMENTS--LIMITATIONS.--A levy approved by the voters of a district and authorized by the commission pursuant to Section 73-20-46 NMSA 1978 prior to July 1, 2018 shall continue to be assessed pursuant to the laws in effect at the time the levy was initially approved; provided that the aggregate of all levies in a district approved prior to July 1, 2018 that continue in effect and any levies in the same district approved on or after July 1, 2018 shall not exceed the maximum allowable levy in a district pursuant to Subsection A of Section 73-20-46 NMSA 1978."

Chapter 212 Section 259 Laws 2019

SECTION 259. Section 73-21-4 NMSA 1978 (being Laws 1943, Chapter 80, Section 3, as amended) is amended to read:

"73-21-4. DEFINITIONS.--As used in the Water and Sanitation District Act:

- A. "board" means the board of directors of a district;
- B. "district" means a water and sanitation district that is established pursuant to the Water and Sanitation District Act and that is either entirely within or partly within and partly without one or more counties; provided those parts or parcels of the district lying in two or more counties are contiguous with one another, and further provided, a district created pursuant to a petition signed by the board of county commissioners of a county shall be entirely within that county;
- C. "fee-for-service system" means a garbage or refuse collection system established by a district to fully implement the purposes for which the district is created and for which a service is offered, a fee is established by the board and the fee is paid by the customers of the district;
- D. "proponents and opponents" means residents or nonresidents of a district who pay or are liable for paying rates, tolls, fees and charges assessed by that district;
- E. "publication" means giving notice once a week for three consecutive weeks in at least one newspaper of general circulation in the county in which all or the major portion of the district is located; however, it is not necessary that publication be made on the same day of the week in each of the three weeks, but not less than fourteen days,

excluding the day of first publication, shall intervene between the first publication and the last publication, and publication shall be complete on the date of the last publication;

F. "sewage system" includes all constructions for collection, transportation, pumping, treatment and final disposition of sewage; and

G. "utility" means a water system, sewer system or other fee-for-service system implemented by the district."

Chapter 212 Section 260 Laws 2019

SECTION 260. Section 73-21-6 NMSA 1978 (being Laws 1943, Chapter 80, Section 5, as amended) is amended to read:

"73-21-6. PETITION.--

A. The organization of a district shall be initiated by a petition filed in the office of the clerk of the court vested with jurisdiction in a county in which all or part of the real property in the proposed district is situated. The petition shall be signed by not less than twenty-five percent of the qualified electors of the district, none of whom shall be an officer, director or shareholder of any business entity with an economic interest in the subdivision and sale of land within the district; provided that at the option of a county and, after adoption of a resolution by the county authorizing the filing of a petition, that county may file a petition that shall be signed by the chair of the board of county commissioners. The petition and all other instruments relating to the formation of such districts shall be filed in the office of the county clerk of the county or counties in which the proposed district is located.

B. The petition shall set forth:

(1) the name of the proposed district consisting of a chosen name preceding the words "water and sanitation district";

(2) a general description of the improvements to be constructed or installed within and for the district;

(3) the estimated overall cost of the proposed improvements to be constructed or installed within and for the district;

(4) an estimated time table for the completion of all intended improvements;

(5) the need for the creation of the district and the construction or installation of improvements, stating the nature and extent of the anticipated use of the improvements by persons presently residing on land within the district and the nature and extent of the anticipated use of the improvements due to future development;

(6) a general description of the boundaries of the district or the territory to be included in it, with such certainty as to enable a property owner to determine whether or not the owner's property is within the district;

(7) the salary, if any, that the members of the board shall receive for their services; and

(8) a request for the organization of the district.

C. No petition with the requisite signatures shall be declared void on account of alleged defects, but the court may at any time permit the petition to be amended to conform to the facts by correcting any errors in the description of the territory or in any other particular. Similar petitions or duplicate copies of the same petition for the organization of the same district may be filed and shall together be regarded as one petition."

Chapter 212 Section 261 Laws 2019

SECTION 261. Section 73-21-9 NMSA 1978 (being Laws 1943, Chapter 80, Section 8, as amended) is amended to read:

"73-21-9. HEARING ON PETITIONS--ELECTION FOR ORGANIZATION AND OFFICERS.--

A. At any time after the filing of the petition for the organization of a district and before the day fixed for the hearing on it, the owner of any taxable property within the proposed district may file a petition with the court stating reasons why the property should not be included in the district and requesting that the property be excluded from it. The petition shall be verified and shall describe the property sought to be excluded. The court shall hear the petition and all objections to it at the time of the hearing on the petition for organization and shall determine whether the property should be excluded or included in the district.

B. In determining whether or not the petition for the creation of a water and sanitation district shall be granted, the district court shall consult and request an opinion from:

(1) the state engineer to determine whether the proposed district has adequate water rights to implement the proposed improvements; and

(2) the environmental improvement division of the department of environment to determine, as to the technological feasibility of the proposed improvements, whether the water proposed to be supplied is of an acceptable quality to conform with the state regulations and whether the liquid and solid waste disposal proposals can conform with state regulations.

C. The court may deny the petition or may order the petition to be modified if the court, after hearing on the petition, finds that:

(1) the proposed water and sewage improvements cannot conform with the state regulations;

(2) the water and sewage improvements cannot be implemented within a reasonable time taking into consideration applications for state and federal grants;

(3) there is lacking an actual or impending need for the water and sewage improvements proposed; or

(4) the boundaries of the proposed district contain land that has no actual or impending need for the water and sewage improvements or cannot be reasonably expected to utilize the water and sewage improvements, unless the land is otherwise required to be included in the proposed district by rule or regulation of a federal agency.

D. Upon the hearing, if it appears that a petition for the organization of a district has been properly signed and presented and that the allegations of the petition are true, the court shall order that the question of the organization of the district be submitted to the qualified electors of the district as set forth in the petition, as the boundaries were modified by the court in determining that only property to be benefited by the proposed improvements should be included within the boundaries of the district, at an election to be held for that purpose and conducted pursuant to the provisions of the Local Election Act. The election shall be held in the district not less than ninety days after the order is entered in accordance with the Local Election Act; provided that the date does not conflict with the provisions of Section 1-24-1 NMSA 1978.

E. At the election, the qualified electors of the district shall vote for or against the organization of the district. If a majority of the votes cast at the election are in favor of the organization, the district court shall declare the district organized and give it a corporate name by which in all proceedings it shall thereafter be known. Thereupon the district shall be a governmental subdivision of the state, except a district created

pursuant to a petition signed by the chair of the board of county commissioners of a county, which district shall be a subdivision of the county. Every district shall be a body corporate with all the powers of a public or quasi-municipal corporation."

Chapter 212 Section 262 Laws 2019

SECTION 262. Section 73-21-13 NMSA 1978 (being Laws 1943, Chapter 80, Section 12, as amended) is amended to read:

"73-21-13. MEETINGS.--The board shall meet once each month at a time and place to be designated by the board. Special meetings may be held as often as the needs of the district require on notice to each member of the board. A majority of the board shall constitute a quorum at any meeting. Any vacancy on a board elected by qualified electors of the district shall be filled by the remaining members or member of the board, the appointee to act until the next biennial election when the vacancy shall be filled by election. Any vacancy on a board appointed by a board of county commissioners shall be filled in the same manner as original appointments, in accordance with Section 73-21-15.1 NMSA 1978, the appointee to act until the end of the term of the member creating the vacancy. If the board or a board of county commissioners fails to fill any vacancy within thirty days after it occurs, the court having jurisdiction shall fill the vacancy."

Chapter 212 Section 263 Laws 2019

SECTION 263. Section 73-21-15 NMSA 1978 (being Laws 1977, Chapter 326, Section 2, as amended) is repealed and a new Section 73-21-15 NMSA 1978 is enacted to read:

"73-21-15. BOARD INCREASE--APPOINTED MEMBERS.--

A. In every district, three members of the board shall be elected by the qualified electors pursuant to the provisions of the Local Election Act.

B. In those districts that have five board members, the board may by resolution designate two board members to serve by appointment. In those districts that have three board members, the board may by resolution expand the board to include two appointed board members. A resolution adopted pursuant to this subsection shall not be rescinded until two regular local elections have passed after adoption of the resolution.

C. The appointment of board members serving pursuant to a resolution adopted pursuant to Subsection B of this section shall be for a term of two years beginning July

1 of each even-numbered year and ending June 30 of the following even-numbered year. Appointed members of the board are not required to be qualified electors nor residents of the district.

D. Appointed board members are authorized to vote on all matters except for a tax or assessment of any kind proposed or approved pursuant to authority granted by Article 8, Section 9 of the constitution of New Mexico, which is limited to a vote of the elected members only."

Chapter 212 Section 264 Laws 2019

SECTION 264. Section 73-21-15.1 NMSA 1978 (being Laws 1985, Chapter 155, Section 8, as amended) is amended to read:

"73-21-15.1. APPOINTMENT OF FIRST BOARD.--Members of the first board of any district shall be appointed by the board of county commissioners. In a district consisting of multiple counties, the district judge shall designate how many members of the board will be appointed by each board of county commissioners. The first board shall consist of five directors who are qualified electors of the district appointed for staggered terms so that the terms of two directors expire within two years and the terms of three directors expire within four years. Thereafter, all directors shall be elected to terms of office pursuant to the provisions of the Water and Sanitation District Act. Any director appointed by any board of county commissioners shall be eligible for election; provided that no member of a board shall serve more than two consecutive terms."

Chapter 212 Section 265 Laws 2019

SECTION 265. Section 73-21-26 NMSA 1978 (being Laws 1943, Chapter 80, Section 24, as amended) is amended to read:

"73-21-26. BONDS--INTEREST--FORM.--To carry out the purposes of the Water and Sanitation District Act, the board may issue bonds of the district upon approval of the majority of the qualified electors of the district voting on the question pursuant to the provisions of the Local Election Act. Bonds shall bear interest payable semiannually and shall be due and payable serially, either annually or semiannually, commencing not later than three years and extending not more than twenty years from date. The form and terms of the bonds, including provisions for their payment and redemption, shall be determined by the board. If the board so determines, the bonds may be redeemable prior to maturity upon payment of a premium, not exceeding three percent of the principal thereof. The bonds, except for bonds issued in book entry or similar form without the delivery of physical securities, shall be executed in the name of and on behalf of the district and signed by the chair of the board, with the seal of the

district affixed thereto, and attested to by the secretary of the board. The bonds shall be sold and shall be in such denominations as the board determines, and the bonds and the attached coupons, if any, shall be payable to the bearer or registered as to principal or as to principal and interest. Interest coupons, if any, shall bear the original or facsimile signature of the chair of the board."

Chapter 212 Section 266 Laws 2019

SECTION 266. Section 73-21-28 NMSA 1978 (being Laws 1943, Chapter 80, Section 25, as amended) is amended to read:

"73-21-28. BOARD RESOLUTION--INDEBTEDNESS--ELECTION.--Whenever the board shall, by resolution, determine that the interest of the district and the public interest or necessity demand the acquisition, construction, installation or completion of any works or other improvements or facilities, or the making of any contract with the United States or other persons or corporations, to carry out the objects or purposes of the district, requiring the creation of a general obligation indebtedness of five thousand dollars (\$5,000) or more, secured by property tax revenue from within the district, the board shall order the submission of the proposition of issuing the obligations or bonds or creating other indebtedness to the qualified electors of the district at a district election held in accordance with the provisions of the Local Election Act. The declaration of public interest or necessity required in this section and the provision for the holding of the election may be included within one and the same resolution. The resolution, in addition to the declaration of public interest or necessity, shall recite the objects and purposes for which the indebtedness is proposed to be incurred, the estimated cost of the works or improvements, as the case may be, the amount of principal of the indebtedness to be incurred and the maximum rate of interest to be paid on the indebtedness. The resolution shall also announce the date upon which the election shall be held; provided that the date is not in conflict with the provisions of Section 1-24-1 NMSA 1978."

Chapter 212 Section 267 Laws 2019

SECTION 267. Section 73-21-31 NMSA 1978 (being Laws 1943, Chapter 80, Section 28) is amended to read:

"73-21-31. EFFECT OF ELECTION--SUBSEQUENT ELECTIONS.--In the event that it appears from the returns that a majority of the qualified electors of the district have voted in favor of the ballot question, the district shall then be authorized to incur the indebtedness or the obligations, enter into the contract or issue and sell the bonds of the district, as the case may be, for the purpose and object provided for in the proposition submitted under the provisions of the Water and Sanitation District Act and

in the resolution for them and in the amount so provided and at a rate of interest not exceeding the rate of interest recited in the resolution. Submission of the proposition of incurring such obligations or bonded or other indebtedness at an election shall not prevent or prohibit submission of it or other propositions at subsequent elections called for that purpose."

Chapter 212 Section 268 Laws 2019

SECTION 268. Section 73-26-1 NMSA 1978 (being Laws 2009, Chapter 100, Section 1, as amended) is amended to read:

"73-26-1. LOWER RIO GRANDE PUBLIC WATER WORKS AUTHORITY.--

A. The "Lower Rio Grande public water works authority" is created. The authority is a political subdivision of the state and shall be an independent public body. The authority is composed of Berino mutual domestic water consumers and mutual sewage works association, Desert Sands mutual domestic water consumers association, La Mesa mutual domestic water consumers association, Mesquite mutual domestic water consumers and mutual sewage works association and Vado mutual domestic water consumers association, all serving unincorporated communities within Dona Ana county. The voting community membership of the five founding entities has approved by resolution the development of the authority.

B. The authority may adopt rules and resolutions, governance policies and procedures necessary to exercise the powers conferred pursuant to this section.

C. All functions, appropriations, money, records and equipment and all personal property and real property, including water rights, easements, permits and infrastructure, as well as all encumbrances, debts and liabilities pertaining to or owned by the founding entities shall be transferred to the authority.

D. The authority's service area shall consist of the founding entities' existing place of use on file with and approved by the state engineer and shall be filed in the public records of Dona Ana county. An application shall be filed with the state engineer to combine and commingle water rights and to combine the existing entities' place of use into the authority's service area. In the event that another entity elects to merge into the authority, the authority's service area shall be amended to include that entity's place of use and shall be filed with the state engineer. The authority's initial service area and any subsequent amendments to its service area shall be designated in a plat filed in the public records of Dona Ana county. If the service area of the merging entity is contiguous with the service area of the authority, the merger shall include the

combining and commingling of water rights with the authority by application filed with the state engineer.

E. The authority may provide for water and wastewater services, road improvements for the protection of the authority's infrastructure or renewable energy projects that are integral to the operation and maintenance of the authority's facilities or any combination or parts thereof.

F. The authority shall exercise all powers allowed pursuant to law, including:

- (1) regulating, supervising and operating the authority's facilities;
- (2) establishing rates and imposing assessments, fees and charges and taking action necessary for the enforcement thereof;
- (3) assessing a standby charge for the privilege of connection into the authority's service at some date in the future if the property line is within three hundred feet of the authority's service lines and the property line is located within the boundaries of the authority. This section applies to new connections after the enactment of this act;
- (4) acquiring, from a willing seller only, holding and using water rights in an amount necessary to meet its reasonable needs not to exceed forty years pursuant to Section 72-1-9 NMSA 1978;
- (5) shutting off, after notice, unauthorized connections, illegal connections or a connection for which charges are delinquent in payment;
- (6) entering into contracts for services with private entities, the state, municipalities, counties and the federal government and other public bodies to further its public purposes;
- (7) entering into joint powers agreements with other governmental entities;
- (8) acquiring and disposing of real property, personal property and rights of way;
- (9) condemning property pursuant to the Eminent Domain Code as the last resort and only for the purposes of construction, maintenance and operations of the authority's infrastructure;

- (10) hiring and retaining agents, employees and consultants, as needed;
- (11) adopting and using a governmental seal;
- (12) placing a lien on property for unpaid assessments, charges and fees and enforcing the lien in a manner pursuant to this section;
- (13) suing and being sued and being a party to suits, actions and proceedings; and
- (14) having and exercising all rights and powers necessary, incidental to or implied from the specific powers granted in this section.

G. As a political subdivision of the state and a member-owned community water system, the authority shall be subject to the:

- (1) applicable rules and regulations of the department of environment, and in its discretion the department may:
 - (a) conduct periodic reviews of the operation of the authority;
 - (b) require the authority to submit information to the department;
 - (c) upon department of environment discretion or upon a petition of twenty-five percent of the members of the authority, conduct an investigation as it deems necessary to ensure the authority's compliance with all applicable statutes, rules, regulations and reporting requirements; and
 - (d) after a hearing, set and collect rates and fees and use the same for the proper operation and management of the authority;
- (2) applicable rules and regulations of the department of finance and administration, local government division and budget and finance bureau;
- (3) Open Meetings Act;
- (4) Inspection of Public Records Act;
- (5) Audit Act;
- (6) Procurement Code;

- (7) Governmental Conduct Act;
- (8) Chapter 72 NMSA 1978; and
- (9) applicable rules and regulations of the state engineer.

H. The authority is a political subdivision of the state and a member-owned community water system and shall not be subject to the jurisdiction of the public regulation commission or the provisions of the Public Utility Act.

I. The authority may issue utility system revenue bonds and obligations for acquiring real and personal property needed for the utility system and for extending, enlarging, renovating, repairing or otherwise improving its facilities. The authority may issue revenue anticipation notes with maturities and terms to be approved by the board of directors of the authority. The authority may pledge irrevocably net revenues from the operation of the utility system for payment of the principal, premiums and interest on the bonds. The utility system revenue bonds:

- (1) may have interest, appreciated principal value or any part thereof payable at intervals or at maturity as the authority determines;
- (2) may be subject to prior redemption at the authority's option at such time and upon such terms and conditions, with or without the payment of a premium, as determined by the authority;
- (3) may mature at any time not exceeding forty years after the date of issuance;
- (4) may be serial in form and maturity, may consist of one bond payable at one time or in installments or may be in another form as determined by the authority;
- (5) shall be sold for cash at, above or below par and at a price that results in a net effective interest rate that does not exceed the maximum permitted by the Public Securities Act; and
- (6) may be sold at a public or negotiated sale.

J. The authority's board of directors may adopt a resolution declaring the necessity for the issuance of utility system revenue bonds or other obligations and may authorize the issuance of utility system revenue bonds or other obligations by an affirmative vote of a majority of all members of the authority's board of directors. Utility revenue bonds and the resolution authorizing their issuance shall be subject to voter

approval with oversight from the department of finance and administration and the New Mexico finance authority. The bonds authorized by the authority and their income shall be exempt from taxation by the state and its political subdivisions.

K. Except for the purpose of refunding previous utility system revenue bond issues, the authority shall not sell utility system revenue bonds payable from pledged revenues after the expiration of three years from the date of the resolution authorizing their issuance. Any period of time during which a utility system revenue bond is in litigation shall not count toward the determination of the expiration date of that issue.

L. The authority shall be governed by a board of directors. The board of directors shall be elected by districts from a minimum of five and a maximum of seven electoral districts. Each director shall reside within and be a qualified elector of the electoral district of the authority from which that member is elected. The boundaries and the number of electoral districts shall be established by the initial board within two years of the creation of the authority. The board may in its governance document provide for redistricting upon any change in the authority's boundary and following each decennial census. The elected board of directors shall serve staggered terms to be established in the governance document developed by the board.

M. All elections of the authority shall be conducted pursuant to the provisions of the Local Election Act and voted upon by the qualified electors registered to vote within the boundaries of the authority. Board members shall be elected at the regular local election. Vacancies on the board shall be filled by the remaining board members and a person appointed to fill a vacancy shall serve until the next regular local election. A person appointed to fill a vacancy shall be a qualified elector of the districted area the person is appointed to represent.

N. If the authority places a lien on property for nonpayment of money owed, the authority shall file in the office of the county clerk of the county or counties in which the property is located a notice of lien, which shall include:

- (1) identification of the outstanding debt to the authority;
- (2) the fact that a lien is established;
- (3) the general purpose of the lien;
- (4) the name of the owner of the property against which the lien is established as determined from the records of the county assessor;
- (5) a description of the property against which the lien is established;

(6) the amount of the lien; and

(7) if the lien is for more than one period of time, the date for which the lien is established.

O. A lien for multiple charges or assessments on a property owner may be included in the same notice of lien, and it shall not be necessary to file separate liens against the separate properties. The lien shall be attested in the name of the authority. The principal amount of any lien imposed for a charge or assessment shall bear interest at the rate of twelve percent per year from the date of filing the notice of lien unless otherwise provided by law.

P. After the filing of the notice of lien in the office of the county clerk, the authority shall have a lien upon the property described in the notice of lien. The filing of the notice of lien shall be notice to all the world of the existence of the lien and of the contents of the notice of lien. No such lien shall affect the title or rights to or in any real estate, of any purchaser, mortgagee in good faith or judgment lien creditor, without knowledge of the existence of such lien, unless the notice of lien is filed in accordance with this section in the office of the county clerk of the county in which the real estate is situated. All authority liens shall be first and prior liens on the property subject only to the lien of federal, state and county taxes. The authority may release a lien against any specific property by:

(1) entering and signing a receipt of payment upon the notice of lien filed in the office of the county clerk; or

(2) issuing a separate receipt that recites that payment of the lien with any accrued interest and penalty has been made.

Q. The authority may, in a single suit, foreclose the liens against all persons named in the notice of liens or against the property if the owners are unknown. The complaint filed shall:

(1) expressly name each defendant, if known;

(2) describe the property against which the lien is established; and

(3) set forth the amount of the lien.

R. The judgment or decree rendered in said cause shall be several against the named defendants and against the several properties for the amounts decreed to be due by each. A lien against real estate may be foreclosed in the same manner that

mortgages or other liens against real estate are foreclosed with like rights of redemption. In the foreclosure of any lien created by the authority, reasonable attorney fees may be ordered by the court as part of the costs in favor of the prevailing party.

S. The authority shall prepare and sign a notice of foreclosure, which shall also bear the signature and mailing address of an attorney representing the authority. The proceeds of the sale of the property by the authority pursuant to a foreclosure sale on a lien shall be applied as follows:

(1) first, to the payment of costs in giving notice of the sale and of conducting the sale;

(2) second, to the indebtedness claimed under a lien on the property for federal, state, county, municipal or ad valorem taxes;

(3) third, to the indebtedness claimed under the lien of the authority;

(4) fourth, to all other special assessments having a lien on the property;
and

(5) fifth, after all such costs, liens, assessments and taxes are paid, to the former owner, mortgage holder or parties having an interest in the tract or parcel, upon such persons providing satisfactory proof to the court of such interest and upon approval of the court.

T. As used in this section, "public water works authority" means a utility organized as a political subdivision of the state for the purposes of constructing infrastructure and furnishing water and wastewater services for domestic, commercial or industrial uses, road improvements for the protection of the authority's infrastructure and renewable energy projects; and entering into agreements with other entities for the provision of other services, including water conservation and reclamation, source water protection, drainage, flood control, solid waste, planning and zoning."

Chapter 212 Section 269 Laws 2019

SECTION 269. Section 74-10-12 NMSA 1978 (being Laws 1993, Chapter 319, Section 12) is amended to read:

"74-10-12. BOARD OF DIRECTORS.--The governing body of the authority is a board of directors consisting of seven qualified electors of the authority. All powers, rights, privileges and duties vested in or imposed upon the authority are exercised and performed by and through the board of directors; provided that the exercise of any

executive, administrative and ministerial powers may be, by the board, delegated and redelegated to officers and employees of the authority. Except for the first directors appointed as provided for in Section 74-10-5 NMSA 1978, the term of each director commences on the first day of January next following a regular local election in the state and runs for six years."

Chapter 212 Section 270 Laws 2019

SECTION 270. Section 74-10-13 NMSA 1978 (being Laws 1993, Chapter 319, Section 13) is amended to read:

"74-10-13. ELECTION OF DIRECTORS.--Each biennial nonpartisan election of directors shall be conducted at the time of the regular local election under the direction of the county clerk and in accordance with the election laws of New Mexico. Any other election of the authority, including an election to seek approval for the issuance of bonds, shall be conducted pursuant to the provisions of the Local Election Act."

Chapter 212 Section 271 Laws 2019

SECTION 271. Section 74-10-14 NMSA 1978 (being Laws 1993, Chapter 319, Section 14) is amended to read:

"74-10-14. ELECTION RESOLUTION.--The board shall call any election by resolution as prescribed in the Local Election Act. The resolution shall recite the objects and purposes of the election and indicate the general or regular local election on which the ballot question shall appear or specify the date a special election will be held."

Chapter 212 Section 272 Laws 2019

SECTION 272. Section 74-10-15 NMSA 1978 (being Laws 1993, Chapter 319, Section 15) is amended to read:

"74-10-15. CONDUCT OF ELECTION.--An election held pursuant to the Solid Waste Authority Act shall be conducted pursuant to the provisions of the Local Election Act."

Chapter 212 Section 273 Laws 2019

SECTION 273. Section 74-10-19 NMSA 1978 (being Laws 1993, Chapter 319, Section 19) is amended to read:

"74-10-19. APPROVAL OF PROPOSALS AT ELECTION.--Except as otherwise provided, any proposal submitted at any election held pursuant to the Solid Waste Authority Act shall not carry unless the proposal has been approved by a majority of the qualified electors of the authority voting on the proposal."

Chapter 212 Section 274 Laws 2019

SECTION 274. A new section of the Public Improvement District Act is enacted to read:

"POSTING OF NOTICES.--For any election conducted pursuant to the Public Improvement District Act, in addition to the notice requirements set forth in Section 5-11-7 NMSA 1978, the owners shall ensure that notices shall be posted in three conspicuous public places within the boundaries of the district not less than twenty days before the first day for voting in the election."

Chapter 212 Section 275 Laws 2019

SECTION 275. A new section of the Tax Increment for Development Act is enacted to read:

"POSTING OF NOTICES.--For any election conducted pursuant to the Tax Increment for Development Act, in addition to the notice requirements set forth in Section 5-15-8 NMSA 1978, the owners shall ensure that notices shall be posted in three conspicuous public places within the boundaries of the district not less than twenty days before the first day for voting in the election."

Chapter 212 Section 276 Laws 2019

SECTION 276. TEMPORARY PROVISION--COMPILER'S INSTRUCTION.--The New Mexico compilation commission shall rename in tables of contents and headings:

- A. Chapter 1, Article 16 NMSA 1978 as "Ballot Questions"; and
- B. Chapter 1, Article 24 NMSA 1978 as "Special Elections".

Chapter 212 Section 277 Laws 2019

SECTION 277. TEMPORARY PROVISION--POLLING PLACES FOR 2019 REGULAR LOCAL ELECTION.--Polling places for the 2019 regular local election shall

be the same polling places that were used in the 2018 general election, unless the board of county commissioners amends the 2017 polling place resolution no later than July 1, 2019.

Chapter 212 Section 278 Laws 2019

SECTION 278. TEMPORARY PROVISION--DISTRICTS--EXPIRATION OF MEMBER TERMS.--

A. The term of a branch community college district, special hospital district, solid waste authority district, lower Rio Grande public water works authority or watershed district board member that was set to expire on or before June 30, 2020 shall expire on December 31, 2019, and that member's successor shall be elected in the regular local election held on the first Tuesday after the first Monday of November 2019 for a term beginning on January 1, 2020.

B. The term of a branch community college district, special hospital district, solid waste authority district, lower Rio Grande public water works authority or watershed district board member that was set to expire on or after July 1, 2020 but on or before June 30, 2022 shall expire on December 31, 2021, and that member's successor shall be elected in the local election held on the first Tuesday after the first Monday of November 2021 for a term beginning on January 1, 2022.

C. The term of a special hospital district or watershed district board member that was set to expire on or after July 1, 2022 shall expire on December 31, 2023, and that member's successor shall be elected in the local election held on the first Tuesday after the first Monday of November 2023 for a term beginning on January 1, 2024.

Chapter 212 Section 279 Laws 2019

SECTION 279. TEMPORARY PROVISION--EXPIRATION OF DISTRICT COURT JUDGE TERMS.--

A. The term of a district court judge in any judicial district serving in a division numbered 2 or every third number thereafter that was set to expire on December 31, 2020 shall expire on December 31, 2022, subject to the provisions of the Nonpartisan Judicial Retention Act and Article 6 of the constitution of New Mexico.

B. The term of a district court judge in any judicial district serving in a division numbered 3 or every third number thereafter that was set to expire on December 31, 2020 shall expire on December 31, 2024, subject to the provisions of the Nonpartisan Judicial Retention Act and Article 6 of the constitution of New Mexico.

Chapter 212 Section 280 Laws 2019

SECTION 280. TEMPORARY PROVISION--EXPIRATION OF METROPOLITAN COURT JUDGE TERMS.--The term of a metropolitan court judge serving in a division numbered 2 or every second number thereafter that was set to expire on December 31, 2022 shall expire on December 31, 2024, subject to the provisions of the Nonpartisan Judicial Retention Act and Article 6 of the constitution of New Mexico.

Chapter 212 Section 281 Laws 2019

SECTION 281. TEMPORARY PROVISION--SECRETARY OF STATE.--The secretary of state shall ensure that the public regulation commission, public education commission, magistrate judges and county officers are aligned with the offices listed for election in Section 1-10-8 NMSA 1978. The secretary of state shall provide a process to renumber district numbers so that offices are aligned with the offices listed for election in Section 1-10-8 NMSA 1978 and, where necessary, shall provide for an extended term to the general election in 2022 or 2024 only as required to align offices and positions to the offices listed for election in Section 1-10-8 NMSA 1978; provided that where one member of a local governing body must receive an extended term pursuant to this section, the secretary of state shall have the members whose terms expire the same year draw lots to make the determination.

Chapter 212 Section 282 Laws 2019

SECTION 282. TEMPORARY PROVISION--ELECTION FUND.--In fiscal years 2019 and 2020, if sufficient funding is deemed available by the secretary of state no later than May 1, 2019 and May 1, 2020, money in the election fund may be expended to reimburse local governments for transitional costs associated with implementation of the Local Election Act, based on written guidance provided by the secretary of state and posted on the secretary's website no later than May 1, 2019 and May 1, 2020.

Chapter 212 Section 283 Laws 2019

SECTION 283. TEMPORARY PROVISION--ELECTION BOARD.-- References in the Election Code to "precinct board", shall be deemed to be references to "election board", as that term is defined in Section 1-1-13 NMSA 1978."

Chapter 212 Section 284 Laws 2019

SECTION 284. REPEAL.--

A. Sections 1-2-8, 1-2-10, 1-3-3, 1-4-26, 1-4-33, 1-6-5.4, 1-8-9, 1-8-10, 1-8-25, 1-8-43, 1-12-71, 1-13-3, 1-16-5, 1-16-6, 1-16-10 through 1-16-13, 1-22-9, 1-22-10.1 through 1-22-15, 3-30-1 through 3-30-4, 4-38-20 through 4-38-23, 4-44-36 through 4-44-45, 6-15-23 through 6-15-28, 22-4A-1 through 22-4A-3, 22-7-2, 22-7-15, 22-7-16, 73-20-10, 73-21-15 and 74-10-16 through 74-10-18 NMSA 1978 (being Laws 1975, Chapter 255, Sections 14 and 16, Laws 1969, Chapter 240, Sections 52, 82 and 89, Laws 1999, Chapter 267, Section 3, Laws 1975, Chapter 255, Section 104, Laws 1969, Chapter 240, Sections 159, 170 and 180, Laws 1977, Chapter 222, Section 7, Laws 1969, Chapter 240, Sections 305, 378, 379, 383 and 384, Laws 1975, Chapter 287, Section 1, Laws 2018, Chapter 79, Sections 23 and 25 through 28, Laws 1965, Chapter 300, Sections 14-29-1, 14-29-2, 14-29-3 and 14-29-4, Laws 1969, Chapter 90, Section 1, Laws 1876, Chapter 1, Sections 15, 28 and 32, Laws 1953, Chapter 167, Sections 1 through 8, 11 and 12, Laws 1970, Chapter 6, Sections 1 through 3, Laws 1971, Chapter 132, Section 3, Laws 1970, Chapter 6, Sections 5 and 6, Laws 1987, Chapter 191, Sections 1 through 3, Laws 1977, Chapter 308, Sections 2, 15 and 16, Laws 1957, Chapter 210, Section 10, Laws 1977, Chapter 326, Section 2 and Laws 1993, Chapter 319, Sections 16 through 18, as amended) are repealed.

B. Laws 2018, Chapter 79, Sections 160, 161 and 163 through 165 are repealed.

Chapter 212 Section 285 Laws 2019

SECTION 285. EFFECTIVE DATE.--

A. The effective date of the provisions of Section 141 of this act is July 1, 2022.

B. The effective date of the provisions of Section 145 of this act is January 1, 2020.

Chapter 212 Section 286 Laws 2019

SECTION 286. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately. _____

House Bill 407, aa, w/ec

Approved April 3, 2019

LAWS 2019, CHAPTER 213

AN ACT

RELATING TO LAND GRANTS-MERCEDES; ALLOWING LAND GRANT-MERCEDES BOARDS OF TRUSTEES TO APPROVE COMPREHENSIVE PLANS.

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

Chapter 213 Section 1 Laws 2019

SECTION 1. Section 49-1-3 NMSA 1978 (being Laws 1907, Chapter 42, Section 3, as amended) is amended to read:

"49-1-3. BOARD OF TRUSTEES--MANAGEMENT OF GRANT--POWERS.-- The management and control of all land grants-mercedes and tracts of land to which Sections 49-1-1 through 49-1-18 NMSA 1978 are applicable is vested in a board of trustees, to be known as the "board of trustees of the land grant-merced del pueblo de _____" (designating the name of the town, colony, pueblo or community), and the board shall have the power to:

A. control, care for and manage the land grant-merced and real estate, prescribe the terms and conditions under which the common lands may be used and enjoyed and make all necessary and proper bylaws, rules and regulations that shall be in substantial compliance with applicable statutes for the government thereof;

B. sue and be sued under the title as set forth in this section;

C. convey, lease or mortgage the common lands of the land grant-merced in accordance with the land grant-merced bylaws;

D. determine the number of animals that may be permitted to graze upon the common lands and determine other uses of the common lands that may be authorized;

E. prescribe the price to be paid for the use of the common lands and resources of the land grant-merced and prohibit a person failing or refusing to pay that amount from using a portion of the common lands while the person continues in default in those payments; provided that the amount fixed shall be in proportion to the number and kinds of livestock pasturing upon the common lands or to other authorized use of the common lands;

F. adopt and use an official seal;

G. appoint judges and clerks of election at all elections provided for in Sections 49-1-1 through 49-1-18 NMSA 1978, subsequent to the first, and canvass the votes cast in those elections;

H. make bylaws, rules and regulations, not in conflict with the constitution and laws of the United States or the state of New Mexico, as may be necessary for the protection, improvement and management of the common lands and real estate and for the use and enjoyment of the common lands and of the common waters of the land grant-merced;

I. determine land use, local infrastructure and economic development of the common lands of the land grant-merced;

J. determine zoning of the common lands of the land grant-merced pursuant to a comprehensive plan approved by the board of trustees that considers the health, safety and general welfare of the residents and heirs of the land grant-merced; and

K. enter into memoranda of understanding, contracts and other agreements with a local, state or federal government or a government of a federally recognized Indian nation, tribe or pueblo, including but not limited to agreements concerning the protection and maintenance of cultural resources."

Chapter 213 Section 2 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

Senate Bill 17

Approved April 3, 2019

LAWS 2019, CHAPTER 214

AN ACT

RELATING TO TRADE PRACTICES; PROHIBITING DIFFERENTIAL PRICING OR SERVICE BASED ON THE BUYER'S GENDER OR PERCEIVED GENDER IDENTITY; MAKING AN EXCEPTION.

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

Chapter 214 Section 1 Laws 2019

SECTION 1. Section 57-12-2 NMSA 1978 (being Laws 1967, Chapter 268, Section 2, as amended) is amended to read:

"57-12-2. DEFINITIONS.--As used in the Unfair Practices Act:

A. "person" means, where applicable, natural persons, corporations, trusts, partnerships, associations, cooperative associations, clubs, companies, firms, joint ventures or syndicates;

B. "seller-initiated telephone sale" means a sale, lease or rental of goods or services in which the seller or the seller's representative solicits the sale by telephoning the prospective purchaser and in which the sale is consummated entirely by telephone or mail, but does not include a transaction:

(1) in which a person solicits a sale from a prospective purchaser who has previously made an authorized purchase from the seller's business; or

(2) in which the purchaser is accorded the right of rescission by the provisions of the federal Consumer Credit Protection Act, 15 U.S.C. 1635, or regulations issued pursuant thereto;

C. "trade" or "commerce" includes the advertising, offering for sale or distribution of any services and any property and any other article, commodity or thing of value, including any trade or commerce directly or indirectly affecting the people of this state;

D. "unfair or deceptive trade practice" means an act specifically declared unlawful pursuant to the Unfair Practices Act, a false or misleading oral or written statement, visual description or other representation of any kind knowingly made in connection with the sale, lease, rental or loan of goods or services or in the extension of credit or in the collection of debts by a person in the regular course of the person's trade or commerce, that may, tends to or does deceive or mislead any person and includes:

(1) representing goods or services as those of another when the goods or services are not the goods or services of another;

(2) causing confusion or misunderstanding as to the source, sponsorship, approval or certification of goods or services;

(3) causing confusion or misunderstanding as to affiliation, connection or association with or certification by another;

(4) using deceptive representations or designations of geographic origin in connection with goods or services;

(5) representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation or connection that the person does not have;

(6) representing that goods are original or new if they are deteriorated, altered, reconditioned, reclaimed, used or secondhand;

(7) representing that goods or services are of a particular standard, quality or grade or that goods are of a particular style or model if they are of another;

(8) disparaging the goods, services or business of another by false or misleading representations;

(9) offering goods or services with intent not to supply them in the quantity requested by the prospective buyer to the extent of the stock available, unless the purchaser is purchasing for resale;

(10) offering goods or services with intent not to supply reasonable expectable public demand;

(11) making false or misleading statements of fact concerning the price of goods or services, the prices of competitors or one's own price at a past or future time or the reasons for, existence of or amounts of price reduction;

(12) making false or misleading statements of fact for the purpose of obtaining appointments for the demonstration, exhibition or other sales presentation of goods or services;

(13) packaging goods for sale in a container that bears a trademark or trade name identified with goods formerly packaged in the container, without authorization, unless the container is labeled or marked to disclaim a connection between the contents and the trademark or trade name;

(14) using exaggeration, innuendo or ambiguity as to a material fact or failing to state a material fact if doing so deceives or tends to deceive;

(15) stating that a transaction involves rights, remedies or obligations that it does not involve;

(16) stating that services, replacements or repairs are needed if they are not needed;

(17) failing to deliver the quality or quantity of goods or services contracted for;

(18) violating the Tobacco Escrow Fund Act; or

(19) offering or providing unposted or unadvertised pricing or service based on the buyer's gender or perceived gender identity; provided, however, that this provision does not apply to persons regulated by the office of superintendent of insurance pursuant to the New Mexico Insurance Code; and

E. "unconscionable trade practice" means an act or practice in connection with the sale, lease, rental or loan, or in connection with the offering for sale, lease, rental or loan, of any goods or services, including services provided by licensed professionals, or in the extension of credit or in the collection of debts that to a person's detriment:

(1) takes advantage of the lack of knowledge, ability, experience or capacity of a person to a grossly unfair degree; or

(2) results in a gross disparity between the value received by a person and the price paid." _____

Senate Bill 25, aa

Approved April 3, 2019

LAWS 2019, CHAPTER 215

AN ACT

RELATING TO MEDICAID; PRESERVING ACCESS TO MEDICAID SERVICES; PROVIDING DUE PROCESS TO MEDICAID PROVIDERS AND SUBCONTRACTORS; PROVIDING FOR HEARING OFFICERS; ESTABLISHING PROCEDURES TO RESOLVE OVERPAYMENT DISPUTES; PROVIDING FOR JUDICIAL REVIEW OF A CREDIBLE ALLEGATION OF FRAUD DETERMINATION.

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

Chapter 215 Section 1 Laws 2019

SECTION 1. Section 27-11-1 NMSA 1978 (being Laws 1998, Chapter 30, Section 1) is amended to read:

"27-11-1. SHORT TITLE.--Chapter 27, Article 11 NMSA 1978 may be cited as the "Medicaid Provider and Managed Care Act"."

Chapter 215 Section 2 Laws 2019

SECTION 2. Section 27-11-2 NMSA 1978 (being Laws 1998, Chapter 30, Section 2) is amended to read:

"27-11-2. DEFINITIONS.--As used in the Medicaid Provider and Managed Care Act:

- A. "claim" means a request for payment for services;
- B. "clean claim" means a claim for reimbursement that:
 - (1) contains substantially all the required data elements necessary for accurate adjudication of the claim without the need for additional information from the medicaid provider or subcontractor;
 - (2) is not materially deficient or improper, including lacking substantiating documentation required by medicaid; and
 - (3) has no particular or unusual circumstances that require special treatment or that prevent payment from being made in due course on behalf of medicaid;
- C. "credible" means having indicia of reliability after the state has reviewed all allegations, facts and evidence carefully and acted judiciously on a case-by-case basis;
- D. "credible allegation of fraud" means an allegation that has been verified by the state from any source, including fraud hotline complaints, claims data mining and provider audits;
- E. "department" means the human services department;

F. "fraud" means any act that constitutes fraud under state or federal law;

G. "managed care organization" means a person eligible to enter into risk-based prepaid capitation agreements with the department to provide health care and related services;

H. "medicaid" means the medical assistance program established pursuant to Title 19 of the federal Social Security Act and regulations issued pursuant to that act;

I. "medicaid provider" means a person that provides medicaid-related services to recipients;

J. "overpayment" means an amount paid to a medicaid provider or subcontractor in excess of the medicaid allowable amount, including payment for any claim to which a medicaid provider or subcontractor is not entitled;

K. "person" means an individual or other legal entity;

L. "recipient" means a person whom the department has determined to be eligible to receive medicaid-related services;

M. "secretary" means the secretary of human services; and

N. "subcontractor" means a person that contracts with a medicaid provider or a managed care organization to provide medicaid-related services to recipients."

Chapter 215 Section 3 Laws 2019

SECTION 3. Section 27-11-3 NMSA 1978 (being Laws 1998, Chapter 30, Section 3, as amended) is amended to read:

"27-11-3. REVIEW OF MEDICAID PROVIDER OR MANAGED CARE ORGANIZATION--CONTRACT REMEDIES--PENALTIES.--

A. Consistent with the terms of any contract between the department and a medicaid provider or managed care organization, the secretary shall have the right to be afforded access to such of the medicaid provider's or managed care organization's records and personnel, as well as its subcontracts and that subcontractor's records and personnel, as may be necessary to ensure that the medicaid provider or managed care organization is complying with the terms of its contract with the department.

B. Upon not less than two days' written notice to a medicaid provider or managed care organization, the secretary may, consistent with the provisions of the Medicaid Provider and Managed Care Act and rules issued pursuant to that act, carry out an administrative investigation or conduct administrative proceedings to determine whether a medicaid provider or managed care organization has:

(1) materially breached its obligation to furnish medicaid-related services to recipients, or any other duty specified in its contract with the department;

(2) violated any provision of the Public Assistance Act or the Medicaid Provider and Managed Care Act or any rules issued pursuant to those acts;

(3) intentionally or with reckless disregard made any false statement with respect to any report or statement required by the Public Assistance Act or the Medicaid Provider and Managed Care Act, rules issued pursuant to either of those acts or a contract with the department;

(4) intentionally or with reckless disregard advertised or marketed, or attempted to advertise or market, its services to recipients in a manner as to misrepresent its services or capacity for services, or engaged in any deceptive, misleading or unfair practice with respect to advertising or marketing;

(5) hindered or prevented the secretary from performing any duty imposed by the Public Assistance Act, the Human Services Department Act or the Medicaid Provider and Managed Care Act or any rules issued pursuant to those acts; or

(6) fraudulently procured or attempted to procure any benefit from medicaid.

C. Subject to the provisions of Subsection D of this section, after affording a medicaid provider or managed care organization written notice of hearing not less than ten days before the hearing date and an opportunity to be heard, and upon making appropriate administrative findings, the secretary may take any or any combination of the following actions against the medicaid provider or managed care organization:

(1) impose an administrative penalty of not more than five thousand dollars (\$5,000) for engaging in any practice described in Subsection B of this section; provided that each separate occurrence of such practice shall constitute a separate offense;

(2) issue an administrative order requiring the medicaid provider or managed care organization to:

(a) cease or modify any specified conduct or practices engaged in by it or its employees, subcontractors or agents;

(b) fulfill its contractual obligations in the manner specified in the order;

(c) provide any service that has been denied;

(d) take steps to provide or arrange for any service that it has agreed or is otherwise obligated to make available; or

(e) enter into and abide by the terms of a binding or nonbinding arbitration proceeding, if agreed to by any opposing party, including the secretary; or

(3) suspend or revoke the contract between the medicaid provider or managed care organization and the department pursuant to the terms of that contract.

D. If a contract between the department and a medicaid provider or managed care organization explicitly specifies a dispute resolution mechanism for use in resolving disputes over performance of that contract, the dispute resolution mechanism specified in the contract shall be used to resolve such disputes in lieu of the mechanism set forth in Subsection C of this section.

E. If a medicaid provider's or managed care organization's contract so specifies, the medicaid provider or managed care organization shall have the right to seek de novo review in district court of any decision by the secretary regarding a contractual dispute."

Chapter 215 Section 4 Laws 2019

SECTION 4. Section 27-11-4 NMSA 1978 (being Laws 1998, Chapter 30, Section 4, as amended) is amended to read:

"27-11-4. RETENTION AND PRODUCTION OF RECORDS.--

A. Medicaid providers, managed care organizations and their subcontractors shall retain, for a period of at least six years from the date of creation, all medical and business records that are necessary to verify the:

(1) treatment or care of any recipient for which the medicaid provider, managed care organization or subcontractor received payment from the department to provide that benefit or service;

(2) services or goods provided to any recipient for which the medicaid provider, managed care organization or subcontractor received payment from the department to provide that benefit or service;

(3) amounts paid by medicaid or the medicaid provider or managed care organization on behalf of any recipient; and

(4) records required by medicaid under any contract between the department and the medicaid provider or managed care organization.

B. Upon written request by the department to a medicaid provider, managed care organization or any subcontractor for copies or inspection of records pursuant to the Public Assistance Act, the medicaid provider, managed care organization or subcontractor shall provide the copies or permit the inspection, as applicable within two business days after the date of the request unless the records are held by a subcontractor, agent or satellite office, in which case the records shall be made available within ten business days after the date of the request.

C. Failure to provide copies or to permit inspection of records requested pursuant to this section shall constitute a violation of the Medicaid Provider and Managed Care Act within the meaning of Paragraph (3) of Subsection B of Section 27-11-3 NMSA 1978."

Chapter 215 Section 5 Laws 2019

SECTION 5. A new section of the Medicaid Provider and Managed Care Act is enacted to read:

"DETERMINATION OF OVERPAYMENTS OR CREDIBLE ALLEGATION OF FRAUD--AUDIT FINDINGS--SAMPLING--EXTRAPOLATION LIMITED--NOTICE OF RIGHT TO INFORMAL CONFERENCE AND EXPEDITED ADJUDICATORY PROCEEDING.--

A. The department may audit a medicaid provider or subcontractor for overpayment, using sampling for the time period audited. If the department contracts for the audit, the department shall contract only with an independent auditor approved by the state auditor. Each audited claim shall be reviewed by a person who is licensed, certified, registered or otherwise credentialed in New Mexico as to the matters such person reviews, including coding or specific clinical practice.

B. The department shall not extrapolate audit findings unless a medicaid provider's or subcontractor's error rate exceeds ten percent based upon an appropriate

sampling and a representative sample of claims computed by valid statistical methods in accordance with the most recently published medicare program integrity manual and using statistical software approved by the United States department of health and human services.

C. Prior to reaching either a final determination of overpayment or a credible allegation of fraud, the department shall serve the medicaid provider or subcontractor with a written preliminary finding of overpayment.

D. The preliminary finding of overpayment shall:

(1) state with specificity the factual and legal basis for each claim forming the basis of an alleged overpayment;

(2) include a copy of the final audit report if the alleged overpayment is based on an audit; and

(3) notify the medicaid provider or subcontractor that is the subject of a preliminary finding of overpayment of its right to request, within thirty calendar days of service of the preliminary finding of overpayment, an informal conference with a representative of the department who is knowledgeable about the department's preliminary finding of overpayment and with a member of the audit team, if an audit formed the basis of any alleged overpayment, to informally address, resolve or dispute the department's preliminary finding of overpayment.

E. Prior to making either a final determination of overpayment or a determination of credible allegation of fraud, the department may impose corrective action upon the medicaid provider or subcontractor to address systemic conditions contributing to errors in the submission of claims for payment to which a medicaid provider or subcontractor is not entitled."

Chapter 215 Section 6 Laws 2019

SECTION 6. A new section of the Medicaid Provider and Managed Care Act is enacted to read:

"INFORMAL CONFERENCE--CORRECTIVE ACTION--REQUIREMENTS.--

A. A medicaid provider or subcontractor seeking an informal conference pursuant to this section shall serve the department with a written request for such conference no later than thirty calendar days following the service of a preliminary determination of overpayment by the department on the medicaid provider or

subcontractor. Upon receipt of a request for an informal conference, the department shall set a date for the conference to occur no later than fourteen business days following receipt of the request.

B. Within seven days following the informal conference, a medicaid provider or subcontractor may submit a proposed corrective action plan to the department to correct clerical, typographical, scrivener's and computer errors or to provide requested credentialing, licensure or training records identified in audit findings. The department shall not unreasonably withhold approval of the proposed corrective action plan. A medicaid provider or subcontractor shall have no less than thirty days from the date of approval of its corrective action plan to provide additional information or documentation to the department to attempt to address or resolve a disputed preliminary finding of overpayment."

Chapter 215 Section 7 Laws 2019

SECTION 7. A new section of the Medicaid Provider and Managed Care Act is enacted to read:

"EXPEDITED ADJUDICATORY PROCEEDINGS--REQUIREMENTS.--

A. A medicaid provider or subcontractor seeking an expedited adjudicatory proceeding pursuant to the Medicaid Provider and Managed Care Act shall serve the department and the administrative hearings office with a written request for such proceeding no later than thirty calendar days following the service of a final determination of overpayment by the department on the medicaid provider or subcontractor.

B. The chief hearing officer of the administrative hearings office shall appoint or contract with a hearing officer qualified pursuant to Section 8 of this 2019 act no later than thirty calendar days after service upon the administrative hearings office of a request for an expedited adjudicatory proceeding pursuant to the Medicaid Provider and Managed Care Act by a medicaid provider or subcontractor.

C. The expedited adjudicatory proceeding requested by a medicaid provider or subcontractor in accordance with the Medicaid Provider and Managed Care Act shall commence no later than thirty calendar days following the appointment of the hearing officer or as stipulated by the parties or as otherwise ordered by the hearing officer upon a showing of good cause. The evidentiary hearing of an expedited adjudicatory proceeding pursuant to this section shall not exceed ten business days in length and shall be conducted in accordance with Section 12-8-11 NMSA 1978.

D. After affording the parties the opportunity to submit proposed findings and conclusions of law, and based solely upon the record in accordance with the Medicaid Provider and Managed Care Act and the Administrative Procedures Act, the hearing officer shall make findings of fact and conclusions of law on all material issues of fact, law or discretion, stating the basis for each. In addition, the hearing officer shall determine the amount of overpayment with respect to each disputed claim submitted for payment, if any. The findings of fact and conclusions of law of the hearing officer shall be made and served upon all parties of record within thirty calendar days following the hearing officer's receipt of the record.

E. The hearing officer's findings of fact and conclusions of law shall be binding on the department and constitute a final agency decision, which may be appealed pursuant to Section 39-3-1.1 NMSA 1978."

Chapter 215 Section 8 Laws 2019

SECTION 8. A new section of the Medicaid Provider and Managed Care Act is enacted to read:

"QUALIFICATIONS AND SELECTION OF HEARING OFFICER FOR EXPEDITED ADJUDICATORY PROCEEDINGS.--

A. The hearing officer presiding over the expedited adjudicatory proceeding held pursuant to the Medicaid Provider and Managed Care Act shall:

(1) be licensed and in good standing to practice law in New Mexico or another state;

(2) have at least three years' cumulative experience in one or more of the following areas: the health insurance industry, the medicaid program, health care regulatory compliance, medical claims administration or health law;

(3) not currently be employed by or represent, or belong to a law firm that currently represents, the department or a medicaid provider or managed care organization or third-party administrator currently doing business with the department; and

(4) not be related within the third degree of consanguinity to a person currently employed by the department, currently doing business with the department or currently employed by an organization doing business with the department.

B. The hearing officer shall not be:

(1) a lobbyist registered under the Lobbyist Regulation Act who currently represents, or has in the prior calendar year represented, a client in matters before the department; or

(2) affiliated with, or the spouse of, a lobbyist registered under the Lobbyist Regulation Act who currently represents, or has in the prior calendar year represented, a client in matters before the department.

C. The chief hearing officer of the administrative hearings office shall select the hearing officer to preside over an expedited adjudicatory proceeding held pursuant to the Medicaid Provider and Managed Care Act and the Administrative Procedures Act."

Chapter 215 Section 9 Laws 2019

SECTION 9. A new section of the Medicaid Provider and Managed Care Act is enacted to read:

"COSTS OF EXPEDITED ADJUDICATORY PROCEEDING.--

A. Each party shall be responsible for its own costs related to the expedited adjudicatory proceeding, including costs associated with preparation for the hearing, discovery, depositions, subpoenas, service of process and witness expenses, travel expenses and investigation expenses and attorney fees.

B. The hearing officer shall allow telephonic testimony of a witness if requested by a party.

C. The department shall reimburse the administrative hearings office for the costs of a contract hearing officer."

Chapter 215 Section 10 Laws 2019

SECTION 10. A new section of the Medicaid Provider and Managed Care Act is enacted to read:

"RIGHTS OF MEDICAID PROVIDER OR SUBCONTRACTOR--PRELIMINARY OR FINAL DETERMINATION OF OVERPAYMENT.--

A. A medicaid provider or subcontractor may challenge:

(1) the department's preliminary or final determination of overpayment as:

- (a) exceeding statutory authority;
 - (b) arbitrary or capricious;
 - (c) a failure to follow department procedure; or
 - (d) not supported by substantial evidence;
- (2) the credentials of persons who participated in the audit or claims review; or
- (3) the methodology or accuracy of the department's audit.

B. A medicaid provider or subcontractor may, but shall not be required to, conduct its own audit or sampling to challenge a preliminary or final determination of overpayment."

Chapter 215 Section 11 Laws 2019

SECTION 11. A new section of the Medicaid Provider and Managed Care Act is enacted to read:

"RELEASE OF SUSPENDED PAYMENT FOR SERVICES PREVIOUSLY RENDERED--PREPAYMENT REVIEW--REMEDIAL TRAINING AND EDUCATION--TEMPORARY ASSISTANCE.--

A. The department shall direct the release of a suspended payment to a medicaid provider or subcontractor that is the subject of a referral based upon a determination of a credible allegation of fraud for services previously rendered if the medicaid provider or subcontractor posts a surety bond in the amount of the suspended payment, which posting shall be deemed good cause not to suspend payment.

B. The provisions of this section shall not prevent the department from:

(1) conducting a prepayment review of claims for ongoing services rendered by the medicaid provider or subcontractor;

(2) requiring the medicaid provider or subcontractor or its employees to complete remedial training or education to prevent the submission of claims for payment to which the medicaid provider or subcontractor is not entitled; or

(3) requiring the medicaid provider or subcontractor to engage an independent third party approved by the department to temporarily manage or provide technical assistance to the medicaid provider or subcontractor.

C. The department shall direct that the release of a suspended payment occur no later than ten business days following the earlier of:

(1) the posting of a surety bond by the medicaid provider or subcontractor in the amount of the suspended payment;

(2) notice from the attorney general that the attorney general will not pursue legal action against the medicaid provider or subcontractor arising out of the referral of the medicaid provider or subcontractor based on a determination of a credible allegation of fraud;

(3) the date on which an administrative decision as to the basis for suspending such payments, or portion of such payments, in favor of the medicaid provider or subcontractor becomes final; or

(4) the date on which a judicial decision as to the basis for suspending such payments, or portion of such payments, in favor of the medicaid provider or subcontractor becomes final and not subject to further appeal."

Chapter 215 Section 12 Laws 2019

SECTION 12. A new section of the Medicaid Provider and Managed Care Act is enacted to read:

"MAINTENANCE OF SERVICES--PAYMENT FOR ONGOING SERVICES.--

A. Following the referral of a medicaid provider or subcontractor based on a determination of a credible allegation of fraud, and during the pendency of a dispute between the department and a medicaid provider or subcontractor regarding an alleged overpayment, including an overpayment based in whole or in part on a credible allegation of fraud, the department shall not terminate or deny the medicaid provider's or subcontractor's continued participation in the state's medicaid program if the medicaid provider or subcontractor:

(1) submits to a prepayment review of claims for ongoing services;

(2) demonstrates that its employees have completed remedial training or education required by the department to prevent the submission of claims for payment to which the medicaid provider or subcontractor is not entitled; and

(3) engages an independent third party approved by the department to temporarily manage or provide technical assistance to the medicaid provider or subcontractor following the referral or during the pendency of the dispute.

B. The department shall not unreasonably withhold approval of a third party proposed by the medicaid provider or subcontractor pursuant to Paragraph (3) of Subsection A of this section.

C. A medicaid provider or subcontractor that complies with the requirements of Subsection A of this section shall be reimbursed for each clean claim for ongoing services within ten calendar days of receipt if submitted electronically or thirty calendar days if submitted manually."

Chapter 215 Section 13 Laws 2019

SECTION 13. A new section of the Medicaid Provider and Managed Care Act is enacted to read:

"DISPOSITION OF RECOVERED MEDICAID FUNDS.--

A. Overpayments collected pursuant to the Medicaid Provider and Managed Care Act on behalf of the state shall be remitted to the department for deposit in the general fund to be used for the state's medicaid program.

B. The department shall not enter into a contract to pay any portion of funds recovered by the state from a medicaid provider, a managed care organization or a subcontractor to any other person unless expressly authorized or required to do so by state or federal law."

Chapter 215 Section 14 Laws 2019

SECTION 14. A new section of the Medicaid Provider and Managed Care Act is enacted to read:

"CREDIBLE ALLEGATION OF FRAUD--JUDICIAL REVIEW-- SUBSTANTIAL EVIDENCE REQUIRED.--

A. A credible allegation of fraud determination by the department shall be deemed a final agency decision and may be appealed pursuant to Section 39-3-1.1 NMSA 1978.

B. A medicaid provider or subcontractor that is the subject of a referral to the attorney general for further investigation based on a credible allegation of fraud may seek judicial review, pursuant to Section 39-3-1.1 NMSA 1978, of the department's determination that the allegation of fraud is credible. The department shall show by substantial evidence that:

(1) it has followed its own procedures; and

(2) the evidence relied upon to make its credible allegation of fraud determination was relevant, credible and material to the issue of fraud.

C. In a proceeding for judicial review under this section, the reviewing court shall not consider evidence acquired by the department after making its credible allegation of fraud determination."

Chapter 215 Section 15 Laws 2019

SECTION 15. A new section of the Medicaid Provider and Managed Care Act is enacted to read:

"AWARD OF COSTS, FEES AND INTEREST.--

A. If a medicaid provider or subcontractor is the prevailing party in any expedited adjudicatory or court proceeding brought by the medicaid provider or subcontractor pursuant to the Medicaid Provider and Managed Care Act on or after January 1, 2020 in connection with a preliminary or final determination of overpayment or a determination of credible allegation of fraud, the medicaid provider or subcontractor shall be entitled to:

(1) reasonable administrative costs incurred in connection with an expedited adjudicatory proceeding with the department;

(2) reasonable litigation costs incurred in connection with a court proceeding; and

(3) interest pursuant to Subsection F of this section.

B. As used in this section:

(1) "court proceeding" means any civil action brought in state district court;

(2) "reasonable administrative costs" means actual charges for preparation for and conduct of an administrative proceeding, including:

(a) court reporter fees, service of process fees and similar expenses;

(b) the services of expert witnesses;

(c) any study, analysis, report, test or project reasonably necessary for the preparation of the party's case; and

(d) fees and costs paid or incurred for the services of attorneys or of certified public accountants in connection with the expedited adjudicatory proceeding; and

(3) "reasonable litigation costs" means:

(a) reasonable court costs; and

(b) actual charges for: 1) filing fees, court reporter fees, service of process fees and similar expenses; 2) the services of expert witnesses; 3) any study, analysis, report, test or project reasonably necessary for the preparation of the party's case; and 4) fees and costs paid or incurred for the services of attorneys or certified public accountants in connection with the proceeding.

C. For purposes of this section:

(1) the medicaid provider or subcontractor is the prevailing party if it has:

(a) substantially prevailed with respect to the amount in controversy; or

(b) substantially prevailed with respect to most of the issues involved in the case or the most significant issue or set of issues involved in the case;

(2) the medicaid provider or subcontractor shall not be treated as the prevailing party if the hearing officer finds that the position of the department in the proceeding was based upon a reasonable application of the law to the facts of the case.

For purposes of this paragraph, the position of the department shall be presumed not to be based upon a reasonable application of the law to the facts of the case if:

(a) the department did not follow its own rules or procedures in making a preliminary finding or final determination of overpayment; or

(b) the department's preliminary finding or final determination of overpayment giving rise to the proceeding was not supported by substantial evidence at the time such finding or determination was made; and

(3) the determination of whether the medicaid provider or subcontractor is the prevailing party and the amount of reasonable administrative costs or reasonable litigation costs shall be made:

(a) by agreement of the parties;

(b) in an expedited adjudicatory proceeding, by the hearing officer;

or

(c) in a court proceeding, by the court.

D. A decision or order granting or denying in whole or in part an award for reasonable administrative costs pursuant to Subsection A of this section by the hearing officer shall be reviewable in the same manner as other decisions of the administrative hearings office. An order granting or denying in whole or in part an award for reasonable litigation costs pursuant to Subsection A of this section in a court proceeding may be incorporated as a part of the decision or judgment in the court proceeding and shall be subject to appeal in the same manner as the decision or judgment.

E. No agreement for or award of reasonable administrative costs or reasonable litigation costs in any expedited adjudicatory or court proceeding pursuant to Subsection A of this section shall exceed the lesser of thirty percent of the amount of the settlement or judgment or one hundred thousand dollars (\$100,000). A medicaid provider or subcontractor awarded administrative or litigation costs pursuant to this section may not receive an award of attorney fees pursuant to any other statutory provision.

F. Interest on amounts owed to a prevailing medicaid provider or subcontractor shall accrue and be paid at the rate of one and one-half percent a month on the amount of a:

(1) clean claim electronically submitted by the medicaid provider or subcontractor and not paid within thirty days of receipt;

(2) clean claim manually submitted by the medicaid provider or subcontractor and not paid within forty-five days of receipt; or

(3) claim for which additional information was necessary to substantiate the claim and not paid within sixty days of receipt of such additional information."

Chapter 215 Section 16 Laws 2019

SECTION 16. A new section of the Medicaid Provider and Managed Care Act is enacted to read:

"APPLICABILITY OF ADMINISTRATIVE PROCEDURES ACT.--

A. The department shall be subject to Sections 12-8-2, 12-8-10 through 12-8-13, 12-8-15 and 12-8-16 NMSA 1978 for expedited adjudicatory proceedings as provided by the Medicaid Provider and Managed Care Act.

B. Sections 12-8-2, 12-8-10 through 12-8-13, 12-8-15 and 12-8-16 NMSA 1978 apply to Sections 5, 7 through 11 and 14 of this 2019 act."

Chapter 215 Section 17 Laws 2019

SECTION 17. A new section of the Administrative Hearings Office Act is enacted to read:

"APPOINTMENT OF HEARING OFFICER FOR EXPEDITED ADJUDICATORY PROCEEDINGS UNDER THE MEDICAID PROVIDER AND MANAGED CARE ACT.--
The chief hearing officer shall select a hearing officer for expedited adjudicatory proceedings as provided by the Medicaid Provider and Managed Care Act."

Chapter 215 Section 18 Laws 2019

SECTION 18. TEMPORARY PROVISION--REFERENCES IN LAW.--As of the effective date of this act, all references in law to the Medicaid Provider Act shall be deemed to be references to the Medicaid Provider and Managed Care Act.

Chapter 215 Section 19 Laws 2019

SECTION 19. SEVERABILITY.--If any part or application of this act is held invalid, the remainder or its application to other situations or persons shall not be affected.

Chapter 215 Section 20 Laws 2019

SECTION 20. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2020. _____

Senate Bill 41, aa

Approved April 3, 2019

LAWS 2019, CHAPTER 216

AN ACT

RELATING TO MOTOR VEHICLE DEALERS; ESTABLISHING STANDARDS FOR REQUIRED DEALER EDUCATION.

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

Chapter 216 Section1 Laws 2019

SECTION 1. Section 66-4-2 NMSA 1978 (being Laws 1978, Chapter 35, Section 215, as amended) is amended to read:

"66-4-2. DEPARTMENT TO ISSUE LICENSE.--

A. Except for recreational vehicles, the department, upon receiving an initial nonfranchise dealership application accompanied by the required fee and when satisfied that the applicant has completed eight hours of education as approved by the department and complies with the laws of this state with reference to the registration of vehicles and certificates of title and the provisions of the Motor Vehicle Code, shall issue to the applicant a license that entitles the licensee to conduct the business of a dealer, auto recycler or title service company. The license may be renewed upon application, payment of the fee required by law and completion every year of four hours of continuing education as approved by the department. A licensee shall not lease, loan, transfer or sell its license to another person, and no person shall use the license of another person for any purpose.

B. A dealer or auto recycler licensee, before moving any of the licensee's places of business or opening any additional place of business, shall apply to the

department for and obtain a supplemental license for which no fee shall be charged. No supplemental license shall be issued to a dealer, other than a dealer in motorcycles only, for an additional place of business unless the business already has an established place of business.

C. A person to whom the department has issued a license to conduct the business of a dealer in motorcycles only is also deemed a recycler of motorcycles without additional license." _____

SPAC/Senate Bill 248, aa

Approved April 3, 2019

LAWS 2019, CHAPTER 217

AN ACT

RELATING TO CONTROLLED SUBSTANCES; DECREASING PENALTIES FOR POSSESSION OF MARIJUANA AND OF DRUG PARAPHERNALIA; CREATING A PENALTY ASSESSMENT FOR THE CRIMINAL CODE.

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

Chapter 217 Section 1 Laws 2019

SECTION 1. Section 30-31-23 NMSA 1978 (being Laws 1972, Chapter 84, Section 23, as amended) is amended to read:

"30-31-23. CONTROLLED SUBSTANCES--POSSESSION PROHIBITED.--

A. It is unlawful for a person intentionally to possess a controlled substance unless the substance was obtained pursuant to a valid prescription or order of a practitioner while acting in the course of professional practice or except as otherwise authorized by the Controlled Substances Act. It is unlawful for a person intentionally to possess a controlled substance analog.

B. A person who violates this section with respect to:

(1) up to one-half ounce of marijuana shall be issued a penalty assessment, pursuant to Section 3 of this 2019 act and is subject to a fine of fifty dollars (\$50.00);

(2) more than one-half ounce but up to and including one ounce of marijuana is, for the first offense, guilty of a petty misdemeanor and shall be punished by a fine of not less than fifty dollars (\$50.00) or more than one hundred dollars (\$100) and by imprisonment for not more than fifteen days, and, for a second or subsequent offense, is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) or more than one thousand dollars (\$1,000) or by imprisonment for a definite term of less than one year, or both;

(3) more than one ounce but less than eight ounces of marijuana is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) or more than one thousand dollars (\$1,000) or by imprisonment for a definite term of less than one year, or both; or

(4) eight ounces or more of marijuana is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

C. A person who violates this section with respect to:

(1) one ounce or less of synthetic cannabinoids is, for the first offense, guilty of a petty misdemeanor and shall be punished by a fine of not less than fifty dollars (\$50.00) or more than one hundred dollars (\$100) and by imprisonment for not more than fifteen days, and, for the second and subsequent offenses, is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) or more than one thousand dollars (\$1,000) or by imprisonment for a definite term less than one year, or both;

(2) more than one ounce and less than eight ounces of synthetic cannabinoids is guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) or more than one thousand dollars (\$1,000) or by imprisonment for a definite term less than one year, or both; or

(3) eight ounces or more of synthetic cannabinoids is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

D. A minor who violates this section with respect to the substances listed in this subsection is guilty of a petty misdemeanor and, notwithstanding the provisions of Sections 32A-1-5 and 32A-2-19 NMSA 1978, shall be punished by a fine not to exceed

one hundred dollars (\$100) or forty-eight hours of community service. For the third or subsequent violation by a minor of this section with respect to those substances, the provisions of Section 32A-2-19 NMSA 1978 shall govern punishment of the minor. As used in this subsection, "minor" means a person who is less than eighteen years of age. The provisions of this subsection apply to the following substances:

(1) synthetic cannabinoids;

(2) any of the substances listed in Paragraphs (20) through (25) of Subsection C of Section 30-31-6 NMSA 1978; or

(3) a substance added to Schedule I by a rule of the board adopted on or after March 31, 2011 if the board determines that the pharmacological effect of the substance, the risk to the public health by abuse of the substance and the potential of the substance to produce psychic or physiological dependence liability is similar to the substances described in Paragraph (1) or (2) of this subsection.

E. Except as provided in Subsections B, C and G of this section, and for those substances listed in Subsection F of this section, a person who violates this section with respect to any amount of any controlled substance enumerated in Schedule I, II, III or IV or a controlled substance analog of a substance enumerated in Schedule I, II, III or IV is guilty of a misdemeanor and shall be punished by a fine of not less than five hundred dollars (\$500) or more than one thousand dollars (\$1,000) or by imprisonment for a definite term less than one year, or both.

F. A person who violates this section with respect to phencyclidine as enumerated in Schedule III or a controlled substance analog of phencyclidine; methamphetamine, its salts, isomers or salts of isomers as enumerated in Schedule II or a controlled substance analog of methamphetamine, its salts, isomers or salts of isomers; flunitrazepam, its salts, isomers or salts of isomers as enumerated in Schedule I or a controlled substance analog of flunitrazepam, including naturally occurring metabolites, its salts, isomers or salts of isomers; gamma hydroxybutyric acid and any chemical compound that is metabolically converted to gamma hydroxybutyric acid, its salts, isomers or salts of isomers as enumerated in Schedule I or a controlled substance analog of gamma hydroxybutyric acid, its salts, isomers or salts of isomers; gamma butyrolactone and any chemical compound that is metabolically converted to gamma hydroxybutyric acid, its salts, isomers or salts of isomers as enumerated in Schedule I or a controlled substance analog of gamma butyrolactone, its salts, isomers or salts of isomers; 1-4 butane diol and any chemical compound that is metabolically converted to gamma hydroxybutyric acid, its salts, isomers or salts of isomers as enumerated in Schedule I or a controlled substance analog of 1-4 butane diol, its salts, isomers or salts of isomers; or a narcotic drug enumerated in Schedule I or II or a controlled substance

analog of a narcotic drug enumerated in Schedule I or II is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

G. Except for a minor as defined in Subsection D of this section, a person who violates Subsection A of this section while within a posted drug-free school zone, excluding private property residentially zoned or used primarily as a residence and excluding a person in or on a motor vehicle in transit through the posted drug-free school zone, with respect to:

(1) one ounce or less of marijuana or synthetic cannabinoids is, for the first offense, guilty of a misdemeanor and shall be punished by a fine of not less than one hundred dollars (\$100) or more than one thousand dollars (\$1,000) or by imprisonment for a definite term less than one year, or both, and for the second or subsequent offense, is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978;

(2) more than one ounce and less than eight ounces of marijuana or synthetic cannabinoids is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978;

(3) eight ounces or more of marijuana or synthetic cannabinoids is guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978;

(4) any amount of any other controlled substance enumerated in Schedule I, II, III or IV or a controlled substance analog of a substance enumerated in Schedule I, II, III or IV, except phencyclidine as enumerated in Schedule III, a narcotic drug enumerated in Schedule I or II or a controlled substance analog of a narcotic drug enumerated in Schedule I or II, is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978; and

(5) phencyclidine as enumerated in Schedule III, a narcotic drug enumerated in Schedule I or II, a controlled substance analog of phencyclidine or a controlled substance analog of a narcotic drug enumerated in Schedule I or II is guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978."

Chapter 217 Section 2 Laws 2019

SECTION 2. Section 30-31-25.1 NMSA 1978 (being Laws 1981, Chapter 31, Section 2, as amended) is amended to read:

"30-31-25.1. POSSESSION, DELIVERY OR MANUFACTURE OF DRUG PARAPHERNALIA PROHIBITED--EXCEPTIONS.--

A. It is unlawful for a person to use or possess with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the Controlled Substances Act. The provisions of this subsection do not apply to a person who is in possession of hypodermic syringes or needles at the time the person is directly and immediately engaged in a harm reduction program, as provided in the Harm Reduction Act.

B. It is unlawful for a person to deliver, possess with intent to deliver or manufacture with the intent to deliver drug paraphernalia with knowledge, or under circumstances where one reasonably should know, that it will be used to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the Controlled Substances Act. The provisions of this subsection do not apply to:

(1) department of health employees or their designees while they are directly and immediately engaged in activities related to the harm reduction program authorized by the Harm Reduction Act; or

(2) the sale or distribution of hypodermic syringes and needles by pharmacists licensed pursuant to the Pharmacy Act.

C. A person who violates the provisions of Subsection A of this section shall be issued a penalty assessment pursuant to Section 3 of this 2019 act and is subject to a fine of fifty dollars (\$50.00). A person who violates the provisions of Subsection B of this section is guilty of a misdemeanor.

D. A person eighteen years of age or over who violates the provisions of Subsection B of this section by delivering drug paraphernalia to a person under eighteen years of age and who is at least three years the person's junior is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978."

Chapter 217 Section 3 Laws 2019

SECTION 3. A new section of Chapter 31 NMSA 1978 is enacted to read:

"PENALTY ASSESSMENT.--

A. Payment of a fine pursuant to a penalty assessment citation shall not be considered a criminal conviction.

B. Whenever a person is issued a penalty assessment under the Criminal Code, the officer shall advise the person of the option either to accept the penalty assessment and pay it to the court or to appear in court. The officer, using a uniform non-traffic citation, shall complete the information section, prepare the penalty assessment and prepare a notice to appear in court specifying the time and place to appear. The citation shall state the address to which the penalty assessment is to be paid if the person accepts the penalty assessment and does not elect to appear in court. The officer shall have the person sign the citation as a promise either to pay the penalty assessment as prescribed or to appear in court as specified, give a copy of the citation to the person and release the person from custody. An officer shall not accept custody of payment of any penalty assessment.

C. The officer may issue a warning notice, but shall fill in the information section of the citation and give a copy to the person after requiring a signature on the warning notice as an acknowledgment of receipt.

D. In order to secure release, the person shall give a written promise to appear in court or to pay the penalty assessment prescribed or acknowledge receipt of a warning notice.

E. The magistrate court or metropolitan court in the county where the alleged violation occurred has jurisdiction for any case arising from a penalty assessment under the Criminal Code.

F. A penalty assessment citation issued by a law enforcement officer shall be submitted to the appropriate magistrate court or metropolitan court within five business days of issuance. If the citation is not submitted within three business days, it may be dismissed with prejudice.

G. A citation with a written promise to appear in court or to pay the penalty assessment is a summons. If a person fails to appear or to pay the penalty assessment by the appearance date, a warrant for failure to appear may be issued.

H. A written promise to appear in court may be complied with by appearance of counsel.

I. When a person issued a penalty assessment elects to appear in court rather than to pay the penalty assessment to the court, no fine imposed upon later conviction shall exceed the penalty assessment established for the particular penalty assessment. A person who elects to appear in court shall pay the costs required by law to be collected by magistrate or metropolitan court judges.

J. Penalty assessments collected by a magistrate court or metropolitan court pursuant to this section shall be transferred to the administrative office of the courts for credit to the magistrate drug court fund."

Chapter 217 Section 4 Laws 2019

SECTION 4. TEMPORARY PROVISION--INSTRUCTIONS TO COMPILER.--
The New Mexico compilation commission shall compile Section 3 of this act in a new article of Chapter 31 NMSA 1978.

Chapter 217 Section 5 Laws 2019

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

Senate Bill 323, aa

Approved April 3, 2019

LAWS 2019, CHAPTER 218

AN ACT

RELATING TO PUBLIC SCHOOLS; REQUIRING THAT STUDENTS WHO COMPLETE COURSE WORK PRIOR TO TRANSFERRING TO ANOTHER PUBLIC SCHOOL RECEIVE CREDIT FOR THAT COURSE WORK EVEN IF A GRADING PERIOD HAS NOT OCCURRED.

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

Chapter 218 Section 1 Laws 2019

SECTION 1. Section 22-12-10 NMSA 1978 (being Laws 2017, Chapter 53, Section 1 and Laws 2017, Chapter 85, Section 1) is amended to read:

"22-12-10. TIMELY GRADUATION AND SUPPORT FOR STUDENTS WHO EXPERIENCE DISRUPTION IN THE STUDENT'S EDUCATION--PARTIAL CREDIT FOR COURSES.--

A. For purposes of this section, "a student who has experienced disruption in the student's education" means a student who experiences one or more changes in public school or school district enrollment during a single school year as the result of:

(1) homelessness as defined in the federal McKinney-Vento Homeless Assistance Act as determined by the public school or school district;

(2) adjudication:

(a) as an abused or neglected child as determined by the children, youth and families department pursuant to the Abuse and Neglect Act;

(b) as part of a family in need of court-ordered services voluntary placement pursuant to the Family Services Act; or

(c) as a delinquent if the parent wishes to disclose the adjudication of delinquency; or

(3) placement in a mental health treatment facility or habilitation program for developmental disabilities pursuant to the Children's Mental Health and Developmental Disabilities Act or placement in treatment foster care.

B. When a student who has experienced a disruption in the student's education transfers to a new public school or school district, the receiving public school or school district shall communicate with the sending school district within two days of the student's enrollment. The sending public school or school district shall provide the receiving public school or school district with any requested records within two days of having received the receiving public school's or school district's communication.

C. A student who has experienced a disruption in the student's education transferring to a new public school as the result of circumstances set forth in this section shall have:

(1) priority placement in classes that meet state graduation requirements;
and

(2) timely placement in elective classes that are comparable to those in which the student was enrolled at the student's previous public school or public schools as soon as the public school or school district receives verification from the student's records.

D. For a student who has experienced disruption in the student's education at any time during the student's high school enrollment, a school district and public schools shall ensure:

(1) acceptance of the student's state graduation requirements for a diploma of excellence pursuant to the Public School Code;

(2) equal access to participation in sports and other extracurricular activities, career and technical programs or other special programs for which the student qualifies;

(3) timely assistance and advice from counselors to improve the student's college or career readiness; and

(4) that the student receives all special education services to which the student is entitled.

E. Students who transfer between public schools in different school districts or between public schools within the same school district shall receive credit for any work completed prior to the transfer, regardless of whether the transfer occurred at the end of a grading period. School districts, with guidance from the department, shall create policies to determine how credit shall be awarded for courses that are partially completed." _____

Senate Bill 341

Approved April 3, 2019

LAWS 2019, CHAPTER 219

AN ACT

RELATING TO INSURANCE; ENACTING THE SELF-SERVICE STORAGE INSURANCE LICENSE ACT; PROVIDING EXEMPTIONS FOR SELF-SERVICE STORAGE INSURANCE PRODUCER LICENSEES; PROVIDING PENALTIES.

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

Chapter 219 Section 1 Laws 2019

SECTION 1. A new section of the New Mexico Insurance Code is enacted to read:

"SHORT TITLE.--Sections 1 through 11 of this act may be cited as the "Self-Service Storage Insurance License Act"."

Chapter 219 Section 2 Laws 2019

SECTION 2. A new section of the New Mexico Insurance Code is enacted to read:

"DEFINITIONS.--As used in the Self-Service Storage Insurance License Act:

A. "occupant" means a person who is entitled to the use of storage space at a self-service storage facility, to the exclusion of others, under terms of a rental agreement, including a sublessee, successor or assignee;

B. "owner" means the owner, operator, franchisee, lessor or sublessor of a self-service storage facility, agent or any person authorized to manage the facility or to receive rent from an occupant under a rental agreement;

C. "personal property" means movable property not affixed to land, and includes goods, merchandise and household items;

D. "rental agreement" means any written agreement or lease between the owner and the occupant that establishes or modifies the terms, conditions or rules or any other provisions concerning the use and occupancy of storage space at a self-service storage facility;

E. "self-service storage facility" means any real property designed and used in the business of providing leased or rented storage space to occupants who have access to such facility for the purpose of storing and removing personal property;

F. "self-service storage insurance" means personal or commercial property insurance offered to an occupant in connection with and incidental to the rental of storage space at a self-service storage facility and that provides coverage for the loss of or damage to the occupant's personal property that occurs at the self-service storage

facility or when such property is in transit to or from the facility during the period of the rental agreement;

G. "self-service storage insurance producer" means a business entity licensed only to offer insurance in connection with, and incidental to, rental agreements on behalf of an insurer authorized to write self-service storage insurance; and

H. "supervising entity" means an insurer issuing self-service storage insurance or a licensed insurance producer licensed pursuant to Article 11 of the Insurance Code that is authorized by an insurer to supervise the administration of a self-service storage insurance program."

Chapter 219 Section 3 Laws 2019

SECTION 3. A new section of the New Mexico Insurance Code is enacted to read:

"SELF-SERVICE STORAGE INSURANCE PRODUCER LICENSE.--

A. The superintendent may issue a self-service storage insurance producer license to an applicant who is qualified to solicit or sell self-service storage insurance.

B. An owner shall not sell, solicit or offer self-service storage insurance unless the owner has complied with the requirements of the Self-Service Storage Insurance License Act and has been issued a self-service storage insurance producer license by the superintendent.

C. A self-service storage insurance producer license authorizes the licensee and its employees and authorized representatives to sell, solicit and offer self-service storage insurance to occupants at any self-service storage facility at which the owner conducts business.

D. Self-service storage insurance producers shall be licensed pursuant to Article 11 of the Insurance Code.

E. An owner is not required to be licensed as a self-service storage insurance producer solely to display and make available to occupants and prospective occupants brochures and other promotional materials created by or on behalf of an insurer, if the owner and its unlicensed employees and authorized representatives do not sell, solicit or offer self-service storage insurance.

F. A licensee pursuant to this section may provide self-service storage insurance under an individual policy or under a commercial, corporate, group or master policy.

G. An owner shall not:

(1) require an occupant to purchase insurance offered by the owner as a requirement to lease storage space at a self-service storage facility; or

(2) advertise, represent or otherwise hold the owner's self out as a self-service storage insurance producer unless licensed pursuant to the Self-Service Storage Insurance License Act."

Chapter 219 Section 4 Laws 2019

SECTION 4. A new section of the New Mexico Insurance Code is enacted to read:

"REGISTRY OF AUTHORIZED LOCATIONS.--

A. Before offering self-service storage insurance at a location, a self-service storage insurance producer shall provide the superintendent with a complete list of each location where the self-service storage insurance producer will offer self-service storage insurance. The supervising entity shall maintain a registry of each location at which a self-service storage insurance producer is authorized to sell, solicit or offer self-service storage insurance in this state.

B. The registry shall be made available for inspection by the superintendent upon reasonable request.

C. A self-service storage insurance producer shall notify the superintendent within thirty days after:

(1) engaging in the sale or solicitation of self-service storage insurance at any additional location in the state; or

(2) ceasing to sell, solicit or offer self-service storage insurance."

Chapter 219 Section 5 Laws 2019

SECTION 5. A new section of the New Mexico Insurance Code is enacted to read:

"DISCLOSURE OF TERMS.--

A. A self-service storage insurance producer shall not sell, solicit or offer self-service storage insurance to occupants at any location unless the licensee makes available a brochure or other written or electronic material that:

(1) discloses that self-service storage insurance may provide a duplication of coverage already provided by an occupant's homeowner's insurance policy, renter's insurance policy, vehicle insurance policy, watercraft insurance policy or other property insurance coverage;

(2) states that the purchase by the occupant of the self-service storage insurance offered by the owner is not required in order to lease storage space at the self-service storage facility;

(3) provides the actual terms of the self-service storage insurance coverage or summarizes the material terms of the self-service storage insurance coverage, including:

- (a) the identity of the insurer;
- (b) the price of coverage and how payment shall be made;
- (c) the identity of the supervising entity;
- (d) deductibles, exclusions and conditions;
- (e) benefits of the coverage; and
- (f) key terms and conditions of coverage;

(4) summarizes the process for filing a claim; and

(5) states that an occupant that purchases self-service storage insurance may cancel the insurance at any time by notifying the insurer or the supervising entity in writing and shall receive a refund of any unearned premium within twenty days of cancellation.

B. The written or electronic material required pursuant to this section shall be submitted to the superintendent for approval upon request."

Chapter 219 Section 6 Laws 2019

SECTION 6. A new section of the New Mexico Insurance Code is enacted to read:

"AUTHORIZED EMPLOYEES AND REPRESENTATIVES.--

A. At the time of filing a self-service storage insurance producer license application, the applicant shall establish a list of the names of all employees and authorized representatives whose duties may include offering and selling self-service storage insurance. The list shall be:

(1) maintained by the licensee in a form prescribed by the superintendent;

(2) updated annually; and

(3) retained by the self-service storage facility for three years and made available to the superintendent for review and inspection upon request.

B. An employee or authorized representative of a self-service storage insurance producer who is at least eighteen years of age and has been trained pursuant to Section 8 of the Self-Service Storage Insurance Act may act on behalf and under the supervision of the self-service storage insurance producer in matters relating to the conduct of business under that producer's license.

C. An employee or authorized representative of a self-service storage insurance producer may sell, solicit and offer self-service storage insurance to occupants and shall not be subject to licensure as an insurance producer."

Chapter 219 Section 7 Laws 2019

SECTION 7. A new section of the New Mexico Insurance Code is enacted to read:

"COMMISSIONS.--A self-service storage insurance producer shall not compensate an employee or authorized representative based primarily on the number of occupants that purchase self-service storage insurance from the self-service storage insurance producer unless that compensation is incidental to the employee's or authorized representative's overall compensation."

Chapter 219 Section 8 Laws 2019

SECTION 8. A new section of the New Mexico Insurance Code is enacted to read:

"REQUIRED TRAINING PROGRAMS.--

A. The supervising entity shall supervise the administration of the self-service storage insurance program, including development of a training program approved by the superintendent for employees and authorized representatives of the self-service storage insurance producer.

B. The training program shall be provided to an employee or authorized representative of a self-service storage insurance producer prior to that person engaging in the activity of selling, soliciting or offering self-service storage insurance.

C. The training shall inform employees and authorized representatives:

(1) that employees and authorized representatives of an owner are prohibited from advertising, representing or otherwise holding themselves out as insurance producers;

(2) about ethical sales practices; and

(3) about the self-service storage insurance offered to occupants and regarding the disclosures required pursuant to the Self-Service Storage Insurance License Act.

D. The training materials used by or on behalf of the self-service storage facility to train employees and authorized representatives shall be submitted to the superintendent at the time the owner applies for a self-service storage insurance producer license and whenever modified. Any changes to those training materials shall be submitted to the superintendent prior to their use by the licensee and in a form prescribed by the superintendent.

E. Training materials and changes to those materials that are submitted to the superintendent in accordance with this section shall be deemed approved for use by the supervising entity unless the superintendent notifies the supervising entity otherwise.

F. Failure by a self-service storage facility to submit training materials or changes for the superintendent's review, or use of disapproved training materials, shall constitute grounds for the denial of an application for license, nonrenewal of a license or a suspension of a license."

Chapter 219 Section 9 Laws 2019

SECTION 9. A new section of the New Mexico Insurance Code is enacted to read:

"COLLECTION OF FEES.--

A. Charges for self-service storage insurance coverage may be billed and collected by a self-service storage insurance producer.

B. A charge to an occupant for coverage that is not included in the cost associated with the rental of storage space shall be separately itemized on the occupant's bill.

C. If self-service storage insurance coverage is included with the rental of storage space, the self-service storage insurance producer shall clearly and conspicuously disclose to the occupant in the rental invoice or otherwise that the self-service storage insurance coverage is included with charges for the rental of storage space.

D. An occupant that purchases self-service storage insurance may cancel the insurance at any time by notifying the insurer or the supervising entity in writing and shall receive a refund of any unearned premium within twenty days of cancellation."

Chapter 219 Section 10 Laws 2019

SECTION 10. A new section of the New Mexico Insurance Code is enacted to read:

"FIDUCIARY FUNDS.--

A. Self-service storage insurance producers billing and collecting charges shall comply with the fiduciary requirements set forth in Section 59A-12-22 NMSA 1978, except that, pursuant to Paragraph (1) of Subsection B of Section 59A-12-22 NMSA 1978, the self-service storage insurance producer may remit received premiums, less applicable commissions, if any, and return premiums to the insurer or supervising entity within a time established by contract with the insurer or supervising entity, not to exceed sixty days after such receipt.

B. All money received by a self-service storage insurance producer or its employees or authorized representatives from an occupant for the sale of self-service storage insurance shall be held by the self-service storage insurance producer in a

fiduciary capacity for the benefit of the insurer. A self-service storage insurance producer may receive compensation for billing and collection services, as established by contract with the insurer or supervising entity."

Chapter 219 Section 11 Laws 2019

SECTION 11. A new section of the New Mexico Insurance Code is enacted to read:

"PENALTIES.--After notice and hearing by the superintendent, the superintendent may impose by administrative penalty upon a person who violates a provision of the Self-Service Storage Insurance License Act the following:

- A. a fine not to exceed one thousand dollars (\$1,000) per violation and not to exceed a total of ten thousand dollars (\$10,000);
- B. suspension of transacting self-service storage insurance at specific locations where violations have occurred;
- C. suspension or revocation of the rights of individual employees or authorized representatives of a self-service storage insurance producer to act under the license; or
- D. suspension or revocation of the self-service storage insurance producer's or supervising entity's license to transact insurance in this state."

Chapter 219 Section 12 Laws 2019

SECTION 12. Section 59A-12-16 NMSA 1978 (being Laws 1984, Chapter 127, Section 217, as amended) is amended to read:

"59A-12-16. EXAMINATION FOR LICENSE.--

A. A resident individual applying for an insurance producer license shall, prior to issuance of license, personally take and pass a written examination. The examination shall test the knowledge of the individual concerning the lines of authority for which application is made, the duties and responsibilities of an insurance producer and the insurance laws and rules of this state. Examinations required by this section shall be developed and conducted under rules prescribed by the superintendent.

B. The superintendent may contract with an outside testing service for administering examinations and collecting the nonrefundable fee set forth in Section 59A-6-1 NMSA 1978.

C. Each individual applying for an examination shall remit a nonrefundable fee as prescribed by the superintendent as set forth in Section 59A-6-1 NMSA 1978.

D. An individual who fails to appear for the examination as scheduled or fails to pass the examination shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

E. No examination shall be required:

(1) for renewal or continuance of an existing license, except as provided in Subsection D of Section 59A-11-10 NMSA 1978;

(2) of an applicant for limited license as provided in Section 59A-12-18 NMSA 1978;

(3) of applicants with respect to life and annuities or accident and health insurances who hold the chartered life underwriter designation by the American college of financial services;

(4) of applicants with respect to property and casualty insurance who hold the designation of chartered property and casualty underwriter designation by the American institute for chartered property casualty underwriters;

(5) of applicants for temporary license as provided for in Section 59A-12-19 NMSA 1978;

(6) of an applicant for a license covering the same kind or kinds of insurance as to which licensed in this state under a similar license within five years preceding date of application for the new license, unless the previous license was suspended, revoked or continuation thereof refused by the superintendent;

(7) of an applicant for insurance producer license, if the applicant took and passed a similar examination in a state in which already licensed, subject to Section 59A-5-33 NMSA 1978; or

(8) of an applicant for self-service storage insurance producer license.

F. An individual who applies for an insurance producer license in this state who was previously licensed for the same lines of authority in another state shall not be required to take an examination. This exemption is only available if the person is currently licensed in that state or if the application is received within ninety days of the cancellation of the applicant's previous license and if the prior state issues a certification

that, at the time of cancellation, the applicant was in good standing in that state or the state's insurance producer database records, maintained by the national association of insurance commissioners, its affiliates or subsidiaries, indicate that the insurance producer is or was licensed in good standing for the line of authority requested.

G. A person licensed as an insurance producer in another state who moves to this state shall apply within ninety days of establishing legal residence to become a resident insurance producer. No examination shall be required of that person to obtain any line of authority previously held in the prior state except where the superintendent determines otherwise by rule."

Chapter 219 Section 13 Laws 2019

SECTION 13. Section 59A-12-26 NMSA 1978 (being Laws 1984, Chapter 127, Section 227, as amended) is amended to read:

"59A-12-26. CONTINUING EDUCATION.--

A. The superintendent shall require as a condition to continuation of an insurance producer license that during the twenty-four months next preceding expiration of the current license period the licensee has attended the minimum number of hours of formal class instruction, lectures or seminars required and approved by the superintendent covering the kinds of insurance for which licensed.

B. Instruction shall be designed to refresh the licensee's understanding of basic principles and coverages involved, recent and prospective changes, applicable laws and rules of the superintendent, proper conduct of the licensee's business and duties and responsibilities of the licensee.

C. The superintendent may permit licensees who because of remoteness of residence or business cannot with reasonable convenience attend formal instruction sessions to successfully complete an equivalent course of study and instruction online or by mail.

D. The superintendent may impose a penalty not to exceed fifty dollars (\$50.00) for a licensee's failure to timely report continuing education credits.

E. The superintendent shall charge, at the time of certifying each licensee's continuing education credits as a condition of continuation of license, a fee of one dollar (\$1.00) per credit hour of continuing education; provided that the superintendent may contract with an independent agency to receive and review continuing education

compliance reports and, in such a case, the fee shall be a reasonable amount fixed by the superintendent and payable to the contracting agency.

F. This section shall not apply to holders of:

- (1) limited license issued under Section 59A-12-18 NMSA 1978; and
- (2) self-service storage insurance producer license."

Chapter 219 Section 14 Laws 2019

SECTION 14. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

Senate Bill 378

Approved April 3, 2019

LAWS 2019, CHAPTER 220

AN ACT

RELATING TO LICENSURE; ESTABLISHING AN ENGINEERING AND SURVEYING SCHOLARSHIP PROGRAM; ESTABLISHING ADDITIONAL GROUNDS FOR RECIPROCITY FOR ENGINEERS LICENSED IN OTHER JURISDICTIONS; AMENDING PROVISIONS RELATING TO CERTIFICATION AS A SURVEYOR INTERN; ALLOWING THE BOARD TO ALLOW ALTERNATIVES TO PHYSICAL SEALS; CREATING A FUND; MAKING AN APPROPRIATION.

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

Chapter 220 Section 1 Laws 2019

SECTION 1. A new section of the Engineering and Surveying Practice Act is enacted to read:

"ENGINEERING AND SURVEYING SCHOLARSHIP PROGRAM.--

A. The board may establish an "engineering and surveying scholarship program" that provides strategies to enhance recruitment and retention of New Mexico professional engineers and professional surveyors, increase career and educational opportunities and improve interaction with the engineering and surveying professions and institutions of higher education. The program may provide direct educational and training scholarships through qualified New Mexico educational institutions to candidates for the engineering and surveying professions willing to reside and practice in New Mexico in an amount not to exceed annually one hundred thousand dollars (\$100,000) in the aggregate.

B. The board may request and utilize appropriations to establish, implement and maintain the scholarship program. Any appropriation shall be deposited in the engineering and surveying scholarship fund."

Chapter 220 Section 2 Laws 2019

SECTION 2. A new section of the Engineering and Surveying Practice Act is enacted to read:

"ENGINEERING AND SURVEYING SCHOLARSHIP FUND CREATED.--The "engineering and surveying scholarship fund" is created in the state treasury to support the engineering and surveying scholarship program. The fund consists of appropriations, gifts, grants, donations and income from investment of the fund. Any income earned on investment of the fund shall remain in the fund. Money in the fund shall not revert to any other fund at the end of a fiscal year. The fund shall be administered by the board, and money in the fund is appropriated to the board to carry out the purposes of the engineering and surveying scholarship program. Disbursements from the fund shall be made by warrant of the secretary of finance and administration pursuant to vouchers approved by the chair and signed by the executive director of the board."

Chapter 220 Section 3 Laws 2019

SECTION 3. Section 61-23-14.1 NMSA 1978 (being Laws 1993, Chapter 218, Section 12, as amended) is amended to read:

"61-23-14.1. LICENSURE AS A PROFESSIONAL ENGINEER-- REQUIREMENTS.--

A. Licensure as a professional engineer may be either through examination or through endorsement or comity. In either case, an applicant shall file the appropriate application in which it shall be demonstrated that the applicant:

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

(2) has five references, three of whom shall be licensees practicing in the branch of engineering for which the applicant is applying and who have personal knowledge of the applicant's engineering experience and reputation. The use of non-licensed engineer references having personal knowledge of the applicant's engineering experience and reputation may be accepted by the board; provided that a satisfactory written explanation is given.

B. An applicant may be licensed through examination if the applicant can demonstrate the following:

(1) the applicant is certified as an engineer intern and has at least one of the following:

(a) received a bachelor's degree in an engineering discipline recognized by the board from a program accredited by the engineering accreditation commission or a program that fulfills the required content of the engineering education standard as defined by the national council of examiners for engineering and surveying and has at least four years of engineering experience subsequent to receiving the degree;

(b) received a bachelor's degree in an engineering discipline recognized by the board from a foreign educational institution where the program that was completed fulfills the required content of the engineering education standard as defined by the national council of examiners for engineering and surveying and has at least four years of engineering experience in the United States subsequent to receiving the degree;

(c) received a master's degree in an engineering discipline recognized by the board from a program accredited by the engineering accreditation commission or an institution that offers programs accredited by the engineering accreditation commission or that fulfills the required content of the engineering education standard as defined by the national council of examiners for engineering and surveying and has at least three years of engineering experience subsequent to receiving the degree;

(d) received a master's degree in an engineering discipline recognized by the board from a foreign educational institution where the program that was completed fulfills through evaluation the required curricular content and educational standards as defined by the national council of examiners for engineering and surveying

and has at least three years of engineering experience in the United States subsequent to receiving the degree;

(e) received a doctorate degree in an engineering discipline recognized by the board from a board-approved engineering curriculum and has at least two years of engineering experience subsequent to receiving the degree; or

(f) at least six years of board-approved engineering experience after graduation from a school offering a board-approved, four-year engineering technology curriculum accredited by the technology accreditation commission of the accreditation board for engineering and technology, including the two years for engineer intern certification; or

(2) the applicant is not certified as an engineer intern and has at least one of the following:

(a) received a bachelor's degree in an engineering discipline recognized by the board from a program accredited by the engineering accreditation commission or a program that fulfills the required content of the engineering education standard as defined by the national council of examiners for engineering and surveying and has twelve years of engineering experience subsequent to receiving the degree;

(b) received a master's degree in an engineering discipline recognized by the board from a program accredited by the engineering accreditation commission or an institution that offers programs accredited by the engineering accreditation commission or that fulfills the required content of the engineering education standard as defined by the national council of examiners for engineering and surveying and has at least six years of engineering experience subsequent to receiving the degree; or

(c) received a doctorate degree in an engineering discipline recognized by the board from a board-approved engineering curriculum and has at least four years of engineering experience subsequent to receiving the degree.

C. Upon successfully completing the examination, required experience and all the requirements as noted in this section, the applicant shall be eligible to be licensed as a professional engineer upon action of the board.

D. An applicant may be licensed by endorsement or comity if the applicant:

(1) is currently licensed as an engineer in the District of Columbia, another state, a territory or a possession of the United States; provided that the

licensure does not conflict with the provisions of the Engineering and Surveying Practice Act and that the standards required by the licensure or the applicant's qualifications equaled or exceeded the licensure standards in New Mexico at the time the applicant was initially licensed;

(2) is currently licensed as an engineer in a foreign country and can demonstrate, to the board's satisfaction, evidence that the licensure was based on standards that equal or exceed those currently required for licensure by the Engineering and Surveying Practice Act and can satisfactorily demonstrate to the board competence in current engineering standards and procedures; or

(3) is currently licensed as an engineer in the District of Columbia, another state, a territory or a possession of the United States; provided that the applicant:

(a) has been actively licensed for the contiguous ten years immediately preceding application to New Mexico;

(b) has not received any form of disciplinary action related to the practice of engineering or professional conduct from any jurisdiction within the five years preceding application to New Mexico; and

(c) has not had the applicant's professional license suspended or revoked at any time from any jurisdiction."

Chapter 220 Section 4 Laws 2019

SECTION 4. Section 61-23-19 NMSA 1978 (being Laws 1987, Chapter 336, Section 19, as amended) is amended to read:

"61-23-19. ENGINEERING--LICENSES--SEALS--INCIDENTAL ARCHITECTURAL WORK--SUPPLEMENTAL SURVEYING WORK.--

A. The board shall issue licenses pursuant to the provisions of the Engineering and Surveying Practice Act. The board shall provide for the proper authentication of all documents.

B. The board shall regulate the use of seals and may approve alternative authentications to physical or electronic seals.

C. An engineer shall have the right to engage in activities properly classified as architecture insofar as it is incidental to the engineer's work as an engineer; provided

that the engineer shall not make any representation as being an architect or as performing architectural services unless duly registered as such.

D. The board shall recognize that there may be occasions when professional engineers need to obtain supplemental survey information for the planning and design of an engineering project. A professional engineer who has primary engineering responsibility and control of an engineering project may perform supplemental surveying work in obtaining data incidental to that project. Supplemental surveying work may be performed by a professional engineer only on a project for which the engineer is providing engineering design services."

Chapter 220 Section 5 Laws 2019

SECTION 5. Section 61-23-27.3 NMSA 1978 (being Laws 1993, Chapter 218, Section 24, as amended) is amended to read:

"61-23-27.3. CERTIFICATION OF SURVEYOR INTERN--REQUIREMENTS.--

A. An applicant for certification as a surveyor intern shall file the appropriate application and demonstrate that the applicant:

- (1) is of good moral character and reputation;
- (2) has obtained at least a senior status in a board-approved, four-year curriculum in surveying; and
- (3) has three references, two of whom shall be licensed professional surveyors having personal knowledge of the applicant's knowledge and experience.

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

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

D. The certification of surveyor intern does not permit the intern to practice surveying. Certification as a surveyor intern is intended to demonstrate that the intern has obtained certain skills in surveying fundamentals and is pursuing a career in surveying.

E. If otherwise qualified, a graduate of a board-approved but related curriculum of at least four years, to be considered for certification as a surveyor intern, shall have a specific record of two years of combined office and field board-approved surveying experience obtained under the direction of a licensed professional surveyor. Class time will not be counted in the two years of required experience, but work prior to or while attending school may be counted toward the two years of required experience at the discretion of the board."

Chapter 220 Section 6 Laws 2019

SECTION 6. Section 61-23-27.8 NMSA 1978 (being Laws 1993, Chapter 218, Section 29, as amended) is amended to read:

"61-23-27.8. SURVEYING LICENSES AND SEALS.--

A. The board shall issue surveying licenses pursuant to the Engineering and Surveying Practice Act. The board shall provide for the proper authentication of all documents.

B. The board shall regulate the use of seals and may approve alternative authentications to physical or electronic seals." _____

Senate Bill 447

Approved April 3, 2019

LAWS 2019, CHAPTER 221

AN ACT

RELATING TO PROPERTY; AMENDING AND ENACTING SECTIONS OF THE UNIFORM PROBATE CODE; MAKING A TECHNICAL CHANGE TO THE UNIFORM POWERS OF APPOINTMENT ACT.

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

Chapter 221 Section 1 Laws 2019

SECTION 1. A new section of the Uniform Probate Code, Section 45-2-608 NMSA 1978, is enacted to read:

"45-2-608. EXERCISE OF POWER OF APPOINTMENT.--In the absence of a requirement that a power of appointment be exercised by a reference or by an express or specific reference to the power, a general residuary clause in a will or a will making general disposition of all of the testator's property expresses an intention to exercise a power of appointment held by the testator only if:

A. the power is a general power exercisable in favor of the powerholder's estate and the creating instrument does not contain an effective gift if the power is not exercised; or

B. the testator's will manifests an intention to include the property subject to the power."

Chapter 221 Section 2 Laws 2019

SECTION 2. A new section of the Uniform Probate Code, Section 45-2-704 NMSA 1978, is enacted to read:

"45-2-704. POWER OF APPOINTMENT--COMPLIANCE WITH SPECIFIC REFERENCE REQUIREMENT.--A powerholder's substantial compliance with a formal requirement of appointment imposed in a governing instrument by the donor, including a requirement that the instrument exercising the power of appointment make reference or specific reference to the power, is sufficient if:

A. the powerholder knows of and intends to exercise the power; and

B. the powerholder's manner of attempted exercise does not impair a material purpose of the donor in imposing the requirement."

Chapter 221 Section 3 Laws 2019

SECTION 3. Section 45-2-802 NMSA 1978 (being Laws 1993, Chapter 174, Section 61, as amended) is amended to read:

"45-2-802. EFFECT OF DIVORCE, ANNULMENT AND DECREE OF SEPARATION.--

A. An individual who is divorced from the decedent or whose marriage to the decedent has been annulled is not a surviving spouse unless, by virtue of a subsequent

marriage, the individual is married to the decedent at the time of death. A decree of separation that does not terminate the status of spouse is not a divorce for purposes of this section.

B. For purposes of Chapter 45, Article 2, Parts 1 through 4 and Section 45-3-203 NMSA 1978, a surviving spouse does not include:

(1) an individual who obtains or consents to a final decree or judgment of divorce from the decedent or an annulment of their marriage, which decree or judgment is not recognized as valid in this state, unless subsequently they participate in a marriage ceremony purporting to marry each to the other or live together as spouses;

(2) an individual who, following an invalid decree or judgment of divorce or annulment obtained by the decedent, participates in a marriage ceremony with a third individual; or

(3) an individual who was a party to a valid proceeding concluded by an order purporting to terminate all marital property rights, including a property division judgment entered pursuant to the provisions of Section 40-4-20 NMSA 1978."

Chapter 221 Section 4 Laws 2019

SECTION 4. Section 45-2-804 NMSA 1978 (being Laws 1993, Chapter 174, Section 63, as amended) is amended to read:

"45-2-804. REVOCATION OF PROBATE AND NONPROBATE TRANSFERS BY DIVORCE--NO REVOCATION BY OTHER CHANGES OF CIRCUMSTANCES.--

A. As used in this section:

(1) "disposition or appointment of property" includes a transfer of an item of property or other benefit to a beneficiary designated in a revocable trust or other governing instrument;

(2) "divorce or annulment" means a divorce, annulment or dissolution or declaration of invalidity of a marriage that would exclude the spouse as a surviving spouse within the meaning of Section 45-2-802 NMSA 1978 or the commencement of a valid proceeding concluded either before or after an individual's death by an order purporting to terminate all marital property rights, including a property division judgment entered pursuant to the provisions of Section 40-4-20 NMSA 1978. A decree of separation that does not terminate the status of spouse is not a divorce for purposes of this section;

(3) "divorced individual" includes an individual whose marriage has been annulled;

(4) "governing instrument" means a governing instrument executed by the divorced individual before the divorce or annulment of the divorced individual's marriage to the former spouse;

(5) "relative of the divorced individual's former spouse" means an individual who is related to the divorced individual's former spouse by blood, adoption or affinity and who, after the divorce or annulment, is not related to the divorced individual by blood, adoption or affinity; and

(6) "revocable", with respect to a disposition, appointment, provision or nomination, means one under which the divorced individual, at the time of the divorce or annulment, was alone empowered by law or under the governing instrument to cancel the designation in favor of the former spouse or former spouse's relative whether or not the divorced individual was then empowered to designate the divorced individual's own self in place of the former spouse or in place of the former spouse's relative and whether or not the divorced individual then had the capacity to exercise the power.

B. Except as provided by the express terms of a governing instrument, a court order or a contract relating to the division of the marital estate made between the divorced individuals before or after the marriage, divorce or annulment, the divorce or annulment of a marriage:

(1) revokes any revocable:

(a) disposition or appointment of property made by a divorced individual to the former spouse in a governing instrument and any disposition or appointment created by law or in a governing instrument to a relative of the divorced individual's former spouse;

(b) provision in a governing instrument conferring a general or nongeneral power of appointment on the divorced individual's former spouse or on a relative of the divorced individual's former spouse; and

(c) nomination in a governing instrument, nominating a divorced individual's former spouse or a relative of the divorced individual's former spouse to serve in any fiduciary or representative capacity, including a personal representative, executor, trustee, conservator, agent or guardian; and

(2) severs the interests of the former spouses in property held by them at the time of the divorce or annulment as joint tenants with the right of survivorship, transforming the interests of the former spouses into equal tenancies in common.

C. A severance pursuant to the provisions of Paragraph (2) of Subsection B of this section does not affect any third-party interest in property acquired for value and in good faith reliance on an apparent title by survivorship in the survivor of the former spouses unless a writing declaring the severance has been noted, registered, filed or recorded in records appropriate to the kind and location of the property that are relied upon in the ordinary course of transactions involving such property as evidence of ownership.

D. Provisions of a governing instrument are given effect as if the former spouse and relatives of the former spouse disclaimed all provisions revoked by this section or, in the case of a revoked nomination in a fiduciary or representative capacity, as if the former spouse and relatives of the former spouse died immediately before the divorce or annulment.

E. Provisions revoked solely by this section are revived by the divorced individual's remarriage to the former spouse or by a nullification of the divorce or annulment.

F. No change of circumstances other than as described in this section and in Section 45-2-803 NMSA 1978 effects a revocation.

G. A payor or other third party is not liable for having made a payment or transferred an item of property or any other benefit to a beneficiary designated in a governing instrument affected by a divorce, annulment or remarriage or for having taken any other action in good faith reliance on the validity of the governing instrument before the payor or other third party received written notice of the divorce, annulment or remarriage. A payor or other third party is liable for a payment made or other action taken after the payor or other third party received written notice of a claimed forfeiture or revocation pursuant to the provisions of this section.

Written notice of the divorce, annulment or remarriage pursuant to the provisions of this section shall be mailed to the payor's or other third party's main office or home by registered or certified mail, return receipt requested, or served upon the payor or other third party in the same manner as a summons in a civil action. Upon receipt of the written notice of the divorce, annulment or remarriage, a payor or other third party may pay any amount owed or transfer or deposit any item of property held by it to or with the court having jurisdiction of the probate proceedings relating to the decedent's estate or, if no proceedings have been commenced, to or with the court having jurisdiction of

probate proceedings relating to decedents' estates located in the county of the decedent's residence. The court shall hold the funds or item of property and, upon its determination pursuant to the provisions of this section, shall order disbursement or transfer in accordance with the determination. Payments, transfers or deposits made to or with the court discharge the payor or other third party from all claims for the value of amounts paid to or items of property transferred to or deposited with the court.

H. A person who purchases property from a former spouse, relative of a former spouse or any other person for value and without notice or who receives from a former spouse, relative of a former spouse or any other person a payment or other item of property in partial or full satisfaction of a legally enforceable obligation is neither obligated pursuant to the provisions of this section to return the payment, item of property or benefit nor is liable pursuant to the provisions of this section for the amount of the payment or the value of the item of property or benefit. But a former spouse, relative of a former spouse or other person who, not for value, received a payment, item of property or any other benefit to which that person is not entitled pursuant to the provisions of this section is obligated to return the payment, item of property or benefit or is personally liable for the amount of the payment or the value of the item of property or benefit to the person who is entitled to it pursuant to the provisions of this section.

I. If this section or any part of this section is preempted by federal law with respect to a payment, an item of property or any other benefit covered by this section, a former spouse, relative of the former spouse or any other person who, not for value, received a payment, item of property or any other benefit to which that person is not entitled pursuant to the provisions of this section is obligated to return that payment, item of property or benefit or is personally liable for the amount of the payment or the value of the item of property or benefit to the person who would have been entitled to it were this section or part of this section not preempted."

Chapter 221 Section 5 Laws 2019

SECTION 5. Section 45-7-507 NMSA 1978 (being Laws 1992, Chapter 66, Section 54) is amended to read:

"45-7-507. MULTIPLE BENEFICIARIES--SEPARATE CUSTODIAL TRUSTS--SURVIVORSHIP.--

A. Beneficial interests in a custodial trust created for multiple beneficiaries are deemed to be separate custodial trusts of equal undivided interests for each beneficiary. Except in a transfer or declaration for use and benefit of spouses, for whom a right of survivorship is presumed, a right of survivorship does not exist unless the instrument creating the custodial trust specifically provides for a right of survivorship.

B. Custodial trust property held under the Uniform Custodial Trust Act by the same custodial trustee for the use and benefit of the same beneficiary may be administered as a single custodial trust.

C. A custodial trustee of custodial trust property held for more than one beneficiary shall separately account to each beneficiary pursuant to Sections 45-7-508 and 45-7-516 NMSA 1978 for the administration of the custodial trust."

Chapter 221 Section 6 Laws 2019

SECTION 6. Section 46-11-305 NMSA 1978 (being Laws 2016, Chapter 69, Section 305) is amended to read:

"46-11-305. PERMISSIBLE APPOINTMENT.--

A. A powerholder of a general power of appointment that permits appointment to the powerholder or the powerholder's estate may make any appointment, including an appointment in trust or creating a new power of appointment, that the powerholder could make in disposing of the powerholder's own property.

B. A powerholder of a general power of appointment that permits appointment only to the creditors of the powerholder or of the powerholder's estate may appoint only to those creditors.

C. Unless the terms of the instrument creating a power of appointment manifest a contrary intent, the powerholder of a nongeneral power may:

(1) make an appointment in any form, including an appointment in trust, in favor of a permissible appointee;

(2) create a general power in a permissible appointee;

(3) create a nongeneral power in any person to appoint to one or more of the permissible appointees of the original nongeneral power; or

(4) create a nongeneral power in a permissible appointee to appoint to one or more persons if the permissible appointees of the new nongeneral power include the permissible appointees of the original nongeneral power."

Chapter 221 Section 7 Laws 2019

SECTION 7. APPLICABILITY.--The provisions of this act apply to:

A. a governing instrument created before, on or after July 1, 2019;

B. a judicial proceeding commenced on or after July 1, 2019; and

C. a judicial proceeding commenced before July 1, 2019, unless the court finds that application of a particular provision of this act would substantially interfere with the effective conduct of the judicial proceeding or prejudice a right of a party, in which case the particular provision does not apply and the previous law applies.

Chapter 221 Section 8 Laws 2019

SECTION 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

Senate Bill 503, aa

Approved April 3, 2019

LAWS 2019, CHAPTER 222

AN ACT

RELATING TO HEALTH; AMENDING AND ENACTING SECTIONS OF THE HUMAN SERVICES DEPARTMENT ACT TO PROVIDE FOR INTERVENTIONS FOR INCARCERATED INDIVIDUALS WHO HAVE BEHAVIORAL HEALTH DIAGNOSES IN WAYS LIKELY TO REDUCE RECIDIVISM, DETENTION AND INCARCERATION.

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

Chapter 222 Section 1 Laws 2019

SECTION 1. Section 9-8-7.1 NMSA 1978 (being Laws 2007, Chapter 325, Section 4) is amended to read:

"9-8-7.1. BEHAVIORAL HEALTH SERVICES DIVISION--POWERS AND DUTIES OF THE HUMAN SERVICES DEPARTMENT.--Subject to appropriation, the department shall:

A. contract for behavioral health treatment and support services, including mental health, alcoholism and other substance abuse services;

B. establish standards for the delivery of behavioral health services, including quality management and improvement, performance measures, accessibility and availability of services, utilization management, credentialing and recredentialing, rights and responsibilities of providers, preventive behavioral health services, clinical treatment and evaluation and the documentation and confidentiality of client records;

C. ensure that all behavioral health services, including mental health and substance abuse services, that are provided, contracted for or approved are in compliance with the requirements of Section 9-7-6.4 NMSA 1978;

D. assume responsibility for and implement adult mental health and substance abuse services in the state in coordination with the children, youth and families department;

E. create, implement and continually evaluate the effectiveness of a framework for targeted, individualized interventions for individuals who are incarcerated in a county or municipal correctional facility and adult and juvenile offenders who have behavioral health diagnoses, which framework shall address those persons' behavioral health needs while they are incarcerated and connect them to resources and services immediately upon release;

F. establish criteria for determining individual eligibility for behavioral health services; and

G. maintain a management information system in accordance with standards for reporting clinical and fiscal information."

Chapter 222 Section 2 Laws 2019

SECTION 2. A new section of the Human Services Department Act is enacted to read:

"INCARCERATED INDIVIDUALS--BEHAVIORAL HEALTH SERVICES-- COUNTY FUNDING PROGRAM.--To carry out the provisions of Subsection E of Section 9-8-7.1 NMSA 1978 and to provide behavioral health services to individuals who are incarcerated in a county correctional facility:

A. the secretary shall adopt and promulgate rules:

(1) pursuant to which a county may apply for and be awarded funding through the department; and

(2) to establish priorities and guidelines for the award of funding to counties; and

B. the department shall distribute funds, as funding permits, to the county health care assistance funds of those counties:

(1) that apply for behavioral health services funding in accordance with department rules; and

(2) whose proposed utilization of funding pursuant to this section meets the priorities and guidelines for the awarding of behavioral health services funding established in department rules." _____

House Bill 43, aa

Approved April 3, 2019

LAWS 2019, CHAPTER 223

AN ACT

RELATING TO PUBLIC SCHOOL ATTENDANCE; ENACTING THE ATTENDANCE FOR SUCCESS ACT; PROVIDING FOR PREVENTION OF ABSENCES AND EARLIER INTERVENTION FOR STUDENTS WHO ARE ABSENT OR CHRONICALLY ABSENT; PROVIDING A PROCESS FOR PREVENTION OF ABSENCES, FOR EARLY INTERVENTION, FOR SPECIALIZED SUPPORTS AND FOR REFERRALS TO THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT; REQUIRING DATA COLLECTION AND USE; REPEALING THE COMPULSORY SCHOOL ATTENDANCE LAW.

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

Chapter 223 Section 1 Laws 2019

SECTION 1. A new section of the Public School Code is enacted to read:

"SHORT TITLE.--Sections 1 through 14 of this act may be cited as the "Attendance for Success Act".

Chapter 223 Section 2 Laws 2019

SECTION 2. A new section of the Public School Code is enacted to read:

"DEFINITIONS.--As used in the Attendance for Success Act:

A. "absent" means not in attendance for a class or school day for any reason, whether excused or not; provided that "absent" does not apply to participation in interscholastic extracurricular activities;

B. "attendance improvement plan" means a tiered data-informed system for public schools and school districts to identify students who are chronically or excessively absent and to aid public schools in developing whole-school prevention strategies and targeted interventions. Each of the tiers is defined as follows:

(1) "whole school prevention" means universal, whole-school prevention strategies for all students, including students who have missed less than five percent of classes or school days for any reason;

(2) "individualized prevention" means targeted prevention strategies for individual students who are missing five percent or more but less than ten percent of classes or school days for any reason;

(3) "early intervention" means interventions for students who are missing ten percent or more but less than twenty percent of classes or school days for any reason; and

(4) "intensive support" means interventions for students who are missing twenty percent or more of classes or school days for any reason;

C. "attendance team" means a group of school-based administrators, teachers, staff, other school personnel and community members who collaborate to implement an attendance improvement plan;

D. "chronic absence rate" means the percentage of students, in the aggregate and disaggregated by the subgroups required for reporting pursuant to the federal Every Student Succeeds Act, in a public school and a school district who have been enrolled for at least ten days and who have missed ten percent or more of school days since the beginning of the school year;

E. "chronically absent" or "chronic absenteeism" means that a student has been absent for ten percent or more of classes or school days for any reason, whether excused or not, when enrolled for more than ten days;

F. "excessively absent" or "excessive absenteeism" means a student who is identified as needing intensive support and has not responded to intervention efforts implemented by the public school;

G. "excused absence" means absence from a class or school day for a death in the family, medical absence, religious instruction or tribal obligations or any other allowable excuse pursuant to the policies of the local school board;

H. "interscholastic extracurricular activities" means those activities sponsored by a public school or an organization whose principal purpose is the regulation, direction, administration and supervision of interscholastic extracurricular activities in public schools;

I. "local school board" includes the governing body of a charter school;

J. "medical absence" or "medically absent" means that a student is not in attendance for a class or a school day for a parent- or doctor-authorized medical reason or the student is a pregnant or parenting student;

K. "school day" means a portion of the school day that is at least one-half of a student's approved program;

L. "school district" includes a charter school;

M. "school principal" includes the head administrator of a charter school; and

N. "unexcused absence" means an absence from a class or school day for which the student does not have an allowable excuse pursuant to the Attendance for Success Act or policies of the local school board."

Chapter 223 Section 3 Laws 2019

SECTION 3. A new section of the Public School Code is enacted to read:

"RIGHT TO EDUCATION.--A school-age person in the state shall have a right to a free public education as follows:

A. except for a school-age person who is detained in a state or local detention center or enrolled or residing in a state institution, other than a school-age person provided for in Subsection C of this section, a school-age person has a right to attend public school within the school district in which the school-age person resides;

B. except as provided in Subsection C of this section, a state or local detention center or state institution in which a school-age person is detained, enrolled or residing shall be responsible for providing educational services for the school-age person; and

C. a school-age person who is a client as defined in Section 43-1-3 NMSA 1978 in a state institution under the authority of the secretary of human services shall have a right to attend public school in the school district in which the institution in which the school-age person is a client is located if the school-age person has been recommended for placement in a public school:

(1) by the educational appraisal and review committee of the school district in which the institution is located; or

(2) as a result of the appeal process as provided in the special education rules of the department."

Chapter 223 Section 4 Laws 2019

SECTION 4. A new section of the Public School Code is enacted to read:

"SCHOOL ATTENDANCE--RESPONSIBILITY--PRIVATE SCHOOL ATTENDANCE POLICIES.--

A. Except as otherwise provided in the Public School Code, a school-age person shall attend public school, private school, home school or a state institution until the school-age person is at least eighteen years of age unless that school-age person has graduated from high school, received a high school equivalency credential or withdrawn from school on a hardship waiver. A parent may give written, signed permission for the school-age person to leave school between the ages of sixteen and eighteen in case of hardship approved by the local superintendent or private school.

B. A school-age person subject to the provisions of the Attendance for Success Act shall attend school for at least the length of time of the school year that is established in that school-age person's school district, charter school or private school. The school district or private school shall not excuse a school-age person from attending school except as provided in that act.

C. The parent of a school-age person subject to the provisions of the Attendance for Success Act is responsible for the school attendance of that school-age person.

D. Local school boards and private schools shall enforce the provisions of the Attendance for Success Act for students enrolled in their respective schools.

E. A private school in this state shall have an attendance policy that as closely as practicable follows the law for public schools. A school-age person attending a private school and the school-age person's parent shall be given a copy of the private school's attendance policy each year."

Chapter 223 Section 5 Laws 2019

SECTION 5. A new section of the Public School Code is enacted to read:

"PUBLIC SCHOOL ATTENDANCE.--

A. Local school boards may admit as students school-age persons who do not live within the school district to the public schools within the school district when there are sufficient school accommodations to provide for them.

B. Local school boards may allow students to transfer to a public school outside the student's attendance zone but within the school district when there are sufficient school accommodations to provide for them.

C. Local school boards shall charge a tuition fee for the right to attend public school within the school district to those school-age persons who do not live within the state. The tuition fee shall not exceed the amount generated by the public school fund for a student similarly situated within the school district for the current school year.

D. When the parent of a student not living in the state pays an ad valorem property tax for school purposes within a school district, the amount of the tuition payable for the school year shall be reduced by the district average ad valorem tax per student as determined by the ad valorem tax credit used in calculating the state equalization guarantee distribution."

Chapter 223 Section 6 Laws 2019

SECTION 6. A new section of the Public School Code is enacted to read:

"PUBLIC SCHOOL ATTENDANCE POLICIES--REPORTING.--

A. A public school shall maintain an attendance policy that:

(1) establishes an early warning system that includes evidence-based metrics to identify students at risk of chronic absenteeism or excessive absenteeism;

(2) provides for early identification of chronically absent and excessively absent students;

(3) employs an attendance improvement plan that focuses on:

(a) keeping students in an educational setting;

(b) prohibiting out-of-school suspension or expulsion as the punishment for absences;

(c) assisting a student's family to remove barriers to the student's regular school attendance or attendance in another educational setting; and

(d) providing additional educational opportunities to students who are struggling with attendance;

(4) limits the ability of a student to withdraw to only after all intervention efforts by the public school or the children, youth and families department to keep the student in an educational setting have been exhausted;

(5) requires that accurate class attendance be taken for every instructional class and school day in a public school or school program;

(6) provides that a public school shall differentiate between different types of absences;

(7) requires a public school to document the following for each chronically or excessively absent student:

(a) attempts by the public school to notify a parent that the student was absent from class or the school day;

(b) attempts to improve attendance by talking to a student or parent to identify barriers to school attendance, identify solutions to improve the student's attendance behavior and discuss necessary interventions for the student or the student's family; and

(c) intervention strategies implemented to support keeping the student in an educational setting, including additional educational opportunities offered to the student;

(8) requires a student or the parent of a student who intends to claim excused absence because of medical condition, pregnancy or parenting to communicate the student's status to the appropriate school personnel and to provide required documentation; and

(9) encourages and supports compliant data sharing, pursuant to the federal Family Educational Rights and Privacy Act of 1974, between a public school and community-based organizations that provide services to students for the purpose of providing more personalized interventions and specialized supports as part of the public school's attendance improvement plan.

B. Local school boards shall review and approve their public school attendance policies.

C. School districts shall report absences, chronic absences and excessive absences data to the department at each reporting date and the end of the school year and shall document intervention efforts made to keep students in an educational setting. The department shall compile school district reports as provided in Section 13 of the Attendance for Success Act and require school districts to certify that the information is being reported consistently and correctly. The department shall share information from state-chartered charter schools with the commission.

D. A public school shall provide a copy of the public school's attendance policy to all parents of students in that school and publish the policy on the public school's website. The attendance policy shall include:

(1) the rights and obligations of parents and students pursuant to the Attendance for Success Act;

(2) the prevention strategies that will be implemented to ensure that students attend classes; and

(3) details about consequences of failing to adhere to the attendance policy.

E. A public school shall provide a parent, within five days of the parent's written request, with access to the attendance data of that parent's child, including information

about any intervention strategies that have been employed to help the student improve the student's attendance.

F. Upon request, school districts shall provide the chronic absence rate from the most current reporting date or end-of-year report, in the aggregate and disaggregated by subgroups, for all its public schools."

Chapter 223 Section 7 Laws 2019

SECTION 7. A new section of the Public School Code is enacted to read:

"ENFORCEMENT OF ATTENDANCE FOR SUCCESS ACT--DISTRICT RESPONSIBILITIES--DIFFERENTIATION--DISTRICT PLAN--ADDITIONAL SUPPORT.--

A. School districts shall differentiate public schools based on their chronic absence rates into no fewer than four categories.

B. School districts shall differentiate student subgroups based on their chronic absence rates into no fewer than four categories.

C. Using the differentiation scheme pursuant to Subsections A and B of this section, a school district shall develop attendance improvement plans that include the following elements:

(1) specific school district supports and resources available to public schools at each level to further the implementation of their attendance improvement plans;

(2) attendance improvement targets for public schools or subpopulations with chronic absence rates of ten percent or greater, developed in collaboration with each public school; and

(3) an attendance improvement target for school districts with chronic absence rates of ten percent or greater.

D. Each school district shall report its attendance improvement plan to the department no later than forty-five days after the beginning of the school year. The department may allow a school district to report its attendance improvement plan as part of the educational plan for student success.

E. At the end of each school year, each school district shall report to the local school board and to the public on the school district's website, the progress made on its attendance improvement plan, to include:

(1) a description of the supports and resources provided to public schools at each tier of the attendance improvement plan;

(2) the extent to which public schools with chronic absence rates greater than ten percent achieved their attendance improvement targets;

(3) the extent to which the school district achieved its attendance improvement targets;

(4) barriers and challenges to reducing chronic absence rates, as reported by the public school and school district personnel;

(5) effective school-based practices, as evidenced by decreased chronic absence rates; and

(6) recommendations for improvement during the next school year at both the public school and school district level.

F. Attendance teams may be formed in whole or in part from preexisting groups or teams within a public school or may be formed for the explicit purpose of improving school attendance. School districts shall reserve time for school personnel to collaborate as an attendance team.

G. School districts shall provide support and guidance to attendance teams on transportation and school scheduling options when these are identified as barriers to school attendance."

Chapter 223 Section 8 Laws 2019

SECTION 8. A new section of the Public School Code is enacted to read:

"ENFORCEMENT OF ATTENDANCE FOR SUCCESS ACT--ATTENDANCE IMPROVEMENT PLAN--PROCEDURES.--

A. A public school shall initiate the enforcement of the provisions of the Attendance for Success Act for its enrolled students. The enforcement policies of a public school shall focus on prevention and intervention.

B. Beginning in the 2020-2021 school year, a public school with five percent or greater of students with a chronic absence rate during the prior school year, or with five percent or greater of one or more subgroups of students with a chronic absence rate during the prior school year, shall develop an attendance improvement plan to be submitted to the department as part of the public school's educational plan for student success.

C. A public school, regardless of its chronic absence rate, shall develop and implement a whole-school absence prevention strategy to be reported to the department as part of the public school's educational plan for student success.

D. An attendance improvement plan shall include:

(1) attendance data for each of the preceding two school years and the current school year, including:

- (a) the public school's overall absence rate;
- (b) chronic absence rates disaggregated by student subpopulation;
- (c) chronic absence rates disaggregated by grade level; and
- (d) student attendance for every day of the school year;

(2) school-wide identification of potential root causes of chronic and excessive absenteeism through one or more of the following:

- (a) national or local research;
- (b) analysis of supportive factors and barriers;
- (c) student surveys or focus groups;
- (d) youth participatory research; or
- (e) other appropriate school-based research methods;

(3) identification of strategies for each tier of the attendance improvement plan;

(4) identification of performance measures for each strategy; and

(5) a data-collection plan for performance measures.

E. A public school shall provide interventions to students who are absent or chronically absent, which may include:

(1) assessing student and family needs and matching those needs with appropriate public or private providers, including civic and corporate sponsors;

(2) making referrals to health care and social service providers;

(3) collaborating and coordinating with health and social service agencies and organizations through school-based and off-site delivery systems;

(4) recruiting service providers and business, community and civic organizations to provide needed services and goods that are not otherwise available to a student or the student's family;

(5) establishing partnerships between the public school and community organizations, such as civic, business and professional groups and organizations and recreational, social and out-of-school programs;

(6) identifying and coordinating age-appropriate resources for students in need of:

(a) counseling, training and placement for employment;

(b) drug and alcohol abuse counseling;

(c) family crisis counseling; and

(d) mental health counseling;

(7) promoting family support and parent education programs; and

(8) seeking out other services or goods that a student or the student's family needs to assist the student to stay in school and succeed.

F. Beginning on the first day of school, a classroom teacher or that teacher's adult designee shall be responsible for taking accurate attendance for every class and reporting absences to the attendance team."

Chapter 223 Section 9 Laws 2019

SECTION 9. A new section of the Public School Code is enacted to read:

"MEDICAL APPOINTMENTS--ILLNESS--SPECIAL SITUATIONS--MAKE-UP WORK.--

A. A student may be excused for parent- or doctor-authorized medical reasons. A public school shall provide time for the student to make up the school work missed during the absence.

B. A school district shall maintain an attendance policy that:

(1) provides at least ten days of medical absences during the school year for a student who provides documentation of the birth of the student's child, and the public school shall provide time for the student to make up the school work missed during the absence; and

(2) provides four days of excused absences for a student who provides appropriate documentation of pregnancy or that the student is the parent of a child under the age of thirteen needing care, and the public school shall provide time for the student to make up the school work missed during the absence.

C. A school district that has an alternative public school for, among others, pregnant and parenting students and that allows for off-site attendance through online education shall not count students as absent as long as the students are online with the public school or other appropriate virtual course and complete their class assignments.

D. A student may, subject to the approval of the school principal, be absent from school to participate in religious instruction for not more than one class period per school day with the written consent of the student's parent at a time that is not in conflict with the academic program of the school. The public school shall provide time for the student to make up the school work missed during the absence. The school district or the public school shall not assume responsibility for the religious instruction of any student or permit religious instruction to be conducted on school property.

E. A public school student, with the written consent of the student's parent and subject to the approval of the school principal, may be absent from school to participate in tribal obligations. The public school shall provide time for the student to make up the school work missed during the absence."

Chapter 223 Section 10 Laws 2019

SECTION 10. A new section of the Public School Code is enacted to read:

"INTERSCHOLASTIC EXTRACURRICULAR ACTIVITIES--STUDENT PARTICIPATION.--

A. A public school student shall have at least a 2.0 grade point average on a 4.0 scale, or its equivalent, either cumulatively or for the grading period immediately preceding participation, to be eligible to participate in any interscholastic extracurricular activity. For purposes of this section, "grading period" is a period of time not less than six weeks. The provisions of this subsection shall not apply to students receiving C or D level special education services.

B. A student shall not be absent from school for interscholastic extracurricular activities in excess of fifteen days per semester, and no class shall be missed in excess of fifteen times per semester for interscholastic extracurricular activities.

C. The secretary may issue a waiver relating to the number of absences for participation in any state or national competition that is not an interscholastic extracurricular activity. The secretary shall develop a procedure for petitioning cumulative provision eligibility cases, similar to other eligibility situations.

D. Student standards for participation in interscholastic extracurricular activities shall be applied beginning with a student's academic record in ninth grade."

Chapter 223 Section 11 Laws 2019

SECTION 11. A new section of the Public School Code is enacted to read:

"PROGRESSIVE INTERVENTIONS FOR ABSENT, CHRONICALLY ABSENT AND EXCESSIVELY ABSENT STUDENTS.--

A. A public school shall provide interventions for students who are missing school, depending on the number of absences. The process for notification and interventions is:

(1) for a student who has been identified as in need of individualized prevention, the attendance team shall:

(a) for an elementary student, talk to the parent and inform the parent of the student's attendance history, the impact of student absences on student academic outcomes, the interventions or services available to the student or family and the consequences of further absences, which may include referral to the children, youth and families department for excessive absenteeism; and

(b) for a middle or high school student, talk to the parent and the student about the student's attendance history and the impact of student absences on student academic outcomes, interventions or services available to the student or family and the consequences of further absences, which may include referral to the children, youth and families department for excessive absenteeism;

(2) for a student who has been identified as in need of early intervention, the attendance team shall notify the parent in writing by mail or personal service on the parent of the student's absenteeism. The notice shall include a date, time and place for the parent to meet with the public school to develop intervention strategies that focus on keeping the student in an educational setting. The attendance team shall be convened to establish a specific intervention plan for the student that includes establishing weekly progress monitoring and a contract for attendance; and

(3) for a student who has been identified as in need of intensive support, the attendance team shall:

(a) give written notice to the parent, including a date, time and place for the parent to meet with the school principal and the attendance team;

(b) establish nonpunitive consequences at the school level;

(c) identify appropriate specialized supports that may be needed to help the student address the underlying causes of excessive absenteeism; and

(d) apprise the student and the parent of the consequences of further absences.

B. The school principal shall consult with a student's teacher and initiate meetings with the teacher, the student and the parent if the alleged cause of absence from class is teacher-student incompatibility."

Chapter 223 Section 12 Laws 2019

SECTION 12. A new section of the Public School Code is enacted to read:

"EXCESSIVE ABSENTEEISM--ENFORCEMENT.--

A. Each local school board and each governing body of a charter school or private school shall initiate the enforcement of the provisions of the Attendance for Success Act for excessively absent students.

B. If unexcused absences continue after written notice of excessive absenteeism as provided in Section 11 of the Attendance for Success Act, the local school board or governing body of a charter school or private school, after consultation with the local superintendent or head administrator of a charter school or private school, shall report the excessively absent student to the probation services office of the judicial district in which the student resides for an investigation as to whether the student should be considered to be a neglected child or a child in a family in need of family services because of excessive absenteeism and, thus, subject to the provisions of the Children's Code. The record of the public school's interventions and the student's and parent's responses to the interventions shall be provided to the juvenile probation services office. The local superintendent or head administrator of a charter school or private school shall provide the documentation to the juvenile probation services office within ten business days of the student being identified as excessively absent.

C. If the juvenile probation services office determines that the student is a child in a family in need of family services, a caseworker from the child or family in need of family services program shall meet with the family at the public school in which the student is enrolled to determine if there are other intervention services that may be provided. The meeting shall involve the school principal or other school personnel and, unless the parent objects in writing, appropriate community partners that provide services to children and families. The children, youth and families department shall determine if additional interventions, including monitoring, will positively affect the student's behavior."

Chapter 223 Section 13 Laws 2019

SECTION 13. A new section of the Public School Code is enacted to read:

"REPORTING REQUIREMENTS.--

A. For each reporting date and at the end of the year, each school district shall report:

(1) the total number of days missed for excused and unexcused absences for each student in each public school, the total number of days each student was enrolled and in which tier each student with absences fell during the reporting period, along with the student's demographics; and

(2) the number of students at each public school who were referred to the children, youth and families department because of excessive absences, in the aggregate and disaggregated by subgroups.

B. The department shall compile a report by public school and school district that includes:

(1) the total number and percent of students who were in each tier of chronic absenteeism or were excessively absent at each public school and school district in the aggregate for each public school and school district and disaggregated by subgroups;

(2) the average number of excused and unexcused absences per student for all students and subgroups, not including interscholastic extracurricular activities; and

(3) a calculated chronic absenteeism rate for the school district for all students and for each subgroup."

Chapter 223 Section 14 Laws 2019

SECTION 14. A new section of the Public School Code is enacted to read:

"TIMELY GRADUATION AND SUPPORT FOR STUDENTS WHO EXPERIENCE DISRUPTION IN THE STUDENT'S EDUCATION.--

A. For purposes of this section, "a student who has experienced a disruption in the student's education" means a student who experiences one or more changes in public school or school district enrollment during a single school year as the result of:

(1) homelessness as defined in the federal McKinney-Vento Homeless Assistance Act and as determined by the public school or school district;

(2) adjudication:

(a) as an abused or neglected child as determined by the children, youth and families department pursuant to the Abuse and Neglect Act;

(b) as part of a family in need of court-ordered services voluntary placement pursuant to the Family Services Act; or

(c) as a delinquent if the parent wishes to disclose the adjudication of delinquency; or

(3) placement in a mental health treatment facility or habilitation program for developmental disabilities pursuant to the Children's Mental Health and Developmental Disabilities Act or placement in treatment foster care.

B. When a student who has experienced a disruption in the student's education transfers to a new public school or school district, the receiving public school or school district shall communicate with the sending public school or school district within two days of the student's enrollment. The sending public school or school district shall provide the receiving public school or school district with any requested records within two days of having received the receiving public school's or school district's communication.

C. A student who has experienced a disruption in the student's education because of transferring to a new public school as the result of circumstances set forth in this section shall have:

(1) priority placement in classes that meet state graduation requirements;
and

(2) timely placement in elective classes that are comparable to those in which the student was enrolled at the student's previous public school or schools as soon as the public school or school district receives verification from the student's records.

D. For a student who has experienced a disruption in the student's education at any time during the student's high school enrollment, a school district and public schools shall ensure:

(1) acceptance of the student's state graduation requirements for a diploma of excellence pursuant to the Public School Code;

(2) equal access to participation in sports and other extracurricular activities, career and technical programs or other special programs for which the student qualifies;

(3) timely assistance and advice from counselors to improve the student's college or career readiness; and

(4) that the student receives all special education services to which the student is entitled."

Chapter 223 Section 15 Laws 2019

SECTION 15. Section 32A-3A-2 NMSA 1978 (being Laws 1993, Chapter 77, Section 64, as amended) is amended to read:

"32A-3A-2. DEFINITIONS.--As used in the Family Services Act:

A. "child or family in need of family services" means a family:

(1) whose child's behavior endangers the child's health, safety, education or well-being;

(2) whose child is excessively absent from public school as defined in the Attendance for Success Act;

(3) whose child is absent from the child's place of residence for twenty-four hours or more without the consent of the parent, guardian or custodian;

(4) in which the parent, guardian or custodian of a child refuses to permit the child to live with the parent, guardian or custodian; or

(5) in which the child refuses to live with the child's parent, guardian or custodian; and

B. "family services" means services that address specific needs of the child or family."

Chapter 223 Section 16 Laws 2019

SECTION 16. Section 32A-3A-3 NMSA 1978 (being Laws 1993, Chapter 77, Section 65, as amended) is amended to read:

"32A-3A-3. REQUEST FOR FAMILY SERVICES--WITHDRAWAL OF REQUEST--PRESUMPTION OF GOOD FAITH.--

A. Any child or family member who has a reasonable belief that the child or family is in need of family services may request family services from the department.

B. Any person, including a public or private school principal, who has a reasonable belief that a child or family is in need of family services may submit a referral to the department.

C. A family that requests or accepts family services may withdraw its request for or acceptance of family services at any time.

D. A person who refers a child or family for family services is presumed to be acting in good faith and shall be immune from civil or criminal liability, unless the person acted in bad faith or with malicious purpose."

Chapter 223 Section 17 Laws 2019

SECTION 17. REPEAL.--Sections 22-12-1 through 22-12-10 NMSA 1978 (being Laws 1967, Chapter 16, Sections 169 and 170; Laws 1986, Chapter 33, Section 27; Laws 1971, Chapter 238, Section 1; Laws 2013, Chapter 198, Section 1; Laws 1978, Chapter 211, Section 10; Laws 1967, Chapter 16, Sections 172 and 175; Laws 1985, Chapter 104, Section 1; Laws 2004, Chapter 28, Section 1; and Laws 2017, Chapter 53, Section 1 and Laws 2017, Chapter 85, Section 1, as amended) are repealed. _____

House Bill 236, aa

Approved April 3, 2019

LAWS 2019, CHAPTER 224

AN ACT

RELATING TO CRIME; REVISING PENALTIES FOR CERTAIN MOTOR VEHICLE CODE OFFENSES.

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

Chapter 224 Section 1 Laws 2019

SECTION 1. Section 66-5-30 NMSA 1978 (being Laws 1978, Chapter 35, Section 252, as amended) is amended to read:

"66-5-30. AUTHORITY OF DIVISION TO SUSPEND OR REVOKE LICENSE.--

A. The division may suspend the instruction permit, driver's license or provisional license of a driver without preliminary hearing upon a showing by its records or other sufficient evidence, including information provided to the state pursuant to an intergovernmental agreement authorized by Section 66-5-27.1 NMSA 1978, that the licensee:

(1) has been convicted of an offense for which mandatory revocation of license is required upon conviction;

(2) has been convicted as a driver in an accident resulting in the death or personal injury of another or serious property damage;

(3) has been convicted with such frequency of offenses against traffic laws or rules governing motor vehicles as to indicate a disrespect for traffic laws and a disregard for the safety of other persons on the highways;

(4) is an habitually reckless or negligent driver of a motor vehicle;

(5) is incompetent to drive a motor vehicle;

(6) has permitted an unlawful or fraudulent use of the license;

(7) has been convicted of an offense in another state or tribal jurisdiction that if committed within this state's jurisdiction would be grounds for suspension or revocation of the license;

(8) has violated provisions stipulated by a district court in limitation of certain driving privileges; or

(9) has accumulated seven points, but less than eleven points, and when the division has received a recommendation from a municipal or magistrate judge that the license be suspended for a period not to exceed three months.

B. The division may issue an administrative suspension of the instruction permit, driver's license or provisional license of a driver without preliminary hearing upon a showing by its records or other sufficient evidence, including information provided to the state pursuant to an intergovernmental agreement authorized by Section 66-5-27.1 NMSA 1978, that the licensee has failed to:

(1) fulfill a signed promise to appear or notice to appear in court as evidenced by notice from a state court or tribal court, whenever appearance is required by law or by the court as a consequence of a charge or conviction under the Motor Vehicle Code or pursuant to the laws of the tribe;

(2) pay a penalty assessment within thirty days of the date of issuance by the state or a tribe; or

(3) comply with the terms of a citation issued in a foreign jurisdiction that is a party to the Nonresident Violator Compact and that has notified the department of the failure in accordance with the Nonresident Violator Compact.

C. If a person whose license was issued by a jurisdiction outside New Mexico that is a party to the Nonresident Violator Compact fails to comply with the terms of a citation issued in New Mexico, the department shall notify that other jurisdiction of the failure and that jurisdiction shall initiate a license suspension action in accordance with the provisions of Article IV of the Nonresident Violator Compact.

D. Upon suspending the license of a person as authorized in this section, the division shall immediately notify the licensee in writing of the licensee's right to a hearing before the administrative hearings office and, upon the licensee's request, shall notify the administrative hearings office. The administrative hearings office shall schedule the hearing to take place as early as practicable, but within no more than twenty days, not counting Saturdays, Sundays and legal holidays after receipt of the request. The hearing shall be held in the county in which the licensee resides unless the hearing officer and the licensee agree that the hearing may be held in some other county; provided that the hearing request is received within twenty days from the date that the suspension was deposited in the United States mail. The hearing officer may, in the hearing officer's discretion, extend the twenty-day period. The hearing shall be held as provided in the Administrative Hearings Office Act. After the hearing, the hearing officer shall either rescind the order of suspension or continue, modify or extend the suspension of the license or revoke the license."

Chapter 224 Section 2 Laws 2019

SECTION 2. Section 66-5-39 NMSA 1978 (being Laws 1978, Chapter 35, Section 261, as amended) is amended to read:

"66-5-39. DRIVING WHILE LICENSE SUSPENDED--PENALTIES.--

A. A person who drives a motor vehicle on any public highway of this state at a time when the person's privilege to do so is suspended and who knows or should have known that the person's license was suspended is guilty of a misdemeanor and may be punished pursuant to Subsection B of Section 66-8-7 NMSA 1978 or for no more than ninety days of participation in a certified alternative sentencing program. When a person pays any or all of the cost of participating in a certified alternative sentencing program, the court may apply that payment as a deduction to any fine imposed by the court. Any municipal ordinance prohibiting driving with a suspended license shall provide penalties no less stringent than provided in this section.

B. In addition to any other penalties imposed pursuant to the provisions of this section, when a person is convicted pursuant to the provisions of this section or a municipal ordinance that prohibits driving on a suspended license, the motor vehicle the person was driving may be immobilized by an immobilization device for thirty days, unless immobilization of the motor vehicle poses an imminent danger to the health, safety or employment of the convicted person's immediate family or the family of the owner of the motor vehicle. The convicted person shall bear the cost of immobilizing the motor vehicle."

Chapter 224 Section 3 Laws 2019

SECTION 3. A new Section 66-5-39.2 NMSA 1978 is enacted to read:

"66-5-39.2. DRIVING WHILE LICENSE ADMINISTRATIVELY SUSPENDED.--A person who drives a motor vehicle on any public highway of this state at a time when the person's privilege to do so is administratively suspended is guilty of a penalty assessment misdemeanor and may be punished in accordance with the provisions of Section 66-8-116 NMSA 1978."

Chapter 224 Section 4 Laws 2019

SECTION 4. Section 66-8-116 NMSA 1978 (being Laws 1978, Chapter 35, Section 524, as amended) is amended to read:

"66-8-116. PENALTY ASSESSMENT MISDEMEANORS--DEFINITION--SCHEDULE OF ASSESSMENTS.--

A. As used in the Motor Vehicle Code and the Boat Act, "penalty assessment misdemeanor" means violation of any of the following listed sections of the NMSA 1978 for which, except as provided in Subsections D through F of this section, the listed penalty assessment is established:

COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
Vehicles subject to registration	66-3-1	\$ 50.00
Improper display of registration plate	66-3-18	25.00
Failure to notify of change of name or address	66-3-23	25.00
Lost or damaged registration, plate or title	66-3-24	25.00

Horseless carriage registration	66-3-27	25.00
Transfer of registration and title	66-3-103	25.00
Expiration of dealer plates	66-3-403	25.00
Special registration plates	66-3-409, 66-3-412.1, 66-3-413, 66-3-415, 66-3-417, 66-3-419, 66-3-421, 66-3-422, 66-3-424.4, 66-3-424.5, 66-3-424.7, 66-3-424.9, 66-3-424.13, 66-3-424.16 and 66-3-424.28	75.00
Bicycle laws	66-3-701 through 66-3-707	50.00
No license display	66-5-16	25.00
Failure to change address or name on license	66-5-22	25.00
Permitting unauthorized minor to drive	66-5-40	50.00
Permitting unauthorized person to drive	66-5-41	25.00
Failure to obey sign	66-7-104	25.00
Failure to obey signal	66-7-105	25.00
Pedestrian signs and signals	66-7-106 through 66-7-108	25.00
Speeding	66-7-301	
(1) up to and including ten miles an hour over the speed limit		25.00
(2) from eleven up to and including fifteen miles an hour over the speed limit		30.00
(3) from sixteen up to and including twenty miles an hour over the speed limit		65.00

(4) from twenty-one up to and including twenty-five miles an hour over the speed limit		100.00
(5) from twenty-six up to and including thirty miles an hour over the speed limit		125.00
(6) from thirty-one up to and including thirty-five miles an hour over the speed limit		150.00
(7) more than thirty-five miles an hour over the speed limit		200.00
Unfastened safety belt	66-7-372	25.00
Child not in restraint device or seat belt	66-7-369	25.00
Minimum speed	66-7-305	25.00
Speeding	66-7-306	25.00
Improper starting	66-7-324	25.00
Improper backing	66-7-354	25.00
Improper lane	66-7-308	25.00
Improper lane	66-7-313	25.00
Improper lane	66-7-316	25.00
Improper lane	66-7-317	25.00
Improper lane	66-7-319	25.00
Improper passing	66-7-309 through 66-7-312	25.00
Improper passing	66-7-315	25.00
Controlled access violation	66-7-320	25.00
Controlled access violation	66-7-321	25.00
Improper turning	66-7-322	25.00
Improper turning	66-7-323	25.00
Improper turning	66-7-325	25.00
Following too closely	66-7-318	25.00
Failure to yield	66-7-328 through 66-7-331	25.00
Failure to yield	66-7-332	50.00
Failure to yield	66-7-332.1	25.00

Pedestrian violation	66-7-333 through 66-7-340	25.00
Failure to stop	66-7-342 and 66-7-344 through 66-7-346	25.00
Railroad-highway grade crossing violation	66-7-341 and 66-7-343	150.00
Passing school bus	66-7-347	100.00
Failure to signal	66-7-325 through 66-7-327	25.00
Riding on motorcycles	66-7-355	100.00
Video screens in automobiles	66-7-358	25.00
Driving on mountain highways	66-7-359	25.00
Coasting prohibited	66-7-360	25.00
Animals on highway at night	66-7-363	50.00
Failure to secure load	66-7-407	100.00
Operation without oversize- overweight permit	66-7-413	50.00
Transport of reducible load with special permit more than six miles from a border crossing	66-7-413	100.00
Driving while license administratively suspended	66-5-39.2	25.00
Improper equipment	66-3-801 through 66-3-840 and 66-3-842 through 66-3-851	50.00
Improper equipment	66-3-901	50.00
Improper emergency signal	66-3-853 through 66-3-857	25.00
Minor on motorcycle without helmet	66-7-356	300.00
Operation interference	66-7-357	50.00
Littering	66-7-364	300.00
Improper parking	66-7-349 through 66-7-352 and 66-7-353	25.00
Improper parking	66-3-852	25.00

Riding in or towing occupied house trailer	66-7-366	25.00
Improper opening of doors	66-7-367	25.00
No slow-moving vehicle emblem or flashing amber light	66-3-887	25.00
Open container-first violation	66-8-138	25.00
Texting while driving	66-7-374	
(1) first violation		25.00
(2) second and subsequent violation		50.00
Using a handheld mobile communication device while driving a commercial motor vehicle	66-7-375	
(1) first violation		25.00
(2) second and subsequent violation		50.00.

B. The term "penalty assessment misdemeanor" does not include a violation that has caused or contributed to the cause of an accident resulting in injury or death to a person.

C. When an alleged violator of a penalty assessment misdemeanor elects to accept a notice to appear in lieu of a notice of penalty assessment, a fine imposed upon later conviction shall not exceed the penalty assessment established for the particular penalty assessment misdemeanor and probation imposed upon a suspended or deferred sentence shall not exceed ninety days.

D. The penalty assessment for speeding in violation of Paragraph (5) of Subsection A of Section 66-7-301 NMSA 1978 is twice the penalty assessment established in Subsection A of this section for the equivalent miles per hour over the speed limit.

E. Upon a second conviction for operation without a permit for excessive size or weight pursuant to Section 66-7-413 NMSA 1978, the penalty assessment shall be two hundred fifty dollars (\$250). Upon a third or subsequent conviction, the penalty assessment shall be five hundred dollars (\$500).

F. Upon a second conviction for transport of a reducible load with a permit for excessive size or weight pursuant to Subsection N of Section 66-7-413 NMSA 1978

more than six miles from a port-of-entry facility on the border with Mexico, the penalty assessment shall be five hundred dollars (\$500). Upon a third or subsequent conviction, the penalty assessment shall be one thousand dollars (\$1,000)."

Chapter 224 Section 5 Laws 2019

SECTION 5. Section 66-8-126 NMSA 1978 (being Laws 1978, Chapter 35, Section 534) is amended to read:

"66-8-126. FAILURE TO OBEY NOTICE TO APPEAR.--

A. It is a penalty assessment misdemeanor for a person to violate that person's written promise to appear in court given to an officer upon issuance of a uniform traffic citation regardless of the disposition of the charge for which the citation was issued.

B. A written promise to appear in court may be complied with by appearance of counsel."

Chapter 224 Section 6 Laws 2019

SECTION 6. EFFECTIVE DATE.--The effective date of the provisions of this act is October 1, 2019. _____

House Bill 427, aa

Approved April 3, 2019

LAWS 2019, CHAPTER 225

AN ACT

RELATING TO PUBLIC ASSISTANCE; CLARIFYING THAT FUNDS IN AN INDIVIDUAL DEVELOPMENT ACCOUNT SHALL NOT BE CONSIDERED IN ELIGIBILITY CALCULATIONS FOR BENEFITS UNDER THE NEW MEXICO WORKS ACT OR THE EDUCATION WORKS ACT; ADDING DEFINITIONS TO THE INDIVIDUAL DEVELOPMENT ACCOUNT ACT; ESTABLISHING LIMITS ON ADMINISTRATIVE EXPENSES AVAILABLE TO A PROGRAM ADMINISTRATOR UNDER THE ACT; ESTABLISHING QUALIFICATIONS FOR MEMBERS OF THE INDIVIDUAL DEVELOPMENT ACCOUNT COUNCIL; ESTABLISHING MINIMUM

STATE MATCHING FUNDS; EXPANDING THE ALLOWABLE USES FOR FUNDS IN INDIVIDUAL DEVELOPMENT ACCOUNTS; EXPANDING THE TYPE OF ACCOUNT TO WHICH FUNDS IN AN INDIVIDUAL DEVELOPMENT ACCOUNT MAY BE TRANSFERRED; LISTING THE MEANS-TESTED PROGRAMS FOR WHICH ACCOUNT FUNDS ARE DISREGARDED FOR PURPOSES OF ELIGIBILITY; MAKING AN APPROPRIATION.

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

Chapter 225 Section 1 Laws 2019

SECTION 1. Section 27-2B-8 NMSA 1978 (being Laws 1998, Chapter 8, Section 8 and Laws 1998, Chapter 9, Section 8, as amended) is amended to read:

"27-2B-8. RESOURCES.--

A. Liquid and nonliquid resources owned by the benefit group shall be counted in the eligibility determination.

B. A benefit group may at a maximum own the following resources:

(1) two thousand dollars (\$2,000) in nonliquid resources;

(2) one thousand five hundred dollars (\$1,500) in liquid resources, excluding funds deposited in an individual development account established pursuant to the Individual Development Account Act or a qualified tuition program, as defined in Section 529 of the Internal Revenue Code of 1986;

(3) the value of the principal residence of the participant;

(4) the value of burial plots and funeral contracts for family members;

and

(5) the value of work-related equipment up to one thousand dollars (\$1,000).

C. Vehicles owned by the benefit group shall not be considered in the determination of resources attributed to the benefit group."

Chapter 225 Section 2 Laws 2019

SECTION 2. Section 27-2D-6 NMSA 1978 (being Laws 2003, Chapter 317, Section 6, as amended) is amended to read:

"27-2D-6. RESOURCES.--

A. Liquid and nonliquid resources owned by the benefit group shall be counted in the eligibility determination.

B. A benefit group may at a maximum own the following resources:

(1) two thousand dollars (\$2,000) in nonliquid resources;

(2) one thousand five hundred dollars (\$1,500) in liquid resources, excluding funds deposited in an individual development account established pursuant to the Individual Development Account Act or a qualified tuition program, as defined in Section 529 of the Internal Revenue Code of 1986;

(3) the value of the principal residence of the participant;

(4) the value of burial plots and funeral contracts for family members;

and

(5) the value of work-related equipment up to one thousand dollars (\$1,000).

C. Vehicles owned by the benefit group shall not be considered in the determination of resources attributed to the benefit group."

Chapter 225 Section 3 Laws 2019

SECTION 3. Section 58-30-2 NMSA 1978 (being Laws 2003, Chapter 362, Section 2, as amended) is amended to read:

"58-30-2. DEFINITIONS.--As used in the Individual Development Account Act:

A. "account owner" means the person in whose name an individual development account is originally established;

B. "allowable use" means a lawful use that complies with the provisions of the Individual Development Account Act, or rules adopted pursuant to that act;

C. "authorized financial institution" means a financial institution authorized by the office to hold and manage individual development accounts and reserve accounts;

D. "department" means the workforce solutions department;

E. "earned income" means wages from employment, payment in lieu of wages, income tax refunds, disability payments, tribal distributions, or earnings from self-employment or acquired from the provision of services, goods or property, production of goods, management of property or supervision of services;

F. "eligible individual" means a person who meets the criteria for opening an individual development account;

G. "financial institution" means a bank, bank and trust, savings bank, savings association or credit union authorized to be a trustee of individual development accounts, the deposits of which are insured by the federal deposit insurance corporation or the national credit union administration;

H. "indigent" means an individual who, taking into account present income, liquid assets and requirements for basic necessities of life for the individual and the individual's dependents, is unable to pay the costs of allowable uses as set forth in the Individual Development Account Act;

I. "individual development account" means an account established and maintained in an authorized financial institution by an eligible individual participating in an individual development account program pursuant to the provisions of the Individual Development Account Act;

J. "individual development account program" means a program approved by the department to establish and administer individual development accounts and reserve accounts for eligible individuals and to provide financial capability training or financial coaching required by the department for account owners;

K. "matching funds" means money deposited in a reserve account to match the withdrawals for allowable uses from an individual development account according to a proportionate formula that complies with rules adopted by the secretary;

L. "nonprofit organization" means an instrumentality of the state or a local government or an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation pursuant to Section 501(a) of that code;

M. "program administrator" means a nonprofit organization or tribe that is selected pursuant to the Individual Development Account Act to offer an individual development account program pursuant to a contract with the secretary;

N. "reserve account" means an account established pursuant to the Individual Development Account Act in an authorized financial institution in which matching funds are maintained and available for payment for a predetermined allowable use following completion of all program requirements by the account owner;

O. "secretary" means the secretary of workforce solutions; and

P. "tribe" means an Indian nation, tribe or pueblo located in whole or in part within New Mexico."

Chapter 225 Section 4 Laws 2019

SECTION 4. Section 58-30-3 NMSA 1978 (being Laws 2003, Chapter 362, Section 3, as amended) is amended to read:

"58-30-3. INDIVIDUAL DEVELOPMENT ACCOUNTS.--An individual development account may be established for an eligible individual as part of an individual development account program if the written instrument creating the account sets forth the following:

A. the account owner is an eligible individual according to program requirements at the time the account is established;

B. the individual development account is established and maintained in an authorized financial institution;

C. deposits to an individual development account shall be made in accordance with the rules adopted pursuant to the Individual Development Account Act;

D. withdrawals from an individual development account shall only be made in accordance with the Individual Development Account Act for allowable uses;

E. the matching amount that will be deposited in the reserve account for each dollar deposited by the account owner in the individual development account; and

F. the financial institution in which an individual development account is held shall not be liable for withdrawals made for uses other than allowable uses."

Chapter 225 Section 5 Laws 2019

SECTION 5. Section 58-30-4 NMSA 1978 (being Laws 2003, Chapter 362, Section 4, as amended) is amended to read:

"58-30-4. ELIGIBLE INDIVIDUALS.--

A. Except as set forth in Subsections B and C of this section, an eligible individual shall have earned income and shall be:

(1) eighteen years of age or older;

(2) a citizen, legal resident, refugee, asylee or person otherwise legally present in the United States at the time the person opens the person's individual development account;

(3) a resident of New Mexico; and

(4) an indigent.

B. A child in foster care is an eligible individual if the child is:

(1) fifteen years of age or older;

(2) an indigent;

(3) a citizen, a legal resident, a refugee or an asylee or is otherwise legally present in the United States at the time the person opens the person's individual development account; and

(4) a resident of New Mexico.

C. A child is an eligible individual if the child is:

(1) at least fifteen years of age and not more than eighteen years of age;

(2) a member of a family whose members are all indigents;

(3) a citizen, a legal resident, a refugee or an asylee or is otherwise legally present in the United States at the time the person opens the person's individual development account; and

(4) a resident of New Mexico."

Chapter 225 Section 6 Laws 2019

SECTION 6. Section 58-30-5 NMSA 1978 (being Laws 2003, Chapter 362, Section 5, as amended) is amended to read:

"58-30-5. RESPONSIBILITIES OF THE DEPARTMENT.--

A. The department shall adopt rules implementing the provisions of the Individual Development Account Act.

B. The secretary shall make an annual report each November to the governor and to the legislative finance committee.

C. The department shall use no more than five percent of the money appropriated to fund the Individual Development Account Act to administer that act, not including the costs of the program administrator.

D. A program administrator shall use no more than twelve percent of the funds allocated to the program administrator for implementation and administration of the program."

Chapter 225 Section 7 Laws 2019

SECTION 7. Section 58-30-6 NMSA 1978 (being Laws 2003, Chapter 362, Section 6, as amended) is amended to read:

"58-30-6. INDIVIDUAL DEVELOPMENT ACCOUNT COUNCIL.--

A. The "individual development account council" is created. The council shall:

(1) provide oversight of the administration of the Individual Development Account Act;

(2) suggest possible changes that benefit account owners or improve the effectiveness of the individual development account programs throughout the state; and

(3) obtain subject matter expertise through attendance at conferences and workshops related to proven and promising asset-building strategies.

B. The individual development account council shall meet at least two times in a calendar year to perform its duties.

C. The individual development account council shall consist of the lieutenant governor or the lieutenant governor's designee and eight members appointed by the governor to represent the state geographically; provided that the members shall include representatives of a participating financial institution, a philanthropic institution, a community college and a nonprofit workforce entrepreneurial training provider and at least one representative from a nonprofit or educational institution providing financial coaching within a service area containing fewer than twenty thousand persons, as shown by the most recent decennial census. The secretary or the secretary's designee shall serve as an ex-officio member of the council.

D. Appointed members of the individual development account council shall receive per diem and mileage pursuant to the Per Diem and Mileage Act for attendance at required meetings and at authorized conferences and workshops and shall receive no other compensation, perquisite or allowance for their participation on the council.

E. The department shall provide adequate staff support and administrative services for the individual development account council."

Chapter 225 Section 8 Laws 2019

SECTION 8. Section 58-30-7 NMSA 1978 (being Laws 2003, Chapter 362, Section 7, as amended) is amended to read:

"58-30-7. ADMINISTRATION OF INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.--

A. An individual development account may be established for an eligible individual; provided that the money deposited in the account is expended for allowable uses for the account owner or the account owner's spouse or dependents unless otherwise approved by the program administrator.

B. An individual development account program shall be approved and monitored by the secretary for compliance with applicable law, the Individual Development Account Act and rules adopted pursuant to that act.

C. The program administrator shall establish a reserve account sufficient to meet the matching fund commitments made to all account owners participating in the individual development account program and shall report at least quarterly to each account owner the amount of money available in the reserve account for use by the

program administrator to match withdrawals for allowable uses. The amount of state funds deposited in a reserve account during a calendar year to match deposits from any single account owner shall not exceed the higher of:

(1) two thousand dollars (\$2,000); or

(2) an amount determined by rule; provided that the cumulative reserve account deposits shall total not less than one hundred twenty-five percent of the prior calendar year match to deposits beginning in the second year of the individual development account program; and further provided that the state shall match deposits of every account owner dollar-for-dollar up to two thousand dollars (\$2,000) in a calendar year.

D. The program administrator shall provide financial education, including financial coaching and other necessary guidance and electronic reminders to encourage deposits and to achieve goals of allowable uses by account owners, develop partnerships with financial institutions, distribute matching funds and manage the operations of an individual development account that is established within the program.

E. An eligible individual may open an individual development account upon verification by the program administrator that the individual maintains no other individual development account.

F. More than one eligible individual per household may hold an individual development account.

G. An account owner shall complete a tested financial education program, including financial coaching, prior to the withdrawal of money from the account owner's individual development account for allowable uses unless written approval is obtained from the program administrator."

Chapter 225 Section 9 Laws 2019

SECTION 9. Section 58-30-8 NMSA 1978 (being Laws 2003, Chapter 362, Section 8, as amended) is amended to read:

"58-30-8. ALLOWABLE USES--WITHDRAWALS FROM INDIVIDUAL DEVELOPMENT ACCOUNTS--FORFEITURE OF MATCHING FUNDS FROM RESERVE ACCOUNT--LOSS OF ELIGIBLE INDIVIDUAL STATUS.--

A. Allowable uses of the money withdrawn from an individual development account are limited to the following:

(1) expenses to attend an approved post- secondary or vocational educational institution, including payment for tuition, books, supplies and equipment required for courses;

(2) costs to acquire or construct a principal residence as defined in rules adopted pursuant to the Individual Development Account Act that is the first principal residence acquired or constructed by the account owner within the previous five years;

(3) costs of major home improvements or repairs on the home of the account owner;

(4) capitalization or costs to start or expand a business, including capital, plant, equipment, operational and inventory expenses, attorney and accountant fees and other costs normally associated with starting or expanding a business;

(5) acquisition or repair of a vehicle necessary to obtain or maintain employment by an account owner or the spouse of an account owner; and

(6) in the case of a deceased account owner, amounts deposited by the account owner and held in an individual development account shall be distributed directly to the account owner's spouse, or if the spouse is deceased or there is no spouse, to a dependent or other named beneficiary of the deceased or if the recipient is eligible to maintain the account, the account and matching funds designated for that account from a reserve account may be transferred and maintained in the name of the surviving spouse, dependent or beneficiary.

B. Unless otherwise approved by the program administrator pursuant to the provisions of Subsection D of this section, account owners qualifying as eligible individuals pursuant to the provisions of Subsection B or C of Section 58-30-4 NMSA 1978 shall not be permitted to withdraw money from an individual development account until such time as the account owners have completed a high school curriculum at a public or accredited private New Mexico high school or received a general educational development certificate.

C. Except as provided in Subsection D of this section, if an account owner withdraws money from an individual development account for a use other than an allowable use, the account owner forfeits a proportionate amount of matching funds from the reserve account, as set forth in the agreement between the program administrator and the account owner.

D. The program administrator may approve a withdrawal by an account owner from an individual development account to be used for a purpose other than an

allowable use only for serious emergencies as specified in the rules adopted by the department. For such an approved withdrawal, the proportionate matching funds in the reserve account shall remain in the reserve account for twelve months following the withdrawal and, if an amount equal to the withdrawn money is redeposited in the individual development account within the twelve months, the matching funds shall again be available to match withdrawals for allowable uses.

E. At the request of the account owner and with the written approval of the program administrator, amounts may be withdrawn from the account owner's individual development account and deposited in another individual development account or a qualified tuition program, as defined in Section 529 of the Internal Revenue Code of 1986, established for an eligible individual who is the account owner's spouse or dependent."

Chapter 225 Section 10 Laws 2019

SECTION 10. Section 58-30-9 NMSA 1978 (being Laws 2003, Chapter 362, Section 9, as amended) is amended to read:

"58-30-9. APPROVAL OF INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.--

A. The department shall issue a request for proposals from nonprofit organizations or tribes interested in establishing an individual development account program. A proposal submitted in response to the request shall:

- (1) describe the geographic area to be served and the potential individuals who will be assisted by the program;
- (2) state the amount, if any, of requested distributions of state money from the individual development fund;
- (3) describe the source and the amount of any private or other public funds, if any, that will be used to supplement the requested distributions from the individual development fund;
- (4) state the amount, not to be less than one dollar (\$1.00), that will be deposited in the reserve account for each dollar deposited in an individual development account;
- (5) describe the expertise, experience and other qualifications of the proposer and its employees; and

(6) contain such other information as required in the request for proposals and rules of the secretary.

B. The secretary shall issue a request for proposals to determine if an interested nonprofit organization or tribe is eligible to be a program administrator, determine the legal sufficiency of submitted proposals, evaluate the proposals and, after consulting with the individual development account council, select the program administrators.

C. In selecting program administrators, the secretary shall:

(1) ensure that geographically diverse populations throughout New Mexico will be served by individual development account programs; and

(2) ensure that a substantial number of individual development accounts will serve families in which one or more children are living with their biological or adoptive mother or father, or with their legal guardian.

D. The secretary shall enter into contracts with the selected program administrators.

E. The secretary shall approve an individual development account program submitted by a program administrator before the program establishes individual development accounts or reserve accounts or provides services required by the Individual Development Account Act to eligible individuals.

F. An individual development account and a reserve account may be established only in an authorized financial institution.

G. The secretary shall monitor all individual development account programs to ensure that individual development accounts and reserve accounts are being operated according to the contract provisions, federal law, the provisions of the Individual Development Account Act and rules adopted pursuant to that act."

Chapter 225 Section 11 Laws 2019

SECTION 11. Section 58-30-10 NMSA 1978 (being Laws 2003, Chapter 362, Section 10, as amended) is amended to read:

"58-30-10. TERMINATION OF INDIVIDUAL DEVELOPMENT ACCOUNT PROGRAMS.--

A. An individual development account program shall be terminated if the:

(1) department determines that the program is not being operated pursuant to the provisions of the contract between the program administrator and the secretary, the Individual Development Account Act or rules adopted pursuant to that act;

(2) provider of the program no longer retains its status as a program administrator; or

(3) program administrator chooses to cease providing an individual development account program.

B. Upon termination of an individual development account program, the secretary shall administer the program until a qualified program administrator is selected to administer the program. If, after a reasonable period, the secretary is unable to identify and certify a program administrator to assume the authority to continue to operate a terminated individual development account program, money in a reserve account shall be deposited into the individual development accounts of the account owners for whom the proportionate share of the reserve account was established as of the first day of termination of the program."

Chapter 225 Section 12 Laws 2019

SECTION 12. Section 58-30-11 NMSA 1978 (being Laws 2003, Chapter 362, Section 11, as amended) is amended to read:

"58-30-11. REPORTING.--A program administrator operating an individual development account program pursuant to the Individual Development Account Act shall report at least annually to the secretary, as set forth in the rules of the department. Individual account owners shall not be identified in the report. The report shall include:

A. the number of eligible individuals making contributions to individual development accounts;

B. the total money contributed to each individual development account and deposited into each reserve account;

C. the total money in the aggregate deposited in individual development accounts and reserve accounts administered by the individual development account program;

D. the amounts withdrawn from individual development accounts identifying the allowable uses and uses other than allowable uses and the amounts withdrawn from reserve accounts;

E. the balances remaining in individual development accounts and reserve accounts; and

F. other information requested by the secretary to monitor the costs and outcomes of the individual development account program."

Chapter 225 Section 13 Laws 2019

SECTION 13. Section 58-30-12 NMSA 1978 (being Laws 2003, Chapter 362, Section 12, as amended) is amended to read:

"58-30-12. ACCOUNT FUNDS DISREGARDED FOR PURPOSES OF CERTAIN MEANS-TESTED PROGRAMS.--

A. Money deposited into an individual development account, interest earned on that account and interest and matching funds deposited in a reserve account for the benefit of the account owners shall be disregarded for the purposes of determining eligibility for benefits and for determining benefit amounts pursuant to the New Mexico Works Act.

B. When determining eligibility for benefits and determining benefit amounts due under the supplemental nutrition assistance program, children's health insurance program, child care and development block grant and medicaid, the human services department shall, pursuant to the authority granted by 7 USCA 2014 (d) and (g), disregard money deposited into an individual development account, interest earned on that account and interest and matching funds deposited in a reserve account for the benefit of the account owners.

C. Money withdrawn from an individual development account for a purpose other than an allowable use shall be counted as a resource for purposes of the New Mexico Works Act or medicaid unless the withdrawal is approved by the program administrator and an amount equal to the amount withdrawn is replaced within the twelve-month allowable time period pursuant to Subsection D of Section 58-30-8 NMSA 1978."

Chapter 225 Section 14 Laws 2019

SECTION 14. Section 58-30-13 NMSA 1978 (being Laws 2006, Chapter 96, Section 13, as amended) is amended to read:

"58-30-13. INDIVIDUAL DEVELOPMENT FUND CREATED.--The "individual development fund" is created in the state treasury. The fund shall consist of appropriations, gifts, grants, donations and bequests made to the fund. Income from the fund shall be credited to the fund, and money in the fund shall not be transferred to any other fund at the end of a fiscal year. Money in the fund is appropriated to the department for the purposes of carrying out the provisions of the Individual Development Account Act. Expenditures shall be made on warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary of workforce solutions or the secretary's designee."

Chapter 225 Section 15 Laws 2019

SECTION 15. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2020. _____

Senate Bill 95, aa

Approved April 3, 2019

LAWS 2019, CHAPTER 226

AN ACT

RELATING TO ELECTIONS; ENACTING THE INTIMATE PARTNER VIOLENCE SURVIVOR SUFFRAGE ACT; PROVIDING A PROCEDURE FOR PARTICIPANTS IN THE CONFIDENTIAL SUBSTITUTE ADDRESS PROGRAM TO VOTE IN STATEWIDE AND SPECIAL ELECTIONS.

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

Chapter 226 Section 1 Laws 2019

SECTION 1. A new section of the Election Code is enacted to read:

"SHORT TITLE.--Sections 1 through 9 of this act may be cited as the "Intimate Partner Violence Survivor Suffrage Act"."

Chapter 226 Section 2 Laws 2019

SECTION 2. A new section of the Election Code is enacted to read:

"DEFINITIONS.--As used in the Intimate Partner Violence Survivor Suffrage Act:

- A. "administrator" means the person appointed by the secretary of state to administer the election component of the confidential substitute address program;
- B. "appropriate county clerk" means the county clerk of the county in which the residential address on a voter registration certificate is located and includes the elected official, the county clerk's chief deputy, an appointed election board and employees or agents of the county clerk with duties related to the Intimate Partner Violence Survivor Suffrage Act;
- C. "certification" means the procedure provided by the Confidential Substitute Address Act for a person to be certified as a participant in the confidential substitute address program;
- D. "confidential substitute address program" means the program administered by the secretary of state pursuant to the Confidential Substitute Address Act;
- E. "decertification" means the procedure provided by the Confidential Substitute Address Act for a person to be decertified as a participant in the confidential substitute address program;
- F. "delivery address" means the address where a voter-participant receives mail;
- G. "election" means a statewide or special election called, conducted and canvassed pursuant to the provisions of the Election Code;
- H. "participant" means a person certified to participate in the confidential substitute address program pursuant to the procedures of the Confidential Substitute Address Act; and
- I. "voter-participant" means a participant who is also a voter."

Chapter 226 Section 3 Laws 2019

SECTION 3. A new section of the Election Code is enacted to read:

"ELECTIONS COVERED--AUTOMATIC DELIVERY OF BALLOTS--FORM OF BALLOT AND BALLOT MATERIALS--CONFIDENTIALITY.--

A. The procedures in the Intimate Partner Violence Survivor Suffrage Act apply to all elections and operate notwithstanding other provisions of the Election Code or state or local laws related to elections to the contrary.

B. Upon a person's certification as a participant, the administrator shall determine whether the participant is a voter. If the participant is not a voter but appears to be a qualified elector, the administrator shall offer the participant the opportunity to register to vote.

C. A voter-participant shall vote exclusively by mailed absentee ballot or mailed ballot. In each election in which a voter-participant is eligible to vote, the administrator shall send a mailed absentee ballot or a mailed ballot to the voter-participant without requiring a request or application to receive a ballot.

D. The form of the ballot for a voter-participant shall be the same as the ballot provided to all other voters. A voter-participant may vote for all candidates and on all questions as if the voter were casting a ballot in person.

E. The form of the ballot materials for voter-participants shall be the same as the ballot materials provided to all other voters, except as required to implement the Intimate Partner Violence Survivor Suffrage Act.

F. With regard to communications related to participants and participant records related to voting:

(1) any communication between the secretary of state and any county clerk related to the Intimate Partner Violence Survivor Suffrage Act shall be maintained as confidential in accordance with the confidentiality provisions of Subsection A of Section 40-13B-8 NMSA 1978 and shall not be disclosed except as provided by that section; and

(2) once a person is decertified, records related to that voter are no longer confidential pursuant to Paragraph (1) of this subsection and may be disclosed in the same manner provided for disclosure of voter information pursuant to the provisions of the Election Code."

Chapter 226 Section 4 Laws 2019

SECTION 4. A new section of the Election Code is enacted to read:

"~~VOTER RECORDS--CERTIFICATION--DECERTIFICATION--~~
CANCELLATION.--Notwithstanding the provisions of the Voter Records System Act, the secretary of state shall:

A. maintain within the state voter registration electronic management system a secured module. Voter-participant registration records shall be maintained in the secured module and shall be accessible only as required by staff designated by the secretary of state. Voter-participant registration records shall not appear in the voter file or the county voter list, be accessible by any county user or be viewable by the public;

B. maintain a register of voter-participants, which shall serve as a supplement to the county register for the county in which each voter-participant's voter registration residential address is located. The register maintained by the secretary of state shall be filed in a fire-resistant container;

C. upon the determination that a participant is an existing voter, proceed to transfer all voter registration records related to the voter-participant from the voter file to the secured module and shall notify the appropriate county clerk, who shall immediately transfer the voter-participant's voter registration documents from the county register to the secretary of state. Voter registration records related to a voter-participant shall not be maintained in the county register or by the county clerk;

D. when a participant executes a new or updated certificate of registration, fulfill the duties of the appropriate county clerk in placing the voter-participant's certificate of registration in the register maintained by the secretary of state and entering the information into the secured module;

E. upon decertification of a person who is a voter:

(1) transfer the person's voter registration information from the secured module into the voter file; and

(2) deliver the certificate of voter registration to the appropriate county clerk for placement in the county register;

F. upon the cancellation of a person's voter registration when the person is also decertified as a participant:

(1) transfer the canceled voter registration information from the secured module into the voter file; and

(2) deliver the certificate of registration and other documents pertaining to the canceled voter registration to the appropriate county clerk for placement in the county register for the retention period; and

G. upon the cancellation of a participant's voter registration when the person remains a participant, perform the duties of the county clerk in the cancellation of registration and retention of records; provided that when the person is decertified, the secretary of state shall:

(1) transfer the canceled voter registration information from the secured module into the voter file; and

(2) if the retention period for voter registration records provided in Section 1-4-32 NMSA 1978 has not expired, deliver the certificate of registration and other documents pertaining to the canceled voter to the appropriate county clerk for placement in the county register for the remainder of the retention period."

Chapter 226 Section 5 Laws 2019

SECTION 5. A new section of the Election Code is enacted to read:

"RANDOM IDENTIFIER AND VERIFICATION CODE.--

A. Prior to each election, the administrator shall assign to each voter-participant eligible to vote in that election a random identifier and a verification code for use in that election only.

B. In the mailed absentee ballot or mailed ballot process, the random identifier shall be used in place of the voter-participant's required voter identification and the verification code shall be used in place of the voter-participant's signature.

C. At the same time a ballot is mailed to a voter-participant, the administrator shall separately send the voter-participant the verification code assigned to the voter-participant for that election, along with instructions to place the verification code where a voter normally provides a signature under the privacy flap of a mailed absentee ballot or mailed ballot."

Chapter 226 Section 6 Laws 2019

SECTION 6. A new section of the Election Code is enacted to read:

"TRANSMISSION OF BALLOTS TO VOTER-PARTICIPANTS.--

A. On the thirty-fifth day before an election, on behalf of each voter-participant eligible to vote in that election, the administrator shall request from each appropriate county clerk the ballot to be used by each voter-participant registered to vote in that county.

B. The request shall not reveal the name or address of the voter-participant. In place of a voter-participant's name and address, the administrator shall provide the appropriate county clerk the random identifier and verification code associated with the voter-participant for that election. The request made pursuant to this section is a record related to voting subject to the disclosure and retention procedures of Section 1-12-69 NMSA 1978.

C. No later than thirty-two days before the election, the appropriate county clerk shall transmit to the administrator the ballot for each voter-participant registered to vote in that county.

D. Twenty-eight days before the election, the administrator shall mail a ballot and balloting materials to a voter-participant's delivery address, along with a return envelope necessary to return the voted ballot to the appropriate county clerk. The return envelope shall be the same as for all other voters, except that in place of the required voter identification to be written under the privacy flap, the administrator shall provide the random identifier assigned to that voter-participant for that election. The return envelope for the voted ballot shall be postage-paid and the return address shall be the address for the appropriate county clerk.

E. When a participant registers to vote or updates a voter registration after the thirty-fifth day before an election but before the deadline to register to vote or to update an existing registration pursuant to Section 1-4-8 NMSA 1978, the administrator shall:

(1) request from the appropriate county clerk, and the appropriate county clerk shall transmit to the administrator as soon as practicable, a ballot and balloting materials; and

(2) send a voter-participant the ballot and balloting materials within twenty-four hours of receipt from the appropriate county clerk.

F. When an unvoted ballot is transmitted to the administrator on behalf of a voter-participant, the appropriate county clerk shall note in the ballot register the random

identifier in place of the voter-participant's name and the address of the confidential substitute address program in place of the voter-participant's address and shall not note the voter-participant's gender or year of birth."

Chapter 226 Section 7 Laws 2019

SECTION 7. A new section of the Election Code is enacted to read:

"RECEIPT OF VOTED BALLOTS FROM VOTER-PARTICIPANTS.--

A. A voted ballot shall be returned by the voter-participant to the appropriate county clerk. A voted ballot from a voter-participant shall be considered timely if it is received no later than the deadline for receiving mailed absentee ballots or mailed ballots pursuant to Section 1-6-10 NMSA 1978.

B. When a voted ballot is received from a voter-participant, the appropriate county clerk or election board shall compare the random identifier provided by the voter-participant under the privacy flap to the list of random identifiers provided by the administrator for that election. If the random identifier appears in both places, the appropriate county clerk shall verify that the verification code assigned to that random identifier for that election matches the verification code provided by the voter-participant under the privacy flap in lieu of the voter's signature. If the verification code is on the list provided by the administrator for use in that election and matches the random identifier assigned by the administrator to identify the voter-participant, the ballot shall be qualified and processed in the same manner as mailed absentee ballots or mailed ballots received and qualified in that election.

C. If either the random identifier or the verification code is missing, or if the random identifier and verification code under the privacy flap do not match, the ballot shall not be qualified and shall be disposed of in the same manner as mailed absentee ballots or mailed ballots received in that election and not qualified.

D. Following an election and within the time frames provided in the Election Code, the appropriate county clerk shall provide to the administrator using the random identifier for that election the voter credit information for each voter-participant who voted and the appropriate notations for any voter-participant whose election mail was returned as undeliverable."

Chapter 226 Section 8 Laws 2019

SECTION 8. A new section of the Election Code is enacted to read:

"STATEWIDE ELECTION--STATE CANVASS REPORT.--The secretary of state shall prepare a public report to be included with the state canvass results of each statewide election. The report shall include the total number of statewide:

- A. participants;
- B. voter-participants who were sent a ballot;
- C. voter-participants who returned a ballot; and
- D. ballots from voter-participants that were qualified and counted."

Chapter 226 Section 9 Laws 2019

SECTION 9. A new section of the Election Code is enacted to read:

"JUDICIAL PROCEEDINGS.--

A. In a judicial proceeding related to an election, upon good cause shown and only as is required to complete the judicial proceeding, a judge may permit in-camera inspection of a voter-participant's voter registration information and information related to participation in the confidential substitute address program.

B. The administrator shall be notified and joined as an indispensable party on behalf of the confidential substitute address program in a judicial proceeding related to an election whenever a judge considers permitting in-camera inspection of any information related to a voter-participant and before such determination is made.

C. In a judicial proceeding related to an election in which the secretary of state is a party in the secretary's capacity as the chief election officer of the state and the administrator is joined as an indispensable party on behalf of the confidential substitute address program, the attorney general shall provide separate representation for the secretary of state and for the administrator.

D. Information reviewed in-camera pursuant to this section shall not be admitted into evidence unless the information is the basis for the final judgment by the court."

Chapter 226 Section 10 Laws 2019

SECTION 10. Section 40-13B-4 NMSA 1978 (being Laws 2018, Chapter 40, Section 4) is amended to read:

"40-13B-4. SECRETARY OF STATE--DUTIES--SERVICE ON PARTICIPANT.--

A. The secretary of state shall:

(1) certify applicants whose applications comply with the requirements of the Confidential Substitute Address Act to participate in the confidential substitute address program;

(2) upon certification with respect to each participant:

(a) issue a confidential substitute address identification card;

(b) designate a confidential substitute address that shall be used in place of the participant's residential or delivery address by state and local government agencies;

(c) receive mail and deliveries sent to a participant's confidential substitute address and forward the mail and deliveries to the participant's delivery address at no charge to the participant;

(d) accept service of process, notice or demand that is required or permitted by law to be served on the participant and immediately forward the process, notice or demand to the participant's delivery address at no charge to the participant; and

(e) maintain records of the following that are received and forwarded by the secretary of state: 1) a participant's certified and registered mail; and 2) any process, notice or demand that is served on a participant; and

(3) administer the provisions of the Intimate Partner Violence Survivor Suffrage Act to ensure that a participant who is eligible to vote in this state is able to be securely registered to vote and to automatically receive a ballot for each election.

B. Service made pursuant to the provisions of this section is perfected three days after it is accepted by the secretary of state."

Chapter 226 Section 11 Laws 2019

SECTION 11. Section 40-13B-5 NMSA 1978 (being Laws 2018, Chapter 40, Section 5) is amended to read:

"40-13B-5. AGENCIES--USE OF CONFIDENTIAL SUBSTITUTE ADDRESS--
PUBLIC RECORDS.--

A. A participant shall:

- (1) contact each agency that requests or uses an address; and
- (2) provide the agency with a copy of the participant's confidential substitute address identification card.

B. Agencies that receive copies of confidential substitute address identification cards submitted pursuant to this section shall use the participant's confidential substitute address for all purposes.

C. A school district shall use a participant's confidential substitute address as the participant's address of record and, if necessary, shall verify a student's enrollment eligibility with the secretary of state.

D. A county clerk shall transfer all records related to a participant's voter registration to the secretary of state pursuant to the provisions of the Intimate Partner Violence Survivor Suffrage Act.

E. A participant's residential or delivery address, telephone number and email address that are maintained by an agency are not public records and shall not be disclosed pursuant to the Inspection of Public Records Act while a person is a participant."

Chapter 226 Section 12 Laws 2019

SECTION 12. Section 40-13B-8 NMSA 1978 (being Laws 2018, Chapter 40, Section 8) is amended to read:

"40-13B-8. PARTICIPANT RECORDS--CONFIDENTIALITY-- DISCLOSURE
PROHIBITED.--

A. The secretary of state and an agency shall not disclose the residential address, delivery address, telephone number or email address of a participant unless the information is required to be disclosed pursuant to a court order. A person or agency that receives a participant's residential address, delivery address, telephone number or email address pursuant to a court order shall not in turn disclose that information unless pursuant to a court order or unless the person has been decertified.

B. The secretary of state shall maintain the confidentiality of all records relating to an applicant for or participant in the confidential substitute address program while the person is a participant and shall:

- (1) store all tangible copies of program records in locked equipment;
- (2) store all electronic copies of program records in a password-protected system;
- (3) restrict access to all program records to secretary of state staff members who are approved to access the records as provided in this section; and
- (4) release program records only on a court's order.

C. The secretary of state shall establish a system for restricting access to program records to approved staff members. Before being approved and granted access to program records, the staff member shall:

- (1) submit to a criminal background check performed by the department of public safety;
- (2) not have a record of a sex offense, felony or a misdemeanor violation related to domestic violence or sexual assault on the results of the person's criminal background check; and
- (3) complete forty hours of training, including a domestic violence training course provided by the children, youth and families department and sexual assault training provided by the department of health or the crime victims reparation commission or its successor.

D. The secretary of state shall appoint a person to be the administrator of the election component of the confidential substitute address program in accordance with the Intimate Partner Violence Survivor Suffrage Act. The administrator shall meet the requirements of Subsection C of this section, and administration of the Intimate Partner Violence Survivor Suffrage Act shall conform to the requirements of Subsections A and B of this section and Subsection E of Section 40-13B-5 NMSA 1978."

Chapter 226 Section 13 Laws 2019

SECTION 13. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

Senate Bill 190, aa

Approved April 3, 2019

LAWS 2019, CHAPTER 227

AN ACT

RELATING TO HEALTH COVERAGE; ENACTING THE SURPRISE BILLING PROTECTION ACT; PROVIDING FOR PROTECTION OF COVERED PERSONS FROM UNEXPECTED BILLING FROM PROVIDERS THAT DO NOT PARTICIPATE IN THE COVERED PERSON'S HEALTH BENEFITS PLAN; PROHIBITING SURPRISE BILLING AS AN UNFAIR PRACTICE; ESTABLISHING PENALTIES; PROVIDING FOR A CONTINGENT REPEAL.

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

Chapter 227 Section 1 Laws 2019

SECTION 1. A new section of the New Mexico Insurance Code is enacted to read:

"SHORT TITLE.--Sections 1 through 13 of this act may be cited as the "Surprise Billing Protection Act"."

Chapter 227 Section 2 Laws 2019

SECTION 2. A new section of the New Mexico Insurance Code is enacted to read:

"DEFINITIONS.--As used in the Surprise Billing Protection Act:

A. "allowed amount" means the maximum portion of

a billed charge that a health insurance carrier will pay, including any applicable covered person cost-sharing responsibility, for a covered health care service or item rendered by a participating provider or by a nonparticipating provider;

B. "balance billing" means a nonparticipating provider's practice of issuing a bill to a covered person for the difference between the nonparticipating provider's billed charges on a claim and any amount paid by the health insurance carrier as reimbursement for that claim, excluding any cost-sharing amount due from the covered person;

C. "claim" means a request from a provider for payment for health care services rendered;

D. "co-insurance" means a cost-sharing method that requires a covered person to pay a stated percentage of medical expenses after any deductible amount is paid; provided that co-insurance rates may differ for different types of services under the same health benefits plan;

E. "copayment" means a cost-sharing method that requires a covered person to pay a fixed dollar amount when health care services are received, with the health insurance carrier paying the balance allowable amount; provided that there may be different copayment requirements for different types of services under the same health benefits plan;

F. "cost sharing" means a copayment, co-insurance, deductible or any other form of financial obligation of a covered person other than premium or share of premium, or any combination of any of these financial obligations as defined by the terms of a health benefits plan;

G. "covered benefits" means those health care services to which a covered person is entitled under the terms of a health benefits plan;

H. "covered person" means:

- (1) an enrollee, policyholder or subscriber;
- (2) the enrolled dependent of an enrollee, policyholder or subscriber; or
- (3) another individual participating in a health benefits plan;

I. "deductible" means a fixed dollar amount that a covered person may be required to pay during the benefit period before the health insurance carrier begins payment for covered benefits; provided that a health benefits plan may have both individual and family deductibles and separate deductibles for specific services;

J. "emergency care" means a health care procedure, treatment or service, excluding ambulance transportation service, which procedure, treatment or service is delivered to a covered person after the sudden onset of what reasonably appears to be a medical or behavioral health condition that manifests itself by symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention, regardless of eventual diagnosis, could be expected by a reasonable layperson to result in jeopardy to a person's physical or mental health or to the health or safety of a fetus or pregnant person, serious impairment of bodily function, serious dysfunction of a bodily organ or part or disfigurement to a person;

K. "facility" means an entity providing a health care service, including:

- (1) a general, special, psychiatric or rehabilitation hospital;
- (2) an ambulatory surgical center;
- (3) a cancer treatment center;
- (4) a birth center;
- (5) an inpatient, outpatient or residential drug and alcohol treatment center;
- (6) a laboratory, diagnostic or other outpatient medical service or testing center;
- (7) a health care provider's office or clinic;
- (8) an urgent care center;
- (9) a freestanding emergency room; or
- (10) any other therapeutic health care setting;

L. "freestanding emergency room" means a facility licensed by the department of health that is separate from an acute care hospital and that provides twenty-four-hour emergency care to patients at the same level of care that a hospital-based emergency room delivers;

M. "health benefits plan" means a policy or agreement entered into or offered or issued by a health insurance carrier to provide, deliver, arrange for, pay for or reimburse

any of the costs of health care services; provided that "health benefits plan" does not include any of the following:

- (1) an accident-only policy;
- (2) a credit-only policy;
- (3) a long- or short-term care or disability income policy;
- (4) a specified disease policy;
- (5) coverage provided pursuant to Title 18 of the federal Social Security Act, as amended;
- (6) coverage provided pursuant to Title 19 of the federal Social Security Act and the Public Assistance Act;
- (7) a federal TRICARE policy, including a federal civilian health and medical program of the uniformed services supplement;
- (8) a fixed or hospital indemnity policy;
- (9) a dental-only policy;
- (10) a vision-only policy;
- (11) a workers' compensation policy;
- (12) an automobile medical payment policy; or
- (13) any other policy specified in rules of the superintendent;

N. "health care services":

(1) means any service, supply or procedure for the diagnosis, prevention, treatment, cure or relief of a health condition, illness, injury or other disease, including physical or behavioral health services, to the extent offered by a health benefits plan; and

(2) does not mean ambulance transportation services;

O. "health insurance carrier" means an entity subject to state insurance laws, including a health insurance company, a health maintenance organization, a hospital and health service corporation, a provider service network, a nonprofit health care plan or any other entity that contracts or offers to contract, or enters into agreements to provide, deliver, arrange for, pay for or reimburse any costs of health care services or that provides, offers or administers a health benefit policy or managed health care plan in the state;

P. "hospital" means a facility offering inpatient health care services, nursing care and overnight care for three or more individuals on a twenty-four-hours-per-day, seven-days-per-week basis for the diagnosis and treatment of physical, behavioral or rehabilitative health conditions;

Q. "inducement" means the act or process of enticing or persuading another person to take a certain course of action;

R. "network" means the group or groups of participating providers that have been contracted to provide health care services under a network plan;

S. "network plan" means a health benefits plan that either requires a covered person to use or creates incentives, including financial incentives, for a covered person to use providers and facilities managed, owned, under contract with or employed by the health insurance carrier offering the health benefits plan;

T. "nonparticipating provider" means a provider who is not a participating provider;

U. "participating provider" means a provider or facility that, under express contract with a health insurance carrier or with a health insurance carrier's contractor or subcontractor, has agreed to provide health care services to covered persons, with an expectation of receiving payment directly or indirectly from the health insurance carrier, subject to cost sharing;

V. "prior authorization" means a pre-service determination made by a health insurance carrier regarding a covered person's eligibility for services, medical necessity, benefit coverage and the location or appropriateness of services, pursuant to the terms of a health benefits plan that the health insurance carrier offers;

W. "provider" means a health care professional, hospital or other facility licensed to furnish health care services;

X. "stabilize" means to provide emergency care to a patient as may be necessary to ensure, within reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the transfer of the patient to a facility or, with respect to emergency labor, to deliver, including the delivery of a placenta; and

Y. "surprise bill":

(1) means a bill that a nonparticipating provider issues to a covered person for health care services rendered in the following circumstances, in an amount that exceeds the covered person's cost-sharing obligation that would apply for the same health care services if these services had been provided by a participating provider:

(a) emergency care provided by the nonparticipating provider; or

(b) health care services, that are not emergency care, rendered by a nonparticipating provider at a participating facility where: 1) a participating provider is unavailable; 2) a nonparticipating provider renders unforeseen services; or 3) a nonparticipating provider renders services for which the covered person has not given specific consent for that nonparticipating provider to render the particular services rendered; and

(2) does not mean a bill:

(a) for health care services received by a covered person when a participating provider was available to render the health care services and the covered person knowingly elected to obtain the services from a nonparticipating provider without prior authorization; or

(b) received for health care services rendered by a nonparticipating provider to a covered person whose coverage is provided pursuant to a preferred provider plan; provided that the health care services are not provided as emergency care or for services rendered pursuant to Subparagraph (b) of Paragraph (1) of this subsection."

Chapter 227 Section 3 Laws 2019

SECTION 3. A new section of the New Mexico Insurance Code is enacted to read:

"EMERGENCY CARE--REIMBURSEMENT--LIMITATION ON CHARGES.--

A. A health insurance carrier shall reimburse a nonparticipating provider for emergency care necessary to evaluate and stabilize a covered person if a prudent layperson would reasonably believe that emergency care is necessary, regardless of eventual diagnosis.

B. A health insurance carrier shall not require that prior authorization for emergency care be obtained by, or on behalf of, a covered person prior to the point of stabilization of that covered person if a prudent layperson would reasonably believe that the covered person requires emergency care.

C. A health insurance carrier may impose a cost-sharing or limitation of benefits requirement for emergency care performed by a nonparticipating provider only to the same extent that the copayment, co-insurance or limitation of benefits requirement applies for participating providers and is documented in the policy.

D. A health insurance carrier may require an emergency care provider to notify a health insurance carrier of a covered person's admission to the hospital within a reasonable time period after the covered person has been stabilized."

Chapter 227 Section 4 Laws 2019

SECTION 4. A new section of the New Mexico Insurance Code is enacted to read:

"NON-EMERGENCY CARE--LIMITATION ON CHARGES.--

A. Other than applicable cost sharing that would apply if a participating provider had rendered the same services, a health insurance carrier shall provide reimbursement for and a covered person shall not be liable for charges and fees for covered non-emergency care rendered by a nonparticipating provider that are delivered when:

(1) the covered person at an in-network facility does not have the ability or opportunity to choose a participating provider who is available to provide the covered services; or

(2) medically necessary care is unavailable within a health benefits plan's network; provided that "medical necessity" shall be determined by a covered person's provider in conjunction with the covered person's health benefits plan and health insurance carrier.

B. Except as set forth in Subsection A of this section, nothing in this section shall preclude a nonparticipating provider from balance billing for non-emergency care

provided by a nonparticipating provider to an individual who has knowingly chosen to receive services from that nonparticipating provider."

Chapter 227 Section 5 Laws 2019

SECTION 5. A new section of the New Mexico Insurance Code is enacted to read:

"CREDIT AGAINST MAXIMUM OUT-OF-POCKET COST-SHARING AMOUNT--
COMMUNICATION BY HOSPITALS--ADVANCE NOTIFICATION OF CHARGES FOR
HEALTH CARE SERVICES.--

A. A nonparticipating provider shall not knowingly submit a surprise bill to a covered person.

B. In accordance with the hearing procedures established pursuant to the Patient Protection Act, a covered person may appeal a health insurance carrier's determination made regarding a surprise bill.

C. By July 1, 2020, the department of health shall require each health facility licensed pursuant to the Public Health Act to post the following on the health facility's website in a publicly accessible manner:

(1) the names and hyperlinks for direct access to the websites of all health insurance carriers with which the hospital has a contract for services;

(2) a statement that sets forth the following:

(a) services may be performed in the hospital by participating providers as well as nonparticipating providers who may separately bill the patient;

(b) providers that perform health care services in the hospital may or may not participate in the same health benefits plans as the hospital; and

(c) prospective patients should contact their health insurance carriers in advance of receiving services at that hospital to determine whether the scheduled health care services provided in that hospital will be covered at in-network rates;

(3) the rights of covered persons under the Surprise Billing Protection Act; and

(4) instructions for contacting the superintendent.

D. Any written communication, other than a receipt of payment, from a provider or health insurance carrier pertaining to a surprise bill, shall clearly state that the covered person is responsible only for payment of applicable in-network cost-sharing amounts under the covered person's health benefits plan. A collection agency collecting medical debt from New Mexico residents shall post a notice of consumer rights pursuant to the Surprise Billing Protection Act on its website.

E. When a nonparticipating provider under nonemergency circumstances has advance knowledge that the nonparticipating provider is not contracted with the covered person's health insurance carrier, the nonparticipating provider shall inform the covered person of the nonparticipating provider's nonparticipating status and advise the covered person to contact the covered person's health insurance carrier to discuss the covered person's options."

Chapter 227 Section 6 Laws 2019

SECTION 6. A new section of the New Mexico Insurance Code is enacted to read:

"COVERED PERSONS--PROVIDERS--OVERPAYMENT.--

A. If a covered person pays a nonparticipating provider more than the in-network cost-sharing amount for services provided under circumstances giving rise to a surprise bill, the nonparticipating provider shall refund to the covered person within forty-five calendar days of receipt of payment from the health insurance carrier any amount paid in excess of the in-network cost-sharing amount.

B. If a nonparticipating provider has not made a full refund to the covered person of any amount paid in excess of the in-network cost-sharing amount to the covered person within forty-five calendar days of receipt, interest shall accrue at the rate set for payment of interest on a health plan's liability for clean claims submitted by eligible providers to a health plan pursuant to Chapter 59A, Article 16 NMSA 1978.

C. A covered person may seek recovery of the refund of the amount the covered person has paid in excess of the in-network cost-sharing amount that a nonparticipating provider owes, plus interest, pursuant to Subsection B of this section by filing an appeal with the office of superintendent of insurance. The superintendent of insurance shall develop an appeals process pursuant to this section."

Chapter 227 Section 7 Laws 2019

SECTION 7. A new section of the New Mexico Insurance Code is enacted to read:

"NONPARTICIPATING PROVIDERS--REBATES AND INDUCEMENTS--PROHIBITION.--A nonparticipating provider shall not, either directly or indirectly, knowingly waive, rebate, give, pay or offer to waive, rebate, give or pay all or part of a cost-sharing amount owed by a covered person pursuant to the terms of the covered person's health benefits plan as an inducement for the covered person to seek a health care service from that nonparticipating provider. The superintendent may impose fines on providers for unlawful rebates and inducements; provided that a provider on which the superintendent intends to impose a fine shall be entitled to a hearing in accordance with the provisions of Section 59A-4-15 NMSA 1978."

Chapter 227 Section 8 Laws 2019

SECTION 8. A new section of the New Mexico Insurance Code is enacted to read:

"HEALTH CARE PROVIDER REIMBURSEMENT RATES--SURPRISE BILLING.--

A. The superintendent shall convene appropriate stakeholders, including rural providers, insurers and consumer advocates, and review the reimbursement rate for surprise bills annually to ensure fairness to providers and to evaluate the impact on health insurance premiums and health benefits plan networks.

B. Calculation of the date of health insurance carrier receipt of a claim shall align with requirements for prompt payment established pursuant to Section 59A-16-21.1 NMSA 1978.

C. A health insurance carrier shall make available to providers access to claims status information."

Chapter 227 Section 9 Laws 2019

SECTION 9. A new section of the New Mexico Insurance Code is enacted to read:

"REASONABLE HEALTH CARE COST MANAGEMENT PERMITTED.--Nothing in the Surprise Billing Protection Act shall be construed to prohibit a health insurance carrier from appropriately using reasonable health care cost management techniques."

Chapter 227 Section 10 Laws 2019

SECTION 10. A new section of the New Mexico Insurance Code is enacted to read:

"PRIVATE CAUSE OF ACTION.--Except as provided in Subsection C of Section 6 of the Surprise Billing Protection Act, nothing in that act shall be construed to create or imply a private cause of action for a violation of that act."

Chapter 227 Section 11 Laws 2019

SECTION 11. A new section of the New Mexico Insurance Code is enacted to read:

"INFORMATION FROM PROVIDER NETWORKS.--The superintendent:

A. may require that health insurance carriers report the annual percentage of claims and expenditures paid to nonparticipating providers for health care services; and

B. may require by rule a report on changes to the percent of claims paid as an emergency claim."

Chapter 227 Section 12 Laws 2019

SECTION 12. A new section of the New Mexico Insurance Code is enacted to read:

"APPLICABILITY.--The provisions of the Surprise Billing Protection Act apply to the following types of health coverage delivered or issued for delivery in this state:

A. group health coverage governed by the provisions of the Health Care Purchasing Act;

B. individual health insurance policies, health benefits plans and certificates of insurance governed by the provisions of Chapter 59A, Article 22 NMSA 1978;

C. multiple-employer welfare arrangements governed by the provisions of Section 59A-15-20 NMSA 1978;

D. group and blanket health insurance policies, health benefits plans and certificates of insurance governed by the provisions of Chapter 59A, Article 23 NMSA 1978;

E. individual and group health maintenance organization contracts governed by the provisions of the Health Maintenance Organization Law; and

F. individual and group nonprofit health benefits plans governed by the provisions of the Nonprofit Health Care Plan Law."

Chapter 227 Section 13 Laws 2019

SECTION 13. A new section of the New Mexico Insurance Code is enacted to read:

"PROVIDERS--REIMBURSEMENT FOR A SURPRISE BILL.--

A. For services provided pursuant to Section 3 or 4 of the Surprise Billing Protection Act, a health insurance carrier shall directly reimburse a nonparticipating provider for care rendered the surprise bill reimbursement rate for services.

B. The surprise bill reimbursement rate shall be calculated using claims data reflecting the allowed amounts paid for claims paid in the 2017 plan year.

C. As used in this section, "surprise bill reimbursement rate" means the sixtieth percentile of the allowed commercial reimbursement rate for the particular health care service performed by a provider in the same or similar specialty in the same geographic area, as reported in a benchmarking database maintained by a nonprofit organization specified by the superintendent after consultation with health care sector stakeholders; provided that no surprise bill reimbursement rate shall be paid at less than one hundred fifty percent of the 2017 medicare reimbursement rate for the applicable health care service provided.

D. The nonprofit organization shall be conflict-free and unaffiliated with any stakeholder in the health care sector."

Chapter 227 Section 14 Laws 2019

SECTION 14. A new section of Chapter 59A, Article 16 NMSA 1978 is enacted to read:

"HEALTH CARE PROVIDERS--SURPRISE BILLING PROHIBITED.--

A. A provider shall not knowingly submit to a covered person a surprise bill for health care services, which surprise bill demands payment for any amount in excess of the cost-sharing amounts that would have been imposed by the covered person's health

benefits plan if the health care service from which the surprise bill arises had been rendered by a participating provider.

B. It shall be an unfair practice for a health care provider to knowingly submit a surprise bill to a collection agency.

C. As used in this section:

(1) "covered person" means:

- (a) an enrollee, policyholder or subscriber;
- (b) the enrolled dependent of an enrollee, policyholder or subscriber; or
- (c) another individual participating in a health benefits plan;

(2) "emergency care" means a health care procedure, treatment or service, excluding ambulance transportation service, which procedure, treatment or service is delivered to a covered person after the sudden onset of what reasonably appears to be a medical or behavioral health condition that manifests itself by symptoms of sufficient severity, including severe pain, that the absence of immediate medical attention, regardless of eventual diagnosis, could be expected by a reasonable layperson to result in jeopardy to a person's physical or mental health or to the health or safety of a fetus or pregnant person, serious impairment of bodily function, serious dysfunction of a bodily organ or part or disfigurement to a person;

(3) "facility" means an entity providing a health care service, including:

- (a) a general, special, psychiatric or rehabilitation hospital;
- (b) an ambulatory surgical center;
- (c) a cancer treatment center;
- (d) a birth center;
- (e) an inpatient, outpatient or residential drug and alcohol treatment center;
- (f) a laboratory, diagnostic or other outpatient medical service or testing center;

- (g) a health care provider's office or clinic;
- (h) an urgent care center;
- (i) a freestanding emergency room; or
- (j) any other therapeutic health care setting;

(4) "freestanding emergency room" means a facility licensed by the department of health that is separate from an acute care hospital and that provides twenty-four-hour emergency care to patients at the same level of care that a hospital-based emergency room delivers;

(5) "health benefits plan" means a policy or agreement entered into, offered or issued by a health insurance carrier to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services; provided that "health benefits plan" does not include any of the following:

- (a) an accident-only policy;
- (b) a credit-only policy;
- (c) a long- or short-term care or disability income policy;
- (d) a specified disease policy;
- (e) coverage provided pursuant to Title 18 of the federal Social Security Act, as amended;
- (f) coverage provided pursuant to Title 19 of the federal Social Security Act and the Public Assistance Act;
- (g) a federal TRICARE policy, including a federal civilian health and medical program of the uniformed services supplement;
- (h) a fixed or hospital indemnity policy;
- (i) a dental-only policy;
- (j) a vision-only policy;
- (k) a workers' compensation policy;

(l) an automobile medical payment policy; or

(m) any other policy specified in rules of the superintendent;

(6) "health care services":

(a) means any service, supply or procedure for the diagnosis, prevention, treatment, cure or relief of a health condition, illness, injury or other disease, including physical or behavioral health services, to the extent offered by a health benefits plan; and

(b) does not mean ambulance transportation services;

(7) "health insurance carrier" means an entity subject to state insurance laws, including a health insurance company, a health maintenance organization, a hospital and health service corporation, a provider service network, a nonprofit health care plan or any other entity that contracts or offers to contract, or enters into agreements to provide, deliver, arrange for, pay for or reimburse any costs of health care services or that provides, offers or administers a health benefit policy or managed health care plan in the state;

(8) "hospital" means a facility offering inpatient health care services, nursing care and overnight care for three or more individuals on a twenty-four-hours-per-day, seven-days-per-week basis for the diagnosis and treatment of physical, behavioral or rehabilitative health conditions;

(9) "nonparticipating provider" means a provider who is not a participating provider;

(10) "participating provider" means a provider or facility that, under express contract with a health insurance carrier or with a health insurance carrier's contractor or subcontractor, has agreed to provide health care services to covered persons, with an expectation of receiving payment directly or indirectly from the health insurance carrier, subject to cost sharing;

(11) "prior authorization" means a pre-service determination made by a health insurance carrier regarding a covered person's eligibility for health care services, medical necessity, benefit coverage and the location or appropriateness of services, pursuant to the terms of a health benefits plan that the health insurance carrier offers;

(12) "provider" means a health care professional, hospital or other facility licensed to furnish health care services; and

(13) "surprise bill":

(a) means a bill that a nonparticipating provider issues to a covered person for health care services rendered in the following circumstances, in an amount that exceeds the covered person's cost-sharing obligation that would apply for the same health care services if these services had been provided by a participating provider: 1) emergency care provided by the nonparticipating provider; or 2) health care services, that are not emergency care, rendered by a nonparticipating provider at a participating facility where a: participating provider is unavailable; a nonparticipating provider renders unforeseen services; or a nonparticipating provider renders services for which the covered person has not given specific consent for that nonparticipating provider to render the particular services rendered; and

(b) does not mean a bill: 1) for health care services received by a covered person when a participating provider was available to render the health care services and the covered person knowingly elected to obtain the services from a nonparticipating provider without prior authorization; or 2) received for health care services rendered by a nonparticipating provider to a covered person whose coverage is provided pursuant to a preferred provider plan; provided that the health care services are not provided as emergency care."

Chapter 227 Section 15 Laws 2019

SECTION 15. DELAYED REPEAL.--Section 13 of this act is repealed effective July 1, 2023.

Chapter 227 Section 16 Laws 2019

SECTION 16. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2020. _____

SCORC/Senate Bill 337, aa

Approved April 3, 2019

LAWS 2019, CHAPTER 228

AN ACT

RELATING TO PROTECTIVE ARRANGEMENTS; AMENDING, REPEALING AND ENACTING SECTIONS OF THE UNIFORM PROBATE CODE; PROVIDING FOR CERTIFICATION OF GUARDIANS AND CONSERVATORS; REVISING PROVISIONS FOR HEARING PROCEDURES, PENALTIES AND LIABILITY WAIVERS; PROVIDING FOR COURT INVESTIGATORS AND GRIEVANCES.

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

Chapter 228 Section 1 Laws 2019

SECTION 1. Section 45-5-101 NMSA 1978 (being Laws 1975, Chapter 257, Section 5-101, as amended) is amended to read:

"45-5-101. DEFINITIONS AND USE OF TERMS.--Unless otherwise apparent from the context or unless otherwise specifically defined in other sections that are applicable to specific articles, parts or sections of the Uniform Probate Code, as used in Chapter 45, Article 5 NMSA 1978:

A. "conservator" means a person who is appointed by a court to manage the property or financial affairs or both of a protected person;

B. "court" means the district court or the children's or family division of the district court where such jurisdiction is conferred by the Children's Code;

C. "functional impairment" means an impairment that is measured by a person's inability to manage the person's personal care or the person's inability to manage the person's estate or financial affairs or both;

D. "guardian" has the same meaning as set forth in Section 45-1-201 NMSA 1978;

E. "guardian ad litem" has the same meaning as set forth in Section 45-1-201 NMSA 1978;

F. "incapacitated person" means any person who demonstrates over time either partial or complete functional impairment by reason of mental illness, mental deficiency, physical illness or disability, chronic use of drugs, chronic intoxication or other cause, except minority, to the extent that the person is unable to manage the person's personal affairs or the person is unable to manage the person's estate or financial affairs or both;

G. "inability to manage the person's personal care" means the inability, as evidenced by recent behavior, to meet one's needs for medical care, nutrition, clothing,

shelter, hygiene or safety so that physical injury, illness or disease has occurred or is likely to occur in the near future;

H. "inability to manage the person's estate or financial affairs or both" means gross mismanagement, as evidenced by recent behavior, of one's income and resources or medical inability to manage one's income and resources that has led or is likely in the near future to lead to financial vulnerability;

I. "interested person" means any person who has an interest in the welfare of the person to be protected pursuant to Chapter 45, Article 5 NMSA 1978;

J. "least restrictive form of intervention" means that the guardianship or conservatorship imposed on the incapacitated person or minor protected person represents only those limitations necessary to provide the needed care and rehabilitative services and that the incapacitated person or minor protected person shall enjoy the greatest amount of personal freedom and civil liberties;

K. "letters" has the same meaning as set forth in Section 45-1-201 NMSA 1978;

L. "limited conservator" means any person who is qualified to manage the estate and financial affairs of an incapacitated person pursuant to a court appointment in a limited conservatorship;

M. "limited conservatorship" means that an incapacitated person is subject to a conservator's exercise of some but not all of the powers enumerated in Sections 45-5-424 and 45-5-425 NMSA 1978;

N. "limited guardian" means any person who is qualified to manage the care, custody and control of an incapacitated person pursuant to a court appointment of a limited guardianship;

O. "limited guardianship" means that an incapacitated person is subject to a guardian's exercise of some but not all of the powers enumerated in Section 45-5-312 NMSA 1978;

P. "minor" has the same meaning as set forth in Section 45-1-201 NMSA 1978;

Q. "minor protected person" means a minor for whom a guardian or conservator has been appointed solely because of minority;

R. "parent" means a parent whose parental rights have not been terminated or relinquished;

S. "professional conservator" means an individual or entity that serves as a conservator for more than two individuals who are not related to the conservator by marriage, adoption or third degree of blood or affinity;

T. "professional guardian" means an individual or entity that serves as a guardian for more than two individuals who are not related to the guardian by marriage, adoption or third degree of blood or affinity;

U. "protective proceeding" means a conservatorship proceeding under Section 45-5-401 NMSA 1978;

V. "protected person" means a minor or other person for whom a guardian or conservator has been appointed or other protective order has been made;

W. "qualified health care professional" means a physician, psychologist, physician assistant, nurse practitioner or other health care practitioner whose training and expertise aid in the assessment of functional impairment; and

X. "visitor" means a person who is an appointee of the court who has no personal interest in the proceeding and who has been trained or has the expertise to appropriately evaluate the needs of the person who is allegedly incapacitated. A "visitor" may include, but is not limited to, a psychologist, a social worker, a developmental incapacity professional, a physical and occupational therapist, an educator and a rehabilitation worker."

Chapter 228 Section 2 Laws 2019

SECTION 2. Section 45-5-303 NMSA 1978 (being Laws 1989, Chapter 252, Section 5, as amended) is amended to read:

"45-5-303. PROCEDURE FOR COURT APPOINTMENT OF A GUARDIAN OF AN INCAPACITATED PERSON.--

A. An interested person may petition for appointment of a guardian for an alleged incapacitated person.

B. A petition under Subsection A of this section shall state the petitioner's name, principal residence, current street address, if different, relationship to the alleged incapacitated person, interest in the appointment, the name and address of any attorney representing the petitioner and, to the extent known, the following:

(1) the alleged incapacitated person's name, age, principal residence, current street address, if different, and, if different, address of the dwelling in which it is proposed that the alleged incapacitated person will reside if the petition is granted;

(2) the name and address of the alleged incapacitated person's:

(a) spouse, or, if the alleged incapacitated person has none, an adult with whom the alleged incapacitated person is in a long-term relationship of indefinite duration in which the individual has demonstrated an actual commitment to the alleged incapacitated person similar to the commitment of a spouse and in which the individual and the alleged incapacitated person consider themselves to be responsible for each other's well-being;

(b) adult children or, if none, each parent and adult sibling of the alleged incapacitated person or, if none, at least one adult nearest in kinship to the alleged incapacitated person who can be found with reasonable diligence; and

(c) adult stepchildren whom the alleged incapacitated person actively parented during the stepchildren's minor years and with whom the alleged incapacitated person had an ongoing relationship in the two-year period immediately preceding the filing of the petition;

(3) the name and current address of each of the following, if applicable:

(a) a person responsible for care of the alleged incapacitated person;

(b) any attorney currently representing the alleged incapacitated person;

(c) any representative payee appointed by the federal social security administration for the alleged incapacitated person;

(d) a guardian or conservator acting for the alleged incapacitated person in New Mexico or in another jurisdiction;

(e) a trustee or custodian of a trust or custodianship of which the alleged incapacitated person is a beneficiary;

(f) any fiduciary for the alleged incapacitated person appointed by the federal department of veterans affairs;

(g) an agent designated under a power of attorney for health care in which the alleged incapacitated person is identified as the principal;

(h) an agent designated under a power of attorney for finances in which the alleged incapacitated person is identified as the principal;

(i) a person nominated as guardian by the alleged incapacitated person;

(j) a person nominated as guardian by the alleged incapacitated person's parent or spouse in a will or other signed record;

(k) a proposed guardian and the reason the proposed guardian should be selected; and

(l) a person known to have routinely assisted the alleged incapacitated person with decision making during the six months immediately preceding the filing of the petition;

(4) the reason a guardianship is necessary, including a brief description of:

(a) the nature and extent of the alleged incapacitated person's alleged need;

(b) any least restrictive alternative for meeting the alleged incapacitated person's alleged need that has been considered or implemented;

(c) if no least restrictive alternative has been considered or implemented, the reason it has not been considered or implemented; and

(d) the reason a least restrictive alternative instead of guardianship is insufficient to meet the alleged incapacitated person's alleged need;

(5) whether the petitioner seeks a limited guardianship or full guardianship;

(6) if the petitioner seeks a full guardianship, the reason a limited guardianship or protective arrangement instead of guardianship is not appropriate;

(7) if a limited guardianship is requested, the powers to be granted to the guardian;

(8) the name and current address, if known, of any person with whom the petitioner seeks to limit the alleged incapacitated person's contact;

(9) if the alleged incapacitated person has property other than personal effects, a general statement of the alleged incapacitated person's property, with an estimate of its value, including any insurance or pension, and the source and amount of other anticipated income or receipts; and

(10) whether the alleged incapacitated person needs an interpreter, translator or other form of support to communicate effectively with the court or understand court proceedings.

C. Notice of a petition under this section for the appointment of a guardian and the hearing on the petition shall be given as provided in Section 45-5-309 NMSA 1978.

D. After the filing of a petition, the court shall set a date for hearing on the issues raised by the petition. Unless an alleged incapacitated person already has an attorney of the alleged incapacitated person's own choice, the court shall appoint an attorney to represent the alleged incapacitated person. The court-appointed attorney in the proceeding shall have the duties of a guardian ad litem, as set forth in Section 45-5-303.1 NMSA 1978.

E. The person alleged to be incapacitated shall be examined by a qualified health care professional appointed by the court who shall submit a report in writing to the court. The report shall:

(1) describe the nature and degree of the alleged incapacitated person's incapacity, if any, and the level of the alleged incapacitated person's intellectual, developmental and social functioning; and

(2) contain observations, with supporting data, regarding the alleged incapacitated person's ability to make health care decisions and manage the activities of daily living.

F. The court shall appoint a visitor who shall interview the person seeking appointment as guardian and the person alleged to be incapacitated. The visitor shall also visit the present place of abode of the person alleged to be incapacitated and the place where it is proposed the alleged incapacitated person will be detained or reside if the requested appointment is made. The visitor shall evaluate the needs of the person alleged to be incapacitated and shall submit a written report to the court. The report shall include a recommendation regarding the appropriateness of the appointment of

the proposed guardian. The report to the court shall also include recommendations regarding:

(1) those aspects of personal care that the alleged incapacitated person can manage without supervision or assistance;

(2) those aspects of personal care that the alleged incapacitated person could manage with the supervision or assistance of support services and benefits; and

(3) those aspects of personal care that the alleged incapacitated person is unable to manage without the supervision of a guardian.

Unless otherwise ordered by the court, the appointment of the visitor terminates and the visitor is discharged from the visitor's duties upon entry of an order appointing a guardian and acceptance of the appointment by the guardian.

G. A person alleged to be incapacitated shall be present at the hearing on the issues raised by the petition and any response to the petition unless the court determines by evidence that it is not in the alleged incapacitated person's best interest to be present because of a threat to the health or safety of the alleged incapacitated person or others as determined by the court. At a hearing conducted pursuant to this section, the person alleged to be incapacitated may:

(1) present evidence and subpoena witnesses and documents;

(2) examine witnesses, including a court-appointed guardian ad litem, qualified health care professional and visitor; and

(3) otherwise participate in the hearing.

H. The court upon request or its own motion may conduct hearings at the location of the alleged incapacitated person who is unable to be present in court.

I. The rules of evidence shall apply and no hearsay evidence that is not otherwise admissible in a court shall be admitted into evidence except as otherwise provided in this article. There is a legal presumption of capacity, and the burden of proof shall be on the petitioner to prove the allegations set forth in the petition. Such proof shall be established by clear and convincing evidence.

J. The existence of a proceeding for or the existence of a guardianship for an adult is a matter of public record unless the court seals the record after:

(1) the alleged incapacitated person or individual subject to guardianship requests that the record be sealed; and

(2) either:

(a) the petition for guardianship is dismissed; or

(b) the guardianship is terminated.

K. An alleged incapacitated person or the protected person subject to a proceeding for a guardianship, whether or not a guardian is appointed, an attorney designated by the alleged incapacitated person or the protected person and a person entitled to notice are entitled to access court records of the proceeding and resulting guardianship. A person not otherwise entitled to access court records under this subsection for good cause may petition the court for access to court records of the guardianship. The court shall grant access if access is in the best interest of the alleged incapacitated person or the protected person or furthers the public interest and does not endanger the welfare or financial interests of the alleged incapacitated person or the protected person.

L. A report pursuant to Subsections E and F of this section or a written report filed pursuant to Section 45-5-303.1 or 45-5-314 NMSA 1978 is confidential and shall be sealed on filing, but is available to:

(1) the court;

(2) the alleged incapacitated person who is the subject of the report or evaluation, without limitation as to use;

(3) the petitioner, visitor, guardian ad litem and an attorney of record for purposes of the proceeding;

(4) unless the court orders otherwise, an agent appointed under a power of attorney for health care or power of attorney for finances in which the alleged incapacitated person is the principal; and

(5) any other person if it is in the public interest, as determined by the court, or for a purpose the court orders for good cause.

M. Notwithstanding the provisions of Subsection J of this section, a disclosure of information shall not include diagnostic information, treatment information or other medical or psychological information.

N. The issue of whether a guardian shall be appointed for the alleged incapacitated person shall be determined by the court at an open hearing unless, for good cause, the court determines otherwise.

O. Upon request of the petitioner or alleged incapacitated person, the court shall schedule a jury trial."

Chapter 228 Section 3 Laws 2019

SECTION 3. Section 45-5-303.1 NMSA 1978 (being Laws 1989, Chapter 252, Section 6, as amended) is amended to read:

"45-5-303.1. DUTIES OF GUARDIAN AD LITEM.--

A. The guardian ad litem shall:

(1) interview in person the alleged incapacitated person prior to the hearing;

(2) present the alleged incapacitated person's declared position to the court;

(3) interview the qualified health care professional, the visitor and the proposed guardian;

(4) review both the medical report submitted by the qualified health care professional and the report by the visitor;

(5) obtain independent medical or psychological assessments, or both, if necessary; and

(6) file a written report with the court prior to the hearing on the petition for appointment.

B. Unless otherwise ordered by the court, the duties of the guardian ad litem terminate and the guardian ad litem is discharged from duties upon entry of the order appointing the guardian and acceptance of the appointment by the guardian."

Chapter 228 Section 4 Laws 2019

SECTION 4. Section 45-5-307 NMSA 1978 (being Laws 1975, Chapter 257, Section 5-307, as amended) is amended to read:

"45-5-307. DEATH, SUBSTITUTION, REVIEW AND TERMINATION OF GUARDIANSHIP.--

A. On the petition of the incapacitated person or any person interested in the incapacitated person's welfare and upon notice and hearing, the court may remove a guardian and appoint a successor if it is in the best interest of the incapacitated person.

B. Upon death, removal or resignation of a guardian, the court may appoint another guardian or make any other order that may be appropriate. If a successor guardian is appointed, the successor guardian succeeds to the title and powers of the successor guardian's predecessor.

C. The incapacitated person or any person interested in the incapacitated person's welfare may petition for an order that the incapacitated person is no longer incapacitated and for removal or resignation of the guardian. A request for this order may be made by informal letter to the court or judge. Any person who knowingly interferes with transmission of this kind of request to the court may be adjudged guilty of contempt of court.

D. Unless waived by the court upon the filing of a petition to terminate a guardianship for reasons other than the death of the incapacitated person, the court shall follow the same procedures to safeguard the rights of the incapacitated person as those that apply to a petition for appointment of a guardian as set forth in Section 45-5-303 NMSA 1978.

E. In a proceeding that increases the guardian's authority or reduces the autonomy of the protected person, the court shall follow the same procedures to safeguard the rights of the incapacitated person as those that apply to a petition for appointment of a guardian, as set forth in Section 45-5-303 NMSA 1978.

F. Following receipt of a request for review, the court shall hold a status hearing, which may be informal, to determine the appropriate order to be entered. If the court finds the incapacitated person is capable of more autonomy than at the time of the original order, the court may enter an order removing the guardian, terminating the guardianship or reducing the powers previously granted to the guardian. The court has the option to follow all or part of the procedures that apply for the appointment of a guardian as set forth in Section 45-5-303 NMSA 1978.

G. At any time following the appointment of a guardian, but not later than ten years after the initial appointment of a guardian for a protected person and every ten years thereafter, the court shall:

(1) hold a status hearing, after notice to the guardian, the protected person and appropriate interested persons, to review the status of the protected person's capacity and the continued need for a guardian; or

(2) appoint a court investigator to assess the protected person's capacity. The court investigator shall prepare a detailed report to the court regarding the status of the protected person's capacity and the continued need for a guardian. Any report shall be made available to the guardian, the protected person and interested persons identified by the court.

H. If the court is unable to contact either the guardian or the protected person and neither appears for the status hearing held pursuant to Paragraph (1) of Subsection G of this section, the court shall appoint a guardian ad litem to investigate and report to the court as to the status of the protected person and the guardian. Any report shall be made available to the guardian, the protected person and appropriate interested persons, if known to the court.

I. Following the status hearing or the court's report from the court investigator or guardian ad litem on the status of the protected person and the guardian as provided in Subsection H of this section, the court may enter an appropriate order; provided that, in entering an order that increases the guardian's authority or reduces the autonomy of the protected person, the court shall follow the same procedures to safeguard the rights of the incapacitated person as those that apply to a petition for appointment of a guardian, as set forth in Section 45-5-303 NMSA 1978."

Chapter 228 Section 5 Laws 2019

SECTION 5. Section 45-5-311 NMSA 1978 (being Laws 1975, Chapter 257, Section 5-311, as amended) is amended to read:

"45-5-311. WHO MAY BE APPOINTED GUARDIAN--PRIORITIES--QUALIFICATIONS.--

A. Any person deemed to be qualified by the court may be appointed guardian of an incapacitated person, except that no individual who operates or is an employee of a boarding home, residential care home, nursing home, group home or other similar facility in which the incapacitated person resides may serve as guardian for the incapacitated person, except an employee may serve in such capacity when related by affinity or consanguinity.

B. Persons who are not disqualified have priority for appointment as guardian in the following order:

(1) a guardian or other like fiduciary appointed by the appropriate court of any other jurisdiction;

(2) a person, as far as known or as can be reasonably ascertained, previously nominated or designated in a writing signed by the incapacitated person prior to incapacity that has not been revoked by the incapacitated person or terminated by a court. This includes writings executed under the Uniform Health-Care Decisions Act, the Mental Health Care Treatment Decisions Act, the Uniform Power of Attorney Act, the Uniform Probate Code and the Uniform Trust Code;

(3) the spouse of the incapacitated person;

(4) an adult child of the incapacitated person;

(5) a parent of the incapacitated person, including a person nominated by will or other writing signed by a deceased parent;

(6) any relative of the incapacitated person with whom the incapacitated person has resided for more than six months prior to the filing of the petition;

(7) a person nominated by the person who is caring for the incapacitated person or paying benefits to the incapacitated person; and

(8) any other person.

C. With respect to persons having equal priority, the court shall select the person it considers best qualified to serve as guardian. The court, acting in the best interest of the incapacitated person and for good cause shown, may pass over a person having priority and appoint a person having a lower priority under this section and shall take into consideration:

(1) the preference of the incapacitated person, giving weight to preferences expressed in writing by the person while having capacity;

(2) the geographic location of the proposed guardian;

(3) the relationship of the proposed guardian to the incapacitated person;

(4) the ability of the proposed guardian to carry out the powers and duties of the guardianship; and

(5) potential financial conflicts of interest between the incapacitated person and proposed guardian.

D. A professional guardian shall not serve or be appointed as a guardian of the incapacitated person unless the professional guardian is certified and is in good standing with a national or state organization recognized by the supreme court that provides professional certification for guardians."

Chapter 228 Section 6 Laws 2019

SECTION 6. Section 45-5-312 NMSA 1978 (being Laws 1975, Chapter 257, Section 5-312, as amended) is amended to read:

"45-5-312. GENERAL POWERS AND DUTIES OF THE LIMITED GUARDIAN AND GUARDIAN.--

A. If the court enters judgment pursuant to Subsection C of Section 45-5-304 NMSA 1978, it shall appoint a limited guardian if it determines that the protected person is able to manage some but not all aspects of personal care. The court shall specify those powers that the limited guardian shall have and may further restrict each power so as to permit the protected person to care for the protected person's own self commensurate with the protected person's ability to do so. A person for whom a limited guardian has been appointed retains all legal and civil rights except those that have been specifically granted to the limited guardian by the court. The limited guardian shall exercise supervisory powers over the protected person in a manner that is the least restrictive form of intervention consistent with the order of the court.

B. A guardian is not legally obligated to provide from the guardian's own funds for the protected person and is not liable to third persons for acts of the protected person solely by reason of the guardianship. In particular and without qualifying the foregoing, a guardian or the guardian's replacement has the following powers and duties, except as modified by order of the court:

(1) to the extent that it is consistent with the terms of any order by a court of competent jurisdiction relating to detention or commitment of the protected person, a guardian is entitled to custody of the protected person and may establish the protected person's place of abode within or without New Mexico;

(2) if entitled to custody of the protected person, a guardian shall make provision for the care, comfort and maintenance of the protected person and, whenever appropriate, arrange for training and education. The guardian shall take reasonable care of the protected person's clothing, furniture, vehicles and other personal effects

and commence conservatorship proceedings if other property of the protected person is in need of protection;

(3) if no agent is entitled to make health care decisions for the protected person under the provisions of the Uniform Health-Care Decisions Act, then the guardian shall make health care decisions for the protected person in accordance with the provisions of that act. In exercising health care powers, a guardian may consent or withhold consent that may be necessary to enable the protected person to receive or refuse medical or other professional care, counsel, treatment or service. That decision shall be made in accordance with the values of the protected person, if known, or the best interests of the protected person if the values are not known;

(4) if no conservator for the estate of the protected person has been appointed, if the court has determined that a conservatorship is not appropriate and if a guardian appointed by the court has been granted authority to make financial decisions on behalf of the protected person in the order of appointment and in the letters of guardianship pursuant to Subsection C of Section 45-5-308 NMSA 1978, the guardian has the following powers and duties, including the power:

(a) to institute proceedings to compel any person under a duty to support the protected person or to pay sums for the welfare of the protected person to perform that duty;

(b) to receive money and tangible property deliverable to the protected person and apply the money and property for support, care and education of the protected person, but the guardian shall not use funds from the protected person's estate for room and board that the guardian or the guardian's spouse, parent or child has furnished the protected person, unless a charge for the service is approved by order of the court made upon notice to at least one of the next of kin of the protected person, if notice is possible;

(c) to serve as advocate and decision maker for the protected person in any disputes with persons or organizations, including financial institutions, regarding the protected person's finances;

(d) to obtain information regarding the protected person's assets and income from persons or organizations handling the protected person's finances;

(e) to file an initial inventory of all property belonging to the protected person within ninety days after appointment; and

(f) to exercise care to conserve any excess for the protected person's needs and include in the guardian's ninety-day and annual reports a description of decisions made regarding the protected person's finances and property; and

(5) the guardian shall exercise the guardian's supervisory powers over the protected person in a manner that is least restrictive of the protected person's personal freedom and consistent with the need for supervision.

C. A guardian of a protected person for whom a conservator also has been appointed shall control the care and custody of the protected person and is entitled to receive reasonable sums for services and for room and board furnished to the protected person. The guardian may request the conservator to expend the protected person's estate by payment to third persons or institutions for the protected person's care and maintenance.

D. Unless authorized by the court by specific order, a guardian for an adult shall not revoke or amend a power of attorney for health care or power of attorney for finances signed by the adult. If a power of attorney for health care is in effect, unless there is a court order to the contrary, a health care decision of an agent takes precedence over that of the guardian, and the guardian shall cooperate with the agent to the extent feasible. If a power of attorney for finances is in effect, unless there is a court order to the contrary, a decision by the agent that the agent is authorized to make under the power of attorney for finances takes precedence over that of the guardian, and the guardian shall cooperate with the agent to the extent feasible.

E. A guardian for an adult shall not initiate the commitment of the adult to a mental health treatment facility except in accordance with the state's procedure for involuntary civil commitment.

F. A guardian for a protected person shall not restrict the ability of the protected person to communicate, visit or interact with others, including receiving visitors and making or receiving telephone calls, personal mail or electronic communications, including through social media or participating in social activities, unless:

(1) authorized by the court by specific order;

(2) a less restrictive alternative is in effect that limits contact between the protected person and a person; or

(3) the guardian has good cause to believe restriction is necessary because interaction with a specified person poses a risk of significant physical, psychological or financial harm to the protected person and the restriction is:

(a) for a period of not more than seven business days if the person has a family or preexisting social relationship with the protected person; or

(b) for a period of not more than sixty days if the person does not have a family or preexisting social relationship with the protected person."

Chapter 228 Section 7 Laws 2019

SECTION 7. Section 45-5-314 NMSA 1978 (being Laws 1989, Chapter 252, Section 14, as amended) is amended to read:

"45-5-314. ANNUAL REPORT--AUDITS.--

A. The guardian of an incapacitated person shall file an initial report with the appointing court within ninety days of the guardian's appointment. Thereafter, the guardian shall file an annual report within thirty days of the anniversary date of the guardian's appointment. A copy of the report shall also be submitted to the district judge who appointed the guardian or the judge's successor, to the incapacitated person and to the incapacitated person's conservator, if any. The court shall review this report. The report shall include information concerning the progress and condition of the incapacitated person, including the incapacitated person's health, medical and dental care, residence, education, employment and habitation; a report on the manner in which the guardian carried out the guardian's powers and fulfilled the guardian's duties; and the guardian's opinion regarding the continued need for guardianship. If the guardian has been provided power pursuant to Paragraph (4) of Subsection B of Section 45-5-312 NMSA 1978, the report shall contain information on financial decisions made by the guardian. Only reports that substantially comply with forms approved by the supreme court shall be accepted by the court as fulfilling the requirements of this section.

B. Any guardian may rely on a qualified health care professional's current written report to provide descriptions of the physical and mental conditions required in the report provided for in Subsection A of this section.

C. The guardian may be fined twenty-five dollars (\$25.00) per day for an overdue interim or annual report. The fine shall be paid to the current school fund.

D. The court shall not waive the requirement of an annual report under any circumstance but may grant an extension of time not to exceed sixty days. The court may require the filing of more than one report annually.

E. A guardian of a protected person shall fully comply with the requirements of any audit of an account, inventory, report or property of a protected person."

Chapter 228 Section 8 Laws 2019

SECTION 8. Section 45-5-404.1 NMSA 1978 (being Laws 1989, Chapter 252, Section 18, as amended) is amended to read:

"45-5-404.1. DUTIES OF GUARDIAN AD LITEM.--

A. The guardian ad litem shall:

- (1) interview the person to be protected in person prior to the hearing;
- (2) present the position of the person to be protected to the court;
- (3) interview the qualified health care professional, the visitor, the proposed conservator and any other person who may have relevant information concerning the person to be protected;
- (4) review both the medical report submitted by the qualified health care professional and the report by the visitor;
- (5) obtain independent medical or psychological assessments, or both, if necessary; and
- (6) file a written report with the court prior to the hearing on the petition for appointment.

B. Unless otherwise ordered by the court, the duties of the guardian ad litem terminate and the guardian ad litem is discharged from the guardian ad litem's duties upon entry of the order appointing the conservator and acceptance of the appointment by the conservator."

Chapter 228 Section 9 Laws 2019

SECTION 9. Section 45-5-407 NMSA 1978 (being Laws 1975, Chapter 257, Section 5-407, as amended) is amended to read:

"45-5-407. PROCEDURE FOR COURT APPOINTMENT OF A CONSERVATOR.--

A. Upon receipt of a petition for appointment of a conservator or other protective order because of minority, the court shall set a date for hearing on the matters alleged in the petition. If at any time in the proceeding the court finds the minor is or may be inadequately represented, it may appoint an attorney to represent the minor, giving consideration to the choice of the minor if the minor is fourteen years of age or older. An attorney appointed by the court to represent a minor shall represent and protect the interests of the minor.

B. Upon receipt of a petition for appointment of a conservator for reasons other than minority, the court shall set a date for hearing. Unless the person to be protected is already represented by an attorney of the person's own choice, the court shall appoint an attorney to represent the person to be protected in the proceeding. The court-appointed attorney shall have the duties of a guardian ad litem as set forth in Section 45-5-404.1 NMSA 1978.

C. If the petition is for the appointment of a conservator for an incapacitated person, the person to be protected shall be examined by a qualified health care professional appointed by the court who shall submit a report in writing to the court. The report shall:

(1) describe the nature and degree of the person's incapacity, if any, and the level of the intellectual, developmental and social functioning of the person to be protected; and

(2) contain observations, with supporting data, regarding the ability of the person to be protected to manage the person's estate or financial affairs.

D. The court shall also appoint a visitor who shall interview the person seeking appointment as conservator and the person to be protected. The visitor shall also visit the present place of residence of the person to be protected. The visitor shall evaluate the needs of the person to be protected and shall submit a written report to the court. The report shall include a recommendation regarding the appropriateness of the appointment of the proposed conservator. The report shall also include recommendations regarding:

(1) those aspects of the person's financial affairs that the person to be protected can manage without supervision or assistance;

(2) those aspects of the person's financial affairs that the person to be protected could manage with the supervision or assistance of support services and benefits; and

(3) those aspects of the person's financial affairs that the person to be protected is unable to manage even with the supervision or assistance of support services and benefits.

Unless otherwise ordered by the court, the appointment of the visitor terminates and the visitor is discharged from duties upon entry of an order appointing a conservator and acceptance of the appointment by the conservator.

E. The person to be protected shall be present at the hearing on the issues raised by the petition and any response to the petition, unless the court determines it is not in the best interest of the person for whom a conservator is sought to be present because of a threat to the health or safety of the person for whom a conservator is sought or others as determined by the court. The court upon request or its own motion may conduct hearings at the location of the person to be protected if the person is unable to be present in court. At a hearing conducted pursuant to this section, the person to be protected may:

(1) present evidence and subpoena witnesses and documents;

(2) examine witnesses, including a court-appointed guardian ad litem, qualified health care professional and visitor; and

(3) otherwise participate in the hearing.

F. The person to be protected shall not be permitted by the court to consent to the appointment of a conservator.

G. The court, at the hearing on the petition for appointment of conservator, shall:

(1) inquire into the nature and extent of the functional limitations of the person to be protected; and

(2) ascertain the person's capacity to manage the person's financial affairs.

H. If it is determined that the person to be protected possesses the capacity to manage the person's estate or financial affairs, or both, the court shall dismiss the petition.

I. Alternatively, the court may appoint a full conservator, as requested in the petition, or a limited conservator and confer specific powers of conservatorship after finding in the record based on clear and convincing evidence that:

(1) the person to be protected is totally incapacitated or is incapacitated only in specific areas as alleged in the petition;

(2) the conservatorship is necessary as a means of effectively managing the estate or financial affairs, or both, of the person to be protected;

(3) there are not available alternative resources that enable the effective management of the estate and financial affairs of the person to be protected;

(4) the conservatorship is appropriate as the least restrictive form of intervention consistent with the preservation of the property of the person to be protected; and

(5) the proposed conservator is both qualified and suitable and is willing to serve.

J. After hearing, upon finding that a basis for the appointment of a conservator has been established, the court shall make an appointment of a conservator. The court shall appoint a limited conservator if it determines that the incapacitated person is able to manage some but not all aspects of the incapacitated person's estate and financial affairs. The court shall specify those powers that the limited conservator shall have and may further restrict each power so as to permit the incapacitated person to care for the incapacitated person's estate and financial affairs commensurate with the incapacitated person's ability to do so.

K. A person for whom a conservator has been appointed retains all legal and civil rights except those that have been specifically granted to the conservator by the court. The conservator shall exercise supervisory powers over the estate and financial affairs of the incapacitated person in a manner that is the least restrictive form of intervention consistent with the order of the court.

L. The rules of evidence shall apply and no hearsay evidence that is not otherwise admissible in a court shall be admitted into evidence except as otherwise provided in the Uniform Probate Code.

M. The existence of a proceeding for or the existence of conservatorship is a matter of public record unless the court seals the record after:

(1) the alleged incapacitated person, the protected person subject to conservatorship or the parent or a guardian of a minor subject to conservatorship requests that the record be sealed; and

(2) either:

(a) the petition for conservatorship is dismissed; or

(b) the conservatorship is terminated.

N. An alleged incapacitated person or protected person subject to a proceeding for a conservatorship, whether or not a conservator is appointed, an attorney designated by the alleged incapacitated person or protected person and a person entitled to notice may access court records of the proceeding and resulting conservatorship. A person not otherwise entitled to access to court records under this section for good cause may petition the court for access to court records of the conservatorship. The court shall grant access if access is in the best interest of the alleged incapacitated person or protected person subject to conservatorship or furthers the public interest and does not endanger the welfare or financial interests of the alleged incapacitated person or individual.

O. A report pursuant to Subsections C and D of this section or a written report filed pursuant to Section 45-5-404.1 or 45-5-409 NMSA 1978 is confidential and shall be sealed on filing, but is available to:

(1) the court;

(2) the alleged incapacitated person or protected person who is the subject of the report, without limitation as to use;

(3) the petitioner, guardian ad litem, visitor and an attorney of record, for purposes of the proceeding;

(4) unless the court directs otherwise, an agent appointed under a power of attorney for finances in which the alleged incapacitated person is identified as the principal; and

(5) any other person if it is in the public interest, as determined by the court, or for a purpose the court orders for good cause.

P. Notwithstanding the provisions of Subsection M of this section, any disclosure of information shall not include any diagnostic information, treatment information or other medical or psychological information.

Q. The issue of whether a conservator shall be appointed for the alleged incapacitated person shall be determined by the court at an open hearing unless, for good cause, the court determines otherwise.

R. Upon request of the petitioner or person to be protected, the court shall schedule a jury trial.

S. Upon entry of an order appointing a conservator, a copy of the order shall be furnished to the person for whom the conservator was appointed and that person's counsel. The order shall contain the name and address of the conservator as well as notice to the person for whom the conservator was appointed of that person's right to appeal the appointment and of that person's right to seek alteration or termination of the conservatorship at any time."

Chapter 228 Section 10 Laws 2019

SECTION 10. Section 45-5-409 NMSA 1978 (being Laws 1989, Chapter 252, Section 22, as amended) is amended to read:

"45-5-409. ANNUAL REPORT AND ACCOUNT--AUDITS.--

A. Every conservator shall file an annual report and account with the appointing court within thirty days of the anniversary date of the conservator's appointment, upon the conservator's resignation or removal or upon termination of the conservatorship. A copy of the annual report and account shall also be mailed to the district judge who appointed the conservator or the conservator's successor, to the incapacitated person and to the incapacitated person's guardian, if any. The report shall include information concerning the progress and condition of the person under conservatorship, a report on the manner in which the conservator carried out the conservator's powers and fulfilled the conservator's duties and the conservator's opinion regarding the continued need for conservatorship. Only reports that substantially comply with forms approved by the supreme court shall be accepted by the court as fulfilling the requirements of this section.

B. Any conservator may rely on a qualified health care professional's current written report to provide descriptions of the physical and mental conditions required in the report provided for in Subsection A of this section.

C. The court shall not waive the requirement of an annual report and account under any circumstance, but may grant an extension of time. The court may require the filing of more than one report and account annually.

D. The conservator may be fined twenty-five dollars (\$25.00) per day for an overdue interim or annual report and account. The fine shall be paid to the current school fund.

E. In connection with an account, the court may require a conservator to submit to a physical check of the property in the conservator's control, to be made in any manner the court may order.

F. In any case in which property consists in whole or in part of benefits paid by the United States department of veterans affairs to the conservator or the conservator's predecessor for the benefit of the protected person, the department office that has jurisdiction over the area is entitled to a copy of any report and account filed under Chapter 45, Article 5 NMSA 1978.

G. A conservator shall fully comply with the requirements of any audit of an account, inventory, report or property of a protected person."

Chapter 228 Section 11 Laws 2019

SECTION 11. Section 45-5-410 NMSA 1978 (being Laws 1975, Chapter 257, Section 5-410, as amended) is amended to read:

"45-5-410. WHO MAY BE APPOINTED CONSERVATOR--PRIORITIES.--

A. The court may appoint an individual, or a corporation with general power to serve as trustee, as conservator of the incapacitated person. The following are entitled to consideration for appointment in the order listed:

(1) a conservator, guardian of property or other like fiduciary appointed or recognized by the appropriate court of any other jurisdiction in which the incapacitated person resides;

(2) a person, as far as known or as can be reasonably ascertained, previously nominated or designated in a writing signed by the incapacitated person prior to incapacity that has not been revoked by the incapacitated person or terminated by a court. This includes writings executed under the Uniform Health-Care Decisions Act, the Mental Health Care Treatment Decisions Act, the Uniform Power of Attorney Act, the Uniform Probate Code and the Uniform Trust Code;

- (3) the spouse of the incapacitated person;
- (4) an adult child of the incapacitated person;
- (5) a parent of the incapacitated person or a person nominated by the will of a deceased parent;
- (6) any relative of the incapacitated person with whom the incapacitated person has resided for more than six months prior to the filing of the petition;
- (7) a person nominated by the person who is caring for the incapacitated person or paying benefits to the incapacitated person; and
- (8) any other person.

B. A person under the priorities of Paragraph (1), (2), (3), (4), (5) or (6) of Subsection A of this section may nominate in writing a person to serve in the person's stead. With respect to persons having equal priority, the court shall select the one who is best qualified of those willing to serve.

C. The court, for good cause, may pass over a person having priority and appoint a person having lesser priority under this section and shall take into consideration:

- (1) the preference of the incapacitated person;
- (2) the geographic location of the proposed conservator;
- (3) the relationship of the proposed conservator to the incapacitated person;
- (4) the ability of the proposed conservator to carry out the powers and duties of the conservatorship; and
- (5) potential financial conflicts of interest between the incapacitated person and the proposed conservator.

D. A professional conservator shall not serve or be appointed as a conservator of the protected person unless the professional conservator is certified and is in good standing with a national or state organization recognized by the supreme court that provides professional certification for conservators."

Chapter 228 Section 12 Laws 2019

SECTION 12. Section 45-5-415 NMSA 1978 (being Laws 1975, Chapter 257, Section 5-415, as amended) is amended to read:

"45-5-415. DEATH, SUBSTITUTION, REVIEW AND TERMINATION OF CONSERVATORSHIP.--

A. On the petition of the incapacitated person or a person interested in the incapacitated person's welfare, the court may remove a conservator for good cause, upon notice and hearing. A temporary conservator may be appointed pursuant to Section 45-5-408 NMSA 1978 pending a final hearing.

B. Upon death, resignation or removal of a conservator, the court may appoint another conservator or make any other order that may be appropriate. If a successor conservator is appointed, the successor conservator succeeds to the title and powers of the predecessor.

C. The incapacitated person or a person interested in the incapacitated person's welfare may petition for an order that the incapacitated person is no longer in need of a conservator and for removal or resignation of the conservator. A request for this order may be made by informal letter to the court or judge. Any person who knowingly interferes with transmission of this kind of request to the court may be adjudged guilty of contempt of court.

D. Unless waived by the court upon the filing of a petition to terminate a conservatorship for reasons other than termination of minority or the death of the person under conservatorship, the court shall follow the same procedures as set forth in Section 45-5-407 NMSA 1978.

E. In a proceeding that increases the conservator's authority or reduces the autonomy of the incapacitated person, the court shall follow the same procedures to safeguard the rights of the incapacitated person as those that apply to a petition for appointment of a conservator, as set forth in Section 45-5-407 NMSA 1978.

F. Following receipt of a request for review, the court shall hold a status hearing, which may be informal, to determine the appropriate order to be entered. If the court finds the incapacitated person is capable of more autonomy than at the time of the original order, the court may enter an order removing the conservator, terminating the conservatorship or reducing the powers previously granted to the conservator. The court has the option to follow all or part of the procedures that apply for the appointment of a conservator, as set forth in Section 45-5-407 NMSA 1978.

G. At any time following the appointment of a conservator, but not later than ten years after the initial appointment of a conservator for an incapacitated person and every ten years thereafter, the court shall:

(1) hold a status hearing, after notice to the conservator, the incapacitated person and appropriate interested persons, to review the status of the incapacitated person's capacity and the continued need for a conservator; or

(2) appoint a court investigator to assess the incapacitated person's capacity. The court investigator shall prepare a detailed report to the court regarding the status of the incapacitated person's capacity and the continued need for a conservator. Any report shall be made available to the conservator, the incapacitated person and interested persons identified by the court.

H. If the court is unable to contact either the conservator or the incapacitated person and neither appears for the status hearing held pursuant to Paragraph (1) of Subsection G of this section, the court shall appoint a guardian ad litem to investigate and report to the court as to the status of the incapacitated person and the conservator. Any report shall be made available to the conservator, the incapacitated person and appropriate interested persons, if known to the court.

I. Following the status hearing or the court's report from the court investigator or guardian ad litem on the status of the incapacitated person and the conservator as provided in Subsection H of this section, the court may enter an appropriate order; provided that, in entering an order that increases the conservator's authority or reduces the autonomy of the incapacitated person, the court shall follow the same procedures to safeguard the rights of the incapacitated person as those that apply to a petition for appointment of a conservator, as set forth in Section 45-5-407 NMSA 1978."

Chapter 228 Section 13 Laws 2019

SECTION 13. Section 45-5-429 NMSA 1978 (being Laws 1975, Chapter 257, Section 5-429) is amended to read:

"45-5-429. INDIVIDUAL LIABILITY OF CONSERVATOR.--

A. Unless otherwise provided in the contract, a conservator is not individually liable on a contract properly entered into in the conservator's fiduciary capacity in the course of administration of the estate unless the conservator fails to reveal the conservator's representative capacity and identify the estate in the contract.

B. The conservator is individually liable for obligations arising from ownership or control of property of the estate or for torts committed in the course of administration of the estate only if the conservator is personally at fault.

C. Claims based on contracts entered into by a conservator in the conservator's fiduciary capacity on obligations arising from ownership or control of the estate or on torts committed in the course of administration of the estate may be asserted against the estate by proceeding against the conservator in the conservator's fiduciary capacity, whether or not the conservator is individually liable for those claims.

D. Any question of liability between the estate and the conservator individually may be determined in a proceeding for accounting, surcharge or indemnification or other appropriate proceeding or action.

E. No person shall request, procure or receive a release or waiver of liability, however denominated, of a conservator, an agent, an affiliate or a designee of a conservator or any other third party acting on behalf of a conservator.

F. A release or waiver of liability that is requested, procured or received contrary to the provisions of this section is void."

Chapter 228 Section 14 Laws 2019

SECTION 14. A new section of the Uniform Probate Code is enacted to read:

"GRIEVANCE AGAINST GUARDIAN OR CONSERVATOR.--

A. A protected person, or any interested person regardless of previous standing, who believes a guardian, conservator or representative payee is breaching the guardian, conservator or representative payee's fiduciary duty or otherwise acting in a manner inconsistent with the Uniform Probate Code or orders of appointment, may file a grievance with the court.

B. Subject to Subsection C of this section, after receiving a grievance filed pursuant to Subsection A of this section, the court:

(1) shall review the grievance and, if necessary to determine the appropriate response, court records related to the guardianship or conservatorship;

(2) shall schedule a hearing if the grievance supports a reasonable belief that:

(a) removal of the guardian or conservator and appointment of a successor may be appropriate;

(b) termination or modification of the guardianship or conservatorship may be appropriate; and

(c) transfer of accounts to a successor representative payee may be appropriate; and

(3) may take any action supported by the evidence, including:

(a) ordering the guardian or conservator to provide the court with a report, accounting, inventory or other specified information;

(b) appointing a guardian ad litem; and

(c) holding a hearing.

C. The court may decline to take the actions provided for in Subsection B of this section if a similar grievance had been filed within six months preceding the filing of the current grievance and the court took the actions provided for in that subsection in considering the earlier grievance.

D. As used in this section, "representative payee" means a person appointed by the federal social security administration to receive and manage the supplemental security income or social security disability income for individuals who cannot fully manage their own income."

Chapter 228 Section 15 Laws 2019

SECTION 15. REPEAL.--Section 45-5-409.1 NMSA 1978 (being Laws 2018, Chapter 10, Section 13) is repealed.

Chapter 228 Section 16 Laws 2019

SECTION 16. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

Approved April 3, 2019

LAWS 2019, CHAPTER 229

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; ADDING PEARS TO THE DEFINITION OF "CIDER" IN THE LIQUOR EXCISE TAX ACT AND THE LIQUOR CONTROL ACT AND RAISING THE MAXIMUM ALCOHOL CONTENT OF CIDER; AMENDING THE DEFINITION OF "MICROBREWERY" IN THE LIQUOR EXCISE TAX ACT; AMENDING RATES OF THE LIQUOR EXCISE TAX; AMENDING THE DEFINITIONS OF "SPIRITUOUS LIQUORS" AND "WINEGROWER" IN THE LIQUOR CONTROL ACT; PROVIDING FOR PRIVATE CELEBRATION CRAFT DISTILLER'S, WINEGROWER'S AND SMALL BREWER'S PERMITS; CHANGING THE HOURS OF OPERATION OF A CRAFT DISTILLER, WINEGROWER AND SMALL BREWER; ESTABLISHING CRITERIA FOR RENEWAL OF A SMALL BREWER'S LICENSE.

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

Chapter 229 Section 1 Laws 2019

SECTION 1. Section 7-17-2 NMSA 1978 (being Laws 1966, Chapter 49, Section 2, as amended by Laws 2013, Chapter 94, Section 1 and by Laws 2013, Chapter 95, Section 1) is amended to read:

"7-17-2. DEFINITIONS.--As used in the Liquor Excise Tax Act:

A. "alcoholic beverages" means distilled or rectified spirits, potable alcohol, brandy, whiskey, rum, gin, aromatic bitters or any similar beverage, including blended or fermented beverages, dilutions or mixtures of one or more of the foregoing containing more than one-half of one percent alcohol by volume, but "alcoholic beverages" does not include medicinal bitters;

B. "beer" means an alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt and hops or other cereals in water and includes porter, beer, ale and stout;

C. "cider" means an alcoholic beverage made from the normal alcoholic fermentation of the juice of sound, ripe apples or pears that contains not less than one-half of one percent of alcohol by volume and not more than eight and one-half percent of alcohol by volume;

D. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

E. "fortified wine" means wine containing more than fourteen percent alcohol by volume when bottled or packaged by the manufacturer, but "fortified wine" does not include:

(1) wine that is sealed or capped by cork closure and aged two years or more;

(2) wine that contains more than fourteen percent alcohol by volume solely as a result of the natural fermentation process and that has not been produced with the addition of wine spirits, brandy or alcohol; or

(3) vermouth and sherry;

F. "microbrewer" means a person who produces less than two hundred thousand barrels of beer per year;

G. "person" includes, to the extent permitted by law, a federal, state or other governmental unit or subdivision or an agency, department, institution or instrumentality thereof;

H. "small winegrower" means a winegrower who produces less than one million five hundred thousand liters of wine in a year;

I. "spirituous liquors" means alcoholic beverages, except fermented beverages such as wine, beer, cider and ale;

J. "wholesaler" means a person holding a license issued under Section 60-6A-1 NMSA 1978 or a person selling alcoholic beverages that were not purchased from a person holding a license issued under Section 60-6A-1 NMSA 1978;

K. "wine" means an alcoholic beverage other than cider that is obtained by the fermentation of the natural sugar contained in fruit or other agricultural products, with or without the addition of sugar or other products, and that does not contain more than twenty-one percent alcohol by volume; and

L. "winegrower" means a person licensed pursuant to Section 60-6A-11 NMSA 1978."

Chapter 229 Section 2 Laws 2019

SECTION 2. Section 7-17-5 NMSA 1978 (being Laws 1993, Chapter 65, Section 8, as amended by Laws 2013, Chapter 94, Section 2 and by Laws 2013, Chapter 95, Section 2) is amended to read:

"7-17-5. IMPOSITION AND RATE OF LIQUOR EXCISE TAX.--

A. There is imposed on a wholesaler who sells alcoholic beverages on which the tax imposed by this section has not been paid an excise tax, to be referred to as the "liquor excise tax", at the following rates on alcoholic beverages sold:

- (1) on spirituous liquors, except as provided in Paragraph (9) of this subsection, one dollar sixty cents (\$1.60) per liter;
- (2) on beer, except as provided in Paragraph (5) of this subsection, forty-one cents (\$.41) per gallon;
- (3) on wine, except as provided in Paragraphs (4) and (6) of this subsection, forty-five cents (\$.45) per liter;
- (4) on fortified wine, one dollar fifty cents (\$1.50) per liter;
- (5) on beer manufactured or produced by a microbrewer and sold in this state, provided that proof is furnished to the department that the beer was manufactured or produced by a microbrewer, eight cents (\$.08) per gallon on the first thirty thousand barrels sold, twenty-eight cents (\$.28) per gallon for all barrels sold over thirty thousand barrels but less than sixty thousand barrels and forty-one cents (\$.41) per gallon for sixty thousand or more barrels sold;
- (6) on wine manufactured or produced by a small winegrower and sold in this state, provided that proof is furnished to the department that the wine was manufactured or produced by a small winegrower:
 - (a) ten cents (\$.10) per liter on the first eighty thousand liters sold;
 - (b) twenty cents (\$.20) per liter on each liter sold over eighty thousand liters but not over nine hundred fifty thousand liters; and
 - (c) thirty cents (\$.30) per liter on each liter sold over nine hundred fifty thousand liters but not over one million five hundred thousand liters;

(7) on cider, except as provided in Paragraph (8) of this subsection, forty-one cents (\$.41) per gallon;

(8) on cider manufactured or produced by a small winegrower and sold in this state, provided that proof is furnished to the department that the cider was manufactured or produced by a small winegrower, eight cents (\$.08) per gallon on the first thirty thousand barrels sold, twenty-eight cents (\$.28) per gallon for all barrels sold over thirty thousand barrels but less than sixty thousand barrels and forty-one cents (\$.41) per gallon for sixty thousand or more barrels sold; and

(9) on spirituous liquors manufactured or produced by a craft distiller licensed pursuant to Section 60-6A-6.1 NMSA 1978, provided that proof is provided to the department that the spirituous liquors were manufactured or produced by a craft distiller, for products up to ten percent alcohol by volume, eight cents (\$.08) per liter for the first two hundred fifty thousand liters sold and twenty-eight cents (\$.28) per liter for the next two hundred fifty thousand liters sold and for products over ten percent alcohol by volume, thirty-two cents (\$.32) per liter on the first one hundred seventy-five thousand liters sold and sixty-five cents (\$.65) per liter on the next two hundred thousand liters sold.

B. The volume of wine transferred from one winegrower to another winegrower for processing, bottling or storage and subsequent return to the transferor shall be excluded pursuant to Section 7-17-6 NMSA 1978 from the taxable volume of wine of the transferee. Wine transferred from an initial winegrower to a second winegrower remains a tax liability of the transferor, provided that if the wine is transferred to the transferee for the transferee's use or for resale, the transferee then assumes the liability for the tax due pursuant to this section.

C. A transfer of wine from a winegrower to a wholesaler for distribution of the wine transfers the liability for payment of the liquor excise tax to the wholesaler upon the sale of the wine by the wholesaler."

Chapter 229 Section 3 Laws 2019

SECTION 3. Section 60-3A-3 NMSA 1978 (being Laws 1981, Chapter 39, Section 3, as amended by Laws 2016, Chapter 73, Section 1 and by Laws 2016, Chapter 76, Section 1) is amended to read:

"60-3A-3. DEFINITIONS.--As used in the Liquor Control Act:

A. "alcoholic beverages" means distilled or rectified spirits, potable alcohol, powdered alcohol, frozen or freeze-dried alcohol, brandy, whiskey, rum, gin and

aromatic bitters bearing the federal internal revenue strip stamps or any similar alcoholic beverage, including blended or fermented beverages, dilutions or mixtures of one or more of the foregoing containing more than one-half percent alcohol, but excluding medicinal bitters;

B. "beer" means an alcoholic beverage obtained by the fermentation of any infusion or decoction of barley, malt and hops or other cereals in water, and includes porter, beer, ale and stout;

C. "brewer" means a person who owns or operates a business for the manufacture of beer;

D. "cider" means an alcoholic beverage made from the normal alcoholic fermentation of the juice of sound, ripe apples or pears that contains not less than one-half of one percent alcohol by volume and not more than eight and one-half percent alcohol by volume;

E. "club" means:

(1) any nonprofit group, including an auxiliary or subsidiary group, organized and operated under the laws of this state, with a membership of not less than fifty members who pay membership dues at the rate of not less than five dollars (\$5.00) per year and who, under the constitution and bylaws of the club, have all voting rights and full membership privileges, and which group is the owner, lessee or occupant of premises used exclusively for club purposes and which group the director finds:

(a) is operated solely for recreation, social, patriotic, political, benevolent or athletic purposes; and

(b) has been granted an exemption by the United States from the payment of the federal income tax as a club under the provisions of Section 501(a) of the Internal Revenue Code of 1986, as amended, or, if the applicant has not operated as a club for a sufficient time to be eligible for the income tax exemption, it must execute and file with the director a sworn letter of intent declaring that it will, in good faith, apply for an income tax exemption as soon as it is eligible; or

(2) an airline passenger membership club operated by an air common carrier that maintains or operates a clubroom at an international airport terminal. As used in this paragraph, "air common carrier" means a person engaged in regularly scheduled air transportation between fixed termini under a certificate of public convenience and necessity issued by the federal aviation administration;

F. "commission" means the secretary of public safety when the term is used in reference to the enforcement and investigatory provisions of the Liquor Control Act and means the superintendent of regulation and licensing when the term is used in reference to the licensing provisions of the Liquor Control Act;

G. "department" means the New Mexico state police division of the department of public safety when the term is used in reference to the enforcement and investigatory provisions of the Liquor Control Act and means the director of the alcohol and gaming division of the regulation and licensing department when the term is used in reference to the licensing provisions of the Liquor Control Act;

H. "director" means the chief of the New Mexico state police division of the department of public safety when the term is used in reference to the enforcement and investigatory provisions of the Liquor Control Act and means the director of the alcohol and gaming division of the regulation and licensing department when the term is used in reference to the licensing provisions of the Liquor Control Act;

I. "dispenser" means a person licensed under the provisions of the Liquor Control Act selling, offering for sale or having in the person's possession with the intent to sell alcoholic beverages both by the drink for consumption on the licensed premises and in unbroken packages, including growlers, for consumption and not for resale off the licensed premises;

J. "distiller" means a person engaged in manufacturing spirituous liquors;

K. "golf course" means a tract of land and facilities used for playing golf and other recreational activities that includes tees, fairways, greens, hazards, putting greens, driving ranges, recreational facilities, patios, pro shops, cart paths and public and private roads that are located within the tract of land;

L. "governing body" means the board of county commissioners of a county or the city council or city commissioners of a municipality;

M. "growler" means a clean, refillable, resealable container that has a liquid capacity that does not exceed one gallon and that is intended and used for the sale of beer, wine or cider for consumption off premises;

N. "hotel" means an establishment or complex having a resident of New Mexico as a proprietor or manager and where, in consideration of payment, meals and lodging are regularly furnished to the general public. The establishment or complex must maintain for the use of its guests a minimum of twenty-five sleeping rooms;

O. "licensed premises" means the contiguous areas or areas connected by indoor passageways of a structure and the outside dining, recreation and lounge areas of the structure and the grounds and vineyards of a structure that is a winery that are under the direct control of the licensee and from which the licensee is authorized to sell, serve or allow the consumption of alcoholic beverages under the provisions of its license; provided that in the case of a restaurant, "licensed premises" includes a restaurant that has operated continuously in two separate structures since July 1, 1987 and that is located in a local option district that has voted to disapprove the transfer of liquor licenses into that local option district, hotel, golf course, ski area or racetrack and all public and private rooms, facilities and areas in which alcoholic beverages are sold or served in the customary operating procedures of the restaurant, hotel, golf course, ski area or racetrack. "Licensed premises" also includes rural dispenser licenses located in the unincorporated areas of a county with a population of less than thirty thousand, located in buildings in existence as of January 1, 2012, that are within one hundred fifty feet of one another and that are under the direct control of the license holder;

P. "local option district" means a county that has voted to approve the sale, serving or public consumption of alcoholic beverages, or an incorporated municipality that falls within a county that has voted to approve the sale, serving or public consumption of alcoholic beverages, or an incorporated municipality of over five thousand population that has independently voted to approve the sale, serving or public consumption of alcoholic beverages under the terms of the Liquor Control Act or any former act;

Q. "manufacturer" means a distiller, rectifier, brewer or winer;

R. "minor" means a person under twenty-one years of age;

S. "package" means an immediate container of alcoholic beverages that is filled or packed by a manufacturer or wine bottler for sale by the manufacturer or wine bottler to wholesalers;

T. "person" means an individual, corporation, firm, partnership, copartnership, association or other legal entity;

U. "rectifier" means a person who blends, mixes or distills alcohol with other liquids or substances for the purpose of making an alcoholic beverage for the purpose of sale other than to the consumer by the drink, and includes all bottlers of spirituous liquors;

V. "restaurant" means an establishment having a New Mexico resident as a proprietor or manager that is held out to the public as a place where meals are prepared and served primarily for on-premises consumption to the general public in consideration of payment and that has a dining room, a kitchen and the employees necessary for preparing, cooking and serving meals; provided that "restaurant" does not include establishments as defined in rules promulgated by the director serving only hamburgers, sandwiches, salads and other fast foods;

W. "retailer" means a person licensed under the provisions of the Liquor Control Act selling, offering for sale or having in the person's possession with the intent to sell alcoholic beverages in unbroken packages, including growlers, for consumption and not for resale off the licensed premises;

X. "ski area" means a tract of land and facilities for the primary purpose of alpine skiing, snowboarding or other snow sports with trails, parks and at least one chairlift with uphill capacity and may include facilities necessary for other seasonal or year-round recreational activities;

Y. "spirituous liquors" means alcoholic beverages as defined in Subsection A of this section except fermented beverages such as wine, beer, cider and ale;

Z. "wholesaler" means a person whose place of business is located in New Mexico and who sells, offers for sale or possesses for the purpose of sale any alcoholic beverages for resale by the purchaser;

AA. "wine" includes the words "fruit juices" and means alcoholic beverages obtained by the fermentation of the natural sugar contained in fruit or other agricultural products, with or without the addition of sugar or other products, that do not contain less than one-half percent nor more than twenty-one percent alcohol by volume;

BB. "wine bottler" means a New Mexico wholesaler who is licensed to sell wine at wholesale for resale only and who buys wine in bulk and bottles it for wholesale resale;

CC. "winegrower" means a person who owns or operates a business for the manufacture of wine or cider;

DD. "winer" means a winegrower; and

EE. "winery" means a facility in which a winegrower manufactures and stores wine or cider."

Chapter 229 Section 4 Laws 2019

SECTION 4. Section 60-6A-6.1 NMSA 1978 (being Laws 2011, Chapter 110, Section 3, as amended) is amended to read:

"60-6A-6.1. CRAFT DISTILLER'S LICENSE.--

A. In any local option district, a person qualified pursuant to the provisions of the Liquor Control Act, except as otherwise provided in the Domestic Winery, Small Brewery and Craft Distillery Act, may apply for and be issued a craft distiller's license subject to the following conditions:

(1) the applicant submits evidence to the department that the applicant has a valid and appropriate permit issued by the federal government to be a craft distiller;

(2) renewal of the license shall be conditioned upon:

(a) no less than sixty percent of the gross receipts from the sale of spirituous liquors for the preceding twelve months of the licensee's operation being derived from the sale of spirituous liquors produced by the licensee;

(b) the manufacture of no less than one thousand proof gallons of spirituous liquors per license year at the licensee's premises; and

(c) submission to the department by the licensee of a report showing the number of proof gallons of spirituous liquors manufactured by the licensee at the licensee's premises and the annual gross receipts from the sale of spirituous liquors produced by the licensee and from the licensee's sale of distilled spirituous liquors produced by other New Mexico licensed craft distillers;

(3) a craft distiller's license shall not be transferred from person to person or from one location to another;

(4) the provisions of Section 60-6A-18 NMSA 1978 shall not apply to a craft distiller's license; and

(5) nothing in this section shall prevent a craft distiller from receiving other licenses pursuant to the Liquor Control Act.

B. A person to whom a craft distiller's license is issued pursuant to this section may do any of the following:

- (1) manufacture or produce spirituous liquors, including aging, filtering, blending, mixing, flavoring, coloring, bottling and labeling;
- (2) store, transport, import or export spirituous liquors;
- (3) sell only spirituous liquors that are packaged by or for the craft distiller to a person holding a wholesaler's license, a craft distiller's license or a manufacturer's license;
- (4) deal in warehouse receipts for spirituous liquors;
- (5) buy spirituous liquors from other persons, including licensees and permittees under the Liquor Control Act, for use in blending, flavoring, mixing or bottling of spirituous liquors;
- (6) be deemed a manufacturer for purposes of the Gross Receipts and Compensating Tax Act;
- (7) conduct spirituous liquor tastings and sell, by the glass or by the bottle, or in unbroken packages for consumption off the premises but not for resale, spirituous liquors of the craft distiller's own production or spirituous liquors produced by another New Mexico craft distiller or New Mexico manufacturer on the craft distiller's premises; and
- (8) at no more than three other locations off the craft distiller's premises, after the craft distiller has paid the applicable fee for a craft distiller's off-premises permit, after the director has determined that the off-premises locations meet the requirements of the Liquor Control Act and department rules for new liquor license locations and after the director has issued a craft distiller's off-premises permit for each off-premises location, conduct spirituous liquor tastings and sell by the glass, or in unbroken packages for consumption and not for resale, spirituous liquors produced and bottled by or for the craft distiller or spirituous liquors produced and bottled by or for another New Mexico craft distiller or manufacturer.

C. For a public or private celebration on or off the craft distiller's premises in any local option district permitting the sale of alcoholic beverages, a craft distiller shall pay ten dollars (\$10.00) to the department for a "craft distiller's public celebration permit" or a "craft distiller's private celebration permit" to be issued under rules adopted by the director. Upon request, the department may issue to a craft distiller a public celebration permit for a location at the public celebration that is to be shared with other craft distillers, small brewers and winegrowers.

D. At private celebrations on or off the craft distiller's premises after the craft distiller has paid the applicable fees and been issued the appropriate permit, the craft distiller may sell by the glass spirituous liquors produced by or for the craft distiller.

E. Sales and tastings of spirituous liquors authorized in this section shall be permitted during the hours set forth in Subsection A of Section 60-7A-1 NMSA 1978 and between the hours of 11:00 a.m. and midnight on Sunday and shall conform to the limitations regarding Christmas day sales and the expansion of Sunday sales hours to 2:00 a.m. on January 1, when December 31 falls on a Sunday as set forth in Section 60-7A-1 NMSA 1978.

F. As used in this section:

(1) "private celebration" means any celebratory activity that is held in a private or public venue not open to the general public and for which attendance is subject to private invitation; and

(2) "public celebration" includes any state or county fair, community fiesta, cultural or artistic event, sporting competition of a seasonal nature or activities held on an intermittent basis."

Chapter 229 Section 5 Laws 2019

SECTION 5. Section 60-6A-11 NMSA 1978 (being Laws 1981, Chapter 39, Section 28, as amended by Laws 2015, Chapter 102, Section 4 and by Laws 2015, Chapter 105, Section 1 and also by Laws 2015, Chapter 124, Section 1) is amended to read:

"60-6A-11. WINEGROWER'S LICENSE.--

A. A person in this state who produces wine or cider is exempt from the procurement of any other license pursuant to the terms of the Liquor Control Act, but not from the procurement of a winegrower's license. Except during periods of shortage or reduced availability, at least fifty percent of a winegrower's overall annual production of wine shall be produced from grapes or other agricultural products grown in this state pursuant to rules adopted by the director; provided, however, that, for purposes of determining annual production and compliance with the fifty percent New Mexico grown provision of this subsection, the calculation of a winegrower's overall annual production of wine shall not include the winegrower's production of wine for out-of-state wine producer license holders.

B. A person issued a winegrower's license pursuant to this section may do any of the following:

(1) manufacture or produce wine or cider, including blending, mixing, flavoring, coloring, bottling and labeling, whether the wine or cider is manufactured or produced for a winegrower or an out-of-state wine producer holding a permit issued pursuant to the Federal Alcohol Administration Act and a valid license in a state that authorizes the wine or cider producer to manufacture, produce, store or sell wine or cider;

(2) store, transport, import or export wines or ciders;

(3) sell wines or ciders to a holder of a New Mexico winegrower's, wine wholesaler's, wholesaler's or wine exporter's license or to a winegrower's agent;

(4) transport not more than two hundred cases of wine in a calendar year to another location within New Mexico by common carrier;

(5) deal in warehouse receipts for wine or cider;

(6) sell wines or ciders in other states or foreign jurisdictions to the holders of a license issued under the authority of that state or foreign jurisdiction authorizing the purchase of wine or cider;

(7) buy wine or cider or distilled wine products from other persons, including licensees and permittees under the Liquor Control Act, for use in blending, mixing or bottling of wines or ciders;

(8) buy or otherwise obtain beer from a small brewer for the purposes described in this subsection;

(9) conduct wine or cider tastings and sell, by the glass or by the bottle, or sell in unbroken packages for consumption off the premises, but not for resale, wine or cider of the winegrower's own production, wine or cider produced by another New Mexico winegrower on the winegrower's premises or beer produced and bottled by or for a small brewer pursuant to Section 60-6A-26.1 NMSA 1978;

(10) at no more than three off-premises locations, conduct wine or cider tastings, sell by the glass and sell in unbroken packages for consumption off premises, but not for resale, wine or cider of the winegrower's own production, wine or cider produced by another New Mexico winegrower or beer produced and bottled by or for a small brewer pursuant to Section 60-6A-26.1 NMSA 1978 after the director has

determined that the off-premises locations meet the requirements of the Liquor Control Act and the department rules for new liquor license locations;

(11) be deemed a manufacturer for purposes of the Gross Receipts and Compensating Tax Act;

(12) at public celebrations on or off the winegrower's premises, after the winegrower has paid the applicable fees and been issued the appropriate permit, to conduct wine or cider tastings, sell by the glass or the bottle, or sell in unbroken packages, for consumption off premises, but not for resale, wine or cider produced by or for the winegrower;

(13) at private celebrations on or off the winegrower's premises after the winegrower has paid the applicable fees and been issued the appropriate permit, sell:

(a) by the glass or bottle, wine or cider produced by or for the winegrower; or

(b) by the glass, beer produced by a small brewer pursuant to Section 60-6A-26.1 NMSA 1978;

(14) sell wine or cider in a growler for consumption off premises; and

(15) in accordance with the provisions of this section that relate to the sale of wine or cider, accept and fulfill an order for wine or cider that is placed via an internet website, whether the financial transaction related to the order is administered by the licensee or the licensee's agent.

C. Sales of wine or cider or beer as provided for in this section shall be permitted between the hours of 7:00 a.m. and midnight Monday through Saturday, and the holder of a winegrower's license or public celebration permit may conduct wine or cider tastings and sell, by the glass or bottle, or sell in unbroken packages for consumption off premises, but not for resale, wine or cider of the winegrower's own production or beer produced and bottled by or for a small brewer pursuant to Section 60-6A-26.1 NMSA 1978 on the winegrower's premises between the hours of 11:00 a.m. and midnight on Sunday.

D. At public and private celebrations on or off the winegrower's premises in any local option district permitting the sale of alcoholic beverages, the holder of a winegrower's license shall pay ten dollars (\$10.00) to the alcohol and gaming division of the regulation and licensing department for a "winegrower's public celebration permit" or a "winegrower's private celebration permit" to be issued under rules adopted by the

director. Upon request, the alcohol and gaming division of the regulation and licensing department may issue to a holder of a winegrower's license a public celebration permit for a location at the public celebration that is to be shared with other winegrowers and small brewers.

E. Every application for the issuance or annual renewal of a winegrower's license shall be on a form prescribed by the director and accompanied by a license fee to be computed as follows on the basis of total annual wine or cider produced or blended:

(1) less than five thousand gallons per year, twenty-five dollars (\$25.00) per year;

(2) between five thousand and one hundred thousand gallons per year, one hundred dollars (\$100) per year; and

(3) over one hundred thousand gallons per year, two hundred fifty dollars (\$250) per year.

F. As used in this section:

(1) "private celebration" means any celebratory activity that is held in a private or public venue not open to the general public and for which attendance is subject to private invitation; and

(2) "public celebration" includes any state or county fair, community fiesta, cultural or artistic event, sporting competition of a seasonal nature or activities held on an intermittent basis."

Chapter 229 Section 6 Laws 2019

SECTION 6. Section 60-6A-26.1 NMSA 1978 (being Laws 1985, Chapter 217, Section 5, as amended by Laws 2015, Chapter 102, Section 5 and by Laws 2015, Chapter 124, Section 2) is amended to read:

"60-6A-26.1. SMALL BREWER'S LICENSE.--

A. In a local option district, a person qualified pursuant to the provisions of the Liquor Control Act, except as otherwise provided in the Domestic Winery, Small Brewery and Craft Distillery Act, may apply for and be issued a small brewer's license.

B. A small brewer's license authorizes the person to whom it is issued to:

- (1) manufacture or produce beer;
- (2) package, label and export beer, whether manufactured, bottled or produced by the licensee or any other person;
- (3) sell only beer that is packaged by or for the licensee to a person holding a wholesaler's license or a small brewer's license;
- (4) deal in warehouse receipts for beer;
- (5) conduct beer tastings and sell for consumption on or off premises, but not for resale, beer produced and bottled by, or produced and packaged for, the licensee, beer produced and bottled by or for another New Mexico small brewer on the small brewer's premises or wine or cider produced by a winegrower pursuant to Section 60-6A-11 NMSA 1978;
- (6) be deemed a manufacturer for purposes of the Gross Receipts and Compensating Tax Act;
- (7) at public celebrations off the small brewer's premises, after the small brewer has paid the applicable fee for a small brewer's public celebration permit, conduct tastings and sell by the glass or in unbroken packages, but not for resale, beer produced and bottled by or for the small brewer or wine or cider produced by a winegrower pursuant to Section 60-6A-11 NMSA 1978;
- (8) at private celebrations on or off the small brewer's premises after the small brewer has paid the applicable fees for a private celebration permit, sell by the glass, beer produced and bottled by or for the small brewer or wine or cider produced by a winegrower pursuant to Section 60-6A-11 NMSA 1978;
- (9) buy or otherwise obtain wine or cider from a winegrower;
- (10) for the purposes described in this subsection, at no more than three other locations off the small brewer's premises, after the small brewer has paid the applicable fee for a small brewer's off-premises permit, after the director has determined that the off-premises locations meet the requirements of the Liquor Control Act and department rules for new liquor license locations and after the director has issued a small brewer's off-premises permit for each off-premises location, conduct beer tastings and sell by the glass or in unbroken packages for consumption off the small brewer's off-premises location, but not for resale, beer produced and bottled by or for the small brewer, beer produced and bottled by or for another New Mexico small brewer or wine or cider produced by a winegrower pursuant to Section 60-6A-11 NMSA 1978;

(11) allow members of the public, on the licensed premises and under the direct supervision of the licensee, to manufacture beer for personal consumption and not for resale using the licensee's equipment and ingredients; and

(12) sell beer in a growler for consumption off premises.

C. Renewal of a small brewer's license shall be conditioned upon submission to the department by the licensee of a report showing proof that:

(1) no less than fifty percent of the gross receipts from the sale of beer for the preceding twelve months of the licensee's operation are derived from the sale of beer produced by the licensee; or

(2) the licensee manufactures no less than fifty barrels of beer per license year at the licensee's premises.

D. At public and private celebrations on or off the small brewer's premises in a local option district permitting the sale of alcoholic beverages, the holder of a small brewer's license shall pay ten dollars (\$10.00) to the alcohol and gaming division of the regulation and licensing department for a "small brewer's public celebration permit" or a "small brewer's private celebration permit" to be issued under rules adopted by the director. Upon request, the alcohol and gaming division of the regulation and licensing department may issue to a holder of a small brewer's license a public celebration permit for a location at the public celebration that is to be shared with other small brewers and winegrowers.

E. Sales and tastings of beer, wine or cider authorized in this section shall be permitted during the hours set forth in Subsection A of Section 60-7A-1 NMSA 1978 and between the hours of 11:00 a.m. and midnight on Sunday and shall conform to the limitations regarding Christmas and voting-day sales found in Section 60-7A-1 NMSA 1978 and the expansion of Sunday sales hours to 2:00 a.m. on January 1, when December 31 falls on a Sunday.

F. As used in this section:

(1) "private celebration" means any celebratory activity that is held in a private or public venue not open to the general public and for which attendance is subject to private invitation; and

(2) "public celebration" includes any state or county fair, community fiesta, cultural or artistic event, sporting competition of a seasonal nature or activities held on an intermittent basis."

Chapter 229 Section 7 Laws 2019

SECTION 7. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

Senate Bill 413, aa

Approved April 3, 2019

LAWS 2019, CHAPTER 230

AN ACT

RELATING TO HIGHER EDUCATION; ENACTING THE GROW YOUR OWN TEACHERS ACT; PROVIDING SCHOLARSHIPS FOR EDUCATIONAL ASSISTANTS WHO WANT TO BECOME TEACHERS; CREATING A FUND; ALLOWING FOR PROFESSIONAL LEAVE FOR CLASSES AND PRACTICE TEACHING; PROVIDING FOR APPROPRIATE DISTANCE EDUCATION FOR EDUCATIONAL ASSISTANTS WHO DO NOT LIVE NEAR A PUBLIC POST-SECONDARY TEACHER PREPARATION PROGRAM.

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

Chapter 230 Section 1 Laws 2019

SECTION 1. SHORT TITLE.--Sections 1 through 8 of this act may be cited as the "Grow Your Own Teachers Act".

Chapter 230 Section 2 Laws 2019

SECTION 2. DEFINITIONS.--As used in the Grow Your Own Teachers Act:

- A. "department" means the higher education department;
- B. "educational assistant" means a United States citizen and resident of New Mexico who has worked as an educational assistant in a public school for at least two years and is in good standing with the school district and who is enrolled in or accepted by an undergraduate teacher preparation program at a regionally accredited public post-secondary educational institution in New Mexico;

C. "public school" includes constitutional special schools and state institutions and state agencies that educate children and employ educational assistants; and

D. "teacher preparation program" means a program that has been formally approved as meeting the requirements of the public education department and that leads to level one teacher licensure, including a program in a two-year post-secondary educational institution that meets the requirements for a teacher education transfer module established pursuant to Subsection C of Section 21-1B-4 NMSA 1978.

Chapter 230 Section 3 Laws 2019

SECTION 3. FUND CREATED--METHOD OF PAYMENT.--The "grow your own teachers fund" is created in the state treasury. The fund consists of money appropriated for scholarships pursuant to the Grow Your Own Teachers Act, earnings from investment of the fund, gifts, grants and donations to the fund. Money in the fund shall not revert at the end of a fiscal year. The fund shall be administered by the department. All payments of money for loans shall be made on warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of higher education or the secretary's designated representative.

Chapter 230 Section 4 Laws 2019

SECTION 4. EDUCATIONAL ASSISTANTS--TEACHER PREPARATION--PROFESSIONAL LEAVE.--

A. An educational assistant who wants to become a teacher may petition the public school in which the educational assistant is employed to grant professional leave for college classes, examinations and practice teaching, as needed. The public school shall grant professional leave if the educational assistant is a recipient of a scholarship pursuant to the Grow Your Own Teachers Act.

B. If an educational assistant who is accepted into or enrolled in a teacher preparation program offered by a regionally accredited public post-secondary educational institution in New Mexico does not live within a reasonable distance of the public post-secondary educational institution's campus, the public school shall allow the educational assistant to use the distance education resources of the school district to take classes.

Chapter 230 Section 5 Laws 2019

SECTION 5. CONDITIONS FOR ELIGIBILITY.--A scholarship may be awarded to an educational assistant who:

A. has not earned appropriate educational credentials to be licensed as a teacher by the public education department;

B. has demonstrated financial need consistent with the criteria promulgated by the department; and

C. has complied with other rules promulgated by the department to carry out the provisions of the Grow Your Own Teachers Act.

Chapter 230 Section 6 Laws 2019

SECTION 6. SCHOLARSHIP AUTHORIZED--ADMINISTRATION-- PREFERENCE IN SCHOLARSHIP AWARDS.--

A. The department shall administer the Grow Your Own Teachers Act and shall promulgate rules to carry out the provisions of that act.

B. Scholarships shall be awarded to qualified educational assistants. Qualifications shall be determined by rule of the department.

C. The department shall allocate money to public post-secondary educational institutions based on a student need formula calculated according to income reported on the free application for federal student aid and on the number of students enrolled in each public education department-approved teacher preparation program at a New Mexico public post-secondary educational institution.

D. Public post-secondary educational institutions shall make awards to qualifying eligible students based on financial need in an amount not to exceed six thousand dollars (\$6,000) per year for not more than five years as determined by rule of the department.

E. Money for the scholarship shall be placed in an account at the public post-secondary educational institution in the name of the educational assistant, and the money may be drawn upon to pay educational expenses charged by the institution, including tuition, fees, books and course supplies.

Chapter 230 Section 7 Laws 2019

SECTION 7. DURATION OF SCHOLARSHIP.--Each scholarship is for a period of one semester. A scholarship may be renewed, as long as the educational assistant continues to meet the conditions of eligibility, until the educational assistant graduates from a public post-secondary educational institution.

Chapter 230 Section 8 Laws 2019

SECTION 8. TERMINATION OF SCHOLARSHIP.--A scholarship is terminated upon occurrence of one or more of the following:

- A. the educational assistant withdraws from the public post-secondary educational institution or from the teacher preparation program, or the educational assistant fails to remain at least a half-time student;
- B. the educational assistant fails to achieve satisfactory academic progress; or
- C. the educational assistant is in substantial noncompliance with the Grow Your Own Teachers Act or the rules promulgated pursuant to that act.

Chapter 230 Section 9 Laws 2019

SECTION 9. TEMPORARY PROVISION--HIGHER EDUCATION DEPARTMENT RULES--CONSULTATION WITH PUBLIC EDUCATION DEPARTMENT AND EDUCATIONAL ASSISTANTS--PUBLIC EDUCATION DEPARTMENT TO REPORT FINDINGS TO PUBLIC SCHOOLS.--

A. At any time before releasing proposed initial rules for the Grow Your Own Teachers Act, the higher education department shall consult with the public education department, and the two departments shall convene or survey a geographically representative sample of educational assistants who want to pursue higher education and teachers who began their education careers as educational assistants to hear problems and concerns based on their experiences, challenges and expectations in pursuing higher education in general and teacher licensure in particular. The higher education department shall take those problems and concerns into account when issuing proposed rules.

B. The public education department shall report the findings from the consultation or survey of educational assistants and teachers who began their career as educational assistants to all educational assistants in school districts, charter schools, constitutional special schools, state institutions and state agencies that employ educational assistants and shall include copies of the Grow Your Own Teachers Act and the proposed rules. _____

Approved April 4, 2019

LAWS 2019, CHAPTER 231

AN ACT

RELATING TO LIBRARIES; REQUIRING THE LOCAL GOVERNMENT DIVISION OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO CONDUCT A FEASIBILITY STUDY ON A LIBRARY IN CHAPARRAL.

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

Chapter 231 Section 1 Laws 2019

SECTION 1. TEMPORARY PROVISION--FEASIBILITY STUDY--CHAPARRAL LIBRARY.--

A. The local government division of the department of finance and administration shall:

(1) conduct an analysis and feasibility study of the siting, planning, design and construction of a library and multi-use complex to provide for the health and well-being of the residents of Chaparral; and

(2) recommend an implementation schedule for the siting, planning, design and construction of such facility.

B. The feasibility study shall assess:

(1) the needs of the community that can be met by the construction of a library and multi-use complex, including:

(a) library resources, including reading material, audiobooks and access to computer and internet services and multimedia technology;

(b) temporary facilities for public agencies to provide services and support to local residents;

(c) office and meeting spaces for nonprofit organizations to offer health and well-being services, including physical health and dental services, domestic violence and sexual assault counseling, legal aid clinics, taxpayer assistance, financial

literacy classes, fitness and nutritional support, entrepreneurial and small business advising and resume and job skills training; and

(d) public space for town halls and other community meetings;

(2) whether the library and multi-use complex should be constructed separately or as a single facility; and

(3) options for siting of the facility or facilities, including a cost-benefit analysis of each option. The cost-benefit analysis shall consider:

(a) convenience for the residents of Chaparral;

(b) safe and secure access and visibility;

(c) opportunities to leverage public or private property and resources for cost savings; and

(d) availability of appropriate property and any legal or physical siting constraints.

C. In conducting the feasibility study, the division shall consider input from residents of Chaparral and elected officials representing the community at the local, state and federal levels.

D. The implementation schedule shall recommend time line and budget phases for all aspects of the project, including siting, planning, design and construction.

E. The study is contingent on funding received through legislative appropriation. _____

House Bill 27

Approved April 4, 2019

LAWS 2019, CHAPTER 232

AN ACT

RELATING TO PUBLIC SCHOOL PERSONNEL; REDUCING THE PROBATIONARY PERIOD FOR NONLICENSED SCHOOL EMPLOYEES AND LICENSED EDUCATIONAL ASSISTANTS TO ONE YEAR.

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

Chapter 232 Section 1 Laws 2019

SECTION 1. Section 22-10A-24 NMSA 1978 (being Laws 1986, Chapter 33, Section 22, as amended) is amended to read:

"22-10A-24. TERMINATION DECISIONS--LOCAL SCHOOL BOARD--GOVERNING AUTHORITY OF A STATE AGENCY--PROCEDURES.--

A. A local school board or governing authority of a state agency may terminate a licensed school employee, excluding licensed educational assistants who have not been offered and accepted the third consecutive contract, for any reason it deems sufficient. A local school board or governing authority of a state agency may terminate a nonlicensed school employee or a licensed educational assistant with less than one year of employment for any reason it deems sufficient. Upon request of the employee, the local superintendent or state agency administrator shall provide written reasons for the decision to terminate. The reasons shall be provided within ten working days of the request. The reasons shall not be publicly disclosed by the local superintendent, state agency administrator, local school board or governing authority. The reasons shall not provide a basis for contesting the decision under the School Personnel Act.

B. Before terminating a nonlicensed school employee or a licensed educational assistant, the local school board or governing authority shall serve the employee or assistant with a written notice of termination.

C. A licensed school employee who has been employed by a school district or state agency for more than two consecutive years or a nonlicensed school employee or licensed educational assistant who has been employed for more than one year and who receives a notice of termination pursuant to either Section 22-10A-22 NMSA 1978 or this section may request an opportunity to make a statement to the local school board or governing authority on the decision to terminate the employee or assistant by submitting a written request to the local superintendent or state agency administrator within five working days from the date written notice of termination is served upon the employee or assistant. The employee or assistant may also request in writing the reasons for the termination action. The local superintendent or state agency administrator shall provide written reasons for the notice of termination to the employee or assistant within five working days from the date the written request for a meeting and

the written request for the reasons were received by the local superintendent or state agency administrator. Neither the local superintendent or state agency administrator nor the local school board or governing authority shall publicly disclose its reasons for termination.

D. A local school board or governing authority may not terminate a licensed school employee who has been offered and accepted a third-year contract or a nonlicensed school employee or licensed educational assistant who has been employed by a school district or state agency for more than one year without just cause.

E. The employee's request pursuant to Subsection C of this section shall be granted if the employee responds to the local superintendent's or state agency administrator's written reasons as provided in Subsection C of this section by submitting in writing to the local superintendent or state agency administrator a contention that the decision to terminate was made without just cause. The written contention shall specify the grounds on which it is contended that the decision was without just cause and shall include a statement of the facts that the employee believes support the employee's contention. This written statement shall be submitted within ten working days from the date the employee receives the written reasons from the local superintendent or state agency administrator. The submission of this statement constitutes a representation on the part of the employee that the employee can support the employee's contentions and an acknowledgment that the local school board or governing authority may offer the causes for its decision and any relevant data in its possession in rebuttal of the employee's contentions.

F. A local school board or governing authority shall meet to hear the employee's statement in no less than five or more than fifteen working days after the local school board or governing authority receives the statement. The hearing shall be conducted informally in accordance with the provisions of the Open Meetings Act. The employee and the local superintendent or state agency administrator may each be accompanied by a person of the employee's and the local superintendent's or state agency administrator's choice. First, the local superintendent shall present the factual basis for the determination that just cause exists for the termination of the employee, limited to those reasons provided to the employee pursuant to Subsection C of this section. Then, the employee shall present the employee's contentions, limited to those grounds specified in Subsection E of this section. The local school board or governing authority may offer such rebuttal testimony as it deems relevant. All witnesses may be questioned by the local school board or governing authority, the employee or the employee's representative and the local superintendent or state agency administrator or the local superintendent's or state agency administrator's representative. The local school board or governing authority may consider only such evidence as is presented at the hearing and need consider only such evidence as it considers reliable. No record

shall be made of the proceeding. The local school board or governing authority shall notify the employee and the local superintendent or state agency administrator of its decision in writing within five working days from the conclusion of the meeting." _____

House Bill 47, aa

Approved April 4, 2019

LAWS 2019, CHAPTER 233

AN ACT

RELATING TO TAXATION; MODIFYING THE HIGH-WAGE JOBS TAX CREDIT;
CHANGING THE ELIGIBILITY FOR AND THE AMOUNT OF THE CREDIT.

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

Chapter 233 Section 1 Laws 2019

SECTION 1. Section 7-9G-1 NMSA 1978 (being Laws 2004, Chapter 15, Section 1, as amended) is amended to read:

"7-9G-1. HIGH-WAGE JOBS TAX CREDIT--QUALIFYING HIGH-WAGE JOBS.--

A. A taxpayer that is an eligible employer may apply for, and the department may allow, a tax credit for each new high-wage job. The credit provided in this section may be referred to as the "high-wage jobs tax credit".

B. The purpose of the high-wage jobs tax credit is to provide an incentive for urban and rural businesses to create and fill new high-wage jobs in New Mexico.

C. The high-wage jobs tax credit may be claimed and allowed in an amount equal to eight and one-half percent of the wages distributed to an eligible employee in a new high-wage job but shall not exceed twelve thousand seven hundred fifty dollars (\$12,750) per job per qualifying period. The high-wage jobs tax credit may be claimed by an eligible employer for each new high-wage job performed for the year in which the new high-wage job is created and for consecutive qualifying periods.

D. To receive a high-wage jobs tax credit, a taxpayer shall file an application for approval of the credit with the department once per calendar year on forms and in the manner prescribed by the department. The annual application shall contain the certification required by Subsection K of this section and shall contain all qualifying periods that closed during the calendar year for which the application is made. Any qualifying period that did not close in the calendar year for which the application is made shall be denied by the department. The application for a calendar year shall be filed no later than December 31 of the following calendar year. If a taxpayer fails to file the annual application within the time limits provided in this section, the application shall be denied by the department. The department shall make a determination on the application within one hundred eighty days of the date on which the application was filed.

E. A new high-wage job shall not be eligible for a credit pursuant to this section for the initial qualifying period unless the eligible employer's total number of employees with threshold jobs on the last day of the initial qualifying period at the location at which the job is performed or based is at least one more than the number of threshold jobs on the day prior to the date the new high-wage job was created. A new high-wage job shall not be eligible for a credit pursuant to this section for a consecutive qualifying period unless the total number of threshold jobs at a location at which the job is performed or based on the last day of that qualifying period is greater than or equal to the number of threshold jobs at that same location on the last day of the initial qualifying period for the new high-wage job.

F. If a consecutive qualifying period for a new high-wage job does not meet the wage, occupancy and residency requirements, then the qualifying period is ineligible.

G. Except as provided in Subsection H of this section, a new high-wage job shall not be eligible for a credit pursuant to this section if:

(1) the new high-wage job is created due to a business merger or acquisition or other change in business organization;

(2) the eligible employee was terminated from employment in New Mexico by another employer involved in the business merger or acquisition or other change in business organization with the taxpayer; and

(3) the new high-wage job is performed by:

(a) the person who performed the job or its functional equivalent prior to the business merger or acquisition or other change in business organization; or

(b) a person replacing the person who performed the job or its functional equivalent prior to a business merger or acquisition or other change in business organization.

H. A new high-wage job that was created by another employer and for which an application for the high-wage jobs tax credit was received and is under review by the department prior to the time of the business merger or acquisition or other change in business organization shall remain eligible for the high-wage jobs tax credit for the balance of the consecutive qualifying periods. The new employer that results from a business merger or acquisition or other change in business organization may only claim the high-wage jobs tax credit for the balance of the consecutive qualifying periods for which the new high-wage job is otherwise eligible.

I. A new high-wage job shall not be eligible for a credit pursuant to this section if the job is created due to an eligible employer entering into a contract or becoming a subcontractor to a contract with a governmental entity that replaces one or more entities performing functionally equivalent services for the governmental entity unless the job is a new high-wage job that was not being performed by an employee of the replaced entity.

J. A new high-wage job shall not be eligible for a credit pursuant to this section if the eligible employer has more than one business location in New Mexico from which it conducts business and the requirements of Subsection E of this section are satisfied solely by moving the job from one business location of the eligible employer in New Mexico to another business location of the eligible employer in New Mexico.

K. With respect to each annual application for a high-wage jobs tax credit, the employer shall certify and include:

(1) the amount of wages paid to each eligible employee in a new high-wage job during the qualifying period;

(2) the number of weeks each position was occupied during the qualifying period;

(3) whether the new high-wage job was in a municipality with a population of sixty thousand or more or with a population of less than sixty thousand according to the most recent federal decennial census and whether the job was in the unincorporated area of a county;

(4) which qualifying period the application pertains to for each eligible employee;

(5) the total number of employees employed by the employer at the job location on the day prior to the qualifying period and on the last day of the qualifying period;

(6) the total number of threshold jobs performed or based at the eligible employer's location on the day prior to the qualifying period and on the last day of the qualifying period;

(7) for an eligible employer that has more than one business location in New Mexico from which it conducts business, the total number of threshold jobs performed or based at each business location of the eligible employer in New Mexico on the day prior to the qualifying period and on the last day of the qualifying period;

(8) whether the eligible employer is receiving or is eligible to receive development training program assistance pursuant to Section 21-19-7 NMSA 1978;

(9) whether the eligible employer has ceased business operations at any of its business locations in New Mexico; and

(10) whether the application is precluded by Subsection O of this section.

L. Any person who willfully submits a false, incorrect or fraudulent certification required pursuant to Subsection K of this section shall be subject to all applicable penalties under the Tax Administration Act, except that the amount on which the penalty is based shall be the total amount of credit requested on the application for approval.

M. Except as provided in Subsection N of this section, an approved high-wage jobs tax credit shall be claimed against the taxpayer's modified combined tax liability and shall be filed with the return due immediately following the date of the credit approval. If the credit exceeds the taxpayer's modified combined tax liability, the excess shall be refunded to the taxpayer.

N. If the taxpayer ceases business operations in New Mexico while an application for credit approval is pending or after an application for credit has been approved for any qualifying period for a new high-wage job, the department shall not grant an additional high-wage jobs tax credit to that taxpayer except as provided in Subsection O of this section and shall extinguish any amount of credit approved for that taxpayer that has not already been claimed against the taxpayer's modified combined tax liability.

O. A taxpayer that has received a high-wage jobs tax credit shall not submit a new application for the credit for a minimum of two calendar years from the closing date

of the last qualifying period for which the taxpayer received the credit if the taxpayer lost eligibility to claim the credit from a previous application pursuant to Subsection N of this section.

P. The economic development department and the taxation and revenue department shall report to the appropriate interim legislative committee each year the cost of the high-wage jobs tax credit to the state and its impact on company recruitment and job creation.

Q. As used in this section:

(1) "benefits" means all remuneration for work performed that is provided to an employee in whole or in part by the employer, other than wages, including the employer's contributions to insurance programs, health care, medical, dental and vision plans, life insurance, employer contributions to pensions, such as a 401(k), and employer-provided services, such as child care, offered by an employer to the employee;

(2) "consecutive qualifying period" means each of the three qualifying periods successively following the qualifying period in which the new high-wage job was created;

(3) "department" means the taxation and revenue department;

(4) "domicile" means the sole place where an individual has a true, fixed, permanent home. It is the place where the individual has a voluntary, fixed habitation of self and family with the intention of making a permanent home;

(5) "eligible employee" means an individual who is employed in New Mexico by an eligible employer and who is a resident of New Mexico; "eligible employee" does not include an individual who:

(a) bears any of the relationships described in Paragraphs (1) through (8) of 26 U.S.C. Section 152(a) to the employer or, if the employer is a corporation, to an individual who owns, directly or indirectly, more than fifty percent in value of the outstanding stock of the corporation or, if the employer is an entity other than a corporation, to an individual who owns, directly or indirectly, more than fifty percent of the capital and profits interest in the entity;

(b) if the employer is an estate or trust, is a grantor, beneficiary or fiduciary of the estate or trust or is an individual who bears any of the relationships

described in Paragraphs (1) through (8) of 26 U.S.C. Section 152(a) to a grantor, beneficiary or fiduciary of the estate or trust;

(c) is a dependent, as that term is described in 26 U.S.C. Section 152(a)(9), of the employer or, if the taxpayer is a corporation, of an individual who owns, directly or indirectly, more than fifty percent in value of the outstanding stock of the corporation or, if the employer is an entity other than a corporation, of an individual who owns, directly or indirectly, more than fifty percent of the capital and profits interest in the entity or, if the employer is an estate or trust, of a grantor, beneficiary or fiduciary of the estate or trust; or

(d) is working or has worked as an employee or as an independent contractor for an entity that, directly or indirectly, owns stock in a corporation of the eligible employer or other interest of the eligible employer that represents fifty percent or more of the total voting power of that entity or has a value equal to fifty percent or more of the capital and profits interest in the entity;

(6) "eligible employer" means an employer that, during the applicable qualifying period, would be eligible for development training program assistance under the fiscal year 2019 policies defining development training program eligibility developed by the industrial training board in accordance with Section 21-19-7 NMSA 1978;

(7) "modified combined tax liability" means the total liability for the reporting period for the gross receipts tax imposed by Section 7-9-4 NMSA 1978 together with any tax collected at the same time and in the same manner as the gross receipts tax, such as the compensating tax, the withholding tax, the interstate telecommunications gross receipts tax, the surcharges imposed by Section 63-9D-5 NMSA 1978 and the surcharge imposed by Section 63-9F-11 NMSA 1978, minus the amount of any credit other than the high-wage jobs tax credit applied against any or all of these taxes or surcharges; but "modified combined tax liability" excludes all amounts collected with respect to local option gross receipts taxes;

(8) "new high-wage job" means a new job created in New Mexico by an eligible employer on or after July 1, 2004 and prior to July 1, 2026 that is occupied for at least forty-four weeks of a qualifying period by an eligible employee who is paid wages calculated for the qualifying period to be at least:

(a) for a new high-wage job created prior to July 1, 2015: 1) forty thousand dollars (\$40,000) if the job is performed or based in or within ten miles of the external boundaries of a municipality with a population of sixty thousand or more according to the most recent federal decennial census or in a class H county; and 2) twenty-eight thousand dollars (\$28,000) if the job is performed or based in a

municipality with a population of less than sixty thousand according to the most recent federal decennial census or in the unincorporated area, that is not within ten miles of the external boundaries of a municipality with a population of sixty thousand or more, of a county other than a class H county; and

(b) for a new high-wage job created on or after July 1, 2015: 1) sixty thousand dollars (\$60,000) if the job is performed or based in or within ten miles of the external boundaries of a municipality with a population of sixty thousand or more according to the most recent federal decennial census or in a class H county; and 2) forty thousand dollars (\$40,000) if the job is performed or based in a municipality with a population of less than sixty thousand according to the most recent federal decennial census or in the unincorporated area, that is not within ten miles of the external boundaries of a municipality with a population of sixty thousand or more, of a county other than a class H county;

(9) "new job" means a job that is occupied by an employee who has not been employed in New Mexico by the eligible employer in the three years prior to the date of hire;

(10) "qualifying period" means the period of twelve months beginning on the day an eligible employee begins working in a new high-wage job or the period of twelve months beginning on the anniversary of the day an eligible employee began working in a new high-wage job;

(11) "resident" means a natural person whose domicile is in New Mexico at the time of hire or within one hundred eighty days of the date of hire;

(12) "threshold job" means a job that is occupied for at least forty-four weeks of a calendar year by an eligible employee and that meets the wage requirements for a "new high-wage job"; and

(13) "wages" means all compensation paid by an eligible employer to an eligible employee through the employer's payroll system, including those wages that the employee elects to defer or redirect or the employee's contribution to a 401(k) or cafeteria plan program, but "wages" does not include benefits or the employer's share of payroll taxes, social security or medicare contributions, federal or state unemployment insurance contributions or workers' compensation."

Chapter 233 Section 2 Laws 2019

SECTION 2. APPLICABILITY.--The provisions of this act apply to qualifying periods beginning on or after January 1, 2019. _____

House Bill 165, aa

Approved April 4, 2019

LAWS 2019, CHAPTER 234

AN ACT

RELATING TO PUBLIC EMPLOYEES; REQUIRING THE STATE TO SUBMIT INSURANCE CLAIMS FOR PERSONAL PROPERTY OF SEARCH AND RESCUE VOLUNTEERS DAMAGED IN THE COURSE OF AN AUTHORIZED MISSION.

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

Chapter 234 Section 1 Laws 2019

SECTION 1. Section 24-15A-5 NMSA 1978 (being Laws 1978, Chapter 107, Section 5, as amended) is amended to read:

"24-15A-5. STATE SEARCH AND RESCUE RESOURCE OFFICER-- POWERS AND DUTIES.--The state search and rescue resource officer shall, with the approval of the director:

- A. compile, maintain and disseminate an inventory of resources available in the state;
- B. compile, maintain and disseminate rosters of persons, agencies and organizations available for search and rescue purposes;
- C. develop a training program for the certification of search and rescue instructors and, by regulation, adopt a system of certification of search and rescue persons;
- D. act as contact agent for the state in search and rescue matters;
- E. develop and periodically review requirements for insurance coverage for search and rescue volunteers;
- F. coordinate the training of mission initiators and field coordinators;

G. maintain records of missions at the state SAR control agency; and

H. submit to the risk management division of the general services department claims for coverage pursuant to Section 13-5-1 NMSA 1978 for damage to personal property of volunteers incurred in the course and scope of an authorized search and rescue mission."

Chapter 234 Section 2 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

House Bill 225

Approved April 4, 2019

LAWS 2019. CHAPTER 235

AN ACT

RELATING TO HEALTH COVERAGE; ENACTING THE SHORT-TERM HEALTH PLAN AND EXCEPTED BENEFIT ACT TO ESTABLISH GUIDELINES RELATING TO SHORT-TERM HEALTH AND EXCEPTED BENEFIT COVERAGE; ENACTING A NEW SECTION OF CHAPTER 59A, ARTICLE 16 NMSA 1978 TO BAN THE SALE AND ISSUANCE OF UNLICENSED AND UNAPPROVED HEALTH BENEFITS PLANS; AMENDING SECTIONS OF THE NEW MEXICO INSURANCE CODE, THE HEALTH MAINTENANCE ORGANIZATION LAW AND THE NONPROFIT HEALTH CARE PLAN LAW TO ESTABLISH DIRECT-SERVICE RATIO APPLICABILITY FOR SHORT-TERM PLANS.

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

Chapter 235 Section 1 Laws 2019

SECTION 1. A new section of the New Mexico Insurance Code is enacted to read:

"SHORT TITLE.--Sections 1 through 6 of this act may be cited as the "Short-Term Health Plan and Excepted Benefit Act"."

Chapter 235 Section 2 Laws 2019

SECTION 2. A new section of the New Mexico Insurance Code is enacted to read:

"DEFINITIONS.--As used in the Short-Term Health Plan and Excepted Benefit Act:

A. "bona fide association" means an association that has been in existence for not less than five years and that exists for purposes other than the business of insurance;

B. "excepted benefits" means benefits furnished pursuant to the following:

- (1) coverage-only for accident or disability income insurance;
- (2) coverage issued as a supplement to liability insurance;
- (3) liability insurance;
- (4) workers' compensation or similar insurance;
- (5) automobile medical payment insurance;
- (6) credit-only insurance;
- (7) coverage for on-site medical clinics;
- (8) other similar insurance coverage specified in regulations under which benefits for medical care are secondary or incidental to other benefits;
- (9) the following benefits if offered separately:
 - (a) limited-scope dental or vision benefits;
 - (b) benefits for long-term care, nursing home care, home health care, community-based care or any combination of those benefits; and
 - (c) other similar excepted benefits specified in rule;
- (10) the following benefits, offered as independent, non-coordinated benefits:

(a) coverage-only for a specified disease or illness; or

(b) hospital indemnity or other fixed indemnity insurance;

(11) the following benefits if offered as a separate insurance policy:

(a) medicare supplemental health insurance as defined pursuant to Section 1882(g)(1) of the federal Social Security Act; and

(b) coverage supplemental to the coverage provided pursuant to Chapter 55 of Title 10 USCA and similar supplemental coverage provided to coverage pursuant to a group health plan; and

(12) other similar individual or group insurance coverage or arrangement designated by the superintendent pursuant to rule under which benefits are secondary or incidental to health events, services or medical care;

C. "excepted benefits plan" means a health benefits plan that offers only excepted benefits;

D. "health benefits plan" means an individual or group policy or agreement entered into, offered or issued by a health insurance carrier to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services;

E. "health insurance carrier" means an entity subject to the insurance laws of the state, including a health insurance company, a health maintenance organization, a hospital and health services corporation, a provider service network, a nonprofit health care plan or any other entity that contracts or offers to contract, or enters into agreements to provide, deliver, arrange for, pay for or reimburse any costs of health care services, or that provides, offers or administers health benefits plans or managed health care plans in the state;

F. "health insurance coverage" means benefits consisting of medical care provided directly, through insurance or reimbursement, or otherwise, and items, including items and services paid for as medical care, pursuant to any hospital or medical service policy or certificate, hospital or medical service plan contract or health maintenance organization contract offered by a health insurance carrier;

G. "major medical coverage" means a health benefits plan that provides benefits other than excepted benefits;

H. "permitted health insurance coverage" means a health benefits plan, excepted benefits plan, short-term plan and other categories or types of health insurance coverage designated by the superintendent; and

I. "short-term plan" means a nonrenewable health benefits plan covering a resident of the state, regardless of where the plan is delivered, that:

(1) has a maximum specified duration of not more than three months after the effective date of the plan;

(2) is issued only to individuals who have not been enrolled in a health benefits plan that provides the same or similar nonrenewable coverage from any health insurance carrier within the three months preceding enrollment in the short-term plan; and

(3) is not an excepted benefit or combination of excepted benefits."

Chapter 235 Section 3 Laws 2019

SECTION 3. A new section of the New Mexico Insurance Code is enacted to read:

"SHORT-TERM PLANS--EXCEPTED BENEFITS--STANDARDS FOR POLICY PROVISIONS.--

A. The superintendent shall adopt and promulgate rules to establish specific standards:

(1) that set the manner, content and required disclosure for the sale of short-term plans and excepted benefits plans, including standards for full and fair disclosure; and

(2) for the sale of short-term plans and excepted benefits plans, which standards shall include standards relating to:

(a) terms of renewability or extension of coverage;

(b) initial and subsequent conditions of eligibility;

(c) nonduplication of coverage provisions;

(d) coverage of dependents;

- (e) preexisting conditions;
- (f) termination of insurance;
- (g) probationary periods;
- (h) limitations;
- (i) exceptions;
- (j) reductions and exclusions;
- (k) elimination periods;
- (l) requirements for replacement by the health insurance carrier;
- (m) recurrent conditions;
- (n) the definition of terms to describe the specific types of coverage sold pursuant to the Short-Term Health Plan and Excepted Benefit Act and specific standards and policy provisions required of these plans;
- (o) benefit duration;
- (p) scope of coverage;
- (q) advertising and marketing;
- (r) sales practices;
- (s) mandatory disclosures;
- (t) coverage suitability; and
- (u) policy and certificate approval.

B. All advertisements, marketing materials and application and policy forms relating to short-term plans shall prominently display a notice that the coverage is unavailable to any potential insured who has been covered under a short-term plan in the previous twelve-month period."

Chapter 235 Section 4 Laws 2019

SECTION 4. A new section of the New Mexico Insurance Code is enacted to read:

"BENEFITS--MINIMUM STANDARDS.--

A. The superintendent shall adopt and promulgate rules to establish minimum standards for benefits provided by short-term plans and excepted benefits plans that are subject to the Short-Term Health Plan and Excepted Benefit Act.

B. Rules of the superintendent shall require short-term plans to cover state-mandated benefits in addition to each of the following categories of benefits:

- (1) diagnostic;
- (2) rehabilitative;
- (3) maternity;
- (4) neonatal;
- (5) behavioral health services;
- (6) emergency services;
- (7) hospitalization;
- (8) ambulatory services; and
- (9) prescription drugs."

Chapter 235 Section 5 Laws 2019

SECTION 5. A new section of the New Mexico Insurance Code is enacted to read:

"RATES--MEDICAL LOSS RATIOS.--The superintendent shall adopt and promulgate rules to establish standards for rates, including medical loss ratios, of short-term plans and excepted benefits plans. Rules relating to rates shall be based on generally recognized and current actuarial standards."

Chapter 235 Section 6 Laws 2019

SECTION 6. A new section of the New Mexico Insurance Code is enacted to read:

"PROHIBITION--ASSOCIATION, TRUST OR MULTIPLE EMPLOYER WELFARE ARRANGEMENT PLANS.--No insurer shall issue, and no association, trust or multiple employer welfare arrangement shall offer, a short-term or excepted benefits plan to a resident of the state unless through a bona fide association."

Chapter 235 Section 7 Laws 2019

SECTION 7. A new section of Chapter 59A, Article 16 NMSA 1978 is enacted to read:

"HEALTH BENEFITS PLANS--PROHIBITION--UNLICENSED HEALTH BENEFITS PLANS--UNAPPROVED HEALTH BENEFITS PLANS.--

A. No person or entity shall sell or issue, or cause to be sold or issued, a health benefits plan that is unlicensed or unapproved for sale or delivery in the state.

B. No person or entity shall sell or issue, or cause to be sold or issued, health insurance coverage that is not permitted health insurance coverage.

C. As used in this section:

(1) "health benefits plan" means a policy or agreement entered into, offered or issued by a health insurance carrier to provide, deliver, arrange for, pay for or reimburse any of the costs of health care services; and

(2) "health insurance carrier" means an entity subject to the insurance laws and regulations of this state, including a health insurance company, a health maintenance organization, a hospital and health services corporation, a provider service network, a nonprofit health care plan or any other entity that contracts or offers to contract, or enters into agreements to provide, deliver, arrange for, pay for or reimburse any costs of health care services, or that provides, offers or administers health benefits plans or managed health care plans in this state."

Chapter 235 Section 8 Laws 2019

SECTION 8. Section 59A-22-50 NMSA 1978 (being Laws 2010, Chapter 94, Section 1, as amended) is amended to read:

"59A-22-50. HEALTH INSURERS--DIRECT SERVICES.--

A. A health insurer shall make reimbursement for direct services at a level not less than eighty-five percent of premiums across all health product lines, including short-term plans and excluding individually underwritten health insurance policies, contracts or plans, that are governed by the provisions of Chapter 59A, Article 22 NMSA 1978, the Health Maintenance Organization Law and the Nonprofit Health Care Plan Law, and an excepted benefit policy intended to supplement major medical coverage, including medicare supplement, vision, dental, disease-specific, accident-only or hospital indemnity-only insurance policies, or a plan that only issues policies for long-term care or disability income. Reimbursement shall be made for direct services provided over the preceding three calendar years, but not earlier than calendar year 2010, as determined by reports filed with the office of superintendent of insurance. Nothing in this subsection shall be construed to preclude a purchaser from negotiating an agreement with a health insurer that requires a higher amount of premiums paid to be used for reimbursement for direct services for one or more products or for one or more years.

B. For individually underwritten health care policies, plans or contracts, the superintendent shall establish, after notice and informal hearing, the level of reimbursement for direct services, as determined by the reports filed with the office of superintendent of insurance, as a percent of premiums. Additional informal hearings may be held at the superintendent's discretion. In establishing the level of reimbursement for direct services, the superintendent shall consider the costs associated with the individual marketing and medical underwriting of these policies, plans or contracts at a level not less than seventy-five percent of premiums. A health insurer writing these policies shall make reimbursement for direct services at a level not less than that level established by the superintendent pursuant to this subsection over the three calendar years preceding the date upon which that rate is established, but not earlier than calendar year 2010. Nothing in this subsection shall be construed to preclude a purchaser of one of these policies, plans or contracts from negotiating an agreement with a health insurer that requires a higher amount of premiums paid to be used for reimbursement for direct services.

C. An insurer that fails to comply with the reimbursement requirements pursuant to this section shall issue a dividend or credit against future premiums to all policyholders in an amount sufficient to ensure that the benefits paid in the preceding three calendar years plus the amount of the dividends or credits are equal to the required direct services reimbursement level pursuant to Subsection A of this section for group health coverage and blanket health coverage or the required direct services reimbursement level pursuant to Subsection B of this section for individually underwritten health policies, contracts or plans for the preceding three calendar years. If the insurer fails to issue the dividend or credit in accordance with the requirements of this section, the superintendent shall enforce these requirements and may pursue any

other penalties as provided by law, including general penalties pursuant to Section 59A-1-18 NMSA 1978.

D. After notice and hearing, the superintendent may adopt and promulgate reasonable rules necessary and proper to carry out the provisions of this section.

E. For the purposes of this section:

(1) "direct services" means services rendered to an individual by a health insurer or a health care practitioner, facility or other provider, including case management, disease management, health education and promotion, preventive services, quality incentive payments to providers and any portion of an assessment that covers services rather than administration and for which an insurer does not receive a tax credit pursuant to the Medical Insurance Pool Act; provided, however, that "direct services" does not include care coordination, utilization review or management or any other activity designed to manage utilization or services;

(2) "health insurer" means a person duly authorized to transact the business of health insurance in the state pursuant to the Insurance Code, including a person that issues a short-term plan and a person that only issues an excepted benefit policy intended to supplement major medical coverage, including medicare supplement, vision, dental, disease-specific, accident-only or hospital indemnity-only insurance policies, or that only issues policies for long-term care or disability income;

(3) "premium" means all income received from individuals and private and public payers or sources for the procurement of health coverage, including capitated payments, self-funded administrative fees, self-funded claim reimbursements, recoveries from third parties or other insurers and interests less any premium tax paid pursuant to Section 59A-6-2 NMSA 1978 and fees associated with participating in a health insurance exchange that serves as a clearinghouse for insurance; and

(4) "short-term plan" means a nonrenewable health benefits plan covering a resident of the state, regardless of where the plan is delivered, that:

(a) has a maximum specified duration of not more than three months after the effective date of the plan; and

(b) is issued only to individuals who have not been enrolled in a health benefits plan that provides the same or similar nonrenewable coverage from any health insurance carrier within the three months preceding enrollment in the short-term plan."

Chapter 235 Section 9 Laws 2019

SECTION 9. That version of Section 59A-22-50 NMSA 1978 (being Laws 2010, Chapter 94, Section 1, as amended) that is to become effective January 1, 2020 is amended to read:

"59A-22-50. HEALTH INSURERS--DIRECT SERVICES.--

A. A health insurer shall make reimbursement for direct services at a level not less than eighty-five percent of premiums across all health product lines, including short-term plans and excluding individually underwritten health insurance policies, contracts or plans, that are governed by the provisions of Chapter 59A, Article 22 NMSA 1978, the Health Maintenance Organization Law and the Nonprofit Health Care Plan Law, and an excepted benefit policy intended to supplement major medical coverage, including medicare supplement, vision, dental, disease-specific, accident-only or hospital indemnity-only insurance policies, or a plan that only issues policies for long-term care or disability income. Reimbursement shall be made for direct services provided over the preceding three calendar years, but not earlier than calendar year 2010, as determined by reports filed with the office of superintendent of insurance. Nothing in this subsection shall be construed to preclude a purchaser from negotiating an agreement with a health insurer that requires a higher amount of premiums paid to be used for reimbursement for direct services for one or more products or for one or more years.

B. For individually underwritten health care policies, plans or contracts, the superintendent shall establish, after notice and informal hearing, the level of reimbursement for direct services, as determined by the reports filed with the office of superintendent of insurance, as a percent of premiums. Additional informal hearings may be held at the superintendent's discretion. In establishing the level of reimbursement for direct services, the superintendent shall consider the costs associated with the individual marketing and medical underwriting of these policies, plans or contracts at a level not less than seventy-five percent of premiums. A health insurer writing these policies shall make reimbursement for direct services at a level not less than that level established by the superintendent pursuant to this subsection over the three calendar years preceding the date upon which that rate is established, but not earlier than calendar year 2010. Nothing in this subsection shall be construed to preclude a purchaser of one of these policies, plans or contracts from negotiating an agreement with a health insurer that requires a higher amount of premiums paid to be used for reimbursement for direct services.

C. An insurer that fails to comply with the reimbursement requirements pursuant to this section shall issue a dividend or credit against future premiums to all

policyholders in an amount sufficient to ensure that the benefits paid in the preceding three calendar years plus the amount of the dividends or credits are equal to the required direct services reimbursement level pursuant to Subsection A of this section for group health coverage and blanket health coverage or the required direct services reimbursement level pursuant to Subsection B of this section for individually underwritten health policies, contracts or plans for the preceding three calendar years. If the insurer fails to issue the dividend or credit in accordance with the requirements of this section, the superintendent shall enforce these requirements and may pursue any other penalties as provided by law, including general penalties pursuant to Section 59A-1-18 NMSA 1978.

D. After notice and hearing, the superintendent may adopt and promulgate reasonable rules necessary and proper to carry out the provisions of this section.

E. For the purposes of this section:

(1) "direct services" means services rendered to an individual by a health insurer or a health care practitioner, facility or other provider, including case management, disease management, health education and promotion, preventive services, quality incentive payments to providers and any portion of an assessment that covers services rather than administration and for which an insurer does not receive a tax credit pursuant to the Medical Insurance Pool Act; provided, however, that "direct services" does not include care coordination, utilization review or management or any other activity designed to manage utilization or services;

(2) "health insurer" means a person duly authorized to transact the business of health insurance in the state pursuant to the Insurance Code, including a person that issues a short-term plan and a person that only issues an excepted benefit policy intended to supplement major medical coverage, including medicare supplement, vision, dental, disease-specific, accident-only or hospital indemnity-only insurance policies, or that only issues policies for long-term care or disability income;

(3) "premium" means all income received from individuals and private and public payers or sources for the procurement of health coverage, including capitated payments, self-funded administrative fees, self-funded claim reimbursements, recoveries from third parties or other insurers and interests less any tax paid pursuant to the Insurance Premium Tax Act and fees associated with participating in a health insurance exchange that serves as a clearinghouse for insurance; and

(4) "short-term plan" means a nonrenewable health benefits plan covering a resident of the state, regardless of where the plan is delivered, that:

(a) has a maximum specified duration of not more than three months after the effective date of the plan; and

(b) is issued only to individuals who have not been enrolled in a health benefits plan that provides the same or similar nonrenewable coverage from any health insurance carrier within the three months preceding enrollment in the short-term plan."

Chapter 235 Section 10 Laws 2019

SECTION 10. Section 59A-46-2 NMSA 1978 (being Laws 1993, Chapter 266, Section 2, as amended) is amended to read:

"59A-46-2. DEFINITIONS.--As used in the Health Maintenance Organization Law:

A. "basic health care services":

(1) means medically necessary services consisting of preventive care, emergency care, inpatient and outpatient hospital and physician care, diagnostic laboratory, diagnostic and therapeutic radiological services and services of pharmacists and pharmacist clinicians; but

(2) does not include mental health services or services for alcohol or drug abuse, dental or vision services or long-term rehabilitation treatment;

B. "capitated basis" means fixed per member per month payment or percentage of premium payment wherein the provider assumes the full risk for the cost of contracted services without regard to the type, value or frequency of services provided and includes the cost associated with operating staff model facilities;

C. "carrier" means a health maintenance organization, an insurer, a nonprofit health care plan or other entity responsible for the payment of benefits or provision of services under a group contract;

D. "copayment" means an amount an enrollee must pay in order to receive a specific service that is not fully prepaid;

E. "credentialing" means the process of obtaining and verifying information about a provider and evaluating that provider when that provider seeks to become a participating provider;

F. "deductible" means the amount an enrollee is responsible to pay out-of-pocket before the health maintenance organization begins to pay the costs associated with treatment;

G. "direct services" means services rendered to an individual by a carrier or a health care practitioner, facility or other provider, which services include case management, disease management, health education and promotion, preventive services, quality incentive payments to providers and any proportion of an assessment that covers services rather than administration and for which a carrier does not receive a tax credit pursuant to the Medical Insurance Pool Act; provided that "direct services" does not include care coordination, utilization review or management or any other activity designed to manage utilization or services;

H. "enrollee" means an individual who is covered by a health maintenance organization;

I. "evidence of coverage" means a policy, contract or certificate showing the essential features and services of the health maintenance organization coverage that is given to the subscriber by the health maintenance organization or by the group contract holder;

J. "extension of benefits" means the continuation of coverage under a particular benefit provided under a contract or group contract following termination with respect to an enrollee who is totally disabled on the date of termination;

K. "grievance" means a written complaint submitted in accordance with the health maintenance organization's formal grievance procedure by or on behalf of the enrollee regarding any aspect of the health maintenance organization relative to the enrollee;

L. "group contract" means a contract for health care services that by its terms limits eligibility to members of a specified group and may include coverage for dependents;

M. "group contract holder" means the person to whom a group contract has been issued;

N. "health care services" means any services included in the furnishing to any individual of medical, mental, dental, pharmaceutical or optometric care or hospitalization or nursing home care or incident to the furnishing of such care or hospitalization, as well as the furnishing to any person of any and all other services for

the purpose of preventing, alleviating, curing or healing human physical or mental illness or injury;

O. "health maintenance organization" means a person that undertakes to provide or arrange for the delivery of basic health care services to enrollees on a prepaid basis, except for enrollee responsibility for copayments or deductibles, including a carrier that issues:

(1) a short-term contract;

(2) an excepted benefit policy or contract intended to supplement major medical coverage, including medicare supplement, vision, dental, disease-specific, accident-only or hospital indemnity-only insurance policies; or

(3) a policy for long-term care or disability income;

P. "health maintenance organization agent" means a person who solicits, negotiates, effects, procures, delivers, renews or continues a policy or contract for health maintenance organization membership or who takes or transmits a membership fee or premium for such a policy or contract, other than for that person, or a person who advertises or otherwise makes any representation to the public as such;

Q. "individual contract" means a contract for health care services issued to and covering an individual and it may include dependents of the subscriber;

R. "insolvent" or "insolvency" means that the organization has been declared insolvent and placed under an order of liquidation by a court of competent jurisdiction;

S. "managed hospital payment basis" means agreements in which the financial risk is related primarily to the degree of utilization rather than to the cost of services;

T. "net worth" means the excess of total admitted assets over total liabilities, but the liabilities shall not include fully subordinated debt;

U. "participating provider" means a provider as defined in Subsection Z of this section that, under an express contract with the health maintenance organization or with its contractor or subcontractor, has agreed to provide health care services to enrollees with an expectation of receiving payment, other than copayment or deductible, directly or indirectly from the health maintenance organization;

V. "person" means an individual or other legal entity;

W. "pharmacist" means a person licensed as a pharmacist pursuant to the Pharmacy Act;

X. "pharmacist clinician" means a pharmacist who exercises prescriptive authority pursuant to the Pharmacist Prescriptive Authority Act;

Y. "premium" means all income received from individuals and private and public payers or sources for the procurement of health coverage, including capitated payments, self-funded administrative fees, self-funded claim reimbursements, recoveries from third parties or other carriers and interests less any premium tax paid pursuant to Section 59A-6-2 NMSA 1978 and fees associated with participating in a health insurance exchange that serves as a clearinghouse for insurance;

Z. "provider" means a physician, pharmacist, pharmacist clinician, hospital or other person licensed or otherwise authorized to furnish health care services;

AA. "replacement coverage" means the benefits provided by a succeeding carrier;

BB. "short-term contract" means a nonrenewable health maintenance organization contract covering a resident of the state, regardless of where the contract is delivered, that:

(1) has a maximum specified duration of not more than three months after the effective date of the contract; and

(2) is issued only to individuals who have not been enrolled in a health maintenance organization contract that provides the same or similar nonrenewable coverage from any carrier within the three months preceding enrollment in the short-term contract;

CC. "subscriber" means an individual whose employment or other status, except family dependency, is the basis for eligibility for enrollment in the health maintenance organization or, in the case of an individual contract, the person in whose name the contract is issued; and

DD. "uncovered expenditures" means the costs to the health maintenance organization for health care services that are the obligation of the health maintenance organization, for which an enrollee may also be liable in the event of the health maintenance organization's insolvency and for which no alternative arrangements have been made that are acceptable to the superintendent."

Chapter 235 Section 11 Laws 2019

SECTION 11. Section 59A-46-51 NMSA 1978 (being Laws 2010, Chapter 94, Section 3, as amended) is amended to read:

"59A-46-51. HEALTH MAINTENANCE ORGANIZATIONS--DIRECT SERVICES.--

A. A health maintenance organization shall make reimbursement for direct services at a level not less than eighty-five percent of premiums across all health product lines, including short-term contracts and excluding individually underwritten health insurance policies, contracts or plans, that are governed by the provisions of Chapter 59A, Article 22 NMSA 1978, the Health Maintenance Organization Law and the Nonprofit Health Care Plan Law, and an excepted benefit health maintenance organization contract intended to supplement major medical coverage, including medicare supplement, vision, dental, disease-specific, accident-only or hospital indemnity-only insurance contracts, or a carrier that only issues contracts for long-term care or disability income. Reimbursement shall be made for direct services provided over the preceding three calendar years, but not earlier than calendar year 2010, as determined by reports filed with the office of superintendent of insurance. Nothing in this subsection shall be construed to preclude a purchaser from negotiating an agreement with a health maintenance organization that requires a higher amount of premiums paid to be used for reimbursement for direct services for one or more products or for one or more years.

B. For individually underwritten health care policies, plans or contracts, the superintendent shall establish, after notice and informal hearing, the level of reimbursement for direct services, as determined by the reports filed with the office of superintendent of insurance, as a percent of premiums. Additional informal hearings may be held at the superintendent's discretion. In establishing the level of reimbursement for direct services, the superintendent shall consider the costs associated with the individual marketing and medical underwriting of these policies, plans or contracts at a level not less than seventy-five percent of premiums. A health insurer or health maintenance organization writing these policies, plans or contracts shall make reimbursement for direct services at a level not less than that level established by the superintendent pursuant to this subsection over the three calendar years preceding the date upon which that rate is established, but not earlier than calendar year 2010. Nothing in this subsection shall be construed to preclude a purchaser of one of these policies, plans or contracts from negotiating an agreement with a health insurer or health maintenance organization that requires a higher amount of premiums paid to be used for reimbursement for direct services.

C. A health maintenance organization that fails to comply with the reimbursement requirements pursuant to this section shall issue a dividend or credit against future premiums to all policy or contract holders in an amount sufficient to ensure that the benefits paid in the preceding three calendar years plus the amount of the dividends or credits are equal to the required direct services reimbursement level pursuant to Subsection A of this section for group health coverage and blanket health coverage or the required direct services reimbursement level pursuant to Subsection B of this section for individually underwritten health policies, contracts or plans for the preceding three calendar years. If the insurer fails to issue the dividend or credit in accordance with the requirements of this section, the superintendent shall enforce these requirements and may pursue any other penalties as provided by law, including general penalties pursuant to Section 59A-1-18 NMSA 1978.

D. After notice and hearing, the superintendent may adopt and promulgate reasonable rules necessary and proper to carry out the provisions of this section."

Chapter 235 Section 12 Laws 2019

SECTION 12. That version of Section 59A-46-51 NMSA 1978 (being Laws 2010, Chapter 94, Section 3, as amended) that is to become effective January 1, 2020 is amended to read:

"59A-46-51. HEALTH MAINTENANCE ORGANIZATIONS--DIRECT SERVICES.--

A. A health maintenance organization shall make reimbursement for direct services at a level not less than eighty-five percent of premiums across all health product lines, including short-term contracts and excluding individually underwritten health insurance policies, contracts or plans, that are governed by the provisions of Chapter 59A, Article 22 NMSA 1978, the Health Maintenance Organization Law and the Nonprofit Health Care Plan Law, and an excepted benefit health maintenance organization contract intended to supplement major medical coverage, including medicare supplement, vision, dental, disease-specific, accident-only or hospital indemnity-only insurance contracts, or a carrier that only issues contracts for long-term care or disability income. Reimbursement shall be made for direct services provided over the preceding three calendar years, but not earlier than calendar year 2010, as determined by reports filed with the office of superintendent of insurance. Nothing in this subsection shall be construed to preclude a purchaser from negotiating an agreement with a health maintenance organization that requires a higher amount of premiums paid to be used for reimbursement for direct services for one or more products or for one or more years.

B. For individually underwritten health care policies, plans or contracts, the superintendent shall establish, after notice and informal hearing, the level of reimbursement for direct services, as determined by the reports filed with the office of superintendent of insurance, as a percent of premiums. Additional informal hearings may be held at the superintendent's discretion. In establishing the level of reimbursement for direct services, the superintendent shall consider the costs associated with the individual marketing and medical underwriting of these policies, plans or contracts at a level not less than seventy-five percent of premiums. A health insurer or health maintenance organization writing these policies, plans or contracts shall make reimbursement for direct services at a level not less than that level established by the superintendent pursuant to this subsection over the three calendar years preceding the date upon which that rate is established, but not earlier than calendar year 2010. Nothing in this subsection shall be construed to preclude a purchaser of one of these policies, plans or contracts from negotiating an agreement with a health insurer or health maintenance organization that requires a higher amount of premiums paid to be used for reimbursement for direct services.

C. A health maintenance organization that fails to comply with the reimbursement requirements pursuant to this section shall issue a dividend or credit against future premiums to all policy or contract holders in an amount sufficient to ensure that the benefits paid in the preceding three calendar years plus the amount of the dividends or credits are equal to the required direct services reimbursement level pursuant to Subsection A of this section for group health coverage and blanket health coverage or the required direct services reimbursement level pursuant to Subsection B of this section for individually underwritten health policies, contracts or plans for the preceding three calendar years. If the insurer fails to issue the dividend or credit in accordance with the requirements of this section, the superintendent shall enforce these requirements and may pursue any other penalties as provided by law, including general penalties pursuant to Section 59A-1-18 NMSA 1978.

D. After notice and hearing, the superintendent may adopt and promulgate reasonable rules necessary and proper to carry out the provisions of this section."

Chapter 235 Section 13 Laws 2019

SECTION 13. Section 59A-47-3 NMSA 1978 (being Laws 1984, Chapter 127, Section 879.1, as amended) is amended to read:

"59A-47-3. DEFINITIONS.--As used in Chapter 59A, Article 47 NMSA 1978:

A. "acquisition expenses" includes all expenses incurred in connection with the solicitation and enrollment of subscribers;

B. "administration expenses" means all expenses of the health care plan other than the cost of health care expense payments and acquisition expenses;

C. "agent" means a person appointed by a health care plan authorized to transact business in this state to act as its representative in any given locality for soliciting health care policies and other related duties as may be authorized;

D. "chiropractor" means any person holding a license provided for in the Chiropractic Physician Practice Act;

E. "credentialing" means the process of obtaining and verifying information about a provider and evaluating that provider when that provider seeks to become a participating provider;

F. "direct services" means services rendered to an individual by a health care plan, health insurer or a health care practitioner, facility or other provider, including case management, disease management, health education and promotion, preventive services, quality incentive payments to providers and any portion of an assessment that covers services rather than administration and for which a health care plan or a health insurer does not receive a tax credit pursuant to the Medical Insurance Pool Act; provided, however, that "direct services" does not include care coordination, utilization review or management or any other activity designed to manage utilization or services;

G. "doctor of oriental medicine" means any person licensed as a doctor of oriental medicine under the Acupuncture and Oriental Medicine Practice Act;

H. "health care" means the treatment of persons for the prevention, cure or correction of any illness or physical or mental condition, including optometric services;

I. "health care expense payment" means a payment for health care to a purveyor on behalf of a subscriber, or such a payment to the subscriber;

J. "health care plan" means a nonprofit corporation authorized by the superintendent to enter into contracts with subscribers and to make health care expense payments, including a nonprofit corporation that issues:

(1) a short-term health care plan;

(2) an excepted benefit health care plan intended to supplement major medical coverage, including medicare supplement, vision, dental, disease-specific, accident-only or hospital indemnity-only insurance policies; or

(3) a policy or plan for long-term care or disability income;

K. "indemnity benefit" means a payment that the purveyor has not agreed to accept as payment in full for health care furnished the subscriber;

L. "item of health care" means a service or material used in health care;

M. "pharmacist" means a person licensed as a pharmacist pursuant to the Pharmacy Act;

N. "pharmacist clinician" means a pharmacist who exercises prescriptive authority pursuant to the Pharmacist Prescriptive Authority Act;

O. "premium" means all income received from individuals and private and public payers or sources for the procurement of health coverage, including capitated payments, self-funded administrative fees, self-funded claim reimbursements, recoveries from third parties or other insurers and interests less any premium tax paid pursuant to Section 59A-6-2 NMSA 1978 and fees associated with participating in a health insurance exchange that serves as a clearinghouse for insurance;

P. "provider" means a physician or other individual licensed or otherwise authorized to furnish health care services in the state;

Q. "purveyor" means a person who furnishes any item of health care and charges for that item;

R. "service benefit" means a payment that the purveyor has agreed to accept as payment in full for health care furnished the subscriber;

S. "short-term health care plan" means a nonrenewable health care plan covering a resident of the state, regardless of where the plan is delivered, that:

(1) has a maximum specified duration of not more than three months after the effective date of the plan; and

(2) is issued only to individuals who have not been enrolled in a health care plan that provides the same or similar nonrenewable coverage from any nonprofit health care plan within the three months preceding enrollment in the short-term plan;

T. "solicitor" means a person employed by the licensed agent of a health care plan for the purpose of soliciting health care policies and other related duties in connection with the handling of the business of the agent as may be authorized and

paid for the person's services either on a commission basis or salary basis or part by commission and part by salary;

U. "subscriber" means any individual who, because of a contract with a health care plan entered into by or for the individual, is entitled to have health care expense payments made on the individual's behalf or to the individual by the health care plan; and

V. "underwriting manual" means the health care plan's written criteria, approved by the superintendent, that defines the terms and conditions under which subscribers may be selected. The underwriting manual may be amended from time to time, but amendment will not be effective until approved by the superintendent. The superintendent shall notify the health care plan filing the underwriting manual or the amendment thereto of the superintendent's approval or disapproval thereof in writing within thirty days after filing or within sixty days after filing if the superintendent shall so extend the time. If the superintendent fails to act within such period, the filing shall be deemed to be approved."

Chapter 235 Section 14 Laws 2019

SECTION 14. That version of Section 59A-47-3 NMSA 1978 (being Laws 1984, Chapter 127, Section 879.1, as amended) that is to become effective January 1, 2020 is amended to read:

"59A-47-3. DEFINITIONS.--As used in Chapter 59A, Article 47 NMSA 1978:

A. "acquisition expenses" includes all expenses incurred in connection with the solicitation and enrollment of subscribers;

B. "administration expenses" means all expenses of the health care plan other than the cost of health care expense payments and acquisition expenses;

C. "agent" means a person appointed by a health care plan authorized to transact business in this state to act as its representative in any given locality for soliciting health care policies and other related duties as may be authorized;

D. "chiropractor" means any person holding a license provided for in the Chiropractic Physician Practice Act;

E. "credentialing" means the process of obtaining and verifying information about a provider and evaluating that provider when that provider seeks to become a participating provider;

F. "direct services" means services rendered to an individual by a health care plan, health insurer or a health care practitioner, facility or other provider, including case management, disease management, health education and promotion, preventive services, quality incentive payments to providers and any portion of an assessment that covers services rather than administration and for which a health care plan or a health insurer does not receive a tax credit pursuant to the Medical Insurance Pool Act; provided, however, that "direct services" does not include care coordination, utilization review or management or any other activity designed to manage utilization or services;

G. "doctor of oriental medicine" means any person licensed as a doctor of oriental medicine under the Acupuncture and Oriental Medicine Practice Act;

H. "health care" means the treatment of persons for the prevention, cure or correction of any illness or physical or mental condition, including optometric services;

I. "health care expense payment" means a payment for health care to a purveyor on behalf of a subscriber, or such a payment to the subscriber;

J. "health care plan" means an organization that demonstrates to the superintendent that it has been granted exemption from the federal income tax by the United States commissioner of internal revenue as an organization described in Section 501(c)(3) of the United States Internal Revenue Code of 1986, as that section may be amended or renumbered, and is authorized by the superintendent to enter into contracts with subscribers and to make health care expense payments, including an organization that issues:

(1) a short-term health care plan;

(2) an excepted benefit health care plan intended to supplement major medical coverage, including medicare supplement, vision, dental, disease-specific, accident-only or hospital indemnity-only insurance policies; or

(3) a policy or plan for long-term care or disability income;

K. "indemnity benefit" means a payment that the purveyor has not agreed to accept as payment in full for health care furnished the subscriber;

L. "item of health care" means a service or material used in health care;

M. "pharmacist" means a person licensed as a pharmacist pursuant to the Pharmacy Act;

N. "pharmacist clinician" means a pharmacist who exercises prescriptive authority pursuant to the Pharmacist Prescriptive Authority Act;

O. "premium" means all income received from individuals and private and public payers or sources for the procurement of health coverage, including capitated payments, self-funded administrative fees, self-funded claim reimbursements, recoveries from third parties or other insurers and interests less any premium tax paid pursuant to Section 59A-6-2 NMSA 1978 and fees associated with participating in a health insurance exchange that serves as a clearinghouse for insurance;

P. "provider" means a physician or other individual licensed or otherwise authorized to furnish health care services in the state;

Q. "purveyor" means a person who furnishes any item of health care and charges for that item;

R. "service benefit" means a payment that the purveyor has agreed to accept as payment in full for health care furnished the subscriber;

S. "short-term health care plan" means a nonrenewable health care plan covering a resident of the state, regardless of where the plan is delivered, that:

(1) has a maximum specified duration of not more than three months after the effective date of the plan; and

(2) is issued only to individuals who have not been enrolled in a health care plan that provides the same or similar nonrenewable coverage from any nonprofit health care plan within the three months preceding enrollment in the short-term plan;

T. "solicitor" means a person employed by the licensed agent of a health care plan for the purpose of soliciting health care policies and other related duties in connection with the handling of the business of the agent as may be authorized and paid for the person's services either on a commission basis or salary basis or part by commission and part by salary;

U. "subscriber" means any individual who, because of a contract with a health care plan entered into by or for the individual, is entitled to have health care expense payments made on the individual's behalf or to the individual by the health care plan; and

V. "underwriting manual" means the health care plan's written criteria, approved by the superintendent, that defines the terms and conditions under which subscribers

may be selected. The underwriting manual may be amended from time to time, but the amendment will not be effective until approved by the superintendent. The superintendent shall notify the health care plan filing the underwriting manual or the amendment thereto of the superintendent's approval or disapproval thereof in writing within thirty days after filing or within sixty days after filing if the superintendent shall so extend the time. If the superintendent fails to act within such period, the filing shall be deemed to be approved."

Chapter 235 Section 15 Laws 2019

SECTION 15. Section 59A-47-46 NMSA 1978 (being Laws 2010, Chapter 94, Section 4, as amended) is amended to read:

"59A-47-46. HEALTH INSURERS--DIRECT SERVICES.--

A. A health care plan shall make reimbursement for direct services at a level not less than eighty-five percent of premiums across all health product lines, including short-term health care plans and excluding individually underwritten health care policies, contracts or plans, that are governed by the provisions of Chapter 59A, Article 22 NMSA 1978, the Health Maintenance Organization Law and the Nonprofit Health Care Plan Law, and an excepted benefit health care plan intended to supplement major medical coverage, including medicare supplement, vision, dental, disease-specific, accident-only or hospital indemnity-only insurance policies, or a health care plan that only issues policies for long-term care or disability income. Reimbursement shall be made for direct services provided over the preceding three calendar years, but not earlier than calendar year 2010, as determined by reports filed with the office of superintendent of insurance. Nothing in this subsection shall be construed to preclude a purchaser from negotiating an agreement with a health insurer that requires a higher amount of premiums paid to be used for reimbursement for direct services for one or more products or for one or more years.

B. For individually underwritten health care policies, plans or contracts, the superintendent shall establish, after notice and informal hearing, the level of reimbursement for direct services as determined as a percent of premiums. Additional hearings may be held at the superintendent's discretion. In establishing the level of reimbursement for direct services, the superintendent shall consider the costs associated with the individual marketing and medical underwriting of these policies, plans or contracts at a level not less than seventy-five percent of premiums. A health insurer writing these policies, plans or contracts shall make reimbursement for direct services at a level not less than that level established by the superintendent pursuant to this subsection over the three calendar years preceding the date upon which that rate is established, but not earlier than calendar year 2010. Nothing in this subsection shall

be construed to preclude a purchaser of one of these policies, plans or contracts from negotiating an agreement with a health insurer that requires a higher amount of premiums paid to be used for reimbursement for direct services.

C. A health care plan that fails to comply with the reimbursement requirements pursuant to this section shall issue a dividend or credit against future premiums to all policyholders in an amount sufficient to ensure that the benefits paid in the preceding three calendar years plus the amount of the dividends or credits are equal to the required direct services reimbursement level pursuant to Subsection A of this section for group health coverage and blanket health coverage or the required direct services reimbursement level pursuant to Subsection B of this section for individually underwritten health policies, contracts or plans for the preceding three calendar years. If the insurer fails to issue the dividend or credit in accordance with the requirements of this section, the superintendent shall enforce these requirements and may pursue any other penalties as provided by law, including general penalties pursuant to Section 59A-1-18 NMSA 1978.

D. After notice and hearing, the superintendent may adopt and promulgate reasonable rules necessary and proper to carry out the provisions of this section."

Chapter 235 Section 16 Laws 2019

SECTION 16. That version of Section 59A-47-46 NMSA 1978 (being Laws 2010, Chapter 94, Section 4, as amended) that is to become effective January 1, 2020 is amended to read:

"59A-47-46. HEALTH INSURERS--DIRECT SERVICES.--

A. A health care plan shall make reimbursement for direct services at a level not less than eighty-five percent of premiums across all health product lines, including short-term health care plans and excluding individually underwritten health care policies, contracts or plans, that are governed by the provisions of Chapter 59A, Article 22 NMSA 1978, the Health Maintenance Organization Law and the Nonprofit Health Care Plan Law, and an excepted benefit health care plan intended to supplement major medical coverage, including medicare supplement, vision, dental, disease-specific, accident-only or hospital indemnity-only insurance policies, or a health care plan that only issues policies for long-term care or disability income. Reimbursement shall be made for direct services provided over the preceding three calendar years, but not earlier than calendar year 2010, as determined by reports filed with the office of superintendent of insurance. Nothing in this subsection shall be construed to preclude a purchaser from negotiating an agreement with a health insurer that requires a higher amount of

premiums paid to be used for reimbursement for direct services for one or more products or for one or more years.

B. For individually underwritten health care policies, plans or contracts, the superintendent shall establish, after notice and informal hearing, the level of reimbursement for direct services as determined as a percent of premiums. Additional hearings may be held at the superintendent's discretion. In establishing the level of reimbursement for direct services, the superintendent shall consider the costs associated with the individual marketing and medical underwriting of these policies, plans or contracts at a level not less than seventy-five percent of premiums. A health insurer writing these policies, plans or contracts shall make reimbursement for direct services at a level not less than that level established by the superintendent pursuant to this subsection over the three calendar years preceding the date upon which that rate is established, but not earlier than calendar year 2010. Nothing in this subsection shall be construed to preclude a purchaser of one of these policies, plans or contracts from negotiating an agreement with a health insurer that requires a higher amount of premiums paid to be used for reimbursement for direct services.

C. A health care plan that fails to comply with the reimbursement requirements pursuant to this section shall issue a dividend or credit against future premiums to all policyholders in an amount sufficient to ensure that the benefits paid in the preceding three calendar years plus the amount of the dividends or credits are equal to the required direct services reimbursement level pursuant to Subsection A of this section for group health coverage and blanket health coverage or the required direct services reimbursement level pursuant to Subsection B of this section for individually underwritten health policies, contracts or plans for the preceding three calendar years. If the insurer fails to issue the dividend or credit in accordance with the requirements of this section, the superintendent shall enforce these requirements and may pursue any other penalties as provided by law, including general penalties pursuant to Section 59A-1-18 NMSA 1978.

D. After notice and hearing, the superintendent may adopt and promulgate reasonable rules necessary and proper to carry out the provisions of this section." _____

HHHC/House Bill 285, aa

Approved April 4, 2019

LAWS 2019, CHAPTER 236

AN ACT

RELATING TO AGRICULTURE; ENACTING THE NEW MEXICO AGRICULTURAL WORKFORCE DEVELOPMENT PROGRAM ACT.

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

Chapter 236 Section 1 Laws 2019

SECTION 1. SHORT TITLE.--This act may be cited as the "New Mexico Agricultural Workforce Development Program Act".

Chapter 236 Section 2 Laws 2019

SECTION 2. DEFINITIONS.--As used in the New Mexico Agricultural Workforce Development Program Act:

- A. "agricultural business" means a business of a food or agricultural nature, including agriculture production or processing;
- B. "board" means the board of regents of New Mexico state university;
- C. "department" means the New Mexico department of agriculture;
- D. "director" means the director of the department;
- E. "immediate family member" means the spouse, parent, sibling or child of the owner or manager of an agricultural business; a person to whom the owner or manager of an agricultural business stands in loco parentis; or any other person living in the household of the owner or manager of an agricultural business and related to the owner or manager of an agricultural business by blood or marriage;
- F. "intern" means an individual who is a student or a young and beginning farmer or rancher employed by an agricultural business pursuant to the program; and
- G. "program" means the New Mexico agricultural workforce development program.

Chapter 236 Section 3 Laws 2019

SECTION 3. AGRICULTURAL WORKFORCE DEVELOPMENT PROGRAM CREATED--GENERAL PROVISIONS--RULEMAKING.--

A. The "New Mexico agricultural workforce development program" is created and shall be administered by the department. The department shall establish policies for the program that specify, at a minimum:

(1) criteria for selecting agricultural businesses for participation in the program, including the ability of a business to effectively supervise an intern and offer the intern an opportunity to obtain meaningful work experience through the business;

(2) criteria for an internship to qualify under the program, including requirements that the internship:

(a) provide an intern with at least one hundred thirty hours of work experience;

(b) not exceed one year in duration per intern; and

(c) pay an intern an hourly wage rate that is no less than the minimum wage rate established in Section 50-4-22 NMSA 1978;

(3) criteria for an agricultural business to use in selecting qualified interns; provided that an immediate family member shall not be eligible to qualify as an intern;

(4) the process and timetable for selecting qualified agricultural businesses and qualified interns;

(5) accounting requirements for tracking internship costs; and

(6) the process for an agricultural business to seek reimbursement.

B. Subject to appropriations by the legislature, the board, on behalf of the department, may reimburse a participating agricultural business in an amount not to exceed fifty percent of the actual cost to the business of participating in the program. Actual cost includes the wages paid to an intern, a reasonable allocation of fixed overhead expenses and all incidental costs directly related to the internship. Based on the annual appropriation for the program, the director shall determine how many internships may be approved, the amount of reimbursement per internship and whether an agricultural business may be reimbursed for more than one intern in the same calendar year; provided that an agricultural business shall not be reimbursed for more than three internships in the same calendar year.

C. The department shall annually report to the appropriate interim legislative committee on the effectiveness of the program in achieving the purpose of the New Mexico Agricultural Workforce Development Program Act. _____

House Bill 315, aa

Approved April 4, 2019

LAWS 2019, CHAPTER 238

AN ACT

RELATING TO PUBLIC SCHOOL PERSONNEL; CLARIFYING TERMS AND PROVISIONS OF THE SCHOOL PERSONNEL ACT CONCERNING DISCHARGE OF LICENSED AND UNLICENSED SCHOOL EMPLOYEES IN PUBLIC SCHOOLS, SPECIAL SCHOOLS, REGIONAL EDUCATION COOPERATIVES AND OTHER STATE AGENCIES THAT EDUCATE RESIDENT SCHOOL-AGE CHILDREN.

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

Chapter 238 Section 1 Laws 2019

SECTION 1. Section 22-10A-2 NMSA 1978 (being Laws 1975, Chapter 306, Section 2, as amended) is repealed and a new Section 22-10A-2 NMSA 1978 is enacted to read:

"22-10A-2. DEFINITIONS.--As used in the School Personnel Act:

A. "constitutional special school" means the New Mexico military institute, New Mexico school for the deaf and New Mexico school for the blind and visually impaired;

B. "discharge" means the act of severing the employment relationship with a licensed school employee prior to the expiration of the current employment contract;

C. "employed for three consecutive school years" means a licensed school employee has been offered and accepted in writing a notice of reemployment for the third consecutive school year;

D. "governing authority" means the policy setting body of a school district, charter school, constitutional special school or regional education cooperative, or the final decision maker of another state agency;

E. "instructional support provider" means a person who is employed to support the instructional program of a public school, including educational assistant, school counselor, social worker, school nurse, speech-language pathologist, psychologist, physical therapist, occupational therapist, recreational therapist, marriage and family therapist, interpreter for the deaf and diagnostician;

F. "just cause" means a reason that is rationally related to a school employee's competence or turpitude or the proper performance of the school employee's duties and that is not in violation of the school employee's civil or constitutional rights;

G. "public school" means a school district, charter school, constitutional special school, regional education cooperative or the educational program of another state agency;

H. "responsibility factor" means a value of 1.20 for an elementary school principal, 1.40 for a middle school or junior high school principal, 1.60 for a high school principal, 1.10 for an assistant elementary school principal, 1.15 for an assistant middle school or assistant junior high school principal and 1.25 for an assistant high school principal;

I. "sabbatical leave" means leave of absence with pay as approved by the governing authority during all or part of a regular school term for purposes of study or travel related to a licensed school employee's duties and of direct benefit to the instructional program;

J. "school administrator" means a person licensed to administer in a school district, charter school, constitutional special school or regional education cooperative or a person employed with another state agency who administers an educational program and includes local superintendents, school principals, central district administrators, business managers, charter school head administrators and state agency education supervisors;

K. "school employee" includes licensed and unlicensed employees of a public school;

L. "school premises" means:

(1) the buildings and grounds, including playgrounds, playing fields and parking areas and a school bus of a public school, in or on which school or school-related activities are being operated under the supervision of a local school board, charter school or state agency; or

(2) any other public buildings or grounds, including playing fields and parking areas that are not public school property, in or on which public school-related and -sanctioned activities are being performed;

M. "state agency" means a regional education cooperative or state institution;

N. "state institution" means the New Mexico boys' school, girls' welfare home, New Mexico youth diagnostic and development center, Sequoyah adolescent treatment center, Carrie Tingley crippled children's hospital, New Mexico behavioral health institute at Las Vegas and any other state agency responsible for educating resident children;

O. "substitute teacher" means a person who holds a certificate to substitute for a teacher in the classroom;

P. "superintendent" means a local superintendent, head administrator of a charter school or regional education cooperative, superintendent or commandant of a special school or head administrator of the educational program of a state agency;

Q. "teacher" means a person who holds a level one, level two or level three-A license and whose primary job is classroom instruction or the supervision, below the school principal level, of an instructional program or whose duties include curriculum development, peer intervention, peer coaching or mentoring or serving as a resource teacher for other teachers;

R. "terminate" means the act of severing the employment relationship with a school employee; and

S. "working day" means every school calendar day, excluding Saturdays, Sundays and legal holidays."

Chapter 238 Section 2 Laws 2019

SECTION 2. Section 22-10A-3 NMSA 1978 (being Laws 2003, Chapter 153, Section 34) is amended to read:

"22-10A-3. LICENSE OR CERTIFICATE REQUIRED--APPLICATION FEE--
GENERAL DUTIES.--

A. Except as otherwise provided in this subsection, any person teaching, supervising an instructional program or providing instructional support services in a public school; any person administering in a public school; and any person providing health care and administering medications or performing medical procedures in a public school shall hold a valid license or certificate from the department authorizing the person to perform that function. This subsection does not apply to a person performing the functions of a practice teacher or teaching intern as defined by the department.

B. The department shall charge a reasonable fee for each application for or the renewal of a license or certificate. The application fee may be waived if the applicant meets a standard of indigency established by the department.

C. A person performing the duties of a licensed school employee who does not hold a valid license or certificate or has not submitted a complete application for licensure or certification within the first three months from beginning employment duties shall not be compensated thereafter for services rendered until the person demonstrates that the person holds a valid license or certificate. This section does not apply to practice teachers or teaching interns as defined by rules of the department.

D. Each licensed school employee shall:

- (1) enforce all laws and rules applicable to the employee's public school;
- (2) if teaching, teach the prescribed courses of instruction;
- (3) exercise supervision over students on public school premises and while the students are under the control of the public school; and
- (4) furnish reports as required."

Chapter 238 Section 3 Laws 2019

SECTION 3. Section 22-10A-5 NMSA 1978 (being Laws 1997, Chapter 238, Section 1, as amended) is amended to read:

"22-10A-5. BACKGROUND CHECKS--KNOWN CONVICTIONS--ALLEGED ETHICAL MISCONDUCT--REPORTING REQUIRED--LIMITED IMMUNITY--PENALTY FOR FAILURE TO REPORT.--

A. As used in this section, "ethical misconduct" means unacceptable behavior or conduct engaged in by a school employee, school volunteer, contractor or contractor's employee and includes unlawful discriminatory practice; sexual harassment, sexual assault or sexual abuse involving an adult or child, regardless of a child's enrollment status; and behavior intended to induce a child into engaging in illegal, immoral or other prohibited behavior.

B. An applicant for initial licensure shall be fingerprinted and shall provide two fingerprint cards or the equivalent electronic fingerprints to the department or superintendent to obtain the applicant's federal bureau of investigation record. Convictions of felonies or misdemeanors contained in the federal bureau of investigation record shall be used in accordance with the Criminal Offender Employment Act. Other information contained in the federal bureau of investigation record, if supported by independent evidence, may form the basis for the denial, suspension or revocation of a license for just cause. Records and related information shall be privileged and shall not be disclosed to a person not directly involved in the licensure or employment decisions affecting the specific applicant. The applicant for initial licensure shall pay for the cost of obtaining the federal bureau of investigation record.

C. Governing authorities shall develop policies and procedures to require background checks on an applicant who has been offered employment or who applies to be a volunteer or works for the public school as a contractor or a contractor's employee and who may have unsupervised access to students on school premises.

D. An applicant who has been offered employment or a school volunteer, contractor or contractor's employee shall provide two fingerprint cards or the equivalent electronic fingerprints to the superintendent to obtain the applicant's, school volunteer's, contractor's or contractor's employee's federal bureau of investigation record. The public school shall pay for an applicant's background check. A school volunteer, contractor or contractor's employee may be required to pay for the cost of obtaining a background check.

E. Convictions of felonies or misdemeanors contained in the federal bureau of investigation record shall be used in accordance with the Criminal Offender Employment Act; provided that other information contained in the federal bureau of investigation record, if supported by independent evidence, may form the basis for the employment decisions for just cause.

F. Records and related information shall be privileged and shall not be disclosed to a person not directly involved in the employment, volunteering or contracting decision affecting the specific applicant, volunteer, contractor or contractor's

employee who has been offered employment, a volunteer position or a contract and will have unsupervised access to students on school premises.

G. A superintendent shall report to the department any known conviction of a felony or misdemeanor involving moral turpitude of a licensed school employee that results in any type of action against the licensed school employee.

H. A superintendent or the superintendent's designated representative shall investigate all allegations of ethical misconduct about any school employee who resigns, is being discharged or terminated or otherwise leaves employment after an allegation has been made. If the investigation results in a finding of ethical misconduct by a licensed school employee, the superintendent shall report the identity of the licensed school employee and attendant circumstances of the ethical misconduct on a standardized form to the department and the licensed school employee within thirty days following the separation from employment or immediately if knowledge of the ethical misconduct is sexual harassment or sexual abuse of an adult or child. Copies of that form shall not be maintained in the school employee's personnel file. The superintendent shall also report allegations of sexual assault or sexual abuse involving any school employee, volunteer, contractor or a contractor's employee to the appropriate law enforcement agency. No agreement between a departing school employee and the governing authority or superintendent shall diminish or eliminate the responsibility of investigating and reporting the alleged ethical misconduct to the department or, if legally mandated, to law enforcement, and any such agreement to the contrary is void.

I. Unless the department has commenced its own investigation of a licensed school employee prior to receipt of the form, the department shall serve the licensed school employee with a notice of investigation and a notice of contemplated action pursuant to the Uniform Licensing Act within sixty days of receipt of the form. If a notice of contemplated action is not served on the licensed school employee within ninety days of receipt of the form, the form, together with any documents related to the alleged ethical misconduct, shall be expunged from the licensed school employee's records.

J. The secretary may initiate action to suspend, revoke or refuse to renew the license of a superintendent who fails to report as required by Subsections G and H of this section.

K. A person who in good faith reports as provided in Subsections G and H of this section shall not be held liable for civil damages as a result of the report. The person being accused shall have the right to sue for any damages sustained as a result

of negligent or intentional reporting of inaccurate information or the disclosure of any information to an unauthorized person."

Chapter 238 Section 4 Laws 2019

SECTION 4. Section 22-10A-21 NMSA 1978 (being Laws 1967, Chapter 16, Section 113, as amended) is amended to read:

"22-10A-21. LICENSED SCHOOL EMPLOYEES--EMPLOYMENT CONTRACTS--DURATION.--

A. All employment contracts between superintendents and licensed school employees shall be in writing on forms approved by the department. These forms shall contain and specify the term of service, the salary to be paid, the method of payment, the causes for discharge during the term of the contract and other provisions required by the rules of the department.

B. All employment contracts between superintendents and licensed school employees shall be for a period of one school year except:

(1) contracts for less than one school year are permitted to fill personnel vacancies that occur during the school year;

(2) contracts for the remainder of a school year are permitted to staff programs when the availability of funds for the programs is not known until after the beginning of the school year;

(3) contracts for less than one school year are permitted to staff summer school programs and to staff federally funded programs in which the federally approved programs are specified to be conducted for less than one school year;

(4) contracts not to exceed three years are allowed at the discretion of the governing authority for superintendents; and

(5) contracts not to exceed three years are allowed at the discretion of the governing authority for licensed school employees in public schools who have been employed for three consecutive school years.

C. Persons employed under contracts for periods of less than one school year as provided in Paragraphs (1) and (2) of Subsection B of this section shall be accorded all the duties, rights and privileges of the School Personnel Act.

D. In determination of eligibility for unemployment compensation rights and benefits for licensed school employees where those rights and benefits are claimed to arise from the employment relationship between governing authorities and licensed school employees, that period of a year not covered by a school year shall not be considered an unemployment period.

E. Except as provided in Section 22-10A-22 NMSA 1978, a licensed school employee employed by contract pursuant to this section has no legitimate objective expectancy of reemployment, and no contract entered into pursuant to this section shall be construed as an implied promise of continued employment pursuant to a subsequent contract."

Chapter 238 Section 5 Laws 2019

SECTION 5. Section 22-10A-22 NMSA 1978 (being Laws 1967, Chapter 16, Section 114, as amended) is amended to read:

"22-10A-22. LICENSED SCHOOL EMPLOYEES--NOTICE OF REEMPLOYMENT--TERMINATION.--On or before fifteen working days prior to the last day of the school year, the superintendent shall serve written notice of reemployment or termination on each licensed school employee employed by the public school. A notice of reemployment shall be an offer of employment for the ensuing school year. A notice of termination shall be a notice of intention not to reemploy for the ensuing school year. Failure of the superintendent to serve a written notice of reemployment or termination on a licensed school employee shall be construed to mean that notice of reemployment has been served upon the licensed school employee for the ensuing school year according to the terms of the existing employment contract but subject to any additional compensation allowed other licensed school employees of like qualifications and experience. Nothing in this section shall be construed to mean that failure of a superintendent to serve a written notice of reemployment or termination shall automatically extend a licensed school employee's employment contract for a period in excess of one school year."

Chapter 238 Section 6 Laws 2019

SECTION 6. Section 22-10A-23 NMSA 1978 (being Laws 1967, Chapter 16, Section 115, as amended) is amended to read:

"22-10A-23. LICENSED SCHOOL EMPLOYEES--REEMPLOYMENT--ACCEPTANCE--REJECTION--BINDING CONTRACT.--

A. Each licensed school employee shall deliver to the superintendent a written acceptance or rejection of reemployment for the ensuing school year within fifteen days from the following:

(1) the date written notice of reemployment is served upon the licensed school employee; or

(2) the last day of the school year when no written notice of reemployment or termination is served upon the licensed school employee on or before fifteen working days prior to the last day of the school year.

B. Delivery of the written acceptance of reemployment by a licensed school employee creates a binding employment contract between the licensed school employee and the superintendent until the parties enter into a formal written employment contract. Written employment contracts between the superintendent and licensed school employees shall be executed by the parties not later than ten days before the first day of a school year."

Chapter 238 Section 7 Laws 2019

SECTION 7. Section 22-10A-26 NMSA 1978 (being Laws 1967, Chapter 16, Section 118, as amended) is amended to read:

"22-10A-26. EXCEPTED FROM PROVISIONS.--Sections 22-10A-22 through 22-10A-25 NMSA 1978 do not apply to the following:

A. a licensed school employee employed to fill the position of a licensed school employee entering military service;

B. a licensed school administrator who is employed as a licensed school administrator;

C. an unlicensed school employee employed to perform primarily district-wide management functions; or

D. a person who does not hold a valid license or has not submitted a complete application for licensure within the first three months from beginning employment duties pursuant to Subsection C of Section 22-10A-3 NMSA 1978."

Chapter 238 Section 8 Laws 2019

SECTION 8. Section 22-10A-27 NMSA 1978 (being Laws 1986, Chapter 33, Section 24, as amended) is amended to read:

"22-10A-27. DISCHARGE HEARING--LICENSED SCHOOL EMPLOYEES--PROCEDURES.--

A. A superintendent may recommend to the governing authority the discharge of a licensed school employee during the term of a contract authorized pursuant to Section 22-10A-21 NMSA 1978 only for just cause according to the following procedure:

(1) the superintendent shall serve a written notice of intent to recommend discharge on the licensed school employee in accordance with the law for service of process in civil actions; and

(2) the superintendent shall state in the notice of intent to recommend discharge the cause for the recommendation and shall advise the licensed school employee of the licensed school employee's right to a discharge hearing before the governing authority as provided in this section. If the licensed school employee does not exercise that right to hearing, the superintendent shall discharge the licensed school employee.

B. A licensed school employee who receives a notice of intent to recommend discharge pursuant to Subsection A of this section may exercise the licensed school employee's right to a hearing before the governing authority by giving the superintendent written notice of that election within ten working days of the licensed school employee's receipt of the notice of intent to recommend discharge.

C. The governing authority shall hold a discharge hearing no less than twenty and no more than forty working days after the superintendent receives the written election from the licensed school employee and shall give the licensed school employee at least ten days written notice of the date, time and place of the discharge hearing.

D. Each party, the superintendent and the licensed school employee, may each be accompanied by a person of the party's choice.

E. The parties shall complete and respond to discovery by deposition and production of documents prior to the discharge hearing.

F. The governing authority shall have the authority to issue subpoenas for the attendance of witnesses and to produce books, records, documents and other evidence at the request of either party and shall have the power to administer oaths.

G. The superintendent shall have the burden of proving by a preponderance of the evidence that, at the time of the notice of intent to recommend discharge, the superintendent had just cause to recommend discharge of the licensed school employee.

H. The superintendent shall present evidence first, with the licensed school employee presenting evidence thereafter. The governing authority shall permit either party to call, examine and cross-examine witnesses and to introduce documentary evidence.

I. An official record shall be made of the hearing. Either party may have one copy of the record at the expense of the governing authority.

J. The governing authority shall render its written decision within twenty days of the conclusion of the discharge hearing."

Chapter 238 Section 9 Laws 2019

SECTION 9. Section 22-10A-28 NMSA 1978 (being Laws 1986, Chapter 33, Section 25, as amended) is amended to read:

"22-10A-28. DISCHARGE APPEALS--LICENSED SCHOOL EMPLOYEES--INDEPENDENT ARBITRATOR--QUALIFICATIONS--PROCEDURE--BINDING DECISION.--

A. A licensed school employee aggrieved by a decision of the governing authority to discharge the licensed school employee after a discharge hearing held pursuant to Section 22-10A-27 NMSA 1978 may appeal the decision to an independent arbitrator. A written notice of appeal shall be submitted to the governing authority within ten working days from the receipt of the copy of the written decision of the governing authority.

B. The governing authority may delegate responsibility for the arbitration to the superintendent. The superintendent as delegate of the governing authority and the licensed school employee shall meet within ten calendar days from the receipt of the notice of appeal and select an independent arbitrator to conduct the appeal, or, in the event the parties fail to agree on an independent arbitrator, they shall request the presiding judge in the judicial district in which the public school is located to select the independent arbitrator. The presiding judge shall select the independent arbitrator within five working days from the date of the parties' request.

C. A qualified independent arbitrator shall be appointed who is versed in employment practices and school procedures. No person shall be appointed to serve as the independent arbitrator who has any direct or indirect financial interest in the outcome of the proceeding, has any relationship to any party in the proceeding, is employed by the superintendent or is a member of or employed by any professional organization of which the licensed school employee is a member.

D. Appeals from the decision of the governing authority shall be decided after a de novo hearing before the independent arbitrator. The superintendent, as delegate of the governing authority, shall have the burden of proving by a preponderance of the evidence that, at the time of the notice of intent to recommend discharge, the superintendent had just cause to discharge the licensed school employee. The superintendent shall present evidence first, with the licensed school employee presenting evidence thereafter.

E. The hearing shall be held within thirty working days from the selection of the independent arbitrator. The independent arbitrator shall give written notice of the date, time and place of the hearing, and such notice shall be sent to the licensed school employee and the governing authority.

F. Each party has the right to be represented by counsel at the hearing before the independent arbitrator.

G. Discovery shall be limited to depositions and requests for production of documents on a time schedule to be established by the independent arbitrator.

H. The independent arbitrator may issue subpoenas for the attendance of witnesses and for the production of books, records, documents and other evidence and shall have the power to administer oaths. Subpoenas so issued shall be served and enforced in the manner provided by law for the service and enforcement of subpoenas in a civil action or in the manner provided by the American arbitration association's voluntary labor arbitration rules if that entity is used by the parties.

I. The rules of civil procedure shall not apply to the hearing, but it shall be conducted so that both contentions and responses are amply and fairly presented. To this end, the independent arbitrator shall permit either party to call and examine witnesses, cross-examine witnesses and introduce exhibits. The technical rules of evidence shall not apply, but, in ruling on the admissibility of evidence, the independent arbitrator may require reasonable substantiation of statements or records tendered, the accuracy or truth of which is in reasonable doubt.

J. An official record shall be made of the hearing. Either party may order a transcript of the record at the party's own expense.

K. The independent arbitrator shall render a written decision affirming or reversing the action of the governing authority. The decision shall contain findings of fact and conclusions of law. The parties shall receive the written decision of the independent arbitrator within thirty working days from the conclusion of the hearing.

L. Unless a party can demonstrate prejudice arising from a departure from the procedures established in this section and in Section 22-10A-27 NMSA 1978, such departure shall be presumed to be harmless error.

M. The decision of the independent arbitrator shall be final and binding on both parties and shall be nonappealable except where the decision was procured by corruption, fraud, deception or collusion, in which case it may be appealed to the court of appeals by filing a notice of appeal as provided by the New Mexico rules of appellate procedure.

N. Each party shall bear its own costs and expenses. The independent arbitrator's fees and other expenses incurred in the conduct of the arbitration shall be assigned at the discretion of the independent arbitrator."

Chapter 238 Section 10 Laws 2019

SECTION 10. Section 22-10A-29 NMSA 1978 (being Laws 1967, Chapter 16, Section 120, as amended) is amended to read:

"22-10A-29. COMPENSATION PAYMENTS TO DISCHARGED PERSONNEL.-

A. Payment of compensation to a licensed school employee employed by a public school and payment of compensation to a superintendent employed by a governing authority shall terminate as of the date, after a hearing, that a written copy of the decision of the governing authority to discharge the licensed school employee or superintendent is served on the licensed school employee or superintendent. If the compensation of the licensed school employee or superintendent discharged during the term of a written employment contract is to be paid monthly during a twelve-month period for services to be performed during a period less than twelve months, the licensed school employee or superintendent shall be entitled to a pro rata share of the compensation payments due for the period during the twelve months in which no services were to be performed.

B. In the event the action of the governing authority in discharging a licensed school employee or superintendent is reversed on appeal, payment of compensation to the licensed school employee or superintendent shall be reinstated in full but subject to any additional compensation allowed other licensed school employees or superintendents of like qualifications and experience employed by the public school and including reimbursement for compensation during the entire period the compensation was terminated less an offset for any compensation received by the licensed school employee or superintendent from the public school during the period the compensation was terminated."

HLVMC/House Bill 431, aa

Approved April 4, 2019

LAWS 2019, CHAPTER 237

AN ACT

RELATING TO PUBLIC EMPLOYEE PENSIONS; INCREASING PUBLIC EMPLOYER AND LOCAL ADMINISTRATIVE UNIT CONTRIBUTIONS TO THE FUNDS INCLUDED UNDER THE PUBLIC EMPLOYEES RETIREMENT ACT AND THE EDUCATIONAL RETIREMENT FUND.

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

Chapter 237 Section 1 Laws 2019

SECTION 1. Section 10-11-26.6 NMSA 1978 (being Laws 1994, Chapter 128, Section 7, as amended) is amended to read:

"10-11-26.6. STATE GENERAL MEMBER COVERAGE PLAN 3--STATE CONTRIBUTION RATE.--The state shall contribute seventeen and twenty-four hundredths percent of the salary of each member covered by state general member coverage plan 3 starting with the first pay period that ends within the calendar month in which state general member coverage plan 3 becomes applicable to the member."

Chapter 237 Section 2 Laws 2019

SECTION 2. Section 10-11-38.6 NMSA 1978 (being Laws 1994, Chapter 128, Section 14, as amended) is amended to read:

"10-11-38.6. JUVENILE CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 2--STATE CONTRIBUTION RATE.--The state shall contribute twenty-six and thirty-seven hundredths percent of the salary of each member covered by juvenile correctional officer member coverage plan 2 starting with the first pay period that ends within the calendar month in which juvenile correctional officer member coverage plan 2 becomes applicable to the member."

Chapter 237 Section 3 Laws 2019

SECTION 3. Section 10-11-49 NMSA 1978 (being Laws 1987, Chapter 253, Section 49, as amended) is amended to read:

"10-11-49. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 1--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--An affiliated public employer shall contribute seven and sixty-five hundredths percent of the salary of each member it employs and who is covered under municipal general member coverage plan 1."

Chapter 237 Section 4 Laws 2019

SECTION 4. Section 10-11-55 NMSA 1978 (being Laws 1987, Chapter 253, Section 55, as amended) is amended to read:

"10-11-55. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 2--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--An affiliated public employer shall contribute nine and eight-tenths percent of the salary of each member it employs and who is covered under municipal general member coverage plan 2."

Chapter 237 Section 5 Laws 2019

SECTION 5. Section 10-11-55.6 NMSA 1978 (being Laws 1993, Chapter 58, Section 6, as amended) is amended to read:

"10-11-55.6. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 3--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--An affiliated public employer shall contribute nine and eight-tenths percent of the salary of each member it employs and who is covered under municipal general member coverage plan 3."

Chapter 237 Section 6 Laws 2019

SECTION 6. Section 10-11-55.12 NMSA 1978 (being Laws 1998, Chapter 106, Section 6, as amended) is amended to read:

"10-11-55.12. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 4--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--An affiliated public employer shall contribute twelve and three-tenths percent of the salary of each member it employs and who is covered under municipal general member coverage plan 4."

Chapter 237 Section 7 Laws 2019

SECTION 7. Section 10-11-61 NMSA 1978 (being Laws 1987, Chapter 253, Section 61, as amended) is amended to read:

"10-11-61. MUNICIPAL POLICE MEMBER COVERAGE PLAN 1--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated public employer shall contribute ten and sixty-five hundredths percent of the salary of each member it employs and who is covered under municipal police member coverage plan 1."

Chapter 237 Section 8 Laws 2019

SECTION 8. Section 10-11-67 NMSA 1978 (being Laws 1987, Chapter 253, Section 67, as amended) is amended to read:

"10-11-67. MUNICIPAL POLICE MEMBER COVERAGE PLAN 2--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated public employer shall contribute fifteen and sixty-five hundredths percent of the salary of each member it employs and who is covered under municipal police member coverage plan 2."

Chapter 237 Section 9 Laws 2019

SECTION 9. Section 10-11-73 NMSA 1978 (being Laws 1987, Chapter 253, Section 73, as amended) is amended to read:

"10-11-73. MUNICIPAL POLICE MEMBER COVERAGE PLAN 3--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated public employer shall contribute nineteen and fifteen-hundredths percent of the salary of each member it employs and who is covered under municipal police member coverage plan 3."

Chapter 237 Section 10 Laws 2019

SECTION 10. Section 10-11-79 NMSA 1978 (being Laws 1987, Chapter 253, Section 79, as amended) is amended to read:

"10-11-79. MUNICIPAL POLICE MEMBER COVERAGE PLAN 4--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated public employer shall contribute nineteen and fifteen-hundredths percent of the salary of each member it employs and who is covered under municipal police member coverage plan 4."

Chapter 237 Section 11 Laws 2019

SECTION 11. Section 10-11-85 NMSA 1978 (being Laws 1987, Chapter 253, Section 85, as amended) is amended to read:

"10-11-85. MUNICIPAL POLICE MEMBER COVERAGE PLAN 5--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated public employer shall contribute nineteen and fifteen-hundredths percent of the salary of each member it employs and who is covered under municipal police member coverage plan 5."

Chapter 237 Section 12 Laws 2019

SECTION 12. Section 10-11-91 NMSA 1978 (being Laws 1987, Chapter 253, Section 91, as amended) is amended to read:

"10-11-91. MUNICIPAL FIRE MEMBER COVERAGE PLAN 1--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated public employer shall contribute eleven and sixty-five hundredths percent of the salary of each member it employs and covers under municipal fire member coverage plan 1."

Chapter 237 Section 13 Laws 2019

SECTION 13. Section 10-11-97 NMSA 1978 (being Laws 1987, Chapter 253, Section 97, as amended) is amended to read:

"10-11-97. MUNICIPAL FIRE MEMBER COVERAGE PLAN 2--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated public employer shall contribute eighteen and fifteen-hundredths percent of the salary of each member it employs and covers under municipal fire member coverage plan 2."

Chapter 237 Section 14 Laws 2019

SECTION 14. Section 10-11-103 NMSA 1978 (being Laws 1987, Chapter 253, Section 103, as amended) is amended to read:

"10-11-103. MUNICIPAL FIRE MEMBER COVERAGE PLAN 3--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated public employer shall contribute twenty-one and nine-tenths percent of the salary of each member it employs and covers under municipal fire member coverage plan 3."

Chapter 237 Section 15 Laws 2019

SECTION 15. Section 10-11-109 NMSA 1978 (being Laws 1987, Chapter 253, Section 109, as amended) is amended to read:

"10-11-109. MUNICIPAL FIRE MEMBER COVERAGE PLAN 4--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated public employer shall contribute twenty-one and nine-tenths percent of the salary of each member it employs and covers under municipal fire member coverage plan 4."

Chapter 237 Section 16 Laws 2019

SECTION 16. Section 10-11-115 NMSA 1978 (being Laws 1987, Chapter 253, Section 115, as amended) is amended to read:

"10-11-115. MUNICIPAL FIRE MEMBER COVERAGE PLAN 5--AFFILIATED PUBLIC EMPLOYER CONTRIBUTION RATE.--The affiliated public employer shall contribute twenty-one and nine-tenths percent of the salary of each member it employs and covers under municipal fire member coverage plan 5."

Chapter 237 Section 17 Laws 2019

SECTION 17. Section 10-11-115.6 NMSA 1978 (being Laws 2003, Chapter 268, Section 7, as amended) is amended to read:

"10-11-115.6. MUNICIPAL DETENTION OFFICER MEMBER COVERAGE PLAN 1--EMPLOYER CONTRIBUTION RATE.--The affiliated public employer shall contribute seventeen and three-tenths percent of the salary of each member under municipal detention officer member coverage plan 1 starting with the first pay period that ends within the calendar month in which municipal detention officer member coverage plan 1 becomes applicable to the member."

Chapter 237 Section 18 Laws 2019

SECTION 18. Section 22-11-21 NMSA 1978 (being Laws 1967, Chapter 16, Section 144, as amended) is amended to read:

"22-11-21. CONTRIBUTIONS--MEMBERS--LOCAL ADMINISTRATIVE UNITS.--

A. Except as provided in Subsection D of this section, for a member whose annual salary is greater than twenty thousand dollars (\$20,000), the member shall make contributions to the fund in an amount equal to ten and seven-tenths percent of the member's annual salary.

B. On and after July 1, 2008, for a member whose annual salary is twenty thousand dollars (\$20,000) or less, the member contribution rate shall be seven and nine-tenths percent of the member's annual salary.

C. Except as provided in Subsection D of this section, each local administrative unit shall make an annual contribution to the fund in an amount equal to fourteen and fifteen-hundredths percent of the annual salary of each member employed by the local administrative unit.

D. If, in a calendar year, the salary of a member, initially employed by a local administrative unit on or after July 1, 1996, equals the annual compensation limit set pursuant to Section 401(a)(17) of the Internal Revenue Code of 1986, as amended, then:

(1) for the remainder of that calendar year, no additional member contributions or local administrative unit contributions for that member shall be made pursuant to this section; provided that no member shall be denied service credit solely because contributions are not made by the member or on behalf of the member pursuant to the provisions of this subsection; and

(2) the amount of the annual compensation limit shall be divided into four equal portions, and, for purposes of attributing contributory employment and crediting service credit, each portion shall be attributable to one of the four quarters of the calendar year."

Chapter 237 Section 19 Laws 2019

SECTION 19. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

House Bill 501, aa

Approved April 4, 2019

LAWS 2019, CHAPTER 239

AN ACT

RELATING TO LICENSURE; ENACTING THE HOME INSPECTOR LICENSING ACT;
PROVIDING PENALTIES; MAKING AN APPROPRIATION.

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

Chapter 239 Section 1 Laws 2019

SECTION 1. SHORT TITLE.--This act may be cited as the "Home Inspector Licensing Act".

Chapter 239 Section 2 Laws 2019

SECTION 2. DEFINITIONS.--As used in the Home Inspector Licensing Act:

- A. "board" means the New Mexico home inspectors board;
- B. "client" means a person or an agent of the person who, through a written pre-inspection agreement, engages the services of a home inspector for the purpose of obtaining a report on the condition of residential real property;
- C. "compensation" means the payment for home inspection services pursuant to the written pre-inspection agreement;
- D. "foreign home inspector" means a home inspector who does not hold a license but who holds a current and valid home inspector license issued by another jurisdiction in the United States;
- E. "home inspection" means a noninvasive, nondestructive examination by a person of the interior and exterior components of a residential real property, including the property's structural components, foundation and roof, for the purposes of providing a professional written opinion regarding the site aspects and condition of the property and its carports, garages and reasonably accessible installed components. "Home inspection" includes the examination of the property's heating, cooling, plumbing and

electrical systems, including the operational condition of the systems' controls that are normally operated by a property owner;

F. "home inspector" means a person who performs home inspections for compensation;

G. "license" means a home inspector license issued by the board in accordance with the Home Inspector Licensing Act;

H. "licensee" means the holder of a license;

I. "pre-inspection agreement" means the written agreement signed by the client and a home inspector by which a client engages the services of the home inspector and that sets forth at a minimum the following:

(1) the amount of compensation due and payable to the home inspector for the home inspection and delivery of a report;

(2) a list of all components and systems that will be inspected; and

(3) the date by which the client will receive the report;

J. "report" means a written opinion prepared by a home inspector pursuant to the terms of a pre-inspection agreement regarding the functional and physical condition of the residential real property as determined by a home inspection conducted by a home inspector; and

K. "residential real property" means any real property or manufactured or modular home that is used for or intended to be used for residential purposes and that is a single-family dwelling, duplex, triplex, quadplex or unit, as "unit" is defined by the Condominium Act.

Chapter 239 Section 3 Laws 2019

SECTION 3. NEW MEXICO HOME INSPECTORS BOARD--CREATED-- POWERS AND DUTIES.--

A. The "New Mexico home inspectors board" is created and is administratively attached to the regulation and licensing department.

B. The board shall consist of five members, appointed by the governor, who have been residents of the state for at least three consecutive years immediately prior

to their appointment. Three members shall be home inspectors. One member shall be a real estate qualifying or associate broker licensed in accordance with Chapter 61, Article 29 NMSA 1978, and one member shall be a member of the public who has never been licensed as a home inspector or real estate broker. No more than one member shall be a resident of any one county in the state. The initial home inspector members appointed shall demonstrate that they have been actively and lawfully engaged in home inspections for at least twenty-four months prior to the effective date of the Home Inspector Licensing Act and have met the requirements of Paragraphs (1) through (4) of Subsection A of Section 6 of the Home Inspector Licensing Act. The initial home inspector members appointed shall comply with Paragraph (6) of Subsection A of Section 6 of the Home Inspector Licensing Act within six months of the effective date of the licensing examination rule promulgated by the board. After the board is initially established, any replacement of a home inspector member shall be a licensee.

C. Board members shall serve for five years or until their successors are appointed and qualified. The governor may remove a member with or without cause. In the event of a vacancy, the governor shall appoint a member to complete the unexpired term. The initial board members appointed shall serve staggered terms from the date of their appointment as follows:

- (1) two members for three-year terms;
- (2) two members for two-year terms; and
- (3) one member for a one-year term.

D. The board shall elect annually from among its members a chair and other officers as the board determines. The board shall meet at times and places as fixed by the board. A majority of the board constitutes a quorum.

E. Members of the board may receive per diem and mileage as provided in the Per Diem and Mileage Act but shall receive no other compensation, perquisite or allowance.

F. The board shall possess all powers and perform all duties prescribed by the Home Inspector Licensing Act and as otherwise provided by law and may make and enforce rules to carry out the provisions of that act.

G. Pursuant to the provisions of the Home Inspector Licensing Act, the board shall:

- (1) adopt rules and procedures necessary to administer and enforce the provisions of the Home Inspector Licensing Act;
 - (2) adopt and publish a code of ethics and standards of practice for persons licensed under the Home Inspector Licensing Act;
 - (3) issue, renew, suspend, modify or revoke licenses to home inspectors pursuant to the provisions of the Home Inspector Licensing Act;
 - (4) establish standards for the training, experience and continuing education requirements of the Home Inspector Licensing Act;
 - (5) establish the amount and administer the fees charged for examinations, initial licensure, license renewals, reinstatement of revoked or suspended licenses, reactivation of inactive or expired licenses, criminal background checks and other services pursuant to the provisions of the Home Inspector Licensing Act;
 - (6) adopt and approve a licensing examination, which may be administered by a nationally accepted testing service as determined by the board;
 - (7) conduct state and criminal background checks on all applicants for a license;
 - (8) maintain a list of the names and addresses of all licensees and of all persons whose licenses have been suspended or revoked within that year, together with such other information relative to the enforcement of the provisions of the Home Inspector Licensing Act;
 - (9) maintain a statement of all funds received and a statement of all disbursements;
 - (10) mail copies of statements to any person in this state upon request;
- and
- (11) perform other functions and duties as may be necessary to administer or carry out the provisions of the Home Inspector Licensing Act.

H. Prior to a final action on a proposed change or amendment to the board's rules, the board may publish notice of the proposed action in its official publication, distribute the publication to each active licensee and give the time and place for a public hearing on the proposed changes. The hearing shall be held at least thirty days prior to a proposed final action. Changes or amendments to the rules shall be filed in

accordance with the procedures of the State Rules Act and shall become effective thirty days after notification to all active licensees of the filing of the changes or amendments.

Chapter 239 Section 4 Laws 2019

SECTION 4. PRE-INSPECTION AGREEMENT--REPORT--DISCLAIMER--NO WAIVER OF DUTY.--

A. A home inspector shall enter into a pre-inspection agreement with a client prior to commencement of a home inspection. The written pre-inspection agreement shall include, in all capital letters, the following statement: "THE HOME INSPECTOR WILL NOT DETERMINE AND THE REPORT PROVIDED UPON COMPLETION OF THE HOME INSPECTION WILL NOT CONTAIN A DETERMINATION OF WHETHER THE HOME OR COMPONENTS AND/OR SYSTEMS OF THE HOME THAT HAVE BEEN INSPECTED CONFORM TO LOCAL OR STATE BUILDING CODE REQUIREMENTS."

B. A home inspector shall provide a client with a report of the home inspection by the date set forth in the pre-inspection agreement. If the pre-inspection agreement does not set forth a date by which the report shall be provided to the client, the home inspector shall provide the report to the client no later than five days after the home inspection was performed.

C. The report shall contain the following statement: "THE HOME INSPECTOR DID NOT DETERMINE AND THIS REPORT DOES NOT CONTAIN A DETERMINATION OF WHETHER THE HOME OR COMPONENTS AND/OR SYSTEMS OF THE HOME THAT HAVE BEEN INSPECTED CONFORM TO LOCAL OR STATE BUILDING CODE REQUIREMENTS."

D. Contractual provisions that purport to waive any duty owed pursuant to the Home Inspector Licensing Act or accompanying rules as prescribed by the board or that limit the liability of the home inspector to an amount less than the professional liability insurance minimum coverage per claim as prescribed by the board are invalid.

Chapter 239 Section 5 Laws 2019

SECTION 5. LICENSE REQUIRED--EXEMPTIONS.--

A. A person who is not a licensee shall not:

(1) conduct home inspections, develop a report or otherwise engage in the business of home inspection;

(2) in the course of conducting business, use the title "home inspector", "certified home inspector", "registered home inspector", "licensed home inspector", "professional home inspector" or any other title, abbreviation, letters, figures or signs that indicate the person is a licensed home inspector; or

(3) use the terms "state licensed" or "licensed" to refer to an inspection conducted or a report prepared by a person who is not a licensee.

B. A business entity shall not provide home inspection services unless all of the home inspectors employed by the business are licensees.

C. A business entity shall not use, in connection with the name or signature of the business, the title "home inspectors" to describe the business entity's services unless each person employed by the business as a home inspector is a licensee.

D. The Home Inspector Licensing Act does not apply to a person:

(1) licensed by the state as an engineer, an architect, a real estate qualifying or associate broker, a real estate appraiser, a certified general appraiser, a residential real estate appraiser or a pest control operator, when acting within the scope of the person's license;

(2) licensed by the state or a political subdivision of the state as an electrician, a general contractor, a plumber or a heating and air conditioning technician, when acting within the scope of the person's license;

(3) regulated by the state as an insurance adjuster, when acting within the scope of the person's license;

(4) employed by the state or a political subdivision of the state as a code enforcement official, when acting within the scope of the person's employment;

(5) who performs an energy audit of a residential property;

(6) who performs a warranty evaluation of components, systems or appliances within a resale residential property for the purpose of issuing a home warranty; provided that all warranty evaluation reports include a statement that the warranty evaluation performed is not a home inspection and does not meet the standards of a home inspection pursuant to the provisions of the Home Inspector Licensing Act. A home warranty company shall not refer to a warranty evaluation as a home inspection;

(7) who in the scope of the person's employment performs safety inspections of utility equipment in or attached to residential real property pursuant to the provisions of Chapter 62 NMSA 1978 or rules adopted by the public regulation commission; and

(8) hired by the owner or lessor of residential real property to perform an inspection of the components of the residential real property for the purpose of preparing a bid or estimate for performing construction, remodeling or repair work in the residential real property.

Chapter 239 Section 6 Laws 2019

SECTION 6. LICENSURE.--

A. Unless otherwise provided in the Home Inspector Licensing Act, an applicant for a license shall:

- (1) complete an application on forms provided by the board;
- (2) provide documentation to establish that the applicant is at least eighteen years of age and a legal resident of the United States;
- (3) provide the board with the applicant's fingerprints and all information necessary for a state and national criminal background check;
- (4) provide proof of and maintain insurance coverage as provided in Section 12 of the Home Inspector Licensing Act;
- (5) have completed at least eighty hours of classroom training, the content of which shall be established by rule of the board;
- (6) pass a national home inspector licensing examination and any additional licensing examinations as prescribed by the board; and
- (7) have completed at least eighty hours of field training, or its equivalent, as determined by the board.

B. Paragraphs (5) and (7) of Subsection A of this section shall not apply to a person who has:

- (1) worked as a home inspector in each of the twenty-four months immediately preceding the effective date of the Home Inspector Licensing Act; and

(2) performed at least one hundred home inspections for compensation in the twenty-four months immediately preceding the effective date of the Home Inspector Licensing Act.

C. After the board's review of all information obtained by the board and submitted by the applicant as required by this section, if all of the requirements for licensure are met, the board shall issue a license to the applicant.

Chapter 239 Section 7 Laws 2019

SECTION 7. FINGERPRINTS--CRIMINAL BACKGROUND CHECKS.--

A. All applicants for licensure shall:

(1) provide fingerprints to the department of public safety to permit a national criminal background check and to conduct a state background check; and

(2) have the right to inspect records if the applicant's licensure is denied.

B. Records obtained by the board pursuant to the provisions of this section shall not be disclosed except as provided by law. The board is authorized to use criminal history records obtained from the federal bureau of investigation and the department of public safety to conduct background checks on applicants for certification as provided for in the Home Inspector Licensing Act.

C. Records obtained by the board pursuant to the provisions of this section shall not be used for any purpose other than for licensing purposes pursuant to the Home Inspector Licensing Act. Records obtained pursuant to the provisions of this section and the information contained in those records shall not be released or disclosed to any other person or agency, except pursuant to a court order or with the written consent of the person who is the subject of the records.

D. A person who releases or discloses records or information contained in those records in violation of the provisions of this section is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

Chapter 239 Section 8 Laws 2019

SECTION 8. LICENSE VALIDITY PERIOD--RENEWAL.--A license shall be valid for a period not to exceed three years. No later than the last day of the month immediately following the licensee's birth month in the third calendar year after the license becomes effective, a licensee may renew the license by submitting a renewal

application, renewal fee, proof of completion of the required continuing education as established by rule of the board and other information necessary for a state and national criminal background check. A home inspection performed based on an expired license shall be deemed a violation of the Home Inspector Licensing Act.

Chapter 239 Section 9 Laws 2019

SECTION 9. LICENSEE--CONTINUING EDUCATION REQUIREMENT.--The board shall adopt rules providing for continuing education programs that offer courses in home inspection practices and techniques. The rules shall require that a home inspector, as a condition of license renewal, shall successfully complete a minimum of sixty classroom hours of board-approved instruction every three years.

Chapter 239 Section 10 Laws 2019

SECTION 10. LICENSE RECOGNITION--RECIPROCITY.--

A. The board may issue a license to a foreign home inspector; provided that the applicant's resident state license requirements are the same as or similar to the requirements set forth in the Home Inspector Licensing Act as determined by the board. In the event that the state requirements for licensing a home inspector are not substantially similar to the provisions of the Home Inspector Licensing Act, or if the requirements cannot be verified, a foreign home inspector may be issued a license in accordance with Section 6 of that act.

B. The board may negotiate agreements with other states or licensing jurisdictions to allow for reciprocity regarding licensure. A license granted pursuant to a reciprocity agreement shall be issued upon payment by the applicant of the application fee and verification that the applicant has complied with the licensing jurisdiction's requirements, including continuing education requirements. The applicant shall provide to the board documentation necessary to demonstrate that the applicant currently holds a license in good standing in the licensing jurisdiction.

Chapter 239 Section 11 Laws 2019

SECTION 11. DENIAL, SUSPENSION OR REVOCATION OF A LICENSE.--

A. The board may deny issuance of a license or may suspend, revoke, limit or condition a license if the applicant or licensee is convicted of a felony or misdemeanor, provided that the denial, suspension or revocation is in accordance with the Criminal Offender Employment Act; has by false or fraudulent representations obtained a

license; or in performing or attempting to perform any of the activities covered by the provisions of the Home Inspector Licensing Act, the applicant or licensee has:

- (1) made a substantial misrepresentation;
- (2) violated any of the provisions of the Home Inspector Licensing Act or any rule of the board;
- (3) offered or delivered compensation, inducement or reward to the owner of the inspected property or to the broker or the agent for the referral of any business to the home inspector or the home inspector's company;
- (4) had a license to perform home inspections revoked, suspended, denied, stipulated or otherwise limited in any state, jurisdiction, territory or possession of the United States or another country for actions of the licensee similar to acts proscribed in this subsection;
- (5) failed to furnish the board, its investigators or its representatives with information requested by the board in the course of an official investigation; or
- (6) performed or offered to perform for an additional fee any repair to a structure on which the home inspector or the home inspector's company has prepared a report at any time during the twelve months immediately prior to the repair or offer to repair, except that a home inspection company that is affiliated with or that retains a home inspector does not violate this paragraph if the home inspection company performs repairs pursuant to a claim made pursuant to the terms of a home inspection contract.

B. Disciplinary proceedings conducted by the board may be instituted by sworn complaint by any person, including a board member, and shall conform to the provisions of the Uniform Licensing Act.

C. All licensing, revocation and suspension proceedings conducted by the board shall be governed by the provisions of the Uniform Licensing Act.

Chapter 239 Section 12 Laws 2019

SECTION 12. INSURANCE REQUIREMENTS.--

A. All licensees and their employers shall carry at all times errors and omissions insurance and professional liability insurance to cover all activities contemplated pursuant to the provisions of the Home Inspector Licensing Act.

B. In addition to the powers and duties granted to the board pursuant to the provisions of Section 3 of the Home Inspector Licensing Act, the board may adopt rules that establish the minimum terms and conditions of coverage, including limits of coverage and permitted exceptions. If adopted by the board, the rules shall require every applicant for a license and licensee who applies for renewal of a license to provide the board with satisfactory evidence that the applicant or licensee has errors and omissions insurance coverage and professional liability insurance coverage that meet the minimum terms and conditions required by board rule.

C. The board is authorized to solicit sealed, competitive proposals from insurance carriers to provide a group errors and omissions insurance policy and a professional liability insurance policy that comply with the terms and conditions established by board rule. The board may approve one or more policies that comply with the board rules.

D. Licensees shall not be required to contract with the group policy provider. Licensees may satisfy any requirement for errors and omissions insurance coverage and professional liability insurance coverage by purchasing an individual policy that is consistent with standards established by the board.

Chapter 239 Section 13 Laws 2019

SECTION 13. FEES.--In addition to any fees to cover reasonable and necessary administrative expenses, the board shall establish, charge and collect:

- A. an initial application fee, no less than two hundred fifty dollars (\$250);
- B. a state and national criminal background check fee, not to exceed one hundred dollars (\$100);
- C. a three-year license fee, no less than one thousand dollars (\$1,000);
- D. a reactivation fee, not to exceed two hundred dollars (\$200);
- E. a reinstatement fee, not to exceed two hundred dollars (\$200); and
- F. a fee for each duplicate license issued because a license is lost or destroyed, not to exceed fifty dollars (\$50.00); provided that an affidavit attesting to the loss or destruction of the license shall be required before issuance of a duplicate license.

Chapter 239 Section 14 Laws 2019

SECTION 14. ADVERTISING.--The term "licensed home inspector" along with the license number of the home inspector shall appear on all advertising, correspondence and documents incidental to the business of home inspection, including the pre-inspection agreement and the report.

Chapter 239 Section 15 Laws 2019

SECTION 15. HOME INSPECTOR FUND CREATED--DEPOSITS--METHOD OF PAYMENT.--

A. There is created in the state treasury the "home inspector fund" to be administered by the board. All fees received by the board pursuant to the Home Inspector Licensing Act shall be deposited with the state treasurer to the credit of the home inspector fund. Income earned on investment of the fund shall be credited to the fund.

B. Money in the home inspector fund is appropriated to the board to meet necessary expenses incurred in the enforcement of the provisions of the Home Inspector Licensing Act, in carrying out the duties imposed by the Home Inspector Licensing Act and for the promotion of education and standards for home inspectors in the state. Payments out of the home inspector fund shall be on vouchers issued and signed by the person designated by the board upon warrants drawn by the department of finance and administration.

C. All unexpended or unencumbered balances remaining at the end of a fiscal year shall not revert to the general fund.

Chapter 239 Section 16 Laws 2019

SECTION 16. CIVIL AND CRIMINAL PENALTIES--INJUNCTIVE RELIEF.--

A. A person who engages in the business or acts in the capacity of a home inspector within New Mexico without a license issued by the board or pursuant to the Home Inspector Licensing Act is guilty of a misdemeanor.

B. If a person is engaged or has engaged in any act or practice violative of a provision of the Home Inspector Licensing Act, the attorney general or the district attorney of the judicial district in which the person resides or in which the violation is occurring or has occurred may maintain an action in the name of the state to prosecute the violation or to enjoin the act or practice.

C. Notwithstanding a provision of the Home Inspector Licensing Act to the contrary, the board may impose a civil penalty in an amount not to exceed one thousand dollars (\$1,000) for each violation of the Home Inspector Licensing Act and may assess administrative costs for any investigation or administrative or other proceedings against a home inspector or against a person who is found, through an administrative proceeding, to have acted as a home inspector without a license. Appeals from decisions of the board shall be made as provided in Section 39-3-1.1 NMSA 1978.

Chapter 239 Section 17 Laws 2019

SECTION 17. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2020. _____

House Bill 433, aa

Approved April 4, 2019

LAWS 2019, CHAPTER 240

AN ACT

RELATING TO VOLUNTEER FIREFIGHTERS RETIREMENT; ALLOWING FOR THE POSTING OR ADJUSTING OF SERVICE CREDIT.

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

Chapter 240 Section 1 Laws 2019

SECTION 1. Section 10-11A-6 NMSA 1978 (being Laws 1983, Chapter 263, Section 6, as amended) is amended to read:

"10-11A-6. DETERMINATION OF SERVICE CREDIT.--

A. A member may claim one year of service credit for each year in which a fire department certifies that the member:

(1) attended fifty percent of all scheduled fire drills for which the fire department held the member responsible to attend;

(2) attended fifty percent of all scheduled business meetings for which the fire department held the member responsible to attend; and

(3) participated in at least fifty percent of all emergency response calls for which the fire department held the member responsible to attend.

B. The chief of each fire department shall submit to the association by March 31 of each year documentation of the qualifications of each member for the preceding calendar year; provided that the chief shall:

(1) submit the documentation on forms provided by the association;

(2) acknowledge the truth of the records under oath before a notary public; and

(3) have the notarized forms signed by the mayor, if distributions from the fire protection fund for the fire department are made to an incorporated municipality, or the chair of the county commission, if distributions from the fire protection fund for the fire department are made to a county fire district.

C. For service credit that has been earned, but not credited pursuant to Subsection B of this section, a member may post or adjust service credit earned for not more than the two preceding calendar years; provided that the member shall:

(1) file with the association a completed "Corrected Qualification Record" or "Adjusted Qualification Record" as prescribed by the association;

(2) acknowledge the truth of the records under oath before a notary public; and

(3) have the notarized forms signed by the mayor, if distributions from the fire protection fund for the fire department are made to an incorporated municipality, or the chair of the county commission, if distributions from the fire protection fund for the fire department are made to a county fire district.

D. Prior to April 1, 2020, for service credit that has been earned, but not credited pursuant to Subsection B of this section, a member may post or adjust service credit earned for one or more years beginning on or after January 1, 1984; provided that the member shall:

(1) file with the association a completed "Corrected Qualification Record" or "Adjusted Qualification Record" as prescribed by the association;

(2) acknowledge the truth of the records under oath before a notary public; and

(3) have the notarized forms signed by the mayor or city manager, if distributions from the fire protection fund for the fire department are made to an incorporated municipality, or the chair of the board of county commissioners, if distributions from the fire protection fund for the fire department are made to a county fire district.

E. The association may request the fire marshal division of the public regulation commission to verify member qualifications submitted to the association." _____

House Bill 512, aa

Approved April 4, 2019

LAWS 2019, CHAPTER 241

AN ACT

RELATING TO LAND GRANTS; AMENDING CHAPTER 49, ARTICLE 1 NMSA 1978 TO INCLUDE THE LA MERCED DEL MANZANO LAND GRANT-MERCED; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

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

Chapter 241 Section 1 Laws 2019

SECTION 1. Section 49-1-2 NMSA 1978 (being Laws 1907, Chapter 42, Section 2, as amended by Laws 2013, Chapter 8, Section 1 and by Laws 2013, Chapter 83, Section 1) is amended to read:

"49-1-2. APPLICATION.--

A. Sections 49-1-1 through 49-1-18 NMSA 1978 shall apply to all land grants-mercedes confirmed by the congress of the United States or by the court of private land claims or designated as land grants-mercedes in any report or list of land grants prepared by the surveyor general and confirmed by congress, but shall not apply to any land grant that is now managed or controlled in any manner, other than as provided in Sections 49-1-1 through 49-1-18 NMSA 1978, by virtue of any general or special act.

B. If a majority of the members of the board of trustees of a land grant-merced covered by specific legislation determines that the specific legislation is no longer beneficial to the land grant-merced, the board has the authority to petition the legislature to repeal the legislation and to be governed by its bylaws and as provided in Sections 49-1-1 through 49-1-18 NMSA 1978.

C. The town of Tome land grant-merced, situated in Valencia county, confirmed by congress in 1858 and patented by the United States to the town of Tome, shall be governed by the provisions of Sections 49-1-1 through 49-1-18 NMSA 1978.

D. The town of Atrisco land grant-merced, situated in Bernalillo county, confirmed by the court of private land claims in 1894 and patented by the United States to the town of Atrisco in 1905, shall be governed by the provisions of Sections 49-1-1 through 49-1-18 NMSA 1978; provided that the board of trustees shall not have regulatory jurisdiction over, and the provisions of Chapter 49, Article 1 NMSA 1978 shall not apply to or govern, any lands or interests in real property the title to which is held by any other person, including a public or private corporation, partnership or limited liability company.

E. The Tecolote land grant-merced, also known as the town of Tecolote, situated in San Miguel county, confirmed by congress in 1858 and patented by the United States to the town of Tecolote in 1902, shall be governed by the provisions of Sections 49-1-1 through 49-1-18 NMSA 1978.

F. Notwithstanding the provisions of Subsection A to the contrary, the San Antonio del Rio Colorado land grant-merced, situated in Taos county, which claim was recommended for confirmation by surveyor general James K. Proudfit in 1874 and again in 1886 by surveyor general George W. Julian, but not confirmed by congress, shall be governed by the provisions of Sections 49-1-1 through 49-1-18 NMSA 1978.

G. The Manzano land grant-merced, also known as la merced del Manzano land grant-merced, situated in Tarrant county, confirmed by congress in 1860 and patented by the United States to the town of Manzano in 1907, shall be governed by the provisions of Chapter 49, Article 1 NMSA 1978."

Chapter 241 Section 2 Laws 2019

SECTION 2. REPEAL.--Sections 49-7-1 through 49-7-6 NMSA 1978 (being Laws 1907, Chapter 39, Sections 1, 2, 4 and 5, Laws 1987, Chapter 163, Sections 1 and 2, Laws 1993, Chapter 290, Section 1 and Laws 1907, Chapter 39, Section 7) are repealed.

House Bill 592

Approved April 4, 2019

LAWS 2019, CHAPTER 242

AN ACT

RELATING TO EMPLOYMENT; AMENDING A SECTION OF CHAPTER 50, ARTICLE 4 NMSA 1978 AND A SECTION OF THE MINIMUM WAGE ACT TO REMOVE THE EXCEPTION OF DOMESTIC SERVICE FROM WAGE PROTECTIONS.

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

Chapter 242 Section 1 Laws 2019

SECTION 1. Section 50-4-1 NMSA 1978 (being Laws 1937, Chapter 109, Section 1) is amended to read:

"50-4-1. DEFINITIONS.--Whenever used in Sections 50-4-1 through 50-4-12 NMSA 1978:

A. "employer" includes every person, firm, partnership, association, corporation, receiver or other officer of the court of this state and any agent or officer of any of the above-mentioned classes employing any person in this state, except employers of livestock and agricultural labor; and

B. "wages" means all amounts at which the labor or service rendered is recompensed, whether the amount is fixed or ascertained on a time, task, piece or commission basis or other method of calculating such amount."

Chapter 242 Section 2 Laws 2019

SECTION 2. Section 50-4-21 NMSA 1978 (being Laws 1955, Chapter 200, Section 2, as amended) is amended to read:

"50-4-21. DEFINITIONS.--As used in the Minimum Wage Act:

A. "employ" includes suffer or permit to work;

B. "employer" includes any individual, partnership, association, corporation, business trust, legal representative or any organized group of persons employing one or more employees at any one time, acting directly or indirectly in the interest of an employer in relation to an employee, but shall not include the United States, the state or any political subdivision of the state; provided, however, that for the purposes of Subsection A of Section 50-4-22 NMSA 1978, "employer" includes the state or any political subdivision of the state; and

C. "employee" includes an individual employed by an employer, but shall not include:

(1) an individual employed in a bona fide executive, administrative or professional capacity and forepersons, superintendents and supervisors;

(2) an individual employed by the United States, the state or any political subdivision of the state; provided, however, that for the purposes of Subsection A of Section 50-4-22 NMSA 1978, "employee" includes an individual employed by the state or any political subdivision of the state;

(3) an individual engaged in the activities of an educational, charitable, religious or nonprofit organization where the employer-employee relationship does not, in fact, exist or where the services rendered to such organizations are on a voluntary basis. The employer-employee relationship shall not be deemed to exist with respect to an individual being served for purposes of rehabilitation by a charitable or nonprofit organization, notwithstanding the payment to the individual of a stipend based upon the value of the work performed by the individual;

(4) salespersons or employees compensated upon piecework, flat rate schedules or commission basis;

(5) students regularly enrolled in primary or secondary schools working after school hours or on vacation;

(6) registered apprentices and learners otherwise provided by law;

(7) persons eighteen years of age or under who are not students in a primary, secondary, vocational or training school;

(8) persons eighteen years of age or under who are not graduates of a secondary school;

(9) G.I. bill trainees while under training;

(10) seasonal employees of an employer obtaining and holding a valid certificate issued annually by the director of the labor relations division of the workforce solutions department. The certificate shall state the job designations and total number of employees to be exempted. In approving or disapproving an application for a certificate of exemption, the director shall consider the following:

- (a) whether such employment shall be at an educational, charitable or religious youth camp or retreat;
- (b) that such employment will be of a temporary nature;
- (c) that the individual will be furnished room and board in connection with such employment, or if the camp or retreat is a day camp or retreat, the individual will be furnished board in connection with such employment;
- (d) the purposes for which the camp or retreat is operated;
- (e) the job classifications for the positions to be exempted; and
- (f) any other factors that the director deems necessary to consider;

(11) any employee employed in agriculture:

- (a) if the employee is employed by an employer who did not, during any calendar quarter during the preceding calendar year, use more than five hundred person-days of agricultural labor;
- (b) if the employee is the parent, spouse, child or other member of the employer's immediate family; for the purpose of this subsection, the employer shall include the principal stockholder of a family corporation;
- (c) if the employee: 1) is employed as a hand-harvest laborer and is paid on a piece-rate basis in an operation that has been, and is customarily and generally recognized as having been, paid on a piece-rate basis in the region of employment; 2) commutes daily from the employee's permanent residence to the farm on which the employee is so employed; and 3) has been employed in agriculture less than thirteen weeks during the preceding calendar year;
- (d) if the employee, other than an employee described in Subparagraph (c) of this paragraph: 1) is sixteen years of age or under and is employed as a hand-harvest laborer, is paid on a piece-rate basis in an operation that

has been, and is generally recognized as having been, paid on a piece-rate basis in the region of employment; 2) is employed on the same farm as the employee's parent or person standing in the place of the parent; and 3) is paid at the same piece-rate as employees over age sixteen are paid on the same farm; or

(e) if the employee is principally engaged in the range production of livestock or in milk production;

(12) an employee engaged in the handling, drying, packing, packaging, processing, freezing or canning of any agricultural or horticultural commodity in its unmanufactured state; or

(13) employees of charitable, religious or nonprofit organizations who reside on the premises of group homes operated by such charitable, religious or nonprofit organizations for persons who have a mental, emotional or developmental disability." _____

Senate Bill 85

Approved April 4, 2019

LAWS 2019, CHAPTER 243

AN ACT

RELATING TO PROFESSIONAL LICENSING; INCREASING THE DURATION OF A LICENSE ISSUED TO A BARBER, HAIRSTYLIST, COSMETOLOGIST, INSTRUCTOR, ESTHETICIAN, MANICURIST-PEDICURIST OR ELECTROLOGIST FROM ONE TO TWO YEARS.

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

Chapter 243 Section 1 Laws 2019

SECTION 1. Section 61-17A-16 NMSA 1978 (being Laws 1993, Chapter 171, Section 16, as amended) is amended to read:

"61-17A-16. FEES.--The board may, by rule, establish initial license and renewal fees not to exceed the following:

establishment license.....	\$200
school license	\$600
relocation of a school	\$300
cosmetologist license.....	\$100
barber license	\$100
hairstylist license.....	\$100
specialty license.....	\$100
instructor license	\$100
duplicate license	\$50.00
temporary license.....	\$25.00
administrative fee.....	\$100
limited license fee	\$100
licensure through reciprocity	\$200
transcript	\$50.00
examinations.....	\$100."

Chapter 243 Section 2 Laws 2019

SECTION 2. Section 61-17A-20 NMSA 1978 (being Laws 1993, Chapter 171, Section 20, as amended) is amended to read:

"61-17A-20. DURATION, RESTORATION AND RENEWAL OF LICENSES.--

A. The original issuance and renewal of licenses to practice as a barber, hairstylist, cosmetologist, instructor, esthetician, manicurist-pedicurist or electrologist shall be for a period of two years or less from the date of issuance. If the licensee fails to renew the license for the next two-year period, the license is void; provided the license may be restored at any time during the year following expiration upon the payment of the appropriate fee and a late charge not to exceed one hundred dollars (\$100) as set forth by board rules. If the licensee fails to restore the license within one year following its expiration, the licensee may request restoration of the license pursuant to rules promulgated by the board.

B. The original issuance and annual renewal of licenses to operate an establishment or school shall be for a period of twelve months or less following the issuance of the license. If the licensee fails to renew the license within thirty days after its expiration, the license is void, and, to again obtain a license, an application, required documentation, payment of the renewal fee and a late fee not to exceed one hundred dollars (\$100) as established by board rules is required.

C. The board may establish a staggered system of license expiration."

Chapter 243 Section 3 Laws 2019

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

Senate Bill 109

Approved April 4, 2019

LAWS 2019, CHAPTER 244

AN ACT

RELATING TO PROFESSIONAL LICENSURE; ENACTING THE NATUROPATHIC DOCTORS' PRACTICE ACT; PROVIDING FOR LICENSURE OF NATUROPATHIC DOCTORS; PROVIDING FOR SCOPE OF PRACTICE; CREATING A NATUROPATHIC DOCTORS' ADVISORY COUNCIL OF THE NEW MEXICO MEDICAL BOARD; AMENDING SECTIONS OF THE NEW MEXICO DRUG, DEVICE AND COSMETIC ACT, THE MEDICAL PRACTICE ACT AND THE UNLICENSED HEALTH CARE ACT.

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

Chapter 244 Section 1 Laws 2019

SECTION 1. SHORT TITLE.--Sections 1 through 13 of this act may be cited as the "Naturopathic Doctors' Practice Act".

Chapter 244 Section 2 Laws 2019

SECTION 2. DEFINITIONS.--As used in the Naturopathic Doctors' Practice Act:

A. "approved naturopathic medical educational program" means an educational program that the board has approved as meeting the requirements of Section 4 of the Naturopathic Doctors' Practice Act that prepares naturopathic doctors for the practice of naturopathic medicine;

B. "association" means an entity that is approved by the American association of naturopathic physicians, which entity represents the interests of naturopathic doctors in the state;

C. "biological product" means any of the following that is applicable to the prevention, treatment or cure of a disease or condition of human beings:

(1) a virus;

(2) a therapeutic serum;

(3) a toxin;

(4) an antitoxin;

(5) a vaccine;

(6) blood;

(7) a blood component or derivative;

(8) an allergenic product;

(9) a protein, except any chemically synthesized polypeptide;

(10) a product that is analogous to any of the products listed in Paragraphs (1) through (9) of this subsection; or

(11) arsphenamine, a derivative of arsphenamine or any other trivalent organic arsenic compound;

D. "board" means the New Mexico medical board established pursuant to the Medical Practice Act;

E. "clinical laboratory procedure" means the use of venipuncture consistent with naturopathic medical practice, commonly used diagnostic modalities consistent with naturopathic practice, the recording of a patient's health history, physical examination, ordering and interpretation of radiographic diagnostics and other standard imaging and examination of body orifices, excluding endoscopy and colonoscopy. "Clinical laboratory procedure" includes the practice of obtaining samples of human tissues, except surgical excision beyond surgical excision that is authorized as a minor office procedure;

F. "controlled substance" means a drug, substance or immediate precursor enumerated in Schedules I through V of the Controlled Substances Act;

G. "council" means the naturopathic doctors' advisory council;

H. "dangerous drug" has the same meaning as set forth in Section 26-1-2 NMSA 1978;

I. "drug" has the same meaning as set forth in Section 26-1-2 NMSA 1978;

J. "homeopathic medicine" means a system of medicine based on the use of infinitesimal doses of substances capable of producing symptoms similar to those of the disease treated, as listed in the homeopathic pharmacopoeia of the United States;

K. "hygiene" means the use of preventive techniques, including personal hygiene, asepsis, public health and safety;

L. "laboratory examination" means:

(1) phlebotomy;

(2) a clinical laboratory procedure;

(3) an orificial examination;

(4) a physiological function test; or

(5) a screening or test that the board has authorized naturopathic doctors to perform, when indicated, which results are interpreted by the naturopathic doctor;

M. "legend drug" means a drug that is an unscheduled dangerous drug;

N. "license" means a license issued by the board to an individual pursuant to the Naturopathic Doctors' Practice Act and board rules authorizing that individual to practice naturopathic medicine in the state;

O. "licensee" means a naturopathic doctor licensed by the board to practice naturopathic medicine in the state;

P. "minor office procedure" means minor surgical care and procedures, including:

(1) surgical care incidental to superficial laceration, lesion or abrasion, excluding surgical care to treat a lesion suspected of malignancy;

(2) the removal of foreign bodies located in superficial structures, excluding the globe of the eye;

(3) trigger point therapy;

(4) dermal stimulation;

(5) allergy testing and treatment; and

(6) the use of antiseptics and topical or local anesthetics;

Q. "naturopathic doctor" means an individual licensed pursuant to the Naturopathic Doctors' Practice Act as a naturopathic doctor to practice naturopathic medicine in the state;

R. "naturopathic medicine" means:

(1) a system of health care for the prevention, diagnosis and treatment of human health conditions, injury and disease;

(2) the promotion or restoration of health; and

(3) the support and stimulation of a patient's inherent self-healing processes through patient education and the use of naturopathic therapies and therapeutic substances;

S. "naturopathic physical medicine" means the use of one or more of the following physical agents in a manner consistent with naturopathic medical practice on a part or the whole of the body, by hand or by mechanical means, in the resolution of a human ailment or conditions:

(1) air;

(2) water;

(3) heat;

(4) cold;

- (5) sound;
- (6) light;
- (7) electromagnetism;
- (8) colon hydrotherapy;
- (9) soft tissue therapy;
- (10) joint mobilization;
- (11) therapeutic exercise; or
- (12) naturopathic manipulation;

T. "naturopathic therapy" means the use of:

- (1) naturopathic physical medicine;
- (2) suggestion;
- (3) hygiene;
- (4) a therapeutic substance;
- (5) a dangerous drug;
- (6) nutrition and food science;
- (7) homeopathic medicine;
- (8) a clinical laboratory procedure; or
- (9) a minor office procedure;

U. "nutrition and food science" means the prevention and treatment of disease or other human conditions through the use of food, water, herbs, roots, bark or natural food elements;

V. "prescription" has the same meaning as set forth in Section 26-1-2 NMSA 1978;

W. "professional examination" means a competency- based national naturopathic doctor licensing examination administered by the North American board of naturopathic examiners or its successor agency, which board has been nationally recognized to administer a naturopathic examination that represents federal standards of education and training;

X. "suggestion" means a technique using:

- (1) biofeedback;
- (2) hypnosis;
- (3) health education; or
- (4) health counseling; and

Y. "therapeutic substance" means any of the following exemplified in a standard naturopathic medical text, journal or pharmacopeia:

- (1) a vitamin;
- (2) a mineral;
- (3) a nutraceutical;
- (4) a botanical medicine;
- (5) oxygen;
- (6) a homeopathic medicine;
- (7) a hormone;
- (8) a hormonal or pharmaceutical contraceptive device; or
- (9) other physiologic substance.

Chapter 244 Section 3 Laws 2019

SECTION 3. QUALIFICATIONS FOR LICENSURE.--The board shall license an applicant who:

A. is of good moral character, in accordance with standards established by rules of the board;

B. submits, in accordance with rules of the board, the following items to the board:

(1) an application for licensure designed and approved by the board and submitted in accordance with rules of the board;

(2) an application fee submitted in an amount and manner established by rules of the board;

(3) evidence that the applicant has graduated from an approved naturopathic medical educational program;

(4) evidence that the applicant has passed a professional examination;

(5) evidence that the applicant has passed a state jurisprudence examination that meets standards established in rules of the board; and

(6) evidence of professional liability insurance with policy limits not less than prescribed by the board;

C. is determined by the board, upon recommendation by the council, to be physically and mentally capable of safely practicing naturopathic medicine with or without reasonable accommodation; and

D. has not had a license to practice naturopathic medicine or other health care license registration or certificate refused, revoked or suspended by any other jurisdiction for reasons that relate to the applicant's ability to skillfully and safely practice naturopathic medicine unless that license, registration or certification has been restored to good standing by that jurisdiction.

Chapter 244 Section 4 Laws 2019

SECTION 4. APPROVED NATUROPATHIC MEDICAL EDUCATIONAL PROGRAM.--With the advice and consent of the council, the board shall establish by rule guidelines for an approved naturopathic medical educational program, which guidelines shall meet the following requirements and the board's specifications for the education of naturopathic doctors. The approved naturopathic medical educational program shall:

A. offer graduate-level, full-time didactic and supervised clinical training;

B. be accredited, or shall have achieved candidacy status for accreditation, by the council on naturopathic medical education or an equivalent federally recognized accrediting body for naturopathic medical programs that is also recognized by the board; and

C. be conducted by an institution, or a division of an institution of higher education, that:

(1) is accredited or is a candidate for accreditation by a regional or national institutional accrediting agency recognized by the United States secretary of education or a diploma-granting, degree-equivalent college or university; or

(2) meets equivalent standards for recognition of accreditation established in rules of the board for medical education programs offered in Canada.

Chapter 244 Section 5 Laws 2019

SECTION 5. DISPLAY OF LICENSE.--A licensee shall display the licensee's license in the licensee's place of business in a location clearly visible to the licensee's patients and shall also display evidence of the licensee having completed an approved naturopathic medical educational program.

Chapter 244 Section 6 Laws 2019

SECTION 6. SCOPE OF PRACTICE.--

A. A licensee may practice naturopathic medicine only to provide primary care, as "primary care" is defined in rules of the board, as follows:

(1) in collaboration with a physician licensed pursuant to the Medical Practice Act or the Osteopathic Medicine Act; and

(2) in alignment with naturopathic medical education to:

(a) perform physical examinations;

(b) order laboratory examinations;

(c) order diagnostic imaging studies;

(d) interpret the results of laboratory examinations for diagnostic purposes;

(e) order and, based on a radiologist's report, take action on diagnostic imaging studies in a manner consistent with naturopathic training;

(f) prescribe, administer, dispense and order the class of drugs that excludes the natural derivatives of opium, which are morphine and codeine, and related synthetic and semi-synthetic compounds that act upon opioid receptors;

(g) after passing a pharmacy examination authorized by rules of the board, prescribe, administer, dispense and order: 1) all legend drugs; and 2) testosterone products and all drugs within Schedules III, IV and V of the Controlled Substances Act, excluding all benzodiazapines, opioids and opioid derivatives;

(h) administer intramuscular, intravenous, subcutaneous, intra-articular and intradermal injections of substances appropriate to naturopathic medicine;

(i) use routes of administration that include oral, nasal, auricular, ocular, rectal, vaginal, transdermal, intradermal, subcutaneous, intravenous, intra-articular and intramuscular consistent with the education and training of a naturopathic doctor;

(j) perform naturopathic physical medicine;

(k) employ the use of naturopathic therapy; and

(l) use therapeutic devices, barrier contraception, intrauterine devices, hormonal and pharmaceutical contraception and durable medical equipment.

B. As used in this section, "collaboration" means the process by which a licensed physician and a naturopathic doctor jointly contribute to the health care and medical treatment of patients; provided that:

(1) each collaborator performs actions that the collaborator is licensed or otherwise authorized to perform; and

(2) collaboration shall not be construed to require the physical presence of the licensed physician at the time and place services are rendered.

Chapter 244 Section 7 Laws 2019

SECTION 7. REFERRAL REQUIREMENT.--A licensee shall refer to a physician authorized to practice in the state under the Medical Practice Act or the Osteopathic Medicine Act any patient whose medical condition should, at the time of evaluation or treatment, be determined to be beyond the scope of practice of the licensee.

Chapter 244 Section 8 Laws 2019

SECTION 8. PROHIBITIONS.--A licensee shall not:

- A. provide care outside of the scope of primary care, as that term is defined in rules of the board;
- B. perform surgery outside of the scope of minor office procedures permitted in the employment of naturopathic therapy;
- C. use general or spinal anesthetics;
- D. administer ionizing radioactive substances for therapeutic purposes;
- E. perform a surgical procedure using a laser device;
- F. perform a surgical procedure involving any of the following areas of the body that extend beyond superficial tissue:
 - (1) eye;
 - (2) ear;
 - (3) tendon;
 - (4) nerves;
 - (5) veins; or
 - (6) artery;
- G. perform a surgical abortion;
- H. treat any lesion suspected of malignancy or requiring surgical removal; or
- I. perform acupuncture.

Chapter 244 Section 9 Laws 2019

SECTION 9. EXEMPTIONS.--Nothing in the Naturopathic Doctors' Practice Act shall be construed to prohibit or to restrict:

A. the practice of a health care profession by an individual who is licensed, certified or registered under other laws of this state and who is performing services within the individual's authorized scope of practice;

B. the practice of naturopathic medicine by a student enrolled in an approved naturopathic medical educational program; provided that the practice of naturopathic medicine by a student is performed pursuant to a course of instruction or an assignment from an instructor and under the supervision of the instructor who is a licensee or a duly licensed professional in the instructed field;

C. any person that sells a vitamin or herb from providing information about the vitamin or herb;

D. the practice of naturopathic medicine by persons who are licensed to practice in any other state or district in the United States and who enter this state to consult with a naturopathic doctor of this state; provided that the consultation is limited to examination, recommendation or testimony in litigation; or

E. any person or practitioner who is not licensed as a naturopathic doctor from recommending ayurvedic medicine, herbal remedies, nutritional advice, homeopathy or other therapy that is within the scope of practice of the Unlicensed Health Care Practice Act; provided that the person or practitioner shall not:

(1) use a title protected pursuant to Section 10 of the Naturopathic Doctors' Practice Act;

(2) represent or assume the character or appearance of a licensee; or

(3) otherwise use a name, title or other designation that indicates or implies that the person is a licensee.

Chapter 244 Section 10 Laws 2019

SECTION 10. PROTECTED TITLES.--

A. A licensee shall use the title "naturopathic doctor" and the recognized abbreviation "N.D.".

B. A licensee has the exclusive right to use the following terms in reference to the licensee's self:

- (1) "naturopathic doctor";
- (2) "doctor of naturopathic medicine";
- (3) "doctor of naturopathy";
- (4) "N.D.";
- (5) "ND";
- (6) "NMD"; and
- (7) "N.M.D."

C. An individual represents the individual's self to be a naturopathic doctor when the individual uses or adopts any of the following terms in reference to the individual's self:

- (1) "naturopathic doctor";
- (2) "doctor of naturopathic medicine";
- (3) "doctor of naturopathy";
- (4) "N.D.";
- (5) "ND";
- (6) "NMD"; and
- (7) "N.M.D."

D. An individual shall not represent the individual's self to the public as a naturopathic doctor, a doctor of naturopathic medicine or a doctor of naturopathy, or as being otherwise authorized to practice naturopathic medicine in the state, unless the individual is a licensee.

E. A licensee shall not represent the licensee's self as a "naturopathic physician"; provided that representing that the licensee is a member of an organization

that uses the term "naturopathic physicians" in the organization's name shall not be construed to be a violation of the provisions of this subsection.

Chapter 244 Section 11 Laws 2019

SECTION 11. NATUROPATHIC DOCTORS' ADVISORY COUNCIL CREATED.--

A. The "naturopathic doctors' advisory council" is created as a council to the board under the direction of the board. The council shall advise the board regarding:

(1) licensure of naturopathic doctors; and

(2) the board's approval of matters relating to the training and licensure of naturopathic doctors.

B. By July 1, 2019, the board shall appoint an initial council of one member for a term of four years and two members for terms of three years each. The initial council shall consist of three voting members as follows:

(1) either:

(a) two members of an association; or

(b) one member of an association and one member who is a physician licensed pursuant to the Medical Practice Act who has worked collaboratively with a member of an association for at least two years prior to being appointed to the council; and

(2) one member who is a resident of the state who is not, and never has been, a licensed health care practitioner and who does not have an interest in naturopathic education, naturopathic medicine or naturopathic business or practice.

C. As the terms of the initial council members expire, the board shall appoint successors for terms of four years each as follows:

(1) either:

(a) two licensees; or

(b) one licensee and one member who is a physician licensed pursuant to the Medical Practice Act who has worked collaboratively with a member of the association for at least two years prior to being appointed to the council; and

(2) one member who is a resident of the state who is not, and never has been, a licensed health care practitioner and who does not have an interest in naturopathic education, naturopathic medicine or naturopathic business or practice.

D. By August 1, 2019, the board shall call the first meeting of the council, at which meeting members shall elect a chair. By August 1, 2020 and at least once during each calendar quarter thereafter, the council shall hold a meeting at the call of the chair. The council may hold additional meetings at the call of the chair or at the written request of any two members of the council.

E. Vacancies on the council shall be filled by the board from a list of not fewer than three candidates provided by the association.

F. A majority of the council membership shall constitute a quorum.

G. At the discretion of the board, members of the council may receive per diem and mileage reimbursement pursuant to the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

Chapter 244 Section 12 Laws 2019

SECTION 12. COUNCIL DUTIES.--The council shall develop guidelines for the board to consider for rulemaking with regard to:

A. regulating the licensure of naturopathic doctors and determining the hours of continuing education units required for maintaining licensure as a naturopathic doctor;

B. prescribing the manner in which records of examinations and treatments shall be kept and maintained;

C. establishing standards for professional responsibility and conduct;

D. identifying disciplinary actions and circumstances that require disciplinary action;

E. developing a means to provide information to all licensees in the state;

F. providing for the investigation of complaints against licensees or persons holding themselves out as naturopathic doctors in the state;

G. providing for the publication of information for the public about licensees and the practice of naturopathic medicine in the state;

H. providing for an orderly process for reinstatement of a license;

I. establishing criteria for advertising or promotional materials;

J. establishing by rule, in accordance with the Naturopathic Doctors' Practice Act:

(1) continuing education hours and content;

(2) standards for the state jurisprudence examination;

(3) schedules for providing licensing examinations and for the issuance of examination results;

(4) procedures and standards for reviewing licensing examination scores; and

(5) procedures for reviewing transcripts demonstrating completion of the approved naturopathic medical educational program;

K. the requirements for issuance and renewal of licenses; and

L. any other matter necessary to implement the Naturopathic Doctors' Practice Act.

Chapter 244 Section 13 Laws 2019

SECTION 13. LICENSE EXPIRATION--RENEWAL-- DENIAL--REVOCATION-- CONTINUING EDUCATION.--

A. A license issued or renewed pursuant to the Naturopathic Doctors' Practice Act shall expire three years following its issuance or last renewal.

B. The board may renew the license of any licensee who, upon the expiration of the licensee's license:

- (1) has submitted an application for renewal;
- (2) has paid the renewal fee established by rules of the board;
- (3) meets the qualifications for licensure set forth in the Naturopathic Doctors' Practice Act and rules of the board; and
- (4) meets the continuing education requirements established by the board.

C. The board shall grant applicants and licensees for whom the board intends to refuse to issue or renew a license, or whose license the board proposes to revoke or suspend, opportunity for a hearing in accordance with the procedures provided in the Uniform Licensing Act.

Chapter 244 Section 14 Laws 2019

SECTION 14. Section 26-1-2 NMSA 1978 (being Laws 1967, Chapter 23, Section 2, as amended) is amended to read:

"26-1-2. DEFINITIONS.--As used in the New Mexico Drug, Device and Cosmetic Act:

- A. "board" means the board of pharmacy or its duly authorized agent;
- B. "person" includes an individual, partnership, corporation, association, institution or establishment;
- C. "biological product" means any of the following that is applicable to the prevention, treatment or cure of a disease or condition of human beings:
 - (1) a virus;
 - (2) a therapeutic serum;
 - (3) a toxin;
 - (4) an antitoxin;
 - (5) a vaccine;
 - (6) blood;

(7) a blood component or derivative;

(8) an allergenic product;

(9) a protein, except any chemically synthesized polypeptide;

(10) a product that is analogous to any of the products listed in Paragraphs (1) through (9) of this subsection; or

(11) arsphenamine, a derivative of arsphenamine or any other trivalent organic arsenic compound;

D. "biosimilar" or "biosimilarity" means, in reference to a biological product that the federal food and drug administration has licensed, that:

(1) the biological product is highly similar to the reference product notwithstanding minor differences in clinically inactive components; and

(2) there are no clinically meaningful differences between the biological product and the reference product in terms of the safety, purity and potency of the product;

E. "controlled substance" means a drug, substance or immediate precursor enumerated in Schedules I through V of the Controlled Substances Act;

F. "drug" means articles:

(1) recognized in an official compendium;

(2) intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or other animals and includes the domestic animal biological products regulated under the federal Animal Virus, Serum, Toxin, Antitoxin Act, 37 Stat 832-833, 21 U.S.C. 151-158, and the biological products applicable to humans regulated under Federal 58 Stat 690, as amended, 42 U.S.C. 216, Section 351, 58 Stat 702, as amended, and 42 U.S.C. 262;

(3) other than food, that affect the structure or any function of the human body or the bodies of other animals; and

(4) intended for use as a component of Paragraph (1), (2) or (3) of this subsection, but "drug" does not include devices or their component parts or accessories;

G. "dangerous drug" means a drug, other than a controlled substance enumerated in Schedule I of the Controlled Substances Act, that because of a potentiality for harmful effect or the method of its use or the collateral measures necessary to its use is not safe except under the supervision of a practitioner licensed by law to direct the use of such drug and hence for which adequate directions for use cannot be prepared. "Adequate directions for use" means directions under which the layperson can use a drug or device safely and for the purposes for which it is intended. A drug shall be dispensed only upon the prescription or drug order of a practitioner licensed by law to administer or prescribe the drug if it:

(1) is a habit-forming drug and contains any quantity of a narcotic or hypnotic substance or a chemical derivative of such substance that has been found under the federal act and the board to be habit forming;

(2) because of its toxicity or other potential for harmful effect or the method of its use or the collateral measures necessary to its use is not safe for use except under the supervision of a practitioner licensed by law to administer or prescribe the drug;

(3) is limited by an approved application by Section 505 of the federal act to the use under the professional supervision of a practitioner licensed by law to administer or prescribe the drug;

(4) bears the legend: "Caution: federal law prohibits dispensing without prescription.";

(5) bears the legend: "Caution: federal law restricts this drug to use by or on the order of a licensed veterinarian."; or

(6) bears the legend "Rx only";

H. "counterfeit drug" means a drug that is deliberately and fraudulently mislabeled with respect to its identity, ingredients or sources. Types of such pharmaceutical counterfeits may include:

(1) "identical copies", which are counterfeits made with the same ingredients, formulas and packaging as the originals but not made by the original manufacturer;

(2) "look-alikes", which are products that feature high-quality packaging and convincing appearances but contain little or no active ingredients and may contain harmful substances;

(3) "rejects", which are drugs that have been rejected by the manufacturer for not meeting quality standards; and

(4) "relabels", which are drugs that have passed their expiration dates or have been distributed by unauthorized foreign sources and may include placebos created for late-phase clinical trials;

I. "device", except when used in Subsection R of this section and in Subsection G of Section 26-1-3, Subsection L and Paragraph (4) of Subsection A of Section 26-1-11 and Subsection C of Section 26-1-24 NMSA 1978, means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar or related article, including any component, part or accessory, that is:

(1) recognized in an official compendium;

(2) intended for use in the diagnosis of disease or other conditions or in the cure, mitigation, treatment or prevention of disease in humans or other animals; or

(3) intended to affect the structure or a function of the human body or the bodies of other animals and that does not achieve any of its principal intended purposes through chemical action within or on the human body or the bodies of other animals and that is not dependent on being metabolized for achievement of any of its principal intended purposes;

J. "prescription" means an order given individually for the person for whom prescribed, either directly from a licensed practitioner or the practitioner's agent to the pharmacist, including by means of electronic transmission, or indirectly by means of a written order signed by the prescriber, and bearing the name and address of the prescriber, the prescriber's license classification, the name and address of the patient, the name and quantity of the drug prescribed, directions for use and the date of issue;

K. "practitioner" means a certified advanced practice chiropractic physician, physician, doctor of oriental medicine, dentist, veterinarian, euthanasia technician, certified nurse practitioner, clinical nurse specialist, pharmacist, pharmacist clinician, certified nurse-midwife, physician assistant, prescribing psychologist, dental hygienist, optometrist, naturopathic doctor or other person licensed or certified to prescribe and administer drugs that are subject to the New Mexico Drug, Device and Cosmetic Act;

L. "cosmetic" means:

(1) articles intended to be rubbed, poured, sprinkled or sprayed on, introduced into or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness or altering the appearance; and

(2) articles intended for use as a component of any articles enumerated in Paragraph (1) of this subsection, except that the term shall not include soap;

M. "interchangeable biological product" means a biological product that the federal food and drug administration has licensed and:

(1) has determined that the biological product is biosimilar to the reference product and can be expected to produce the same clinical result as the reference product in any given patient;

(2) for a biological product that is administered more than once to an individual and:

(a) has determined to have been administered more than once to the individual; or

(b) for which the risk in terms of safety or diminished efficacy of alternating or switching between use of the biological product and the reference product is not greater than the risk of using the reference product without alternation or switching; or

(3) has determined to be therapeutically equivalent as set forth in the latest edition or supplement to the federal food and drug administration's approved drug products with therapeutic equivalence evaluations;

N. "official compendium" means the official United States pharmacopoeia and national formulary or the official homeopathic pharmacopoeia of the United States or any supplement to either of them;

O. "label" means a display of written, printed or graphic matter upon the immediate container of an article. A requirement made by or under the authority of the New Mexico Drug, Device and Cosmetic Act that any word, statement or other information appear on the label shall not be considered to be complied with unless the word, statement or other information also appears on the outside container or wrapper, if any, of the retail package of the article or is easily legible through the outside container or wrapper;

P. "immediate container" does not include package liners;

Q. "labeling" means all labels and other written, printed or graphic matter:

- (1) on an article or its containers or wrappers; or
- (2) accompanying an article;

R. "misbranded" means a label to an article that is misleading. In determining whether the label is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device or any combination of the foregoing, but also the extent to which the label fails to reveal facts material in the light of such representations or material with respect to consequences that may result from the use of the article to which the label relates under the conditions of use prescribed in the label or under such conditions of use as are customary or usual;

S. "advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or that are likely to induce, directly or indirectly, the purchase of drugs, devices or cosmetics;

T. "antiseptic", when used in the labeling or advertisement of an antiseptic, shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be or represented as an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder or such other use as involves prolonged contact with the body;

U. "new drug" means a drug:

(1) the composition of which is such that the drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety and efficacy of drugs, as safe and effective for use under the conditions prescribed, recommended or suggested in the labeling thereof; or

(2) the composition of which is such that the drug, as a result of investigation to determine its safety and efficacy for use under such conditions, has become so recognized, but that has not, otherwise than in such investigations, been used to a material extent or for a material time under such conditions;

V. "contaminated with filth" applies to a drug, device or cosmetic not securely protected from dirt, dust and, as far as may be necessary by all reasonable means, from all foreign or injurious contaminations, or a drug, device or cosmetic found to contain dirt, dust, foreign or injurious contamination or infestation;

W. "selling of drugs, devices or cosmetics" shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession and holding of any such article for sale and the sale and the supplying or applying of any such article in the conduct of a drug or cosmetic establishment;

X. "color additive" means a material that:

(1) is a dye, pigment or other substance made by a process of synthesis or similar artifice or extracted, isolated or otherwise derived, with or without intermediate or final change of identity, from a vegetable, mineral, animal or other source; or

(2) when added or applied to a drug or cosmetic or to the human body or a part thereof, is capable, alone or through reaction with other substances, of imparting color thereto; except that such term does not include any material that has been or hereafter is exempted under the federal act;

Y. "federal act" means the Federal Food, Drug, and Cosmetic Act;

Z. "restricted device" means a device for which the sale, distribution or use is lawful only upon the written or oral authorization of a practitioner licensed by law to administer, prescribe or use the device and for which the federal food and drug administration requires special training or skills of the practitioner to use or prescribe. This definition does not include custom devices defined in the federal act and exempt from performance standards or premarket approval requirements under Section 520(b) of the federal act;

AA. "prescription device" means a device that, because of its potential for harm, the method of its use or the collateral measures necessary to its use, is not safe except under the supervision of a practitioner licensed in this state to direct the use of such device and for which "adequate directions for use" cannot be prepared, but that bears the label: "Caution: federal law restricts this device to sale by or on the order of a _____", the blank to be filled with the word "physician", "physician assistant", "certified advanced practice chiropractic physician", "doctor of oriental medicine", "dentist", "veterinarian", "euthanasia technician", "certified nurse practitioner", "clinical nurse specialist", "pharmacist", "pharmacist clinician", "certified nurse-midwife", "dental hygienist", "optometrist" or "naturopathic doctor" or with the descriptive designation of any other practitioner licensed in this state to use or order the use of the device;

BB. "valid practitioner-patient relationship" means a professional relationship, as defined by the practitioner's licensing board, between the practitioner and the patient;

CC. "pedigree" means the recorded history of a drug;

DD. "drug order" means an order either directly from a licensed practitioner or the practitioner's agent to the pharmacist, including by means of electronic transmission or indirectly by means of a written order signed by the licensed practitioner or the practitioner's agent, and bearing the name and address of the practitioner and the practitioner's license classification and the name and quantity of the drug or device ordered for use at an inpatient or outpatient facility; and

EE. "reference product" means the single biological product against which a biosimilar was evaluated in its marketing application to the federal food and drug administration."

Chapter 244 Section 15 Laws 2019

SECTION 15. Section 61-6-5 NMSA 1978 (being Laws 1973, Chapter 361, Section 2, as amended) is amended to read:

"61-6-5. DUTIES AND POWERS.--The board shall:

A. enforce and administer the provisions of the Medical Practice Act, the Physician Assistant Act, the Anesthesiologist Assistants Act, the Genetic Counseling Act, the Impaired Health Care Provider Act, the Polysomnography Practice Act, the Naturopathic Doctors' Practice Act and the Naprapathic Practice Act;

B. adopt, publish and file, in accordance with the Uniform Licensing Act and the State Rules Act, all rules for the implementation and enforcement of the provisions of the Medical Practice Act, the Physician Assistant Act, the Anesthesiologist Assistants Act, the Genetic Counseling Act, the Impaired Health Care Provider Act, the Polysomnography Practice Act, the Naturopathic Doctors' Practice Act and the Naprapathic Practice Act;

C. adopt and use a seal;

D. administer oaths to all applicants, witnesses and others appearing before the board, as appropriate;

E. take testimony on matters within the board's jurisdiction;

F. keep an accurate record of all its meetings, receipts and disbursements;

G. maintain records in which the name, address and license number of all licensees shall be recorded, together with a record of all license renewals, suspensions, revocations, probations, stipulations, censures, reprimands and fines;

H. grant, deny, review, suspend and revoke licenses to practice medicine and censure, reprimand, fine and place on probation and stipulation licensees and applicants in accordance with the Uniform Licensing Act for any cause stated in the Medical Practice Act, the Impaired Health Care Provider Act, the Naturopathic Doctors' Practice Act and the Naprapathic Practice Act;

I. hire staff and administrators as necessary to carry out the provisions of the Medical Practice Act;

J. have the authority to hire or contract with investigators to investigate possible violations of the Medical Practice Act;

K. have the authority to hire a competent attorney to give advice and counsel in regard to any matter connected with the duties of the board, to represent the board in any legal proceedings and to aid in the enforcement of the laws in relation to the medical profession and to fix the compensation to be paid to such attorney; provided, however, that such attorney shall be compensated from the funds of the board;

L. establish continuing medical education requirements for licensed physicians and continuing education requirements for physician assistants;

M. establish committees as it deems necessary for carrying on its business;

N. hire or contract with a licensed physician to serve as medical director and fulfill specified duties of the secretary-treasurer;

O. establish and maintain rules related to the management of pain based on review of national standards for pain management; and

P. have the authority to waive licensure fees for the purpose of medical doctor recruitment and retention."

Chapter 244 Section 16 Laws 2019

SECTION 16. Section 61-6-6 NMSA 1978 (being Laws 1973, Chapter 361, Section 1, as amended) is amended to read:

"61-6-6. DEFINITIONS.--As used in the Medical Practice Act:

A. "approved postgraduate training program" means a program approved by the accreditation council for graduate medical education;

B. "board" means the New Mexico medical board;

C. "collaboration" means the process by which a licensed physician and a physician assistant jointly contribute to the health care and medical treatment of patients; provided that:

(1) each collaborator performs actions that the collaborator is licensed or otherwise authorized to perform; and

(2) collaboration shall not be construed to require the physical presence of the licensed physician at the time and place services are rendered;

D. "licensed physician" means a medical doctor licensed under the Medical Practice Act to practice medicine in New Mexico;

E. "licensee" means a medical doctor, physician assistant, polysomnographic technologist, anesthesiologist assistant, naturopathic doctor or naprapath licensed by the board to practice in New Mexico;

F. "medical college or school in good standing" means a board-approved medical college or school that has as high a standard as that required by the association of American medical colleges and the council on medical education of the American medical association;

G. "medical student" means a student enrolled in a board-approved medical college or school in good standing;

H. "physician assistant" means a health professional who is licensed by the board to practice as a physician assistant and who provides services to patients with the supervision of or in collaboration with a licensed physician as set forth in rules promulgated by the board;

I. "intern" means a first-year postgraduate student upon whom a degree of doctor of medicine and surgery or equivalent degree has been conferred by a medical college or school in good standing;

J. "resident" means a graduate of a medical college or school in good standing who is in training in a board-approved and accredited residency training program in a hospital or facility affiliated with an approved hospital and who has been appointed to the position of "resident" or "fellow" for the purpose of postgraduate medical training;

K. "the practice of medicine" consists of:

(1) advertising, holding out to the public or representing in any manner that one is authorized to practice medicine in this state;

(2) offering or undertaking to administer, dispense or prescribe a drug or medicine for the use of another person, except as authorized pursuant to a professional or occupational licensing statute set forth in Chapter 61 NMSA 1978;

(3) offering or undertaking to give or administer, dispense or prescribe a drug or medicine for the use of another person, except as directed by a licensed physician;

(4) offering or undertaking to perform an operation or procedure upon a person;

(5) offering or undertaking to diagnose, correct or treat in any manner or by any means, methods, devices or instrumentalities any disease, illness, pain, wound, fracture, infirmity, deformity, defect or abnormal physical or mental condition of a person;

(6) offering medical peer review, utilization review or diagnostic service of any kind that directly influences patient care, except as authorized pursuant to a professional or occupational licensing statute set forth in Chapter 61 NMSA 1978; or

(7) acting as the representative or agent of a person in doing any of the things listed in this subsection;

L. "the practice of medicine across state lines" means:

(1) the rendering of a written or otherwise documented medical opinion concerning diagnosis or treatment of a patient within this state by a physician located outside this state as a result of transmission of individual patient data by electronic, telephonic or other means from within this state to the physician or the physician's agent; or

(2) the rendering of treatment to a patient within this state by a physician located outside this state as a result of transmission of individual patient data by electronic, telephonic or other means from within this state to the physician or the physician's agent;

M. "sexual contact" means touching the primary genital area, groin, anus, buttocks or breast of a patient or allowing a patient to touch another's primary genital

area, groin, anus, buttocks or breast in a manner that is commonly recognized as outside the scope of acceptable medical practice;

N. "sexual penetration" means sexual intercourse, cunnilingus, fellatio or anal intercourse, whether or not there is any emission, or introducing any object into the genital or anal openings of another in a manner that is commonly recognized as outside the scope of acceptable medical practice; and

O. "United States" means the fifty states, its territories and possessions and the District of Columbia."

Chapter 244 Section 17 Laws 2019

SECTION 17. Section 61-6-31 NMSA 1978 (being Laws 1989, Chapter 269, Section 27, as amended) is amended to read:

"61-6-31. DISPOSITION OF FUNDS--NEW MEXICO MEDICAL BOARD FUND CREATED--METHOD OF PAYMENTS.--

A. There is created the "New Mexico medical board fund".

B. All funds received by the board and money collected under the Medical Practice Act, the Physician Assistant Act, the Anesthesiologist Assistants Act, the Genetic Counseling Act, the Polysomnography Practice Act, the Impaired Health Care Provider Act, the Naturopathic Doctors' Practice Act and the Naprapathic Practice Act shall be deposited with the state treasurer, who shall place the same to the credit of the New Mexico medical board fund.

C. All payments out of the fund shall be made on vouchers issued and signed by the secretary-treasurer of the board or the designee of the secretary-treasurer upon warrants drawn by the department of finance and administration in accordance with the budget approved by that department.

D. All amounts in the New Mexico medical board fund shall be subject to the order of the board and shall be used only for the purpose of meeting necessary expenses incurred in:

(1) the performance of the provisions of the Medical Practice Act, the Physician Assistant Act, the Anesthesiologist Assistants Act, the Genetic Counseling Act, the Polysomnography Practice Act, the Impaired Health Care Provider Act, the Naturopathic Doctors' Practice Act and the Naprapathic Practice Act and the duties and powers imposed by those acts;

(2) the promotion of medical education and standards in this state within the budgetary limits; and

(3) efforts to recruit and retain medical doctors for practice in New Mexico.

E. All funds that may have accumulated to the credit of the board under any previous law shall be transferred to the New Mexico medical board fund and shall continue to be available for use by the board in accordance with the provisions of the Medical Practice Act, the Physician Assistant Act, the Anesthesiologist Assistants Act, the Genetic Counseling Act, the Polysomnography Practice Act, the Impaired Health Care Provider Act, the Naturopathic Doctors' Practice Act and the Naprapathic Practice Act. All money unused at the end of the fiscal year shall not revert, but shall remain in the fund for use in accordance with the provisions of the Medical Practice Act, the Physician Assistant Act, the Anesthesiologist Assistants Act, the Genetic Counseling Act, the Polysomnography Practice Act, the Impaired Health Care Provider Act, the Naturopathic Doctors' Practice Act and the Naprapathic Practice Act."

Chapter 244 Section 18 Laws 2019

SECTION 18. Section 61-35-2 NMSA 1978 (being Laws 2009, Chapter 141, Section 2) is amended to read:

"61-35-2. DEFINITIONS.--As used in the Unlicensed Health Care Practice Act:

A. "complementary and alternative health care practitioner" means an individual who provides complementary and alternative health care services;

B. "complementary and alternative health care service" means the broad domain of complementary and alternative healing methods and treatments including the following practices and excluding the practice of naturopathic medicine by an individual licensed as a naturopathic doctor pursuant to the Naturopathic Doctors' Practice Act:

(1) anthroposophy;

(2) aromatherapy;

(3) ayurveda;

(4) culturally traditional healing practices, including practices by a curandera, sobadora, partera, medica and arbolaira, and healing traditions, including plant medicines and foods, prayer, ceremony and song;

- (5) detoxification practices and therapies;
- (6) energetic healing;
- (7) folk practices;
- (8) Gerson therapy and colostrum therapy;
- (9) healing practices utilizing food, dietary supplements, nutrients and the physical forces of heat, cold, water, touch and light;
- (10) healing touch;
- (11) herbology or herbalism;
- (12) homeopathy;
- (13) meditation;
- (14) mind-body healing practices;
- (15) naturopathy; provided that "naturopathy" does not include the practice of naturopathic medicine by an individual licensed as a naturopathic doctor pursuant to the Naturopathic Doctors' Practice Act;
- (16) nondiagnostic iridology;
- (17) noninvasive instrumentalities;
- (18) polarity therapy; and
- (19) holistic kinesiology and other muscle testing techniques;

C. "controlled substance" means a drug or substance listed in Schedules I through V of the Controlled Substances Act or rules adopted pursuant to that act;

D. "conventional medical diagnosis" means a medical term that is commonly used and understood in conventional western medicine;

E. "dangerous drug" means a drug that is required by an applicable federal or state law or rule to be dispensed pursuant to a prescription; that is restricted to use by

licensed practitioners; or that is required by federal law to be labeled with any of the following statements prior to being dispensed or delivered:

(1) "Caution: federal law prohibits dispensing without prescription.";

(2) "Caution: federal law restricts this drug to use by or on the order of a licensed veterinarian."; or

(3) "Rx only";

F. "department" means the regulation and licensing department;

G. "health care practitioner" means an individual who provides health care services;

H. "health care service" means any service relating to the physical and mental health and wellness of an individual; and

I. "sexual contact" means touching the primary genital area, groin, anus, buttocks or breast of a patient or allowing a patient to touch another's primary genital area, groin, anus, buttocks or breast and includes sexual intercourse, cunnilingus, fellatio or anal intercourse, whether or not there is any emission, or introducing any object into the genital or anal openings of another."

Chapter 244 Section 19 Laws 2019

SECTION 19. TEMPORARY PROVISION--ISSUANCE OF FIRST LICENSES.--
By June 30, 2020, the New Mexico medical board shall issue licenses to those applicants who have met the requirements of the Naturopathic Doctors' Practice Act and board rules promulgated in accordance with that act. _____

SJC/Senate Bill 135

Approved April 4, 2019

LAWS 2019, CHAPTER 245

AN ACT

RELATING TO PROFESSIONAL LICENSING; REQUIRING THAT AN APPLICANT FOR A BODY ART TATTOO OR PIERCING-SCARIFICATION LICENSE BE GRANTED CREDIT FOR EQUIVALENT TRAINING OR EXPERIENCE OBTAINED OUTSIDE THE STATE; DECLARING AN EMERGENCY.

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

Chapter 245 Section 1 Laws 2019

SECTION 1. Section 61-17B-5 NMSA 1978 (being Laws 2007, Chapter 181, Section 5, as amended) is amended to read:

"61-17B-5. LICENSE--APPLICATION--REVOCATION-- SUSPENSION.--

A. A body artist shall obtain a body art license, and an operator shall obtain a body art establishment license, the requirements for which shall be defined by the board and shall include the requirement that a body artist applicant demonstrate that the body artist has the training and experience necessary to perform body piercing, tattooing or scarification and the requirement that a sanitary and sterile body art establishment be maintained; provided that the board shall grant credit for training and experience obtained from any source, whether obtained within or outside the state, if the applicant demonstrates that the training and experience received by the applicant is equivalent to the training and experience required pursuant to the Body Art Safe Practices Act.

B. An operator or body artist shall possess and post in a conspicuous place a valid and unsuspended license issued by the board in accordance with the Body Art Safe Practices Act and the rules promulgated pursuant to that act. An operator or a body artist shall not display a license unless it has been issued to that operator or body artist by the board and has not been suspended or revoked.

C. An operator or body artist shall apply to the board for the issuance or renewal of a license annually and shall pay license fees established by the board. The board shall set license fees, license renewal fees and late fees in amounts necessary to administer the provisions of the Body Art Safe Practices Act. If an operator or body artist fails to renew a license for the next year, the license is void; provided that the voided license may be restored at any time during the year following the license's expiration upon the payment of the appropriate license renewal fee and a late charge not to exceed one hundred dollars (\$100) as set forth by board rules. If the operator or body artist fails to restore a license within one year following the license's expiration, the operator or body artist may request restoration of the license pursuant to rules promulgated by the board.

D. The board shall promulgate rules for the revocation or suspension of a license for a body art establishment or a body artist who fails to comply with a provision of the Body Art Safe Practices Act or rules promulgated pursuant to that act. A license shall not be suspended or revoked pursuant to the Body Art Safe Practices Act without providing the operator or the body artist with an opportunity for an administrative hearing unless conditions in the body art establishment warrant immediate suspension pursuant to Section 61-17B-9 NMSA 1978. The hearing officer shall not be a person previously involved in the suspension or revocation action. An inspection made more than twenty-four months prior to the most recent inspection shall not be used as a basis for suspension or revocation.

E. The board shall charge a fee not to exceed three hundred dollars (\$300) for the application to issue a new or renewed license. The applicant shall provide proof of current immunization as required by the board and proof of the applicant's attendance at a blood-borne pathogen training program and other training as required by the board before a license is issued or renewed.

F. A current body art license or body art establishment license shall not be transferable from one person to another.

G. The following information shall be kept on the premises of a body art establishment and shall be available for inspection by the board:

(1) the full names of all employees in the establishment and their exact duties;

(2) the board-issued license with identification photograph for the operator and any body artists;

(3) the body art establishment name and hours of operation;

(4) the name and address of the operator;

(5) a complete description of all body art performed at the body art establishment;

(6) a list of all instruments, body jewelry, sharps and inks used at the body art establishment, including names of manufacturers and serial or lot numbers or invoices or other documentation sufficient to identify and locate the manufacturer of those items; and

(7) a current copy of the Body Art Safe Practices Act.

H. An operator shall notify the board in writing not less than thirty days before changing the location of a body art establishment. The notice shall include the street address of the body art establishment's new location."

Chapter 245 Section 2 Laws 2019

SECTION 2. Section 61-17B-15 NMSA 1978 (being Laws 2015, Chapter 129, Section 6) is amended to read:

"61-17B-15. BOARD CREATED--MEMBERSHIP.--

A. The "board of body art practitioners" is created. The board is administratively attached to the regulation and licensing department and consists of five members appointed by the governor. Members shall serve three-year terms; provided that at the time of initial appointment, the governor shall appoint members to abbreviated terms to allow for the terms of subsequent appointments to be staggered. Vacancies shall be filled in the manner of the original appointment.

B. Of the five members of the board, two shall be licensed pursuant to the Body Art Safe Practices Act and shall have at least five years' practical experience in their occupations. Of those two, one member shall be an operator and one member shall be a body artist. The remaining three members shall be public members. The public members shall not have ever been licensed pursuant to the provisions of the Body Art Safe Practices Act or similar prior legislation or have a financial interest in a body art establishment.

C. Members of the board shall be reimbursed pursuant to the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

D. The board shall elect from among its members a chair and such other officers as it deems necessary. The board shall meet at the call of the chair, not less than two times each year. A majority of members currently serving constitutes a quorum for the conduct of business.

E. A board member shall not serve more than two full consecutive terms, and a member who fails to attend three meetings shall automatically be recommended for removal unless the member's absence is excused for reasons set forth by board rule."

Chapter 245 Section 3 Laws 2019

SECTION 3. TEMPORARY PROVISION--BOARD MEMBERS.--On or after the effective date of this act, the governor shall appoint two public members to serve on the

board, one of whom shall replace one operator member and one of whom shall replace one body artist member so that the board shall be composed of three public members and two members licensed pursuant to the Body Art Safe Practices Act. The terms of the members shall remain staggered.

Chapter 245 Section 4 Laws 2019

SECTION 4. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately. _____

Senate Bill 142, w/ec

Approved April 4, 2019

LAWS 2019, CHAPTER 246

AN ACT

RELATING TO COURTS; REVISING PROCEDURES REGARDING TRANSFER OF JURISDICTION OVER MUNICIPAL ORDINANCES TO THE MAGISTRATE COURT WITH THE AGREEMENT OF THE SUPREME COURT; SPECIFYING CERTAIN COURT-IMPOSED FEES TO BE REMITTED TO THE STATE.

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

Chapter 246 Section 1 Laws 2019

SECTION 1. Section 35-14-1 NMSA 1978 (being Laws 1961, Chapter 208, Section 1, as amended) is amended to read:

"35-14-1. MUNICIPAL COURT--CREATION.--

A. Except for municipalities with a population of fewer than two thousand five hundred or more than five thousand persons in the most recent federal decennial census lying within the boundaries of a class A county with a population of more than two hundred thousand persons in the most recent federal decennial census and municipalities that have adopted an effective ordinance pursuant to Subsection D of this section, there is established a municipal court in each incorporated municipality. The

municipal courts shall be presided over by municipal judges. As used in Chapter 35, Articles 14 and 15 NMSA 1978, "municipality" includes H class counties.

B. The governing body of a municipality that is not governed by home rule, territorial or special charter and having a population fewer than ten thousand persons in the most recent federal decennial census, where the municipal court is located twenty-five or fewer miles from the nearest magistrate court, may by resolution express its intent to designate the magistrate court of the county in which the municipality is located as the court having jurisdiction over municipal ordinances. Within fifteen days from the adoption of a resolution pursuant to this section, the governing body of the municipality shall create a "municipal ordinance jurisdiction advisory committee". The municipal ordinance jurisdiction advisory committee shall be composed of the following members, who shall be residents of the municipality:

- (1) the mayor;
- (2) a member of the governing body;
- (3) a municipal judge;
- (4) the chief of police; and
- (5) three members of the public, each selected by the mayor, the governing body and the municipal judge.

C. A municipal ordinance jurisdiction advisory committee shall:

- (1) hold at least one public hearing on the question of designating the magistrate court of the county in which the municipality is located as the court having jurisdiction over municipal ordinances;
- (2) hear testimony from all interested persons, including the mayor, the governing body and the municipal judge; and
- (3) submit a report, including recommendations directly to the governing body of the municipality, with copies to the mayor and municipal judge.

D. Following receipt of a report from the municipal ordinance jurisdiction advisory committee, the governing body of a municipality may, subject to approval by the supreme court, adopt an ordinance upon a three-fourths' majority vote to designate the magistrate court of the county in which the municipality is located as the court

having jurisdiction over municipal ordinances. An ordinance adopted shall become effective only upon supreme court approval and the expiration of the term of the municipal judge in office on the date of the supreme court's approval of the ordinance.

E. Within five days after the effective date of an ordinance adopted pursuant to Subsection D of this section, the governing body of the municipality shall:

(1) forward a copy of the ordinance to the magistrate court and to the administrative office of the courts; and

(2) provide to the magistrate court copies of all municipal ordinances over which the magistrate court will have jurisdiction.

F. A magistrate court designated pursuant to Subsection D of this section shall, with respect to ordinances of the municipality:

(1) follow the rules of procedure for the municipal courts and the procedures provided by Chapter 35, Article 15 NMSA 1978;

(2) impose no fine or sentence greater than that permitted for municipalities;

(3) remit monthly to the state the court automation and judicial education fees collected pursuant to Subsection B of Section 35-14-11 NMSA 1978 as a result of enforcement of municipal ordinances; and

(4) remit monthly to the municipality the corrections fee collected pursuant to Subsection B of Section 35-14-11 NMSA 1978 as a result of the enforcement of municipal ordinances.

G. Any municipality that has passed an ordinance designating the magistrate court of the county in which the municipality is located as the court having jurisdiction over municipal ordinances may re-establish the municipal court as the court having jurisdiction over municipal ordinances through the following procedures:

(1) the governing body of the municipality may pass an ordinance rescinding the designation that was made pursuant to Subsection B of this section; or

(2) following receipt of a petition signed by at least twenty percent of the registered voters who voted in the last municipal election for the office of mayor:

(a) convene a municipal ordinance jurisdiction advisory committee pursuant to Subsection B of this section that shall make a report and recommendation, if any, to the governing body of the municipality; and

(b) the governing body shall indicate its assent to re-establishment of the municipal court by ordinance." _____

SFC/Senate Bill 173

Approved April 4, 2019

LAWS 2019, CHAPTER 247

AN ACT

RELATING TO HEALTH; ENACTING A SECTION OF THE PUBLIC SCHOOL CODE TO ALLOW THE POSSESSION, STORAGE AND ADMINISTRATION OF MEDICAL CANNABIS IN CERTAIN SCHOOL SETTINGS; AMENDING AND ENACTING SECTIONS OF THE LYNN AND ERIN COMPASSIONATE USE ACT TO EXPAND ELIGIBILITY, TO PROVIDE FOR A THREE-YEAR REGISTRY IDENTIFICATION CARD AND TO ESTABLISH NEW QUALIFYING MEDICAL CONDITIONS, CIVIL PROTECTIONS AND INTERSTATE AND TRIBAL RECIPROCITY; AMENDING PENALTIES; AMENDING A SECTION OF THE JONATHAN SPRADLING REVISED UNIFORM ANATOMICAL GIFT ACT; ENACTING A NEW SECTION OF THE FAMILY SERVICES ACT TO REMOVE PARTICIPATION IN THE STATE'S MEDICAL CANNABIS PROGRAM AS GROUNDS FOR CHILD PROTECTIVE SERVICES INTERVENTION.

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

Chapter 247 Section 1 Laws 2019

SECTION 1. A new section of the Public School Code is enacted to read:

"MEDICAL CANNABIS--POSSESSION--STORAGE--ADMINISTRATION--RESTRICTION--EXEMPTIONS.--

A. Except as provided pursuant to Subsection C of this section, local school boards and the governing bodies of charter schools shall authorize by rule the possession, storage and administration of medical cannabis by parents and legal

guardians, or by designated school personnel, to qualified students for use in school settings; provided that:

(1) a student shall not possess, store or self-administer medical cannabis in a school setting;

(2) a parent, legal guardian or designated school personnel shall not administer medical cannabis in a manner that creates disruption to the educational environment or causes other students to be exposed to medical cannabis;

(3) a written treatment plan for the administration of the medical cannabis is agreed to and signed by the principal or the principal's designee of the qualified student's school and the qualified student's parent or legal guardian; and

(4) before the first administration of medical cannabis in a school setting, the qualified student's parent or legal guardian completes and submits documentation as required by local school board or charter school rules that includes a:

(a) copy of the qualified student's written certification for use of medical cannabis pursuant to the Lynn and Erin Compassionate Use Act; and

(b) written statement from the qualified student's parent or legal guardian releasing the school and school personnel from liability, except in cases of willful or wanton misconduct or disregard of the qualified student's treatment plan.

B. A local school board or the governing body of a charter school may adopt policies that:

(1) restrict the types of designated school personnel who may administer medical cannabis to qualified students;

(2) establish reasonable parameters regarding the administration and use of medical cannabis and the school settings in which administration and use are authorized; and

(3) ban student possession, use, distribution, sale or being under the influence of a cannabis product in a manner that is inconsistent with the provisions of this subsection.

C. The provisions of Subsection A of this section shall not apply to a charter school or school district if:

(1) the charter school or school district reasonably determines that it would lose, or has lost, federal funding as a result of implementing the provisions of Subsection A of this section; and

(2) the determination is appealable by any parent to the secretary, based on rules established by the department.

D. A public school, charter school or school district shall not:

(1) discipline a student who is a qualified student on the basis that the student requires medical cannabis as a reasonable accommodation necessary for the student to attend school;

(2) deny eligibility to attend school to a qualified student on the basis that the qualified student requires medical cannabis as a reasonable accommodation necessary for the student to attend school or a school-sponsored activity; or

(3) discipline a school employee who refuses to administer medical cannabis.

E. As used in this section:

(1) "certifying practitioner" means a health care practitioner who issues a written certification to a qualified student;

(2) "designated school personnel" means a school employee whom a public school, charter school or school district authorizes to possess, store and administer medical cannabis to a qualified student in accordance with the provisions of this section;

(3) "medical cannabis" means cannabis that is:

(a) authorized for use by qualified patients in accordance with the provisions of the Lynn and Erin Compassionate Use Act; and

(b) is in a form that is not an aerosol and cannot be smoked or inhaled in particulate form as a vapor or by burning;

(4) "qualified student" means a student who demonstrates evidence to the school district that the student is authorized as a qualified patient pursuant to the Lynn and Erin Compassionate Use Act to carry and use medical cannabis in accordance with the provisions of that act;

(5) "school" means a public school or a charter school;

(6) "school setting" means any of the following locations during a school day:

(a) a school building;

(b) a school bus used within the state during, in transit to or in transit from a school-sponsored activity;

(c) a public vehicle used within the state during, in transit to or in transit from a school-sponsored activity in the state; or

(d) a public site in the state where a school-sponsored activity takes place; and

(7) "written certification" means a statement in a qualified student's medical records or a statement signed by a qualified student's certifying practitioner that, in the certifying practitioner's professional opinion, the qualified student has a debilitating medical condition and the certifying practitioner believes that the potential health benefits of the medical use of cannabis would likely outweigh the health risks for the qualified student. A written certification is not valid for more than one year from the date of issuance."

Chapter 247 Section 2 Laws 2019

SECTION 2. Section 26-2B-1 NMSA 1978 (being Laws 2007, Chapter 210, Section 1) is amended to read:

"26-2B-1. SHORT TITLE.--Chapter 26, Article 2B NMSA 1978 may be cited as the "Lynn and Erin Compassionate Use Act" in honor of Lynn Pierson and Erin Armstrong."

Chapter 247 Section 3 Laws 2019

SECTION 3. Section 26-2B-3 NMSA 1978 (being Laws 2007, Chapter 210, Section 3) is amended to read:

"26-2B-3. DEFINITIONS.--As used in the Lynn and Erin Compassionate Use Act:

A. "adequate supply" means an amount of cannabis, in any form approved by the department, possessed by a qualified patient or collectively possessed by a qualified patient and the qualified patient's primary caregiver that is determined by rule of the department to be no more than reasonably necessary to ensure the uninterrupted availability of cannabis for a period of three months and that is derived solely from an intrastate source;

B. "cannabis":

(1) means all parts of the plant *Cannabis sativa* L. containing a delta-9-tetrahydrocannabinol concentration of more than three-tenths percent on a dry weight basis, whether growing or not; the seeds of the plant; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or its resin; and

(2) does not include the mature stalks of the plant; fiber produced from the stalks; oil or cake made from the seeds of the plant; any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, fiber, oil or cake; the sterilized seed of the plant that is incapable of germination; the weight of any other ingredient combined with cannabis to prepare topical or oral administrations, food, drink or another product; or hemp;

C. "cannabis consumption area" means an area within a licensed premises approved by the department where cannabis may be consumed that complies with rule as established by the department;

D. "cannabis courier" means a person that is licensed by the department to transport usable cannabis and cannabis products within the state from a cannabis establishment to:

- (1) a qualified patient;
- (2) a primary caregiver; or
- (3) another cannabis establishment;

E. "cannabis establishment" means:

- (1) a licensed cannabis courier;
- (2) a licensed cannabis testing facility;

(3) a licensed cannabis manufacturer;

(4) a licensed cannabis producer; or

(5) such other person that the department may by rule approve for participation in the medical cannabis program;

F. "cannabis manufacturer" means a person that is licensed by the department to:

(1) manufacture cannabis products;

(2) package, transport or courier cannabis products;

(3) have cannabis products tested by a cannabis testing facility;

(4) purchase, obtain, sell and transport cannabis products to other cannabis establishments; and

(5) prepare products for personal production license holders;

G. "cannabis producer" means a person that is licensed by the department to possess, produce, dispense, distribute and manufacture cannabis and cannabis products and sell wholesale or by direct sale to qualified patients and primary caregivers;

H. "cannabis product":

(1) means a product that contains cannabis, including edible or topical products that may also contain other ingredients; and

(2) does not include the weight of any other ingredient combined with cannabis or cannabis extract to prepare topical or oral administrations, food, drink or another product;

I. "cannabis testing facility" means a person that is licensed by the department to perform tests of cannabis products to analyze the strength or purity of the items and to collect cannabis samples and transport cannabis products to the cannabis testing facility from cannabis establishments;

J. "debilitating medical condition" means:

- (1) cancer;
- (2) glaucoma;
- (3) multiple sclerosis;
- (4) damage to the nervous tissue of the spinal cord, with objective neurological indication of intractable spasticity;
- (5) seizure disorder, including epilepsy;
- (6) positive status for human immunodeficiency virus or acquired immune deficiency syndrome;
- (7) admitted into hospice care in accordance with rules promulgated by the department;
- (8) amyotrophic lateral sclerosis;
- (9) Crohn's disease;
- (10) hepatitis C infection;
- (11) Huntington's disease;
- (12) inclusion body myositis;
- (13) inflammatory autoimmune-mediated arthritis;
- (14) intractable nausea or vomiting;
- (15) obstructive sleep apnea;
- (16) painful peripheral neuropathy;
- (17) Parkinson's disease;
- (18) posttraumatic stress disorder;
- (19) severe chronic pain;
- (20) severe anorexia or cachexia;

(21) spasmodic torticollis;

(22) ulcerative colitis; or

(23) any other medical condition, medical treatment or disease as approved by the department;

K. "department" means the department of health;

L. "hemp" means the plant *cannabis sativa* L. and any part of the plant, whether growing or not, containing a delta-9-tetrahydrocannabinol concentration of no more than three-tenths percent on a dry weight basis;

M. "license" means a license issued pursuant to the Lynn and Erin Compassionate Use Act;

N. "licensee" means a person that holds a license;

O. "licensee representative" means an owner, director, officer, manager, employee, agent or other representative of a licensee, to the extent that person acts in a representative capacity;

P. "manufacture" means to prepare a cannabis product;

Q. "medical cannabis program" means the program established pursuant to the Lynn and Erin Compassionate Use Act for authorization and regulation of the medical use of cannabis in the state;

R. "personal production license" means a license issued to a qualified patient or to a qualified patient's primary caregiver participating in the medical cannabis program to permit the qualified patient or the qualified patient's primary caregiver to produce cannabis for the qualified patient's use at an address approved by the department;

S. "practitioner" means a person licensed in New Mexico to prescribe and administer drugs that are subject to the Controlled Substances Act;

T. "primary caregiver" means a resident of New Mexico who is at least eighteen years of age and who has been designated by the patient's practitioner as being necessary to take responsibility for managing the well-being of a qualified patient with respect to the medical use of cannabis pursuant to the provisions of the Lynn and Erin Compassionate Use Act;

U. "produce" means to engage in any activity related to the planting or cultivation of cannabis;

V. "qualified patient" means a person who has been diagnosed by a practitioner as having a debilitating medical condition and has received written certification and a registry identification card pursuant to the Lynn and Erin Compassionate Use Act on the basis of having been diagnosed, in person or via telemedicine, by a practitioner as having a debilitating medical condition; provided that a practitioner may only issue a written certification on the basis of an evaluation conducted via telemedicine if the practitioner has previously examined the patient in person;

W. "reciprocal participant" means an individual who holds proof of authorization to participate in the medical cannabis program of another state of the United States, the District of Columbia, a territory or commonwealth of the United States or a New Mexico Indian nation, tribe or pueblo;

X. "registry identification card" means a document that the department issues:

(1) to a qualified patient that identifies the bearer as a qualified patient and authorizes the qualified patient to use cannabis for a debilitating medical condition; or

(2) to a primary caregiver that identifies the bearer as a primary caregiver authorized to engage in the intrastate possession and administration of cannabis for the sole use of a qualified patient who is identified on the document;

Y. "safety-sensitive position" means a position in which performance by a person under the influence of drugs or alcohol would constitute an immediate or direct threat of injury or death to that person or another;

Z. "telemedicine" means the use of telecommunications and information technology to provide clinical health care from a site apart from the site where the patient is located, in real time or asynchronously, including the use of interactive simultaneous audio and video or store-and-forward technology, or off-site patient monitoring and telecommunications in order to deliver health care services;

AA. "THC" means delta-9-tetrahydrocannabinol, a substance that is the primary psychoactive ingredient in cannabis; and

BB. "written certification" means a statement made on a department-approved form and signed by a patient's practitioner that indicates, in the practitioner's professional opinion, that the patient has a debilitating medical condition and the

practitioner believes that the potential health benefits of the medical use of cannabis would likely outweigh the health risks for the patient."

Chapter 247 Section 4 Laws 2019

SECTION 4. Section 26-2B-4 NMSA 1978 (being Laws 2007, Chapter 210, Section 4) is amended to read:

"26-2B-4. EXEMPTION FROM CRIMINAL AND CIVIL PENALTIES FOR THE MEDICAL USE OF CANNABIS.--

A. A qualified patient or a qualified patient's primary caregiver shall not be subject to arrest, prosecution or penalty in any manner for the possession of or the medical use of cannabis if the quantity of cannabis does not exceed an adequate supply; provided that a qualified patient or the qualified patient's primary caregiver may possess that qualified patient's harvest of cannabis.

B. A reciprocal participant shall not be subject to arrest, prosecution or penalty in any manner for the possession of or the medical use of cannabis if the quantity of cannabis does not exceed the limit identified by department rule.

C. The following conduct is lawful and shall not constitute grounds for detention, search or arrest of a person or for a violation of probation or parole, and cannabis products that relate to the conduct are not contraband or subject to seizure or forfeiture pursuant to the Controlled Substances Act or the Forfeiture Act:

(1) a qualified patient or primary caregiver possessing or transporting not more than an adequate supply or a reciprocal participant possessing or transporting not more than the limit identified by department rule;

(2) a qualified patient or primary caregiver purchasing or obtaining not more than an adequate supply from a lawful source or a reciprocal participant purchasing or obtaining not more than the limit identified by department rule;

(3) a qualified patient using or being under the influence of cannabis; provided that the qualified patient is acting consistent with law;

(4) a qualified patient or primary caregiver transferring, without financial consideration, to a qualified patient or primary caregiver not more than two ounces of cannabis; or

(5) with respect to cannabis cultivated under a personal production license, a qualified patient or primary caregiver possessing, planting, cultivating, harvesting, drying, manufacturing or transporting cannabis plants or cannabis products as allowed by department rule; provided that a qualified patient or primary caregiver who possesses a personal production license shall not manufacture cannabis products using an oil extractor solvent that is stored under pressure unless the qualified patient or primary caregiver holds a separate license from the department permitting the person to manufacture cannabis products using an oil extractor solvent that is under pressure.

D. Subsection A of this section shall not apply to a qualified patient under the age of eighteen years, unless:

(1) the qualified patient's practitioner has explained the potential risks and benefits of the medical use of cannabis to the qualified patient and to a parent, guardian or person having legal custody of the qualified patient; and

(2) a parent, guardian or person having legal custody consents in writing to:

(a) allow the qualified patient's medical use of cannabis;

(b) serve as the qualified patient's primary caregiver; and

(c) control the dosage and the frequency of the medical use of cannabis by the qualified patient.

E. A qualified patient or a primary caregiver shall be granted the full legal protections provided in this section if the qualified patient or primary caregiver is in possession of a registry identification card. If the qualified patient or primary caregiver is not in possession of a registry identification card, the qualified patient or primary caregiver shall be given an opportunity to produce the registry identification card before any arrest or criminal charges or other penalties are initiated.

F. A practitioner shall not be subject to arrest or prosecution, penalized in any manner or denied any right or privilege for recommending the medical use of cannabis or providing written certification for the medical use of cannabis pursuant to the Lynn and Erin Compassionate Use Act.

G. A licensee or licensee representative shall not be subject to arrest, prosecution or penalty, in any manner, for the production, possession, manufacture, distribution, dispensing or testing of cannabis pursuant to the Lynn and Erin Compassionate Use Act. Conduct by a licensee or a licensee representative that is

allowed pursuant to a license and conduct by a person that allows property to be used by a licensee or a licensee representative for conduct allowed pursuant to a license is lawful, is not a violation of state or local law and is not a basis for seizure or forfeiture of property or assets under state or local law.

H. Any property interest that is possessed, owned or used in connection with the medical use of cannabis, or acts incidental to such use, shall not be harmed, neglected, injured or destroyed while in the possession of state or local law enforcement officials. Any such property interest shall not be forfeited under any state or local law providing for the forfeiture of property except as provided in the Forfeiture Act. Cannabis, paraphernalia or other property seized from a qualified patient or primary caregiver in connection with the claimed medical use of cannabis shall be returned immediately upon the determination by a court or prosecutor that the qualified patient or primary caregiver is entitled to the protections of the provisions of the Lynn and Erin Compassionate Use Act, as may be evidenced by a failure to actively investigate the case, a decision not to prosecute, the dismissal of charges or acquittal.

I. A state or local government shall not impose a criminal, civil or administrative penalty on a licensee or a licensee representative, or on a person that allows property to be used by a licensee or a licensee representative pursuant to a license, solely for conduct that is allowed pursuant to a license.

J. A person shall not be subject to arrest or prosecution for a cannabis-related offense for simply being in the presence of the medical use of cannabis as permitted under the provisions of the Lynn and Erin Compassionate Use Act."

Chapter 247 Section 5 Laws 2019

SECTION 5. Section 26-2B-5 NMSA 1978 (being Laws 2007, Chapter 210, Section 5) is amended to read:

"26-2B-5. PROHIBITIONS, RESTRICTIONS AND LIMITATIONS ON THE MEDICAL USE OF CANNABIS--CRIMINAL PENALTIES.--

A. Participation in a medical use of cannabis program by a qualified patient or primary caregiver does not relieve the qualified patient or primary caregiver from:

(1) criminal prosecution or civil penalties for activities not authorized in the Lynn and Erin Compassionate Use Act;

(2) liability for damages or criminal prosecution arising out of the operation of a vehicle while under the influence of cannabis; or

(3) criminal prosecution or civil penalty for possession or use of cannabis:

(a) in the workplace of the qualified patient's or primary caregiver's employment; or

(b) at a public park, recreation center, youth center or other public place.

B. A person who makes a fraudulent representation to a law enforcement officer about the person's participation in a medical use of cannabis program to avoid arrest or prosecution for a cannabis-related offense is guilty of a petty misdemeanor and shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978.

C. If a licensee or the licensee's representative sells, distributes, dispenses or transfers cannabis to a person not approved by the department pursuant to the Lynn and Erin Compassionate Use Act or obtains or transports cannabis outside New Mexico, the licensee or the licensee's representative shall be subject to arrest, prosecution and civil or criminal penalties pursuant to state law."

Chapter 247 Section 6 Laws 2019

SECTION 6. Section 26-2B-6 NMSA 1978 (being Laws 2007, Chapter 210, Section 6) is amended to read:

"26-2B-6. ~~ADVISORY BOARD CREATED--DUTIES.~~--The secretary of health shall establish an advisory board consisting of nine practitioners knowledgeable about the medical use of cannabis. The members shall be chosen for appointment by the secretary from a list proposed by the New Mexico medical society, the New Mexico nurses association, the New Mexico academy of family physicians, the New Mexico academy of physician assistants, the New Mexico pharmacists association or the New Mexico Hispanic medical association. A quorum of the advisory board shall consist of five members. The advisory board shall:

A. review and recommend to the department for approval additional debilitating medical conditions that would benefit from the medical use of cannabis;

B. accept and review petitions to add medical conditions, medical treatments or diseases to the list of debilitating medical conditions that qualify for the medical use of cannabis;

C. convene at least twice per year to conduct public hearings and to evaluate petitions, which shall be maintained as confidential personal health information, to add medical conditions, medical treatments or diseases to the list of debilitating medical conditions that qualify for the medical use of cannabis;

D. issue recommendations concerning rules to be promulgated for the issuance of the registry identification cards;

E. recommend quantities of cannabis that are necessary to constitute an adequate supply for qualified patients and primary caregivers;

F. recommend formulation or preparations of cannabis or cannabis products;
and

G. recommend quantities of cannabis that a reciprocal participant may obtain and possess."

Chapter 247 Section 7 Laws 2019

SECTION 7. Section 26-2B-7 NMSA 1978 (being Laws 2007, Chapter 210, Section 7) is amended to read:

"26-2B-7. REGISTRY IDENTIFICATION CARDS--DEPARTMENT RULES--
DUTIES--RECIPROCITY.--

A. After consultation with the advisory board, the department shall promulgate rules in accordance with the State Rules Act to implement the purpose of the Lynn and Erin Compassionate Use Act. The rules shall:

(1) govern the manner in which the department will consider applications for registry identification cards and for the renewal of identification cards for qualified patients and primary caregivers;

(2) define the amount of cannabis that is necessary to constitute an adequate supply, including amounts for topical treatments;

(3) identify criteria and set forth procedures for including additional medical conditions, medical treatments or diseases to the list of debilitating medical conditions that qualify for the medical use of cannabis. Procedures shall include a petition process and shall allow for public comment and public hearings before the advisory board;

(4) set forth additional medical conditions, medical treatments or diseases to the list of debilitating medical conditions that qualify for the medical use of cannabis as recommended by the advisory board;

(5) identify requirements for the licensure of cannabis producers and cannabis production facilities, cannabis couriers, cannabis manufacturers, cannabis testing facilities and any other cannabis establishments that the department may license and set forth procedures to obtain licenses;

(6) develop a distribution system for the medical cannabis program that provides for:

(a) cannabis production facilities within New Mexico housed on secured grounds and operated by licensees; and

(b) distribution of cannabis to qualified patients or their primary caregivers to take place at locations that are designated by the department and that are not within three hundred feet of any school, church or daycare center that were in existence in that location before the licensee distributing medical cannabis nearby was licensed; provided that this distance requirement shall not apply to distribution at the home of the qualified patient or primary caregiver;

(7) identify requirements for testing and labeling of cannabis and cannabis products for quality assurance. The department shall adopt and promulgate rules pursuant to this paragraph by December 20, 2019;

(8) determine additional duties and responsibilities of the advisory board;
and

(9) be revised and updated as necessary.

B. The department shall issue registry identification cards to a patient and to the primary caregiver for that patient, if any, who submit the following, in accordance with the department's rules:

(1) a written certification;

(2) the name, address and date of birth of the patient;

(3) the name, address and telephone number of the patient's practitioner;

and

(4) the name, address and date of birth of the patient's primary caregiver, if any.

C. The department shall verify the information contained in an application submitted pursuant to Subsection B of this section and shall approve or deny an application within thirty days of receipt. The department may deny an application only if the applicant did not provide the information required pursuant to Subsection B of this section or if the department determines that the information provided is false. A person whose application has been denied shall not reapply for six months from the date of the denial unless otherwise authorized by the department.

D. The department shall issue a registry identification card within five days of approving an application, and a card shall expire three years after the date of issuance.

E. A registry identification card shall contain:

(1) the name and date of birth of the qualified patient and primary caregiver, if any;

(2) the date of issuance and expiration date of the registry identification card; and

(3) other information that the department may require by rule.

F. A person who possesses a registry identification card shall notify the department of any change in the person's name, qualified patient's practitioner, qualified patient's primary caregiver or change in status of the qualified patient's debilitating medical condition within ten days of the change.

G. Possession of or application for a registry identification card shall not constitute probable cause or give rise to reasonable suspicion for a governmental agency to search the person or property of the person possessing or applying for the card.

H. The department shall maintain a confidential file containing the names and addresses of the persons who have either applied for or received a registry identification card. Individual names on the list shall be confidential and not subject to disclosure, except:

(1) to authorized employees or agents of the department as necessary to perform the duties of the department pursuant to the provisions of the Lynn and Erin Compassionate Use Act;

(2) to authorized employees of state or local law enforcement agencies, but only for the purpose of verifying that a person is lawfully in possession of a registry identification card; or

(3) as provided in the federal Health Insurance Portability and Accountability Act of 1996.

I. By March 1, 2020, the secretary of health shall adopt and promulgate rules relating to medical cannabis program reciprocity. The department may identify requirements for the granting of reciprocity, including provisions limiting the period of time in which a reciprocal participant may participate in the medical cannabis program.

J. A reciprocal participant:

(1) may participate in the medical cannabis program in accordance with department rules;

(2) shall not be required to comply with the registry identification card application and renewal requirements established pursuant to this section and department rules;

(3) shall at all times possess proof of authorization to participate in the medical cannabis program of another state, the District of Columbia, a territory or commonwealth of the United States or a New Mexico Indian nation, tribe or pueblo and shall present proof of that authorization when purchasing cannabis from a licensee; and

(4) shall register with a licensee for the purpose of tracking sales to the reciprocal participant in an electronic system that is accessible to the department."

Chapter 247 Section 8 Laws 2019

SECTION 8. A new section of the Lynn and Erin Compassionate Use Act is enacted to read:

"PROGRAM REGULATION AND ADMINISTRATION--FEES--LIMITATIONS--RULEMAKING--LICENSURE--ISSUANCE--REPORTING.--

A. The department shall:

(1) regulate and administer the medical cannabis program; and

(2) collect fees from licensees; provided that the department shall not charge a fee relating to the medical cannabis registry.

B. By December 20, 2019, the secretary of health shall adopt and promulgate rules to establish fees for licenses for cannabis producers, cannabis manufacturers, cannabis couriers, cannabis testing facilities or any other cannabis establishments whose operations are authorized pursuant to the Lynn and Erin Compassionate Use Act.

C. The department shall establish application and licensing fees applicable to licenses for activity related to the medical cannabis program.

D. The department shall administer licensure for medical cannabis program activity provided for in the Lynn and Erin Compassionate Use Act, which shall include personal production licenses and licenses for:

- (1) cannabis couriers;
- (2) cannabis manufacturers;
- (3) cannabis producers;
- (4) cannabis testing facilities; and
- (5) any other activity or person as deemed necessary by the department.

E. The department shall not issue any other license provided for in this section to a cannabis testing facility licensee.

F. In consultation with qualified patients and primary caregivers, the department shall produce an assessment report annually, which shall be published to the public and that includes at a minimum an evaluation of:

(1) the affordability of and accessibility to medical cannabis pursuant to the Lynn and Erin Compassionate Use Act; and

(2) the needs of qualified patients who live in rural areas, federal subsidized housing or New Mexico Indian nations, tribes or pueblos.

G. The department shall allow for the smoking, vaporizing and ingesting of cannabis products within a cannabis consumption area on the premises if:

- (1) access is restricted to qualified patients and their primary caregivers;
- (2) cannabis consumption is not visible from any public place or from outside the cannabis consumption area; and
- (3) qualified patients who consume cannabis on the premises have a designated driver or other means of transportation consistent with current law."

Chapter 247 Section 9 Laws 2019

SECTION 9. A new section of the Lynn and Erin Compassionate Use Act is enacted to read:

"REGISTRY IDENTIFICATION CARD--REGISTRATION--RENEWAL--WRITTEN CERTIFICATION.--The department shall require a qualified patient to reapply for a registry identification card no sooner than two years and eleven months from the date the patient's current registry identification card is issued; provided that, in order to remain eligible for participation in the medical cannabis program established pursuant to the Lynn and Erin Compassionate Use Act, a qualified patient shall submit annually to the department a statement from a practitioner indicating that:

- A. the practitioner has examined the qualified patient during the preceding twelve months;
- B. the qualified patient continues to have a debilitating medical condition; and
- C. the practitioner believes that the potential health benefits of the medical use of cannabis would likely outweigh the health risks for the qualified patient."

Chapter 247 Section 10 Laws 2019

SECTION 10. A new section of the Lynn and Erin Compassionate Use Act is enacted to read:

"THC CONTENT--NO LIMITATION.--The department shall not limit the amount of THC concentration in a cannabis product; provided that the department may by rule adopt requirements for apportionment and packaging of cannabis products."

Chapter 247 Section 11 Laws 2019

SECTION 11. A new section of the Lynn and Erin Compassionate Use Act is enacted to read:

"EMPLOYMENT PROTECTIONS.--

A. Unless a failure to do so would cause the employer to lose a monetary or licensing-related benefit under federal law or federal regulations, it is unlawful to take an adverse employment action against an applicant or an employee based on conduct allowed under the Lynn and Erin Compassionate Use Act.

B. Nothing in this section shall:

(1) restrict an employer's ability to prohibit or take adverse employment action against an employee for use of, or being impaired by, medical cannabis on the premises of the place of employment or during the hours of employment; or

(2) apply to an employee whose employer deems that the employee works in a safety-sensitive position."

Chapter 247 Section 12 Laws 2019

SECTION 12. A new section of the Lynn and Erin Compassionate Use Act is enacted to read:

"PERSONS UNDER STATE SUPERVISION--PROTECTIONS.--A person who is serving a period of probation or parole or who is in the custody or under the supervision of the state or a local government pending trial as part of a community supervision program shall not be penalized for conduct allowed under the Lynn and Erin Compassionate Use Act."

Chapter 247 Section 13 Laws 2019

SECTION 13. Section 24-6B-11 NMSA 1978 (being Laws 2007, Chapter 323, Section 11) is amended to read:

"24-6B-11. PERSONS THAT MAY RECEIVE ANATOMICAL GIFT-- PURPOSE OF ANATOMICAL GIFT.--

A. An anatomical gift may be made to the following persons named in the document of gift:

(1) a hospital; accredited medical school, dental school, college or university; organ procurement organization; or other appropriate person, for research or education;

(2) subject to the provisions of Subsection B of this section, an individual designated by the person making the anatomical gift if the individual is the recipient of the part; and

(3) an eye bank or tissue bank.

B. If an anatomical gift to an individual pursuant to Paragraph (2) of Subsection A of this section cannot be transplanted into the individual, the part passes in accordance with Subsection G of this section in the absence of an express, contrary indication by the person making the anatomical gift.

C. If an anatomical gift of one or more specific parts or of all parts is made in a document of gift that does not name a person described in Subsection A of this section but identifies the purpose for which an anatomical gift may be used, the following rules apply:

(1) if the part is an eye and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate eye bank;

(2) if the part is tissue and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate tissue bank;

(3) if the part is an organ and the gift is for the purpose of transplantation or therapy, the gift passes to the appropriate organ procurement organization as custodian of the organ; and

(4) if the part is an organ, an eye or tissue and the gift is for the purpose of research or education, the gift passes to the appropriate procurement organization.

D. For the purpose of Subsection C of this section, if there is more than one purpose of an anatomical gift set forth in the document of gift but the purposes are not set forth in any priority, the gift shall be used for transplantation or therapy, if suitable. If the gift cannot be used for transplantation or therapy, the gift may be used for research or education.

E. If an anatomical gift of one or more specific parts is made in a document of gift that does not name a person described in Subsection A of this section and does not identify the purpose of the gift, the gift may be used only for transplantation or therapy, and the gift passes in accordance with Subsection G of this section.

F. If a document of gift specifies only a general intent to make an anatomical gift by words such as "donor", "organ donor" or "body donor", or by a symbol or statement

of similar import, the gift may be used only for transplantation or therapy and the gift passes in accordance with Subsection G of this section.

G. For purposes of Subsections B, E and F of this section, the following rules apply:

- (1) if the part is an eye, the gift passes to the appropriate eye bank;
- (2) if the part is tissue, the gift passes to the appropriate tissue bank; and
- (3) if the part is an organ, the gift passes to the appropriate organ procurement organization as custodian of the organ.

H. An anatomical gift of an organ for transplantation or therapy, other than an anatomical gift pursuant to Paragraph (2) of Subsection A of this section, passes to the organ procurement organization as custodian of the organ.

I. If an anatomical gift does not pass pursuant to Subsections A through H of this section or the decedent's body or part is not used for transplantation, therapy, research or education, custody of the body or part passes to the person under obligation to dispose of the body or part.

J. A person may not accept an anatomical gift if the person knows that the gift was not effectively made pursuant to Section 24-6B-5 or 24-6B-10 NMSA 1978 or if the person knows that the decedent made a refusal pursuant to Section 24-6B-7 NMSA 1978 that was not revoked. For purposes of this subsection, if a person knows that an anatomical gift was made on a document of gift, the person is deemed to know of any amendment or revocation of the gift or any refusal to make an anatomical gift on the same document of gift.

K. Except as otherwise provided in Paragraph (2) of Subsection A of this section, nothing in the Jonathan Spradling Revised Uniform Anatomical Gift Act affects the allocation of organs for transplantation or therapy.

L. An individual's participation in the state's medical cannabis program established pursuant to the Lynn and Erin Compassionate Use Act shall not in itself constitute grounds for refusing to allow that individual to receive an anatomical gift."

Chapter 247 Section 14 Laws 2019

SECTION 14. A new section of the Family Services Act is enacted to read:

"MEDICAL CANNABIS PROGRAM--REMOVAL OF CHILDREN--FAMILY SERVICES INTERVENTION--SCHOOL ENROLLMENT--MEDICAL CARE.--

A. An individual's participation in the state's medical cannabis program established pursuant to the Lynn and Erin Compassionate Use Act shall not in itself constitute grounds for:

(1) intervention, removal or placement into state custody of a child in that individual's care pursuant to the Abuse and Neglect Act; or

(2) the provision of state prevention, diversion or intervention services to that individual's family pursuant to the Family Services Act.

B. A person shall not be denied custody of or visitation or parenting time with a child, and there is no presumption of neglect or child endangerment, for conduct allowed under the Lynn and Erin Compassionate Use Act.

C. A school shall not refuse to enroll or otherwise penalize a person solely for conduct allowed pursuant to the Lynn and Erin Compassionate Use Act, unless failing to do so would cause the school to lose a monetary or licensing-related benefit under federal law or regulation.

D. For the purposes of medical care, including an organ transplant, a qualified patient's use of cannabis pursuant to the Lynn and Erin Compassionate Use Act shall be considered the equivalent of the use of any other medication under the direction of a physician and shall not be considered to constitute the use of an illicit substance or otherwise disqualify a qualified patient from medical care."

Chapter 247 Section 15 Laws 2019

SECTION 15. TEMPORARY PROVISION--LICENSED PRODUCERS.--

A licensed producer, as defined in the Lynn and Erin Compassionate Use Act prior to the enactment of this 2019 act, that is licensed as of the effective date of this 2019 act shall be considered to be a cannabis producer, as defined by this 2019 act. _____

SPAC/Senate Bill 406, aa

Approved April 4, 2019

LAWS 2019, CHAPTER 248

AN ACT

RELATING TO LAND GRANTS-MERCEDES; DEFINING TERMS; AMENDING LAND GRANT-MERCEDES ELECTION REQUIREMENTS AND PROCEDURES; PROVIDING FOR ADMINISTRATIVE REVIEW OF CONTESTED LAND GRANT-MERCEDES ELECTIONS.

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

Chapter 248 Section 1 Laws 2019

SECTION 1. Section 49-1-1.1 NMSA 1978 (being Laws 2004, Chapter 124, Section 1) is amended to read:

"49-1-1.1. DEFINITIONS.--As used in Chapter 49 NMSA 1978:

A. "child" means a biological, adopted or foster child, a stepchild, a legal ward or a child of a person standing in loco parentis;

B. "heir" means a person who is a descendant of the original grantees and has an interest in the common land of a land grant-merced through inheritance, gift or purchase or as defined in the bylaws of a land grant-merced;

C. "land grant-merced" means a grant of land made by the government of Spain or by the government of Mexico to a community, town, colony or pueblo or to a person for the purpose of founding or establishing a community, town, colony or pueblo;

D. "parent" includes a biological, adoptive or foster parent, a stepparent or an individual who stands in loco parentis to a child;

E. "precinct" means a geographic location such as a community or town that is guaranteed an apportioned amount of positions on the board of trustees of a land grant-merced as defined in the land grant-merced bylaws;

F. "qualified voting member" means an heir who is registered to vote in a land grant-merced as prescribed in the land grant-merced bylaws; and

G. "sibling" includes a stepsibling and a half-sibling."

Chapter 248 Section 2 Laws 2019

SECTION 2. Section 49-1-3 NMSA 1978 (being Laws 1907, Chapter 42, Section 3, as amended) is amended to read:

"49-1-3. BOARD OF TRUSTEES--MANAGEMENT OF GRANT--POWERS.-- The management and control of all land grants-mercedes and tracts of land to which Sections 49-1-1 through 49-1-18 NMSA 1978 are applicable is vested in a board of trustees, to be known as the "board of trustees of the land grant-merced del pueblo de _____" (designating the name of the town, colony, pueblo or community), and the board shall have the power to:

A. control, care for and manage the land grant-merced and real estate, prescribe the terms and conditions under which the common lands may be used and enjoyed and make all necessary and proper bylaws, rules and regulations that shall be in substantial compliance with applicable statutes for the government thereof;

B. sue and be sued under the title as set forth in this section;

C. convey, lease or mortgage the common lands of the land grant-merced in accordance with the land grant-merced bylaws;

D. determine the number of animals that may be permitted to graze upon the common lands and determine other uses of the common lands that may be authorized;

E. prescribe the price to be paid for the use of the common lands and resources of the land grant-merced and prohibit a person failing or refusing to pay that amount from using a portion of the common lands while the person continues in default in those payments; provided that the amount fixed shall be in proportion to the number and kinds of livestock pasturing upon the common lands or to other authorized use of the common lands;

F. adopt and use an official seal;

G. appoint judges and clerks and a canvassing board of election at all elections provided for in Sections 49-1-1 through 49-1-18 NMSA 1978, subsequent to the first, and canvass the votes cast in those elections;

H. make bylaws, rules and regulations, not in conflict with the constitution and laws of the United States or the state of New Mexico, as may be necessary for the protection, improvement and management of the common lands and real estate and for

the use and enjoyment of the common lands and of the common waters of the land grant-merced;

I. determine land use, local infrastructure and economic development of the common lands of the land grant-merced;

J. determine zoning of the common lands of the land grant-merced pursuant to a comprehensive plan approved by the local government division of the department of finance and administration that considers the health, safety and general welfare of the residents of the land grant-merced. The department of finance and administration shall act as arbitrator for zoning conflicts between land grants-mercedes and neighboring municipalities and counties; and

K. enter into memoranda of understanding, contracts and other agreements with a local, state or federal government or a government of a federally recognized Indian nation, tribe or pueblo, including but not limited to agreements concerning the protection and maintenance of cultural resources."

Chapter 248 Section 3 Laws 2019

SECTION 3. Section 49-1-4 NMSA 1978 (being Laws 1907, Chapter 42, Section 4, as amended) is amended to read:

"49-1-4. BOARD OF TRUSTEES--QUALIFICATIONS.--The board of trustees shall consist of five members. In a land grant-merced with bylaws that include the use of precincts, no more than the apportioned number of members for any given precinct as set forth in the bylaws shall serve on the board of trustees. A person shall be qualified to be a member of the board if the person is a qualified voting member and is not in default of any dues, rent or other payment for the use of any of the common lands of the land grant-merced; provided that no person convicted of a felonious or infamous crime, unless the person has been pardoned or restored to political rights, shall be qualified to be elected or appointed to any board of trustees of a land grant-merced."

Chapter 248 Section 4 Laws 2019

SECTION 4. Section 49-1-5 NMSA 1978 (being Laws 1907, Chapter 42, Section 5, as amended) is amended to read:

"49-1-5. ELECTION OF MEMBERS OF BOARD OF TRUSTEES--VOTERS' QUALIFICATIONS--REGISTRATION--PROVISIONAL BALLOTS.--

A. Elections for the board of trustees shall be held on the first Monday in April or on a day designated in the bylaws, either every two or every four years as specified in the bylaws of the land grant-merced.

B. All qualified voting members of the land grant-merced are qualified to vote and may vote for trustees as specified in the land grant-merced bylaws.

C. The registration of qualified voting members shall be conducted in the manner prescribed in the land grant-merced bylaws. The secretary of the board of trustees shall maintain the registration books. Registration shall be closed beginning fifteen days before an election and reopened on the Monday following the election. The board of trustees shall meet to finalize the registration books by resolution at least five days prior to the election.

D. The registration books compiled before each election shall be used at that election. No person shall vote at the election unless duly registered in the books, and no ballot of any unregistered person shall be counted or canvassed.

E. A candidate for the board of trustees shall file a declaration of candidacy with the secretary of the board of trustees. The period when declarations of candidacy may be filed shall begin on the day the proclamation calling the election is published and shall remain open for at least ten days.

F. Whenever an election is to be called or is required by law, the board of trustees shall by resolution issue a public proclamation calling the election. The proclamation shall specify:

- (1) the date on which the election will be held;
- (2) the purpose for which the election is called;
- (3) if positions on the board of trustees are to be filled, the date and time by which declarations of candidacy are to be filed;
- (4) if a question is to be voted upon, the text of that question;
- (5) the location of each polling place in the land grant-merced;
- (6) the hours that each polling place will be open;
- (7) the date and time of the closing of the registration books; and

(8) the date and time of the meeting to finalize the registration books.

G. Not less than thirty days nor more than forty-five days before the date of the election, the board of trustees shall publish in Spanish and English the proclamation in a local newspaper of general circulation available within the boundaries of the land grant-merced and post the proclamation in at least five public places within the land grant-merced.

H. The board of trustees shall appoint one election judge and at least two election clerks for each polling place. The election judge shall also be present for the canvass of the vote. No person shall be qualified for appointment or service as an election clerk or judge, or as a member of a canvassing board, who is a spouse, parent, child or sibling of any candidate to be voted for at the election.

I. The board of trustees shall provide in the bylaws for the forms and procedures by which the land grant-merced elections are conducted. If the board of trustees chooses to provide for early or absentee voting, it shall specify in its bylaws the procedures by which early or absentee voting shall be conducted."

Chapter 248 Section 5 Laws 2019

SECTION 5. A new Section 49-1-5.1 NMSA 1978 is enacted to read:

"49-1-5.1. PROVISIONAL BALLOTS--REQUIREMENTS FOR USE--
PROCEDURES.--

A. A person shall be permitted to vote on a provisional paper ballot even though the person's name does not appear in the land grant-merced registration book; provided that the person:

(1) shows proof to the election judge and clerk that the person meets the qualified voting member provisions under Section 49-1-1.1 NMSA 1978 and the land grant-merced bylaws; and

(2) executes a statement swearing or affirming that to the best of the person's knowledge, the person:

(a) is a qualified voting member of the land grant-merced;

(b) is currently registered and eligible to vote in the land grant-merced election; and

(c) has not yet cast a ballot or voted in the election for which the person is seeking to vote by provisional ballot.

B. A judge or election clerk shall write the person's name on the voter roster, have the voter sign next to the voter's name and issue the voter a provisional paper ballot, an outer envelope and an official inner envelope. The voter shall vote on the provisional paper ballot in secrecy and, when done, place the ballot in the official inner envelope, place the official inner envelope in the outer envelope, sign the outer envelope and return the envelope to the judge or election clerk. The election judge or clerk shall ensure that the required information is completed on the outer envelope and will place the envelope in a container designated for provisional paper ballots.

C. At a minimum, the following information shall be printed on the outer envelope for a provisional paper ballot:

- (1) the name and signature of the voter;
- (2) the voter's registered address, both present and former, if applicable;
- (3) the voter's date of birth;
- (4) the reason for using the provisional ballot, including what proof was given to assert land grant-merced qualified voting member status; and
- (5) sufficient space to list the disposition of the ballot after review by the canvassing board.

D. A provisional paper ballot shall not be rejected for lack of the information required by this section and shall be qualified as long as the voter provides a valid signature and sufficient information for the judge and canvassing board to determine whether the voter is a qualified voting member.

E. Knowingly executing a false statement constitutes perjury as provided in the Criminal Code, and voting on the basis of such falsely executed statement constitutes fraudulent voting.

F. Upon closing of the polls, provisional ballots shall be kept by the election judge until the canvassing of the votes by the election judge and canvassing board, who shall determine if the ballots will be counted prior to certification of the election.

G. If the voter was registered with the land grant-merced and the canvassing board determines that the individual was left off of the registration book in error, the

provisional paper ballot shall be counted; provided that if the qualified voting member did not sign either the signature roster or the ballot's envelope, the provisional paper ballot shall not be counted.

H. If there is no record of the voter ever having been registered with the land grant-merced, the voter shall be offered the opportunity to register and the provisional paper ballot shall not be counted."

Chapter 248 Section 6 Laws 2019

SECTION 6. Section 49-1-7 NMSA 1978 (being Laws 1907, Chapter 42, Section 7, as amended) is amended to read:

"49-1-7. ELECTION--VOTES REQUIRED--CANVASSING VOTES.--

A. The candidates receiving the most votes cast for the open seats on the board of trustees and meeting any precinct restriction requirements established pursuant to Section 49-1-4 NMSA 1978 shall be elected to the board.

B. The election judges and the canvassing board shall meet not later than seven days following the election and canvass the votes cast and issue to each candidate duly elected to a seat on the board a certificate of election.

C. In the event of a tie vote between any candidates for the board of trustees, the determination of which of the candidates shall be declared to have been elected shall be decided by lot. If the method for determining by lot is not set forth in the bylaws of the land grant-merced, the method shall be agreed upon by the tied candidates. The canvassing board shall issue the certificate of election to the candidate chosen by lot.

D. Any unsuccessful candidate for election to the board of trustees or any qualified voting member of a land grant-merced who believes that any portion of a land grant-merced election was conducted in violation of any requirements set forth in Chapter 49, Article 1 NMSA 1978 or the land grant-merced bylaws may contest the outcome of an election; provided that the election contest is filed with the Guadalupe Hidalgo treaty division of the office of the attorney general within thirty days from the issuance of the certificate of the election by the canvassing board.

E. In the event that the conduct or outcome of an election is contested, the person or persons holding a certificate of election shall take possession of and discharge the duties of the office until the contest is decided.

F. The Guadalupe Hidalgo treaty division of the office of the attorney general shall promulgate rules for investigating and deciding the outcome of contested elections, which rules shall include:

- (1) forms for filing an official contest of an election;
- (2) procedures for conducting investigations and collecting evidence for contested elections; and
- (3) administrative procedures for appealing a decision made by the division.

G. The Guadalupe Hidalgo treaty division of the office of the attorney general shall render a decision on election contests within ninety days of the date on which the election contest was filed. If it is determined that the election requirements were violated, the decision shall include whether the election:

- (1) could be remedied and the actions required, including dates of implementation, to effect a remedy; or
- (2) is invalidated; provided that if a new election is required, the decision may include instructions for holding a new election to correct procedures that caused the violations."

Chapter 248 Section 7 Laws 2019

SECTION 7. Section 49-1-13 NMSA 1978 (being Laws 1907, Chapter 42, Section 13, as amended) is amended to read:

"49-1-13. VACANCIES.--If a vacancy occurs on the board of trustees, the remaining members shall fill the vacancy by appointment made at a regular meeting. The person appointed shall hold office for the remainder of the unexpired term of the trustee being replaced."

Senate Bill 223, aa

Approved April 4, 2019

LAWS 2019, CHAPTER 249

AN ACT

RELATING TO PUBLIC SCHOOLS; ENACTING THE SCHOOL SUPPORT AND ACCOUNTABILITY ACT; REPEALING THE A-B-C-D-F SCHOOLS RATING ACT.

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

Chapter 249 Section 1 Laws 2019

SECTION 1. A new section of the Public School Code is enacted to read:

"SHORT TITLE.--This act may be cited as the "School Support and Accountability Act"."

Chapter 249 Section 2 Laws 2019

SECTION 2. A new section of the Public School Code is enacted to read:

"DEFINITIONS.--As used in the School Support and Accountability Act:

A. "adjusted cohort graduation rate" means the graduation rate of first-time ninth grade students with a diploma of excellence in a particular school year adjusted by adding any students who transfer into the cohort after the ninth grade and subtracting any students who transfer out, emigrate to another country or die;

B. "chronic absenteeism" means the percentage of students missing ten percent or more of the school year for any reason, including excused absences, unexcused absences and out-of-school suspensions;

C. "college, career and civic readiness" includes the completion of a college-ready course of study; the completion of a high-quality career technical education program; the completion of advanced courses such as advanced placement, international baccalaureate or dual credit; a seal of bilingualism-biliteracy on the student's diploma of excellence; demonstrating competency for college readiness or career certification; or the completion of a work-based learning experience; and for all students, includes the completion of a service-based learning experience, participation in a civic engagement experience or participation in a college or career exploration experience;

D. "comprehensive support" means support for a school that performs at or below the support identification threshold, or has an adjusted cohort graduation rate of

less than sixty-six and two-thirds percent, or fails to exit targeted support status after a number of years determined by the department;

E. "educational climate" means the percentage of school stakeholders who report that the school provides an appropriate climate for learning in the domains of student and staff engagement, social-emotional and physical safety and a school environment conducive to teaching and learning;

F. "English language proficiency" means the ability of students to use academic English to make and communicate meaning in spoken and written contexts in an assessment determined by the department;

G. "local school board" includes the governing body of a charter school;

H. "more rigorous intervention" means an intervention plan for a school that fails to exit comprehensive support status after a number of years determined by the department;

I. "on track to graduate" means data on each individual student that show the student's graduation status and potential predictors of dropout, such as student attendance, behavior, grades and test scores;

J. "opportunity to learn standards" means a comprehensive view of the context in which learning takes place, including curriculum and instruction, educational resources and school staff competency;

K. "school stakeholders" means students, parents, other family members, teachers, school staff and community partners who are part of a school's immediate environment;

L. "student growth" means a measure, either norm-referenced to students with similar prior test scores or criterion-referenced to a specific standard, of students' academic progress within a specified time period;

M. "student proficiency" means a measure demonstrating students' grade level mastery of the knowledge and skills determined by the New Mexico standards-based assessments;

N. "support identification threshold" means a threshold set by the department using the metrics in the school support and accountability system to identify the lowest performing five percent of schools in the state receiving Title 1 funds;

O. "system" means the school support and accountability system;

P. "targeted support" means support for a school in which at least one subgroup of students, but not the entire school, performs at or below the support identification threshold; and

Q. "traditional support" means a school that is not designated for targeted support or comprehensive support or has exited more rigorous intervention status by surpassing the support identification threshold."

Chapter 249 Section 3 Laws 2019

SECTION 3. A new section of the Public School Code is enacted to read:

"SCHOOL SUPPORT AND ACCOUNTABILITY SYSTEM--CREATED--
ESTABLISHING A SCHOOL DASHBOARD--PRIORITIZING RESOURCES FOR
SCHOOLS RECEIVING ADDITIONAL SUPPORT.--

A. The "school support and accountability system" is created in the department. The department, in consultation with school districts, charter schools, school personnel, tribal nations and the legislative education study committee, shall promulgate rules to carry out the provisions of the School Support and Accountability Act through the system.

B. The system shall:

(1) differentiate Title 1 support to public schools in the state using the metrics identified in Paragraphs (2) and (3) of this subsection to assign, for each public school, a designation of targeted support, comprehensive support or more rigorous intervention to comply with the federal Elementary and Secondary Education Act of 1965;

(2) include indicators of academic achievement that shall be afforded substantial weight and, in the aggregate, much greater weight than the indicators described in Paragraph (3) of this subsection, including:

(a) student proficiency on the New Mexico standards-based assessments pursuant to Subsection B of Section 22-2C-4 NMSA 1978;

(b) student growth, which will comprise a substantial part of the weighting of academic achievement indicators both for all students at the public school and disaggregated by quartile on the New Mexico standards-based assessments;

(c) progress of English language learners toward English language proficiency as measured by an assessment determined by the department; and

(d) for high schools, the four-year, five-year and six-year adjusted cohort graduation rates; and

(3) include indicators of school quality and student success that are valid, reliable, comparable and statewide, including:

(a) chronic absenteeism;

(b) college, career and civic readiness; and

(c) the educational climate of the school.

C. The department shall include in the system student data disaggregated by each major racial and ethnic group, economically disadvantaged students, English learner status, children with disabilities, gender and migrant status; provided that ethnicity and race shall be reported using the following categories:

(1) Caucasian, non-Hispanic;

(2) Hispanic;

(3) African American;

(4) American Indian or Alaska Native;

(5) Native Hawaiian or other Pacific Islander;

(6) Asian;

(7) two or more races; and

(8) other; provided that if the sample of students in any category enumerated in Paragraphs (1) through (7) of this subsection is so small that a student in the sample may be personally identifiable in violation of the federal Family Educational Rights and Privacy Act of 1974, the report may combine that sample into the "other" category.

D. The department shall provide the technological platform for a dashboard for each public school. The dashboard shall provide school and student information to school stakeholders and policymakers in a transparent manner, including the following indicators:

(1) the results of each indicator included in Paragraphs (2) and (3) of Subsection B and in Subsection C of this section;

(2) designations of school quality and student success for any school meeting a specific standard set by the department for any indicator included in Paragraphs (2) and (3) of Subsection B of this section;

(3) designations of excellence for any school scoring in the ninetieth percentile for any indicator included in Paragraphs (2) and (3) of Subsection B of this section;

(4) designations of school quality and student success for any school meeting a specific standard set by the department for American Indian or Hispanic students for any indicator included in Paragraphs (2) and (3) of Subsection B of this section;

(5) designations of excellence for any school scoring in the ninetieth percentile for American Indian or Hispanic students for any indicator included in Paragraphs (2) and (3) of Subsection B of this section;

(6) the designation of support for schools that meet the criteria for traditional support, targeted support, comprehensive support or more rigorous intervention;

(7) the demographics of the students and staff of the school; and

(8) indicators of opportunity to learn standards, including:

(a) a survey of relevant and engaging curriculum and instruction;

(b) educational resources, including total school-level expenditures and total instructional expenditures per student; and

(c) qualified and competent school staff, including the percentage of teachers with three or more years of experience, the percentage of teachers who are fully licensed and endorsed in the field they teach, the types of degrees held by staff,

information from the highly objective, uniform state standards of evaluation for teachers and the percentage of national board-certified teachers.

E. The dashboard shall include each school's mission, vision and goals and provide for optional comments from the local school board about the strengths, opportunities for improvement and programmatic offerings corresponding to any of the reported indicators in the dashboard. For local school boards that do not provide this information, the department shall populate this section of the dashboard with information from the public school's educational plan for student success.

F. The department shall ensure that a local school board prioritizes the resources of a public school that has received a designation of targeted support, comprehensive support or more rigorous intervention toward improving student performance using evidence-based programs and a continuous improvement plan based on the indicators in Paragraphs (2) and (3) of Subsection B of this section identified through a school-level needs assessment until the public school no longer holds that designation."

Chapter 249 Section 4 Laws 2019

SECTION 4. REPEAL.--Sections 22-2E-1 through 22-2E-4 NMSA 1978 (being Laws 2011, Chapter 10, Sections 1 through 4, as amended) are repealed.

Chapter 249 Section 5 Laws 2019

SECTION 5. APPLICABILITY.--This act applies to the 2019-2020 and succeeding school years. _____

Senate Bill 229, aa

Approved April 4, 2019

LAWS 2019, CHAPTER 250

AN ACT

RELATING TO AIRCRAFT; AMENDING THE AVIATION ACT TO ALLOW FOR THE IMPOSITION OF LANDING FEES.

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

Chapter 250 Section 1 Laws 2019

SECTION 1. Section 64-1-16 NMSA 1978 (being Laws 1963, Chapter 314, Section 8, as amended) is amended to read:

"64-1-16. LANDING FEES.--An airport facility that receives funds under the Aviation Act may charge landing fees for aircraft used in commercial activities for compensation or for general aviation aircraft that weigh more than twelve thousand five hundred pounds; provided that any landing fees shall be assessed and used in compliance with federal law."

Chapter 250 Section 2 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019

Senate Bill 239

Approved April 4, 2019

LAWS 2019, CHAPTER 251

AN ACT

RELATING TO LEGISLATIVE RETIREMENT; INCREASING CONTRIBUTION AMOUNTS; REVISING PENSION BENEFITS; PROVIDING A LIMITED OPPORTUNITY TO MAKE CONTRIBUTIONS FOR THE PURPOSE OF QUALIFYING FOR CERTAIN PENSIONS UNDER STATE LEGISLATOR MEMBER COVERAGE PLAN 1 AND PLAN 2.

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

Chapter 251 Section 1 Laws 2019

SECTION 1. Section 10-11-43.3 NMSA 1978 (being Laws 2003, Chapter 85, Section 9, as amended) is amended to read:

"10-11-43.3. STATE LEGISLATOR MEMBER COVERAGE PLAN 2-- AMOUNT OF PENSION--FORM OF PAYMENT A.--Under state legislator member coverage plan 2, the annual amount of pension under form of payment A is equal in any calendar year to eleven percent of the per diem rate in effect, pursuant to Section 2-1-8 NMSA 1978, on the first day of the fiscal year that the legislator or lieutenant governor retires multiplied by sixty and further multiplied by credited service as a legislator or lieutenant governor. A pension paid under state legislator member coverage plan 2 shall be adjusted pursuant to Section 10-11-118 NMSA 1978 for a legislator or lieutenant governor who has been retired for at least two full calendar years from the effective date of the latest retirement prior to July 1 of the year in which the pension is being adjusted."

Chapter 251 Section 2 Laws 2019

SECTION 2. Section 10-11-43.4 NMSA 1978 (being Laws 2003, Chapter 85, Section 10, as amended) is amended to read:

"10-11-43.4. STATE LEGISLATOR MEMBER COVERAGE PLAN 2-- MEMBER CONTRIBUTION RATE.--A member under state legislator member coverage plan 2 shall contribute an amount equal to one thousand dollars (\$1,000) for each year of credited service less the amount of any prior contributions made by the member for that credited service."

Chapter 251 Section 3 Laws 2019

SECTION 3. TEMPORARY PROVISION--ADDITIONAL CONTRIBUTION PERIOD FOR STATE LEGISLATOR MEMBER COVERAGE PLAN 1.--A state legislator member who is otherwise ineligible for the pension amount in Paragraph (2) of Subsection C of Section 10-11-41 NMSA 1978 solely because of the failure to make a timely contribution pursuant to Section 10-11-42 NMSA 1978 shall be eligible for that pension amount if, before January 1, 2020, the member makes a contribution of:

- A. two hundred dollars (\$200) for each year of credited service; and
- B. interest on the amount paid pursuant to Subsection A of this section from December 31, 2003 to the date of payment at a rate to be determined by the retirement board created pursuant to the Public Employees Retirement Act.

Chapter 251 Section 4 Laws 2019

SECTION 4. TEMPORARY PROVISION--ADDITIONAL CONTRIBUTION PERIOD FOR STATE LEGISLATOR MEMBER COVERAGE PLAN 2.--A state legislator member who is otherwise ineligible for the pension amount in Section 10-11-43.3 NMSA

1978 solely because of the failure to make a timely election pursuant to Section 10-11-43.1 NMSA 1978 shall be eligible for that pension amount if, before January 1, 2020, the member makes a contribution of:

- A. five hundred dollars (\$500) for each year of credited service prior to 2012;
 - B. six hundred dollars (\$600) for each year of credited service after 2012;
 - C. one thousand dollars (\$1,000) for each year of credited service after 2018;
- and
- D. interest on the amount paid pursuant to Subsections A through C of this section from December 31, 2004 to the date of payment at a rate to be determined by the retirement board created pursuant to the Public Employees Retirement Act.

Chapter 251 Section 5 Laws 2019

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

Senate Bill 307

Approved April 4, 2019

LAWS 2019, CHAPTER 252

AN ACT

RELATING TO HIGHER EDUCATION; AMENDING THE COLLEGE DISTRICT TAX ACT; ADDING DEFINITIONS; PROVIDING FOR LEASE-PURCHASE ARRANGEMENTS FOR COLLEGE DISTRICTS; PROVIDING FOR LIBERAL INTERPRETATION AND SEVERABILITY; DECLARING AN EMERGENCY.

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

Chapter 252 Section 1 Laws 2019

SECTION 1. Section 21-2A-2 NMSA 1978 (being Laws 1995, Chapter 224, Section 8) is amended to read:

"21-2A-2. DEFINITIONS.--As used in the College District Tax Act:

A. "board" means the governing board of the college district;

B. "college" means a two-year, public post-secondary educational institution organized pursuant to the provisions of the Community College Act, Chapter 21, Article 14 NMSA 1978, the Technical and Vocational Institute Act or the Off-Campus Instruction Act;

C. "college district" means a district in which a college is located or is proposed to be located, the exterior boundaries of which are determined pursuant to the statutory provisions under which the college is organized;

D. "debt" means an obligation payable from ad valorem property tax revenues or the general fund of a college district and that may be secured by the full faith and credit of a college district and a pledge of its taxing powers;

E. "education technology equipment" means tools used in the educational process that constitute learning and administrative resources and may include:

(1) closed-circuit television systems; educational television and radio broadcasting; cable television, satellite, copper and fiber-optic transmission; computer, network connection devices; digital communications equipment, including voice, video and data; servers; switches; portable media such as discs and drives to contain data for electronic storage and playback; and purchase or lease of software licenses or other technologies and services, maintenance, equipment and computer infrastructure information, techniques and tools used to implement technology in colleges and related facilities;

(2) improvements, alterations and modifications to, or expansions of, existing buildings or personal property necessary or advisable to house or otherwise accommodate any of the tools listed in Paragraph (1) of this subsection; and

(3) expenditures for technical support and training expenses of college district employees who administer education technology projects funded by a lease-purchase arrangement and may include training by contractors; and

F. "lease-purchase arrangement" means a financing arrangement constituting debt of a college district pursuant to which periodic lease payments composed of principal and interest components are to be paid to the holder of the lease-purchase arrangement and pursuant to which the owner of the education technology equipment may retain title to or a security interest in the equipment and may agree to release the

security interest or transfer title to the equipment to the college district for nominal consideration after payment of the final periodic lease payment. "Lease-purchase arrangement" also means any debt of the college district incurred for the purpose of acquiring educational technology equipment whether designated as a general obligation lease, note or other instrument evidencing a debt of the college district."

Chapter 252 Section 2 Laws 2019

SECTION 2. A new section of the College District Tax Act is enacted to read:

"COLLEGE DISTRICT LEASE-PURCHASE ARRANGEMENTS--NOTICE--
PROCESS FOR APPROVING LEASE-PURCHASE ARRANGEMENTS--LIMITATION
OF ACTION.--

A. When a college district contemplates entering into a lease-purchase arrangement payable in whole or in part from ad valorem taxes, the board, before initiating any proceedings for approval of such lease-purchase arrangement, shall forward to the higher education department a written notice of the proposed lease-purchase arrangement.

B. The higher education department, upon the receipt of the notice provided for in Subsection A of this section, shall furnish all necessary information with reference to the valuation, present outstanding bonded indebtedness, present outstanding lease-purchase arrangements and limitations as to tax rates and debt contracting power and other information useful to the board in the consideration of a proposed lease-purchase arrangement. Upon entering into a lease-purchase arrangement, the board shall prepare two true and complete transcripts of proceedings relating to the lease-purchase arrangement, one to be immediately filed with the higher education department and one to be kept by the board.

C. At a regular or special meeting called for the purpose of considering a lease-purchase arrangement, a board shall:

- (1) make a determination of the necessity for lease-purchasing the educational technology equipment;
- (2) determine the estimated cost of the equipment needed;
- (3) review a summary of the terms of the proposed lease-purchase arrangement;
- (4) identify the source of funds for the payment of debt;

(5) if all or part of the funds needed require or anticipate the imposition of an ad valorem tax, determine the estimated rate of the ad valorem tax and what, if any, the percentage increase in ad valorem taxes for all taxable property in the college district would be;

(6) set a date for a meeting to consider a resolution granting final approval to the lease-purchase arrangement; and

(7) direct that notice of the meeting provided for in Paragraph (6) of this subsection be published once each week for the two weeks immediately preceding the meeting in a newspaper having general circulation in the college district and that the notice include the information required in Paragraphs (1) through (5) of this subsection.

D. At a regular or special meeting called for the purpose of considering a lease-purchase arrangement as set forth in Subsection C of this section, a board may adopt an authorizing instrument in compliance with the requirements of Section 6-14-10.2 NMSA 1978. The requirements of Paragraphs (6) and (7) of Subsection C of this section shall not apply if the board adopts such an authorizing instrument.

E. At a meeting scheduled pursuant to Paragraph (6) of Subsection C of this section, the board may adopt a final resolution approving the lease-purchase arrangement only by an affirmative vote of a majority of all members of the board.

F. After the adoption by the board of a final resolution approving the lease-purchase arrangement or after the final approval of a lease-purchase arrangement by delegation as provided for in Subsection D of this section, the board shall publish notice of the adoption of the resolution or the approval of the lease-purchase arrangement once in a newspaper having general circulation in the college district. After the passage of thirty days from the publication required by this subsection, any action attacking the validity of the proceedings taken by the board preliminary to, in the authorization of and entering into the lease-purchase arrangement described in the notice is perpetually barred."

Chapter 252 Section 3 Laws 2019

SECTION 3. A new section of the College District Tax Act is enacted to read:

"COLLEGE DISTRICT LEASE-PURCHASE ARRANGEMENTS--TAX LEVY--
TERMS OF LEASE-PURCHASE ARRANGEMENTS--REFUNDING OR
REFINANCING.--

A. The officials charged by law with the duty of levying ad valorem taxes for the payment of bonds and interest shall, in the manner provided by law, make an annual levy sufficient to meet the payments due on lease-purchase arrangements. Annual payments due on lease-purchase arrangements may be combined with other college district general obligation debt when determining the annual debt service tax levy pursuant to Section 7-37-8 NMSA 1978 and the College District Tax Act. This annual debt service tax levy shall not exceed five dollars (\$5.00) per one thousand dollars (\$1,000) of taxable value; provided, however, that this limitation may be exceeded in any year in which the valuation of property in the college district declines to a level lower than the valuation of property in the year in which the applicable debt was issued. Nothing in the College District Tax Act shall be so construed as to prevent a college district from applying any other legally available funds, including funds that may be in its general fund or investment income actually received from investments, to the payments due on or any prepayment premium payable in connection with such lease-purchase arrangements as the same become due, and, upon such payments, the levy or levies provided for in this section may, to that extent, be reduced.

B. Lease-purchase arrangements may:

(1) have interest, appreciated principal value, or any part thereof, payable at intervals or at maturity as may be determined by the board;

(2) be subject to prior redemption or prepayment at the option of the board at such time or times and upon such terms and conditions with or without the payment of such premium or premiums as may be determined by the board;

(3) have a final payment date or mature at any time or times not exceeding five years after the date of issuance;

(4) be payable at one time or in installments or may be in such other form as may be determined by the board;

(5) be priced at, above or below par and at a price that results in a net effective interest rate that does not exceed the maximum permitted by the Public Securities Act; and

(6) be sold or issued at public sale, negotiated sale or private sale to the New Mexico finance authority.

C. The board shall not adopt a resolution for or approve a lease-purchase arrangement that exceeds five years or creates a total general obligation indebtedness in the college district which, when combined with other outstanding college district

general obligation debt, exceeds three percent of the assessed valuation of the taxable property within the college district as shown in the preceding general assessment.

D. College districts are authorized to enter into lease-purchase arrangements for the purpose of refunding or refinancing any lease-purchase arrangements then outstanding, including the payment of any prepayment of redemption premiums thereon and any interest accrued or to accrue to the date of purchase, prepayment, redemption or maturity of the outstanding lease-purchase arrangements. Until the proceeds of the lease-purchase arrangements issued for the purpose of refunding or refinancing outstanding lease-purchase arrangements are applied to the purchase, prepayment, redemption or retirement of the outstanding lease-purchase arrangements, the proceeds may be placed in escrow and invested and reinvested. The interest, income and profits, if any, earned or realized on any such investment may, in the discretion of the board, also be applied to the payment of the outstanding lease-purchase arrangements to be refunded or refinanced by purchase, prepayment, redemption or retirement, as the case may be. After the terms of the escrow have been fully satisfied and carried out, any balance of such proceeds and interest, if any, earned or realized on the investments thereof may be returned to the board to be used for payment of the refunding or refinancing lease-purchase arrangement. All such refunding or refinancing lease-purchase arrangements shall be entered into under, secured and subject to the provisions of the College District Tax Act in the same manner and to the same extent as any other lease-purchase arrangements entered into pursuant to that act."

Chapter 252 Section 4 Laws 2019

SECTION 4. A new section of the College District Tax Act is enacted to read:

"COLLEGE DISTRICT LEASE-PURCHASE ARRANGEMENTS--AGREEMENT OF THE STATE--LEGAL INVESTMENTS--TAX EXEMPTION--CUMULATIVE AND COMPLETE AUTHORITY.--

A. The state does hereby pledge to and agree with the holders of any lease-purchase arrangement entered into pursuant to the College District Tax Act that the state will not limit or alter the rights hereby vested in college districts to fulfill the terms of any lease-purchase arrangement or in any way impair the rights and remedies of the holders of lease-purchase arrangements until the payments due thereon, and all costs and expenses in connection with any action or proceedings by or on behalf of those holders, are fully met and discharged. College districts are authorized to include this pledge and agreement of the state in any lease-purchase arrangement.

B. Lease-purchase arrangements entered into pursuant to the College District Tax Act shall be legal investments in which all insurance companies, banks and savings and loan associations organized under the laws of the state, public officers and public bodies and all administrators, guardians, executors, trustees and other fiduciaries may properly and legally invest funds.

C. The state covenants with the purchasers and all subsequent holders and transferees of lease-purchase arrangements entered into by boards, in consideration of the acceptance of and payment for the lease-purchase arrangements entered into pursuant to the College District Tax Act, that lease-purchase arrangements and the income from the lease-purchase arrangements shall at all times be free from taxation by the state, except for estate or gift taxes and taxes on transfers.

D. The College District Tax Act shall be deemed to provide an additional and alternative method for acquiring educational technology equipment and shall be regarded as supplemental and additional to powers conferred by other laws and shall not be regarded as a derogation of any powers now existing. The College District Tax Act shall be deemed to provide complete authority for acquiring educational technology equipment and entering into lease-purchase arrangements. No other approval of any state agency or officer, except as provided in that act, shall be required with respect to any lease-purchase arrangements, and the board acting pursuant to provisions of that act need not comply with the requirements of any other law applicable to the issuance of debt by college districts; provided, however, that a board may submit to a vote of qualified electors of the college district the question of creating debt by entering into a lease-purchase arrangement; and provided further that the board shall abide by the vote of the majority of those persons voting on the question."

Chapter 252 Section 5 Laws 2019

SECTION 5. A new section of the College District Tax Act is enacted to read:

"LIBERAL INTERPRETATION.--The College District Tax Act, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to the effect of the purposes of the act."

Chapter 252 Section 6 Laws 2019

SECTION 6. A new section of the College District Tax Act is enacted to read:

"SEVERABILITY.--If any part or application of the College District Tax Act is held invalid, the remainder or its application to other situations or persons shall not be affected."

Chapter 252 Section 7 Laws 2019

SECTION 7. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately. _____

Senate Bill 322, aa, w/ec

Approved April 4, 2019

LAWS 2019, CHAPTER 253

AN ACT

RELATING TO DOMESTIC VIOLENCE; EXPANDING THE CATEGORIES OF PERSONS WHO CANNOT RECEIVE, TRANSPORT OR POSSESS A FIREARM; PROVIDING THAT A PERSON SUBJECT TO AN ORDER OF PROTECTION SHALL NOT POSSESS, CARE FOR OR HAVE CUSTODY OR CONTROL OF A FIREARM; PROVIDING PENALTIES.

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

Chapter 253 Section 1 Laws 2019

SECTION 1. Section 30-7-16 NMSA 1978 (being Laws 1981, Chapter 225, Section 1, as amended) is amended to read:

"30-7-16. FIREARMS OR DESTRUCTIVE DEVICES--RECEIPT, TRANSPORTATION OR POSSESSION BY CERTAIN PERSONS--PENALTY.--

A. It is unlawful for the following persons to receive, transport or possess a firearm or destructive device in this state:

- (1) a felon;
- (2) a person subject to an order of protection pursuant to Section 40-13-5 or 40-13A-5 NMSA 1978; or
- (3) a person convicted of any of the following crimes:

(a) battery against a household member pursuant to Section 30-3-15 NMSA 1978;

(b) criminal damage to property of a household member pursuant to Section 30-3-18 NMSA 1978;

(c) a first offense of stalking pursuant to Section 30-3A-3 NMSA 1978; or

(d) a crime listed in 18 U.S.C. 921.

B. A felon found in possession of a firearm shall be guilty of a fourth degree felony and shall be sentenced in accordance with the provisions of the Criminal Sentencing Act; provided that the violation of and the sentence imposed pursuant to this subsection shall be increased to a violation of and the sentence for a third degree felony if the person has previously been convicted of a capital felony or a serious violent offense provided in Paragraph (4) of Subsection L of Section 33-2-34 NMSA 1978.

C. Any person subject to an order of protection pursuant to Section 40-13-5 or 40-13A-5 NMSA 1978 or convicted of a crime listed in Paragraph (3) of Subsection A of this section who receives, transports or possesses a firearm or destructive device is guilty of a misdemeanor.

D. As used in this section:

(1) except as provided in Paragraph (2) of this subsection, "destructive device" means:

(a) any explosive, incendiary or poison gas: 1) bomb; 2) grenade; 3) rocket having a propellant charge of more than four ounces; 4) missile having an explosive or incendiary charge of more than one-fourth ounce; 5) mine; or 6) similar device;

(b) any type of weapon by whatever name known that will, or that may be readily converted to, expel a projectile by the action of an explosive or other propellant, the barrel or barrels of which have a bore of more than one-half inch in diameter, except a shotgun or shotgun shell that is generally recognized as particularly suitable for sporting purposes; or

(c) any combination of parts either designed or intended for use in converting any device into a destructive device as defined in this paragraph and from which a destructive device may be readily assembled;

(2) the term "destructive device" does not include any device that is neither designed nor redesigned for use as a weapon or any device, although originally designed for use as a weapon, that is redesigned for use as a signaling, pyrotechnic, line throwing, safety or similar device;

(3) "felon" means a person convicted of a felony offense by a court of the United States or of any state or political subdivision thereof and:

(a) less than ten years have passed since the person completed serving a sentence or period of probation for the felony conviction, whichever is later;

(b) the person has not been pardoned for the felony conviction by the proper authority; and

(c) the person has not received a deferred sentence; and

(4) "firearm" means any weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosion or the frame or receiver of any such weapon."

Chapter 253 Section 2 Laws 2019

SECTION 2. Section 40-13-2 NMSA 1978 (being Laws 1987, Chapter 286, Section 2, as amended) is amended to read:

"40-13-2. DEFINITIONS.--As used in the Family Violence Protection Act:

A. "continuing personal relationship" means a dating or intimate relationship;

B. "co-parents" means persons who have a child in common, regardless of whether they have been married or have lived together at any time;

C. "court" means the district court of the judicial district where an alleged victim of domestic abuse resides or is found;

D. "domestic abuse":

(1) means an incident of stalking or sexual assault whether committed by a household member or not;

(2) means an incident by a household member against another household member consisting of or resulting in:

- (a) physical harm;
- (b) severe emotional distress;
- (c) bodily injury or assault;
- (d) a threat causing imminent fear of bodily injury by any household member;
- (e) criminal trespass;
- (f) criminal damage to property;
- (g) repeatedly driving by a residence or work place;
- (h) telephone harassment;
- (i) harassment;
- (j) strangulation;
- (k) suffocation; or
- (l) harm or threatened harm to children as set forth in this paragraph; and

(3) does not mean the use of force in self-defense or the defense of another;

E. "firearm" means any weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosion or the frame or receiver of any such weapon;

F. "household member" means a spouse, former spouse, parent, present or former stepparent, present or former parent-in-law, grandparent, grandparent-in-law, child, stepchild, grandchild, co-parent of a child or a person with whom the petitioner has had a continuing personal relationship. Cohabitation is not necessary to be deemed a household member for purposes of this section;

G. "law enforcement officer" means a public official or public officer vested by law with a duty to maintain public order or to make arrests for crime, whether that duty extends to all crimes or is limited to specific crimes;

H. "mutual order of protection" means an order of protection that includes provisions that protect both parties;

I. "order of protection" means an injunction or a restraining or other court order granted for the protection of a victim of domestic abuse;

J. "protected party" means a person protected by an order of protection;

K. "restrained party" means a person who is restrained by an order of protection;

L. "strangulation" has the same meaning as set forth in Section 30-3-11 NMSA 1978; and

M. "suffocation" has the same meaning as set forth in Section 30-3-11 NMSA 1978."

Chapter 253 Section 3 Laws 2019

SECTION 3. Section 40-13-5 NMSA 1978 (being Laws 1987, Chapter 286, Section 5, as amended) is amended to read:

"40-13-5. ORDER OF PROTECTION--CONTENTS--REMEDIES--TITLE TO PROPERTY NOT AFFECTED--MUTUAL ORDER OF PROTECTION.--

A. Upon finding that domestic abuse has occurred or upon stipulation of the parties, the court shall enter an order of protection ordering the restrained party to:

(1) refrain from abusing the protected party or any other household member; and

(2) if the order is issued pursuant to this section and if the court also determines that the restrained party presents a credible threat to the physical safety of the household member after the restrained party has received notice and had an opportunity to be heard or by stipulation of the parties, to:

(a) deliver any firearm in the restrained party's possession, care, custody or control to a law enforcement agency, law enforcement officer or federal firearms licensee while the order of protection is in effect; and

(b) refrain from purchasing, receiving, or possessing or attempting to purchase, receive or possess any firearm while the order of protection is in effect.

B. In an order of protection entered pursuant to Subsection A of this section, the court shall specifically describe the acts the court has ordered the restrained party to do or refrain from doing. As a part of any order of protection, the court may:

(1) grant sole possession of the residence or household to the protected party during the period the order of protection is effective or order the restrained party to provide temporary suitable alternative housing for the protected party and any children to whom the restrained party owes a legal obligation of support;

(2) award temporary custody of any children involved when appropriate and provide for visitation rights, child support and temporary support for the protected party on a basis that gives primary consideration to the safety of the protected party and the children;

(3) order that the restrained party shall not initiate contact with the protected party;

(4) restrain a party from transferring, concealing, encumbering or otherwise disposing of the other party's property or the joint property of the parties except in the usual course of business or for the necessities of life and require the parties to account to the court for all such transferences, encumbrances and expenditures made after the order is served or communicated to the restrained party;

(5) order the restrained party to reimburse the protected party or any other household member for expenses reasonably related to the occurrence of domestic abuse, including medical expenses, counseling expenses, the expense of seeking temporary shelter, expenses for the replacement or repair of damaged property or the expense of lost wages;

(6) order the restrained party to participate in, at the restrained party's expense, professional counseling programs deemed appropriate by the court, including counseling programs for perpetrators of domestic abuse, alcohol abuse or abuse of controlled substances; and

(7) order other injunctive relief as the court deems necessary for the protection of a party, including orders to law enforcement agencies as provided by this section.

C. The order of protection shall contain notice that violation of any provision of the order of protection is a violation of state law and that federal law, 18 U.S.C. 922, et seq., prohibits possession of firearms by certain persons.

D. If the order of protection supersedes or alters prior orders of the court pertaining to domestic matters between the parties, the order shall say so on its face. If an action relating to child custody or child support is pending or has concluded with entry of an order at the time the petition for an order of protection was filed, the court may enter an initial order of protection, but the portion of the order dealing with child custody or child support will then be transferred to the court that has or continues to have jurisdiction over the pending or prior custody or support action.

E. A mutual order of protection shall be issued only in cases where both parties have petitioned the court and the court makes detailed findings of fact indicating that both parties acted primarily as aggressors and that neither party acted primarily in self-defense.

F. No order issued under the Family Violence Protection Act shall affect title to any property or allow a party to transfer, conceal, encumber or otherwise dispose of another party's property or the joint or community property of the parties.

G. Either party may request a review hearing to amend an order of protection. An order of protection involving child custody or support may be modified without proof of a substantial or material change of circumstances.

H. An order of protection shall not be issued unless a petition or a counter petition has been filed."

Chapter 253 Section 4 Laws 2019

SECTION 4. A new section of the Family Violence Protection Act is enacted to read:

"RELINQUISHMENT OF FIREARMS--PENALTY.--

A. After the court has issued notice that the restrained party is subject to the provisions of Paragraph (2) of Subsection A of Section 40-13-5 NMSA 1978, the restrained party shall relinquish all firearms in the restrained party's immediate possession or control or subject to the restrained party's possession or control in a safe manner to a law enforcement officer, a law enforcement agency or federal firearms licensee within forty-eight hours of service of the order.

B. A law enforcement officer or law enforcement agency shall take possession of all firearms subject to the order of protection that are relinquished by the restrained party or are in plain sight or are discovered pursuant to a lawful search.

C. A law enforcement officer or law enforcement agency that takes temporary possession of a firearm pursuant to this section shall:

- (1) prepare a receipt identifying all firearms that have been relinquished or taken;
- (2) provide a copy of the receipt to the restrained party;
- (3) provide a copy of the receipt to the petitioner within seventy-two hours of taking possession of the firearm;
- (4) file the original receipt with the court that issued the order of protection within seventy-two hours of taking possession of the firearm; and
- (5) ensure that the law enforcement agency retains a copy of the receipt.

D. An order of protection issued pursuant to Section 40-13-5 NMSA 1978 shall include:

- (1) a statement that the restrained party shall not purchase, receive, transport, possess or have custody or control of a firearm while the order of protection is in effect;
- (2) a description of the requirements for the relinquishment of firearms as provided in this section;
- (3) a statement that within seventy-two hours of the issuance of the order of protection the restrained party must file with the court issuing the order:
 - (a) a receipt identifying all firearms that have been relinquished or taken by a law enforcement officer or law enforcement agency; or
 - (b) a declaration of non-relinquishment;
- (4) the expiration date of relinquishment;
- (5) the address of the court that issued the order of protection; and
- (6) a statement that violation of any provision of the order of protection is a violation of state law and that federal law, 18 U.S.C. 922, et seq., prohibits possession of firearms by certain persons.

E. If the respondent is present at the hearing on the order of protection, the court shall provide the respondent with a receipt form to identify all firearms to be surrendered or, if the respondent has no firearms to relinquish, a declaration of non-relinquishment. The court shall accept the completed form from the respondent for immediate filing.

F. Evidence establishing ownership or possession of a firearm pursuant to this section shall not be admissible as evidence in any criminal proceeding.

G. The law enforcement agency or federal firearms licensee with custody of a surrendered or seized firearm shall make the firearm available to a formerly restrained party within three business days of receipt of a request from a formerly restrained party who is then currently eligible to own and possess a firearm.

H. A formerly restrained party who has surrendered or had firearms taken by a law enforcement officer or law enforcement agency pursuant to this section who does not wish the firearm returned or who is no longer eligible to possess a firearm may sell or transfer the firearm to a federal firearms licensee. The law enforcement agency shall not release the firearm to a federal firearms licensee until:

(1) the federal firearms licensee has displayed proof that the formerly restrained party has transferred the firearm to the licensee; and

(2) the law enforcement agency has verified the transfer with the formerly restrained party.

I. A law enforcement agency holding a firearm relinquished pursuant to this section may dispose of the firearm twelve months from the date of proper notice to the formerly restrained party of the intent to dispose of the firearm, unless another person claiming to be the lawful owner presents written proof of ownership. If the firearm remains unclaimed after twelve months from the date of notice, no party shall assert ownership and the law enforcement agency may dispose of the firearm. For the purposes of this subsection, "dispose" means to destroy a firearm or sell or transfer the firearm to a federal firearms licensee.

J. The provisions of this section shall not be interpreted to require a federal firearms licensee to purchase or accept possession of a firearm from a restrained party.

K. The administrative office of the courts shall develop a standard receipt form and declaration of non-relinquishment form for use under this section."

Chapter 253 Section 5 Laws 2019

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.

SJC/SPAC/Senate Bill 328, aa

Approved April 4, 2019

LAWS 2019, CHAPTER 254

AN ACT

RELATING TO SERVICE CONTRACTS; AMENDING THE SERVICE CONTRACT REGULATION ACT; AMENDING THE PROCEDURE FOR CANCELLATION; PROVIDING FOR AUTOMATIC RENEWAL OF SERVICE CONTRACTS.

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

Chapter 254 Section 1 Laws 2019

SECTION 1. Section 59A-58-2 NMSA 1978 (being Laws 2001, Chapter 206, Section 2, as amended) is amended to read:

"59A-58-2. DEFINITIONS.--As used in the Service Contract Regulation Act:

A. "administrator" means a person who is responsible for administering a service contract that is issued, sold or offered for sale by a provider or sold by a seller;

B. "automatic renewal provision" means a provision within a service contract that acts to automatically renew the service contract after the end of the original term for a renewal term greater than two months, and such renewal is effective unless the holder gives notice to the provider or administrator of the holder's intention to terminate the service contract;

C. "consumer" means a person who purchases, other than for resale, property used primarily for personal, family or household purposes and not for business or research purposes;

D. "holder" means a resident of this state who:

(1) purchases a service contract; or

(2) is legally in possession of a service contract and is entitled to enforce the rights of the original purchaser of the service contract;

E. "incidental costs" means expenses specified in a warranty that are incurred by the warranty holder due to the failure of the product to perform as provided in the contract. Incidental costs may include, without limitation, insurance policy deductibles, rental vehicle charges, the difference between the actual value of a motor vehicle at the time of failure and the cost of a replacement vehicle, gross receipts taxes, registration fees, transaction fees and mechanical inspection fees. Incidental costs may be reimbursed in either a fixed amount specified in the warranty or by use of a formula itemizing specific incidental costs incurred by the warranty holder;

F. "maintenance agreement" means a contract for a limited period that provides only for scheduled maintenance;

G. "major manufacturing company" means a person who:

(1) manufactures or produces and sells products under its own name or label or is a wholly owned subsidiary or affiliate of the person who manufactures or produces products; and

(2) maintains, or its parent company maintains, a net worth or stockholders' equity of at least one hundred million dollars (\$100,000,000);

H. "property" means all property, whether movable at the time of purchase or a fixture, that is used primarily for personal, family or household purposes;

I. "provider" means a person who is contractually obligated to a holder or to indemnify the holder for the costs of repairing, replacing or performing maintenance on property;

J. "reimbursement insurance policy" means a policy of insurance issued to a provider to either provide reimbursement to the provider under the terms of the insured service contracts issued or sold by the provider or, in the event of the provider's non-performance, to pay on behalf of the provider all covered contractual obligations incurred by the provider under the terms of the insured service contracts issued or sold by the provider;

K. "road hazard" means a hazard that is encountered while driving a motor vehicle and that may include potholes, rocks, wood debris, metal parts, glass, plastic, curbs or composite scraps;

L. "seller" means a person who sells service contracts that contractually obligate another party or parties;

M. "service contract" means a contract pursuant to which a provider, in exchange for separately stated consideration, is obligated for a specified period to a holder to repair, replace or perform maintenance on, or indemnify or reimburse the holder for the costs of repairing, replacing or performing maintenance on, property that is described in the service contract and that has an operational or structural failure as a result of a defect in materials, workmanship or normal wear and tear, including a contract that provides or includes one or more of the following:

(1) incidental payment of indemnity under limited circumstances, including towing, rental and emergency road service and food spoilage;

(2) the repair, replacement or maintenance of property for damages that result from power surges or accidental damage from handling;

(3) the repair or replacement of tires and wheels on a motor vehicle damaged as a result of coming into contact with road hazards;

(4) the removal of dents, dings or creases on a motor vehicle that can be repaired using the process of paintless dent removal without affecting the existing paint finish and without replacing vehicle body panels, sanding, bonding or painting;

(5) the repair of chips or cracks in motor vehicle windshields or the replacement of motor vehicle windshields as a result of damage caused by road hazards;

(6) the replacement of a motor vehicle key or key fob in the event the key or key fob becomes inoperable or is lost or stolen; and

(7) other services approved by the superintendent if not inconsistent with other provisions of the Service Contract Regulation Act; and

N. "warranty" means a warranty provided solely by a manufacturer, importer or seller of property for which the manufacturer, importer or seller did not receive separate consideration and that:

(1) is not negotiated or separated from the sale of the property;

(2) is incidental to the sale of the property; and

(3) guarantees to indemnify the consumer for defective parts, mechanical or electrical failure, labor or other remedial measures required to repair or replace the property and may provide specified incidental costs."

Chapter 254 Section 2 Laws 2019

SECTION 2. Section 59A-58-9 NMSA 1978 (being Laws 2001, Chapter 206, Section 9) is amended to read:

"59A-58-9. RIGHT OF HOLDER TO RETURN SERVICE CONTRACT FOR REFUND.--

A. A service contract is void and a provider shall refund to the holder the purchase price of the service contract if the holder has not made a claim under the service contract and the holder returns the service contract to the provider:

(1) within twenty days after the date the provider mails a copy of the service contract to the holder;

(2) within ten days after the purchaser receives a copy of the service contract if the provider furnishes the holder with the copy at the time the contract is purchased; or

(3) within a longer period specified in the service contract.

B. The right of a holder to return a service contract pursuant to Subsection A of this section applies only to the original purchaser of the service contract.

C. Subsequent to the time period specified in Subsection A of this section, or if a claim was made during that time period, a holder may cancel a service contract and the provider shall refund to the contract holder one hundred percent of the unearned pro rata provider fee, less any claims paid. If the service contract is canceled by the holder, a reasonable administrative fee may be charged by the provider, not to exceed ten percent of the purchase price of the service contract. A provider who cancels a service contract may not impose an administrative fee.

D. A service contract must include a provision that clearly states the right of a holder to return a service contract pursuant to this section. Notwithstanding Subsection C of this section, a provider is not required to deduct the amount of any claims paid under a service contract from the amount of a refund a holder is entitled to.

E. The provider shall refund to the holder or credit to the account of the holder the purchase price of the service contract within sixty days after a service contract is returned pursuant to Subsection A of this section. If the provider fails to refund the purchase price or credit the account of the holder within that time, the provider shall pay the holder a penalty of ten percent of the purchase price for each thirty-day period or portion thereof that the refund and any accrued penalties remain unpaid."

Chapter 254 Section 3 Laws 2019

SECTION 3. A new section of the Service Contract Regulation Act is enacted to read:

"AUTOMATIC RENEWAL--NOTICE.--

A. A provider shall not include an automatic renewal provision within a service contract offered in this state unless the provider discloses the terms of the automatic renewal provision in a clear and conspicuous manner, or in the case of an offer conveyed by voice, in temporal proximity, to the request for consent to the offer and the consumer consents to the terms of the automatic renewal provision.

B. A provider shall provide notice to a holder specifying, in a clear and conspicuous manner, the procedure by which the holder may cancel the service contract, and such notice shall be provided at least thirty days before the last day on which the holder may give notice of the holder's intention not to renew the service contract but not sooner than sixty days before the last day on which the holder may give notice of the holder's intention not to renew.

C. The notice required by Subsection B of this section may be provided by United States mail, postage prepaid, or electronic mail if the consumer consents to receive notice via electronic mail at the inception of the service contract." _____

Senate Bill 350, aa

Approved April 4, 2019

LAWS 2019, CHAPTER 255

AN ACT

RELATING TO HEALTH CARE COVERAGE; AMENDING SECTIONS OF THE HEALTH CARE PURCHASING ACT, THE NEW MEXICO INSURANCE CODE, THE HEALTH MAINTENANCE ORGANIZATION LAW AND THE NONPROFIT HEALTH CARE PLAN LAW TO PROHIBIT CERTAIN RESTRICTIONS ON AND ESTABLISH NEW REQUIREMENTS FOR COVERAGE OF SERVICES PROVIDED VIA TELEMEDICINE.

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

Chapter 255 Section 1 Laws 2019

SECTION 1. Section 13-7-14 NMSA 1978 (being Laws 2013, Chapter 105, Section 1) is amended to read:

"13-7-14. COVERAGE FOR TELEMEDICINE SERVICES.--

A. Group health coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act shall provide coverage for services provided via telemedicine to the same extent that the group health plan covers the same services when those services are provided via in-person consultation or contact. A group health plan shall not impose any unique condition for coverage of services provided via telemedicine.

B. A group health plan shall not impose an originating-site restriction with respect to telemedicine services or distinguish between telemedicine services provided to patients in rural locations and those provided to patients in urban locations; provided that the provisions of this section shall not be construed to require coverage of an otherwise noncovered benefit.

C. A determination by a group health plan that health care services delivered through the use of telemedicine are not covered under the plan shall be subject to review and appeal pursuant to the Patient Protection Act.

D. The provisions of this section shall not apply in the event that federal law requires the state to make payments on behalf of enrollees to cover the costs of implementing this section.

E. Nothing in this section shall require a health care provider to be physically present with a patient at the originating site unless the consulting telemedicine provider deems it necessary.

F. A group health plan shall not limit coverage of services delivered via telemedicine only to those health care providers who are members of the group health plan provider network where no in-network provider is available and accessible, as availability and accessibility are defined in network adequacy standards issued by the superintendent of insurance.

G. A group health plan may charge a deductible, copayment or coinsurance for a health care service delivered via telemedicine if it does not exceed the deductible, copayment or coinsurance applicable to a service delivered via in-person consultation or contact.

H. A group health plan shall not impose any annual or lifetime dollar maximum on coverage for services delivered via telemedicine, other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the group health plan, or impose upon any person receiving benefits pursuant to this section any copayment, coinsurance or deductible amounts, or any plan year, calendar year, lifetime or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the group health plan.

I. A group health plan shall reimburse for health care services delivered via telemedicine on the same basis and at least the same rate that the group health plan reimburses for comparable services delivered via in-person consultation or contact.

J. Telemedicine used to provide clinical services shall be encrypted and shall conform to state and federal privacy laws.

K. The provisions of this section shall not apply to group health coverage intended to supplement major medical group-type coverage, such as medicare supplement, long-term care, disability income, specified disease, accident-only, hospital indemnity or any other limited-benefit health insurance policy.

L. As used in this section:

(1) "consulting telemedicine provider" means a health care provider that delivers telemedicine services from a location remote from an originating site;

(2) "health care provider" means a duly licensed hospital or other licensed facility, physician or other health care professional authorized to furnish health care services within the scope of the professional's license;

(3) "in real time" means occurring simultaneously, instantaneously or within seconds of an event so that there is little or no noticeable delay between two or more events;

(4) "originating site" means a place at which a patient is physically located and receiving health care services via telemedicine;

(5) "store-and-forward technology" means electronic information, imaging and communication, including interactive audio, video and data communications, that is transferred or recorded or otherwise stored for asynchronous use; and

(6) "telemedicine" means the use of telecommunications and information technology to provide clinical health care at a site distinct from the patient. "Telemedicine" allows health care professionals to evaluate, diagnose and treat patients in remote locations using telecommunications and information technology in real time or asynchronously, including the use of interactive simultaneous audio and video or store-and-forward technology, or remote patient monitoring and telecommunications in order to deliver health care services to a site where the patient is located, along with the use of electronic media and health information. "Telemedicine" allows patients in remote locations to access medical expertise without travel."

Chapter 255 Section 2 Laws 2019

SECTION 2. Section 59A-22-49.3 NMSA 1978 (being Laws 2013, Chapter 105, Section 2) is amended to read:

"59A-22-49.3. COVERAGE FOR TELEMEDICINE SERVICES.--

A. An individual or group health insurance policy, health care plan or certificate of health insurance that is delivered, issued for delivery or renewed in this state shall provide coverage for services provided via telemedicine to the same extent that the health insurance plan, policy or contract covers the same services when those services are provided via in-person consultation or contact. An insurer shall not impose any unique condition for coverage of services provided via telemedicine.

B. An insurer shall not impose an originating-site restriction with respect to telemedicine services or distinguish between telemedicine services provided to patients in rural locations and those provided to patients in urban locations; provided that the provisions of this section shall not be construed to require coverage of an otherwise noncovered benefit.

C. A determination by an insurer that health care services delivered through the use of telemedicine are not covered under the plan shall be subject to review and appeal pursuant to the Patient Protection Act.

D. The provisions of this section shall not apply in the event that federal law requires the state to make payments on behalf of enrollees to cover the costs of implementing this section.

E. Nothing in this section shall require a health care provider to be physically present with a patient at the originating site unless the consulting telemedicine provider deems it necessary.

F. An insurer shall not limit coverage of services delivered via telemedicine only to those health care providers who are members of the health insurance plan, policy or contract provider network where no in-network provider is available and accessible, as availability and accessibility are defined in network adequacy standards issued by the superintendent.

G. An insurer may charge a deductible, copayment, or coinsurance for a health care service delivered via telemedicine if it does not exceed the deductible, copayment or coinsurance applicable to a service delivered via in-person consultation or contact.

H. An insurer shall not impose any annual or lifetime dollar maximum on coverage for services delivered via telemedicine, other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the health insurance plan, policy or contract, or impose upon any person receiving benefits pursuant to this section any copayment, coinsurance or deductible amounts, or any plan, policy or contract year, calendar year, lifetime or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the health insurance plan, policy or contract.

I. An insurer shall reimburse for health care services delivered via telemedicine on the same basis and at least the same rate that the insurer reimburses for comparable services delivered via in-person consultation or contact.

J. Telemedicine used to provide clinical services shall be encrypted and shall conform to state and federal privacy laws.

K. The provisions of this section shall not apply to an individual policy, plan or contract intended to supplement major medical group-type coverage, such as medicare supplement, long-term care, disability income, specified disease, accident-only, hospital indemnity or any other limited-benefit health insurance policy.

L. As used in this section:

(1) "consulting telemedicine provider" means a health care provider that delivers telemedicine services from a location remote from an originating site;

(2) "health care provider" means a duly licensed hospital or other licensed facility, physician or other health care professional authorized to furnish health care services within the scope of the professional's license;

(3) "in real time" means occurring simultaneously, instantaneously or within seconds of an event so that there is little or no noticeable delay between two or more events;

(4) "originating site" means a place at which a patient is physically located and receiving health care services via telemedicine;

(5) "store-and-forward technology" means electronic information, imaging and communication, including interactive audio, video and data communication, that is transferred or recorded or otherwise stored for asynchronous use; and

(6) "telemedicine" means the use of telecommunications and information technology to provide clinical health care from a distance. "Telemedicine" allows health care professionals to evaluate, diagnose and treat patients in remote locations using telecommunications and information technology in real time or asynchronously, including the use of interactive simultaneous audio and video or store-and-forward technology, or remote patient monitoring and telecommunications in order to deliver health care services to a site where the patient is located, along with the use of electronic media and health information. "Telemedicine" allows patients in remote locations to access medical expertise without travel."

Chapter 255 Section 3 Laws 2019

SECTION 3. Section 59A-23-7.12 NMSA 1978 (being Laws 2013, Chapter 105, Section 3) is amended to read:

"59A-23-7.12. COVERAGE FOR TELEMEDICINE SERVICES.--

A. A blanket or group health insurance policy or contract that is delivered, issued for delivery or renewed in this state shall provide coverage for services provided via telemedicine to the same extent that the health insurance plan, policy or contract covers the same services when those services are provided via in-person consultation

or contact. An insurer shall not impose any unique condition for coverage of services provided via telemedicine.

B. An insurer shall not impose an originating-site restriction with respect to telemedicine services or distinguish between telemedicine services provided to patients in rural locations and those provided to patients in urban locations; provided that the provisions of this section shall not be construed to require coverage of an otherwise noncovered benefit.

C. A determination by an insurer that health care services delivered through the use of telemedicine are not covered under the plan shall be subject to review and appeal pursuant to the Patient Protection Act.

D. The provisions of this section shall not apply in the event that federal law requires the state to make payments on behalf of enrollees to cover the costs of implementing this section.

E. Nothing in this section shall require a health care provider to be physically present with a patient at the originating site unless the consulting telemedicine provider deems it necessary.

F. An insurer shall not limit coverage of services delivered via telemedicine only to those health care providers who are members of the health insurance plan, policy or contract provider network where no in-network provider is available and accessible, as availability and accessibility are defined in network adequacy standards issued by the superintendent.

G. An insurer may charge a deductible, copayment or coinsurance for a health care service delivered via telemedicine if it does not exceed the deductible, copayment or coinsurance applicable to a service delivered via in-person consultation or contact.

H. An insurer shall not impose any annual or lifetime dollar maximum on coverage for services delivered via telemedicine, other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the health insurance plan, policy or contract, or impose upon any person receiving benefits pursuant to this section any copayment, coinsurance or deductible amounts, or any plan, policy or contract year, calendar year, lifetime or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the health insurance plan, policy or contract.

I. An insurer shall reimburse for health care services delivered via telemedicine on the same basis and at least the same rate that the insurer reimburses for comparable services delivered via in-person consultation or contact.

J. Telemedicine used to provide clinical services shall be encrypted and shall conform to state and federal privacy laws.

K. The provisions of this section shall not apply to a group or blanket policy, plan or contract intended to supplement major medical group-type coverage, such as medicare supplement, long-term care, disability income, specified disease, accident-only, hospital indemnity or any other limited-benefit health insurance policy.

L. As used in this section:

(1) "consulting telemedicine provider" means a health care provider that delivers telemedicine services from a location remote from an originating site;

(2) "health care provider" means a duly licensed hospital or other licensed facility, physician or other health care professional authorized to furnish health care services within the scope of the professional's license;

(3) "in real time" means occurring simultaneously, instantaneously or within seconds of an event so that there is little or no noticeable delay between two or more events;

(4) "originating site" means a place at which a patient is physically located and receiving health care services via telemedicine;

(5) "store-and-forward technology" means electronic information, imaging and communication, including interactive audio, video and data communication, that is transferred or recorded or otherwise stored for asynchronous use; and

(6) "telemedicine" means the use of telecommunications and information technology to provide clinical health care from a distance. "Telemedicine" allows health care professionals to evaluate, diagnose and treat patients in remote locations using telecommunications and information technology in real time or asynchronously, including the use of interactive simultaneous audio and video or store-and-forward technology, or remote patient monitoring and telecommunications in order to deliver health care services to a site where the patient is located, along with the use of electronic media and health information. "Telemedicine" allows patients in remote locations to access medical expertise without travel."

Chapter 255 Section 4 Laws 2019

SECTION 4. Section 59A-46-50.3 NMSA 1978 (being Laws 2013, Chapter 105, Section 4) is amended to read:

"59A-46-50.3. COVERAGE FOR TELEMEDICINE SERVICES.--

A. An individual or group health maintenance organization contract that is delivered, issued for delivery or renewed in this state shall provide coverage for services provided via telemedicine to the same extent that the contract covers the same services when those services are provided via in-person consultation or contact. A carrier shall not impose any unique condition for coverage of services provided via telemedicine.

B. A carrier shall not impose an originating-site restriction with respect to telemedicine services or distinguish between telemedicine services provided to patients in rural locations and those provided to patients in urban locations; provided that the provisions of this section shall not be construed to require coverage of an otherwise noncovered benefit.

C. A determination by a health maintenance organization that health care services delivered through the use of telemedicine are not covered under the plan shall be subject to review and appeal pursuant to the Patient Protection Act.

D. The provisions of this section shall not apply in the event that federal law requires the state to make payments on behalf of enrollees to cover the costs of implementing this section.

E. Nothing in this section shall require a health care provider to be physically present with a patient at the originating site unless the consulting telemedicine provider deems it necessary.

F. A carrier shall not limit coverage of services delivered via telemedicine only to those health care providers who are members of the health maintenance organization contract provider network where no in-network provider is available and accessible, as availability and accessibility are defined in network adequacy standards issued by the superintendent.

G. A carrier may charge a deductible, copayment or coinsurance for a health care service delivered via telemedicine if it does not exceed the deductible, copayment or coinsurance applicable to a service delivered via in-person consultation or contact.

H. A carrier shall not impose any annual or lifetime dollar maximum on coverage for services delivered via telemedicine, other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the contract, or impose upon any person receiving benefits pursuant to this section any copayment, coinsurance or deductible amounts, or any contract year, calendar year, lifetime or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the contract.

I. A carrier shall reimburse for health care services delivered via telemedicine on the same basis and at least the same rate that the carrier reimburses for comparable services delivered via in-person consultation or contact.

J. Telemedicine used to provide clinical services shall be encrypted and shall conform to state and federal privacy laws.

K. The provisions of this section shall not apply to an individual or group health maintenance organization contract intended to supplement major medical group-type coverage, such as medicare supplement, long-term care, disability income, specified disease, accident-only, hospital indemnity or any other limited-benefit health insurance policy.

L. As used in this section:

(1) "consulting telemedicine provider" means a health care provider that delivers telemedicine services from a location remote from an originating site;

(2) "in real time" means occurring simultaneously, instantaneously or within seconds of an event so that there is little or no noticeable delay between two or more events;

(3) "originating site" means a place at which a patient is physically located and receiving health care services via telemedicine;

(4) "store-and-forward technology" means electronic information, imaging and communication, including interactive audio, video and data communication, that is transferred or recorded or otherwise stored for asynchronous use; and

(5) "telemedicine" means the use of telecommunications and information technology to provide clinical health care from a distance. "Telemedicine" allows health care professionals to evaluate, diagnose and treat patients in remote locations using telecommunications and information technology in real time or asynchronously, including the use of interactive simultaneous audio and video or store-

and-forward technology, or remote patient monitoring and telecommunications in order to deliver health care services to a site where the patient is located, along with the use of electronic media and health information. "Telemedicine" allows patients in remote locations to access medical expertise without travel."

Chapter 255 Section 5 Laws 2019

SECTION 5. Section 59A-47-45.3 NMSA 1978 (being Laws 2013, Chapter 105, Section 5) is amended to read:

"59A-47-45.3. COVERAGE FOR TELEMEDICINE SERVICES.--

A. An individual or group health insurance policy, health care plan or certificate of health insurance delivered or issued for delivery in this state shall provide coverage for services provided via telemedicine to the same extent the health care plan covers the same services when those services are provided via in-person consultation or contact. A health care plan shall not impose any unique condition for coverage of services provided via telemedicine.

B. A health care plan shall not impose an originating-site restriction with respect to telemedicine services or distinguish between telemedicine services provided to patients in rural locations and those provided to patients in urban locations; provided that the provisions of this section shall not be construed to require coverage of an otherwise noncovered benefit.

C. A determination by a nonprofit health plan that health care services delivered through the use of telemedicine are not covered under the plan shall be subject to review and appeal pursuant to the Patient Protection Act.

D. The provisions of this section shall not apply in the event that federal law requires the state to make payments on behalf of enrollees to cover the costs of implementing this section.

E. Nothing in this section shall require a health care provider to be physically present with a patient at the originating site unless the consulting telemedicine provider deems it necessary.

F. A health care plan shall not limit coverage of services delivered via telemedicine only to those health care providers who are members of the health care plan provider network where no in-network provider is available and accessible, as availability and accessibility are defined in network adequacy standards issued by the superintendent.

G. A health care plan may charge a deductible, copayment or coinsurance for a health care service delivered via telemedicine if it does not exceed the deductible, copayment or coinsurance applicable to a service delivered via in-person consultation or contact.

H. A health care plan shall not impose any annual or lifetime dollar maximum on coverage for services delivered via telemedicine, other than an annual or lifetime dollar maximum that applies in the aggregate to all items and services covered under the health care plan, or impose upon any person receiving benefits pursuant to this section any copayment, coinsurance or deductible amounts, or any plan year, calendar year, lifetime or other durational benefit limitation or maximum for benefits or services, that is not equally imposed upon all terms and services covered under the health care plan.

I. A health care plan shall reimburse for health care services delivered via telemedicine on the same basis and at least the same rate that the carrier reimburses for comparable services delivered via in-person consultation or contact.

J. Telemedicine used to provide clinical services shall be encrypted and shall conform to state and federal privacy laws.

K. The provisions of this section shall not apply to an individual or group health care plan intended to supplement major medical group-type coverage, such as medicare supplement, long-term care, disability income, specified disease, accident-only, hospital indemnity or any other limited-benefit health insurance policy.

L. As used in this section:

(1) "consulting telemedicine provider" means a health care provider that delivers telemedicine services from a location remote from an originating site;

(2) "health care provider" means a duly licensed hospital or other licensed facility, physician or other health care professional authorized to furnish health care services within the scope of the professional's license;

(3) "in real time" means occurring simultaneously, instantaneously or within seconds of an event so that there is little or no noticeable delay between two or more events;

(4) "originating site" means a place at which a patient is physically located and receiving health care services via telemedicine;

(5) "store-and-forward technology" means electronic information, imaging and communication, including interactive audio, video and data communication, that is transferred or recorded or otherwise stored for asynchronous use; and

(6) "telemedicine" means the use of telecommunications and information technology to provide clinical health care from a distance. "Telemedicine" allows health care professionals to evaluate, diagnose and treat patients in remote locations using telecommunications and information technology in real time or asynchronously, including the use of interactive simultaneous audio and video or store-and-forward technology, or remote patient monitoring and telecommunications in order to deliver health care services to a site where the patient is located, along with the use of electronic media and health information. "Telemedicine" allows patients in remote locations to access medical expertise without travel." _____

Senate Bill 354, aa

Approved April 4, 2019

LAWS 2019, CHAPTER 256

AN ACT

RELATING TO SPECIAL EDUCATION; REQUIRING EARLY SCREENING AND INTERVENTION FOR STUDENTS DISPLAYING CHARACTERISTICS OF DYSLEXIA.

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

Chapter 256 Section 1 Laws 2019

SECTION 1. Section 22-13-6 NMSA 1978 (being Laws 1972, Chapter 95, Section 2, as amended) is amended to read:

"22-13-6. SPECIAL EDUCATION--DEFINITIONS.--As used in the Public School Code:

A. "special education" means the provision of services additional to, supplementary to or different from those provided in the regular school program by a systematic modification and adaptation of instructional techniques, materials and equipment to meet the needs of exceptional children;

B. "exceptional children" means school-age persons whose abilities render regular services of the public school to be inconsistent with their educational needs;

C. "children with disabilities" means those children who are classified as developmentally disabled according to the Developmental Disabilities Act and the federal Individuals with Disabilities Education Act;

D. "gifted child" means a school-age person who is determined to be gifted pursuant to Section 22-13-6.1 NMSA 1978 and standards adopted by the department pursuant to that section. Nothing in this section shall preclude a school district or charter school from offering additional gifted programs for students who fail to meet the eligibility criteria; however, the state shall only provide state funds for department-approved gifted programs for those students who meet the established criteria;

E. "dyslexia" means a specific learning disability that is neurobiological in origin and that is characterized by difficulty with accurate or fluent word recognition and by poor spelling and decoding abilities, which characteristics typically result from a deficit in the phonological component of language that is often unexpected in relation to other cognitive abilities and the provision of effective classroom instruction and may result in problems in reading comprehension and reduced reading experience that may impede the growth of vocabulary and background knowledge;

F. "response to intervention" means a multitiered intervention model that uses a set of increasingly intensive academic or behavioral supports, matched to student need, as a framework for making educational programming and eligibility decisions; and

G. "student assistance team" means a school-based group whose purpose, based on procedures and guidelines established by the department, is to provide additional educational support to students who are experiencing difficulties that are preventing them from benefiting from general instruction."

Chapter 256 Section 2 Laws 2019

SECTION 2. Section 22-13-32 NMSA 1978 (being Laws 2010, Chapter 59, Section 2) is amended to read:

"22-13-32. INTERVENTION FOR STUDENTS DISPLAYING CHARACTERISTICS OF DYSLEXIA.--

A. Within the course of the 2019-2020 and 2020-2021 school years and in each subsequent school year, all first grade students shall be screened for dyslexia.

B. A student whose dyslexia screening demonstrates characteristics of dyslexia and who is having difficulty learning to read, write, spell, understand spoken language or express thoughts clearly shall receive appropriate classroom interventions or be referred to a student assistance team.

C. In accordance with department response to intervention procedures, guidelines and policies, each school district or charter school shall provide timely, appropriate, systematic, scientific, evidence-based interventions prescribed by the student assistance team, with progress monitoring to determine the student's response or lack of response.

D. A parent of a student referred to a student assistance team shall be informed of the parent's right to request an initial special education evaluation at any time during the school district's or charter school's implementation of the interventions prescribed by the student assistance team. If the school district or charter school agrees that the student may have a disability, the student assistance team shall refer the child for an evaluation. The student shall be evaluated within sixty days of receiving the parental consent for an initial evaluation. If the school district or charter school refuses the parent's request for an initial evaluation, the school district or charter school shall provide written notice of the refusal to the parent, including notice of the parent's right to challenge the school district's or charter school's decision as provided in state and federal law and rules.

E. Within the course of the 2019-2020 and 2020-2021 school years, every school district and charter school shall develop and implement a literacy professional development plan that includes a detailed framework for structured literacy training by a licensed and accredited or credentialed teacher preparation provider for all elementary school teachers and for training in evidence-based reading intervention for reading interventionists and special education teachers working with students demonstrating characteristics of dyslexia or diagnosed with dyslexia. The plan shall continue to be implemented each school year and may be updated as necessary. The department shall provide lists of recommended teacher professional development materials and opportunities for teachers and school administrators regarding evidence-based reading instruction for students at risk for reading failure and displaying the characteristics of dyslexia.

F. School districts and charter schools shall train school administrators and teachers who teach reading to implement appropriate evidence-based reading interventions. School districts and charter schools shall train special education teachers to provide structured literacy training for students who are identified with dyslexia as a specific learning disability and who are eligible for special education services.

G. The department shall provide technical assistance for special education diagnosticians and other special education professionals regarding the formal special education evaluation of students suspected of having a specific learning disability, such as dyslexia.

H. The department shall adopt rules, standards and guidelines necessary to implement this section."

Chapter 256 Section 3 Laws 2019

SECTION 3. CONTINGENT EFFECTIVE DATE.--The provisions of this act shall become effective upon Senate Bill 536, House Bill 548 or similar legislation of the first session of the fifty-fourth legislature becoming law that contains an appropriation for early screening and intervention for students displaying characteristics of dyslexia. _____

Senate Bill 398, aa

Approved April 4, 2019

LAWS 2019, CHAPTER 257

AN ACT

RELATING TO VETERINARY MEDICINE; ALLOWING AGREEMENTS BETWEEN THE NEW MEXICO DEPARTMENT OF AGRICULTURE AND SCHOOLS OF VETERINARY MEDICINE TO HAVE STUDENT INTERNS IN NEW MEXICO VETERINARY CLINICS AND PRACTICES.

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

Chapter 257 Section 1 Laws 2019

SECTION 1. VETERINARY STUDENT INTERNS.--The New Mexico department of agriculture may enter into agreements with schools of veterinary medicine in other states to allow students to intern with New Mexico veterinary clinics and practices as part of the students' degree program. The department shall coordinate the program with New Mexico veterinarians and shall encourage veterinarians to participate in the program. _____

Senate Bill 545, aa

Approved April 4, 2019

LAWS 2019, CHAPTER 258

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; RAISING THE SALARY THRESHOLD FOR CONTRIBUTION AMOUNTS; CHANGING THE TERMS OF RETIREMENT ELIGIBILITY AND THE CALCULATION OF BENEFITS FOR CERTAIN MEMBERS; CHANGING THE TERMS GOVERNING RETIRED MEMBERS WHO RETURN TO EMPLOYMENT WITH AN EDUCATIONAL RETIREMENT BOARD EMPLOYER; INCREASING THE CONTRIBUTIONS OF EDUCATIONAL RETIREMENT BOARD-COVERED EMPLOYERS; CLARIFYING THAT SUBSTITUTE TEACHERS ARE EDUCATIONAL RETIREMENT BOARD-COVERED MEMBERS.

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

Chapter 258 Section 1 Laws 2019

SECTION 1. Section 22-11-21 NMSA 1978 (being Laws 1967, Chapter 16, Section 144, as amended) is amended to read:

"22-11-21. CONTRIBUTIONS--MEMBERS--LOCAL ADMINISTRATIVE UNITS.--

A. Except as provided in Subsection D of this section, for a member whose annual salary is greater than twenty-four thousand dollars (\$24,000), the member shall make contributions to the fund at the rate of ten and seven-tenths percent of the member's annual salary.

B. For a member whose annual salary is twenty-four thousand dollars (\$24,000) or less, the member shall make contributions to the fund at the rate of seven and nine-tenths percent of the member's annual salary.

C. Except as provided in Subsection D of this section, each local administrative unit shall make an annual contribution to the fund on and after July 1, 2019, at the rate of fourteen and fifteen-hundredths percent of the annual salary of each member employed by the local administrative unit.

D. If, in a calendar year, the salary of a member, initially employed by a local administrative unit on or after July 1, 1996, equals the annual compensation limit set pursuant to Section 401(a)(17) of the Internal Revenue Code of 1986, as amended, then:

(1) for the remainder of that calendar year, no additional member contributions or local administrative unit contributions for that member shall be made pursuant to this section; provided that no member shall be denied service credit solely because contributions are not made by the member or on behalf of the member pursuant to this subsection; and

(2) the amount of the annual compensation limit shall be divided into four equal portions, and, for purposes of attributing contributory employment and crediting service credit, each portion shall be attributable to one of the four quarters of the calendar year."

Chapter 258 Section 2 Laws 2019

SECTION 2. A new section of the Educational Retirement Act, Section 22-11-23.3 NMSA 1978, is enacted to read:

"22-11-23.3. RETIREMENT ELIGIBILITY--INITIAL MEMBERSHIP ON OR AFTER JULY 1, 2019.--A member who initially became a member on or after July 1, 2019 or a member who was a member before July 1, 2019 and had, before that date, been refunded all member contributions in accordance with Subsection A of Section 22-11-15 NMSA 1978 and had not restored all refunded contributions and interest before July 1, 2019, is eligible for retirement benefits when:

- A. the member is any age and has thirty or more years of earned service credit;
- B. the member is at least sixty-seven years of age and has five or more years of earned service credit; or
- C. the sum of the member's age and years of earned service credit equals at least eighty."

Chapter 258 Section 3 Laws 2019

SECTION 3. Section 22-11-25.1 NMSA 1978 (being Laws 2001, Chapter 283, Section 2, as amended) is amended to read:

"22-11-25.1. RETURN TO EMPLOYMENT--BENEFITS-- CONTRIBUTIONS.--

A. Except as otherwise provided in Subsections B and F of this section, until January 1, 2022, a retired member who begins employment with a local administrative unit at a level greater than one-quarter full-time employee, regardless of salary level, is required to suspend the member's retirement benefits until the end of that employment unless the member has not rendered service to a local administrative unit for at least twelve consecutive months after the date of retirement.

B. Until January 1, 2022, a retired member who retired on or before January 1, 2001, has not suspended or been required to suspend retirement benefits pursuant to the Educational Retirement Act and returns to employment with a local administrative unit is not required to suspend the member's retirement benefits.

C. A retired member who returns to employment with a local administrative unit in accordance with this section is entitled to receive retirement benefits during that employment but is not entitled to acquire or purchase service credit for that employment.

D. A retired member may return to employment with a local administrative unit only if the member submits an application to return to work, on a form prescribed by the board, the board approves the application and the applicant complies with other application rules promulgated by the board.

E. A retired member who returns to employment pursuant to Subsection A, B or F of this section shall make nonrefundable contributions to the fund as would be required by Section 22-11-21 NMSA 1978 if the retired member were a non-retired employee. The local administrative unit employing the retired member shall likewise make contributions as would be required by that section. In addition, on and after July 1, 2020, a retired member who has returned to employment at a level of one-fourth or less full-time employee, regardless of salary level, shall make nonrefundable contributions to the fund as would be required by Section 22-11-21 NMSA 1978 if the retired member were a non-retired employee. The local administrative unit employing the retired member shall likewise make contributions as would be required by that section.

F. Until January 1, 2022, a retired member who retired on or before January 1, 2001, who suspended or was required to suspend retirement benefits under the Educational Retirement Act is not required to suspend the member's retirement benefits if the retired member has not rendered service to a local administrative unit for an additional twelve or more consecutive months, not including any part of a summer or other scheduled break or vacation period, after the initial date of retirement.

G. A retired member who returns to employment with a local administrative unit shall make contributions to the retiree health care fund during the period of that employment and in the amount specified in Section 10-7C-15 NMSA 1978. The local administrative unit employing the retired member shall likewise make contributions during the period of that employment and in the amount specified in that section.

H. As used in this section:

(1) "rendered service" includes employment, whether full or part time; substitute teaching; voluntarily performing duties that would otherwise be, or in the past have been, performed by a paid employee or independent contractor; and performing duties as an independent contractor or an employee of an independent contractor; and

(2) "local administrative unit" includes any entity incorporated, formed or otherwise organized by, or subject to the control of, a local administrative unit, regardless of whether the entity is created for profit or nonprofit purposes."

Chapter 258 Section 4 Laws 2019

SECTION 4. Section 22-11-25.2 NMSA 1978 (being Laws 2003, Chapter 248, Section 1) is amended to read:

"22-11-25.2. PERSONS RECEIVING RETIREMENT BENEFITS PURSUANT TO THE PUBLIC EMPLOYEES RETIREMENT ACT.--

A. An employee who is retired pursuant to the Public Employees Retirement Act and who has not suspended retirement benefits received pursuant to that act shall make contributions to the fund as required by the Educational Retirement Act. A local administrative unit that employs such a retiree likewise shall make contributions to the fund as required by that act.

B. An employee hired prior to July 1, 2019 by a local administrative unit as a police officer certified pursuant to the Law Enforcement Training Act, who is retired pursuant to the Public Employees Retirement Act and who has not suspended retirement benefits received pursuant to that act, shall not make contributions to the fund so long as the employee remains working as a certified police officer. The local administrative unit that hired the certified police officer shall make contributions to the fund pursuant to the Educational Retirement Act.

C. An employee who receives retirement benefits pursuant to the Public Employees Retirement Act is not entitled to acquire or purchase service credit for the period of employment with a local administrative unit."

Chapter 258 Section 5 Laws 2019

SECTION 5. Section 22-11-30 NMSA 1978 (being Laws 1967, Chapter 16, Section 153, as amended) is amended to read:

"22-11-30. RETIREMENT BENEFITS--REDUCTIONS.--

A. Retirement benefits for a member retired pursuant to the Educational Retirement Act on or before June 30, 1967 shall be paid monthly and shall be one-twelfth of a sum equal to one and one-half percent of the first four thousand dollars (\$4,000) of the member's average annual salary and one percent of the remainder of the member's average annual salary multiplied by the number of years of the member's total service credit.

B. Retirement benefits for a member retired pursuant to the Educational Retirement Act on or after July 1, 1967 but on or before June 30, 1971 shall be paid monthly and shall be one-twelfth of a sum equal to one and one-half percent of the first six thousand six hundred dollars (\$6,600) of the member's average annual salary and one percent of the remainder of the member's average annual salary multiplied by the number of years of the member's total service credit.

C. Retirement benefits for a member retired pursuant to the Educational Retirement Act on or after July 1, 1971 but on or before June 30, 1974 shall be paid monthly and shall be one-twelfth of a sum equal to one and one-half percent of the member's average annual salary multiplied by the number of years of the member's total service credit.

D. Retirement benefits for a member retired pursuant to the Educational Retirement Act on or before June 30, 1974 but returning to employment on or after July 1, 1974 for a cumulation of one or more years shall be computed pursuant to Subsection E of this section. Retirement benefits for a member retired pursuant to the Educational Retirement Act on or before June 30, 1974 but returning to employment on or after July 1, 1974 for a cumulation of less than one year shall be computed pursuant to Subsection A of this section if the member's date of last retirement was on or before June 30, 1967 or pursuant to Subsection B of this section if the member's date of last retirement was on or after July 1, 1967 but not later than June 30, 1971 or pursuant to Subsection C of this section if the member's date of last retirement was on or after July 1, 1971 but not later than June 30, 1974.

E. Retirement benefits for a member age sixty or over, retired pursuant to the Educational Retirement Act on or after July 1, 1974 but not later than June 30, 1987, shall be paid monthly and shall be one-twelfth of a sum equal to:

(1) one and one-half percent of the member's average annual salary multiplied by the number of years of service credit for:

(a) prior employment; and

(b) allowed service credit for service performed prior to July 1, 1957, except United States military service credit purchased pursuant to Paragraph (3) of Subsection A of Section 22-11-34 NMSA 1978; plus

(2) two percent of the member's average annual salary multiplied by the number of years of service credit for:

(a) contributory employment;

(b) allowed service credit for service performed after July 1, 1957;
and

(c) United States military service credit for service performed prior to July 1, 1957 and purchased pursuant to Paragraph (3) of Subsection A of Section 22-11-34 NMSA 1978.

F. Retirement benefits for a member age sixty or over, retired pursuant to the Educational Retirement Act on or after July 1, 1987 but not later than June 30, 1991, shall be paid monthly and shall be one-twelfth of a sum equal to two and fifteen-hundredths percent of the member's average annual salary multiplied by the number of years of the member's total service credit; provided that this subsection shall not apply to any member who was retired in any of the four quarters ending on June 30, 1987 without having accumulated not less than 1.0 years earned service credit after June 30, 1987.

G. Retirement benefits for a member who retires pursuant to Section 22-11-23 NMSA 1978 on or after July 1, 1991 shall be paid monthly and shall be one-twelfth of a sum equal to two and thirty-five hundredths percent of the member's average annual salary multiplied by the number of years of the member's total service credit; provided that:

(1) the benefit for a member who retires pursuant to Paragraph (3) of Subsection A of Section 22-11-23 NMSA 1978 shall be reduced by:

(a) six-tenths percent for each one-fourth, or portion thereof, year that retirement occurs prior to the member attaining the age of sixty years but after the member attains the age of fifty-five years; and

(b) one and eight-tenths percent for each one-fourth, or portion thereof, year that retirement occurs prior to the member attaining the age of fifty-five years;

(2) the benefit formula provided in this subsection shall not apply to any member who was retired in any of the four consecutive quarters ending on June 30, 1991 without having accumulated at least one year of earned service credit beginning on or after July 1, 1991; and

(3) a member shall be subject to the provisions of Paragraph (1) of this subsection as they existed at the beginning of the member's last cumulated four quarters of earned service credit, regardless of later amendment.

H. Retirement benefits for a member who retires pursuant to Section 22-11-23.1 NMSA 1978 shall be paid monthly and shall be one-twelfth of a sum equal to two and thirty-five hundredths percent of the member's average annual salary multiplied by the number of years of the member's total service credit; provided that:

(1) the benefit for a member who retires pursuant to Paragraph (3) of Subsection A of Section 22-11-23.1 NMSA 1978 shall be reduced by:

(a) six-tenths percent for each one-fourth, or portion thereof, year that retirement occurs prior to the member attaining the age of sixty-five years but after the member attains the age of sixty years; and

(b) one and eight-tenths percent for each one-fourth, or portion thereof, year that retirement occurs prior to the member attaining the age of sixty years; and

(2) a member shall be subject to the provisions of Paragraph (1) of this subsection as they existed at the beginning of the member's last cumulated four quarters of earned service credit, regardless of later amendment.

I. Retirement benefits for a member who retires pursuant to Section 22-11-23.2 NMSA 1978 shall be paid monthly and shall be one-twelfth of a sum equal to two and thirty-five hundredths percent of the member's average annual salary multiplied by the number of years of the member's total service credit; provided that:

(1) the benefit for a member retiring pursuant to Paragraph (3) of Subsection A of Section 22-11-23.2 NMSA 1978 shall be reduced by:

(a) six-tenths percent for each one-fourth, or portion thereof, year that retirement occurs prior to the member attaining the age of sixty-five years but after the member attains the age of sixty years; and

(b) one and eight-tenths percent for each one-fourth, or portion thereof, year that retirement occurs prior to the member attaining the age of sixty years; and

(2) a member shall be subject to the provisions of Paragraph (1) of this subsection as they existed at the beginning of the member's last cumulated four quarters of earned service credit, regardless of later amendment.

J. Retirement benefits for a member who retires in accordance with Section 22-11-23.3 NMSA 1978 shall be paid monthly and:

(1) in an amount equal to one-twelfth of the sum of the following:

(a) for the first ten years of the member's service credit, one and thirty-five hundredths percent of the member's average annual salary multiplied by the member's years of service credit between one-fourth of a year and ten years;

(b) for that portion of the member's service credit earned after ten years of service credit and through twenty years of service credit, two and thirty-five hundredths percent of the member's average annual salary multiplied by the member's years of service credit between ten and twenty years;

(c) for that portion of the member's service credit earned after twenty years of service credit and through thirty years of service credit, three and thirty-five hundredths percent of the member's average annual salary multiplied by the member's years of service credit between twenty and thirty years; and

(d) for that portion of the member's service credit earned after thirty years of service credit, two and four-tenths percent of the member's average annual salary multiplied by the member's years of service credit over thirty years; or

(2) if the member retires in accordance with:

(a) Subsection A of Section 22-11-23.3 NMSA 1978 and is under fifty-eight years of age, in an amount equal to the result determined under Paragraph (1) of this subsection, but reduced to the actuarial equivalent, based on what is at the time of the member's retirement the most current set of actuarial factors determined by the

board, of the benefit the member would receive if the member had retired at fifty-eight years of age;

(b) Subsection C of Section 22-11-23.3 NMSA 1978 and is sixty years of age or older and under sixty-five, in an amount equal to the result determined under Paragraph (1) of this subsection, but reduced by six-tenths percent for each one-fourth, or portion thereof, year before the member reaches age sixty-five; or

(c) Subsection C of Section 22-11-23.3 NMSA 1978 and is younger than sixty years of age, in an amount equal to one and eight-tenths percent for each one-fourth, or portion thereof, year before the member reaches sixty years of age.

K. In determining a member's average annual salary for purposes of this section:

(1) the data set shall consist of the annual salary of each of the last five years, or any consecutive five years, for which contribution was made by the member, whichever produces a higher result; and

(2) lump-sum payments made after July 1, 2010 of accrued sick leave or annual leave shall be excluded from the calculation.

L. On and after July 1, 2019, if the member's average annual salary is greater than sixty thousand dollars (\$60,000):

(1) the salary in a first twelve-month interval that occurs beginning July 1, 2019 or thereafter of the five-year period used to determine the average annual salary shall be adjusted to exclude any increase in salary in excess of thirty percent of the salary in the twelve consecutive months of service credit preceding the five-year period; and

(2) the salary in each of the four succeeding twelve-month intervals that occur beginning July 1, 2019 or thereafter of the five-year period, as adjusted to exclude any increase in salary in the twelve months preceding each such succeeding twelve-month interval that is in excess of the thirty-percent limitation provided in this subsection, shall be used to determine if the salary in that succeeding twelve-month interval exceeds the thirty-percent limitation and to adjust the salary to exclude any increase in excess of that limitation in determining the average annual salary.

M. On July 1, 2020 and on each July 1 thereafter, the salary threshold for applying the thirty-percent limitation provided for in Subsection L of this section shall be adjusted by applying an adjustment factor equal to the change in the consumer price

index between the next preceding calendar year and the preceding calendar year if there is an increase in the consumer price index between the next preceding calendar year and the preceding calendar year.

N. Unless otherwise required by the Internal Revenue Code of 1986, a member shall begin receiving retirement benefits by age seventy years and six months, or upon termination of employment, whichever occurs later."

Chapter 258 Section 6 Laws 2019

SECTION 6. Section 22-11-49 NMSA 1978 (being Laws 1991, Chapter 118, Section 7, as amended) is amended to read:

"22-11-49. ALTERNATIVE RETIREMENT PLAN--CONTRIBUTIONS.--

A. A participant shall contribute an amount equal to the percentage of the participant's salary that the participant would be required to contribute if the participant were, instead, a regular member. The contribution shall be made as provided by the board.

B. A qualifying state educational institution shall contribute on behalf of each participant an amount of the participant's salary equal to the contribution that would be required of the employer if the participant were, instead, a regular member. Of that contribution, a sum equal to three and one-fourth percent of the annual salary of each participant shall be paid to the fund, and the remainder of the contribution shall be paid to the alternative retirement plan as provided by the board; provided, however, that on July 1 following any report by the actuary to the board that concludes that less than three and one-fourth percent is required to satisfy the unfunded actuarial liability attributable to the participation of the participants in the alternative retirement plan, then the percentage the actuary determines is the minimum required to satisfy that liability.

C. Contributions required by this section may be made by a reduction in salary or by a public employer pick-up as provided in the Internal Revenue Code of 1986, as amended."

Chapter 258 Section 7 Laws 2019

SECTION 7. A new section of the Educational Retirement Act is enacted to read:

"SUBSTITUTE TEACHERS--MEMBERSHIP STATUS.--A substitute teacher who works at a level greater than one-quarter full-time employee and who otherwise meets

the requirements of membership under the Educational Retirement Act is subject to that act as a regular member."

Chapter 258 Section 8 Laws 2019

SECTION 8. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1 through 6 of this act is July 1, 2019.

B. The effective date of the provisions of Section 7 of this act is July 1, 2020.

HAFC/House Bill 360, aa

Approved April 4, 2019

LAWS 2019, CHAPTER 259

AN ACT

RELATING TO INSURANCE; AMENDING SECTIONS OF THE NEW MEXICO INSURANCE CODE, THE SMALL GROUP RATE AND RENEWABILITY ACT, THE HEALTH INSURANCE PORTABILITY ACT, THE HEALTH MAINTENANCE ORGANIZATION LAW AND THE NONPROFIT HEALTH CARE PLAN LAW TO ALIGN PROVISIONS RELATING TO THE ACCESSIBILITY OF HEALTH CARE COVERAGE TO FEDERAL LAW; ENACTING NEW SECTIONS OF THE NEW MEXICO INSURANCE CODE TO REQUIRE THE SUPERINTENDENT OF INSURANCE TO SEEK FEDERAL HEALTH COVERAGE ACCESS AND AFFORDABILITY WAIVER AUTHORIZATION AND FUNDING AND TO EXCEPT CERTAIN PLANS.

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

Chapter 259 Section 1 Laws 2019

SECTION 1. Section 59A-18-13.1 NMSA 1978 (being Laws 1994, Chapter 75, Section 26, as amended) is amended to read:

"59A-18-13.1. ADJUSTED COMMUNITY RATING.--

A. Every insurer, fraternal benefit society, multiple employer welfare arrangement, health maintenance organization or nonprofit health care plan that provides primary health insurance or health care coverage insuring or covering major medical expenses shall, in determining the initial year's premium charged for an individual, use only the rating factors of age, geographic area of the place of employment and smoking practices, except that for individual policies the rating factor of the individual's place of residence may be used instead of the geographic area of the individual's place of employment.

B. Separately for an insurer's individual and group policies, no person's rate shall exceed the rate of any other person with similar family composition by more than two hundred fifty percent of the lower rate, except that the rates for children under nineteen years of age or children nineteen to twenty-five years of age who are full-time students may have rates that are lower than the bottom rates in the two hundred fifty percent band. The rating factor restrictions shall not prohibit an insurer, multiple employer welfare arrangement, fraternal benefit society, health maintenance organization or nonprofit health care plan from offering rates that differ depending upon family composition. For the purposes of this subsection, "family composition" refers only to whether coverage covers an individual or a family.

C. The provisions of this section do not preclude an insurer, multiple employer welfare arrangement, fraternal benefit society, health maintenance organization or nonprofit health care plan from using health status or occupational or industry classification in establishing the amount a large group health benefits plan may be charged for coverage.

D. As used in Subsection C of this section, "health status" does not include genetic information.

E. The superintendent shall adopt regulations to implement the provisions of this section."

Chapter 259 Section 2 Laws 2019

SECTION 2. Section 59A-18-16 NMSA 1978 (being Laws 1984, Chapter 127, Section 345.1, as amended) is amended to read:

"59A-18-16. CONTINUATION OF COVERAGE AND CONVERSION RIGHTS-- ACCIDENT AND HEALTH INSURANCE POLICIES--NOTICE.--Subject to the provisions of the Health Insurance Portability Act:

A. every accident and health insurance policy that provides hospital, surgical and medical expense benefits and that is delivered, issued for delivery or renewed in this state on or after January 1, 1985 shall provide:

(1) if an individual policy, covered family members the right to continue such policy as the named insured or through a conversion policy upon the death of the named insured or upon the divorce, annulment or dissolution of marriage or legal separation of the spouse from the named insured; or

(2) if a group policy:

(a) each member or employee of the group insured the right to continue such coverage for a period of six months and thereafter through a conversion policy upon termination of membership or employment with the group insured; and

(b) covered family members of an employee or member of the group insured the right to continue such coverage through a converted or separate policy upon the death of the member or employee of the group insured or upon the divorce, annulment or dissolution of marriage or legal separation of the spouse from the member or employee of the group insured.

Where a continuation of coverage or conversion is made in the name of the spouse of the named insured or the spouse of the employee or member of the group insured, such coverage may, at the option of the spouse, include coverage for dependent children for whom the spouse has responsibility for care and support;

B. the right to a continuation of coverage or conversion pursuant to this section shall not exist with respect to any member or employee of the group insured or any covered family member in the event the coverage terminates for nonpayment of premium, nonrenewal of the policy or the expiration of the term for which the policy is issued. With respect to any member or employee of the group insured or any covered family member who is eligible for medicare or any other similar federal or state health insurance program, the right to a continuation of coverage or conversion shall be limited to coverage under a medicare supplement insurance policy as defined by the rules and regulations adopted by the superintendent;

C. coverage continued through the issuance of a converted or separate policy shall be provided at a reasonable, nondiscriminatory rate to the insured and shall consist of a form of coverage then being offered by the insurer as a conversion policy in the jurisdiction where the person exercising the conversion right resides that most nearly approximates the coverage of the policy from which conversion is exercised. Continued and converted coverages shall contain renewal provisions that are not less

favorable to the insured than those contained in the policy from which the conversion is made, except that the person who exercises the right of conversion is entitled only to have included a right to coverage under a medicare supplement insurance policy, as defined by the rules and regulations adopted by the superintendent, after the attainment of the age of eligibility for medicare or any other similar federal or state health insurance program;

D. at the time of inception of coverage, the insurer shall furnish to each covered family member who is eighteen years of age or over and to each employee or member of the group insured a statement setting forth in summary form the continuation of coverage and conversion provisions of the policy;

E. the insurer shall notify in writing each employee or member, upon that employee's or member's termination of employment or membership with the group insured, of the continuation and conversion provisions of the policy. The employer may give the written notice specified herein. The employer should notify the insurer of the employee's or member's change of status and last known address. Under no circumstances shall the employer have any civil liability under the conversion provisions of the Insurance Code;

F. the eligible employee or member of the group insured or covered family member exercising the continuation or conversion right shall notify the employer or insurer and make payment of the applicable premium within thirty days following the date of the notification given by the insurer pursuant to Subsection E of this section. There shall be no lapse of coverage during the period in which conversion is available;

G. coverage shall be provided through continuation or conversion without additional evidence of insurability and shall not impose any preexisting condition, limitations or other contractual time limitations;

H. benefits otherwise payable under a converted or separate policy may be reduced so they are not, during the first policy year of the converted or separate policy, in excess of those that would have been payable under the policy from which conversion is exercised. Benefits, if any, otherwise payable under a converted or separate policy are not payable for a loss claimed under the policy from which conversion is exercised; and

I. any probationary or waiting period set forth in the converted or separate policy is deemed to commence on the effective date of the applicant's coverage under the original policy."

Chapter 259 Section 3 Laws 2019

SECTION 3. Section 59A-18-16.2 NMSA 1978 (being Laws 2011, Chapter 144, Section 12) is amended to read:

"59A-18-16.2. HEALTH INSURANCE OR HEALTH PLAN FORM AND RATE FILINGS--SUPERINTENDENT--RULEMAKING--COMPLIANCE WITH FEDERAL LAW.--

A. A small group health plan and a health insurance issuer or multiple employer welfare arrangement offering a small group or individual health insurance plan that provides benefits other than excepted benefits shall:

(1) provide the essential health benefits defined by the superintendent under Subsection B of this section;

(2) limit cost sharing for such coverage in accordance with Subsection D of this section; and

(3) provide coverage without cost sharing for preventive benefits in accordance with Subsection E of this section.

B. The superintendent shall define by rule the essential health benefits package to include at least the following general categories and the items and services covered within the categories:

(1) ambulatory patient services;

(2) emergency services;

(3) hospitalization;

(4) maternity and newborn care;

(5) mental health and substance use disorder services, including behavioral health treatment;

(6) prescription drugs;

(7) rehabilitative and habilitative services and devices;

(8) laboratory services;

and (9) preventive and wellness services and chronic disease management;

(10) pediatric services, including oral and vision care.

C. In defining the essential health benefits pursuant to Subsection B of this section, the superintendent shall:

(1) ensure that such essential health benefits reflect an appropriate balance among the categories described in that subsection, so that benefits are not unduly weighted toward any category;

(2) not make coverage decisions, determine reimbursement rates, establish incentive programs or design benefits in ways that discriminate against individuals because of their age, disability or expected length of life;

(3) take into account the health care needs of diverse segments of the population, including women, children, persons with disabilities and other groups;

(4) ensure that health benefits established as essential not be subject to denial to individuals against their wishes on the basis of the individual's age or expected length of life or of the individual's present or predicted disability, degree of medical dependency or quality of life;

(5) provide that if a plan is offered through the New Mexico health insurance exchange, another health insurance plan offered through the New Mexico health insurance exchange shall not fail to be treated as a qualified health plan solely because the plan does not offer coverage of benefits offered through the standalone plan that are otherwise required; and

(6) periodically update the essential health benefits under Subsection B of this section to address any gaps in access to coverage or changes in the evidence base identified by the superintendent.

D. A group health plan and a health insurance issuer offering a group or individual health insurance plan shall not establish a restricted lifetime or annual limit on the dollar value of benefits for any participant or beneficiary with respect to benefits that are essential health benefits, as determined by the superintendent. The provisions of this subsection shall not be construed to prevent a group health plan or health insurance plan from placing annual or lifetime per-beneficiary limits on specific covered benefits that are not essential health benefits, to the extent that these limits are otherwise permitted under federal or state law.

E. The superintendent shall adopt and promulgate rules specifying the maximum cost-sharing amounts for which an insured may be held liable for payment of covered benefits under any health insurance plan that provides benefits other than excepted benefits, including deductibles, coinsurance, copayments or similar charge, and any other expenditure required of an insured individual with respect to essential health benefits covered under the plan, but not including premiums, balance billing amounts for non-network providers or spending for non-covered services.

F. Any rules that the office of superintendent of insurance intends to adopt and promulgate pursuant to this section shall be adopted no later than the first day of February of the year prior to the first plan year for which the rules would be effective.

G. A group health plan and a health insurance issuer offering a group or individual health insurance plan that provides benefits other than excepted benefits shall provide coverage for and shall not impose any cost-sharing requirements for:

(1) items or services that have in effect a rating of "A" or "B" in the current recommendations of the United States preventive services task force;

(2) immunizations that have in effect a recommendation from the advisory committee on immunization practices of the federal centers for disease control and prevention, with respect to the insured for which immunization is considered;

(3) with respect to infants, children and adolescents, preventive care and screenings provided for in the comprehensive guidelines supported by the health resources and services administration of the United States department of health and human services; and

(4) with respect to women, additional preventive care and screenings to those described in Paragraph (1) of this subsection, as provided for in comprehensive guidelines supported by the health resources and services administration of the United States department of health and human services.

H. The provisions of Subsection G of this section shall not be construed to prohibit a health insurance plan or health insurance issuer from providing coverage for services in addition to those recommended by the United States preventive services task force or to deny coverage for services that are not described in this section. The superintendent shall establish by rule a minimum interval between the date on which a recommendation described in Paragraphs (1) and (2) of Subsection G of this section or a guideline under Paragraph (3) of Subsection G of this section is issued and the plan year with respect to which the requirement described in Subsection G of this section is effective with respect to the service described in such recommendation or guideline;

provided that the interval shall not be less than one year from the date the federal recommendation or guideline is published.

I. If a health insurance plan is offered as a qualified health plan through the New Mexico health insurance exchange, the insurer offering the qualified health plan shall also offer that plan through the health insurance exchange as a plan that restricts enrollment to individuals who, as of the beginning of a plan year, have not attained the age of twenty-one years.

J. The superintendent shall adopt rules:

(1) to define terms used regarding forms, rates, reviews and blocks of business that an insurer or health care plan submits in filing matters;

(2) to govern any additional filing requirements the superintendent deems appropriate;

(3) to provide notice of hearings and the grounds on which the hearings have been requested;

(4) to meet criteria for review in accordance with federal law; and

(5) that the superintendent deems appropriate to carry out the provisions of Chapter 59A, Article 18 NMSA 1978.

K. Except as provided by state or federal rule or law, nothing in this section shall be construed to prohibit a health insurance carrier from appropriately using reasonable health care cost management techniques.

L. As used in this section, "excepted benefits" means benefits furnished pursuant to the following:

(1) coverage-only accident or disability income insurance;

(2) coverage issued as a supplement to liability insurance;

(3) liability insurance;

(4) workers' compensation or similar insurance;

(5) automobile medical payment insurance;

- (6) credit-only insurance;
- (7) coverage for on-site medical clinics;
- (8) other similar insurance coverage specified in regulations under which benefits for medical care are secondary or incidental to other benefits;
- (9) the following benefits if offered separately:
 - (a) limited scope dental or vision benefits;
 - (b) benefits for long-term care, nursing home care, home health care, community-based care or any combination of those benefits; and
 - (c) other similar limited benefits specified in regulations;
- (10) the following benefits, offered as independent noncoordinated benefits:
 - (a) coverage only for a specified disease or illness; or
 - (b) hospital indemnity or other fixed indemnity insurance; and
- (11) the following benefits if offered as a separate insurance policy:
 - (a) medicare supplemental health insurance as defined pursuant to Section 1882(g)(1) of the Social Security Act; and
 - (b) coverage supplemental to the coverage provided pursuant to Chapter 55 of Title 10 USCA and similar supplemental coverage provided to coverage pursuant to a group health plan."

Chapter 259 Section 4 Laws 2019

SECTION 4. Section 59A-22-5 NMSA 1978 (being Laws 1984, Chapter 127, Section 426, as amended) is amended to read:

"59A-22-5. TIME LIMIT ON CERTAIN DEFENSES.--

A. There shall be a provision for comprehensive major medical policies as follows: As of the date of issue of this policy, no misstatements, except willful or fraudulent misstatements, made by the applicant in the application for this policy shall

be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy). In the event a misstatement in an application is made that is not fraudulent or willful, the issuer of the policy may prospectively rate and collect from the insured the premium that would have been charged to the insured at the time the policy was issued had such misstatement not been made.

B. There shall be a provision for policies other than comprehensive major medical policies as follows: After two years from the date of issue of this policy, no misstatements, except fraudulent misstatements, made by the applicant in the application for this policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such two-year period.

C. The foregoing policy provisions shall not be so construed as to affect any initial two-year period nor to limit the application of Sections 59A-22-17 through 59A-22-19, 59A-22-21 and 59A-22-22 NMSA 1978 in the event of misstatement with respect to age or occupation or other insurance.

D. A policy that the insured has the right to continue in force subject to its terms by the timely payment of premium (1) until at least age fifty or (2) in the case of a policy issued after age forty-four, for at least five years from its date of issue, may contain in lieu of the foregoing the following provision, from which the clause in parentheses may be omitted at the insurance company's option, under the caption "Incontestable":

After this policy has been in force for a period of two years during the lifetime of the insured (excluding any period during which the insured is disabled), it shall become incontestable as to the statements contained in the application."

Chapter 259 Section 5 Laws 2019

SECTION 5. Section 59A-23C-5.1 NMSA 1978 (being Laws 1994, Chapter 75, Section 33, as amended) is amended to read:

"59A-23C-5.1. ADJUSTED COMMUNITY RATING.--

A. A health benefit plan that is offered by a carrier to a small employer shall be offered without regard to the health status of any individual in the group, except as provided in the Small Group Rate and Renewability Act. The only rating factors that may be used to determine the initial year's premium charged a group, subject to the maximum rate variation provided in this section for all rating factors, are the group members':

- (1) ages;
- (2) geographic areas of the place of employment; or
- (3) smoking practices.

B. Separately for an insurer's individual and group policies, no person's rate shall exceed the rate of any other person with similar family composition by more than two hundred fifty percent of the lower rate, except that the rates for children under nineteen years of age or children nineteen to twenty-five years of age who are full-time students may have rates that are lower than the bottom rates in the two hundred fifty percent band. The rating factor restrictions shall not prohibit an insurer, multiple employer welfare arrangement, fraternal benefit society, health maintenance organization or nonprofit health care plan from offering rates that differ depending upon family composition. For the purposes of this subsection, "family composition" refers only to whether coverage covers an individual or a family.

C. The superintendent shall adopt and promulgate rules to implement the provisions of this section."

Chapter 259 Section 6 Laws 2019

SECTION 6. Section 59A-23C-7 NMSA 1978 (being Laws 1991, Chapter 153, Section 7) is amended to read:

"59A-23C-7. DISCLOSURE OF RATING PRACTICES AND RENEWABILITY PROVISIONS.--Each small employer carrier shall make reasonable disclosure in solicitation and sales materials provided to small employers of the following:

A. the provisions concerning the carriers' right to change premium rates and the factors that affect changes in premium rates; and

B. the provisions relating to renewability of coverage."

Chapter 259 Section 7 Laws 2019

SECTION 7. Section 59A-23E-2 NMSA 1978 (being Laws 1997, Chapter 243, Section 2, as amended) is amended to read:

"59A-23E-2. DEFINITIONS.--As used in the Health Insurance Portability Act:

A. "affiliation period" means a period that must expire before health insurance coverage offered by a health maintenance organization becomes effective;

B. "beneficiary" means that term as defined in Section 3(8) of the federal Employee Retirement Income Security Act of 1974;

C. "bona fide association" means an association that:

(1) has been actively in existence for five or more years;

(2) has been formed and maintained in good faith for purposes other than obtaining insurance;

(3) does not condition membership in the association on any health status related factor relating to an individual, including an employee or a dependent of an employee;

(4) makes health insurance coverage offered through the association available to all members regardless of any health status related factor relating to the members or individuals eligible for coverage through a member; and

(5) does not offer health insurance coverage to an individual through the association except in connection with a member of the association;

D. "church plan" means that term as defined pursuant to Section 3(33) of the federal Employee Retirement Income Security Act of 1974;

E. "COBRA" means the federal Consolidated Omnibus Budget Reconciliation Act of 1985;

F. "COBRA continuation provision" means:

(1) Section 4980 of the Internal Revenue Code of 1986, except for Subsection (f)(1) of that section as it relates to pediatric vaccines;

(2) Part 6 of Subtitle B of Title 1 of the federal Employee Retirement Income Security Act of 1974 except for Section 609 of that part; or

(3) Title 22 of the federal Health Insurance Portability and Accountability Act of 1996;

G. "creditable coverage" means, with respect to an individual, coverage of the individual pursuant to:

- (1) a group health plan;
- (2) health insurance coverage;
- (3) Part A or Part B of Title 18 of the Social Security Act;
- (4) Title 19 of the Social Security Act except coverage consisting solely of benefits pursuant to Section 1928 of that title;
- (5) 10 USCA Chapter 55;
- (6) a medical care program of the Indian health service or of an Indian nation, tribe or pueblo;
- (7) the Medical Insurance Pool Act;
- (8) a health plan offered pursuant to 5 USCA Chapter 89;
- (9) a public health plan as defined in federal regulations; or
- (10) a health benefit plan offered pursuant to Section 5(e) of the federal Peace Corps Act;

H. "employee" means that term as defined in Section 3(6) of the federal Employee Retirement Income Security Act of 1974;

I. "employer" means:

- (1) a person who is an employer as that term is defined in Section 3(5) of the federal Employee Retirement Income Security Act of 1974, and who employs two or more employees; and
- (2) a partnership in relation to a partner pursuant to Section 59A-23E-17 NMSA 1978;

J. "employer contribution rule" means a requirement relating to the minimum level or amount of employer contribution toward the premium for enrollment of participants and beneficiaries;

K. "enrollment date" means, with respect to an individual covered under a group health plan or health insurance coverage, the date of enrollment of the individual in the plan or coverage or, if earlier, the first day of the waiting period for enrollment;

L. "excepted benefits" means benefits furnished pursuant to the following:

- (1) coverage only accident or disability income insurance;
- (2) coverage issued as a supplement to liability insurance;
- (3) liability insurance;
- (4) workers' compensation or similar insurance;
- (5) automobile medical payment insurance;
- (6) credit-only insurance;
- (7) coverage for on-site medical clinics;
- (8) other similar insurance coverage specified in regulations under which benefits for medical care are secondary or incidental to other benefits;
- (9) the following benefits if offered separately:
 - (a) limited scope dental or vision benefits;
 - (b) benefits for long-term care, nursing home care, home health care, community-based care or any combination of those benefits; and
 - (c) other similar limited benefits specified in regulations;
- (10) the following benefits, offered as independent noncoordinated benefits:
 - (a) coverage only for a specified disease or illness; or
 - (b) hospital indemnity or other fixed indemnity insurance; and
- (11) the following benefits if offered as a separate insurance policy:

(a) medicare supplemental health insurance as defined pursuant to Section 1882(g)(1) of the Social Security Act; and

(b) coverage supplemental to the coverage provided pursuant to Chapter 55 of Title 10 USCA and similar supplemental coverage provided to coverage pursuant to a group health plan;

M. "federal governmental plan" means a governmental plan established or maintained for its employees by the United States government or an instrumentality of that government;

N. "governmental plan" means that term as defined in Section 3(32) of the federal Employee Retirement Income Security Act of 1974 and includes a federal governmental plan;

O. "group health insurance coverage" means health insurance coverage offered in connection with a group health plan or any other health insurance subject to the provisions of Chapter 59A, Article 23 NMSA 1978;

P. "group health plan" means an employee welfare benefit plan as defined in Section 3(1) of the federal Employee Retirement Income Security Act of 1974 to the extent that the plan provides medical care and includes items and services paid for as medical care to employees or their dependents as defined under the terms of the plan directly or through insurance, reimbursement or otherwise;

Q. "group participation rule" means a requirement relating to the minimum number of participants or beneficiaries that must be enrolled in relation to a specified percentage or number of eligible individuals or employees of an employer;

R. "health insurance coverage" means benefits consisting of medical care provided directly, through insurance or reimbursement, or otherwise, and items, including items and services paid for as medical care, pursuant to any hospital or medical service policy or certificate, hospital or medical service plan contract or health maintenance organization contract offered by a health insurance issuer;

S. "health insurance issuer" means an insurance company, insurance service or insurance organization, including a health maintenance organization, that is licensed to engage in the business of insurance in the state and that is subject to state law that regulates insurance within the meaning of Section 514(b)(2) of the federal Employee Retirement Income Security Act of 1974, but "health insurance issuer" does not include a group health plan;

T. "health maintenance organization" means:

- (1) a federally qualified health maintenance organization;
- (2) an organization recognized pursuant to state law as a health maintenance organization; or
- (3) a similar organization regulated pursuant to state law for solvency in the same manner and to the same extent as a health maintenance organization defined in Paragraph (1) or (2) of this subsection;

U. "health status related factor" means any of the factors described in Section 2702(a)(1) of the federal Health Insurance Portability and Accountability Act of 1996;

V. "individual health insurance coverage" means health insurance coverage offered to an individual in the individual market, but "individual health insurance coverage" does not include short-term limited duration insurance;

W. "individual market" means the market for health insurance coverage offered to individuals other than in connection with a group health plan;

X. "large employer" means, in connection with a group health plan and with respect to a calendar year and a plan year, an employer who employed an average of at least fifty-one employees on business days during the preceding calendar year and who employs at least two employees on the first day of the plan year;

Y. "large group market" means the health insurance market under which individuals obtain health insurance coverage on behalf of themselves and their dependents through a group health plan maintained by a large employer;

Z. "late enrollee" means, with respect to coverage under a group health plan, a participant or beneficiary who enrolls under the plan other than during:

- (1) the first period in which the individual is eligible to enroll under the plan; or
- (2) a special enrollment period pursuant to Sections 59A-23E-8 and 59A-23E-9 NMSA 1978;

AA. "medical care" means:

(1) services consisting of the diagnosis, cure, mitigation, treatment or prevention of human disease or provided for the purpose of affecting any structure or function of the human body; and

(2) transportation services primarily for and essential to provision of the services described in Paragraph (1) of this subsection;

BB. "network plan" means health insurance coverage of a health insurance issuer under which the financing and delivery of medical care are provided through a defined set of providers under contract with the issuer;

CC. "nonfederal governmental plan" means a governmental plan that is not a federal governmental plan;

DD. "participant" means:

(1) that term as defined in Section 3(7) of the federal Employee Retirement Income Security Act of 1974;

(2) a partner in relationship to a partnership in connection with a group health plan maintained by the partnership; and

(3) a self-employed individual in connection with a group health plan maintained by the self-employed individual;

EE. "placed for adoption" means a child has been placed with a person who assumes and retains a legal obligation for total or partial support of the child in anticipation of adoption of the child;

FF. "plan sponsor" means that term as defined in Section 3(16)(B) of the federal Employee Retirement Income Security Act of 1974;

GG. "preexisting condition exclusion" means a limitation or exclusion of benefits relating to a condition based on the fact that the condition was present before the date of the coverage for the benefits whether or not any medical advice, diagnosis, care or treatment was recommended before that date, but genetic information is not included as a preexisting condition for the purposes of limiting or excluding benefits in the absence of a diagnosis of the condition related to the genetic information;

HH. "small employer" means, in connection with a group health plan and with respect to a calendar year and a plan year, an employer who employed an average of

at least two but not more than fifty employees on business days during the preceding calendar year and who employs at least two employees on the first day of the plan year;

II. "small group market" means the health insurance market under which individuals obtain health insurance coverage through a group health plan maintained by a small employer;

JJ. "state law" means laws, decisions, rules, regulations or state action having the effect of law; and

KK. "waiting period" means, with respect to a group health plan and an individual who is a potential participant or beneficiary in the plan, the period that must pass with respect to the individual before the individual is eligible to be covered for benefits under the terms of the plan."

Chapter 259 Section 8 Laws 2019

SECTION 8. Section 59A-23E-3 NMSA 1978 (being Laws 1997, Chapter 243, Section 3, as amended) is amended to read:

"59A-23E-3. LIMITATION ON PREEXISTING CONDITION EXCLUSION PERIOD.--A health insurance issuer or health benefits plan offering group health insurance, blanket health insurance or individual health insurance shall not impose any preexisting condition exclusion with respect to that health insurance plan or coverage. A health insurance issuer or health insurance plan offering group health insurance, blanket health insurance or individual health insurance shall not impose a waiting period in excess of ninety days with respect to a health insurance plan or coverage."

Chapter 259 Section 9 Laws 2019

SECTION 9. Section 59A-23E-8 NMSA 1978 (being Laws 1997, Chapter 243, Section 8, as amended) is amended to read:

"59A-23E-8. GROUP HEALTH PLAN--GROUP HEALTH INSURANCE--SPECIAL ENROLLMENT PERIODS FOR INDIVIDUALS LOSING OTHER COVERAGE.--

A. A group health plan and a health insurance issuer offering group health insurance coverage in connection with a group health plan shall permit an employee who is eligible but not enrolled for coverage under the terms of the plan, or a dependent of the employee if the dependent is eligible but not enrolled for coverage, to enroll for coverage under the terms of the plan if:

(1) the employee or dependent was covered under a group health plan or had health insurance coverage at the time coverage was previously offered to the employee or dependent;

(2) the employee stated in writing at the time coverage was offered that coverage under a group health plan or health insurance coverage was the reason for declining enrollment, but only if the plan sponsor or issuer required such a statement at the time and provided the employee with notice of that requirement and the consequences of the requirement at the time;

(3) the employee's or dependent's coverage described in Paragraph (1) of this subsection was:

(a) under a COBRA continuation provision and the coverage under that provision was exhausted; or

(b) not under a COBRA continuation provision and either the coverage was terminated as a result of loss of eligibility for the coverage, including as a result of legal separation, divorce, death, termination of employment or reduction in the number of hours of employment, or employer contributions toward the coverage were terminated; and

(4) under the terms of the plan, the employee requested enrollment not later than thirty days after the date of exhaustion of coverage described in Subparagraph (a) of Paragraph (3) of this subsection or termination of coverage or employer contribution described in Subparagraph (b) of Paragraph (3) of this subsection.

B. A group health plan or a health insurance issuer offering group health insurance plan coverage shall permit an eligible enrollee to enroll for coverage under the terms of the plan if either of the following conditions is met:

(1) the eligible enrollee's medical assistance provided pursuant to the Public Assistance Act is terminated; or

(2) the eligible enrollee becomes eligible for medical assistance, with respect to coverage under the group health plan or health insurance plan, under such medicaid plan or state child health plan, including under any waiver or demonstration project conducted under or in relation to such a plan, if the employee requests coverage under the group health plan or health insurance plan not later than sixty days after the date the employee or dependent is determined to be eligible for such assistance.

C. As used in this section, "eligible enrollee" means an employee or dependent of an employee who is eligible, but not enrolled, for coverage under the terms of an employer's group health plan."

Chapter 259 Section 10 Laws 2019

SECTION 10. Section 59A-23E-11 NMSA 1978 (being Laws 1997, Chapter 243, Section 11, as amended) is amended to read:

"59A-23E-11. PROHIBITING DISCRIMINATION BASED ON HEALTH STATUS AGAINST INDIVIDUAL PARTICIPANTS AND BENEFICIARIES.--A group health plan and a health insurance issuer offering group or individual health insurance coverage shall not establish rules for eligibility or continued eligibility of any individual to enroll or continue to participate in a health plan, or eligibility or continued eligibility for benefits, based on any of the following factors in relation to the individual or a dependent of the individual:

- A. health status;
- B. medical condition, including both physical and mental illnesses;
- C. claims experience;
- D. receipt of health care;
- E. medical history;
- F. genetic information;
- G. evidence of insurability, including conditions arising out of acts of domestic violence;
- H. disability;
- I. gender;
- J. national origin;
- K. sexual orientation; or
- L. any other health status-related factor that the superintendent specifies in rules of the office of superintendent of insurance."

Chapter 259 Section 11 Laws 2019

SECTION 11. Section 59A-23E-12 NMSA 1978 (being Laws 1997, Chapter 243, Section 12, as amended) is amended to read:

"59A-23E-12. PROHIBITING DISCRIMINATION BASED ON HEALTH STATUS AGAINST INDIVIDUAL PARTICIPANTS AND BENEFICIARIES IN PREMIUM CONTRIBUTIONS.--

A. A group health plan and a health insurance issuer offering group or individual health insurance coverage shall not require an individual as a condition of enrollment or continued enrollment under the plan to pay a premium or contribution that is greater than the premium or contribution for a similarly situated individual enrolled in the plan on the basis of the health status related factor in relation to the individual or a person enrolled under the plan as a dependent of the individual.

B. The provisions of Subsection A of this section shall not be construed to:

(1) restrict the amount that an employer or an individual may be charged for coverage under a group health plan or individual health coverage; or

(2) prevent a group health plan or a health insurance issuer offering group health insurance coverage from establishing premium discounts or rebates or modifying otherwise applicable copayments or deductibles in return for adherence to programs of health promotion and disease prevention.

C. A group health benefits plan or a health insurance issuer that offers group health insurance coverage in connection with a group health benefits plan shall not adjust premiums or contribution amounts for the group covered under the plan on the basis of genetic information."

Chapter 259 Section 12 Laws 2019

SECTION 12. Section 59A-23E-13 NMSA 1978 (being Laws 1997, Chapter 243, Section 13, as amended) is amended to read:

"59A-23E-13. HEALTH INSURANCE ISSUERS--GUARANTEED AVAILABILITY OF COVERAGE--EXCEPTIONS FOR NETWORK PLANS, INSUFFICIENT FINANCIAL CAPACITY AND BONA FIDE ASSOCIATIONS--EMPLOYER CONTRIBUTION RULES.--

A. Except as provided in Subsections C through E of this section, a health insurance issuer that offers health insurance coverage in the individual or small group markets shall:

(1) accept every individual or employer that applies for coverage;

(2) accept for enrollment under the offered coverage an eligible individual who applies for enrollment during the period in which the individual first becomes eligible to enroll under the terms of the group health plan or during an open or special enrollment period as specified in rules of the office of superintendent of insurance; and

(3) not place a restriction on an eligible individual being a participant or a beneficiary that is inconsistent with Sections 59A-23E-11 and 59A-23E-12 NMSA 1978.

B. The superintendent shall adopt and promulgate rules relating to enrollment periods.

C. A health insurance issuer that offers health insurance coverage in the group or individual markets through a network plan may:

(1) limit the employers or individuals that may apply for the coverage to those with eligible individuals who live, work or reside in the service area for the network plan; and

(2) within the service area of the network plan, deny coverage to individuals or employers within the service area for the network plan if the issuer has demonstrated to the superintendent that it:

(a) will not have the capacity to deliver services adequately to enrollees of any additional groups or any additional individuals because of its obligations to existing individuals, group contract holders and enrollees; and

(b) is applying this exception uniformly to all employers and individuals without regard to the claims experience of those individuals or those employers, their employees and their dependents or any health status related factor relating to those individuals, employees and dependents.

D. A health insurance issuer, upon denying insurance coverage in any service area pursuant to the provisions of Subsection C of this section, shall not offer coverage in the group market or individual market within the service area for a period of one hundred eighty days after the date coverage is denied.

E. A health insurance issuer may deny health insurance coverage in the individual and group markets if the issuer has demonstrated to the superintendent that it:

(1) does not have the financial reserves necessary to underwrite additional coverage; and

(2) is applying this exception uniformly to all individuals, employers and their employees in the individual and group markets in the state consistent with state law and without regard to the claims experience of those individuals, employers, their employees and their dependents or any health status related factor relating to those individuals, employees and dependents.

F. A health insurance issuer, upon denying health insurance coverage in accordance with Paragraphs (1) and (2) of Subsection E of this section, shall not offer coverage in the group or individual markets in the state for a period of one hundred eighty days after the date the coverage is denied or until the issuer has demonstrated to the superintendent that the carrier has sufficient financial reserves to underwrite additional coverage, whichever is later. The superintendent may provide for the application of this subsection on a service-area-specific basis.

G. As used in this section, "eligible individual" means, with respect to a health insurance issuer offering an individual or group health plan, an individual whose eligibility shall be determined:

(1) in accordance with the terms of the plan;

(2) as provided by the issuer under the rules of the issuer that are uniformly applicable in the state to the individual and group markets; and

(3) in accordance with New Mexico Insurance Code provisions governing the issuer and the small group market."

Chapter 259 Section 13 Laws 2019

SECTION 13. Section 59A-23E-14 NMSA 1978 (being Laws 1997, Chapter 243, Section 14, as amended) is amended to read:

"59A-23E-14. HEALTH INSURANCE ISSUERS--GUARANTEED AVAILABILITY OF COVERAGE.--

A. Except as provided in Subsections B through F of this section, a health insurance issuer that offers health insurance coverage in the individual or group markets shall renew or continue that coverage in force at the option of the plan sponsor or the individual.

B. A health insurance issuer may refuse to renew or may discontinue health insurance coverage offered pursuant to Subsection A of this section if:

(1) the plan sponsor or individual has failed to pay premiums or contributions in accordance with the terms of the health insurance coverage or the issuer has not received timely premium payments;

(2) the plan sponsor or individual has performed an act or practice that constitutes fraud or made an intentional misrepresentation of a material fact under the terms of the coverage;

(3) the issuer is ceasing to offer coverage in the market in accordance with Subsection C of this section; or

(4) in the case of a health insurance issuer that offers health insurance coverage in the market through a network plan, there is no longer any enrollee in connection with that plan who lives, resides or works in the service area of the issuer or the area for which the issuer is authorized to do business and the issuer would deny enrollment with respect to the network plan pursuant to Paragraph (1) of Subsection C of Section 59A-23E-13 NMSA 1978.

C. A health insurance issuer may discontinue offering a particular type of individual or group health insurance coverage offered in the group or individual markets only if:

(1) the issuer provides notice to each plan sponsor or individual provided coverage of this type in the market and to the participants and beneficiaries covered under the coverage of the discontinuation at least ninety days prior to the date of the discontinuation;

(2) the issuer offers to a plan sponsor or individual provided coverage of this type in the market the option to purchase any other health insurance plan coverage currently being offered by the issuer in that market; and

(3) in exercising the option to discontinue coverage of this type and in offering the option of coverage pursuant to Paragraph (2) of this subsection, the issuer acts uniformly without regard to the claims experience of those sponsors or individuals

or any health status related factors relating to any participants or beneficiaries who may become eligible for that coverage.

D. If a health insurance issuer elects to discontinue offering all health insurance coverage in the individual or group markets, coverage may be discontinued only if:

(1) the issuer provides notice to the superintendent and to each plan sponsor or to the individual and participants and beneficiaries covered under that coverage of the discontinuation at least one hundred eighty days prior to the date of discontinuation; and

(2) all health insurance issued or delivered for issuance in the state in the market is discontinued and coverage is not renewed.

E. After discontinuation pursuant to Subsection D of this section, the health insurance issuer shall not provide for the issuance of any health insurance coverage in the market involved during the five-year period beginning on the date of the discontinuation of the last health insurance coverage not renewed.

F. At the time of coverage renewal pursuant to Subsection A of this section, a health insurance issuer may modify the coverage for a policy form offered to a group or individual if the modification is effective on a uniform basis among all groups or individuals, as applicable, with that policy form."

Chapter 259 Section 14 Laws 2019

SECTION 14. Section 59A-23E-15 NMSA 1978 (being Laws 1997, Chapter 243, Section 15, as amended) is amended to read:

"59A-23E-15. DISCLOSURE OF INFORMATION BY HEALTH INSURANCE ISSUERS.--

A. A health insurance issuer when offering health insurance coverage to an employer or individual shall:

(1) make a reasonable disclosure to the small employer or individual as part of its solicitation and sales materials, of the availability of information described in Subsection B of this section; and

(2) upon request of the employer or individual provide the information described.

B. Except as provided in Subsection D of this section, a health insurance issuer offering a health plan to an employer or individual shall provide information pursuant to Subsection A of this section concerning:

- (1) the provisions of coverage concerning the issuer's right to change premium rates and the factors that may affect changes in premium rates;
- (2) the provisions of coverage relating to renewability of coverage; and
- (3) the benefits and premiums available

under all health insurance coverage for which the small employer is qualified.

C. Information furnished pursuant to this section shall be provided to employers or individuals in a manner determined to be understandable by the average employer or individual and shall be sufficient to reasonably inform employers or individuals of their rights and obligations under the health insurance coverage.

D. A health insurance issuer is not required by this section to disclose information that is proprietary and trade secret information."

Chapter 259 Section 15 Laws 2019

SECTION 15. Section 59A-23E-16 NMSA 1978 (being Laws 1997, Chapter 243, Section 16, as amended) is amended to read:

"59A-23E-16. EXCLUSIONS, LIMITATIONS AND EXCEPTIONS FOR CERTAIN GROUP HEALTH PLANS AND GROUP HEALTH INSURANCE.--

A. The requirements of Sections 59A-23E-3 through 59A-23E-15, 59A-23E-17 and 59A-23E-18 NMSA 1978 do not apply to any group retiree health plan and health insurance coverage offered in connection with a group retiree health plan if, on the first day of the plan year, the plan has fewer than two employees who are current employees.

B. The requirements of Sections 59A-23E-3 through 59A-23E-15, 59A-23E-17 and 59A-23E-18 NMSA 1978 shall not apply with respect to a group health plan or group retiree health plan that is a nonfederal governmental plan if the plan sponsor makes an election under the provisions of this subsection in conformity with regulations of the federal secretary of health and human services. The period of an election for exclusion made pursuant to this subsection is for a single specified plan year or, in the case of a plan provided pursuant to a collective bargaining agreement, for the term of

the agreement. The plan for which an election is made shall provide under the terms of the election for:

(1) notice to enrollees on an annual basis and at the time of enrollment of the facts and consequences of the election; and

(2) certification and disclosure of creditable coverage under the plan with respect to enrollees in accordance with Section 59A-23E-7 NMSA 1978.

C. The requirements of Sections 59A-23E-3 through 59A-23E-15, 59A-23E-17 and 59A-23E-18 NMSA 1978 do not apply to a group health plan and group health insurance coverage offered in connection with a group health plan in relation to its provision of excepted benefits described in Paragraph (9) of Subsection L of Section 59A-23E-2 NMSA 1978 if the benefits are:

(1) provided under a separate policy, certificate or contract of insurance;

or

(2) otherwise not an integral part of the plan.

D. The requirements of Sections 59A-23E-3 through 59A-23E-15, 59A-23E-17 and 59A-23E-18 NMSA 1978 do not apply to any group health plan and group health insurance coverage offered in connection with a group health plan in relation to its provision of excepted benefits described in Paragraph (10) of Subsection L of Section 59A-23E-2 NMSA 1978 if:

(1) the benefits are provided under a separate policy, certificate or contract of insurance;

(2) there is no coordination between the provision of the benefits and any exclusion of benefits under any group health plan maintained by the same plan sponsor; and

(3) the benefits are paid with respect to an event without regard to whether benefits are provided with respect to that event under any group health plan maintained by the same plan sponsor.

E. The requirements of Sections 59A-23E-3 through 59A-23E-15, 59A-23E-17 and 59A-23E-18 NMSA 1978 do not apply to any group health plan and group health insurance coverage offered in connection with a group health plan in relation to its provision of excepted benefits described in Paragraph (11) of Subsection L of Section

59A-23E-2 NMSA 1978 if the benefits are provided under a separate policy, certificate or contract of insurance."

Chapter 259 Section 16 Laws 2019

SECTION 16. Section 59A-23E-18 NMSA 1978 (being Laws 2000, Chapter 6, Section 1) is amended to read:

"59A-23E-18. REQUIREMENT FOR MENTAL HEALTH BENEFITS IN AN INDIVIDUAL OR GROUP HEALTH PLAN, OR GROUP HEALTH INSURANCE OFFERED IN CONNECTION WITH THE PLAN, FOR A PLAN YEAR OF AN EMPLOYER.--

A. A group health plan or group or individual health insurance shall not impose treatment limitations or financial restrictions, limitations or requirements on the provision of mental health benefits that are more restrictive than the predominant restrictions, limitations or requirements that are imposed on coverage of benefits for other conditions.

B. A group health plan or group or individual health insurance offered in connection with that plan, may:

(1) require pre-admission screening prior to the authorization of mental health benefits whether inpatient or outpatient; or

(2) apply limitations that restrict mental health benefits provided under the plan to those that are medically necessary.

C. As used in this section, "mental health benefits" means mental health benefits as described in the group health plan, or group health insurance offered in connection with the plan; but does not include benefits with respect to treatment of substance abuse, chemical dependency or gambling addiction."

Chapter 259 Section 17 Laws 2019

SECTION 17. Section 59A-46-2 NMSA 1978 (being Laws 1993, Chapter 266, Section 2, as amended) is amended to read:

"59A-46-2. DEFINITIONS.--As used in the Health Maintenance Organization Law:

A. "basic health care services" means medically necessary services consisting of preventive care, emergency care, inpatient and outpatient hospital and physician care, diagnostic laboratory, diagnostic and therapeutic radiological services and services of pharmacists and pharmacist clinicians;

B. "capitated basis" means fixed per member per month payment or percentage of premium payment wherein the provider assumes the full risk for the cost of contracted services without regard to the type, value or frequency of services provided and includes the cost associated with operating staff model facilities;

C. "carrier" means a health maintenance organization, an insurer, a nonprofit health care plan or other entity responsible for the payment of benefits or provision of services under a group contract;

D. "copayment" means an amount an enrollee must pay in order to receive a specific service that is not fully prepaid;

E. "credentialing" means the process of obtaining and verifying information about a provider and evaluating that provider when that provider seeks to become a participating provider;

F. "deductible" means the amount an enrollee is responsible to pay out-of-pocket before the health maintenance organization begins to pay the costs associated with treatment;

G. "enrollee" means an individual who is covered by a health maintenance organization;

H. "evidence of coverage" means a policy, contract or certificate showing the essential features and services of the health maintenance organization coverage that is given to the subscriber by the health maintenance organization or by the group contract holder;

I. "extension of benefits" means the continuation of coverage under a particular benefit provided under a contract or group contract following termination with respect to an enrollee who is totally disabled on the date of termination;

J. "grievance" means a written complaint submitted in accordance with the health maintenance organization's formal grievance procedure by or on behalf of the enrollee regarding any aspect of the health maintenance organization relative to the enrollee;

K. "group contract" means a contract for health care services that by its terms limits eligibility to members of a specified group and may include coverage for dependents;

L. "group contract holder" means the person to whom a group contract has been issued;

M. "health care services" means any services included in the furnishing to any individual of medical, mental, dental, pharmaceutical or optometric care or hospitalization or nursing home care or incident to the furnishing of such care or hospitalization, as well as the furnishing to any person of any and all other services for the purpose of preventing, alleviating, curing or healing human physical or mental illness or injury;

N. "health maintenance organization" means any person who undertakes to provide or arrange for the delivery of basic health care services to enrollees on a prepaid basis, except for enrollee responsibility for copayments or deductibles;

O. "health maintenance organization agent" means a person who solicits, negotiates, effects, procures, delivers, renews or continues a policy or contract for health maintenance organization membership or who takes or transmits a membership fee or premium for such a policy or contract, other than for that person, or a person who advertises or otherwise makes any representation to the public as such;

P. "individual contract" means a contract for health care services issued to and covering an individual and it may include dependents of the subscriber;

Q. "insolvent" or "insolvency" means that the organization has been declared insolvent and placed under an order of liquidation by a court of competent jurisdiction;

R. "managed hospital payment basis" means agreements in which the financial risk is related primarily to the degree of utilization rather than to the cost of services;

S. "net worth" means the excess of total admitted assets over total liabilities, but the liabilities shall not include fully subordinated debt;

T. "participating provider" means a provider as defined in Subsection X of this section who, under an express contract with the health maintenance organization or with its contractor or subcontractor, has agreed to provide health care services to enrollees with an expectation of receiving payment, other than copayment or deductible, directly or indirectly from the health maintenance organization;

U. "person" means an individual or other legal entity;

V. "pharmacist" means a person licensed as a pharmacist pursuant to the Pharmacy Act;

W. "pharmacist clinician" means a pharmacist who exercises prescriptive authority pursuant to the Pharmacist Prescriptive Authority Act;

X. "provider" means a physician, pharmacist, pharmacist clinician, hospital or other person licensed or otherwise authorized to furnish health care services;

Y. "replacement coverage" means the benefits provided by a succeeding carrier;

Z. "subscriber" means an individual whose employment or other status, except family dependency, is the basis for eligibility for enrollment in the health maintenance organization or, in the case of an individual contract, the person in whose name the contract is issued; and

AA. "uncovered expenditures" means the costs to the health maintenance organization for health care services that are the obligation of the health maintenance organization, for which an enrollee may also be liable in the event of the health maintenance organization's insolvency and for which no alternative arrangements have been made that are acceptable to the superintendent."

Chapter 259 Section 18 Laws 2019

SECTION 18. Section 59A-46-32 NMSA 1978 (being Laws 1984, Chapter 127, Section 876.1) is amended to read:

"59A-46-32. CONTINUATION OF COVERAGE AND CONVERSION RIGHTS--
HEALTH CARE PLANS.--

A. Every individual or group contract entered into by a health maintenance organization and that is delivered, issued for delivery or renewed in this state on or after January 1, 1985 shall provide covered family members of subscribers the right to continue such coverage through a converted or separate contract upon the death of the subscriber or upon the divorce, annulment or dissolution of marriage or legal separation of the spouse from the subscriber. Where a continuation of coverage or conversion is made in the name of the spouse of the subscriber, such coverage may, at the option of the spouse, include coverage to dependent children for whom the spouse has responsibility for care and support.

B. The right to a continuation of coverage or conversion pursuant to this section shall not exist with respect to any covered family member of a subscriber in the event the coverage terminates for nonpayment of premium, nonrenewal of the contract or the expiration of the term for which the contract is issued. With respect to any covered family member who is eligible for medicare or any other similar federal or state health insurance program, the right to a continuation of coverage or conversion shall be limited to coverage under a medicare supplement insurance contract as defined by the rules and regulations adopted by the superintendent of insurance.

C. Coverage continued through the issuance of a converted or separate contract shall be provided at a reasonable, nondiscriminatory rate to the insured and shall consist of a form of coverage then being offered by the health maintenance organization as a conversion contract. Continued and converted coverages shall contain renewal provisions that are not less favorable to the subscriber than those contained in the contract from which the conversion is made, except that the person who exercises the right of conversion is entitled only to have included a right to coverage under a medicare supplement insurance contract, as defined by the rules and regulations adopted by the superintendent of insurance, after the attainment of the age of eligibility for medicare or any other similar federal or state health insurance program.

D. At the time of inception of coverage, the health maintenance organization shall provide each covered family member eighteen years of age or older a statement setting forth in summary form the continuation of coverage and conversion provisions of the subscriber's contract.

E. The eligible covered family member exercising the continuation or conversion right must notify the health maintenance organization and make payment of the applicable premium within thirty days following the date such coverage otherwise terminates as specified in the contract from which continuation or conversion is being exercised.

F. Coverage shall be provided through continuation or conversion without additional evidence of insurability and shall not impose any preexisting condition, limitations or other contractual time limitations.

G. Any probationary or waiting period set forth in the converted or separate contract is deemed to commence on the effective date of the applicant's coverage under the original contract."

Chapter 259 Section 19 Laws 2019

SECTION 19. Section 59A-47-34 NMSA 1978 (being Laws 1984, Chapter 127, Section 879.33) is amended to read:

"59A-47-34. CONTINUATION OF COVERAGE AND CONVERSION RIGHTS--HEALTH CARE PLANS.--

A. Every individual or group contract entered into by a health care plan that provides for health care expense payments on a service benefit basis or an indemnity benefit basis or both and that is delivered, issued for delivery or renewed in this state on or after July 1, 1984 shall provide covered family members of subscribers the right to continue such coverage through a converted or separate contract upon the death of the subscriber or upon the divorce, annulment or dissolution of marriage or legal separation of the spouse from the subscriber. Where a continuation of coverage or conversion is made in the name of the spouse of the subscriber, such coverage may, at the option of the spouse, include coverage to dependent children for whom the spouse has responsibility for care and support.

B. The right to a continuation of coverage or conversion pursuant to this section shall not exist with respect to any covered family member of a subscriber in the event the coverage terminates for nonpayment of premium, nonrenewal of the contract or the expiration of the term for which the contract is issued. With respect to any covered family member who is eligible for medicare or any other similar federal or state health insurance program, the right to a continuation of coverage or conversion shall be limited to coverage under a medicare supplement insurance contract as defined by the rules and regulations adopted by the superintendent of insurance.

C. Coverage continued through the issuance of a converted or separate contract shall be provided at a reasonable, nondiscriminatory rate to the insured and shall consist of a form of coverage then being offered by the health care plan as a conversion contract in the jurisdiction where the person exercising the conversion right resides that most nearly approximates the coverage of the contract from which conversion is exercised. Continued and converted coverages shall contain renewal provisions that are not less favorable to the subscriber than those contained in the policy from which the conversion is made, except that the person who exercises the right of conversion is entitled only to have included a right to coverage under a medicare supplement insurance contract, as defined by the rules and regulations adopted by the superintendent of insurance, after the attainment of the age of eligibility for medicare or any other similar federal or state health insurance program.

D. At the time of inception of coverage, the health care plan shall provide each covered family member eighteen years of age or older a statement setting forth in

summary form the continuation of coverage and conversion provisions of the subscriber's contract.

E. The eligible covered family member exercising the continuation or conversion right must notify the health care plan and make payment of the applicable premium within thirty days following the date such coverage otherwise terminates as specified in the contract from which continuation or conversion is being exercised.

F. Coverage shall be provided through continuation or conversion without additional evidence of insurability and shall not impose any preexisting condition, limitations or other contractual time limitations.

G. Any probationary or waiting period set forth in the converted or separate contract is deemed to commence on the effective date of the applicant's coverage under the original contract."

Chapter 259 Section 20 Laws 2019

SECTION 20. A new section of the New Mexico Insurance Code is enacted to read:

"STATE INNOVATION WAIVER APPLICATION.--The superintendent, in consultation with and pursuant to approval by the governor, is authorized to submit a state innovation waiver application pursuant to Section 1332 of the federal Patient Protection and Affordable Care Act to establish a program relating to access and affordability of health insurance coverage. In applying for a waiver pursuant to Section 1332 of the federal Patient Protection and Affordable Care Act, the superintendent shall seek any federal funding available to implement the waiver."

Chapter 259 Section 21 Laws 2019

SECTION 21. A new section of the New Mexico Insurance Code is enacted to read:

"EXCLUSION PROHIBITION NOT APPLICABLE TO EXCEPTED BENEFIT PLANS OR POLICIES.--

A. Notwithstanding any other provisions of law, an excepted benefits policy or plan shall not exclude coverage for losses incurred for a preexisting condition more than twelve months from the effective date of coverage. The policy or plan shall not define a preexisting condition more restrictively than a condition for which medical advice was

given or treatment recommended by or received from a physician within twelve months before the effective date of coverage.

B. As used in this section, "excepted benefits" means benefits furnished pursuant to the following:

- (1) coverage-only accident or disability income insurance;
- (2) coverage issued as a supplement to liability insurance;
- (3) liability insurance;
- (4) workers' compensation or similar insurance;
- (5) automobile medical payment insurance;
- (6) credit-only insurance;
- (7) coverage for on-site medical clinics;
- (8) other similar insurance coverage specified in office of superintendent of insurance rules, under which benefits for medical care are secondary or incidental to other benefits;
- (9) the following benefits if offered separately:
 - (a) limited-scope dental or vision benefits;
 - (b) benefits for long-term care, nursing home care, home health care, community-based care or any combination of those benefits; and
 - (c) other similar limited benefits specified in office of superintendent of insurance rules;
- (10) the following benefits, offered as independent, non-coordinated benefits:
 - (a) coverage-only for a specified disease or illness; or
 - (b) hospital indemnity or other fixed indemnity insurance; and
- (11) the following benefits if offered as a separate insurance policy:

(a) medicare supplemental health insurance as defined pursuant to Section 1882(g)(1) of the federal Social Security Act; and

(b) coverage supplemental to the coverage provided pursuant to Chapter 55 of Title 10 USCA and similar supplemental coverage provided to coverage pursuant to a group health plan."

Chapter 259 Section 22 Laws 2019

SECTION 22. REPEAL.--Sections 59A-22-37, 59A-23B-1 through 59A-23B-12, 59A-23C-5, 59A-23C-7.1 and 59A-23E-4 through 59A-23E-7 NMSA 1978 (being Laws 1984, Chapter 127, Section 459, Laws 1991, Chapter 111, Sections 1 through 10, Laws 1994, Chapter 64, Section 7, Laws 1991, Chapter 111, Section 11, Laws 2003, Chapter 252, Section 2, Laws 1991, Chapter 153, Section 5, Laws 1994, Chapter 75, Section 32 and Laws 1997, Chapter 243, Sections 4 through 7, as amended) are repealed. _____

House Bill 436, aa

Approved April 4, 2019

LAWS 2019, CHAPTER 260

AN ACT

RELATING TO OIL AND GAS; IMPOSING FEES; CREATING A FUND; MAKING AN APPROPRIATION.

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

Chapter 260 Section 1 Laws 2019

SECTION 1. A new section of the Oil and Gas Act is enacted to read:

"FEES--APPROPRIATION.--

A. The following fees are required to be paid to the oil conservation division of the energy, minerals and natural resources department:

(1) with each application for a non-federal and non-Indian permit to drill, deepen, plug back or reenter a well, the applicant shall submit to the division a nonrefundable fee of five hundred dollars (\$500);

(2) with each individual application for administrative approval of a non-standard location, downhole commingle, surface commingle, off-lease measurement, release notification and corrective action, change of operator, application for modification to surface waste management facility, request for the creation of a new pool, proposed alternative method permit or closure plan application or authorization to move produced water, the applicant shall submit to the division a nonrefundable fee of one hundred fifty dollars (\$150);

(3) with each application for a fluid injection well permit, the applicant shall submit to the division a nonrefundable fee of five hundred dollars (\$500) per well;

(4) with each application for a permit for a commercial surface waste management facility, landfill or landfarm, the applicant shall submit to the division a nonrefundable fee of ten thousand dollars (\$10,000) per facility;

(5) with each application for an administrative hearing, re-hearing or de novo hearing before the division or commission, the applicant shall submit to the division a nonrefundable fee of five hundred dollars (\$500) per application; and

(6) with each application for a continuance of an administrative hearing, re-hearing or de novo hearing before the division or commission, the applicant shall submit to the division a nonrefundable fee of one hundred fifty dollars (\$150) per application.

B. An application for an administrative hearing, re-hearing or de novo hearing before the oil conservation division or commission will be considered to be materially amended if the amendment is made for a purpose other than to correct:

(1) typographical errors; or

(2) clerical errors.

C. The "oil conservation division systems and hearings fund" is created in the state treasury as a nonreverting fund. All funds received by the oil conservation division from fees imposed pursuant to Subsection A of this section shall be delivered to the state treasurer and deposited in the fund. Disbursements from the fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the secretary of energy, minerals and natural resources or the

secretary's authorized representative. Money in the fund is subject to appropriation by the legislature to the division to develop and modernize the division's online application processing system, online case management system and online case file system and for other technological upgrades and hearing administration costs. Any unexpended or unencumbered balance remaining in the fund at the end of a fiscal year shall not revert to the general fund. Money in the fund in fiscal year 2020 may be expended by the division for the purposes of the fund."

Chapter 260 Section 2 Laws 2019

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.

SFC/Senate Bill 553, aa

Approved April 4, 2019

LAWS 2019, CHAPTER 261

AN ACT

RELATING TO HEALTH; ENACTING A SECTION OF THE PUBLIC SCHOOL CODE AND AMENDING A SECTION OF THE LYNN AND ERIN COMPASSIONATE USE ACT TO ALLOW THE POSSESSION, STORAGE AND ADMINISTRATION OF MEDICAL CANNABIS IN CERTAIN SCHOOL SETTINGS.

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

Chapter 261 Section 1 Laws 2019

SECTION 1. A new section of the Public School Code is enacted to read:

"MEDICAL CANNABIS--POSSESSION--STORAGE--ADMINISTRATION--RESTRICTION--EXEMPTIONS.--

A. Except as provided pursuant to Subsection C of this section, local school boards and the governing bodies of charter schools shall adopt policies and procedures to authorize the possession, storage and administration of medical cannabis by parents

and legal guardians, or by designated school personnel, to qualified students for use in school settings; provided that:

(1) a student shall not possess, store or self-administer medical cannabis in a school setting;

(2) a parent, legal guardian or designated school personnel shall not administer medical cannabis in a manner that creates disruption to the educational environment or causes other students to be exposed to medical cannabis;

(3) a written treatment plan for the administration of the medical cannabis is agreed to and signed by the principal or the principal's designee of the qualified student's school and the qualified student's parent or legal guardian; and

(4) before the first administration of medical cannabis in a school setting, the qualified student's parent or legal guardian completes and submits documentation as required by local school board or charter school rules that includes a:

(a) copy of the qualified student's written certification for use of medical cannabis pursuant to the Lynn and Erin Compassionate Use Act; and

(b) written statement from the qualified student's parent or legal guardian releasing the school and school personnel from liability, except in cases of willful or wanton misconduct or disregard of the qualified student's treatment plan.

B. A school board or the governing body of a charter school may adopt policies that:

(1) restrict the types of designated school personnel who may administer medical cannabis to qualified students;

(2) establish reasonable parameters regarding the administration and use of medical cannabis and the school settings in which administration and use are authorized; and

(3) ban student possession, use, distribution, sale or being under the influence of a cannabis product in a manner that is inconsistent with the provisions of this subsection.

C. The provisions of Subsection A of this section shall not apply to a charter school or school district if:

(1) the charter school or school district reasonably determines that it would lose, or has lost, federal funding as a result of implementing the provisions of Subsection A of this section; and

(2) the determination is appealable by any parent to the secretary, based on rules established by the department.

D. A public school, charter school or school district shall not:

(1) discipline a student who is a qualified student on the basis that the student requires medical cannabis as a reasonable accommodation necessary for the student to attend school;

(2) deny eligibility to attend school to a qualified student on the basis that the qualified student requires medical cannabis as a reasonable accommodation necessary for the student to attend school or a school-sponsored activity; or

(3) discipline a school employee who refuses to administer medical cannabis.

E. As used in this section:

(1) "certifying practitioner" means a health care practitioner who issues a written certification to a qualified student;

(2) "designated school personnel" means a school employee whom a public school, charter school or school district authorizes to possess, store and administer medical cannabis to a qualified student in accordance with the provisions of this section;

(3) "medical cannabis" means cannabis that is:

(a) authorized for use by qualified patients in accordance with the provisions of the Lynn and Erin Compassionate Use Act; and

(b) in a form that is not an aerosol and cannot be smoked or inhaled in particulate form as a vapor or by burning;

(4) "qualified student" means a student who demonstrates evidence to the school district that the student is authorized as a qualified patient pursuant to the Lynn and Erin Compassionate Use Act to carry and use medical cannabis in accordance with the provisions of that act;

(5) "school" means a public school or a charter school;

(6) "school setting" means any of the following locations during a school day:

(a) a school building;

(b) a school bus used within the state during, in transit to or in transit from a school-sponsored activity;

(c) a public vehicle used within the state during, in transit to or in transit from a school-sponsored activity in the state; or

(d) a public site in the state where a school-sponsored activity takes place; and

(7) "written certification" means a statement in a qualified student's medical records or a statement signed by a qualified student's certifying practitioner that, in the certifying practitioner's professional opinion, the qualified student has a debilitating medical condition and the certifying practitioner believes that the potential health benefits of the medical use of cannabis would likely outweigh the health risks for the qualified student. A written certification is not valid for more than one year from the date of issuance."

Chapter 261 Section 2 Laws 2019

SECTION 2. Section 26-2B-5 NMSA 1978 (being Laws 2007, Chapter 210, Section 5) is amended to read:

"26-2B-5. PROHIBITIONS, RESTRICTIONS AND LIMITATIONS ON THE MEDICAL USE OF CANNABIS--CRIMINAL PENALTIES.--

A. Participation in a medical use of cannabis program by a qualified patient or primary caregiver does not relieve the qualified patient or primary caregiver from:

(1) criminal prosecution or civil penalties for activities not authorized in the Lynn and Erin Compassionate Use Act;

(2) liability for damages or criminal prosecution arising out of the operation of a vehicle while under the influence of cannabis; or

(3) criminal prosecution or civil penalty for possession or use of cannabis:

(a) in the workplace of the qualified patient's or primary caregiver's employment; or

(b) at a public park, recreation center, youth center or other public place.

B. A person who makes a fraudulent representation to a law enforcement officer about the person's participation in a medical use of cannabis program to avoid arrest or prosecution for a cannabis-related offense is guilty of a petty misdemeanor and shall be sentenced in accordance with the provisions of Section 31-19-1 NMSA 1978.

C. If a licensed producer sells, distributes, dispenses or transfers cannabis to a person not approved by the department pursuant to the Lynn and Erin Compassionate Use Act or obtains or transports cannabis outside New Mexico in violation of federal law, the licensed producer shall be subject to arrest, prosecution and civil or criminal penalties pursuant to state law." _____

Senate Bill 204, aa

Approved April 4, 2019

LAWS 2019, CHAPTER 262

AN ACT

RELATING TO CAMPAIGN FINANCE; REQUIRING REPORTING OF INDEPENDENT EXPENDITURES; REDEFINING "POLITICAL COMMITTEE"; DEFINING "ADVERTISEMENT", "BALLOT QUESTION", "CAMPAIGN EXPENDITURE", "COORDINATED EXPENDITURE", "INDEPENDENT EXPENDITURE", "LEGISLATIVE CAUCUS COMMITTEE" AND OTHER TERMS; ADJUSTING CONTRIBUTION AND EXPENDITURE REPORTING REQUIREMENTS, LIMITS AND THRESHOLDS; CHANGING PENALTIES; PROVIDING PENALTIES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Chapter 262 Section 1 Laws 2019

SECTION 1. A new section of the Campaign Reporting Act is enacted to read:

"INDEPENDENT EXPENDITURES--REPORTING REQUIREMENTS.--

A. A person who makes an independent expenditure not otherwise required to be reported under the Campaign Reporting Act shall file a report with the secretary of state within:

(1) three days of making the expenditure if the expenditure, by itself or aggregated with all independent expenditures made by the same person during the election cycle, exceeds one thousand dollars (\$1,000) in a nonstatewide election or three thousand dollars (\$3,000) in a statewide election; or

(2) twenty-four hours of making the expenditure if the expenditure is in an amount of three thousand dollars (\$3,000) or more and is made within seven days before a nonstatewide or statewide election.

B. The report required by Subsection A of this section shall state:

(1) the name and address of the person who made the independent expenditure;

(2) the name and address of the person to whom the independent expenditure was made and the amount, date and purpose of the independent expenditure. If no reasonable estimate of the monetary value of a particular expenditure is practicable, it is sufficient to report instead a description of the services, property or rights furnished through the expenditure; and

(3) the source of the contributions used to make the independent expenditure as provided in Subsections C and D of this section.

C. A person who makes independent expenditures required to be reported under this section in an amount totaling three thousand dollars (\$3,000) or less in a nonstatewide election or nine thousand dollars (\$9,000) or less in a statewide election shall report the name and address of each person who has made contributions of more than a total of two hundred dollars (\$200) in the election cycle that were earmarked or made in response to a solicitation to fund independent expenditures and shall report the amount of each such contribution made by that person.

D. A person who makes independent expenditures required to be reported under this section in an amount totaling more than three thousand dollars (\$3,000) in a nonstatewide election or nine thousand dollars (\$9,000) in a statewide election, in

addition to reporting the information specified in Subsection C of this section, shall either:

(1) if the expenditures were made exclusively from a segregated bank account consisting only of funds contributed to the account by individuals to be used for making independent expenditures, report the name and address of, and amount of each contribution made by, each contributor who contributed more than two hundred dollars (\$200) to that account in the election cycle; or

(2) if the expenditures were made in whole or part from funds other than those described in Paragraph (1) of this subsection, report the name and address of, and amount of each contribution made by, each contributor who contributed more than a total of five thousand dollars (\$5,000) during the election cycle to the person making the expenditures; provided, however, that a contribution is exempt from reporting pursuant to this paragraph if the contributor requested in writing that the contribution not be used to fund independent or coordinated expenditures or to make contributions to a candidate, campaign committee or political committee.

E. If a person who has made a report required by this section is required to make subsequent reports during the election cycle, the information concerning contributions in the subsequent reports shall cover only contributions not previously reported."

Chapter 262 Section 2 Laws 2019

SECTION 2. A new section of the Campaign Reporting Act is enacted to read:

"DISCLAIMERS IN ADVERTISEMENTS.--

A. A person who makes a campaign expenditure, a coordinated expenditure or an independent expenditure for an advertisement in an amount that exceeds one thousand dollars (\$1,000), or in an amount that, when added to the aggregate amount of the campaign expenditures, coordinated expenditures and independent expenditures for advertisements made by the same person during the election cycle, exceeds one thousand dollars (\$1,000), shall ensure that the advertisement contains the name of the candidate, committee or other person who authorized and paid for the advertisement.

B. The requirements of Subsection A of this section do not apply to the following:

(1) bumper stickers, pins, buttons, pens and similar small items upon which the disclaimer cannot be conveniently printed; or

(2) skywriting, water towers, wearing apparel or other means of displaying an advertisement of such a nature that the inclusion of a disclaimer would be impracticable.

C. The disclaimer statements required by Subsection A of this section shall be set forth legibly on any advertisement that is disseminated or displayed by visual media. If the advertisement is transmitted by audio media, the statement shall be clearly spoken during the advertisement. If the advertisement is transmitted by audiovisual media, the statement shall be both written legibly and spoken clearly during the advertisement."

Chapter 262 Section 3 Laws 2019

SECTION 3. Section 1-1-3.1 NMSA 1978 (being Laws 2003, Chapter 356, Section 1, as amended) is amended to read:

"1-1-3.1. ELECTION CYCLE.--Except as otherwise provided, as used in the Election Code:

A. "election cycle" means the period beginning on January 1 after the last general election and ending on December 31 after the general election;

B. "general election cycle" means the period beginning on the day after the primary election and ending on December 31 after the general election; and

C. "primary election cycle" means the period beginning on January 1 after the last general election and ending on the day of the primary election."

Chapter 262 Section 4 Laws 2019

SECTION 4. Section 1-19-26 NMSA 1978 (being Laws 1979, Chapter 360, Section 2, as amended by Laws 2009, Chapter 67, Section 1 and by Laws 2009, Chapter 68, Section 2) is amended to read:

"1-19-26. DEFINITIONS.--As used in the Campaign Reporting Act:

A. "advertisement" means a communication referring to a candidate or ballot question that is published, disseminated, distributed or displayed to the public by print, broadcast, satellite, cable or electronic media, including recorded phone messages, or by printed materials, including mailers, handbills, signs and billboards, but "advertisement" does not include:

(1) a communication by a membership organization or corporation to its current members, stockholders or executive or administrative personnel;

(2) a communication appearing in a news story or editorial distributed through a print, broadcast, satellite, cable or electronic medium;

(3) a candidate debate or forum or a communication announcing a candidate debate or forum paid for on behalf of the debate or forum sponsor; provided that two or more candidates for the same position have been invited to participate or, in the case of an uncontested election, that the single candidate for the position has been invited to participate;

(4) nonpartisan voter guides allowed by the federal Internal Revenue Code of 1986, as amended, for Section 501(c)(3) organizations; or

(5) statements made to a court or administrative board in the course of a formal judicial or administrative proceeding;

B. "anonymous contribution" means a contribution the contributor of which is unknown to the candidate or the candidate's agent or the political committee or its agent who accepts the contribution;

C. "ballot question" means a constitutional amendment or other question submitted to the voters in an election;

D. "bank account" means an account in a financial institution regulated by the United States or a state of the United States;

E. "campaign committee" means an association of two or more persons authorized by a candidate to act on the candidate's behalf for the purpose of electing the candidate to office; provided that a candidate shall not authorize more than one campaign committee;

F. "campaign expenditure" means an expenditure that is made by a campaign committee or by a candidate in support of the candidate's campaign in an election;

G. "candidate" means an individual who seeks or considers an office in an election covered by the Campaign Reporting Act, including a public official, who has filed a declaration of candidacy and has not subsequently filed a statement of withdrawal or:

(1) for a nonstatewide office, has received contributions or made expenditures of more than one thousand dollars (\$1,000) or authorized another person or campaign committee to receive contributions or make expenditures of more than one thousand dollars (\$1,000) for the purpose of seeking election to the office; or

(2) for a statewide office, has received contributions or made expenditures of more than three thousand dollars (\$3,000) or authorized another person or campaign committee to receive contributions or make expenditures of more than three thousand dollars (\$3,000) for the purpose of seeking election to the office or for candidacy exploration purposes in the years prior to the year of the election;

H. "contribution":

(1) means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made or received for a political purpose, including payment of a debt incurred in an election campaign;

(2) includes a coordinated expenditure;

(3) does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee; and

(4) does not include the value of the incidental use of the candidate's personal property, home or business office for campaign purposes;

I. "coordinated expenditure" means an expenditure that is made:

(1) by a person other than a candidate or campaign committee;

(2) at the request or suggestion of, or in cooperation, consultation or concert with, a candidate, campaign committee or political party or any agent or representative of a candidate, campaign committee or political party; and

(3) for the purpose of:

(a) supporting or opposing the nomination or election of a candidate; or

(b) paying for an advertisement that refers to a clearly identified candidate and is published and disseminated to the relevant electorate in New Mexico within thirty days before the primary election or sixty days before the general election in which the candidate is on the ballot;

J. "deliver" or "delivery" means to deliver by certified or registered mail, telecopier, electronic transmission or facsimile or by personal service;

K. "election" means any primary, general or statewide special election in New Mexico and includes county and judicial retention elections but excludes federal, municipal, school board and special district elections;

L. "election year" means an even-numbered year in which an election covered by the Campaign Reporting Act is held;

M. "expenditure" means a payment, transfer or distribution or obligation or promise to pay, transfer or distribute any money or other thing of value for a political purpose, including payment of a debt incurred in an election campaign or pre-primary convention;

N. "independent expenditure" means an expenditure that is:

(1) made by a person other than a candidate or campaign committee;

(2) not a coordinated expenditure as defined in the Campaign Reporting Act; and

(3) made to pay for an advertisement that:

(a) expressly advocates the election or defeat of a clearly identified candidate or the passage or defeat of a clearly identified ballot question;

(b) is susceptible to no other reasonable interpretation than as an appeal to vote for or against a clearly identified candidate or ballot question; or

(c) refers to a clearly identified candidate or ballot question and is published and disseminated to the relevant electorate in New Mexico within thirty days before the primary election or sixty days before the general election at which the candidate or ballot question is on the ballot;

O. "legislative caucus committee" means a political committee established by the members of a political party in a chamber of the legislature;

P. "person" means an individual or entity;

Q. "political committee" means:

(1) a political party;

(2) a legislative caucus committee;

(3) an association that consists of two or more persons whose primary purpose is to make contributions to candidates, campaign committees or political committees or make coordinated expenditures or any combination thereof; or

(4) an association that consists of two or more persons whose primary purpose is to make independent expenditures and that has received more than five thousand dollars (\$5,000) in contributions or made independent expenditures of more than five thousand dollars (\$5,000) in the election cycle;

R. "political party" means an association that has qualified as a political party pursuant to the provisions of Section 1-7-2 NMSA 1978;

S. "political purpose" means for the purpose of supporting or opposing a ballot question or the nomination or election of a candidate;

T. "prescribed form" means a form or electronic format prepared and prescribed by the secretary of state;

U. "public official" means a person elected to an office in an election covered by the Campaign Reporting Act or a person appointed to an office that is subject to an election covered by that act; and

V. "reporting individual" means a public official, candidate or treasurer of a campaign committee or a treasurer of a political committee."

Chapter 262 Section 5 Laws 2019

SECTION 5. Section 1-19-26.1 NMSA 1978 (being Laws 1993, Chapter 46, Section 2, as amended) is amended to read:

"1-19-26.1. POLITICAL COMMITTEES--REGISTRATION-- DISCLOSURES.--

A. It is unlawful for a political committee to continue to receive or make any contribution or expenditure for a political purpose if the committee fails to meet the requirements of Subsections B and C of this section.

B. A political committee shall appoint and maintain a treasurer, file a statement of organization with the secretary of state and pay a filing fee of fifty dollars (\$50.00).

C. A statement of organization required by Subsection B of this section shall be made under oath on a prescribed form showing:

(1) the full name of the committee, which shall fairly and accurately reflect the identity of the committee, including any sponsoring organization, and its address;

(2) a statement of the purpose for which the committee was organized;

(3) the names and addresses of the officers of the committee; and

(4) an identification of any bank account used by the committee to receive or make contributions or make expenditures.

D. Any changes to the information provided in the statement of organization shall be reported to the secretary of state within ten days.

E. The provisions of this section do not apply to a political committee that is located in another state and is registered with the federal election commission if the political committee reports on federal reporting forms filed with the federal election commission all expenditures for and contributions made to reporting individuals in New Mexico and files with the secretary of state, according to the schedule required for the filing of forms with the federal election commission, a copy of either the full report or the cover sheet and the portions of the federal reporting forms that contain the information on expenditures for and contributions made to reporting individuals in New Mexico."

Chapter 262 Section 6 Laws 2019

SECTION 6. Section 1-19-28 NMSA 1978 (being Laws 1979, Chapter 360, Section 4, as amended) is amended to read:

"1-19-28. FURNISHING REPORT FORMS--POLITICAL COMMITTEES--
CANDIDATES.--

A. The secretary of state annually shall furnish to all reporting individuals the prescribed forms for the reporting of expenditures and contributions, supplemental reports and a statement of no activity and the specific dates the reports and statement are due.

B. In addition to the provisions of Subsection A of this section, at the time of filing a declaration of candidacy or a nominating petition, the secretary of state shall give the candidate the prescribed reporting forms and the schedule of specific dates for filing the required reports or a statement of no activity. The prescribed forms shall also be made available to all reporting individuals at the office of the secretary of state and in each county at the office of the county clerk."

Chapter 262 Section 7 Laws 2019

SECTION 7. Section 1-19-29 NMSA 1978 (being Laws 1993, Chapter 46, Section 5, as amended) is amended to read:

"1-19-29. TIME AND PLACE OF FILING REPORTS.--

A. Except as otherwise provided in this section, all reporting individuals shall file with the secretary of state no later than the second Monday in April and October a report of all expenditures made and contributions received on or before the first Monday in those months and not previously reported. The report shall be filed biannually until the provisions specified in Subsection F, G or H of this section have been satisfied.

B. In an election year, instead of the biannual reports provided for in Subsection A of this section, all reporting individuals, except for public officials who are not candidates in an election that year, shall file reports of all expenditures made and contributions received or, if applicable, statements of no activity, according to the following schedule:

(1) no later than the second Monday in April, a report of all expenditures made and contributions received on or before the first Monday in April and not previously reported;

(2) no later than the second Monday in May, a report of all expenditures made and contributions received on or before the first Monday in May and not previously reported;

(3) no later than the second Monday in September, a report of all expenditures made and contributions received on or before the first Monday in September and not previously reported;

(4) no later than the second Monday in October, a report of all expenditures made and contributions received on or before the first Monday in October and not previously reported; provided that if the second Monday of October is a state holiday, the report shall be made on the following day;

(5) no later than the Thursday before a primary, general or statewide special election, a report of all expenditures made and contributions received by 5:00 p.m. on the Tuesday before the election and not previously reported. Any contribution or pledge to contribute that is received after 5:00 p.m. on the Tuesday before the election and that is for more than one thousand dollars (\$1,000) in a nonstatewide election, or more than three thousand dollars (\$3,000) in a statewide election, shall be reported to the secretary of state either in a supplemental report on a prescribed form within twenty-four hours of receipt or in the report to be filed no later than the Thursday before a primary, general or statewide special election, except that any such contribution or pledge to contribute that is received after 5:00 p.m. on the Friday before the election may be reported by 12:00 noon on the Monday before the election;

(6) no later than the thirtieth day after a primary election, a report by all reporting individuals, except those individuals that become candidates after the primary election, of all expenditures made and contributions received on or before the twenty-fifth day after the primary election and not previously reported;

(7) no later than the thirtieth day after a statewide special election, a report of all expenditures made and contributions received on or before the twenty-fifth day after the statewide special election and not previously reported; and

(8) no later than January 7 after a general election, a report of all expenditures made and contributions received on or before December 31 after the general election and not previously reported.

C. If a candidate, political committee, campaign committee or public official has not received any contributions and has not made any expenditures since the candidate's, committee's or official's last report was filed with the proper filing officer, the candidate, committee or official shall only be required to file a statement of no activity, which shall not be required to be notarized, in lieu of a full report when that report would otherwise be due and shall not be required to file a full report until the next required filing date occurring after an expenditure is made or a contribution is received.

D. In an election year, a public official who is not a candidate shall file biannual reports of expenditures made and contributions received or statements of no activity in accordance with the schedule provided for in Subsection A of this section.

E. A report of expenditures and contributions filed after a deadline set forth in this section shall not be deemed to have been timely filed.

F. Except for candidates, campaign committees and public officials who file a statement of no activity, each candidate, campaign committee or public official shall file a report of expenditures and contributions pursuant to the filing schedules set forth in this section, regardless of whether any expenditures were made or contributions were received during the reporting period. Reports shall be required until the reporting individual delivers a report to the secretary of state stating that:

(1) there are no outstanding campaign debts;

(2) all money has been expended in accordance with the provisions of Section 1-19-29.1 NMSA 1978; and

(3) the bank accounts have been closed.

G. If, during a nonelection year, a political committee has not received any contributions or made any coordinated or independent expenditures since it filed its last report pursuant to this section, it need not file any report under this section until the next reporting period, if any, in which it receives contributions or makes expenditures. A political committee that has not received any contributions or made any coordinated or independent expenditures for a continuous period of at least one year may cancel its registration as a political committee by submitting an appropriate request in writing to the secretary of state. The committee shall retain the obligation to submit a new registration pursuant to Section 1-19-26.1 NMSA 1978 in the event that its future activities meet the requisites for registration under that section.

H. A reporting individual who is a candidate within the meaning of the Campaign Reporting Act because of the amount of contributions the candidate receives or expenditures the candidate makes and who does not ultimately file a declaration of candidacy or a nominating petition with the secretary of state and does not file a statement of no activity shall file biannual reports in accordance with Subsection A of this section.

I. Reports required by this section shall be subscribed and sworn to by the candidate or the treasurer of the political committee or, in the case of candidates for judicial office, by the treasurer of the candidate's campaign committee. A report filed electronically shall be electronically authenticated by the candidate or the treasurer of the committee using an electronic signature in conformance with the Electronic Authentication of Documents Act and the Uniform Electronic Transactions Act. For the purposes of the Campaign Reporting Act, a report that is electronically authenticated in

accordance with the provisions of this subsection shall be deemed to have been subscribed and sworn to by the candidate or the treasurer of the committee who was required to file the report.

J. Reports required by this section shall be filed electronically by all reporting individuals.

K. Reporting individuals may apply to the secretary of state for exemption from electronic filing in case of hardship, which shall be defined by the secretary of state."

Chapter 262 Section 8 Laws 2019

SECTION 8. Section 1-19-31 NMSA 1978 (being Laws 1979, Chapter 360, Section 7, as amended) is amended to read:

"1-19-31. CONTENTS OF REPORT.--Each required report of expenditures and contributions shall be typed or printed legibly, or on a computer disc or format approved by the secretary of state, and shall include:

A. the name and address of the person or entity to whom an expenditure was made or from whom a contribution was received, except as provided for anonymous contributions or contributions received from special events as provided in Section 1-19-34 NMSA 1978; provided that for contributors, the name of the entity or the first and last names of any individual shall be the full name of the entity or individual, and initials only shall not constitute a full name unless that is the complete legal name;

B. the occupation, name and type of business, as applicable, of any individual or entity making contributions of two hundred dollars (\$200) or more in the aggregate per election;

C. the amount of the expenditure or contribution or value thereof;

D. the purpose of the expenditure;

E. the date that the expenditure was made or the contribution was received;

F. the opening and closing cash balance for the bank accounts maintained by the reporting individual during the reporting period and the name of the financial institution for each account; and

G. the amount of each unpaid debt and the identity of the person to whom the debt is owed."

Chapter 262 Section 9 Laws 2019

SECTION 9. Section 1-19-34 NMSA 1978 (being Laws 1979, Chapter 360, Section 10, as amended) is amended to read:

"1-19-34. CANDIDATES--POLITICAL OR CAMPAIGN COMMITTEES--
TREASURER--BANK ACCOUNT--ANONYMOUS CONTRIBUTIONS--
CONTRIBUTIONS FROM SPECIAL EVENTS--CREDIT AND DEBIT CARD
CONTRIBUTIONS.--

A. A political or campaign committee or a candidate shall ensure that:

(1) a treasurer has been appointed and is constantly maintained; provided, however, that when a duly appointed treasurer is unable for any reason to continue as treasurer, the candidate or committee shall appoint a successor and notify the secretary of state within ten days; and provided further that a candidate may serve as the candidate's own treasurer;

(2) all disbursements of money and receipts of contributions are authorized by and through the candidate or treasurer;

(3) a bank account has been established and all receipts of money contributions are deposited in and all expenditures of money are disbursed from one or more bank accounts maintained by the treasurer in the name of the candidate or committee; provided that nothing in this section shall prohibit investments from a bank account to earn interest as long as the investments and earnings are fully reported. All disbursements except for disbursements made from a petty cash fund of one hundred dollars (\$100) or less shall be made in a form such that the date, amount and payee of the transaction are automatically recorded or by check made payable to the person or entity receiving the disbursement and not to "cash" or "bearer"; and

(4) the treasurer upon disbursing or receiving money or other things of value immediately enters and thereafter keeps a proper record preserved by the treasurer, including a full, true and itemized statement and account of each sum disbursed or received, the date of such disbursal or receipt, to whom disbursed or from whom received and the object or purpose for which it was disbursed or received.

B. No anonymous contributions shall be accepted for more than one hundred dollars (\$100). The aggregate amount of anonymous contributions received by a reporting individual during a primary or general election or a statewide special election shall not exceed two thousand dollars (\$2,000) for statewide races and five hundred dollars (\$500) for all other races.

C. Cash contributions received at special events that are unidentifiable as to specific contributor but identifiable as to the special event are not subject to the anonymous contribution limits provided for in this section so long as no single special event raises, after expenses, more than one thousand dollars (\$1,000) in such cash contributions. For those contributions, due diligence and best efforts shall be made to disclose on a special prescribed form the sponsor, date, place, total amount received, expenses incurred, estimated number of persons in attendance and other identifiable factors that describe the special event. For purposes of this subsection, "special event" includes an event such as a barbecue or similar fundraiser where tickets costing twenty-five dollars (\$25.00) or less are sold or an event such as a coffee, tea or similar reception; provided that no candidate shall accept contributions of more than twenty-five dollars (\$25.00) in cash at a special event from any one contributor.

D. Any contributions received pursuant to this section in excess of the limits established in Subsections B and C of this section shall be donated to the state general fund or an organization to which a federal income tax deduction would be available under Subparagraph (A) of Paragraph (1) of Subsection (b) of Section 170 of the federal Internal Revenue Code of 1986, as amended.

E. A candidate or political committee shall not accept a contribution made by a credit card or a debit card via the internet or where the card is not physically present unless, at the time the contribution is made, the contributor provides the card security code assigned to and printed or imprinted on the card and the billing address associated with the card."

Chapter 262 Section 10 Laws 2019

SECTION 10. Section 1-19-34.3 NMSA 1978 (being Laws 1993, Chapter 46, Section 14, as amended) is amended to read:

"1-19-34.3. CONTRIBUTIONS IN ONE NAME GIVEN FOR ANOTHER PROHIBITED--CONCEALING SOURCE OF CONTRIBUTIONS USED FOR INDEPENDENT EXPENDITURES.--

A. It is unlawful for a person to make a contribution in the name of another person, and no person shall knowingly accept a contribution made by one person in the name of another person.

B. No person shall make contributions or expenditures with an intent to conceal the names of persons who are the true source of funds used to make independent expenditures or the true recipients of the expenditures."

Chapter 262 Section 11 Laws 2019

SECTION 11. Section 1-19-34.6 NMSA 1978 (being Laws 1995, Chapter 153, Section 19) is amended to read:

"1-19-34.6. CIVIL PENALTIES.--

A. If the secretary of state reasonably believes that a person committed, or is about to commit, a violation of the Campaign Reporting Act, the secretary of state shall refer the matter to the attorney general or a district attorney for enforcement.

B. With or without a referral from the secretary of state, the attorney general or district attorney may institute a civil action in district court for any violation of the Campaign Reporting Act or to prevent a violation of that act that involves an unlawful solicitation or the making or acceptance of an unlawful contribution. An action for relief may include a permanent or temporary injunction, a restraining order or any other appropriate order, including a civil penalty of up to one thousand dollars (\$1,000) for each violation not to exceed a total of twenty thousand dollars (\$20,000), and forfeiture of any contribution received as a result of an unlawful solicitation or unlawful contribution. Each unlawful solicitation and each unlawful contribution made or accepted shall be deemed a separate violation of the Campaign Reporting Act.

C. With or without a referral from the secretary of state, the attorney general or district attorney may institute a civil action in district court if a violation has occurred or to prevent a violation of any provision of the Campaign Reporting Act other than that specified in Subsection B of this section. Relief may include a permanent or temporary injunction, a restraining order or any other appropriate order, including an order for a civil penalty of up to one thousand dollars (\$1,000) for each violation not to exceed a total of twenty thousand dollars (\$20,000)."

Chapter 262 Section 12 Laws 2019

SECTION 12. Section 1-19-34.7 NMSA 1978 (being Laws 2009, Chapter 68, Section 1) is amended to read:

"1-19-34.7. CONTRIBUTION LIMITATIONS--CANDIDATES-- POLITICAL COMMITTEES.--

A. Except as provided in Subsections H through J of this section:

(1) a person, including a political committee, shall not make a contribution to a candidate, including the candidate's campaign committee, or to a

political committee in an amount that will cause that person's total contributions to the candidate or political committee to exceed five thousand dollars (\$5,000) during a primary election cycle or five thousand dollars (\$5,000) during a general election cycle; provided that a person may make a contribution attributable to the general election cycle during the primary election cycle even though the person has contributed the maximum amount allowed for the primary election cycle:

(a) if that contribution is not used to pay for any expenditure related to the primary election; and

(b) if the candidate is not on the general election ballot, all contributions made to the candidate for the general election are returned to the persons who made the contributions or deposited in the public election fund; and

(2) a primary election candidate who does not become a candidate on the general election ballot shall remain subject to the contribution limits of the primary election cycle and shall not accept a contribution from a person who has contributed the maximum allowable amount during the primary election cycle to pay for primary election expenditures of the campaign.

B. A person, including a political committee, shall not make a contribution to a candidate committee authorized for the purpose of electing a candidate for governor in an amount that will cause that person's total contributions to the committee to exceed two times the limit imposed pursuant to Subsection A of this section.

C. Except as provided in Subsection K of this section, a person, including a political committee, shall not make a contribution to a political party or legislative caucus committee in an amount that will cause that person's total contributions to the political party or legislative caucus committee to exceed five times the limit imposed pursuant to Subsection A of this section.

D. All contributions made by a person to a candidate, either directly or indirectly, including contributions that are in any way earmarked or otherwise directed through another person to a candidate, shall be treated as contributions from the person to that candidate.

E. A person, including a political committee, shall not knowingly accept or solicit a contribution, directly or indirectly, including a contribution earmarked or otherwise directed or coordinated through another person, including a political committee, that violates the contribution limits provided for in this section.

F. On January 1 after each general election, the contribution amounts provided in Subsection A of this section shall be increased by the percentage of the preceding two calendar years' increase of the consumer price index for all urban consumers, United States city average for all items, published by the United States department of labor. The amount of the increase shall be rounded to the nearest multiple of one hundred dollars (\$100). The secretary of state shall publish by October 1 before each general election the adjusted contribution limits that shall take effect the January 1 following general election.

G. All contributions in excess of the limits imposed by the provisions of this section shall be deposited in the public election fund upon a finding by the secretary of state that the contribution limits have been exceeded.

H. The limitation on contributions to a candidate provided for in Subsection A of this section shall not apply to a candidate's own contribution from the candidate's personal funds to the candidate's own campaign.

I. The limitations on contributions to political committees provided for in Subsection A of this section shall not apply to a political committee that makes only independent expenditures or to a contribution to a political committee that is deposited in a segregated bank account that may only be used to make independent expenditures.

J. The limitations on contributions to candidates or campaign committees provided for in Subsection A of this section shall not apply to the value of in-kind contributions from a political party or legislative caucus committee to a candidate nominated by that party in a general election cycle.

K. The limitations on contributions to political parties or legislative caucus committees provided for in Subsection C of this section shall not apply to contributions from a campaign committee authorized for the purpose of electing a candidate from that party in a primary or general election cycle. For purposes of this subsection, "campaign committee" includes a candidate committee regulated by the federal election commission.

L. The members of a political party in a chamber of the legislature shall not maintain more than one legislative caucus committee in each chamber."

Chapter 262 Section 13 Laws 2019

SECTION 13. Section 1-19-35 NMSA 1978 (being Laws 1979, Chapter 360, Section 11, as amended) is amended to read:

"1-19-35. REPORTS AND STATEMENTS--LATE FILING PENALTY-- FAILURE TO FILE.--

A. Except for the report required to be filed and delivered the Thursday prior to the election and any supplemental report, as required in Paragraph (5) of Subsection B of Section 1-19-29 NMSA 1978, that is due prior to the election, and subject to the provisions of Section 1-19-34.4 NMSA 1978, if a statement of no activity or a report of expenditures and contributions contains false or incomplete information or is filed after any deadline imposed by the Campaign Reporting Act, the responsible reporting individual or political committee, in addition to any other penalties or remedies prescribed by the Election Code, shall be liable for and shall pay to the secretary of state fifty dollars (\$50.00) per day for each regular working day after the time required by the Campaign Reporting Act for the filing of statements of no activity or reports of expenditures and contributions until the complete or true statement or report is filed, up to a maximum of five thousand dollars (\$5,000).

B. If any reporting individual files a false, intentionally incomplete or late report of expenditures and contributions due on the Thursday prior to the election, the reporting individual or political committee shall be liable and pay to the secretary of state five hundred dollars (\$500) for the first working day and fifty dollars (\$50.00) for each subsequent working day after the time required for the filing of the report until the true and complete report is filed, up to a maximum of five thousand dollars (\$5,000).

C. If a reporting individual fails to file or files a late supplemental report of expenditures and contributions as required in Paragraph (5) of Subsection B of Section 1-19-29 NMSA 1978, the reporting individual or political committee shall be liable for and pay to the secretary of state a penalty equal to the amount of each contribution received or pledged after the Tuesday before the election that was not timely filed.

D. All sums collected for the penalty shall be deposited in the state general fund. A report or statement of no activity shall be deemed timely filed only if it is received by the secretary of state by the date and time prescribed by law.

E. Any candidate who fails or refuses to file a report of expenditures and contributions or statement of no activity or to pay a penalty imposed by the secretary of state as required by the Campaign Reporting Act shall not, in addition to any other penalties provided by law:

(1) have the candidate's name printed upon the ballot if the violation occurs before and through the final date for the withdrawal of candidates; or

(2) be issued a certificate of nomination or election, if the violation occurs after the final date for withdrawal of candidates or after the election, until the candidate satisfies all reporting requirements of the Campaign Reporting Act and pays all penalties owed.

F. Any candidate who loses an election and who failed or refused to file a report of expenditures and contributions or a statement of no activity or to pay a penalty imposed by the secretary of state as required by the Campaign Reporting Act shall not be, in addition to any other penalties provided by law, permitted to file a declaration of candidacy or nominating petition for any future election until the candidate satisfies all reporting requirements of that act and pays all penalties owed."

Chapter 262 Section 14 Laws 2019

SECTION 14. Section 1-19-36 NMSA 1978 (being Laws 1979, Chapter 360, Section 12, as amended) is amended to read:

"1-19-36. PENALTIES.--

A. Any person who knowingly and willfully violates any provision of the Campaign Reporting Act is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000) or by imprisonment for not more than one year or both.

B. The Campaign Reporting Act may be enforced by the attorney general or the district attorney in the county where the candidate resides, where a political committee has its principal place of business or where the violation occurred."

Chapter 262 Section 15 Laws 2019

SECTION 15. LEGISLATIVE CAUCUS COMMITTEE.--

A. No later than thirty days after the effective date of this 2019 act, the speaker and minority floor leader of the house of representatives and the majority floor leader and the minority floor leader of the senate shall establish or designate the political committee that is the legislative caucus committee.

B. The speaker and minority floor leader of the house of representatives and the majority floor leader and the minority floor leader of the senate shall be the designated leaders of the legislative caucus committees for the members of their political party in their legislative chamber unless two-thirds of the members of a political party in a legislative chamber vote to designate a different leader for the legislative

caucus committee from among their members. The results of that vote shall be recorded with the secretary of state.

C. Upon a change of the designated leader of the legislative caucus committee, no funds shall be expended by the legislative caucus committee until the secretary of state has been notified of the change in designated leader of the legislative caucus committee.

D. Funds belonging to a legislative caucus committee shall be managed by the designated leader or the leader's designee.

Chapter 262 Section 16 Laws 2019

SECTION 16. TEMPORARY PROVISION.--The secretary of state, in consultation with the attorney general, shall promulgate rules to implement the amendatory provisions of this act by August 1, 2019.

Chapter 262 Section 17 Laws 2019

SECTION 17. REPEAL.--Sections 1-19-16 and 1-19-17 NMSA 1978 (being Laws 1973, Chapter 401, Sections 1 and 2) are repealed.

Chapter 262 Section 18 Laws 2019

SECTION 18. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

Senate Bill 3, aa

Approved April 4, 2019

LAWS 2019, CHAPTER 263

AN ACT

RELATING TO HEALTH COVERAGE FOR CONTRACEPTION; AMENDING THE HEALTH CARE PURCHASING ACT AND ENACTING AND AMENDING SECTIONS OF THE NEW MEXICO INSURANCE CODE AND THE HEALTH MAINTENANCE ORGANIZATION LAW TO PROVIDE COVERAGE FOR CONTRACEPTION;

ENACTING A NEW SECTION OF THE NONPROFIT HEALTH CARE PLAN LAW TO PROVIDE COVERAGE FOR CONTRACEPTION; ENACTING A NEW SECTION OF THE PUBLIC ASSISTANCE ACT TO ESTABLISH DISPENSING REQUIREMENTS; PROVIDING FOR A CONTINGENT REPEAL.

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

Chapter 263 Section 1 Laws 2019

SECTION 1. A new section of the Health Care Purchasing Act is enacted to read:

"COVERAGE FOR CONTRACEPTION.--

A. Group health coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act that provides coverage for prescription drugs shall provide, at a minimum, the following coverage:

(1) at least one product or form of contraception in each of the contraceptive method categories identified by the federal food and drug administration;

(2) a sufficient number and assortment of oral contraceptive pills to reflect the variety of oral contraceptives approved by the federal food and drug administration; and

(3) clinical services related to the provision or use of contraception, including consultations, examinations, procedures, ultrasound, anesthesia, patient education, counseling, device insertion and removal, follow-up care and side-effects management.

B. Except as provided in Subsection C of this section, the coverage required pursuant to this section shall not be subject to:

(1) enrollee cost sharing;

(2) utilization review;

(3) prior authorization or step therapy requirements; or

(4) any other restrictions or delays on the coverage.

C. A group health plan may discourage brand-name pharmacy drugs or items by applying cost sharing to brand-name drugs or items when at least one generic or therapeutic equivalent is covered within the same method of contraception without patient cost sharing; provided that when an enrollee's health care provider determines that a particular drug or item is medically necessary, the group health plan shall cover the brand-name pharmacy drug or item without cost sharing. Medical necessity may include considerations such as severity of side effects, differences in permanence or reversibility of contraceptives and ability to adhere to the appropriate use of the drug or item, as determined by the attending provider.

D. A group health plan administrator shall grant an enrollee an expedited hearing to appeal any adverse determination made relating to the provisions of this section. The process for requesting an expedited hearing pursuant to this subsection shall:

(1) be easily accessible, transparent, sufficiently expedient and not unduly burdensome on an enrollee, the enrollee's representative or the enrollee's health care provider;

(2) defer to the determination of the enrollee's health care provider; and

(3) provide for a determination of the claim according to a time frame and in a manner that takes into account the nature of the claim and the medical exigencies involved for a claim involving an urgent health care need.

E. A group health plan shall not require a prescription for any drug, item or service that is available without a prescription.

F. A group health plan shall provide coverage and shall reimburse a health care provider or dispensing entity on a per-unit basis for dispensing a six-month supply of contraceptives at one time; provided that the contraceptives are prescribed and self-administered.

G. Nothing in this section shall be construed to:

(1) require a health care provider to prescribe six months of contraceptives at one time; or

(2) permit a group health plan to limit coverage or impose cost sharing for an alternate method of contraception if an enrollee changes contraceptive methods before exhausting a previously dispensed supply.

H. The provisions of this section shall not apply to short-term travel, accident-only, hospital-indemnity-only, limited-benefit or disease-specific group health plans.

I. For the purposes of this section:

(1) "contraceptive method categories identified by the federal food and drug administration":

(a) means tubal ligation; sterilization implant; copper intrauterine device; intrauterine device with progestin; implantable rod; contraceptive shot or injection; combined oral contraceptives; extended or continuous use oral contraceptives; progestin-only oral contraceptives; patch; vaginal ring; diaphragm with spermicide; sponge with spermicide; cervical cap with spermicide; male and female condoms; spermicide alone; vasectomy; ulipristal acetate; levonorgestrel emergency contraception; and any additional method categories of contraception approved by the federal food and drug administration; and

(b) does not mean a product that has been recalled for safety reasons or withdrawn from the market;

(2) "cost sharing" means a deductible, copayment or coinsurance that an enrollee is required to pay in accordance with the terms of a group health plan; and

(3) "health care provider" means an individual licensed to provide health care in the ordinary course of business."

Chapter 263 Section 2 Laws 2019

SECTION 2. A new section of the Public Assistance Act is enacted to read:

"MEDICAL ASSISTANCE--REIMBURSEMENT FOR A ONE-YEAR SUPPLY OF COVERED PRESCRIPTION CONTRACEPTIVE DRUGS OR DEVICES.--

A. In providing coverage for family planning services and supplies under the medical assistance program, the department shall ensure that a recipient is permitted to fill or refill a prescription for a one-year supply of a covered, self-administered contraceptive at one time, as prescribed.

B. Nothing in this section shall be construed to limit a recipient's freedom to choose or change the method of family planning to be used, regardless of whether the recipient has exhausted a previously dispensed supply of contraceptives."

Chapter 263 Section 3 Laws 2019

SECTION 3. Section 59A-22-42 NMSA 1978 (being Laws 2001, Chapter 14, Section 1, as amended) is amended to read:

"59A-22-42. COVERAGE FOR PRESCRIPTION CONTRACEPTIVE DRUGS OR DEVICES.--

A. Each individual and group health insurance policy, health care plan and certificate of health insurance delivered or issued for delivery in this state that provides a prescription drug benefit shall provide, at a minimum, the following coverage:

(1) at least one product or form of contraception in each of the contraceptive method categories identified by the federal food and drug administration;

(2) a sufficient number and assortment of oral contraceptive pills to reflect the variety of oral contraceptives approved by the federal food and drug administration; and

(3) clinical services related to the provision or use of contraception, including consultations, examinations, procedures, ultrasound, anesthesia, patient education, counseling, device insertion and removal, follow-up care and side-effects management.

B. Except as provided in Subsection C of this section, the coverage required pursuant to this section shall not be subject to:

(1) cost sharing for insureds;

(2) utilization review;

(3) prior authorization or step-therapy requirements; or

(4) any other restrictions or delays on the coverage.

C. An insurer may discourage brand-name pharmacy drugs or items by applying cost sharing to brand-name drugs or items when at least one generic or therapeutic equivalent is covered within the same method of contraception without patient cost sharing; provided that when an insured's health care provider determines that a particular drug or item is medically necessary, the individual or group health insurance policy, health care plan or certificate of insurance shall cover the brand-name pharmacy drug or item without cost sharing. Medical necessity may include

considerations such as severity of side effects, differences in permanence or reversibility of contraceptives and ability to adhere to the appropriate use of the drug or item, as determined by the attending provider.

D. An insurer shall grant an insured an expedited hearing to appeal any adverse determination made relating to the provisions of this section. The process for requesting an expedited hearing pursuant to this subsection shall:

(1) be easily accessible, transparent, sufficiently expedient and not unduly burdensome on an insured, the insured's representative or the insured's health care provider;

(2) defer to the determination of the insured's health care provider; and

(3) provide for a determination of the claim according to a time frame and in a manner that takes into account the nature of the claim and the medical exigencies involved for a claim involving an urgent health care need.

E. An insurer shall not require a prescription for any drug, item or service that is available without a prescription.

F. An insurer shall provide coverage and shall reimburse a health care provider or dispensing entity on a per-unit basis for dispensing a six-month supply of contraceptives at one time; provided that the contraceptives are prescribed and self-administered.

G. Nothing in this section shall be construed to:

(1) require a health care provider to prescribe six months of contraceptives at one time; or

(2) permit an insurer to limit coverage or impose cost sharing for an alternate method of contraception if an insured changes contraceptive methods before exhausting a previously dispensed supply.

H. The provisions of this section shall not apply to short-term travel, accident-only hospital-indemnity-only, limited-benefit or specified-disease policies.

I. The provisions of this section apply to individual and group health insurance policies, health care plans and certificates of insurance delivered or issued for delivery after January 1, 2020.

J. For the purposes of this section:

(1) "contraceptive method categories identified by the federal food and drug administration":

(a) means tubal ligation; sterilization implant; copper intrauterine device; intrauterine device with progestin; implantable rod; contraceptive shot or injection; combined oral contraceptives; extended or continuous use oral contraceptives; progestin-only oral contraceptives; patch; vaginal ring; diaphragm with spermicide; sponge with spermicide; cervical cap with spermicide; male and female condoms; spermicide alone; vasectomy; ulipristal acetate; levonorgestrel emergency contraception; and any additional contraceptive method categories approved by the federal food and drug administration; and

(b) does not mean a product that has been recalled for safety reasons or withdrawn from the market;

(2) "cost sharing" means a deductible, copayment or coinsurance that an insured is required to pay in accordance with the terms of an individual or group health insurance policy, health care plan or certificate of insurance; and

(3) "health care provider" means an individual licensed to provide health care in the ordinary course of business.

K. A religious entity purchasing individual or group health insurance coverage may elect to exclude prescription contraceptive drugs or devices from the health coverage purchased."

Chapter 263 Section 4 Laws 2019

SECTION 4. A new section of Chapter 59A, Article 22 NMSA 1978 is enacted to read:

"COVERAGE EXCLUSION.--Coverage of vasectomy and male condoms pursuant to Section 3 of this 2019 act is excluded for high-deductible individual and group health insurance policies, health care plans or certificates of insurance with health savings accounts delivered or issued for delivery in this state until an insured's deductible has been met."

Chapter 263 Section 5 Laws 2019

SECTION 5. A new section of Chapter 59A, Article 23 NMSA 1978 is enacted to read:

"COVERAGE FOR CONTRACEPTION.--

A. Each individual and group health insurance policy, health care plan and certificate of health insurance delivered or issued for delivery in this state that provides a prescription drug benefit shall provide, at a minimum, the following coverage:

(1) at least one product or form of contraception in each of the contraceptive method categories identified by the federal food and drug administration;

(2) a sufficient number and assortment of oral contraceptive pills to reflect the variety of oral contraceptives approved by the federal food and drug administration; and

(3) clinical services related to the provision or use of contraception, including consultations, examinations, procedures, ultrasound, anesthesia, patient education, counseling, device insertion and removal, follow-up care and side-effects management.

B. Except as provided in Subsection C of this section, the coverage required pursuant to this section shall not be subject to:

(1) cost sharing for insureds;

(2) utilization review;

(3) prior authorization or step-therapy requirements; or

(4) any restrictions or delays on the coverage.

C. An insurer may discourage brand-name pharmacy drugs or items by applying cost sharing to brand-name drugs or items when at least one generic or therapeutic equivalent is covered within the same method category of contraception without cost sharing by the insured; provided that when an insured's health care provider determines that a particular drug or item is medically necessary, the individual or group health insurance policy, health care plan or certificate of health insurance shall cover the brand-name pharmacy drug or item without cost sharing. A determination of medical necessity may include considerations such as severity of side effects, differences in permanence or reversibility of contraceptives and ability to adhere to the appropriate use of the drug or item, as determined by the attending provider.

D. An insurer shall grant an insured an expedited hearing to appeal any adverse determination made relating to the provisions of this section. The process for requesting an expedited hearing pursuant to this subsection shall:

(1) be easily accessible, transparent, sufficiently expedient and not unduly burdensome on an insured, the insured's representative or the insured's health care provider;

(2) defer to the determination of the insured's health care provider; and

(3) provide for a determination of the claim according to a time frame and in a manner that takes into account the nature of the claim and the medical exigencies involved for a claim involving an urgent health care need.

E. An insurer shall not require a prescription for any drug, item or service that is available without a prescription.

F. An individual or group health insurance policy, health care plan or certificate of health insurance shall provide coverage and shall reimburse a health care provider or dispensing entity on a per unit basis for dispensing a six-month supply of contraceptives; provided that the contraceptives are prescribed and self-administered.

G. Nothing in this section shall be construed to:

(1) require a health care provider to prescribe six months of contraceptives at one time; or

(2) permit an insurer to limit coverage or impose cost sharing for an alternate method of contraception if an insured changes contraceptive methods before exhausting a previously dispensed supply.

H. The provisions of this section shall not apply to short-term travel, accident-only, hospital-indemnity-only, limited-benefit or specified-disease health benefits plans.

I. The provisions of this section apply to individual or group health insurance policies, health care plans or certificates of insurance delivered or issued for delivery after January 1, 2020.

J. For the purposes of this section:

(1) "contraceptive method categories identified by the federal food and drug administration":

(a) means tubal ligation; sterilization implant; copper intrauterine device; intrauterine device with progestin; implantable rod; contraceptive shot or injection; combined oral contraceptives; extended or continuous use oral contraceptives; progestin-only oral contraceptives; patch; vaginal ring; diaphragm with spermicide; sponge with spermicide; cervical cap with spermicide; male and female condoms; spermicide alone; vasectomy; ulipristal acetate; levonorgestrel emergency contraception; and any additional contraceptive method categories approved by the federal food and drug administration; and

(b) does not mean a product that has been recalled for safety reasons or withdrawn from the market;

(2) "cost sharing" means a deductible, copayment or coinsurance that an insured is required to pay in accordance with the terms of an individual or group health insurance policy, health care plan or certificate of insurance; and

(3) "health care provider" means an individual licensed to provide health care in the ordinary course of business.

K. A religious entity purchasing individual or group health insurance coverage may elect to exclude prescription contraceptive drugs or items from the health insurance coverage purchased."

Chapter 263 Section 6 Laws 2019

SECTION 6. A new section of Chapter 59A, Article 23 NMSA 1978 is enacted to read:

"COVERAGE EXCLUSION.--Coverage of vasectomy and male condoms pursuant to Section 5 of this 2019 act is excluded for high-deductible individual or group health insurance policies, health care plans or certificates of insurance with health savings accounts delivered or issued for delivery in this state until an insured's deductible has been met."

Chapter 263 Section 7 Laws 2019

SECTION 7. Section 59A-46-44 NMSA 1978 (being Laws 2001, Chapter 14, Section 3, as amended) is amended to read:

"59A-46-44. COVERAGE FOR CONTRACEPTION.--

A. Each individual and group health maintenance organization contract delivered or issued for delivery in this state that provides a prescription drug benefit shall provide, at a minimum, the following coverage:

(1) at least one product or form of contraception in each of the contraceptive method categories identified by the federal food and drug administration;

(2) a sufficient number and assortment of oral contraceptive pills to reflect the variety of oral contraceptives approved by the federal food and drug administration; and

(3) clinical services related to the provision or use of contraception, including consultations, examinations, procedures, ultrasound, anesthesia, patient education, counseling, device insertion and removal, follow-up care and side-effects management.

B. Except as provided in Subsection C of this section, the coverage required pursuant to this section shall not be subject to:

(1) enrollee cost sharing;

(2) utilization review;

(3) prior authorization or step-therapy requirements; or

(4) any other restrictions or delays on the coverage.

C. A health maintenance organization may discourage brand-name pharmacy drugs or items by applying cost sharing to brand-name drugs or items when at least one generic or therapeutic equivalent is covered within the same method of contraception without patient cost sharing; provided that when an enrollee's health care provider determines that a particular drug or item is medically necessary, the individual or group health maintenance organization contract shall cover the brand-name pharmacy drug or item without cost sharing. Medical necessity may include considerations such as severity of side effects, differences in permanence or reversibility of contraceptives and ability to adhere to the appropriate use of the drug or item, as determined by the attending provider.

D. An individual or group health maintenance organization contract shall grant an enrollee an expedited hearing to appeal any adverse determination made relating to the provisions of this section. The process for requesting an expedited hearing pursuant to this subsection shall:

(1) be easily accessible, transparent, sufficiently expedient and not unduly burdensome on an enrollee, the enrollee's representative or the enrollee's health care provider;

(2) defer to the determination of the enrollee's health care provider; and

(3) provide for a determination of the claim according to a time frame and in a manner that takes into account the nature of the claim and the medical exigencies involved for a claim involving an urgent health care need.

E. An individual or group health maintenance organization contract shall not require a prescription for any drug, item or service that is available without a prescription.

F. An individual or group health maintenance organization contract shall provide coverage and shall reimburse a health care provider or dispensing entity on a per-unit basis for dispensing a six-month supply of contraceptives at one time; provided that the contraceptives are prescribed and self-administered.

G. Nothing in this section shall be construed to:

(1) require a health care provider to prescribe six months of contraceptives at one time; or

(2) permit an individual or group health maintenance organization contract to limit coverage or impose cost sharing for an alternate method of contraception if an enrollee changes contraceptive methods before exhausting a previously dispensed supply.

H. The provisions of this section shall not apply to short-term travel, accident-only, hospital-indemnity-only, limited-benefit or specified disease health benefits plans.

I. The provisions of this section apply to individual or group health maintenance organization contracts delivered or issued for delivery after January 1, 2020.

J. For the purposes of this section:

(1) "contraceptive method categories identified by the federal food and drug administration":

(a) means tubal ligation; sterilization implant; copper intrauterine device; intrauterine device with progestin; implantable rod; contraceptive shot or

injection; combined oral contraceptives; extended or continuous use oral contraceptives; progestin-only oral contraceptives; patch; vaginal ring; diaphragm with spermicide; sponge with spermicide; cervical cap with spermicide; male and female condoms; spermicide alone; vasectomy; ulipristal acetate; levonorgestrel emergency contraception; and any additional contraceptive method categories approved by the federal food and drug administration; and

(b) does not mean a product that has been recalled for safety reasons or withdrawn from the market;

(2) "cost sharing" means a deductible, copayment or coinsurance that an enrollee is required to pay in accordance with the terms of an individual or group health maintenance organization contract; and

(3) "health care provider" means an individual licensed to provide health care in the ordinary course of business.

K. A religious entity purchasing individual or group health maintenance organization coverage may elect to exclude prescription contraceptive drugs or devices from the health coverage purchased."

Chapter 263 Section 8 Laws 2019

SECTION 8. A new section of the Health Maintenance Organization Law is enacted to read:

"COVERAGE EXCLUSION.--Coverage of vasectomy and male condoms pursuant to Section 7 of this 2019 act is excluded for high-deductible individual or group health maintenance organization contracts with health savings accounts delivered or issued for delivery in this state until an enrollee's deductible has been met."

Chapter 263 Section 9 Laws 2019

SECTION 9. A new section of the Nonprofit Health Care Plan Law is enacted to read:

"COVERAGE FOR CONTRACEPTION.--

A. A health care plan delivered or issued for delivery in this state that provides a prescription drug benefit shall provide, at a minimum, the following coverage:

(1) at least one product or form of contraception in each of the contraceptive method categories identified by the federal food and drug administration;

(2) a sufficient number and assortment of oral contraceptive pills to reflect the variety of oral contraceptives approved by the federal food and drug administration; and

(3) clinical services related to the provision or use of contraception, including consultations, examinations, procedures, ultrasound, anesthesia, patient education, counseling, device insertion and removal, follow-up care and side-effects management.

B. Except as provided in Subsection C of this section, the coverage required pursuant to this section shall not be subject to:

(1) cost sharing for subscribers;

(2) utilization review;

(3) prior authorization or step-therapy requirements; or

(4) any restrictions or delays on the coverage.

C. A health care plan may discourage brand-name pharmacy drugs or items by applying cost sharing to brand-name drugs or items when at least one generic or therapeutic equivalent is covered within the same method category of contraception without cost sharing by the subscriber; provided that when a subscriber's health care provider determines that a particular drug or item is medically necessary, the health care plan shall cover the brand-name pharmacy drug or item without cost sharing. A determination of medical necessity may include considerations such as severity of side effects, differences in permanence or reversibility of contraceptives and ability to adhere to the appropriate use of the drug or item, as determined by the attending provider.

D. A health care plan shall grant a subscriber an expedited hearing to appeal any adverse determination made relating to the provisions of this section. The process for requesting an expedited hearing pursuant to this subsection shall:

(1) be easily accessible, transparent, sufficiently expedient and not unduly burdensome on a subscriber, the subscriber's representative or the subscriber's health care provider;

(2) defer to the determination of the subscriber's health care provider;
and

(3) provide for a determination of the claim according to a time frame and in a manner that takes into account the nature of the claim and the medical exigencies involved for a claim involving an urgent health care need.

E. A health care plan shall not require a prescription for any drug, item or service that is available without a prescription.

F. A health care plan shall provide coverage and shall reimburse a health care provider or dispensing entity on a per unit basis for dispensing a six-month supply of contraceptives; provided that the contraceptives are prescribed and self-administered.

G. Nothing in this section shall be construed to:

(1) require a health care provider to prescribe six months of contraceptives at one time; or

(2) permit a health care plan to limit coverage or impose cost sharing for an alternate method of contraception if a subscriber changes contraceptive methods before exhausting a previously dispensed supply.

H. The provisions of this section shall not apply to short-term travel, accident-only, hospital-indemnity-only, limited-benefit or specified-disease health care plans.

I. The provisions of this section apply to health care plans delivered or issued for delivery after January 1, 2020.

J. For the purposes of this section:

(1) "contraceptive method categories identified by the federal food and drug administration":

(a) means tubal ligation; sterilization implant; copper intrauterine device; intrauterine device with progestin; implantable rod; contraceptive shot or injection; combined oral contraceptives; extended or continuous use oral contraceptives; progestin-only oral contraceptives; patch; vaginal ring; diaphragm with spermicide; sponge with spermicide; cervical cap with spermicide; male and female condoms; spermicide alone; vasectomy; ulipristal acetate; levonorgestrel emergency contraception; and any additional contraceptive method categories approved by the federal food and drug administration; and

(b) does not mean a product that has been recalled for safety reasons or withdrawn from the market;

(2) "cost sharing" means a deductible, copayment or coinsurance that a subscriber is required to pay in accordance with the terms of a health care plan; and

(3) "health care provider" means an individual licensed to provide health care in the ordinary course of business.

K. A religious entity purchasing individual or group health care plan coverage may elect to exclude prescription contraceptive drugs or items from the health insurance coverage purchased."

Chapter 263 Section 10 Laws 2019

SECTION 10. A new section of the Nonprofit Health Care Plan Law is enacted to read:

"COVERAGE EXCLUSION.--Coverage of vasectomy and male condoms pursuant to Section 9 of this 2019 act is excluded for high-deductible health care plans with health savings accounts until a covered person's deductible has been met."

Chapter 263 Section 11 Laws 2019

SECTION 11. CONTINGENT REPEAL.--Upon certification by the superintendent of insurance to the director of the legislative council service and the New Mexico compilation commission that federal law permits coverage of vasectomies and male condoms under high-deductible health benefits plans with health savings accounts, Sections 4, 6, 8 and 10 of this 2019 act are repealed. _____

House Bill 89, aa

Approved April 4, 2019

LAWS 2019, CHAPTER 264

AN ACT

RELATING TO TAXATION; ALLOWING A DEDUCTION FROM NET INCOME FOR INCOME SET ASIDE FOR FUTURE DISTRIBUTION FROM AN ESTATE OR TRUST TO A NONRESIDENT INDIVIDUAL.

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

Chapter 264 Section 1 Laws 2019

SECTION 1. A new section of the Income Tax Act is enacted to read:

"DEDUCTION--INCOME SET ASIDE FOR FUTURE DISTRIBUTION FROM AN ESTATE OR TRUST TO A NONRESIDENT INDIVIDUAL.--

A. Before January 1, 2025, a taxpayer that is an estate or trust may claim a deduction from net income in the amount equal to income, excluding income derived from real property located in New Mexico, mineral, oil and gas interests located in New Mexico, water rights located in New Mexico and any other income allocated or apportioned to New Mexico, set aside for future distribution to a nonresident individual beneficiary as provided in the estate's or trust's governing instrument.

B. The purpose of the deduction allowed by this section is to increase estate and trust business in New Mexico.

C. Concerning the deduction allowed by this section, in determining:

(1) the extent to which income of an estate or trust is set aside for future distribution to a nonresident individual beneficiary, if all or part of the estate's or trust's federal taxable income, regardless of whether it is added to the estate or trust corpus for estate or trust accounting purposes, is distributable in future taxable years to or for the benefit of a named individual beneficiary or a first-named class of individual beneficiaries and if, on the last day of the estate's or trust's taxable year, one or more named individual beneficiaries or one or more members of the first-named class of individual beneficiaries is living, then the portion of the federal taxable income considered set aside for future distribution to:

(a) a named individual beneficiary is determined by: 1) ascertaining the share or shares of each named individual beneficiary as if the estate or trust had terminated on the last day of the taxable year and then ascertaining the portion of that income realized by the estate or trust during the taxable year while the beneficiary was a nonresident; and 2) presuming that the beneficiary was living and residing in the state in which the putative parents resided during the taxable year; and

(b) a first-named class of individual beneficiaries is determined by:
1) ascertaining the members of the class and the share of each member as if the estate or trust had terminated on the last day of the taxable year and then ascertaining the portion of that income of each share realized by the estate or trust while the member was a nonresident; and 2) presuming that the member was living and residing with the person the relationship to whom defines membership in the class;

(2) the share of income of each beneficiary of an estate or trust in the federal taxable income, it is presumed that the discretion of a person over the distribution of that income, regardless of whether the person acts in a fiduciary capacity or is subject to a standard, has not been exercised, unless that discretion is irrevocably exercised as of the last day of the taxable year; and

(3) the time federal taxable income is realized:

(a) interest income is considered realized when payable;

(b) dividend income is considered realized on the day the dividend is payable;

(c) gains and losses from the sale or exchange of property are considered realized or deductible, as appropriate, on the settlement date of the sale or the effective date of the exchange; and

(d) commissions on income or principal are deemed deductible on the date charged.

D. A taxpayer allowed a deduction in accordance with this section shall report the amount of the deduction separately and as required by the department.

E. Beginning in 2020, the department shall compile an annual report on the deduction allowed by this section that includes the number of taxpayers that claimed the deduction, the aggregate amount of deductions claimed and other information necessary to evaluate the deduction's effectiveness. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the effectiveness and cost of the deduction and whether the deduction is fulfilling its purpose."

Chapter 264 Section 2 Laws 2019

SECTION 2. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2019. _____

House Bill 163

Approved April 4, 2019

LAWS 2019, CHAPTER 265

AN ACT

RELATING TO MOTOR VEHICLES; MAKING IT UNLAWFUL TO BLOCK PARKING SPACES DESIGNATED FOR PERSONS WITH SIGNIFICANT MOBILITY LIMITATIONS; PROVIDING A PENALTY.

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

Chapter 265 Section 1 Laws 2019

SECTION 1. Section 66-7-352.5 NMSA 1978 (being Laws 1983, Chapter 45, Section 5, as amended) is amended to read:

"66-7-352.5. UNAUTHORIZED USE--PENALTIES.--

A. It is unlawful for any person to park a motor vehicle not displaying a special registration plate or a parking placard issued pursuant to Section 66-3-16 NMSA 1978 in a designated accessible parking space for persons with significant mobility limitation.

B. It is unlawful for any person to park a motor vehicle in such a manner so as to block access to:

(1) any part of a curb cut designed for access by persons with significant mobility limitation; or

(2) a designated accessible parking space for persons with significant mobility limitation.

C. A person convicted of violating Subsection A or B of this section is subject to a fine of not less than two hundred fifty dollars (\$250) or more than five hundred dollars (\$500). Failure to properly display a parking placard or special registration plate issued pursuant to Section 66-3-16 NMSA 1978 is not a defense against a charge of violation of Subsection A or B of this section.

B. The exchange shall not duplicate, impair, enhance, supplant, infringe upon or replace, in whole or in any part, the powers, duties or authority of the superintendent, including the superintendent's authority to review and approve premium rates pursuant to the provisions of the New Mexico Insurance Code.

C. The exchange shall not purchase qualified health plans from insurance health issuers to offer for purchase through the exchange.

D. All health insurance issuers and health maintenance organizations authorized to conduct business in this state and meeting the requirements of the rules promulgated by the superintendent pursuant to Section 59A-23F-7 NMSA 1978, as well as meeting the rules under the federal act, shall be eligible to participate in the exchange.

E. The "board of directors of the New Mexico health insurance exchange" is created. The board consists of thirteen voting directors as follows:

(1) one voting director is the superintendent or the superintendent's designee;

(2) six voting directors appointed by the governor, including the secretary of human services or the secretary's designee, a health insurance issuer and a consumer advocate; and

(3) six voting directors, three appointed by the president pro tempore of the senate, including one health care provider, and three appointed by the speaker of the house of representatives, including one health insurance issuer. One of the directors appointed by the president pro tempore of the senate and one of the directors appointed by the speaker of the house of representatives shall be from a list of at least two candidates provided, respectively, by the minority leader of the senate and by the minority leader of the house of representatives.

F. Except as provided in Subsection G of this section, managerial and full-time staff of the exchange shall be subject to applicable provisions of the Governmental Conduct Act and shall not have any direct or indirect affiliation with any health care provider, health insurance issuer or health care service provider.

G. Each director shall comply with the conflict-of-interest provisions of Subsection F of this section, except as follows:

(1) directors who may be appointed from the boards of directors of the New Mexico medical insurance pool and the New Mexico health insurance alliance shall

not be considered to have a conflict of interest with respect to their association with those entities;

(2) the secretary of human services, or the secretary's designee, shall not be considered to have a conflict of interest with respect to the secretary's performance of the secretary's duties as secretary of human services;

(3) the director who is a health care provider shall not be considered to have a conflict of interest arising from that director's receipt of payment for services as a health care provider; and

(4) directors who are representatives of health insurance issuers shall not be considered to have a conflict of interest with respect to those directors' association with their respective health insurance issuers.

H. Each director and employee of the exchange shall have a fiduciary duty to the exchange, to the state and to those persons who purchase or enroll in qualified health plan coverage or medical assistance coverage through the exchange.

I. The board shall be composed, as a whole, to assure representation of the state's Native American population, ethnic diversity, cultural diversity and geographic diversity.

J. Directors shall have demonstrated knowledge or experience in at least one of the following areas:

- (1) purchasing coverage in the individual market;
- (2) purchasing coverage in the small employer market;
- (3) health care finance;
- (4) health care economics or health care actuarial science;
- (5) health care policy;
- (6) the enrollment of underserved residents in health care coverage;
- (7) administration of a private or public health care delivery system;
- (8) information technology;

(9) starting a small business with fifty or fewer employees; or

(10) provision of health care services.

K. The governor shall appoint no more than four directors from the same political party.

L. Except for the secretary of human services, the non-health insurance issuer directors appointed by the governor shall be appointed for initial terms of three years or less, staggered so that the term of at least one director expires on June 30 of each year. The non-health insurance insurer directors appointed by the legislature shall be appointed for initial terms of three years or less, staggered so that the term of at least one director expires on June 30 of each year. The health insurance issuers appointed to the board shall, upon appointment, select one of them by lot to have an initial term ending on June 30 following one year of service and one to have an initial term ending on June 30 following two years of service. Following the initial terms, health insurance issuer directors shall be appointed for terms of two years. A director whose term has expired shall continue to serve until a successor is appointed by the respective appointing authority. Health insurance issuer directors shall not serve two consecutive terms.

M. The exchange, members of the board and employees of the exchange shall operate consistent with provisions of the Governmental Conduct Act, the Inspection of Public Records Act, the Financial Disclosure Act, the Gift Act, the Whistleblower Protection Act, the Open Meetings Act and the Procurement Code and shall not be subject to the Personnel Act.

N. The board and the exchange shall implement performance-based budgeting and submit annual budgets for the exchange to the secretary of finance and administration and the legislative finance committee.

O. The exchange shall cover its directors and employees under a surety bond, in an amount that the director of the risk management division of the general services department shall prescribe.

P. A majority of directors constitutes a quorum. The board may allow members to attend meetings by telephone or other electronic media. A decision by the board requires a quorum and a majority of directors in attendance voting in favor of the decision.

Q. Within thirty days of the effective date of the New Mexico Health Insurance Exchange Act, the board shall be fully appointed and the superintendent shall convene

an organizational meeting of the board, during which the board shall elect a chair and vice chair from among the directors. Thereafter, every three years, the board shall elect in open meeting a chair and vice chair from among the directors. The chair and vice chair shall serve no more than two consecutive three-year terms as chair and vice chair.

R. A vacancy on the board shall be filled by appointment by the original appointing authority for the remainder of the director's unexpired term.

S. A director may be removed from the board by a two-thirds majority vote of the directors. The board shall set standards for attendance and may remove a director for lack of attendance, neglect of duty or malfeasance in office. A director shall not be removed without proceedings consisting of at least one ten-day notice of hearing and an opportunity to be heard. Removal proceedings shall be before the board and in accordance with procedures adopted by the board.

T. Appointed directors may receive per diem and mileage in accordance with the Per Diem and Mileage Act, subject to the travel policy set by the board. Appointed directors shall receive no other compensation, perquisite or allowance.

U. The board shall:

(1) meet at the call of the chair and no less often than once per calendar quarter. There shall be at least seven days' notice given to directors prior to any meeting. There shall be sufficient notice provided to the public prior to meetings pursuant to the Open Meetings Act;

(2) create, make appointments to and duly consider recommendations of an advisory committee or committees made up of stakeholders, including health insurance issuers, health care consumers, health care providers, health care practitioners, brokers, qualified employer representatives and advocates for low-income or underserved residents;

(3) create an advisory committee made up of members insured through the New Mexico medical insurance pool to make recommendations to the board regarding the transition of each organization's insured members into the exchange. The advisory committee shall only exist until a transition plan has been adopted by the board;

(4) create an advisory committee made up of Native Americans, some of whom live on a reservation and some of whom do not live on a reservation, to guide the implementation of the Native American-specific provisions of the federal Patient

Protection and Affordable Care Act and the federal Indian Health Care Improvement Act;

(5) designate a Native American liaison, who shall assist the board in developing and ensuring implementation of communication and collaboration between the exchange and Native Americans in the state. The Native American liaison shall serve as a contact person between the exchange and New Mexico Indian nations, tribes and pueblos and shall ensure that training is provided to the staff of the exchange, which may include training in:

(a) cultural competency;

(b) state and federal law relating to Indian health; and

(c) other matters relating to the functions of the exchange with respect to Native Americans in the state; and

(6) establish at least one walk-in customer service center where persons may, if eligible, enroll in qualified health plans or public coverage programs."

Chapter 266 Section 2 Laws 2019

SECTION 2. Section 59A-23F-5 NMSA 1978 (being Laws 2013, Chapter 54, Section 5) is amended to read:

"59A-23F-5. PLAN OF OPERATION.--

A. Within sixty days of the effective date of the New Mexico Health Insurance Exchange Act, the board shall create a preliminary plan of operation containing provisions to ensure the fair, reasonable and equitable administration of the exchange. Within six months of the effective date of the New Mexico Health Insurance Exchange Act, the board shall create and implement a final plan of operation containing provisions to ensure that the exchange is administered using best practices in business administration.

B. The board shall provide for public notice and hearing prior to approving the plan of operation.

C. The preliminary plan of operation shall:

(1) establish procedures to implement the provisions of the New Mexico Health Insurance Exchange Act, consistent with state and federal law;

(2) establish procedures for handling and accounting for the exchange's assets and money; and

(3) establish regular times and meeting places for meetings of the board.

D. The final plan of operation shall:

(1) establish a statewide consumer assistance program, including a navigator program;

(2) establish consumer complaint and grievance procedures for issues relating to the exchange;

(3) establish procedures for alternative dispute resolution between the exchange and contractors or health insurance issuers;

(4) develop and implement policies that:

(a) promote effective communication and collaboration between the exchange and Indian nations, tribes and pueblos, including communicating and collaborating on those nations', tribes' and pueblos' plans for creating or participating in health insurance exchanges; and

(b) promote cultural competency in providing effective services to Native Americans;

(5) establish conflict-of-interest policies and procedures; and

(6) contain additional provisions necessary and proper for the execution of the powers and duties of the board." _____

Senate Bill 294, aa

Approved April 4, 2019

LAWS 2019, CHAPTER 267

AN ACT

RELATING TO HIGHER EDUCATION; ALLOWING NEW MEXICO STATE UNIVERSITY TO ESTABLISH A UNIVERSITY CAMPUS IN SAN LUIS POTOSI, MEXICO.

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

Chapter 267 Section 1 Laws 2019

SECTION 1. A new section of Chapter 21, Article 8 NMSA 1978 is enacted to read:

"PUBLIC-PRIVATE PARTNERSHIP FOR UNIVERSITY CAMPUS IN SAN LUIS POTOSI, MEXICO.--

A. The board of regents of New Mexico state university may establish a New Mexico state university campus in San Luis Potosi, Mexico.

B. The university shall not use state funds for capital investment or make financial contributions to private investors for the operation of the San Luis Potosi campus. Student and other data from the San Luis Potosi campus shall not be used to calculate instruction and general purposes for New Mexico state university or for capital funding.

C. Any contract between New Mexico state university and any private vendor or contractor entered into pursuant to the authority granted by this section shall be subject to resolution of disputes by international arbitration or to the jurisdiction of the district court of the third judicial district of New Mexico. The university's financial information related to the operation and financing of the San Luis Potosi campus is subject to the Audit Act. Nothing in this section serves as a waiver of the Inspection of Public Records Act, the Open Meetings Act or the Procurement Code." _____

SFL/Senate Bill 314, aa

Approved April 4, 2019

LAWS 2019, CHAPTER 268

AN ACT

RELATING TO PHARMACIES; PROVIDING FOR CHANGES TO THE PHARMACY AUDIT PROCESS; EXCEPTING CERTAIN AUDIT FINDINGS FROM FORMING THE BASIS FOR RECOUPMENT; ADDING A PHARMACY BENEFITS MANAGER OR ITS SUBCONTRACTOR AS AN AUDITING ENTITY.

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

Chapter 268 Section 1 Laws 2019

SECTION 1. Section 61-11-18.2 NMSA 1978 (being Laws 2007, Chapter 15, Section 1) is amended to read:

"61-11-18.2. AUDIT OF PHARMACY RECORDS.--

A. An audit of the records of a pharmacy by an entity shall be conducted in accordance with the following criteria:

(1) the entity conducting the initial on-site audit shall give the pharmacy notice at least two weeks prior to conducting the initial on-site audit for each audit cycle;

(2) an audit that involves clinical or professional judgment shall be conducted by or in consultation with a pharmacist;

(3) a clerical or recordkeeping error, regarding a required document or record, shall not necessarily constitute fraud, and that error:

(a) shall not be the basis for recoupment unless the error results in overpayment to the pharmacy, and any amount to be charged back or recouped due to overpayment shall not exceed the amount the pharmacy was overpaid; and

(b) shall not be subject to criminal penalties without proof of intent to commit fraud;

(4) a pharmacy may use the records of a hospital, physician or other authorized practitioner of the healing arts for drugs or medicinal supplies written or transmitted by any means of communication for purposes of validating the pharmacy record with respect to orders or refills of a dangerous drug or controlled substance;

(5) a finding of an overpayment or underpayment shall be based on the actual overpayment or underpayment of a specific individual claim;

(6) each pharmacy shall be audited under the same standards and parameters as other similarly situated pharmacies audited by the entity;

(7) a pharmacy shall be allowed at least twenty-one business days, with reasonable extensions allowed, following receipt of the preliminary audit report in which to produce documentation to address any discrepancy found during an audit;

(8) the period covered by an audit shall not exceed two years from the date the claim was submitted to or adjudicated by an entity, unless it conflicts with state or federal law;

(9) an audit shall not be initiated or scheduled during the first five calendar days of a month;

(10) the preliminary audit report shall be delivered to the pharmacy within one hundred twenty days, with reasonable extensions allowed, after conclusion of the audit, and the final report shall be delivered to the pharmacy within six months after receipt of the preliminary audit report or final appeal, as provided for in Subsection B of this section, whichever is later;

(11) notwithstanding any other provision in this section, the entity conducting the audit shall not use the accounting practice of extrapolation in calculating recoupments or penalties for audits;

(12) the auditing entity conducting a pharmacy audit shall not compensate an employee or contractor with which an auditing entity contracts to conduct a pharmacy audit based on the amount claimed or the actual amount recouped from the pharmacy being audited;

(13) an entity shall not charge a fee for conducting an on-site or a desk audit unless there is a finding of actual fraud;

(14) as a result of an audit finding, a pharmacist or pharmacy may resubmit a claim within twenty-one business days to correct clerical or recordkeeping errors in lieu of recoupment of a claim where no actual financial harm to the patient has occurred; provided that the prescription was dispensed according to prescription documentation requirements pursuant to the Pharmacy Act;

(15) the requirements for a valid prescription or a pharmacy benefits manager's required operational standards for pharmacies shall not be more stringent than federal or state requirements;

(16) with notice to the prescriber, a pharmacy or pharmacist may satisfy state and federal requirements for a valid prescription by affixing or writing additional information on the front or back of a prescription or if the required information is electronically recorded on a patient's profile and is readily retrievable;

(17) the days' supply for unit-of-use items, such as topicals, drops, vials and inhalants, shall not be limited beyond manufacturer recommendations;

(18) if the only commercially available package size exceeds an entity's maximum days' supply, the dispensing of such package size must be accepted by the entity and shall not be the basis for recoupment;

(19) if the only commercially available package size exceeds an entity's maximum days' supply and the entity accepts the refill of such prescription, the entity shall not recoup such claim as an early refill; and

(20) the failure of a pharmacy to collect a copayment shall not be the basis for recoupment if the pharmacy provides documentation of billing of the claim and a reasonable attempt to collect the copayment.

B. Recoupment of any disputed funds shall occur after final internal disposition of the audit, including the appeals process set forth in Subsection C of this section. Should the identified discrepancy for an individual audit exceed twenty-five thousand dollars (\$25,000), future payments to the pharmacy may be withheld pending finalization of the audit.

C. Each entity conducting an audit shall establish an appeals process under which a pharmacy may appeal an unfavorable preliminary audit report to the entity. If, following the appeal, the entity finds that an unfavorable audit report or any portion of the audit is unsubstantiated, the entity shall dismiss the audit report or the unsubstantiated portion of the report of the audit without the necessity of any further proceedings.

D. This section does not apply to any investigative audit that involves probable or potential fraud, waste, abuse or willful misrepresentation.

E. In a wholesale invoice audit conducted by an entity:

(1) an entity shall not audit the claims of another entity;

(2) the following shall not form the basis for recoupment:

(a) the national drug code for the dispensed drug is in a quantity that is a sub-unit or multiple of the purchased drug as reflected on a supporting wholesale invoice;

(b) the correct quantity dispensed is reflected on the audited pharmacy claim; or

(c) the drug dispensed by the pharmacy on an audited pharmacy claim is identical to the strength and dosage form of the drug purchased;

(3) the entity shall accept as evidence:

(a) supplier invoices issued prior to the date of dispensing the drug underlying the audited claim;

(b) invoices from any supplier authorized by law to transfer ownership of the drug acquired by the audited pharmacy;

(c) copies of supplier invoices in the possession of the audited pharmacy; and

(d) reports required by any state board or agency; and

(4) within five business days of request by the audited pharmacy, the entity shall provide supporting documentation provided to the entity by the audited pharmacy's suppliers.

F. As used in this section:

(1) "entity" means a managed care company, insurance company or third-party payor, or representative of a managed care company, insurance company or third-party payor, or a pharmacy benefits manager or a subcontractor of a pharmacy benefits manager; and

(2) "extrapolation" means a mathematical process or technique used to estimate audit results or findings for a larger batch or group of claims not reviewed." _____

SCORC/Senate Bill 394, aa

Approved April 4, 2019

LAWS 2019, CHAPTER 269

AN ACT

RELATING TO HEALTH CARE; AMENDING AND ENACTING SECTIONS OF THE PHARMACY BENEFITS MANAGER REGULATION ACT; PROVIDING FOR RENEWAL OF PHARMACY BENEFITS MANAGER LICENSURE; REQUIRING DISCLOSURE OF DOCUMENTS DURING AN INVESTIGATION; PROVIDING FOR CONFIDENTIALITY; PROVIDING FOR CHANGES TO THE REIMBURSEMENT PROCESS; PROVIDING FOR AN APPEALS PROCESS; REQUIRING THE PROVISION OF CERTAIN DOCUMENTS OR INFORMATION UPON REQUEST; REQUIRING CERTAIN CONTRACTUAL PROVISIONS; LIMITING PHARMACY BENEFITS MANAGER CHARGES TO THOSE ITEMIZED IN A CONTRACT.

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

Chapter 269 Section 1 Laws 2019

SECTION 1. Section 59A-61-2 NMSA 1978 (being Laws 2014, Chapter 14, Section 2) is amended to read:

"59A-61-2. DEFINITIONS.--As used in the Pharmacy Benefits Manager Regulation Act:

A. "maximum allowable cost" means the maximum amount that a pharmacy benefits manager will reimburse a pharmacy for the cost of a generic drug;

B. "maximum allowable cost list" means a searchable, electronic and internet-based listing of drugs used by a pharmacy benefits manager setting the maximum allowable cost on which reimbursement to a pharmacy or pharmacist is made;

C. "obsolete" means a product that is listed in national drug pricing compendia but is no longer available to be dispensed based on the expiration date of the last lot manufactured;

D. "pharmacist" means an individual licensed as a pharmacist by the board of pharmacy;

E. "pharmacy" means a licensed place of business where drugs are compounded or dispensed and pharmacist services are provided;

F. "pharmacy benefits management" means a service provided to or conducted by a health plan as defined in Section 59A-16-21.1 NMSA 1978 or health insurer that involves:

- (1) prescription drug claim administration;
- (2) pharmacy network management;
- (3) negotiation and administration of prescription drug discounts, rebates and other benefits;
- (4) design, administration or management of prescription drug benefits;
- (5) formulary management;
- (6) payment of claims to pharmacies for dispensing prescription drugs;
- (7) negotiation or administration of contracts relating to pharmacy operations or prescription benefits; or
- (8) any other service determined by the superintendent as specified by rule to be a pharmacy benefits management activity;

G. "pharmacy benefits manager" means an entity that provides pharmacy benefits management services;

H. "pharmacy benefits manager affiliate" means a pharmacy or pharmacist that directly or indirectly, through one or more intermediaries, owns or controls, is owned or controlled by or is under common ownership or control with a pharmacy benefits manager;

I. "pharmacy services administrative organization" means an entity that contracts with a pharmacy or pharmacist to act as the pharmacy or pharmacist's agent with respect to matters involving a pharmacy benefits manager or third-party payor, including negotiating, executing or administering contracts with the pharmacy benefits manager or third-party payor; and

J. "superintendent" means the superintendent of insurance."

Chapter 269 Section 2 Laws 2019

SECTION 2. Section 59A-61-3 NMSA 1978 (being Laws 2014, Chapter 14, Section 3) is amended to read:

"59A-61-3. LICENSURE--INITIAL APPLICATION--ANNUAL RENEWAL REQUIRED--REVOCATION.--

A. A person shall not operate as a pharmacy benefits manager unless licensed by the superintendent in accordance with the Pharmacy Benefits Manager Regulation Act and applicable federal and state laws. A licensee shall renew the licensee's pharmacy benefits manager license annually.

B. An initial application and a renewal application for licensure as a pharmacy benefits manager shall be made on a form and in a manner provided for by the superintendent, but at a minimum shall require:

- (1) the identity of the pharmacy benefits manager;
- (2) the name and business address of the contact person for the pharmacy benefits manager;
- (3) where applicable, the federal employer identification number for the pharmacy benefits manager; and
- (4) any other information specified in rules promulgated by the superintendent.

C. The superintendent shall enforce and promulgate rules to implement the provisions of the Pharmacy Benefits Manager Regulation Act and may suspend or revoke a license issued to a pharmacy benefits manager or deny an application for a license or renewal of a license if:

- (1) the pharmacy benefits manager is operating in contravention of its application;
- (2) the pharmacy benefits manager has failed to continuously meet or comply with the requirements for issuance or maintenance of a license; or
- (3) the pharmacy benefits manager has failed to comply with applicable state or federal laws or rules.

D. If the license of a pharmacy benefits manager is revoked, the manager shall proceed, immediately following the effective date of the order of revocation, to conclude

its affairs, notify each pharmacy in its network and conduct no further pharmacy benefits management services in the state, except as may be essential to the orderly conclusion of its affairs. The superintendent may permit further operation of the pharmacy benefits manager if the superintendent finds it to be in the best interest of patients.

E. A person whose pharmacy benefits manager license has been denied, suspended or revoked may seek review of the denial, suspension or revocation pursuant to the provisions of Chapter 59A, Article 4 NMSA 1978.

F. Nothing in the Pharmacy Benefits Manager Regulation Act shall be construed to authorize a pharmacy benefits manager to transact the business of insurance."

Chapter 269 Section 3 Laws 2019

SECTION 3. Section 59A-61-4 NMSA 1978 (being Laws 2014, Chapter 14, Section 4) is amended to read:

"59A-61-4. PHARMACY REIMBURSEMENT PRACTICES FOR GENERIC DRUGS--APPEALS PROCESS REQUIRED.--

A. A pharmacy benefits manager shall determine a reimbursement amount for a generic drug based on objective and verifiable sources.

B. A pharmacy benefits manager shall reimburse a pharmacy an amount no less than the amount that the pharmacy benefits manager reimburses a pharmacy benefits manager affiliate in the same network for providing the same or equivalent service.

C. A pharmacy benefits manager using maximum allowable cost pricing may place a drug on a maximum allowable cost list if the drug:

(1) is listed as "A" or "B" rated in the most recent version of the United States food and drug administration's approved drug products with therapeutic equivalence evaluations, also known as the "orange book", or has an "NR" or "NA" rating or a similar rating by a nationally recognized reference;

(2) is available for purchase by pharmacies in the state at the time of claim submission from national or regional wholesalers and is not obsolete; and

(3) is a drug with not fewer than two "A" or "B" rated therapeutically equivalent drugs in the most recent version of the United States food and drug

administration's approved drug products with therapeutic equivalence evaluations, also known as the "orange book".

D. A pharmacy benefits manager using maximum allowable cost pricing shall:

(1) upon a network pharmacy's request, provide that network pharmacy with the sources used to determine the maximum allowable cost pricing for the maximum allowable cost list specific to that provider;

(2) review and update maximum allowable cost price information at least once every seven business days to reflect any modification of maximum allowable cost pricing;

(3) establish and maintain a process for eliminating products from the maximum allowable cost list or modifying maximum allowable cost prices in at least seven business days to remain consistent with pricing changes and product availability in the marketplace;

(4) provide a procedure that allows a pharmacy to choose the entity to which it will appeal reimbursement for generic drugs. A pharmacy may appeal:

(a) directly to the pharmacy benefits manager; or

(b) through a pharmacy services administrative organization;

(5) provide an appeals process that, at a minimum, includes the following:

(a) a dedicated telephone number and electronic mail address or website for the purpose of submitting appeals;

(b) the ability to submit an appeal directly to the pharmacy benefits manager; and

(c) the allowance of at least twenty-one business days to file an appeal after the date a pharmacy receives notice of the reimbursement amount;

(6) grant an appeal if the pharmacy benefits manager fails to respond to a complete submission as defined by rules promulgated by the superintendent of the appealing party in writing within fourteen business days after the pharmacy benefits manager receives the appeal;

(7) if an appeal is granted, notify the challenging pharmacy and its pharmacy services administrative organization, if any, that the appeal is granted and make the change in the maximum allowable cost effective for the appealing pharmacy and for each other pharmacy in its network and permit the appealing pharmacy to reverse and bill again the claim or claims that formed the basis of the appeal;

(8) when an appeal is denied, provide the challenging pharmacy and its pharmacy services administrative organization, if any, the national drug code number and supplier that has the product available for purchase in New Mexico at or below the maximum allowable cost;

(9) within one business day of granting or denying a network pharmacy's appeal, notify all network pharmacies of the decision;

(10) upon granting an appeal, allow other similarly situated network pharmacies to reverse and bill again for like claims that formed the basis of the granted appeal; and

(11) provide for each of its network pharmacy providers and the superintendent a process and mechanism to readily access the maximum allowable cost list specific to that provider.

E. A maximum allowable cost list specific to a provider and maintained by a managed care organization or pharmacy benefits manager is confidential.

F. Pursuant to Section 59A-4-3 NMSA 1978, a pharmacy benefits manager shall provide information contained in a maximum allowable cost list to the superintendent upon request by the superintendent."

Chapter 269 Section 4 Laws 2019

SECTION 4. Section 59A-61-5 NMSA 1978 (being Laws 2014, Chapter 14, Section 5) is amended to read:

"59A-61-5. PHARMACY BENEFITS MANAGER CONTRACTS--CERTAIN PRACTICES PROHIBITED--CERTAIN DISCLOSURES REQUIRED UPON REQUEST.--

A. A pharmacy benefits manager shall not require that a pharmacy participate in one contract in order to participate in another contract.

B. A pharmacy benefits manager shall provide to a pharmacy by electronic mail, facsimile or certified mail, at least thirty calendar days prior to its execution, a contract written in plain English.

C. A contract between a pharmacy benefits manager and a pharmacy shall identify the industry standard reimbursement practice that the pharmacy benefits manager will use to determine a reimbursement amount, unless the contract is modified in writing to specify another industry standard practice.

D. The provisions of the Pharmacy Benefits Manager Regulation Act shall not be waived, voided or nullified by contract.

E. A pharmacy benefits manager shall not:

(1) cause or knowingly permit the use of any advertisement, promotion, solicitation, representation, proposal or offer that is untrue, deceptive or misleading;

(2) require pharmacy validation and revalidation standards inconsistent with, more stringent than or in addition to federal and state requirements for licensure and operation as a pharmacy in this state;

(3) prohibit a pharmacy or pharmacist from:

(a) mailing or delivering drugs to a patient as an ancillary service;

(b) providing a patient information regarding the patient's total cost for pharmacist services for a prescription drug; or

(c) discussing information regarding the total cost for pharmacist services for a prescription drug or from selling a more affordable alternative to the insured if a more affordable alternative is available;

(4) require or prefer a generic drug over its generic therapeutic equivalent;

(5) prohibit, restrict or limit disclosure of information by a pharmacist or pharmacy to the superintendent; or

(6) prohibit, restrict or limit pharmacies or pharmacists from providing to state or federal government officials general information for public policy purposes.

F. A pharmacy benefits manager or health benefit plan shall not impose a fee on a pharmacy for scores or metrics or both scores and metrics. Nothing in this subsection prohibits a pharmacy benefits manager or health benefit plan from offering incentives to a pharmacy based on a score or metric; provided that the incentive is equally available to all in-network pharmacies.

G. Within seven business days of a request by the superintendent or a contracted pharmacy or pharmacist, a pharmacy benefits manager or pharmacy services administrative organization shall provide as appropriate:

- (1) a contract;
- (2) an agreement;
- (3) a claim appeal document;
- (4) a disputed claim transaction document or price list; or
- (5) any other information specified by law.

H. In a time and manner required by rules promulgated by the superintendent, a pharmacy benefits manager shall issue to the superintendent a network adequacy report describing the pharmacy benefits manager network and the pharmacy benefits manager network's accessibility to insureds statewide.

I. Pursuant to the provisions of Section 59A-4-3 NMSA 1978, the superintendent, or the superintendent's designee, may examine the books, documents, policies, procedures and records of a pharmacy benefits manager to determine compliance with applicable law. The pharmacy benefits manager shall pay the costs of the examination. At the request of a person who provides information in response to a complaint, investigation or examination, the superintendent may deem the information confidential."

Chapter 269 Section 5 Laws 2019

SECTION 5. Section 59A-61-6 NMSA 1978 (being Laws 2014, Chapter 14, Section 6) is amended to read:

"59A-61-6. AUDIT--PHARMACY BENEFITS MANAGER.--A pharmacy benefits manager licensed pursuant to the Pharmacy Benefits Manager Regulation Act shall be subject to Section 61-11-18.2 NMSA 1978. A pharmacy benefits manager shall not

reduce or eliminate payment on an adjudicated claim except as permitted by Section 61-11-18.2 NMSA 1978."

Chapter 269 Section 6 Laws 2019

SECTION 6. Section 59A-61-7 NMSA 1978 (being Laws 2017, Chapter 16, Section 2) is amended to read:

"59A-61-7. PHARMACY BENEFITS MANAGERS--PROHIBITED PHARMACY FEES.--

A. A pharmacy benefits manager shall not charge a pharmacy a fee related to the adjudication of a claim, including:

- (1) the receipt and processing of a pharmacy claim;
- (2) the development or management of a claim processing or adjudication network; or
- (3) participation in a claim processing or claim adjudication network.

B. A pharmacy benefits manager shall not charge a pharmacy a fee for a service unless the fee for service is itemized in the pharmacy benefits management contract."

Chapter 269 Section 7 Laws 2019

SECTION 7. A new section of the Pharmacy Benefits Manager Regulation Act is enacted to read:

"REGISTRATION OF PHARMACY SERVICES ADMINISTRATIVE ORGANIZATIONS REQUIRED.--A pharmacy services administrative organization shall register with the superintendent on a form and in a time frame and method of submission specified by the superintendent."

Chapter 269 Section 8 Laws 2019

SECTION 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

SJC/SCORC/Senate Bill 415

Approved April 4, 2019

LAWS 2019, CHAPTER 270

AN ACT

RELATING TO TAXATION; AMENDING PERSONAL INCOME TAX BRACKETS; LIMITING THE CAPITAL GAINS DEDUCTION FROM NET INCOME; FORGIVING PENALTIES AND INTEREST FOR CERTAIN INCOME TAX LIABILITIES; CREATING AN INCOME TAX DEPENDENT DEDUCTION; INCREASING THE WORKING FAMILIES TAX CREDIT; REQUIRING COMBINED REPORTING FOR A UNITARY GROUP; CHANGING REQUIREMENTS FOR CORPORATIONS TO FILE A CONSOLIDATED RETURN; AMENDING AND ADDING DEFINITIONS PURSUANT TO THE CORPORATE INCOME AND FRANCHISE TAX ACT; CREATING A CORPORATE INCOME TAX DEDUCTION TO OFFSET MATERIAL FINANCIAL EFFECTS OF CHANGES IN DEFERRED TAX AMOUNTS; AMENDING THE UNIFORM DIVISION OF INCOME FOR TAX PURPOSES ACT TO DETERMINE IN-STATE SALES OF INTANGIBLES AND SERVICES BASED ON MARKET SOURCING RATHER THAN COST OF PERFORMANCE; PROVIDING THAT THE COMPENSATING TAX RATE FOR SERVICES EQUAL THE SAME RATE AS FOR PROPERTY; EXPANDING THE IMPOSITION OF THAT TAX; PROVIDING FOR TAXATION OF CERTAIN INTERNET SELLERS PURSUANT TO THE GROSS RECEIPTS AND COMPENSATING TAX ACT; AMENDING SOURCING RULES FROM THE PLACE OF BUSINESS OF THE SELLER TO DESTINATION-BASED SOURCING; LIMITING AUDITS OF MARKETPLACE PROVIDERS AND MARKETPLACE SELLERS; PROVIDING FOR THE TAXATION OF FOR-PROFIT, NONPROFIT AND GOVERNMENT HOSPITALS PURSUANT TO THE GROSS RECEIPTS AND COMPENSATING TAX ACT; EXEMPTING NONPROFIT HOSPITALS FROM LOCAL OPTION GROSS RECEIPTS TAXES; INCREASING THE CIGARETTE TAX; IMPOSING THE TOBACCO PRODUCTS TAX ON LITTLE CIGARS AND E-LIQUID USED IN E-CIGARETTES; REDUCING THE RATE OF TOBACCO PRODUCTS TAX ON CIGARS; ~~PROVIDING A DISCOUNT IN TAX FOR CERTAIN CIGARETTES AND TOBACCO PRODUCTS;~~ INCREASING THE RATE OF THE MOTOR VEHICLE EXCISE TAX; AMENDING THE DISTRIBUTION OF THE REVENUE OF THE MOTOR VEHICLE EXCISE TAX; TEMPORARILY DISTRIBUTING A PORTION OF THE REVENUE TO THE DEPARTMENT OF TRANSPORTATION TO MITIGATE THE EMERGENCY ROAD CONDITIONS RELATED TO ACTIVITY IN THE OIL FIELD IN STATE TRANSPORTATION COMMISSION DISTRICT 2 AND THEN DISTRIBUTING A PORTION OF THE REVENUE TO THE LOCAL GOVERNMENTS ROAD FUND; IMPOSING A MUNICIPAL COMPENSATING TAX AND A COUNTY COMPENSATING

TAX; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; MAKING AN APPROPRIATION. *LINE-ITEM VETO*

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

Chapter 270 Section 1 Laws 2019

SECTION 1. Section 7-1-2 NMSA 1978 (being Laws 1965, Chapter 248, Section 2, as amended) is amended to read:

"7-1-2. APPLICABILITY.--The Tax Administration Act applies to and governs:

A. the administration and enforcement of the following taxes or tax acts as they now exist or may hereafter be amended:

- (1) Income Tax Act;
- (2) Withholding Tax Act;
- (3) Oil and Gas Proceeds and Pass-Through Entity Withholding Tax Act;
- (4) Gross Receipts and Compensating Tax Act, Interstate Telecommunications Gross Receipts Tax Act and Leased Vehicle Gross Receipts Tax Act;
- (5) Liquor Excise Tax Act;
- (6) Local Liquor Excise Tax Act;
- (7) any municipal local option gross receipts tax or municipal compensating tax;
- (8) any county local option gross receipts tax or county compensating tax;
- (9) Special Fuels Supplier Tax Act;
- (10) Gasoline Tax Act;
- (11) petroleum products loading fee, which fee shall be considered a tax for the purpose of the Tax Administration Act;

(12) Alternative Fuel Tax Act;

(13) Cigarette Tax Act;

(14) Estate Tax Act;

(15) Railroad Car Company Tax Act;

(16) Investment Credit Act, rural job tax credit, Laboratory Partnership with Small Business Tax Credit Act, Technology Jobs and Research and Development Tax Credit Act, Film Production Tax Credit Act, Affordable Housing Tax Credit Act and high-wage jobs tax credit;

(17) Corporate Income and Franchise Tax Act;

(18) Uniform Division of Income for Tax Purposes Act;

(19) Multistate Tax Compact;

(20) Tobacco Products Tax Act; and

(21) the telecommunications relay service surcharge imposed by Section 63-9F-11 NMSA 1978, which surcharge shall be considered a tax for the purposes of the Tax Administration Act;

B. the administration and enforcement of the following taxes, surtaxes, advanced payments or tax acts as they now exist or may hereafter be amended:

(1) Resources Excise Tax Act;

(2) Severance Tax Act;

(3) any severance surtax;

(4) Oil and Gas Severance Tax Act;

(5) Oil and Gas Conservation Tax Act;

(6) Oil and Gas Emergency School Tax Act;

(7) Oil and Gas Ad Valorem Production Tax Act;

(8) Natural Gas Processors Tax Act;

(9) Oil and Gas Production Equipment Ad Valorem Tax Act;

(10) Copper Production Ad Valorem Tax Act;

(11) any advance payment required to be made by any act specified in this subsection, which advance payment shall be considered a tax for the purposes of the Tax Administration Act;

(12) Enhanced Oil Recovery Act;

(13) Natural Gas and Crude Oil Production Incentive Act; and

(14) intergovernmental production tax credit and intergovernmental production equipment tax credit;

C. the administration and enforcement of the following taxes, surcharges, fees or acts as they now exist or may hereafter be amended:

(1) Weight Distance Tax Act;

(2) the workers' compensation fee authorized by Section 52-5-19 NMSA 1978, which fee shall be considered a tax for purposes of the Tax Administration Act;

(3) Uniform Unclaimed Property Act (1995);

(4) 911 emergency surcharge and the network and database surcharge, which surcharges shall be considered taxes for purposes of the Tax Administration Act;

(5) the solid waste assessment fee authorized by the Solid Waste Act, which fee shall be considered a tax for purposes of the Tax Administration Act;

(6) the water conservation fee imposed by Section 74-1-13 NMSA 1978, which fee shall be considered a tax for the purposes of the Tax Administration Act; and

(7) the gaming tax imposed pursuant to the Gaming Control Act; and

D. the administration and enforcement of all other laws, with respect to which the department is charged with responsibilities pursuant to the Tax Administration Act, but only to the extent that the other laws do not conflict with the Tax Administration Act."

Chapter 270 Section 2 Laws 2019

SECTION 2. Section 7-1-3 NMSA 1978 (being Laws 1965, Chapter 248, Section 3, as amended) is amended to read:

"7-1-3. DEFINITIONS.--Unless the context clearly indicates a different meaning, the definitions of words and phrases as they are stated in this section are to be used, and whenever in the Tax Administration Act these words and phrases appear, the singular includes the plural and the plural includes the singular:

A. "automated clearinghouse transaction" means an electronic credit or debit transmitted through an automated clearinghouse payable to the state treasurer and deposited with the fiscal agent of New Mexico;

B. "business location" means the location where a taxpayer's gross receipts and deductions are required to be reported pursuant to Section 7-1-14 NMSA 1978;

C. "department" means the taxation and revenue department, the secretary or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

D. "electronic payment" means a payment made by automated clearinghouse deposit, any funds wire transfer system or a credit card, debit card or electronic cash transaction through the internet;

E. "employee of the department" means any employee of the department, including the secretary, or any person acting as agent or authorized to represent or perform services for the department in any capacity with respect to any law made subject to administration and enforcement under the provisions of the Tax Administration Act;

F. "financial institution" means any state or federally chartered, federally insured depository institution;

G. "hearing officer" means a person who has been designated by the chief hearing officer to serve as a hearing officer and who is:

- (1) the chief hearing officer;
- (2) an employee of the administrative hearings office; or
- (3) a contractor of the administrative hearings office;

H. "Internal Revenue Code" means the Internal Revenue Code of 1986, as that code may be amended or its sections renumbered;

I. "levy" means the lawful power, hereby invested in the secretary, to take into possession or to require the present or future surrender to the secretary or the secretary's delegate of any property or rights to property belonging to a delinquent taxpayer;

J. "local option gross receipts tax" means a tax authorized to be imposed by a county or municipality upon a taxpayer's gross receipts, as that term is defined in the Gross Receipts and Compensating Tax Act, and required to be collected by the department at the same time and in the same manner as the gross receipts tax;

K. "managed audit" means a review and analysis conducted by a taxpayer under an agreement with the department to determine the taxpayer's compliance with a tax administered pursuant to the Tax Administration Act and the presentation of the results to the department for assessment of tax found to be due;

L. "net receipts" means the total amount of money paid by taxpayers to the department in a month pursuant to a tax or tax act less any refunds disbursed in that month with respect to that tax or tax act;

M. "overpayment" means an amount paid, pursuant to any law subject to administration and enforcement under the provisions of the Tax Administration Act, by a person to the department or withheld from the person in excess of tax due from the person to the state at the time of the payment or at the time the amount withheld is credited against tax due;

N. "paid" includes the term "paid over";

O. "pay" includes the term "pay over";

P. "payment" includes the term "payment over";

Q. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, limited liability partnership, joint venture, syndicate, other association or gas, water or electric utility owned or operated by a county or municipality; "person" also means, to the extent permitted by law, a federal, state or other governmental unit or subdivision, or an agency, department or instrumentality thereof; and "person", as used in Sections 7-1-72 through 7-1-74 NMSA 1978, also includes an officer or employee of a corporation,

a member or employee of a partnership or any individual who, as such, is under a duty to perform any act in respect of which a violation occurs;

R. "property" means property or rights to property;

S. "property or rights to property" means any tangible property, real or personal, or any intangible property of a taxpayer;

T. "return" means any tax or information return, application or form, declaration of estimated tax or claim for refund, including any amendments or supplements to the return, required or permitted pursuant to a law subject to administration and enforcement pursuant to the Tax Administration Act and filed with the secretary or the secretary's delegate by or on behalf of any person;

U. "return information" means a taxpayer's name, address, government-issued identification number and other identifying information; any information contained in or derived from a taxpayer's return; any information with respect to any actual or possible administrative or legal action by an employee of the department concerning a taxpayer's return, such as audits, managed audits, denial of credits or refunds, assessments of tax, penalty or interest, protests of assessments or denial of refunds or credits, levies or liens; or any other information with respect to a taxpayer's return or tax liability that was not obtained from public sources or that was created by an employee of the department; but "return information" does not include statistical data or other information that cannot be associated with or directly or indirectly identify a particular taxpayer;

V. "secretary" means the secretary of taxation and revenue and, except for purposes of Subsection B of Section 7-1-4 NMSA 1978, also includes the deputy secretary or a division director or deputy division director delegated by the secretary;

W. "secretary or the secretary's delegate" means the secretary or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

X. "security" means money, property or rights to property or a surety bond;

Y. "state" means any state of the United States, the District of Columbia, the commonwealth of Puerto Rico and any territory or possession of the United States;

Z. "tax" means the total amount of each tax imposed and required to be paid, withheld and paid or collected and paid under provision of any law made subject to administration and enforcement according to the provisions of the Tax Administration Act, including the amount of any interest or civil penalty relating thereto; "tax" also

means any amount of any abatement of tax made or any credit, rebate or refund paid or credited by the department under any law subject to administration and enforcement under the provisions of the Tax Administration Act to any person contrary to law, including the amount of any interest or civil penalty relating thereto;

AA. "tax return preparer" means a person who prepares for others for compensation or who employs one or more persons to prepare for others for compensation any return of income tax, a substantial portion of any return of income tax, any claim for refund with respect to income tax or a substantial portion of any claim for refund with respect to income tax; provided that a person shall not be a "tax return preparer" merely because such person:

(1) furnishes typing, reproducing or other mechanical assistance;

(2) is an employee who prepares an income tax return or claim for refund with respect to an income tax return of the employer, or of an officer or employee of the employer, by whom the person is regularly and continuously employed; or

(3) prepares as a trustee or other fiduciary an income tax return or claim for refund with respect to income tax for any person; and

BB. "taxpayer" means a person liable for payment of any tax; a person responsible for withholding and payment or for collection and payment of any tax; a person to whom an assessment has been made, if the assessment remains unabated or the amount thereof has not been paid; or a person who entered into a special agreement pursuant to Section 7-1-21.1 NMSA 1978 to assume the liability of gross receipts tax or governmental gross receipts tax of another person and the special agreement was approved by the secretary pursuant to the Tax Administration Act."

Chapter 270 Section 3 Laws 2019

SECTION 3. Section 7-1-6.4 NMSA 1978 (being Laws 1983, Chapter 211, Section 9, as amended) is amended to read:

"7-1-6.4. DISTRIBUTION--MUNICIPALITY FROM GROSS RECEIPTS TAX.--

A. Except as provided in Subsection B of this section, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to each municipality in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the product of the quotient of one and two hundred twenty-five thousandths percent divided by the tax rate imposed by Section 7-9-4 NMSA 1978 multiplied by the net receipts,

except net receipts attributable to a nonprofit hospital licensed by the department of health, for the month attributable to the gross receipts tax from business locations:

- (1) within that municipality;
- (2) on land owned by the state, commonly known as the "state fairgrounds", within the exterior boundaries of that municipality;
- (3) outside the boundaries of any municipality on land owned by that municipality; and
- (4) on an Indian reservation or pueblo grant in an area that is contiguous to that municipality and in which the municipality performs services pursuant to a contract between the municipality and the Indian tribe or Indian pueblo if:
 - (a) the contract describes an area in which the municipality is required to perform services and requires the municipality to perform services that are substantially the same as the services the municipality performs for itself; and
 - (b) the governing body of the municipality has submitted a copy of the contract to the secretary.

B. If the reduction made by Laws 1991, Chapter 9, Section 9 to the distribution under this section impairs the ability of a municipality to meet its principal or interest payment obligations for revenue bonds outstanding prior to July 1, 1991 that are secured by the pledge of all or part of the municipality's revenue from the distribution made under this section, then the amount distributed pursuant to this section to that municipality shall be increased by an amount sufficient to meet any required payment, provided that the distribution amount does not exceed the amount that would have been due that municipality under this section as it was in effect on June 30, 1992.

C. A distribution pursuant to this section may be adjusted for a distribution made to a tax increment development district with respect to a portion of a gross receipts tax increment dedicated by a municipality pursuant to the Tax Increment for Development Act.

D. As used in this section, "nonprofit hospital" means a hospital that has been granted exemption from federal income tax by the United States commissioner of internal revenue as an organization described in Section 501(c)(3) of the Internal Revenue Code."

Chapter 270 Section 4 Laws 2019

SECTION 4. Section 7-1-6.11 NMSA 1978 (being Laws 1983, Chapter 211, Section 16, as amended by Laws 2017, Chapter 34, Section 2 and by Laws 2017, Chapter 63, Section 9) is amended to read:

"7-1-6.11. DISTRIBUTIONS OF CIGARETTE TAXES.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the comprehensive cancer center at the university of New Mexico health sciences center in an amount equal to seventy-one hundredths percent of the net receipts, exclusive of penalties and interest, attributable to the cigarette tax.

B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 in an amount equal to seven and fifty-two hundredths percent of the net receipts, exclusive of penalties and interest, attributable to the cigarette tax, shall be made, on behalf of and for the benefit of the university of New Mexico health sciences center, to the New Mexico finance authority.

C. A distribution pursuant to Section 7-1-6.1 NMSA 1978 in an amount equal to three and seventeen hundredths percent of the net receipts, exclusive of penalties and interest, attributable to the cigarette tax shall be made to the New Mexico finance authority for land acquisition and the planning, designing, construction and equipping of department of health facilities or improvements to such facilities.

D. A distribution pursuant to Section 7-1-6.1 NMSA 1978 in an amount equal to eight and twenty-six hundredths percent of the net receipts, exclusive of penalties and interest, attributable to the cigarette tax shall be made to the New Mexico finance authority for deposit in the credit enhancement account created in the authority.

E. A distribution pursuant to Section 7-1-6.1 NMSA 1978 in an amount equal to fifty-three hundredths percent of the net receipts, exclusive of penalties and interest, attributable to the cigarette tax shall be made, on behalf of and for the benefit of the rural county cancer treatment fund, to the New Mexico finance authority."

Chapter 270 Section 5 Laws 2019

SECTION 5. Section 7-1-6.12 NMSA 1978 (being Laws 1983, Chapter 211, Section 17, as amended) is amended to read:

"7-1-6.12. TRANSFER--REVENUES FROM MUNICIPAL LOCAL OPTION GROSS RECEIPTS AND COMPENSATING TAXES.--

A. A transfer pursuant to Section 7-1-6.1 NMSA 1978 shall be made to each municipality for which the department is collecting a local option gross receipts tax and municipal compensating tax imposed by that municipality in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the net receipts attributable to the local option gross receipts tax and municipal compensating tax imposed by that municipality, less any deduction for administrative cost determined and made by the department pursuant to the provisions of the act authorizing imposition by that municipality of the local option gross receipts tax and municipal compensating tax and any additional administrative fee withheld pursuant to Section 7-1-6.41 NMSA 1978.

B. A transfer pursuant to this section may be adjusted for a distribution made to a tax increment development district with respect to a portion of a gross receipts tax increment dedicated by a municipality pursuant to the Tax Increment for Development Act."

Chapter 270 Section 6 Laws 2019

SECTION 6. Section 7-1-6.13 NMSA 1978 (being Laws 1983, Chapter 211, Section 18, as amended) is amended to read:

"7-1-6.13. TRANSFER--REVENUES FROM COUNTY LOCAL OPTION GROSS RECEIPTS AND COMPENSATING TAXES.--

A. Except as provided in Subsection B of this section, a transfer pursuant to Section 7-1-6.1 NMSA 1978 shall be made to each county for which the department is collecting a local option gross receipts tax and county compensating tax imposed by that county in an amount, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, equal to the net receipts attributable to the local option gross receipts tax and county compensating tax imposed by that county, less any deduction for administrative cost determined and made by the department pursuant to the provisions of the act authorizing imposition by that county of the local option gross receipts tax and county compensating tax and any additional administrative fee withheld pursuant to Section 7-1-6.41 NMSA 1978.

B. A transfer pursuant to this section may be adjusted for a distribution made to a tax increment development district with respect to a portion of a gross receipts tax increment dedicated by a county pursuant to the Tax Increment for Development Act."

Chapter 270 Section 7 Laws 2019

~~[SECTION 7.— Section 7-1-6.15 NMSA 1978 (being Laws 1983, Chapter 211, Section 20, as amended by Laws 2015, Chapter 89, Section 1 and by Laws 2015, Chapter 100, Section 1) is amended to read:~~

~~"7-1-6.15. ADJUSTMENTS OF DISTRIBUTIONS OR TRANSFERS TO MUNICIPALITIES OR COUNTIES.--~~

~~A.—The provisions of this section apply to:~~

~~(1) any distribution to a municipality pursuant to Section 7-1-6.4, 7-1-6.36 or 7-1-6.46 NMSA 1978;~~

~~(2) any transfer to a municipality with respect to any local option gross receipts tax or municipal compensating tax imposed by that municipality;~~

~~(3) any transfer to a county with respect to any local option gross receipts tax or county compensating tax imposed by that county;~~

~~(4) any distribution to a county pursuant to Section 7-1-6.16 or 7-1-6.47 NMSA 1978;~~

~~(5) any distribution to a municipality or a county of gasoline taxes pursuant to Section 7-1-6.9 NMSA 1978;~~

~~(6) any transfer to a county with respect to any tax imposed in accordance with the Local Liquor Excise Tax Act;~~

~~(7) any distribution to a county from the county government road fund pursuant to Section 7-1-6.26 NMSA 1978;~~

~~(8) any distribution to a municipality of gasoline taxes pursuant to Section 7-1-6.27 NMSA 1978; and~~

~~(9) any distribution to a municipality of compensating taxes pursuant to Section 7-1-6.55 NMSA 1978.~~

~~B.— Before making a distribution or transfer specified in Subsection A of this section to a municipality or county for the month, amounts comprising the net receipts shall be segregated into two mutually exclusive categories. One category shall be for amounts relating to the current month, and the other category shall be for amounts relating to prior periods. The total of each category for a municipality or county shall be reported each month to that municipality or county. If the total of the amounts relating~~

~~to prior periods is less than zero and its absolute value exceeds the greater of one hundred dollars (\$100) or an amount equal to twenty percent of the average distribution or transfer amount for that municipality or county, then the following procedures shall be carried out:~~

~~(1) all negative amounts relating to any period prior to the three calendar years preceding the year of the current month, net of any positive amounts in that same time period for the same taxpayers to which the negative amounts pertain, shall be excluded from the total relating to prior periods. Except as provided in Paragraph (2) of this subsection, the net receipts to be distributed or transferred to the municipality or county shall be adjusted to equal the amount for the current month plus the revised total for prior periods; and~~

~~(2) if the revised total for prior periods determined pursuant to Paragraph (1) of this subsection is negative and its absolute value exceeds the greater of one hundred dollars (\$100) or an amount equal to twenty percent of the average distribution or transfer amount for that municipality or county, the revised total for prior periods shall be excluded from the distribution or transfers and the net receipts to be distributed or transferred to the municipality or county shall be equal to the amount for the current month.~~

~~C. The department shall recover from a municipality or county the amount excluded by Paragraph (2) of Subsection B of this section. This amount may be referred to as the "recoverable amount".~~

~~D. Prior to or concurrently with the distribution or transfer to the municipality or county of the adjusted net receipts, the department shall notify the municipality or county whose distribution or transfer has been adjusted pursuant to Paragraph (2) of Subsection B of this section:~~

~~(1) that the department has made such an adjustment, that the department has determined that a specified amount is recoverable from the municipality or county and that the department intends to recover that amount from future distributions or transfers to the municipality or county;~~

~~(2) that the municipality or county has ninety days from the date notice is made to enter into a mutually agreeable repayment agreement with the department;~~

~~(3) that if the municipality or county takes no action within the ninety-day period, the department will recover the amount from the next six distributions or transfers following the expiration of the ninety days; and~~

~~(4) that the municipality or county may inspect, pursuant to Section 7-1-8.9 NMSA 1978, an application for a claim for refund that gave rise to the recoverable amount, exclusive of any amended returns that may be attached to the application.~~

~~E. No earlier than ninety days from the date notice pursuant to Subsection D of this section is given, the department shall begin recovering the recoverable amount from a municipality or county as follows:~~

~~(1) the department may collect the recoverable amount by:~~

~~(a) decreasing distributions or transfers to the municipality or county in accordance with a repayment agreement entered into with the municipality or county; or~~

~~(b) except as provided in Paragraphs (2) and (3) of this subsection, if the municipality or county fails to act within the ninety days, decreasing the amount of the next six distributions or transfers to the municipality or county following expiration of the ninety-day period in increments as nearly equal as practicable and sufficient to recover the amount;~~

~~(2) if, pursuant to Subsection B of this section, the secretary determines that the recoverable amount is more than fifty percent of the average distribution or transfer of net receipts for that municipality or county, the secretary:~~

~~(a) shall recover only up to fifty percent of the average distribution or transfer of net receipts for that municipality or county; and~~

~~(b) may, in the secretary's discretion, waive recovery of any portion of the recoverable amount, subject to approval by the state board of finance; and~~

~~(3) if, after application of a refund claim, audit adjustment, correction of a mistake by the department or other adjustment of a prior period, but prior to any recovery of the department pursuant to this section, the total net receipts of a municipality or county for the twelve-month period beginning with the current month are reduced or are projected to be reduced to less than fifty percent of the average distribution or transfer of net receipts, the secretary may waive recovery of any portion of the recoverable amount, subject to approval by the state board of finance.~~

~~F. No later than ninety days from the date notice pursuant to Subsection D of this section is given, the department shall provide the municipality or county adequate opportunity to review an application for a claim for refund that gave rise to the~~

~~recoverable amount, exclusive of any amended returns that may be attached to the application, pursuant to Section 7-1-8.9 NMSA 1978.~~

~~G.—On or before September 1 of each year beginning in 2016, the secretary shall report to the state board of finance and the legislative finance committee the total recoverable amount waived pursuant to Subparagraph (b) of Paragraph (2) and Paragraph (3) of Subsection E of this section for each municipality and county in the prior fiscal year.~~

~~H.—The secretary is authorized to decrease a distribution or transfer to a municipality or county upon being directed to do so by the secretary of finance and administration pursuant to the State Aid Intercept Act or to redirect a distribution or transfer to the New Mexico finance authority pursuant to an ordinance or a resolution passed by the county or municipality and a written agreement of the municipality or county and the New Mexico finance authority. Upon direction to decrease a distribution or transfer or notice to redirect a distribution or transfer to a municipality or county, the secretary shall decrease or redirect the next designated distribution or transfer, and succeeding distributions or transfers as necessary, by the amount of the state distributions intercept authorized by the secretary of finance and administration pursuant to the State Aid Intercept Act or by the amount of the state distribution intercept authorized pursuant to an ordinance or a resolution passed by the county or municipality and a written agreement with the New Mexico finance authority. The secretary shall transfer the state distributions intercept amount to the municipal or county treasurer or other person designated by the secretary of finance and administration or to the New Mexico finance authority pursuant to written agreement to pay the debt service to avoid default on qualified local revenue bonds or meet other local revenue bond, loan or other debt obligations of the municipality or county to the New Mexico finance authority. A decrease to or redirection of a distribution or transfer pursuant to this subsection that arose:~~

~~(1) prior to an adjustment of a distribution or transfer of net receipts creating a recoverable amount owed to the department takes precedence over any collection of any recoverable amount pursuant to Paragraph (2) of Subsection B of this section, which may be made only from the net amount of the distribution or transfer remaining after application of the decrease or redirection pursuant to this subsection; and~~

~~(2) after an adjustment of a distribution or transfer of net receipts creating a recoverable amount owed to the department shall be subordinate to any collection of any recoverable amount pursuant to Paragraph (2) of Subsection B of this section.~~

~~I.—Upon the direction of the secretary of finance and administration pursuant to Section 9-6-5.2 NMSA 1978, the secretary shall temporarily withhold the balance of a distribution to a municipality or county, net of any decrease or redirected amount pursuant to Subsection H of this section and any recoverable amount pursuant to Paragraph (2) of Subsection B of this section, that has failed to submit an audit report required by the Audit Act or a financial report required by Subsection F of Section 6-6-2 NMSA 1978. The amount to be withheld, the source of the withheld distribution and the number of months that the distribution is to be withheld shall be as directed by the secretary of finance and administration. A distribution withheld pursuant to this subsection shall remain in the tax administration suspense fund until distributed to the municipality or county and shall not be distributed to the general fund. An amount withheld pursuant to this subsection shall be distributed to the municipality or county upon direction of the secretary of finance and administration.~~

~~J.—As used in this section:~~

~~(1)—"amounts relating to the current month" means any amounts included in the net receipts of the current month that represent payment of tax due for the current month, correction of amounts processed in the current month that relate to the current month or that otherwise relate to obligations due for the current month;~~

~~(2)—"amounts relating to prior periods" means any amounts processed during the current month that adjust amounts processed in a period or periods prior to the current month regardless of whether the adjustment is a correction of a department error or due to the filing of amended returns, payment of department-issued assessments, filing or approval of claims for refund, audit adjustments or other cause;~~

~~(3)—"average distribution or transfer amount" means the following amounts; provided that a distribution or transfer that is negative shall not be used in calculating the amounts:~~

~~(a)—the average monthly amount distributed or transferred to a municipality or county in the thirty-six-month period preceding the current month;~~

~~(b)—if a distribution or transfer to a municipality or county has been made for less than three years, the average monthly amount distributed or transferred in the twelve-month period preceding the current month; or~~

~~(c)—if distribution or transfer to a municipality or county has been made for less than twelve months, the average monthly amount distributed or transferred to the municipality or county in the months preceding the current month;~~

~~(4) "current month" means the month for which the distribution or transfer is being prepared; and~~

~~(5) "repayment agreement" means an agreement between the department and a municipality or county under which the municipality or county agrees to allow the department to recover an amount determined pursuant to Paragraph (2) of Subsection B of this section by decreasing distributions or transfers to the municipality or county for one or more months beginning with the distribution or transfer to be made with respect to a designated month. No interest shall be charged."]~~ *LINE-ITEM VETO*

Chapter 270 Section 8 Laws 2019

SECTION 8. Section 7-1-6.38 NMSA 1978 (being Laws 1994, Chapter 145, Section 1, as amended) is amended to read:

"7-1-6.38. DISTRIBUTION--GOVERNMENTAL GROSS RECEIPTS TAX.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made in amounts equal to the following percentages of the net receipts attributable to the governmental gross receipts tax, less the net receipts attributable to a hospital licensed by the department of health:

(1) seventy-five percent to the public project revolving fund administered by the New Mexico finance authority;

(2) twenty-four percent to the energy, minerals and natural resources department; provided that forty-one and two-thirds percent of the distribution is appropriated to the energy, minerals and natural resources department to implement the provisions of the New Mexico Youth Conservation Corps Act and fifty-eight and one-third percent of the distribution is appropriated to the energy, minerals and natural resources department for state park and recreation area capital improvements, including the costs of planning, engineering, design, construction, renovation, repair, equipment and furnishings; and

(3) one percent to the cultural affairs department for capital improvements at state museums and monuments administered by the cultural affairs department.

B. The state pledges to and agrees with the holders of any bonds or notes issued by the New Mexico finance authority or by the energy, minerals and natural resources department and payable from the net receipts attributable to the governmental gross receipts tax distributed to the New Mexico finance authority or the

energy, minerals and natural resources department pursuant to this section that the state will not limit, reduce or alter the distribution of the net receipts attributable to the governmental gross receipts tax to the New Mexico finance authority or the energy, minerals and natural resources department or limit, reduce or alter the rate of imposition of the governmental gross receipts tax until the bonds or notes together with the interest thereon are fully met and discharged. The New Mexico finance authority and the energy, minerals and natural resources department are authorized to include this pledge and agreement of the state in any agreement with the holders of the bonds or notes."

Chapter 270 Section 9 Laws 2019

SECTION 9. A new section of the Tax Administration Act is enacted to read:

"DISTRIBUTION--MUNICIPALITIES AND COUNTIES.--

A. Prior to July 1, 2021, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to municipalities from the net receipts attributable to the gross receipts tax in an amount equal to one million two hundred fifty thousand dollars (\$1,250,000). The amount to be distributed to each municipality shall be in proportion to the population of each municipality in the proportion that the population of each municipality is to the total population of all municipalities, according to the most recent federal decennial census.

B. Prior to July 1, 2021, a distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to counties from the net receipts attributable to the gross receipts tax in an amount equal to seven hundred fifty thousand dollars (\$750,000). The amount to be distributed to each county shall be in the proportion that the population of each county is to the total population of all counties, according to the most recent federal decennial census."

Chapter 270 Section 10 Laws 2019

SECTION 10. Section 7-1-11 NMSA 1978 (being Laws 1965, Chapter 248, Section 16, as amended) is amended to read:

"7-1-11. INSPECTION OF BOOKS OF TAXPAYERS--EXCEPTION FOR MARKETPLACE PROVIDERS AND MARKETPLACE SELLERS--CREDENTIALS.--

A. To determine the correct amount of tax due, the department shall cause the records and books of account of taxpayers to be inspected or audited at such times as

the department deems necessary for the effective execution of the department's responsibilities.

B. The department shall audit a marketplace provider, but not a marketplace seller, with respect to gross receipts from transactions facilitated by a marketplace provider and for which the marketplace seller may claim a deduction pursuant to Section 36 of this 2019 act, unless an audit of the marketplace seller is necessary to determine the correct amount of tax due, including examining the marketplace seller:

(1) to determine compliance with Section 36 of this 2019 act;

(2) to determine if the marketplace provider should be relieved of liability pursuant to Subsection C of Section 7-9-5 NMSA 1978; or

(3) to enforce any other provision of the Tax Administration Act.

C. Auditors and other officials of the department designated by the secretary are authorized to request and require the production for examination of the records and books of account of a taxpayer. Auditors and officials of the department designated by the secretary shall be furnished with credentials identifying them as such, which they shall display to any taxpayer whose books are sought to be examined.

D. Taxpayers shall upon request make their records and books of account available for inspection at reasonable hours to the secretary or the secretary's delegate who presents proper identification to the taxpayer.

E. If the taxpayer's records and books of account do not exist or are insufficient to determine the taxpayer's tax liability, if any, the department may use any reasonable method of estimating the tax liability, including using information about similar persons, businesses or industries to estimate the taxpayer's liability.

F. The secretary or the secretary's delegate shall develop and maintain written audit policies and procedures for all audit programs in which the department routinely conducts field audits of taxpayers, including policies and procedures concerning audit notification, scheduling, records that may be examined, analysis that may be done, sampling procedures, gathering information or evidence from third parties, policies concerning the rights of taxpayers under audit and related matters. Department audit policies and procedures shall be made available to a person who requests them, at a reasonable charge to defray the cost of preparing and distributing those policies and procedures.

G. Nothing in this section shall be construed to require the department to provide the following:

(1) information that is confidential pursuant to Section 7-1-8 NMSA 1978;
or

(2) methods, techniques and analysis used to select taxpayers for audit, including the use of:

(a) data analytics;

(b) data mining;

(c) a scoring model;

(d) internal controls; and

(e) metadata used to detect fraud and noncompliance.

H. For purposes of this section:

(1) "data analytics" means the science of examining data with the purpose of drawing conclusions about the information;

(2) "data mining" means the process of analyzing data from different perspectives and summarizing it into useful information by collecting data into data sets for the purpose of discovering patterns;

(3) "scoring model" means a predictive model that can predict the chance of occurring of a fact and its occurrence;

(4) "methods, techniques and analysis" means a systematic way to accomplish a tactic, qualitative or quantitative component of research and the use of a specific method;

(5) "internal controls" means a process of assuring achievement of an organization's objectives in operational effectiveness and efficiency, reliable financial reporting and compliance with laws, regulations and policies;

(6) "marketplace provider" means a "marketplace provider", as that term is used in the Gross Receipts and Compensating Tax Act;

(7) "marketplace seller" means a "marketplace seller", as that term is used in the Gross Receipts and Compensating Tax Act; and

(8) "metadata" means data that provides information about other data."

Chapter 270 Section 11 Laws 2019

SECTION 11. Section 7-1-14 NMSA 1978 (being Laws 1969, Chapter 145, Section 1, as amended) is repealed and a new Section 7-1-14 NMSA 1978 is enacted to read:

"7-1-14. LOCATION WHERE CERTAIN GROSS RECEIPTS ARE TO BE REPORTED--LOCATION FOR TRANSACTIONS SUBJECT TO THE COMPENSATING TAX.--

A. Gross receipts and deductions required to be reported pursuant to the Gross Receipts and Compensating Tax Act or any act that imposes a state or local gross receipts or compensating tax shall be reported as follows:

(1) gross receipts and deductions from the sale or lease of tangible personal property or licenses and from the licensing of tangible personal property shall be reported to the location of delivery of that tangible personal property to the customer; provided that the reporting location for receipts from leasing a vehicle is the location where the customer first makes use of the vehicle;

(2) except as otherwise provided in this section, a seller of services shall report the seller's gross receipts and deductions as follows:

(a) professional services shall be reported to the seller's place of business;

(b) for a person engaged in the construction business, the location where the construction project is performed is the "place of business", and all gross receipts and deductions from that project are to be reported from that place of business;

(c) for a person engaged in the business of providing services with respect to the selling of real estate, the location of the real property is the "place of business", and all gross receipts and deductions from that sale are to be reported from that place of business; and

(d) services, other than those described in Subparagraphs (a) through (c) of this paragraph, are to be reported at the location where the service is performed;

(3) gross receipts and deductions from the sale, lease or granting of a license to use real property shall be reported to the location of the real property; and

(4) the reporting location for gross receipts and deductions from a customer for services provided by a transportation network company pursuant to the Transportation Network Company Services Act shall be the location where the customer enters the vehicle offered for a prearranged ride.

B. Consistent with this section and with intergovernmental agreements, the secretary may, by rule, provide for the reporting of gross receipts and deductions from transactions not otherwise specified in this section, including reporting gross receipts and deductions to locations:

(1) by taxpayers having more than one place of business; and

(2) for reporting tax imposed by taxing jurisdictions at the jurisdiction's location, including:

(a) outside a municipality;

(b) within an Indian reservation or pueblo grant;

(c) within a tax increment development district; and

(d) within any other taxing jurisdiction.

C. Values from transactions subject to the compensating tax shall be reported consistent with Subsections A and B of this section unless the taxpayer can demonstrate that the taxable use in New Mexico first occurred after the purchase, lease, license or other transaction giving rise to that value and that the first taxable use occurred in another location within the state.

D. The secretary shall develop and provide to taxpayers a location-rate database that sets out the tax rates applicable to locations within the state, by address, and sellers who properly rely on this database shall not be liable for any additional tax due to the use of an incorrect rate."

Chapter 270 Section 12 Laws 2019

SECTION 12. Section 7-2-7 NMSA 1978 (being Laws 2005, Chapter 104, Section 4) is amended to read:

"7-2-7. INDIVIDUAL INCOME TAX RATES.--The tax imposed by Section 7-2-3 NMSA 1978 shall be at the following rates for any taxable year beginning on or after January 1, 2021:

A. For married individuals filing separate returns:

If the taxable income is:	The tax shall be:
Not over \$4,000	1.7% of taxable income
Over \$4,000 but not over \$8,000	\$68.00 plus 3.2% of excess over \$4,000
Over \$8,000 but not over \$12,000	\$196 plus 4.7% of excess over \$8,000
Over \$12,000 but not over \$157,500	\$384 plus 4.9% of excess over \$12,000
Over \$157,500	\$7,513.50 plus 5.9% of excess over \$157,500.

B. For heads of household, surviving spouses and married individuals filing joint returns:

If the taxable income is:	The tax shall be:
Not over \$8,000	1.7% of taxable income
Over \$8,000 but not over \$16,000	\$136 plus 3.2% of excess over \$8,000
Over \$16,000 but not over \$24,000	\$392 plus 4.7% of excess over \$16,000
Over \$24,000 but not over \$315,000	\$768 plus 4.9% of excess over \$24,000
Over \$315,000	\$15,027 plus 5.9% of excess over \$315,000.

C. For single individuals and for estates and trusts:

If the taxable income is:	The tax shall be:
Not over \$5,500	1.7% of taxable income
Over \$5,500 but not over \$11,000	\$93.50 plus 3.2% of excess over \$5,500
Over \$11,000 but not over \$16,000	\$269.50 plus 4.7% of excess over \$11,000
Over \$16,000 but not over \$210,000	\$504.50 plus 4.9% of excess over \$16,000

Over \$210,000

\$10,010.50 plus 5.9% of excess over \$210,000.

D. The tax on the sum of any lump-sum amounts included in net income is an amount equal to five multiplied by the difference between:

(1) the amount of tax due on the taxpayer's taxable income; and

(2) the amount of tax that would be due on an amount equal to the taxpayer's taxable income and twenty percent of the taxpayer's lump-sum amounts included in net income."

Chapter 270 Section 13 Laws 2019

SECTION 13. Section 7-2-18.15 NMSA 1978 (being Laws 2007, Chapter 45, Section 9, as amended) is amended to read:

"7-2-18.15. WORKING FAMILIES TAX CREDIT.--

A. A resident who files an individual New Mexico income tax return may claim a credit in an amount equal to seventeen percent of the federal income tax credit for which that individual is eligible for the same taxable year pursuant to Section 32 of the Internal Revenue Code. The credit provided in this section may be referred to as the "working families tax credit".

B. The working families tax credit may be deducted from the income tax liability of an individual who claims the credit and qualifies for the credit pursuant to this section. If the credit exceeds the individual's income tax liability for the taxable year, the excess shall be refunded to the individual."

Chapter 270 Section 14 Laws 2019

SECTION 14. Section 7-2-34 NMSA 1978 (being Laws 1999, Chapter 205, Section 1, as amended) is amended to read:

"7-2-34. DEDUCTION--NET CAPITAL GAIN INCOME.--

A. Except as provided in Subsection C of this section, a taxpayer may claim a deduction from net income in an amount equal to the greater of:

(1) the taxpayer's net capital gain income for the taxable year for which the deduction is being claimed, but not to exceed one thousand dollars (\$1,000); or

(2) forty percent of the taxpayer's net capital gain income for the taxable year for which the deduction is being claimed.

B. Married individuals who file separate returns for a taxable year in which they could have filed a joint return may each claim only one-half of the deduction provided by this section that would have been allowed on the joint return.

C. A taxpayer may not claim the deduction provided in Subsection A of this section if the taxpayer has claimed the credit provided in Section 7-2D-8.1 NMSA 1978.

D. As used in this section, "net capital gain" means "net capital gain" as defined in Section 1222 (11) of the Internal Revenue Code."

Chapter 270 Section 15 Laws 2019

SECTION 15. A new section of the Income Tax Act is enacted to read:

"DEDUCTION FROM NET INCOME FOR CERTAIN DEPENDENTS.--

A. As long as the exemption amount pursuant to Section 151 of the Internal Revenue Code means zero, a taxpayer who is not a dependent of another individual and files a return as a head of household or married filing jointly may claim a deduction from net income in an amount equal to the product of four thousand dollars (\$4,000) multiplied by the difference between the number of dependents claimed on the taxpayer's return and one.

B. A taxpayer allowed a deduction pursuant to this section shall report the amount of the deduction to the department in a manner required by the department.

C. The department shall compile an annual report on the deduction provided by this section that shall include the number of taxpayers that claimed the deduction, the aggregate amount of deductions claimed and any other information necessary to evaluate the effectiveness of the deduction. The department shall present the annual report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the deduction.

D. As used in this section, "dependent" means "dependent" as defined in Section 152 of the Internal Revenue Code."

Chapter 270 Section 16 Laws 2019

SECTION 16. Section 7-2A-2 NMSA 1978 (being Laws 1986, Chapter 20, Section 33, as amended) is amended to read:

"7-2A-2. DEFINITIONS.--For the purpose of the Corporate Income and Franchise Tax Act and unless the context requires otherwise:

A. "bank" means any national bank, national banking association, state bank or bank holding company;

B. "apportioned net income" or "apportioned net loss" means net income allocated and apportioned to New Mexico pursuant to the provisions of the Corporate Income and Franchise Tax Act or the Uniform Division of Income for Tax Purposes Act, but excluding from the sales factor any sales that represent intercompany transactions between members of the filing group;

C. "base income" means the federal taxable income or the federal net operating loss of a corporation for the taxable year calculated pursuant to the Internal Revenue Code, after special deductions provided in Sections 241 through 249 of the Internal Revenue Code but without any deduction for net operating losses, as if the corporation filed a federal tax return as a separate domestic entity, modified as follows:

(1) adding to that income:

(a) interest received on a state or local bond exempt under the Internal Revenue Code;

(b) the amount of any deduction claimed in calculating taxable income for all expenses and costs directly or indirectly paid, accrued or incurred to a captive real estate investment trust; and

(c) the amount of any deduction, other than for premiums, for amounts paid directly or indirectly to a commonly controlled entity that is exempt from corporate income tax pursuant to Section 7-2A-4 NMSA 1978;

(2) subtracting from that income:

(a) income from obligations of the United States net of expenses incurred to earn that income;

(b) other amounts that the state is prohibited from taxing because of the laws or constitution of this state or the United States net of any related expenses;

(c) an amount equal to one hundred percent of the subpart F income, as that term is defined in Section 952 of the Internal Revenue Code, as that section may be amended or renumbered, included in the income of the corporation; and

(d) an amount equal to one hundred percent of the income of the corporation under Section 951A of the Internal Revenue Code, after allowing the deduction provided in Section 250 of the Internal Revenue Code; and

(3) making other adjustments deemed necessary to properly reflect income of the unitary group, including attribution of income or expense related to unitary assets held by related corporations that are not part of the filing group;

D. "captive real estate investment trust" means a corporation, trust or association taxed as a real estate investment trust pursuant to Section 857 of the Internal Revenue Code, the shares or beneficial interests of which are not regularly traded on an established securities market; provided that more than fifty percent of any class of beneficial interests or shares of the real estate investment trust are owned directly, indirectly or constructively by the taxpayer during all or a part of the taxpayer's taxable year;

E. "common ownership" means the direct or indirect control or ownership of more than fifty percent of the outstanding voting stock, ownership of which is determined pursuant to Section 1563 of the Internal Revenue Code, as that section may be amended or renumbered, of:

(1) a parent-subsidiary controlled group as defined in Section 1563 of the Internal Revenue Code, except that fifty percent shall be substituted for eighty percent;

(2) a brother-sister controlled group as defined in Section 1563 of the Internal Revenue Code; or

(3) three or more corporations each of which is a member of a group of corporations described in Paragraph (1) or (2) of this subsection, and one of which is:

(a) a common parent corporation included in a group of corporations described in Paragraph (1) of this subsection; and

(b) included in a group of corporations described in Paragraph (2) of this subsection;

F. "consolidated group" means the group of entities properly filing a federal consolidated return under the Internal Revenue Code for the taxable year;

G. "corporation" means corporations, joint stock companies, real estate trusts organized and operated under the Real Estate Trust Act, financial corporations and banks, other business associations and, for corporate income tax purposes, partnerships and limited liability companies taxed as corporations under the Internal Revenue Code;

H. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

I. "filing group" means a group of corporations properly included in a return pursuant to Section 7-2A-8.3 NMSA 1978 for a particular taxable year;

J. "fiscal year" means any accounting period of twelve months ending on the last day of any month other than December;

K. "grandfathered net operating loss carryover" means:

(1) the amount of net loss properly reported to New Mexico for taxable years beginning January 1, 2013 and prior to January 1, 2020 as part of a timely filed original return, or an amended return for those taxable years filed prior to January 1, 2020, to the extent such loss can be attributed to one or more corporations that are properly included in the taxpayer's return for the first taxable year beginning on or after January 1, 2020;

(2) reduced by:

(a) adding back deductions that were taken by the corporation or corporations for royalties or interest paid to one or more related corporations, but only to the extent that such adjustment would not create a net loss for such related corporations; and

(b) the amount of net operating loss deductions taken prior to January 1, 2020 that would be charged against those losses consistent with the Internal Revenue Code and provisions of the Corporate Income and Franchise Tax Act applicable to the year of the deduction; and

(3) apportioned to New Mexico using the apportionment factors that can properly be attributed to the corporation or corporations for the year of the net loss;

L. "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended;

M. "net income" means:

(1) the base income of a corporation properly filing a tax return as a separate entity; or

(2) the combined base income and losses of corporations that are part of a filing group that is computed after eliminating intercompany income and expense in a manner consistent with the consolidated filing requirements of the Internal Revenue Code and the Corporate Income and Franchise Tax Act;

N. "net operating loss carryover" means the apportioned net loss properly reported on an original or amended tax return for taxable years beginning on or after January 1, 2020 by the taxpayer:

(1) plus:

(a) the portion of an apportioned net loss properly reported to New Mexico for a taxable year beginning on or after January 1, 2020, on a separate year return, to the extent the taxpayer would have been entitled to include the portion of such apportioned net loss in the taxpayer's consolidated net operating loss carryforward under the Internal Revenue Code if the taxpayer filed a consolidated federal return; and

(b) the taxpayer's grandfathered net operating loss carryover; and

(2) minus:

(a) the amount of the net operating loss carryover attributed to an entity that has left the filing group, computed in a manner consistent with the consolidated filing requirements of the Internal Revenue Code and applicable regulations, as if the taxpayer were filing a consolidated return; and

(b) the amount of net operating loss deductions properly taken by the taxpayer;

O. "net operating loss deduction" means the portion of the net operating loss carryover that may be deducted from the taxpayer's apportioned net income under the Internal Revenue Code for the taxable year in which the deduction is taken, including the eighty percent limitation of Section 172(a) of the Internal Revenue Code calculated on the basis of the taxpayer's apportioned net income;

P. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, joint

venture, syndicate or other association; "person" also means, to the extent permitted by law, any federal, state or other governmental unit or subdivision or agency, department or instrumentality thereof;

Q. "real estate investment trust" has the meaning ascribed to the term in Section 856 of the Internal Revenue Code, as that section may be amended or renumbered;

R. "related corporation" means a corporation that is under common ownership with one or more corporations but that is not included in the same tax return;

S. "return" means any tax or information return, including a water's-edge or worldwide combined return, a consolidated return, a declaration of estimated tax or a claim for refund, including any amendments or supplements to the return, required or permitted pursuant to a law subject to administration and enforcement pursuant to the Tax Administration Act and filed with the department by or on behalf of any person;

T. "secretary" means the secretary of taxation and revenue or the secretary's delegate;

U. "separate year return" means a properly filed original or amended return for a taxable year beginning on or after January 1, 2020 by a taxpayer reporting a loss, a portion of which is claimed as part of the net operating loss carryover by another taxpayer in a subsequent return period;

V. "state" means any state of the United States, the District of Columbia, the commonwealth of Puerto Rico, any territory or possession of the United States or political subdivision thereof or any political subdivision of a foreign country;

W. "state or local bond" means a bond issued by a state other than New Mexico or by a local government other than one of New Mexico's political subdivisions, the interest from which is excluded from income for federal income tax purposes under Section 103 of the Internal Revenue Code, as that section may be amended or renumbered;

X. "taxable income" means a taxpayer's apportioned net income minus the net operating loss deduction for the taxable year;

Y. "taxable year" means the calendar year or fiscal year upon the basis of which the net income is computed under the Corporate Income and Franchise Tax Act and includes, in the case of the return made for a fractional part of a year under the provisions of that act, the period for which the return is made;

Z. "taxpayer" means any corporation or group of corporations filing a return pursuant to Section 7-2A-8.3 NMSA 1978 subject to the taxes imposed by the Corporate Income and Franchise Tax Act;

AA. "unitary group" means a group of two or more corporations, including a captive real estate investment trust, but not including an S corporation, an insurance company subject to the provisions of the New Mexico Insurance Code, an insurance company that would be subject to the New Mexico Insurance Code if the insurance company engaged in business in this state or a real estate investment trust that is not a captive real estate investment trust, that are:

(1) related through common ownership; and

(2) economically interdependent with one another as demonstrated by the following factors:

(a) centralized management;

(b) functional integration; and

(c) economies of scale;

BB. "water's-edge group" means all corporations that are part of a unitary group, except:

(1) corporations that are exempt from corporate income tax pursuant to Section 7-2A-4 NMSA 1978; and

(2) corporations wherever organized or incorporated that have less than twenty percent of their property, payroll and sales sourced to locations within the United States, following the sourcing rules of the Uniform Division of Income for Tax Purposes Act; and

CC. "worldwide combined group" means all members of a unitary group, except members that are exempt from corporate income tax pursuant to Section 7-2A-4 NMSA 1978, irrespective of the country in which the corporations are incorporated or conduct business activity."

Chapter 270 Section 17 Laws 2019

SECTION 17. Section 7-2A-3 NMSA 1978 (being Laws 1981, Chapter 37, Section 36, as amended) is amended to read:

"7-2A-3. IMPOSITION AND LEVY OF TAXES.--

A. A tax to be known as the "corporate income tax" is imposed at the rate specified in the Corporate Income and Franchise Tax Act upon the taxable income of a corporation or group of corporations, in whatever jurisdiction organized or incorporated, that is engaged in the transaction of business in, into or from this state or deriving any income from any property or employment within this state.

B. A tax to be known as the "corporate franchise tax" is imposed in the amount specified in the Corporate Income and Franchise Tax Act upon every domestic corporation and upon every foreign corporation employed or engaged in the transaction of business in, into or from this state or deriving any income from any property or employment within this state and upon every domestic or foreign corporation, whether engaged in active business or not, but having or exercising its corporate franchise in this state."

Chapter 270 Section 18 Laws 2019

SECTION 18. Section 7-2A-5 NMSA 1978 (being Laws 1981, Chapter 37, Section 38, as amended) is amended to read:

"7-2A-5. CORPORATE INCOME TAX RATES.--The corporate income tax imposed on corporations by Section 7-2A-3 NMSA 1978 shall be:

If the taxable income is:	The tax shall be:
Not over \$500,000	4.8% of taxable income
Over \$500,000	\$24,000 plus 5.9% of excess over \$500,000."

Chapter 270 Section 19 Laws 2019

SECTION 19. Section 7-2A-8.3 NMSA 1978 (being Laws 1983, Chapter 213, Section 12, as amended) is amended to read:

"7-2A-8.3. COMBINED AND CONSOLIDATED RETURNS.--

A. Corporations that are part of a unitary group shall file a return properly reporting and paying tax on taxable income as a worldwide combined group unless they properly elect to report and pay tax on taxable income as a water's-edge or consolidated group, pursuant to department rules and instructions, on the first original

return required to be filed for taxable years beginning on or after January 1, 2020. Corporations electing to file a consolidated return must file on that same basis for federal income tax purposes. Once a unitary or consolidated group has properly made an election to file as a water's-edge or consolidated group, the group and any of the group's members shall file a return on that basis for at least seven consecutive years unless the secretary grants permission otherwise. Corporations that are part of a unitary group filing a return are jointly and severally liable for the tax imposed pursuant to the Corporate Income and Franchise Tax Act on taxable income.

B. Corporations required to file a return as part of a filing group pursuant to this section may designate a member of the group to act as the principal corporation to file the return, make any elections, claim tax credits or refunds or perform any other act on behalf of the group with respect to the corporate income tax; provided that the members of the group remain jointly and severally liable for the taxes due pursuant to Subsection A of this section."

Chapter 270 Section 20 Laws 2019

SECTION 20. A new section of the Corporate Income and Franchise Tax Act is enacted to read:

"DEDUCTION TO OFFSET MATERIAL FINANCIAL EFFECTS OF CHANGES IN DEFERRED TAX AMOUNTS DUE TO CERTAIN CHANGES MADE TO SECTIONS 7-2A-2, 7-2A-3, 7-2A-8.3, 7-4-10 AND 7-4-18 NMSA 1978.--

A. For each of ten consecutive taxable years beginning on or after January 1, 2026, a filing group subject to the corporate income tax whose members are part of a publicly traded company may claim a deduction, as provided by Subsection B of this section, from taxable income before net operating losses are deducted.

B. The deduction for each taxable year shall not exceed one-tenth of the amount of the aggregate increase in net deferred tax liabilities, the aggregate decrease in net deferred tax assets or an aggregate change from a net deferred tax asset to a net deferred tax liability, as measured under generally accepted accounting principles, that resulted from the changes to Sections 7-2A-2, 7-2A-3, 7-2A-8.3, 7-4-10 and 7-4-18 NMSA 1978 made by this 2019 act; provided that:

(1) the amount of the aggregate change in deferred tax assets and deferred tax liabilities is properly included in the calculation of the deferred tax asset or deferred tax liability reported as part of the consolidated financial statements, as required by the federal Securities Exchange Act of 1934, for the first reporting period

affected by the changes to Sections 7-2A-2, 7-2A-3, 7-2A-8.3, 7-4-10 and 7-4-18 NMSA 1978 made by this 2019 act but for the deduction provided by this section; and

(2) if the deduction provided by this section is greater than the taxpayer's net income, any excess amount shall be carried forward and applied as a deduction to the taxpayer's net income in future income years until fully utilized.

C. A filing group shall not claim a deduction pursuant to this section unless the filing group files a preliminary notice with the secretary prior to January 1, 2023 and provides necessary information to show the calculation of the deduction expected to be claimed, as the secretary may require."

Chapter 270 Section 21 Laws 2019

SECTION 21. Section 7-4-10 NMSA 1978 (being Laws 1993, Chapter 153, Section 1, as amended) is amended to read:

"7-4-10. APPORTIONMENT OF BUSINESS INCOME.--

A. Except as provided in Subsections B and C of this section, all business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor and the denominator of which is three.

B. If eighty percent or more of the New Mexico numerators of the property and payroll factors for a filing group, or for a taxpayer that is not a member of a filing group, are employed in manufacturing, the filing group or the taxpayer may elect to have business income apportioned to this state by multiplying the income by the sales factor for the taxable year.

C. If a filing group, or a taxpayer that is not a member of a filing group, has a headquarters operation in New Mexico, the filing group or the taxpayer may elect to have business income apportioned to this state by multiplying the income by the sales factor for the taxable year.

D. To elect the method of apportionment provided by Subsection B or C of this section, the taxpayer shall notify the department of the election, in writing, no later than the date on which the taxpayer files the return for the first taxable year to which the election will apply. The election shall apply as follows:

(1) if the election is made for taxable years beginning prior to January 1, 2020, to the taxable year in which the election is made and to each taxable year

thereafter for three years, or until the taxable year ending prior to January 1, 2020, whichever is earlier;

(2) if the election is made for a taxable year beginning on or after January 1, 2020, to the taxable year in which the election is made and to each taxable year thereafter until the taxpayer notifies the department, in writing, that the election is terminated, except that the taxpayer shall not terminate the election until the method of apportioning business income provided by Subsection B or C of this section has been used by the taxpayer for at least three consecutive taxable years, including a total of at least thirty-six calendar months; and

(3) if the election is made by a qualifying filing group, the election shall apply to the members of the filing group properly included pursuant to Section 7-2A-8.3 NMSA 1978.

E. For purposes of this section:

(1) "filing group" means "filing group" as that term is defined in the Corporate Income and Franchise Tax Act;

(2) "headquarters operation" means:

(a) the center of operations of a business: 1) where corporate staff employees are physically employed; 2) where the centralized functions are primarily performed, including administrative, planning, managerial, human resources, purchasing, information technology and accounting, but not including operating a call center; 3) the function and purpose of which is to manage and direct most aspects and functions of the business operations within a subdivided area of the United States; 4) from which final authority over regional or subregional offices, operating facilities and any other offices of the business are issued; and 5) including national and regional headquarters if the national headquarters is subordinate only to the ownership of the business or its representatives and the regional headquarters is subordinate to the national headquarters; or

(b) the center of operations of a business: 1) the function and purpose of which is to manage and direct most aspects of one or more centralized functions; and 2) from which final authority over one or more centralized functions is issued;

(3) "manufacturing" means operating a computer processing facility or combining or processing components or materials to increase their value for sale in the ordinary course of business, but does not include:

- (a) construction;
- (b) farming;
- (c) electric power generation;
- (d) processing natural resources, including hydrocarbons; or
- (e) processing or preparation of meals for immediate consumption; and

(4) "operating a computer processing facility" means managing the necessary and ancillary activities for the operation of a facility primarily used to process data or information, but does not include managing the operation of facilities that are predominantly used to support sales of tangible property or the provision of banking, financial or professional services."

Chapter 270 Section 22 Laws 2019

SECTION 22. Section 7-4-18 NMSA 1978 (being Laws 1965, Chapter 203, Section 18) is amended to read:

"7-4-18. DETERMINATION OF SALES IN THIS STATE OF SERVICES AND OTHER PROPERTY FOR INCLUSION IN SALES FACTOR.--

A. Sales, other than sales described in Section 7-4-17 NMSA 1978, are in this state:

(1) in the case of sale, rental, lease or license of real property, if and to the extent the real property is located in this state;

(2) in the case of rental, lease or license of tangible personal property, if and to the extent the tangible personal property is located in this state;

(3) in the case of sale of a service, if and to the extent the service is delivered to a location in this state; and

(4) in the case of sale, rental, lease or license of intangible property, if and to the extent the intangible property is used in this state.

B. If the state or states of assignment under Subsection A of this section cannot be determined, the state or states of assignment shall be reasonably approximated.

C. If the taxpayer is not taxable in a state to which a sale is assigned pursuant to Subsection A of this section or if the state of assignment cannot be determined or reasonably approximated pursuant to Subsection B of this section, that sale shall be excluded from the numerator and denominator of the sales factor.

D. The department may promulgate rules as necessary or appropriate to carry out the purposes of this section."

Chapter 270 Section 23 Laws 2019

SECTION 23. Section 7-9-3 NMSA 1978 (being Laws 1978, Chapter 46, Section 1, as amended) is amended to read:

"7-9-3. DEFINITIONS.--As used in the Gross Receipts and Compensating Tax Act:

A. "buying" or "selling" means a transfer of property for consideration or the performance of service for consideration;

B. "department" means the taxation and revenue department, the secretary of taxation and revenue or an employee of the department exercising authority lawfully delegated to that employee by the secretary;

C. "digital good" means a digital product delivered electronically, including software, music, photography, video, reading material, an application and a ringtone;

D. "financial corporation" means a savings and loan association or an incorporated savings and loan company, trust company, mortgage banking company, consumer finance company or other financial corporation;

E. "initial use" or "initially used" means the first employment for the intended purpose and does not include the following activities:

(1) observation of tests conducted by the performer of services;

(2) participation in progress reviews, briefings, consultations and conferences conducted by the performer of services;

(3) review of preliminary drafts, drawings and other materials prepared by the performer of the services;

(4) inspection of preliminary prototypes developed by the performer of services; or

(5) similar activities;

F. "leasing" means an arrangement whereby, for a consideration, property is employed for or by any person other than the owner of the property, except that the granting of a license to use property is licensing and is not a lease;

G. "local option gross receipts tax" means a tax authorized to be imposed by a county or municipality upon a taxpayer's gross receipts and required to be collected by the department at the same time and in the same manner as the gross receipts tax;

H. "manufactured home" means a movable or portable housing structure for human occupancy that exceeds either a width of eight feet or a length of forty feet constructed to be towed on its own chassis and designed to be installed with or without a permanent foundation;

I. "manufacturing" means combining or processing components or materials to increase their value for sale in the ordinary course of business, but does not include construction;

J. "marketplace provider" means a person who facilitates the sale, lease or license of tangible personal property or services or licenses for use of real property on a marketplace seller's behalf, or on the marketplace provider's own behalf, by:

(1) listing or advertising the sale, lease or license, by any means, whether physical or electronic, including by catalog, internet website or television or radio broadcast; and

(2) either directly or indirectly, through agreements or arrangements with third parties collecting payment from the customer and transmitting that payment to the seller, regardless of whether the marketplace provider receives compensation or other consideration in exchange for the marketplace provider's services;

K. "marketplace seller" means a person who sells, leases or licenses tangible personal property or services or who licenses the use of real property through a marketplace provider;

L. "person" means:

(1) an individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, limited liability partnership, joint venture, syndicate or other entity, including any gas, water or electric utility owned or operated by a county, municipality or other political subdivision of the state; or

(2) a national, federal, state, Indian or other governmental unit or subdivision, or an agency, department or instrumentality of any of the foregoing;

M. "property" means:

(1) real property;

(2) tangible personal property, including electricity and manufactured homes;

(3) licenses, including licenses of digital goods, but not including the licenses of copyrights, trademarks or patents; and

(4) franchises;

N. "research and development services" means an activity engaged in for other persons for consideration, for one or more of the following purposes:

(1) advancing basic knowledge in a recognized field of natural science;

(2) advancing technology in a field of technical endeavor;

(3) developing a new or improved product, process or system with new or improved function, performance, reliability or quality, whether or not the new or improved product, process or system is offered for sale, lease or other transfer;

(4) developing new uses or applications for an existing product, process or system, whether or not the new use or application is offered as the rationale for purchase, lease or other transfer of the product, process or system;

(5) developing analytical or survey activities incorporating technology review, application, trade-off study, modeling, simulation, conceptual design or similar activities, whether or not offered for sale, lease or other transfer; or

(6) designing and developing prototypes or integrating systems incorporating the advances, developments or improvements included in Paragraphs (1) through (5) of this subsection;

O. "secretary" means the secretary of taxation and revenue or the secretary's delegate;

P. "service" means all activities engaged in for other persons for a consideration, which activities involve predominantly the performance of a service as distinguished from selling or leasing property. "Service" includes activities performed by a person for its members or shareholders. In determining what is a service, the intended use, principal objective or ultimate objective of the contracting parties shall not be controlling. "Service" includes construction activities and all tangible personal property that will become an ingredient or component part of a construction project. That tangible personal property retains its character as tangible personal property until it is installed as an ingredient or component part of a construction project in New Mexico. Sales of tangible personal property that will become an ingredient or component part of a construction project to persons engaged in the construction business are sales of tangible personal property; and

Q. "use" or "using" includes use, consumption or storage other than storage for subsequent sale in the ordinary course of business or for use solely outside this state."

Chapter 270 Section 24 Laws 2019

SECTION 24. Section 7-9-3.2 NMSA 1978 (being Laws 1991, Chapter 8, Section 1, as amended) is amended to read:

"7-9-3.2. ADDITIONAL DEFINITION.--

A. As used in the Gross Receipts and Compensating Tax Act, "governmental gross receipts" means receipts of the state or an agency, institution, instrumentality or political subdivision from:

(1) the sale of tangible personal property other than water from facilities open to the general public;

(2) the performance of or admissions to recreational, athletic or entertainment services or events in facilities open to the general public;

(3) refuse collection or refuse disposal or both;

(4) sewage services;

(5) the sale of water by a utility owned or operated by a county, municipality or other political subdivision of the state;

(6) the renting of parking, docking or tie-down spaces or the granting of permission to park vehicles, tie down aircraft or dock boats;

(7) the sale of tangible personal property handled on consignment when sold from facilities open to the general public; and

(8) a hospital licensed by the department of health.

B. "Governmental gross receipts" excludes receipts of the state or an agency, institution, instrumentality or political subdivision from:

(1) cash discounts taken and allowed;

(2) governmental gross receipts tax payable on transactions reportable for the period; and

(3) any type of time-price differential.

C. As used in this section, "facilities open to the general public" does not include point of sale registers or electronic devices at a bookstore owned or operated by a public post-secondary educational institution when the registers or devices are utilized in the sale of textbooks or other materials required for courses at the institution to a student enrolled at the institution who displays a valid student identification card."

Chapter 270 Section 25 Laws 2019

SECTION 25. Section 7-9-3.3 NMSA 1978 (being Laws 2003, Chapter 272, Section 4) is amended to read:

"7-9-3.3. DEFINITION--ENGAGING IN BUSINESS.--As used in the Gross Receipts and Compensating Tax Act, "engaging in business" means carrying on or causing to be carried on any activity with the purpose of direct or indirect benefit. For a person who lacks physical presence in this state, including a marketplace provider, "engaging in business" means having, in the previous calendar year, total taxable gross receipts from sales, leases and licenses of tangible personal property, sales of licenses and sales of services and licenses for use of real property sourced to this state pursuant to Section 7-1-14 NMSA 1978, of at least one hundred thousand dollars (\$100,000)."

Chapter 270 Section 26 Laws 2019

SECTION 26. Section 7-9-3.5 NMSA 1978 (being Laws 2003, Chapter 272, Section 3, as amended) is amended to read:

"7-9-3.5. DEFINITION--GROSS RECEIPTS.--

A. As used in the Gross Receipts and Compensating Tax Act:

(1) "gross receipts" means the total amount of money or the value of other consideration received from selling property in New Mexico, from leasing or licensing property employed in New Mexico, from granting a right to use a franchise employed in New Mexico, from selling services performed outside New Mexico, the product of which is initially used in New Mexico, or from performing services in New Mexico. In an exchange in which the money or other consideration received does not represent the value of the property or service exchanged, "gross receipts" means the reasonable value of the property or service exchanged;

(2) "gross receipts" includes:

(a) any receipts from sales of tangible personal property handled on consignment;

(b) the total commissions or fees derived from the business of buying, selling or promoting the purchase, sale or lease, as an agent or broker on a commission or fee basis, of any property, service, stock, bond or security;

(c) amounts paid by members of any cooperative association or similar organization for sales or leases of personal property or performance of services by such organization;

(d) amounts received from transmitting messages or conversations by persons providing telephone or telegraph services;

(e) amounts received by a New Mexico florist from the sale of flowers, plants or other products that are customarily sold by florists where the sale is made pursuant to orders placed with the New Mexico florist that are filled and delivered outside New Mexico by an out-of-state florist;

(f) the receipts of a home service provider from providing mobile telecommunications services to customers whose place of primary use is in New Mexico if: 1) the mobile telecommunications services originate and terminate in the

same state, regardless of where the services originate, terminate or pass through; and
2) the charges for mobile telecommunications services are billed by or for a customer's home service provider and are deemed provided by the home service provider. For the purposes of this section, "home service provider", "mobile telecommunications services", "customer" and "place of primary use" have the meanings given in the federal Mobile Telecommunications Sourcing Act; and

(g) receipts collected by a marketplace provider engaging in business in the state from sales, leases and licenses of tangible personal property, sales of licenses and sales of services or licenses for use of real property that are sourced to this state and are facilitated by the marketplace provider on behalf of marketplace sellers, regardless of whether the marketplace sellers are engaging in business in the state; and

(3) "gross receipts" excludes:

(a) cash discounts allowed and taken;

(b) New Mexico gross receipts tax, governmental gross receipts tax and leased vehicle gross receipts tax payable on transactions for the reporting period;

(c) taxes imposed pursuant to the provisions of any local option gross receipts tax that is payable on transactions for the reporting period;

(d) any gross receipts or sales taxes imposed by an Indian nation, tribe or pueblo; provided that the tax is approved, if approval is required by federal law or regulation, by the secretary of the interior of the United States; and provided further that the gross receipts or sales tax imposed by the Indian nation, tribe or pueblo provides a reciprocal exclusion for gross receipts, sales or gross receipts-based excise taxes imposed by the state or its political subdivisions;

(e) any type of time-price differential;

(f) amounts received solely on behalf of another in a disclosed agency capacity; and

(g) amounts received by a New Mexico florist from the sale of flowers, plants or other products that are customarily sold by florists where the sale is made pursuant to orders placed with an out-of-state florist for filling and delivery in New Mexico by a New Mexico florist.

B. When the sale of property or service is made under any type of charge, conditional or time-sales contract or the leasing of property is made under a leasing contract, the seller or lessor may elect to treat all receipts, excluding any type of time-price differential, under such contracts as gross receipts as and when the payments are actually received. If the seller or lessor transfers the seller's or lessor's interest in any such contract to a third person, the seller or lessor shall pay the gross receipts tax upon the full sale or leasing contract amount, excluding any type of time-price differential."

Chapter 270 Section 27 Laws 2019

SECTION 27. Section 7-9-4.3 NMSA 1978 (being Laws 1991, Chapter 8, Section 2, as amended by Laws 1993, Chapter 332, Section 1 and by Laws 1993, Chapter 352, Section 1) is amended to read:

"7-9-4.3. IMPOSITION AND RATE OF TAX--DENOMINATION AS "GOVERNMENTAL GROSS RECEIPTS TAX".--For the privilege of engaging in certain activities by governments, there is imposed on every agency, institution, instrumentality or political subdivision of the state, except any school district and an entity licensed by the department of health, other than a hospital, that is principally engaged in providing health care services, an excise tax of five percent of governmental gross receipts. The tax imposed by this section shall be referred to as the "governmental gross receipts tax"."

Chapter 270 Section 28 Laws 2019

SECTION 28. Section 7-9-5 NMSA 1978 (being Laws 1966, Chapter 47, Section 5, as amended) is amended to read:

"7-9-5. PRESUMPTION OF TAXABILITY.--

A. To prevent evasion of the gross receipts tax and to aid in its administration, it is presumed that all receipts of a person engaging in business are subject to the gross receipts tax. A person engaged solely in transactions specifically exempt under the provisions of the Gross Receipts and Compensating Tax Act shall not be required to register or file a return under that act.

B. If receipts from nontaxable charges for mobile telecommunications services are aggregated with and not separately stated from taxable charges for mobile telecommunications services, the charges for nontaxable mobile telecommunications services shall be subject to gross receipts tax unless the home service provider can reasonably identify nontaxable charges in its books and records that are kept in the regular course of business. For the purposes of this subsection, "charges for mobile

telecommunications services", "home service provider" and "mobile telecommunications services" have the meanings given in the federal Mobile Telecommunications Sourcing Act.

C. A marketplace provider engaging in business in this state is not liable for amounts of gross receipts tax collected incorrectly due to the marketplace provider reasonably relying on erroneous information provided by the seller."

Chapter 270 Section 29 Laws 2019

SECTION 29. Section 7-9-6 NMSA 1978 (being Laws 1966, Chapter 47, Section 6, as amended) is amended to read:

"7-9-6. SEPARATELY STATING THE GROSS RECEIPTS TAX.--

A. Taxpayers subject to the Gross Receipts and Compensating Tax Act, when billing a customer, shall separately state the amount of tax associated with the transaction or provide a statement affirmatively indicating that the gross receipts tax is included in the amount billed.

B. When the gross receipts tax is stated separately on the books of the seller or lessor, and if the total amount of tax that is stated separately on transactions reportable within one reporting period is in excess of the amount of gross receipts tax otherwise payable on the transactions on which the tax was stated separately, the excess amount of tax stated on the transactions within that reporting period shall be included in gross receipts."

Chapter 270 Section 30 Laws 2019

SECTION 30. Section 7-9-7 NMSA 1978 (being Laws 1966, Chapter 47, Section 7, as amended) is amended to read:

"7-9-7. IMPOSITION AND RATE OF TAX--DENOMINATION AS "COMPENSATING TAX".--

A. For the privilege of using tangible property in New Mexico, there is imposed on the person using the property an excise tax equal to five and one-eighth percent of the value of tangible property that was:

- (1) manufactured by the person using the property in the state; or

(2) acquired inside or outside of this state as the result of a transaction with a person located outside this state that would have been subject to the gross receipts tax had the tangible personal property been acquired from a person with nexus with New Mexico.

B. For the purpose of Subsection A of this section, value of tangible property shall be the adjusted basis of the property for federal income tax purposes determined as of the time of acquisition or introduction into this state or of conversion to use, whichever is later. If no adjusted basis for federal income tax purposes is established for the property, a reasonable value of the property shall be used.

C. For the privilege of using a license or franchise in New Mexico, there is imposed on the person using the license or franchise an excise tax equal to the rate provided in Subsection A of this section against the value of the license or franchise in its use in this state. The department by rule, ruling or instruction shall fairly apportion, where appropriate, the value of a license or franchise to its value in use in New Mexico. For use of a license or franchise to be taxable under this subsection, the value of the license or franchise shall be acquired inside or outside this state as the result of a transaction with a person located outside this state that would have been subject to the gross receipts tax had the license or franchise been acquired from a person with nexus with this state.

D. For the privilege of using services in New Mexico, there is imposed on the person using the services an excise tax equal to the rate provided in Subsection A of this section against the value of the services at the time the product of the service was acquired. For use of services to be taxable under this subsection, the services shall have been performed by a person outside this state and the product of the service was acquired inside or outside this state as the result of a transaction with a person located outside this state that would have been subject to the gross receipts tax had the service or product of the service been acquired from a person with nexus with this state.

E. The tax imposed by this section shall be referred to as the "compensating tax".

Chapter 270 Section 31 Laws 2019

SECTION 31. Section 7-9-7.1 NMSA 1978 (being Laws 1993, Chapter 45, Section 1, as amended) is amended to read:

"7-9-7.1. DEPARTMENT BARRED FROM TAKING COLLECTION ACTIONS WITH RESPECT TO CERTAIN TAX LIABILITIES.--

The department shall take no action to enforce collection of gross receipts tax for a tax period prior to July 1, 2019 on persons engaging in business if that person:

- A. lacked physical presence in the state; and
- B. did not report taxable gross receipts prior to July 1, 2019."

Chapter 270 Section 32 Laws 2019

SECTION 32. Section 7-9-13.1 NMSA 1978 (being Laws 1989, Chapter 262, Section 4) is amended to read:

"7-9-13.1. EXEMPTION--GROSS RECEIPTS TAX--CERTAIN SERVICES.--

A. Exempted from the gross receipts tax are the receipts from selling research and development services performed outside New Mexico the product of which is initially used in New Mexico and that are sold:

(1) between affiliated corporations;

(2) to the United States by persons, other than organizations described in Subsection A of Section 7-9-29 NMSA 1978, who are prime contractors operating facilities in New Mexico designated as national laboratories by act of congress; or

(3) to persons, other than organizations described in Subsection A of Section 7-9-29 NMSA 1978, who are prime contractors operating facilities in New Mexico designated as national laboratories by act of congress.

B. An "affiliated corporation" means a corporation that directly or indirectly, through one or more intermediaries controls, is controlled by or is under common control with the subject corporation. "Control" means ownership of stock in a corporation that represents at least eighty percent of the total voting power of that corporation and has a stated or par value equal to at least eighty percent of the total stated or par value of the stock of that corporation."

Chapter 270 Section 33 Laws 2019

SECTION 33. Section 7-9-29 NMSA 1978 (being Laws 1970, Chapter 12, Section 3, as amended) is amended to read:

"7-9-29. EXEMPTION--GROSS RECEIPTS TAX--CERTAIN ORGANIZATIONS.--

A. Exempted from the gross receipts tax are the receipts of organizations that demonstrate to the department that they have been granted exemption from the federal income tax by the United States commissioner of internal revenue as organizations described in Section 501(c)(3) of the United States Internal Revenue Code of 1986, as that section may be amended or renumbered, except for receipts of a hospital licensed by the department of health.

B. Exempted from the gross receipts tax are the receipts from carrying on chamber of commerce, visitor bureau and convention bureau functions of organizations that demonstrate to the department that they have been granted exemption from the federal income tax by the United States commissioner of internal revenue as organizations described in Section 501(c)(6) of the United States Internal Revenue Code of 1986, as that section may be amended or renumbered.

C. This section does not apply to receipts derived from an unrelated trade or business as defined in Section 513 of the United States Internal Revenue Code of 1986, as that section may be amended or renumbered."

Chapter 270 Section 34 Laws 2019

SECTION 34. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"EXEMPTION--NONPROFIT HOSPITALS FROM LOCAL OPTION GROSS RECEIPTS TAXES.--

A. Exempted from any local option gross receipts tax, but not the state gross receipts tax, are receipts of a nonprofit hospital licensed by the department of health.

B. As used in this section, "nonprofit hospital" means a hospital that has been granted exemption from federal income tax by the United States commissioner of internal revenue as an organization described in Section 501(c)(3) of the Internal Revenue Code."

Chapter 270 Section 35 Laws 2019

SECTION 35. Section 7-9-73.1 NMSA 1978 (being Laws 1991, Chapter 8, Section 3, as amended) is amended to read:

"7-9-73.1. DEDUCTION--GROSS RECEIPTS--GOVERNMENTAL GROSS RECEIPTS--HOSPITALS.--

A. Sixty percent of the receipts of hospitals licensed by the department of health may be deducted from gross receipts; provided that this deduction may be applied only to the taxable gross receipts remaining after all other appropriate deductions have been taken.

B. Sixty percent of the receipts of a hospital licensed by the department of health may be deducted from governmental gross receipts."

Chapter 270 Section 36 Laws 2019

SECTION 36. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"DEDUCTION--GROSS RECEIPTS--MARKETPLACE SELLER.--

A. A marketplace seller may deduct receipts for sales, leases and licenses of tangible personal property, sales of licenses and sales of services or licenses for use of real property that are facilitated by a marketplace provider; provided that the marketplace seller obtains documentation from the marketplace provider indicating that the marketplace provider is registered with the department and has remitted or will remit the taxes due on the gross receipts from those transactions.

B. The deduction provided by this section shall not apply if the marketplace provider is determined not to owe the tax due to the marketplace provider's reliance on information provided by the seller as determined pursuant to Subsection C of Section 7-9-5 NMSA 1978."

Chapter 270 Section 37 Laws 2019

SECTION 37. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

"AUTHORITY TO ESTABLISH STANDARDS FOR CERTIFIED SERVICE PROVIDERS.--

A. The secretary is authorized to provide information, upon which taxpayers may rely, as to the taxability of gross receipts from particular transactions, including taxability matrices, and is further authorized to establish standards for the certification of certified service providers that offer software-based systems to enable taxpayers to properly determine the taxability of gross receipts from particular transactions.

B. As used in this section, "certified service provider" means "certified service provider" as defined in the Streamlined Sales and Use Tax Administration Act."

Chapter 270 Section 38 Laws 2019

SECTION 38. Section 7-9F-3 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 22, Section 3, as amended) is amended to read:

"7-9F-3. DEFINITIONS.--As used in the Technology Jobs and Research and Development Tax Credit Act:

A. "affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by or is under common ownership or control with another person through ownership of voting securities or other ownership interests representing a majority of the total voting power of the entity;

B. "annual payroll expense" means the wages paid or payable to employees in the state by the taxpayer in the taxable year for which the taxpayer applies for an additional credit pursuant to the Technology Jobs and Research and Development Tax Credit Act;

C. "base payroll expense" means the wages paid or payable by the taxpayer in the taxable year prior to the taxable year for which the taxpayer applies for an additional credit pursuant to the Technology Jobs and Research and Development Tax Credit Act, adjusted for any increase from the preceding taxable year in the consumer price index for the United States for all items as published by the United States department of labor in the taxable year for which the additional credit is claimed. In a taxable year during which a taxpayer has been part of a business merger or acquisition or other change in business organization, the taxpayer's base payroll expense shall include the payroll expense of all entities included in the reorganization for all positions that are included in the business entity resulting from the reorganization;

D. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

E. "facility" means a factory, mill, plant, refinery, warehouse, dairy, feedlot, building or complex of buildings located within the state, including the land on which it is located and all machinery, equipment and other real and tangible personal property located at or within it and used in connection with its operation;

F. "local option gross receipts tax" means a tax authorized to be imposed by a county or municipality upon a taxpayer's gross receipts, as that term is defined in the Gross Receipts and Compensating Tax Act, and required to be collected by the department at the same time and in the same manner as the gross receipts tax;

G. "qualified expenditure" means an expenditure or an allocated portion of an expenditure by a taxpayer in connection with qualified research at a qualified facility, including expenditures for depletable land and rent paid or incurred for land, improvements, the allowable amount paid or incurred to operate or maintain a facility, buildings, equipment, computer software, computer software upgrades, consultants and contractors performing work in New Mexico, payroll, technical books and manuals and test materials, but not including any expenditure on property that is owned by a municipality or county in connection with an industrial revenue bond project, property for which the taxpayer has received any credit pursuant to the Investment Credit Act, property that was owned by the taxpayer or an affiliate before July 3, 2000 or research and development expenditures reimbursed by a person who is not an affiliate of the taxpayer. If a "qualified expenditure" is an allocation of an expenditure, the cost accounting methodology used for the allocation of the expenditure shall be the same cost accounting methodology used by the taxpayer in its other business activities;

H. "qualified facility" means a facility in New Mexico at which qualified research is conducted other than a facility operated by a taxpayer for the United States or any agency, department or instrumentality thereof;

I. "qualified research" means research:

(1) that is undertaken for the purpose of discovering information:

(a) that is technological in nature; and

(b) the application of which is intended to be useful in the development of a new or improved business component of the taxpayer; and

(2) substantially all of the activities of which constitute elements of a process of experimentation related to a new or improved function, performance, reliability or quality, but not related to style, taste or cosmetic or seasonal design factors;

J. "qualified research and development small business" means a taxpayer that:

(1) employed no more than fifty employees as determined by the number of employees for which the taxpayer was liable for unemployment insurance coverage in the taxable year for which an additional credit is claimed;

(2) had total qualified expenditures of no more than five million dollars (\$5,000,000) in the taxable year for which an additional credit is claimed; and

(3) did not have more than fifty percent of its voting securities or other equity interest with the right to designate or elect the board of directors or other governing body of the business owned directly or indirectly by another business;

K. "rural area" means any area of the state other than the state fairgrounds, an incorporated municipality with a population of thirty thousand or more according to the most recent federal decennial census and any area within three miles of the external boundaries of an incorporated municipality with a population of thirty thousand or more according to the most recent federal decennial census;

L. "taxpayer" means any of the following persons, other than a federal, state or other governmental unit or subdivision or an agency, department, institution or instrumentality thereof:

(1) a person liable for payment of any tax;

(2) a person responsible for withholding and payment or collection and payment of any tax;

(3) a person to whom an assessment has been made if the assessment remains unabated or the assessed amount has not been paid; or

(4) for purposes of the additional credit against the taxpayer's income tax pursuant to the Technology Jobs and Research and Development Tax Credit Act and to the extent of their respective interest in that entity, the shareholders, members, partners or other owners of:

(a) a small business corporation that has elected to be treated as an S corporation for federal income tax purposes; or

(b) an entity treated as a partnership or disregarded entity for federal income tax purposes; and

M. "wages" means remuneration for services performed by an employee in New Mexico for an employer."

Chapter 270 Section 39 Laws 2019

SECTION 39. Section 7-12-3 NMSA 1978 (being Laws 1971, Chapter 77, Section 3, as amended) is amended to read:

"7-12-3. EXCISE TAX ON CIGARETTES--REDUCTION OF RATE FOR CERTAIN CIGARETTES.--

A. For the privilege of selling, giving or consuming cigarettes in New Mexico, there is levied an excise tax at a rate of ten cents (\$.10) for each cigarette sold, given or consumed in this state.

B. The tax imposed by this section shall be referred to as the "cigarette tax".

C. The tax imposed by this section shall be reduced by fifty percent for a cigarette for which a modified risk tobacco product order has been issued by the United States secretary of health and human services pursuant to Section 21 U.S.C. 387k(g)(1).

D. The tax imposed by this section shall be reduced by twenty-five percent for a cigarette for which a modified risk tobacco product order has been issued by the United States secretary of health and human services pursuant to Section 21 U.S.C. 387k(g)(2)."

Chapter 270 Section 40 Laws 2019

SECTION 40. Section 7-12-3.1 NMSA 1978 (being Laws 1986, Chapter 13, Section 3, as amended) is amended to read:

"7-12-3.1. CIGARETTE INVENTORY TAX--IMPOSITION OF TAX--DATE PAYMENT OF TAX DUE.--

A. A tax that may be identified as the "cigarette inventory tax" is imposed on a distributor that has in its possession tax-exempt stamps, tax-credit stamps or tax stamps, not affixed to packages of cigarettes, at the close of business on the day prior to the date on which an increase in the cigarette tax imposed by Section 7-12-3 NMSA 1978 is effective.

B. The cigarette inventory tax due from the distributor is calculated by multiplying the number of tax stamps not affixed to packages of cigarettes in the distributor's possession by the increase in the excise tax. Tax-exempt stamps and tax-credit stamps are not included in the calculation to determine the amount of cigarette inventory tax to be paid by a distributor.

C. The cigarette inventory tax is to be paid to the department on or before the twenty-fifth day of the month following the month in which the increase in the cigarette tax is effective."

Chapter 270 Section 41 Laws 2019

SECTION 41. Section 7-12-7 NMSA 1978 (being Laws 1971, Chapter 77, Section 7, as amended) is amended to read:

"7-12-7. SALE OF STAMPS--PRICES.--

A. Only the department shall sell stamps. Stamps may be sold by the department only to a distributor.

B. Stamps shall display a serial number. Stamps bearing the same serial number shall not be sold to more than one distributor. The department shall keep records of the serial numbers of the stamps provided to each distributor.

C. A stamp shall be affixed to a package of cigarettes in such a manner as to clearly display the serial number at the point of sale.

D. Tax stamps shall be sold at their face value with the following discounts:

(1) forty-six hundredths percent less than the face value of the first thirty thousand dollars (\$30,000) of stamps purchased in one calendar month;

(2) thirty-six hundredths percent less than the face value of the second thirty thousand dollars (\$30,000) of stamps purchased in one calendar month; and

(3) twenty-two hundredths percent less than the face value of stamps purchased in excess of sixty thousand dollars (\$60,000) in one calendar month.

E. Tax-credit stamps shall be provided only to distributors and shall be provided free of charge; provided that the distributor is in full compliance with the reporting requirements of the Cigarette Tax Act and rules adopted pursuant to that act.

F. If the face value of tax stamps sold in a single sale is less than one thousand dollars (\$1,000), the discount provided for in this section shall not be allowed.

G. Payment for tax stamps shall be made on or before the twenty-fifth day of the month following the month in which the sale of stamps by the department is made.

H. Tax-exempt stamps shall be provided only to distributors and shall be free of charge; provided that the distributor is in full compliance with the reporting requirements of the Cigarette Tax Act and rules adopted pursuant to that act."

Chapter 270 Section 42 Laws 2019

SECTION 42. Section 7-12A-2 NMSA 1978 (being Laws 1986, Chapter 112, Section 3, as amended) is amended to read:

"7-12A-2. DEFINITIONS.--As used in the Tobacco Products Tax Act:

A. "department" means the taxation and revenue department, the secretary or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

B. "cigar" means a roll for smoking made wholly or in part of tobacco and weighing greater than four and one-half pounds per thousand;

C. "distribute" means to sell or to give;

D. "closed system cartridge" means a single-use, pre-filled disposable cartridge containing five milliliters or less of e-liquid for use in an e-cigarette;

E. "e-cigarette" means any electronic oral device, whether composed of a heating element and battery or an electronic circuit, that provides a vapor of nicotine or any other substance the use or inhalation of which simulates smoking and includes any such device, or any part thereof, whether manufactured, distributed, marketed or sold as an e-cigarette, e-cigar, e-pipe or any other product, name or descriptor. "E-cigarette" does not include any product regulated as a drug or device by the United States food and drug administration under the Federal Food, Drug, and Cosmetic Act;

F. "e-liquid" means liquid or other substance intended for use in an e-cigarette, not including any substance containing cannabis or oil derived from cannabis;

G. "engaging in business" means carrying on or causing to be carried on any activity with the purpose of direct or indirect benefit;

H. "first purchaser" means a person engaging in business in New Mexico that manufactures tobacco products or that purchases or receives on consignment tobacco products from any person outside of New Mexico, which tobacco products are to be distributed in New Mexico in the ordinary course of business;

I. "little cigar" means a roll for smoking made wholly or in part of tobacco, using an integrated cellulose acetate or other similar filter, and weighing not more than four and one-half pounds per thousand;

J. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, joint venture, syndicate, limited liability company, limited liability partnership, other association or gas, water or electric utility owned or operated by a county or municipality or other entity of the state; "person" also means, to the extent permitted by law, a federal, state or other governmental unit or subdivision or an agency, department or instrumentality;

K. "product value" means the amount paid, net of any discounts taken and allowed, for tobacco products or, in the case of tobacco products received on consignment, the value of the tobacco products received or, in the case of tobacco products manufactured and sold in New Mexico, the proceeds from the sale by the manufacturer of the tobacco products; and

L. "tobacco product" means:

(1) any product, other than cigarettes, cigars and little cigars, made from or containing tobacco;

(2) e-liquid;

(3) e-cigarettes; and

(4) closed system cartridges."

Chapter 270 Section 43 Laws 2019

SECTION 43. Section 7-12A-3 NMSA 1978 (being Laws 1986, Chapter 112, Section 4, as amended) is amended to read:

"7-12A-3. IMPOSITION AND RATES OF TAX--REDUCTION OF RATE FOR CERTAIN TOBACCO PRODUCTS--DENOMINATION AS "TOBACCO PRODUCTS TAX"--DATE PAYMENT OF TAX DUE.--

A. For the manufacture or acquisition of tobacco products in New Mexico, not including cigars, little cigars, e-liquid, e-cigarettes or closed system cartridges, to be distributed in the ordinary course of business and for the consumption of tobacco products in New Mexico, there is imposed an excise tax at the rate of twenty-five percent of the product value of the tobacco products.

B. For the manufacture or acquisition of cigars in New Mexico to be distributed in the ordinary course of business and for the consumption of cigars in New Mexico, there is imposed an excise tax at a rate equal to twenty-five percent of the product value of the cigar, not to exceed fifty cents (\$.50) per cigar.

C. For the manufacture or acquisition of little cigars in New Mexico to be distributed in the ordinary course of business and for the consumption of little cigars in New Mexico, there is imposed an excise tax at a rate equal to the rate imposed on cigarettes pursuant to Section 7-12-3 NMSA 1978 per package of little cigars.

D. For the manufacture or acquisition of e-liquid in New Mexico to be distributed in the ordinary course of business and for the consumption of e-liquid in New Mexico, there is imposed an excise tax at a rate equal to twelve and one-half percent of the product value of the e-liquid.

E. For the manufacture or acquisition of closed system cartridges in New Mexico to be distributed in the ordinary course of business, there is imposed an excise tax at a rate of fifty cents (\$.50) per closed system cartridge.

~~[F. The taxes imposed by this section shall be reduced by fifty percent for a tobacco product, cigar or little cigar for which a modified risk tobacco product order has been issued by the United States secretary of health and human services pursuant to Section 21 U.S.C. 387k(g)(1).~~

~~G. The taxes imposed by this section shall be reduced by twenty-five percent for a tobacco product, cigar or little cigar for which a modified risk tobacco product order has been issued by the United States secretary of health and human services pursuant to Section 21 U.S.C. 387k(g)(2).~~ *LINE-ITEM VETO*

H. The taxes imposed by this section may be referred to as the "tobacco products tax".

I. The tobacco products tax shall be paid by the first purchaser on or before the twenty-fifth day of the month following the month in which the taxable event occurs."

Chapter 270 Section 44 Laws 2019

SECTION 44. Section 7-14-4 NMSA 1978 (being Laws 1988, Chapter 73, Section 14) is amended to read:

"7-14-4. DETERMINATION OF AMOUNT OF MOTOR VEHICLE EXCISE TAX.-
-The rate of the motor vehicle excise tax is four percent and is applied to the price paid

for the vehicle. If the price paid does not represent the value of the vehicle in the condition that existed at the time it was acquired, the tax rate shall be applied to the reasonable value of the vehicle in such condition at such time. However, allowances granted for vehicle trade-ins may be deducted from the price paid or the reasonable value of the vehicle purchased."

Chapter 270 Section 45 Laws 2019

SECTION 45. Section 7-14-10 NMSA 1978 (being Laws 1988, Chapter 73, Section 20, as amended) is amended to read:

"7-14-10. DISTRIBUTION OF PROCEEDS.--The receipts from the tax and any associated interest and penalties shall be deposited in the "motor vehicle suspense fund", hereby created in the state treasury. As of the end of each month, the net receipts attributable to the tax and associated penalties and interest shall be distributed as follows:

A. prior to July 1, 2021:

(1) seventy-one and eighty-nine hundredths percent to the general fund;

(2) three and eleven hundredths percent to the state road fund; and

(3) twenty-five percent to the department of transportation, for expenditures needed to mitigate the emergency road conditions related to activity in the oil field in state transportation commission district 2; and

B. beginning July 1, 2021:

(1) fifty-nine and thirty-nine hundredths percent to the general fund;

(2) twenty-one and eighty-six hundredths percent to the state road fund;

and

(3) eighteen and seventy-five hundredths percent to the local governments road fund."

Chapter 270 Section 46 Laws 2019

SECTION 46. Section 7-19-14 NMSA 1978 (being Laws 1979, Chapter 397, Section 5, as amended) is amended to read:

"7-19-14. SPECIFIC EXEMPTIONS.--No supplemental municipal gross receipts tax shall be imposed on the gross receipts arising from:

A. prior to July 1, 2021, transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the municipality to another point outside the municipality; or

B. a business located outside the boundaries of a municipality on land owned by that municipality for which a gross receipts tax distribution is made pursuant to Section 7-1-6.4 NMSA 1978."

Chapter 270 Section 47 Laws 2019

SECTION 47. Section 7-19D-1 NMSA 1978 (being Laws 1993, Chapter 346, Section 1) is amended to read:

"7-19D-1. SHORT TITLE.--Chapter 7, Article 19D NMSA 1978 may be cited as the "Municipal Local Option Gross Receipts and Compensating Taxes Act"."

Chapter 270 Section 48 Laws 2019

SECTION 48. Section 7-19D-5 NMSA 1978 (being Laws 1993, Chapter 346, Section 5, as amended) is amended to read:

"7-19D-5. SPECIFIC EXEMPTIONS.--No tax authorized by the provisions of the Municipal Local Option Gross Receipts and Compensating Taxes Act shall be imposed on the gross receipts arising from:

A. prior to July 1, 2021, transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the municipality to another point outside the municipality; or

B. a business located outside the boundaries of a municipality on land owned by that municipality for which a state gross receipts tax distribution is made pursuant to Section 7-1-6.4 NMSA 1978."

Chapter 270 Section 49 Laws 2019

SECTION 49. Section 7-19D-7 NMSA 1978 (being Laws 1993, Chapter 346, Section 7, as amended) is amended to read:

"7-19D-7. COLLECTION BY DEPARTMENT.--The department shall collect each tax imposed pursuant to the provisions of the Municipal Local Option Gross Receipts and Compensating Taxes Act in the same manner and at the same time it collects the state gross receipts and compensating taxes."

Chapter 270 Section 50 Laws 2019

SECTION 50. A new Section 7-19D-9.1 NMSA 1978 is enacted to read:

"7-19D-9.1. MUNICIPAL COMPENSATING TAX.--

A. Beginning July 1, 2021, for the privilege of using tangible personal property in a municipality, there is imposed on the person using the property an excise tax at a rate equal to the combined gross receipts tax rates imposed and in effect pursuant to the Supplemental Municipal Gross Receipts Tax Act and the Municipal Local Option Gross Receipts and Compensating Taxes Act of the value of tangible personal property that was:

(1) manufactured by the person using the property in the state; or

(2) acquired inside or outside this state as the result of a transaction with a person located outside this state that would have been subject to the state gross receipts tax had the tangible personal property been acquired from a person with nexus with New Mexico.

B. For the purpose of Subsection A of this section, the value of tangible personal property shall be the adjusted basis of the property for federal income tax purposes determined as of the time of acquisition or introduction into this state or of conversion to use, whichever is later. If no adjusted basis for federal income tax purposes is established for the property, a reasonable value of the property shall be used.

C. For the privilege of using a license or franchise in a municipality, there is imposed on the person using the license or franchise an excise tax equal to the tax rate provided in Subsection A of this section against the value of the license or franchise as determined pursuant to Section 7-9-7 NMSA 1978. The department by rule, ruling or instruction shall fairly apportion, where appropriate, the value of a license or franchise to its value in use in the municipality. For use of a license or franchise to be taxable under this subsection, the value of the license or franchise shall be acquired inside or outside this state as the result of a transaction with a person located outside this state that would have been subject to the gross receipts tax had the license or franchise been acquired from a person with nexus with this state.

D. For the privilege of using services in a municipality, there is imposed on the person using the services an excise tax at the rate provided in Subsection A of this section of the value of the services at the time the product of the service was acquired. For use of services to be taxable under this subsection, the services shall have been performed by a person outside this state and the product of which was acquired inside or outside this state as the result of a transaction with a person located outside this state that would have been subject to the gross receipts tax had the service or product of the service been acquired from a person with nexus with this state.

E. The governing body of a municipality may dedicate the revenue from the tax imposed pursuant to this section for any municipal purpose. If the governing body proposes to dedicate revenue for a specific purpose, the dedicated revenue shall be used by the municipality for that purpose unless a subsequent ordinance is adopted to change the purpose to which the revenue is dedicated or to place the revenue in the general fund of the municipality.

F. Any law that affects the municipal compensating tax, or any law supplemental or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge of such municipal compensating tax unless such outstanding revenue bonds have been discharged in full or provision has been fully made therefor.

G. The tax imposed by this section may be cited as the "municipal compensating tax".

Chapter 270 Section 51 Laws 2019

SECTION 51. Section 7-20E-1 NMSA 1978 (being Laws 1993, Chapter 354, Section 1) is amended to read:

"7-20E-1. SHORT TITLE.--Chapter 7, Article 20E NMSA 1978 may be cited as the "County Local Option Gross Receipts and Compensating Taxes Act".

Chapter 270 Section 52 Laws 2019

SECTION 52. Section 7-20E-7 NMSA 1978 (being Laws 1993, Chapter 354, Section 7, as amended) is amended to read:

"7-20E-7. COLLECTION BY DEPARTMENT.--The department shall collect each tax imposed pursuant to the provisions of the County Local Option Gross Receipts

and Compensating Taxes Act in the same manner and at the same time it collects the state gross receipts and compensating taxes."

Chapter 270 Section 53 Laws 2019

SECTION 53. A new Section 7-20E-9.1 NMSA 1978 is enacted to read:

"7-20E-9.1. COUNTY COMPENSATING TAX.--

A. Beginning July 1, 2021, for the privilege of using tangible personal property in a county, there is imposed on the person using the property an excise tax at a rate equal to the combined gross receipts tax rates imposed and in effect pursuant to the Local Hospital Gross Receipts Tax Act, the County Local Option Gross Receipts and Compensating Taxes Act and the County Correctional Facility Gross Receipts Tax Act of the value of tangible personal property that was:

(1) manufactured by the person using the property in the state; or

(2) acquired inside or outside this state as the result of a transaction with a person located outside this state that would have been subject to the state gross receipts tax had the tangible personal property been acquired from a person with nexus with New Mexico.

B. For the purpose of Subsection A of this section, the value of tangible personal property shall be the adjusted basis of the property for federal income tax purposes determined as of the time of acquisition or introduction into this state or of conversion to use, whichever is later. If no adjusted basis for federal income tax purposes is established for the property, a reasonable value of the property shall be used.

C. For the privilege of using a license or franchise in a county, there is imposed on the person using the license or franchise an excise tax equal to the tax rate provided in Subsection A of this section against the value of the license or franchise as determined pursuant to Section 7-9-7 NMSA 1978. The department by rule, ruling or instruction shall fairly apportion, where appropriate, the value of a license or franchise to its value in use in the county. For use of a license or franchise to be taxable under this subsection, the value of the license or franchise shall be acquired inside or outside this state as the result of a transaction with a person located outside this state that would have been subject to the gross receipts tax had the license or franchise been acquired from a person with nexus with this state.

D. For the privilege of using services in a county, there is imposed on the person using the services an excise tax at the rate provided in Subsection A of this section of the value of the services at the time the product of the service was acquired. For use of services to be taxable under this subsection, the services shall have been performed by a person outside this state and the product of which was acquired inside or outside this state as the result of a transaction with a person located outside this state that would have been subject to the gross receipts tax had the service or product of the service been acquired from a person with nexus with this state.

E. The governing body of a county may dedicate the revenue from the tax imposed pursuant to this section for any county purpose. If the governing body proposes to dedicate revenue for a specific purpose, the dedicated revenue shall be used by the county for that purpose unless a subsequent ordinance is adopted to change the purpose to which the revenue is dedicated or to place the revenue in the general fund of the county.

F. Any law that affects the county compensating tax, or any law supplemental or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge of such county compensating tax unless such outstanding revenue bonds have been discharged in full or provision has been fully made therefor.

G. The tax imposed by this section may be cited as the "county compensating tax".

Chapter 270 Section 54 Laws 2019

SECTION 54. TEMPORARY PROVISION--REFERENCES IN LAW.--

A. References in law to the County Local Option Gross Receipts Taxes Act shall be deemed to be references to the County Local Option Gross Receipts and Compensating Taxes Act.

B. References in law to the Municipal Local Option Gross Receipts Taxes Act shall be deemed to be references to the Municipal Local Option Gross Receipts and Compensating Taxes Act.

Chapter 270 Section 55 Laws 2019

SECTION 55. TEMPORARY PROVISION--UNDERPAID INCOME TAX DUE TO CHANGES MADE TO SECTIONS OF THE INCOME TAX ACT--FORGIVING

PENALTIES AND INTEREST.--A taxpayer who paid income tax for taxable year 2019 in installments through withholding or estimated tax payments pursuant to Section 7-2-12.2 NMSA 1978 but underpaid due to the changes made to Section 7-2-34 NMSA 1978 pursuant to this act shall not be subject to the penalties and interest provisions of the Tax Administration Act for the underpayment; provided that the underpayment is solely attributable to the changes made to Section 7-2-34 NMSA 1978 pursuant to this act.

Chapter 270 Section 56 Laws 2019

SECTION 56. REPEAL.--Sections 7-1-6.57 and 7-9-96.1 NMSA 1978 (being Laws 2007, Chapter 361, Sections 1 and 7) are repealed.

Chapter 270 Section 57 Laws 2019

SECTION 57. DELAYED REPEAL.--

- A. Section 9 of this act is repealed effective July 1, 2021.
- B. Section 7-1-6.55 NMSA 1978 (being Laws 2007, Chapter 331, Section 4) is repealed effective July 1, 2021.
- C. Sections 7-20C-5, 7-20E-5 and 7-20F-6 NMSA 1978 (being Laws 1991, Chapter 176, Section 5, Laws 1993, Chapter 354, Section 5 and Laws 1993, Chapter 303, Section 6, as amended) are repealed effective July 1, 2021.

Chapter 270 Section 58 Laws 2019

SECTION 58. DELAYED REPEAL.--Sections 7-2A-8 and 7-2A-8.4 NMSA 1978 (being Laws 1981, Chapter 37, Section 41 and Laws 1983, Chapter 213, Section 13, as amended) are repealed effective January 1, 2020.

Chapter 270 Section 59 Laws 2019

SECTION 59. APPLICABILITY.--

- A. The provisions of Sections 13 through 15 of this act apply to taxable years beginning on or after January 1, 2019.
- B. The provisions of Sections 16 through 22 and 58 of this act apply to taxable years beginning on or after January 1, 2020.

C. The provisions of Section 12 of this act apply to taxable years beginning on or after January 1, 2021.

Chapter 270 Section 60 Laws 2019

SECTION 60. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1 through 10, 23 through 29, 31, 33 through 49, 51, 52 and 54 through 56 of this act is July 1, 2019.

B. The effective date of the provisions of Sections 16 through 22 of this act is January 1, 2020.

C. The effective date of the provisions of Sections 11, 30, 32, 50 and 53 of this act is July 1, 2021.

Chapter 270 Section 61 Laws 2019

SECTION 61. CONTINGENT EFFECTIVE DATE.--The effective date of the provisions of Section 12 of this act is the date on which the secretary of finance and administration certifies to the New Mexico compilation commission and the director of the legislative council service that fiscal year 2020 recurring general fund revenues are less than five percent above fiscal year 2019 recurring general fund revenues. If the certification is not made prior to February 19, 2021, the provisions of Section 12 of this act shall not take effect.

HTRC/House Bill 6, aa, partial veto

Approved April 4, 2019

LAWS 2019, CHAPTER 271

AN ACT

MAKING GENERAL APPROPRIATIONS AND AUTHORIZING EXPENDITURES BY STATE AGENCIES REQUIRED BY LAW.

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

Chapter 271 Section 1 Laws 2019

Section 1. **SHORT TITLE.**--This act may be cited as the "General Appropriation Act of 2019".

Chapter 271 Section 2 Laws 2019

Section 2. **DEFINITIONS.**--As used in the General Appropriation Act of 2019:

- A. "agency" means an office, department, agency, institution, board, bureau, commission, court, district attorney, council or committee of state government;
- B. "efficiency" means the measure of the degree to which services are efficient and productive and is often expressed in terms of dollars or time per unit of output;
- C. "explanatory" means information that can help users to understand reported performance measures and to evaluate the significance of underlying factors that may have affected the reported information;

D. "federal funds" means any payments by the United States government to state government or agencies except those payments made in accordance with the federal Mineral Leasing Act;

E. "full-time equivalent" means one or more authorized positions that alone or together receives or receive compensation for not more than two thousand ninety-six hours worked in fiscal year 2020. The calculation of hours worked includes compensated absences but does not include overtime, compensatory time or sick leave paid pursuant to Section 10-7-10 NMSA 1978;

F. "general fund" means that fund created by Section 6-4-2 NMSA 1978 and includes federal Mineral Leasing Act receipts and those payments made in accordance with the federal block grant and the federal Workforce Investment Act but excludes the general fund operating reserve, the appropriation contingency fund, the tax stabilization reserve and any other fund, reserve or account from which general appropriations are restricted by law;

G. "interagency transfers" means revenue, other than internal service funds, legally transferred from one agency to another;

H. "internal service funds" means:

(1) revenue transferred to an agency for the financing of goods or services to another agency on a cost-reimbursement basis; and

(2) balances in agency internal service fund accounts appropriated by the General

Appropriation Act of 2019;

I. "other state funds" means:

(1) nonreverting balances in agency accounts, other than in internal service funds accounts, appropriated by the General Appropriation Act of 2019;

(2) all revenue available to agencies from sources other than the general fund, internal service funds, interagency transfers and federal funds; and

(3) all revenue, the use of which is restricted by statute or agreement;

J. "outcome" means the measure of the actual impact or public benefit of a program;

K. "output" means the measure of the volume of work completed or the level of actual services or products delivered by a program;

L. "performance measure" means a quantitative or qualitative indicator used to assess a program;

M. "quality" means the measure of the quality of a good or service produced and is often an indicator of the timeliness, reliability or safety of services or products produced by a program;

N. "revenue" means all money received by an agency from sources external to that agency, net

of refunds and other correcting transactions, other than from issue of debt, liquidation of investments or as agent or trustee for other governmental entities or private persons; and

O. "target" means the expected level of performance of a program's performance measures.

Chapter 271 Section 3 Laws 2019

Section 3. **GENERAL PROVISIONS.--**

A. Amounts set out under column headings are expressed in thousands of dollars.

B. Amounts set out under column headings are appropriated from the source indicated by the column heading. All amounts set out under the column heading "Internal Service Funds/Interagency Transfers" are intergovernmental transfers and do not represent a portion of total state government appropriations. All information designated as "Total" or "Subtotal" is provided for information and amounts are not appropriations.

C. Amounts set out in Section 4 of the General Appropriation Act of 2019, or so much as may be necessary, are appropriated from the indicated source for expenditure in fiscal year 2020 for the objects expressed.

D. Unexpended balances in agency accounts remaining at the end of fiscal year 2019 shall revert to the general fund by October 1, 2019 unless otherwise indicated in the General Appropriation Act

of 2019 or otherwise provided by law.

E. Unexpended balances in agency accounts remaining at the end of fiscal year 2020 shall revert to the general fund by October 1, 2020 unless otherwise indicated in the General Appropriation Act of 2019 or otherwise provided by law.

F. The state budget division shall monitor revenue received by agencies from sources other than the general fund and shall reduce the operating budget of any agency whose revenue from such sources is not meeting projections. The state budget division shall notify the legislative finance committee of any operating budget reduced pursuant to this subsection.

G. Except as otherwise specifically stated in the General Appropriation Act of 2019, appropriations are made in this act for the expenditures of agencies and for other purposes as required by existing law for fiscal year 2020. If any other act of the first session of the fifty-fourth legislature changes existing law with regard to the name or responsibilities of an agency or the name or purpose of a fund or distribution, the appropriation made in the General Appropriation Act of 2019 shall be transferred from the agency, fund or distribution to which an appropriation has been made as required by existing law to the appropriate agency, fund or distribution provided by the new law.

H. The department of finance and administration will regularly consult with the legislative finance committee staff to compare fiscal year 2020 revenue collections with the revenue estimate. If the analyses indicate that revenues and transfers to the general fund are not expected to meet appropriations,

then the department shall present a plan to the legislative finance committee that outlines the methods by which the administration proposes to address the deficit.

I. Pursuant to Sections 6-3-23 through 6-3-25 NMSA 1978, agencies whose revenue from state board of finance loans, from revenue appropriated by other acts of the legislature, or from gifts, grants, donations, bequests, insurance settlements, refunds or payments into revolving funds exceeds specifically appropriated amounts may request budget increases from the state budget division. If approved by the state budget division, such money is appropriated.

J. Except for gasoline credit cards used solely for operation of official vehicles, telephone credit cards used solely for official business and procurement cards used as authorized by Section 6-5-9.1 NMSA 1978, none of the appropriations contained in the General Appropriation Act of 2019 may be expended for payment of agency-issued credit card invoices.

K. For the purpose of administering the General Appropriation Act of 2019, the state of New Mexico shall follow the modified accrual basis of accounting for governmental funds in accordance with the manual of model accounting practices issued by the department of finance and administration.

Chapter 271 Section 4 Laws 2019

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
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Section 4. **FISCAL YEAR 2020 APPROPRIATIONS.**—

A. LEGISLATIVE

LEGISLATIVE COUNCIL SERVICE:

(1) Legislative council service:

Appropriations:	200.0	200.0
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The general fund appropriation to the legislative council service is for staff salaries.

Subtotal		200.0
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(2) Legislative building services:

Appropriations:

(a) Personal services and employee benefits	3,088.0	3,088.0
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(b) Contractual services	156.8	156.8
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(c) Other	1,034.4	1,034.4
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Subtotal		4,279.2
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TOTAL LEGISLATIVE	4,479.2	4,479.2
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B. JUDICIAL

NEW MEXICO COMPILATION COMMISSION:

The purpose of the New Mexico compilation commission is to publish in print and electronic format, distribute and sell (1) laws enacted by the legislature, (2) opinions of the supreme court and court of appeals, (3) rules approved by the supreme court, (4) attorney general opinions and (5) other state and federal rules and opinions. The commission ensures the accuracy and reliability of its publications.

Appropriations:				
(a) Operations	552.0	600.0	400.0	1,552.0
Subtotal				1,552.0

JUDICIAL STANDARDS COMMISSION:

The purpose of the judicial standards commission program is to provide a public review process addressing complaints involving judicial misconduct to preserve the integrity and impartiality of the judicial process.

Appropriations:			
(a) Operations	869.5		869.5
Subtotal			869.5

COURT OF APPEALS:

The purpose of the court of appeals is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:			
(a) Operations	6,353.6	1.0	6,354.6

Performance measures:

(a) Output:	Cases disposed as a percent of cases filed		100%
Subtotal			6,354.6

SUPREME COURT:

The purpose of the supreme court program is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a) Operations	6,172.6	1.5	6,174.1
Subtotal			6,174.1

ADMINISTRATIVE OFFICE OF THE COURTS:

(1) Administrative support:

The purpose of the administrative support program is to provide administrative support to the chief justice, all judicial branch units and the administrative office of the courts so that they can effectively administer the New Mexico court system.

Appropriations:

(a) Personal services and employee benefits			201.0	5,177.5
(b) Contractual services	1,408.4	165.5	1,000.0	2,573.9

(c) Other	3,988.6	2,123.0	313.6	1,128.6	7,553.8
Performance measures:					
(a) Efficiency:	Average cost per juror				\$55

(2) Statewide judiciary automation:

The purpose of the statewide judicial automation program is to provide development, enhancement, maintenance and support for core court automation and usage skills for appellate, district, magistrate and municipal courts and ancillary judicial agencies.

Appropriations:

(a) Personal services and employee benefits	4,274.7	2,235.7		6,510.4
(b) Contractual services		965.0		965.0
(c) Other	550.3	2,071.5		2,621.8

(3) Magistrate court:

The purpose of the magistrate court and warrant enforcement program is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status in order to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a) Personal services and employee benefits	661.8	2,893.6	285.0	3,840.4
(b) Contractual services	364.0	141.2	15.0	520.2

(c) Other	9,089.3	537.5	9,626.8	
Performance measures:				
(a) Output:	Cases disposed as a percent of cases filed			100%

(4) Special court services:

The purpose of the special court services program is to provide court advocates, legal counsel and safe exchanges for children and families; to provide judges pro tem; and to adjudicate water rights disputes so the constitutional rights and safety of citizens, especially children and families, are protected.

Appropriations:

(a) Court-appointed special advocate	1,356.7		1,356.7	
(b) Supervised visitation	882.8		882.8	
(c) Water rights		643.5	643.5	
(d) Court-appointed attorneys	6,405.7		6,405.7	
(e) Children's mediation	281.9		281.9	
(f) Judges pro tem	30.3		30.3	
(g) Access to justice	129.7		129.7	
(h) Statewide alternative dispute resolution	103.3		103.3	
(i) Drug court	1,486.8	2,095.6	3,582.4	
Performance measures:				
(a) Outcome:	Recidivism rate for drug-court participants			12%
Subtotal			52,806.1	

DISTRICT COURTS:

(1) First judicial district:

The purpose of the first judicial district court program, statutorily created in Santa Fe, Rio Arriba and Los Alamos counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a) Operations	9,757.3	464.4	648.3	10,870.0
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(2) Second judicial district:

The purpose of the second judicial district court program, statutorily created in Bernalillo county, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a) Operations	24,570.4	3,094.6	1,339.0	546.9	29,550.9
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(3) Third judicial district:

The purpose of the third judicial district court program, statutorily created in Dona Ana county, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:				
(a) Operations	9,549.2	243.2	798.5	10,590.9

(4) Fourth judicial district:

The purpose of the fourth judicial district court program, statutorily created in Mora, San Miguel and Guadalupe counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:				
(a) Operations	3,726.3	36.5	157.7	3,920.5

(5) Fifth judicial district:

The purpose of the fifth judicial district court program, statutorily created in Eddy, Chaves and Lea counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:				
(a) Operations	9,958.6	254.2	497.6	10,710.4

(6) Sixth judicial district:

The purpose of the sixth judicial district court program, statutorily created in Grant, Luna and Hidalgo

counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:				
(a) Operations	5,147.7	58.8	229.2	5,435.7

(7) Seventh judicial district:

The purpose of the seventh judicial district court program, statutorily created in Torrance, Socorro, Catron and Sierra counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:				
(a) Operations	3,911.0	35.0	400.6	4,346.6

(8) Eighth judicial district:

The purpose of the eighth judicial district court program, statutorily created in Taos, Colfax and Union counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:	4,432.3	139.7	170.6	4,742.6
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(a) Operations

(9) Ninth judicial district:

The purpose of the ninth judicial district court program, statutorily created in Curry and Roosevelt counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a) Operations	4,755.8	70.7	733.8	5,560.3
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(10) Tenth judicial district:

The purpose of the tenth judicial district court program, statutorily created in Quay, De Baca and Harding counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a) Operations	1,706.2	10.0		1,716.2
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(11) Eleventh judicial district:

The purpose of the eleventh judicial district court program, statutorily created in San Juan and McKinley counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records

of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:				
(a) Operations	9,969.0	209.0	712.6	10,890.6

(12) Twelfth judicial district:

The purpose of the twelfth judicial district court program, statutorily created in Otero and Lincoln counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:				
(a) Operations	4,901.1	135.9	118.1	5,155.1

(13) Thirteenth judicial district:

The purpose of the thirteenth judicial district court program, statutorily created in Valencia, Sandoval and Cibola counties, is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:				
(a) Operations	10,294.7	651.5	686.1	11,632.3
Subtotal				115,122.1

BERNALILLO COUNTY METROPOLITAN COURT:

The purpose of the Bernalillo county metropolitan court program is to provide access to justice, resolve disputes justly and timely and maintain accurate records of legal proceedings that affect rights and legal status to independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:						
(a) Operations	24,421.2	2,454.8	505.5	811.0	28,192.5	
Performance measures:						
(a) Output:	Percent of cases disposed of cases filed					100%
Subtotal					28,192.5	

DISTRICT ATTORNEYS:

(1) First judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Santa Fe, Rio Arriba and Los Alamos counties.

Appropriations:				
(a) Personal services and employee benefits	5,545.6	168.6	120.1	5,834.3
(b) Contractual services	22.8			22.8
(c) Other	403.0			403.0

Performance measures:

- (a) Explanatory: Percent of detention motions granted
- (b) Explanatory: Number of pretrial detention motions made

(2) Second judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Bernalillo county.

Appropriations:

(a) Personal services and employee benefits	21,257.3	562.5	421.0	815.8	23,056.6
(b) Contractual services	251.2				251.2
(c) Other	1,903.4				1,903.4

Performance measures:

- (a) Explanatory: Percent of detention motions granted
- (b) Explanatory: Number of pretrial detention motions made

(3) Third judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Dona Ana county.

Appropriations:

(a) Personal services and	4,975.4	57.3	168.4	649.8	5,850.9
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employee benefits		
(b) Contractual services	20.2	20.2
(c) Other	269.2	269.2
Performance measures:		
(a) Explanatory:	Percent of detention motions granted	
(b) Explanatory:	Number of pretrial detention motions made	

(4) Fourth judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Mora, San Miguel and Guadalupe counties.

Appropriations:		
(a) Personal services and employee benefits	3,329.3	3,329.3
(b) Contractual services	29.3	29.3
(c) Other	158.4	158.4
Performance measures:		
(a) Explanatory:	Number of pretrial detention motions made	
(b) Explanatory:	Percent of detention motions granted	

(5) Fifth judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and

ensure the protection, safety, welfare and health of the citizens within Eddy, Lea and Chaves counties.

Appropriations:

(a) Personal services and employee benefits	5,345.2	128.3	287.7	5,761.2
(b) Contractual services	25.6			25.6
(c) Other	239.4			239.4

Performance measures:

(a) Explanatory:	Number of pretrial detention motions made
(b) Explanatory:	Percent of detention motions granted

(6) Sixth judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Grant, Hidalgo and Luna counties.

Appropriations:

(a) Personal services and employee benefits	2,988.8	120.9	93.6	3,203.3
(b) Contractual services	12.0			12.0
(c) Other	184.6			184.6

Performance measures:

(a) Explanatory:	Number of pretrial detention motions made
(b) Explanatory:	Percent of detention motions granted

(7) Seventh judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative

support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Catron, Sierra, Socorro and Torrance counties.

Appropriations:

(a) Personal services and employee benefits	2,602.9	2,602.9
(b) Contractual services	14.7	14.7
(c) Other	151.1	151.1

Performance measures:

(a) Explanatory:	Percent of detention motions granted
(b) Explanatory:	Number of pretrial detention motions made

(8) Eighth judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Taos, Colfax and Union counties.

Appropriations:

(a) Personal services and employee benefits	2,916.9	2,916.9
(b) Contractual services	16.8	16.8
(c) Other	140.1	140.1

Performance measures:

(a) Explanatory:	Percent of detention motions granted
(b) Explanatory:	Number of pretrial detention motions made

(9) Ninth judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Curry and Roosevelt counties.

Appropriations:

(a) Personal services and employee benefits	3,237.4	3,237.4
(b) Contractual services	17.7	17.7
(c) Other	137.0	137.0

Performance measures:

(a) Explanatory:	Percent of detention motions granted
(b) Explanatory:	Number of pretrial detention motions made

(10) Tenth judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Quay, Harding and De Baca counties.

Appropriations:

(a) Personal services and employee benefits	1,296.0	1,296.0
(b) Contractual services	15.9	15.9
(c) Other	112.0	112.0

Performance measures:

- (a) Explanatory: Percent of detention motions granted
- (b) Explanatory: Number of pretrial detention motions made

(11) Eleventh judicial district, division I:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within San Juan county.

Appropriations:

(a) Personal services and employee benefits	4,141.6	134.2	233.3	4,509.1
(b) Contractual services	40.7			40.7
(c) Other	222.8	3.5	1.0	227.3

Performance measures:

- (a) Explanatory: Number of pretrial detention motions made
- (b) Explanatory: Percent of detention motions granted

(12) Eleventh judicial district, division II:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within McKinley county.

Appropriations:

(a) Personal services and	2,420.2	114.0	104.4	2,638.6
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employee benefits			
(b) Contractual services	75.9		75.9
(c) Other	145.5		145.5
Performance measures:			
(a) Explanatory:	Number of pretrial detention motions made		
(b) Explanatory:	Percent of detention motions granted		

(13) Twelfth judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Lincoln and Otero counties.

Appropriations:				
(a) Personal services and employee benefits	3,151.3	159.2	124.3	3,434.8
(b) Contractual services	44.6			44.6
(c) Other	227.3			227.3
Performance measures:				
(a) Explanatory:	Number of pretrial detention motions made			
(b) Explanatory:	Percent of detention motions granted			

(14) Thirteenth judicial district:

The purpose of the prosecution program is to provide litigation, special programs and administrative support for the enforcement of state laws as they pertain to the district attorney and to improve and ensure the protection, safety, welfare and health of the citizens within Cibola, Sandoval and Valencia

counties.

Appropriations:

(a) Personal services and employee benefits	5,133.4	138.7	5,272.1
(b) Contractual services	96.8	5.0	101.8
(c) Other	417.9	4.0	421.9

Performance measures:

(a) Explanatory:	Number of pretrial detention motions made		
(b) Explanatory:	Percent of detention motions granted		
Subtotal			78,352.8

ADMINISTRATIVE OFFICE OF THE DISTRICT ATTORNEYS:

(1) Administrative support:

The purpose of the administrative support program is to provide fiscal, human resource, staff development, automation, victim program services and support to all district attorneys' offices in New Mexico and to members of the New Mexico children's safe house network so that they may obtain and access the necessary resources to effectively and efficiently carry out their prosecutorial, investigative and programmatic functions.

Appropriations:

(a) Personal services and employee benefits	1,423.9	114.7	1,538.6
(b) Contractual services	280.4	16.9	297.3
(c) Other	715.2	137.7	852.9

Performance measures:

(a) Outcome:	Percent of application development issues resolved	90%
Subtotal		2,688.8

PUBLIC DEFENDER DEPARTMENT:

(1) Criminal legal services:

The purpose of the criminal legal services program is to provide effective legal representation and advocacy for eligible clients so their liberty and constitutional rights are protected and to serve the community as a partner in assuring a fair and efficient criminal justice system that sustains New Mexico's statutory and constitutional mandate to adequately fund a statewide indigent defense system.

Appropriations:

(a) Personal services and employee benefits	34,399.3		34,399.3
(b) Contractual services	14,196.5	75.0	14,271.5
(c) Other	5,642.7	200.0	5,842.7

The public defender department shall not expend more than one million five hundred thousand dollars (\$1,500,000) in hourly rates for contract attorneys and may only pay hourly rates for capital cases or first degree felonies. ~~[The public defender department shall report to the legislative finance committee on cost containment efforts for contracted hourly rates and on standards of indigence and court appointments of public defenders.]~~ *LINE-ITEM VETO*

Performance measures:

(a) Output:	Number of alternative sentencing treatment placements	7,000
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		for felony, misdemeanor and juvenile clients				
(b) Output:		Average cases assigned to attorneys yearly				
Subtotal						54,513.5
TOTAL JUDICIAL		307,434.5	21,663.1	11,410.9	6,117.5	346,626.0

C. GENERAL CONTROL

ATTORNEY GENERAL:

(1) Legal services:

The purpose of the legal services program is to deliver quality legal services including opinions, counsel and representation to state government entities and to enforce state law on behalf of the public so New Mexicans have an open, honest, efficient government and enjoy the protection of state law.

Appropriations:

(a) Personal services and employee benefits	10,927.8	5,006.9	839.3	16,774.0
(b) Contractual services	676.6	336.4	25.6	1,038.6
(c) Other	1,930.9	689.5	343.5	2,963.9

The internal service funds/interagency transfers appropriations to the legal services program of the attorney general include five million two hundred eighty-two thousand eight hundred dollars (\$5,282,800) from the consumer settlement fund of the office of the attorney general.

The internal service fund/interagency transfers appropriations to the legal services program of the attorney general include seven hundred fifty thousand dollars (\$750,000) from the mortgage regulatory fund

of the regulation and licensing department. Any unexpended balance from appropriations made from the mortgage regulatory fund shall revert to the mortgage regulatory fund.

Performance measures:

(a) Outcome: Percent of consumer and constituent complaints resolved within sixty days of formal complaint or referral receipt

85%

(2) Medicaid fraud:

The purpose of the medicaid fraud program is to investigate and prosecute medicaid provider fraud, recipient abuse and neglect in the medicaid program.

Appropriations:

(a) Personal services and employee benefits	558.0	62.1	1,860.3	2,480.4
(b) Contractual services	20.2	2.3	67.5	90.0
(c) Other	141.8	15.7	472.6	630.1

Performance measures:

(a) Explanatory:	Total medicaid fraud recoveries identified, in thousands			
Subtotal				23,977.0

STATE AUDITOR

The purpose of the state auditor program is to audit the financial affairs of every agency annually so they can improve accountability and performance and to assure New Mexico citizens that funds are expended properly.

Appropriations:

(a) Personal services and employee benefits	2,569.1	670.2		3,239.3
(b) Contractual services	47.3			47.3
(c) Other	515.2	68.9		584.1
Subtotal				3,870.7

TAXATION AND REVENUE DEPARTMENT

(1) Tax administration:

The purpose of the tax administration program is to provide registration and licensure requirements for tax programs and to ensure the administration, collection and compliance of state taxes and fees that provide funding for support services for the general public through appropriations.

Appropriations:

(a) Personal services and employee benefits	23,764.7	300.3	1,298.3	25,363.3
(b) Contractual services	258.5	48.3	13.0	319.8
(c) Other	4,826.6	487.	195.5	5,509.9

Performance measures:

(a) Outcome:	Collections as a percent of collectible outstanding balances from the end of the prior fiscal year	23%
(b) Outcome:	Collections as a percent of collectible audit assessments generated in the current fiscal year plus assessments generated in the last quarter of the prior fiscal year	65%

(2) Motor vehicle:

The purpose of the motor vehicle program is to register, title and license vehicles, boats and motor vehicle dealers and to enforce operator compliance with the Motor Vehicle Code and federal regulations by conducting tests, investigations and audits.

Appropriations:

(a) Personal services and employee benefits	5,878.6	9,648.9	66.4	15,593.9
(b) Contractual services	2,190.0	5,464.3		7,654.3
(c) Other	3,674.9	2,058.5	11.6	5,745.0
(d) Other financing uses		3,313.9		3,313.9

The other state funds appropriations to the motor vehicle program of the taxation and revenue department include three million two hundred nineteen thousand four hundred dollars (\$3,219,400) from the weight distance tax identification permit fund for the modal program of the department of transportation and ninety-four thousand five hundred dollars (\$94,500) from the weight distance tax identification permit fund for the law enforcement program of the department of public safety.

Performance measures:

(a) Outcome:	Percent of registered vehicles with liability insurance	93%
(b) Efficiency:	Average call center wait time to reach an agent, in minutes	<4:00
(c) Efficiency:	Average wait time in qmatic-equipped offices, in minutes	<15:00

(3) Property tax:

The purpose of the property tax program is to administer the Property Tax Code, to ensure the fair appraisal of property and to assess property taxes within the state.

Appropriations:

(a) Personal services and employee benefits	2,777.8	2,777.8
(b) Contractual services	668.0	668.0
(c) Other	762.5	762.5

Performance measures:

(a) Output:	Amount of delinquent property tax collected and distributed to counties, in millions	\$13
(b) Outcome:	Percent of total delinquent property taxes recovered	18%

(4) Compliance enforcement:

The purpose of the compliance enforcement program is to support the overall mission of the taxation and revenue department by enforcing criminal statutes relative to the New Mexico Tax Administration Act and other related financial crimes, as they impact New Mexico state taxes, to encourage and achieve voluntary compliance with state tax laws.

Appropriations:

(a) Personal services and employee benefits	1,299.1	1,299.1
(b) Contractual services	6.4	6.4
(c) Other	270.1	270.1

Performance measures:

(a) Outcome:	Percent of tax investigations referred to prosecutors of total investigations assigned during the year	85%
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(5) Program support:

The purpose of program support is to provide information system resources, human resource services, finance

and accounting services, revenue forecasting and legal services to give agency personnel the resources needed to meet departmental objectives. For the general public, the program conducts hearings for resolving taxpayer protests and provides stakeholders with reliable information regarding the state's tax programs.

Appropriations:

(a) Personal services and employee benefits	14,013.2	509.7	14,522.9
(b) Contractual services	3,793.5	133.2	3,926.7
(c) Other	2,153.4		2,153.4

Performance measures:

(a) Outcome:	Number of tax protest cases resolved	1,550
Subtotal		89,887.0

STATE INVESTMENT COUNCIL:

(1) State investment:

The purpose of the state investment program is to provide investment management of the state's permanent funds for the citizens of New Mexico to maximize distributions to the state's operating budget while preserving the real value of the funds for future generations of New Mexicans.

Appropriations:

(a) Personal services and employee benefits	4,168.7	4,168.7
(b) Contractual services	56,372.4	56,372.4
(c) Other	665.1	665.1

Performance measures:

(a) Outcome:	Three-year annualized investment returns to exceed	>25
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	internal benchmarks, in basis points	
(b) Outcome:	Three-year annualized percentile performance ranking in	
	endowment investment peer universe	<49
Subtotal		61,206.2

ADMINISTRATIVE HEARINGS OFFICE:

(1) Administrative hearings:

The purpose of the administrative hearings program is to adjudicate tax-, property- and motor-vehicle-related administrative hearings in a fair, efficient and impartial manner independent of the executive agency that is party to the proceedings.

Appropriations:

(a) Personal services and employee benefits	1,510.3	165.0	1,675.3
(b) Contractual services	42.7		42.7
(c) Other	254.3		254.3

The other state funds appropriation to the administrative hearings program of the administrative hearings office includes one hundred sixty-five thousand dollars (\$165,000) from the motor vehicle suspense fund.

Performance measures:

(a) Outcome:	Percent of hearings for implied consent act cases not held within ninety days due to administrative hearings office error	<.05%
Subtotal		1,972.3

DEPARTMENT OF FINANCE AND ADMINISTRATION:

(1) Policy development, fiscal analysis, budget oversight and education accountability:

The purpose of the policy development, fiscal analysis, budget oversight and education accountability program is to provide professional and coordinated policy development and analysis and oversight to the governor, the legislature and state agencies so they can advance the state's policies and initiatives using appropriate and accurate data to make informed decisions for the prudent use of the public's tax dollars.

Appropriations:

(a) Personal services and employee benefits	3,201.3	3,201.3
(b) Contractual services	68.9	68.9
(c) Other	114.7	114.7

Performance measures:

(a) Outcome:	General fund reserves as a percent of recurring appropriations	20%
(b) Outcome:	Error rate for the eighteen-month general fund revenue forecast, gas revenue and corporate income taxes	(+/-)3%

(2) Community development, local government assistance and fiscal oversight:

The purpose of the community development, local government assistance and fiscal oversight program is to help counties, municipalities and special districts maintain strong communities through sound fiscal advice and oversight, technical assistance, monitoring of project and program progress and timely processing of payments, grant agreements and contracts.

Appropriations:

(a) Personal services and	1,799.1	1,187.5	412.4	3,399.0
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employee benefits				
(b) Contractual services	2,523.1	1,746.5	2.0	4,271.6
(c) Other	72.2	29,751.0	9,788.9	39,612.1
(d) Other financing uses		300.0		300.0

The other state funds appropriations to the community development, local government assistance and fiscal oversight program of the department of finance and administration include twelve million four hundred fifty-five thousand dollars (\$12,455,000) from the enhanced 911 fund, eighteen million seven hundred thirty thousand dollars (\$18,730,000) from the local DWI grant fund, and one million eight hundred thousand dollars (\$1,800,000) from the civil legal services fund.

Performance measures:

(a) Output:	Percent of county and municipality budgets approved by the local government division of budgets submitted timely	95%
(b) Outcome:	Number of counties and municipalities local government division assisted during the fiscal year to resolve audit findings and diminish poor audit opinions	11

(3) Fiscal management and oversight:

The purpose of the fiscal management and oversight program is to provide for and promote financial accountability for public funds throughout state government by providing state agencies and the citizens of New Mexico with timely, accurate and comprehensive information on the financial status and expenditures of the state and approve all state professional service contracts.

Appropriations:

(a) Personal services and	5,247.6	5,247.6
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employee benefits			
(b) Contractual services	1,598.0		1,598.0
(c) Other	368.3		368.3
(d) Other financing uses		38,000.0	17,500.0
			55,500.0

The internal service funds/interagency transfers appropriation to the fiscal management and oversight program of the department of finance and administration in the other financing uses category includes seventeen million five hundred thousand dollars (\$17,500,000) from the tobacco settlement program fund.

The other state funds appropriation to the fiscal management and oversight program of the department of finance and administration in the other financing uses category includes thirty-eight million dollars (\$38,000,000) from the county-supported medicaid fund.

Performance measures:

(a) Efficiency:	Percent of vouchered vendor payments processed within five working days	95%
(b) Output:	Percent of bank accounts reconciled on an annual basis	100%

(4) Program support:

The purpose of program support is to provide other department of finance and administration programs with central direction to agency management processes to ensure consistency, legal compliance and financial integrity, to provide human resources support and to administer the executive's exempt salary plan.

Appropriations:

(a) Personal services and	845.4	845.4
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employee benefits		
(b) Contractual services	73.6	73.6
(c) Other	26.0	26.0
Performance measures:		

(5) Dues and membership fees/special appropriations:

Appropriations:

(a) National association of state budget officers	20.2		20.2
(b) Western governors' association	36.0		36.0
(c) National governors' association	83.8		83.8
(d) Emergency water supply fund	104.8		104.8
(e) Fiscal agent contract	1,064.8		1,064.8
(f) State planning districts	693.0		693.0
(g) Statewide teen court	17.7	120.2	137.9
(h) Law enforcement protection fund		16,705.1	16,705.1
(i) Leasehold community assistance	57.0		57.0
(j) Acequia and community ditch education program	398.2		398.2
(k) New Mexico acequia commission	88.1		88.1
(l) Land grant council	296.9		296.9
(m) County detention of prisoners	2,387.5		2,387.5

The department of finance and administration shall not distribute a general fund appropriation made in items (d) through (m) to a New Mexico agency or local public body that is not current on its audit or

financial reporting or otherwise in compliance with the Audit Act.

On certification by the state board of finance pursuant to Section 6-1-2 NMSA 1978 that a critical emergency exists that cannot be addressed by disaster declaration or other emergency or contingency funds, the secretary of the department of finance and administration is authorized to transfer from the general fund operating reserve to the state board of finance emergency fund the amount necessary to meet the emergency. Such transfers shall not exceed an aggregate amount of two million dollars (\$2,000,000) in fiscal year 2020. Repayments of emergency loan loans made pursuant to this paragraph shall be deposited in the board of finance emergency fund pursuant to the provisions of Section 6-1-5 NMSA 1978.

Subtotal

136,699.8

PUBLIC SCHOOL INSURANCE AUTHORITY:

(1) Benefits:

The purpose of the benefits program is to provide an effective health insurance package to educational employees and their eligible family members so they can be protected against catastrophic financial losses due to medical problems, disability or death.

Appropriations:

(a) Contractual services	316,268.0	316,268.0
(b) Other financing uses	661.1	661.1

Performance measures:

(a) Outcome:	Percent change in per-member health claim costs	≤5%
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(b) Outcome:	Percent change in medical premium as compared with industry average	≤4.5%
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(2) Risk:

The purpose of the risk program is to provide economical and comprehensive property, liability and workers' compensation programs to educational entities so they are protected against injury and loss.

Appropriations:		
(a) Contractual services	69,419.4	69,419.4
(b) Other financing uses	661.1	661.1
Performance measures:		
(a) Outcome:	Percent of schools in compliance with loss control prevention recommendations	75%
(b) Outcome:	Average cost per workers' compensation claim for current fiscal year	<\$3,000

(3) Program support:

The purpose of program support is to provide administrative support for the benefits and risk programs and to assist the agency in delivering services to its constituents.

Appropriations:		
(a) Personal services and employee benefits	1,051.3	1,051.3
(b) Contractual services	45.9	45.9
(c) Other	225.0	225.0

Any unexpended balances in program support of the New Mexico public school insurance authority remaining at

the end of fiscal year 2020 shall revert in equal amounts to the benefits program and risk program.

Subtotal

388,331.8

RETIREE HEALTH CARE AUTHORITY:

(1) Healthcare benefits administration:

The purpose of the healthcare benefits administration program is to provide fiscally solvent core group and optional healthcare benefits and life insurance to current and future eligible retirees and their dependents so they may access covered and available core group and optional healthcare benefits and life insurance benefits when they need them.

Appropriations:

(a) Contractual services	354,743.4	354,743.4
(b) Other	42.0	42.0
(c) Other financing uses	3,135.9	3,135.9

Performance measures:

(a) Output:	Minimum number of years of positive fund balance	18
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(2) Program support:

The purpose of program support is to provide administrative support for the healthcare benefits administration program to assist the agency in delivering its services to its constituents.

Appropriations:

(a) Personal services and employee benefits	1,981.2	1,981.2
(b) Contractual services	616.6	616.6
(c) Other	538.1	538.1

Performance measures:

(a) Explanatory:

(b) Explanatory:

Any unexpended balance in program support of the retiree health care authority remaining at the end of fiscal year 2020 shall revert to the healthcare benefits administration program.

Subtotal

361,057.2

GENERAL SERVICES DEPARTMENT:

(1) Employee group health benefits:

The purpose of the employee group health benefits program is to effectively administer comprehensive health-benefit plans to state and local government employees.

Appropriations:

(a) Contractual services	20,147.0	20,147.0
(b) Other	365,000.0	365,000.0

Performance measures:

(a) Efficiency:	Percent change in state employee medical premium	4%
(b) Outcome:	Percent change in the average per-member total healthcare cost	≤5%

(2) Risk management:

The purpose of the risk management program is to protect the state's assets against property, public liability, workers' compensation, state unemployment compensation, local public bodies unemployment compensation and surety bond losses so agencies can perform their missions in an efficient and responsive manner.

Appropriations:

(a) Personal services and employee benefits	4,149.0	4,149.0
(b) Contractual services	150.0	150.0
(c) Other	351.5	351.5
(d) Other financing uses	3,673.0	3,673.0

Any unexpended balances in the risk management program of the general services department remaining at the end of fiscal year 2020 shall revert to the public liability fund, public property reserve fund, workers' compensation retention fund, state unemployment compensation fund, local public body unemployment compensation reserve fund and group self-insurance fund based on the proportion of each individual fund's assessment for risk management program operations.

(3) Risk management funds:

Appropriations:

(a) Public liability	39,546.7	39,546.7
(b) Surety bond	50.0	50.0
(c) Public property reserve	9,735.0	9,735.0

(d) Local public body unemployment compensation reserve	3,090.0	3,090.0
(e) Workers' compensation retention	18,268.5	18,268.5
(f) State unemployment compensation	8,087.2	8,087.2

Performance measures:

(a) Explanatory:	Projected financial position of the public property fund
(b) Explanatory:	Projected financial position of the workers' compensation fund
(c) Explanatory:	Projected financial position of the public liability fund

(4) State printing services:

The purpose of the state printing services program is to provide cost-effective printing and publishing services for governmental agencies.

Appropriations:

(a) Personal services and employee benefits	531.6	531.6
(b) Contractual services	25.0	25.0
(c) Other	1,122.0	1,122.0
(d) Other financing uses	55.1	55.1

Performance measures:

(a) Output:	Percent of state printing revenue exceeding expenditures	5%
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(5) Facilities management:

The purpose of the facilities management program is to provide employees and the public with effective

property management so agencies can perform their missions in an efficient and responsive manner.

Appropriations:

(a) Personal services and employee benefits	7,155.6	7,155.6
(b) Contractual services	270.8	270.8
(c) Other	6,093.9	6,093.9
(d) Other financing uses	200.0	200.0

Performance measures:

(a) Efficiency:	Percent of capital projects completed on schedule	97%
(b) Outcome:	Percent of new office space leases achieving adopted space standards	75%
[(c) Efficiency:	Square footage per employee, state-owned office facilities	215
(d) Efficiency:	Square footage per employee, leased office facilities	215]

LINE-ITEM VETO

(6) Transportation services:

The purpose of the transportation services program is to provide centralized and effective administration of the state's motor pool and aircraft transportation services so agencies can perform their missions in an efficient and responsive manner.

Appropriations:

(a) Personal services and employee benefits	304.7	2,020.0	2,324.7
(b) Contractual services	4.0	192.5	196.5
(c) Other	191.2	5,789.3	5,980.5
(d) Other financing uses	28.5	269.0	297.5

Performance measures:

(a) Efficiency:	Average vehicle operation costs per mile	<\$0.59
(b) Outcome:	Percent of leased vehicles that are used seven hundred fifty miles per month or are used daily	70%

(7) Procurement services:

The purpose of the procurement services program is to provide a procurement process for tangible property for government entities to ensure compliance with the Procurement Code so agencies can perform their missions in an efficient and responsive manner.

Appropriations:

(a) Personal services and employee benefits	600.5	1,092.0	1,692.5
(b) Contractual services		34.0	34.0
(c) Other		246.0	246.0
(d) Other financing uses	13.1	57.8	
Performance measures:			70.9
(a) Outcome:	Percent of executive branch agencies with certified procurement officers		95%

(8) Program support:

The purpose of program support is to manage the program performance process to demonstrate success.

Appropriations:

(a) Personal services and employee benefits		3,009.3	3,009.3
(b) Contractual services		363.3	363.3
(c) Other		923.9	923.9

Any unexpended balances in program support of the general services department remaining at the end of fiscal year 2020 shall revert to the procurement services, state printing services, risk management, facilities management and transportation services programs based on the proportion of each individual program's assessment for program support.

Subtotal	502,841.0
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EDUCATIONAL RETIREMENT BOARD:

(1) Educational retirement:

The purpose of the educational retirement program is to provide secure retirement benefits to active and retired members so they can have secure monthly benefits when their careers are finished.

Appropriations:		
(a) Personal services and employee benefits	7,092.7	7,092.7
(b) Contractual services	23,327.4	23,327.4
(c) Other	1,270.9	1,270.9
Performance measures:		
(a) Outcome:	Funding period of unfunded actuarial accrued liability, in years	≤30
Subtotal		31,691.0

NEW MEXICO SENTENCING COMMISSION:

The purpose of the New Mexico sentencing commission is to provide information, analysis, recommendations

and assistance from a coordinated cross-agency perspective to the three branches of government and interested citizens so they have the resources they need to make policy decisions that benefit the criminal and juvenile justice systems.

Appropriations:			
(a) Contractual services	546.1	52.0	598.1
(b) Other	3.5		3.5
Subtotal			601.6

GOVERNOR:

(1) Executive management and leadership:

The purpose of the executive management and leadership program is to provide appropriate management and leadership to the executive branch of government to allow for a more efficient and effective operation of the agencies within that branch of government on behalf of the citizens of the state.

Appropriations:			
(a) Personal services and employee benefits	3,517.9		3,517.9
(b) Contractual services	89.6		89.6
(c) Other	455.5		455.5

The general fund appropriation to the office of the governor in the other category includes seventy-two thousand dollars (\$72,000) for the governor's contingency fund.

Subtotal			4,063.0
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LIEUTENANT GOVERNOR:

(1) State ombudsman:

The purpose of the state ombudsman program is to facilitate and promote cooperation and understanding between the citizens of New Mexico and the agencies of state government, refer any complaints or special problems citizens may have to the proper entities, keep records of activities and submit an annual report to the governor.

Appropriations:

(a) Personal services and employee benefits	450.1		450.1
(b) Contractual services	38.4		38.4
(c) Other	76.3		76.3
Subtotal			564.8

DEPARTMENT OF INFORMATION TECHNOLOGY:

(1) Compliance and project management:

The purpose of the compliance and project management program is to provide information technology strategic planning, oversight and consulting services to New Mexico government agencies so they can improve services provided to New Mexico citizens.

Appropriations:

(a) Personal services and employee benefits	683.5	960.3	1,643.8
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(b) Contractual services		52.5	52.5
(c) Other	57.0	21.1	78.1
(d) Other financing uses	112.7	270.4	383.1

Performance measures:

(a) Outcome:	Percent of information technology professional service contracts greater than one million dollars in value reviewed within seven business days	90%
(b) Outcome:	Percent of information technology professional service contracts less than one million dollars in value reviewed within five business days	90%

(2) Enterprise services:

The purpose of the enterprise services program is to provide reliable and secure infrastructure for voice, radio, video and data communications through the state's enterprise data center and telecommunications network.

Appropriations:

(a) Personal services and employee benefits	13,076.0	226.1	13,302.1
(b) Contractual services	10,983.2	11.4	10,994.6
(c) Other	26,364.3	72.5	26,436.8
(d) Other financing uses	11,531.7		11,531.7

Performance measures:

(a) Outcome:	Percent of service desk incidents resolved within the timeframe specified for their priority level	95%
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(3) Equipment replacement revolving funds:

Appropriations:

(a) Contractual services	3,078.0	3,078.0
(b) Other	3,904.7	3,904.7

(4) Program support:

The purpose of program support is to provide management and ensure cost recovery and allocation services through leadership, policies, procedures and administrative support for the department.

Appropriations:

(a) Personal services and employee benefits	3,268.1	3,268.1
(b) Contractual services	160.6	160.6
(c) Other	227.2	227.2

Performance measures:

(a) Explanatory:	Overall results of the department's annual customer satisfaction survey	
(b) Outcome:	Percent of enterprise services areas achieving full cost recovery	90%

Subtotal		75,061.3
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PUBLIC EMPLOYEES RETIREMENT ASSOCIATION:

(1) Pension administration:

The purpose of the pension administration program is to provide information, retirement benefits and an actuarially sound fund to association members so they can receive the defined benefit they are entitled to when they retire from public service.

Appropriations:

(a) Personal services and employee benefits	73.6	7,813.5			7,887.1
(b) Contractual services		27,069.2			27,069.2
(c) Other	3.4	1,385.3			1,388.7

Performance measures:

(a) Outcome:	Funding period of unfunded actuarial accrued liability, in years				≤30
Subtotal					36,345.0

STATE COMMISSION OF PUBLIC RECORDS:

(1) Records, information and archival management:

The purpose of the records, information and archival management program is to develop, implement and provide tools, methodologies and services for use by, and for the benefit of, government agencies, historical record repositories and the public so the state can effectively create, preserve, protect and properly dispose of records, facilitate their use and understanding and protect the interests of the citizens of New Mexico.

Appropriations:

(a) Personal services and employee benefits	2,429.4				2,429.4
(b) Contractual services	24.6				24.6
(c) Other	59.1	160.9	185.0	25.0	430.0

Performance measures:

(a) Outcome:	Number of state employee trainings on filing and publishing notices of rulemaking and rules in compliance with the State Rules Act				24
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Subtotal

2,884.0

SECRETARY OF STATE:

(1) Administration and operations:

The purpose of the administration and operations program is to provide operational services to commercial and business entities and citizens, including administration of notary public commissions, uniform commercial code filings, trademark registrations and partnerships and to provide administrative services needed to carry out elections.

Appropriations:

(a) Personal services and employee benefits	3,070.8		3,070.8
(b) Contractual services	149.9		149.9
(c) Other	549.8	39.0	588.8

(2) Elections:

The purpose of the elections program is to provide voter education and information on election law and government ethics to citizens, public officials and candidates so they can comply with state law.

Appropriations:

(a) Personal services and employee benefits	912.1		912.1
(b) Contractual services	638.9		638.9
(c) Other	3,899.2	437.4	4,336.6

Subtotal

9,697.1

PERSONNEL BOARD:

(1) Human resource management:

The purpose of the human resource management program is to provide a flexible system of merit-based opportunity, appropriate compensation, human resource accountability and employee development that meets the evolving needs of the agencies, employees, applicants and the public so economy and efficiency in the management of state affairs may be provided while protecting the interest of the public.

Appropriations:

(a) Personal services and employee benefits	3,191.0	269.1	3,460.1
(b) Contractual services	41.6		41.6
(c) Other	534.0		534.0

Performance measures:

(a) Efficiency:	Average number of days to fill a position from the date of posting		60
(b) Explanatory:	Statewide classified service vacancy rate		
Subtotal			4,035.7

PUBLIC EMPLOYEES LABOR RELATIONS BOARD:

The purpose of the public employee labor relations board is to assure all state and local public body employees have the option to organize and bargain collectively with their employers.

Appropriations:

(a) Personal services and employee benefits	170.8				170.8
(b) Contractual services	17.0				17.0
(c) Other	48.4				48.4
Subtotal					236.2

STATE TREASURER:

The purpose of the state treasurer program is to provide a financial environment that maintains maximum accountability for receipt, investment and disbursement of public funds to protect the financial interests of New Mexico citizens.

Appropriations:					
(a) Personal services and employee benefits	2,878.2				2,878.2
(b) Contractual services	249.4	122.3			371.7
(c) Other	352.7		2.0		354.7
Performance measures:					
(a) Outcome:	One-year annualized investment return on general fund core portfolio to exceed internal benchmarks, in basis points				15
Subtotal					3,604.6
TOTAL GENERAL CONTROL	142,696.2	1,527,137.3	53,059.9	15,733.9	1,738,627.3

D. COMMERCE AND INDUSTRY

BOARD OF EXAMINERS FOR ARCHITECTS:

(1) Architectural registration:

The purpose of the architectural registration program is to regulate, through enforcement and licensing, the professional conduct of architects to protect the health, safety and welfare of the general public of the state.

Appropriations:			
(a) Personal services and employee benefits	303.5		303.5
(b) Contractual services	11.0		11.0
(c) Other	83.3		83.3
Subtotal			397.8

BORDER AUTHORITY:

(1) Border development:

The purpose of the border development program is to encourage and foster trade development in the state by developing port facilities and infrastructure at international ports of entry to attract new industries and business to the New Mexico border and to assist industries, businesses and the traveling public in their efficient and effective use of ports and related facilities.

Appropriations:			
(a) Personal services and employee benefits	320.9	6.6	327.5
(b) Contractual services		53.0	53.0
(c) Other		119.6	119.6
Performance measures:			
(a) Outcome:	Annual trade share of New Mexico ports within the west Texas and New Mexico region		25%

(b) Outcome:	Number of commercial and noncommercial vehicles passing through New Mexico ports	1,575,000
Subtotal		500.1

TOURISM DEPARTMENT:

(1) Marketing and promotion:

The purpose of the marketing and promotion program is to produce and provide collateral, editorial and special events for the consumer and trade industry so they may increase their awareness of New Mexico as a premier tourist destination.

Appropriations:

(a) Personal services and employee benefits	1,280.2	1,280.2
(b) Contractual services	504.1	504.1
(c) Other	12,656.7 30.0	12,686.7

Performance measures:

(a) Outcome:	New Mexico's domestic overnight visitor market share	1.2%
(b) Outcome:	Percent change in New Mexico leisure and hospitality employment	3%

(2) Tourism development:

The purpose of the tourism development program is to provide constituent services for communities, regions and other entities so they may identify their needs and assistance can be provided to locate resources to fill those needs, whether internal or external to the organization.

Appropriations:

(a) Personal services and employee benefits	247.3	100.7	348.0
(b) Contractual services		3.4	3.4
(c) Other	795.8	1,126.2	1,922.0

Performance measures:

(a) Output:	Number of entities participating in collaborative applications for the cooperative marketing grant program	135
(b) Output:	Combined advertising spending of cooperative marketing program grantees using the tourism department's current approved brand, in thousands	\$2,000

(3) New Mexico magazine:

The purpose of the New Mexico magazine program is to produce a monthly magazine and ancillary products for a state and global audience so the audience can learn about New Mexico from a cultural, historical and educational perspective.

Appropriations:

(a) Personal services and employee benefits	938.5	938.5
(b) Contractual services	830.0	830.0
(c) Other	1,424.9	1,424.9

Performance measures:

(a) Output:	True adventure guide advertising revenue	\$500,000
(b) Output:	Advertising revenue per issue, in thousands	\$75

(4) Program support:

The purpose of program support is to provide administrative assistance to support the department's programs

and personnel so they may be successful in implementing and reaching their strategic initiatives and maintaining full compliance with state rules and regulations.

Appropriations:

(a) Personal services and employee benefits	948.2	948.2
(b) Contractual services	74.3	74.3
(c) Other	146.2	146.2
Subtotal		21,106.5

ECONOMIC DEVELOPMENT DEPARTMENT:

(1) Economic development:

The purpose of the economic development program is to assist communities in preparing for their role in the new economy, focusing on high-quality job creation and improved infrastructure so New Mexicans can increase their wealth and improve their quality of life.

Appropriations:

(a) Personal services and employee benefits	1,931.2	1,931.2
(b) Contractual services	1,048.3	1,048.3
(c) Other	1,048.3	1,048.3

The general fund appropriation to the economic development program of the economic development department in the other category includes five million dollars (\$5,000,000) for the development training fund.

Performance measures:

(a) Outcome:	Number of workers trained by the job training incentive program	2,050
(b) Outcome:	Number of jobs created due to economic development department efforts	4,500
(c) Outcome:	Number of rural jobs created	1,750
(d) Output:	Number of jobs created through the use of Local Economic Development Act funds	2,500
(e) Outcome:	Number of jobs created through business relocations facilitated by the New Mexico economic development partnership	2,250

(2) Film:

The purpose of the film program is to maintain the core business for the film location services and stimulate growth in digital film media to maintain the economic vitality of New Mexico's film industry.

Appropriations:

(a) Personal services and employee benefits	524.3	524.3
(b) Contractual services	82.8	82.8
(c) Other	78.9	78.9

Performance measures:

(a) Outcome:	Direct spending by film industry productions, in millions	\$330
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(3) Program support:

The purpose of program support is to provide central direction to agency management processes and fiscal support to agency programs to ensure consistency, continuity and legal compliance.

Appropriations:

(a) Personal services and employee benefits	1,768.6	1,768.6
(b) Contractual services	1,492.7	1,492.7
(c) Other	172.0	172.0

The general fund appropriation to program support of the economic development department in the contractual services category includes one million four hundred thousand dollars (\$1,400,000) for the New Mexico economic development corporation.

The general fund appropriation to program support of the economic development department in the personal services and employee benefits category includes two hundred thousand dollars (\$200,000) to establish the outdoor recreation division, contingent on enactment of Senate Bill 462 or similar legislation of the first session of the fifty-fourth legislature.

Subtotal

13,479.5

REGULATION AND LICENSING DEPARTMENT:

(1) Construction industries and manufactured housing:

The purpose of the construction industries and manufactured housing program is to provide code compliance oversight; issue licenses, permits and citations; perform inspections; administer exams; process complaints; and enforce laws, rules and regulations relating to general construction and manufactured housing standards to industry professionals.

Appropriations:

(a) Personal services and employee benefits	7,403.4		50.0		7,453.4
(b) Contractual services	475.0		74.8		549.8
(c) Other	979.9	71.3	24.2	25.0	1,100.4
(d) Other financing uses			31.0		31.0

The general fund appropriations to the construction industries and manufactured housing program of the regulation and licensing department contain sufficient funding for a director of the manufactured housing division.

Performance measures:

(a) Outcome:	Percent of commercial plans reviewed within ten working days	90%
(b) Outcome:	Percent of residential plans reviewed within five working days	95%
(c) Output:	Time to final action, referral or dismissal of complaint, in months	8

(2) Financial institutions:

The purpose of the financial institutions program is to issue charters and licenses, perform examinations, investigate complaints and enforce laws, rules and regulations so that capital formation is maximized and a secure financial infrastructure is available to support economic development.

Appropriations:

(a) Personal services and employee benefits	816.2	1,359.3	564.9		2,740.4
(b) Contractual services		55.0	4.0		59.0

(c) Other	328.2	156.6	484.8
(d) Other financing uses	864.5		864.5

The internal service funds/interagency transfers appropriations to the financial institutions program of the regulation and licensing department include seven hundred twenty-five thousand five hundred dollars (\$725,500) from the mortgage regulatory fund for the general operations of the financial institutions program.

The other state funds appropriation to the financial institutions program of the regulation and licensing department in the other financing uses category includes seven hundred fifty thousand dollars (\$750,000) from the mortgage regulatory fund for the legal services program of the attorney general.

Performance measures:

(a) Outcome:	Percent of statutorily complete applications processed within a standard number of days by type of application	97%
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(3) Alcohol and gaming:

The purpose of the alcohol and gaming program is to regulate the sale, service and public consumption of alcoholic beverages and, in cooperation with the department of public safety, enforce the Liquor Control Act to protect the health, safety and welfare of the citizens of and visitors to New Mexico.

Appropriations:

(a) Personal services and employee benefits	916.0	916.0
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(b) Contractual services	12.9	12.9
(c) Other	67.7	67.7
Performance measures:		
(a) Output:	Number of days to resolve an administrative citation that does not require a hearing	160
(b) Outcome:	Number of days to issue a restaurant beer and wine liquor license	120

(4) Securities:

The purpose of the securities program is to protect the integrity of the capital markets in New Mexico by setting standards for licensed professionals, investigating complaints, educating the public and enforcing the law.

Appropriations:

(a) Personal services and employee benefits	645.5	782.8	1,428.3
(b) Contractual services	3.1	50.0	53.1
(c) Other	120.2	206.6	326.8
(d) Other financing uses		105.2	105.2
Performance measures:			
(a) Outcome:	Total revenue collected from licensing, in millions		\$23.6

(5) Boards and commissions:

Appropriations:

(a) Personal services and employee benefits	420.5	5,804.8	6,225.3
(b) Contractual services		515.2	515.2

(c) Other	1,522.0		1,522.0
(d) Other financing uses	1,680.1	205.6	1,885.7

(6) Program support:

The purpose of program support is to provide leadership and centralized direction, financial management, information systems support and human resources support for all agency organizations in compliance with governing regulations, statutes and procedures so they can license qualified applicants, verify compliance with statutes and resolve or mediate consumer complaints.

Appropriations:

(a) Personal services and employee benefits	1,250.3	1,537.4	2,787.7
(b) Contractual services	15.6	259.8	275.4
(c) Other	73.2	551.8	625.0
Subtotal			30,029.6

PUBLIC REGULATION COMMISSION:

(1) Policy and regulation:

The purpose of the policy and regulation program is to fulfill the constitutional and legislative mandates regarding regulated industries through rulemaking, adjudications and policy initiatives to ensure the provision of adequate and reliable services at fair, just and reasonable rates so the interests of the consumers and regulated industries are balanced to promote and protect the public interest.

Appropriations:

(a) Personal services and employee benefits	6,302.9	632.9	6,935.8
(b) Contractual services	144.8		144.8
(c) Other	605.9	35.0	640.9

Notwithstanding the provisions of Section 59A-53-5.2 NMSA 1978, or other substantive law, the internal service funds/interagency transfers appropriation to the policy and regulation program of the public regulation commission includes four hundred eighty-nine thousand seven hundred dollars (\$489,700) from the fire protection fund. Any unexpended balances in the policy and regulation program of the public regulation commission remaining at the end of fiscal year 2020 shall revert back to the fire protection fund.

The policy and regulation program of the public regulation commission shall develop a code of ethics for review by the department of finance and administration and the legislative finance committee by December 1, 2019.

Performance measures:

(a) Outcome:	Dollar amount of credits and refunds obtained for New Mexico consumers through complaint resolution, in thousands	\$150
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(2) Public safety:

The purpose of the public safety program is to provide services and resources to the appropriate entities to enhance their ability to protect the public from fire and pipeline hazards and other risk as assigned to the public regulation commission.

Appropriations:

(a) Personal services and employee benefits	3,335.1	625.0	3,960.1
(b) Contractual services	324.4	50.0	374.4
(c) Other	71,923.7	75.0	71,998.7

Notwithstanding the provisions of Section 59A-53-5.2 NMSA 1978, or other substantive law, the internal service funds/interagency transfers appropriations to the public safety program of the public regulation commission include three million six hundred forty-three thousand three hundred dollars (\$3,643,300) from the fire protection fund. Any unexpended balances in the public safety program of the public regulation commission remaining at the end of fiscal year 2020 shall revert back to the fire protection fund.

Performance measures:

(a) Outcome:	Percent of statewide fire districts with insurance service office ratings of eight or better	80%
(b) Explanatory:		

(3) Program support:

The purpose of program support is to provide administrative support and direction to ensure consistency, compliance, financial integrity and fulfillment of the agency mission.

Appropriations:

(a) Personal services and employee benefits	562.7	980.5	1,543.2
(b) Contractual services	26.1		26.1
(c) Other	157.9		157.9

Notwithstanding the provisions of Section 59A-53-5.2 NMSA 1978 or other substantive law, the internal service funds/interagency transfers appropriation to the program support program of the public regulation commission includes six hundred sixty-one thousand five hundred dollars (\$661,500) from the fire protection fund. Any unexpended balances in the program support program of the public regulation commission remaining at the end of fiscal year 2020 shall revert back to the fire protection fund.

Subtotal

85,781.9

OFFICE OF SUPERINTENDENT OF INSURANCE:

(1) Insurance policy:

The purpose of the insurance policy program is to ensure easy public access to reliable insurance products that meet consumers' needs and are underwritten by dependable, reputable, financially sound companies that charge fair rates and are represented by trustworthy, qualified agents, while promoting a positive competitive business climate.

Appropriations:

(a) Personal services and employee benefits	701.6	6,822.2	7,523.8
(b) Contractual services	591.0		591.0
(c) Other	1,212.7		1,212.7
(d) Other financing uses	616.8		616.8

Performance measures:

(a) Efficiency:	Percent of insurance fraud bureau complaints processed and recommended for further adjudication by a competent court, referral to civil division or closure within	90%
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ninety days

Appropriations:

(a) Personal services and employee benefits	78.8	78.8
(b) Contractual services	596.2	596.2
(c) Other	27,615.2	27,615.2
(d) Other financing uses	616.7	616.7
Subtotal		38,851.2

MEDICAL BOARD:

(1) Licensing and certification:

The purpose of the licensing and certification program is to provide regulation and licensure to healthcare providers regulated by the New Mexico medical board and to ensure competent and ethical medical care to consumers.

Appropriations:

(a) Personal services and employee benefits	1,330.7	1,330.7
(b) Contractual services	364.1	364.1
(c) Other	418.0	418.0

Performance measures:

(a) Output:	Number of triennial physician licenses issued or renewed	4,050
(b) Output:	Number of biennial physician assistant licenses issued or renewed	460
(c) Explanatory:	Number of licensees contacted regarding high-risk prescribing and prescription monitoring program	

compliance, based on the board of pharmacy prescription monitoring program reports

Subtotal

2,112.8

BOARD OF NURSING:

(1) Licensing and certification:

The purpose of the licensing and certification program is to provide regulations to nurses, hemodialysis technicians, medication aides and their education and training programs so they provide competent and professional healthcare services to consumers.

Appropriations:

(a) Personal services and employee benefits	1,802.7		1,802.7
(b) Contractual services	63.0		63.0
(c) Other	520.3	200.0	720.3
(d) Other financing uses	30.5		30.5

Performance measures:

(a) Explanatory:	Number of registered nurse licenses active on June 30		
	Number of advanced practice nurses contacted regarding high-risk prescribing and prescription monitoring program compliance, based on the pharmacy board's prescription monitoring program reports		Baseline
Subtotal			2,616.5

NEW MEXICO STATE FAIR:

The purpose of the state fair program is to promote the New Mexico state fair as a year-round operation with venues, events and facilities that provide for greater use of the assets of the agency.

Appropriations:

(a) Personal services and employee benefits	5,613.3	5,613.3
(b) Contractual services	2,960.3	2,960.3
(c) Other	3,403.4	3,403.4

Performance measures:

(a) Output:	Number of paid attendees at annual state fair event	430,000
Subtotal		11,977.0

**STATE BOARD OF LICENSURE FOR PROFESSIONAL
ENGINEERS AND PROFESSIONAL SURVEYORS:**

(1) Regulation and licensing:

The purpose of the regulation and licensing program is to regulate the practices of engineering and surveying in the state as they relate to the welfare of the public in safeguarding life, health and property and to provide consumers with licensed professional engineers and licensed professional surveyors.

Appropriations:

(a) Personal services and employee benefits	540.2	540.2
(b) Contractual services	224.8	224.8
(c) Other	116.0	116.0
(d) Other financing uses	100.0	100.0
Subtotal		981.0

GAMING CONTROL BOARD:

(1) Gaming control:

The purpose of the gaming control board is to provide strictly regulated gaming activities and to promote responsible gaming to the citizens of New Mexico so they can attain a strong level of confidence in the board's administration of gambling laws and assurance the state has competitive gaming free from criminal and corruptive elements and influences.

Appropriations:

(a) Personal services and employee benefits	3,703.6			3,703.6
(b) Contractual services	811.8			811.8
(c) Other	896.1			896.1
Subtotal				5,411.5

STATE RACING COMMISSION:

(1) Horse racing regulation:

The purpose of the horse racing regulation program is to provide regulation in an equitable manner to New Mexico's parimutuel horse racing industry and to protect the interest of wagering patrons and the state of New Mexico in a manner that promotes a climate of economic prosperity for horsemen, horse owners and racetrack management.

Appropriations:

(a) Personal services and employee benefits	1,641.1			1,641.1
(b) Contractual services	480.3	300.0	750.0	1,530.3
(c) Other	231.3			231.3

Performance measures:

(a) Outcome:	Percent of equine samples testing positive for illegal substances	<1.25%
(b) Output:	Total amount collected from parimutuel revenues, in millions	\$1.6
(c) Explanatory:	Number of horse fatalities per one thousand starts	
Subtotal		3,402.7

BOARD OF VETERINARY MEDICINE:

(1) Veterinary licensing and regulatory:

The purpose of the veterinary licensing and regulatory program is to regulate the profession of veterinary medicine in accordance with the Veterinary Practice Act and to promote continuous improvement in veterinary practices and management to protect the public.

Appropriations:

(a) Personal services and employee benefits	217.9	217.9
(b) Contractual services	197.5	197.5
(c) Other	70.3	70.3
Subtotal		485.7

CUMBRES AND TOLTEC SCENIC RAILROAD COMMISSION:

The purpose of the Cumbres and Toltec scenic railroad commission is to provide railroad excursions through, into and over the scenic San Juan mountains.

Appropriations:

(a) Personal services and employee benefits	116.7		116.7
(b) Contractual services	132.8	5,150.3	5,283.1
(c) Other	12.3		12.3
Performance measures:			
(a) Outcome:		Total number of passengers	41,900
Subtotal			5,412.1

OFFICE OF MILITARY BASE PLANNING AND SUPPORT:

The purpose of the office of military base planning and support is to provide advice to the governor and lieutenant governor on New Mexico's four military installations, to work with community support groups, to ensure that state initiatives are complementary of community actions and to identify and address appropriate state-level issues that will contribute to the long-term viability of New Mexico military installations.

Appropriations:			
(a) Personal services and employee benefits	126.1		126.1
(b) Contractual services	89.5		89.5
(c) Other	11.3		11.3
Subtotal			226.9

SPACEPORT AUTHORITY:

The purpose of the spaceport authority is to finance, design, develop, construct, equip and safely operate spaceport America and thereby generate significant high technology economic development throughout the state.

Appropriations:					
(a) Personal services and employee benefits	985.4	1,838.9			2,824.3
(b) Contractual services		4,182.5			4,182.5
(c) Other		2,805.8			2,805.8
Performance measures:					
(a) Output:	Number of aerospace customers and tenants				12
Subtotal					9,812.6
TOTAL COMMERCE AND INDUSTRY	60,691.3	76,850.4	94,233.7	810.0	232,585.4

E. AGRICULTURE, ENERGY AND NATURAL RESOURCES

CULTURAL AFFAIRS DEPARTMENT:

CULTURAL AFFAIRS DEPARTMENT:

(1) Museums and historic sites:

The purpose of the museums and historic sites program is to develop and enhance the quality of state museums and historic sites by providing the highest standards in exhibitions, performances and programs showcasing the arts, history and science of New Mexico and cultural traditions worldwide.

Appropriations:					
(a) Personal services and employee benefits	17,154.6	2,302.8	90.0	91.8	19,639.2
(b) Contractual services	658.8	421.8			1,080.6
(c) Other	4,045.3	1,663.8	35.0		5,744.1
Performance measures:					
(a) Outcome:	Number of people served through programs and services				1,300,000

	offered by museums and historic sites	
(b) Outcome:	Earned revenue from admissions, rentals and other activity	\$5,000,000

(2) Preservation:

The purpose of the preservation program is to identify, study and protect New Mexico's unique cultural resources, including its archaeological sites, architectural and engineering achievements, cultural landscapes and diverse heritage.

Appropriations:

(a) Personal services and employee benefits	643.7	1,275.5	778.4	2,697.6
(b) Contractual services		101.6	20.0	121.6
(c) Other	63.6	205.6	209.1	478.3

The other state funds appropriations to the preservation program of the cultural affairs department include one million dollars (\$1,000,000) from the department of transportation for archaeological studies as needed for highway projects.

(3) Library services:

The purpose of the library services program is to empower libraries to support the educational, economic and health goals of their communities and to deliver direct library and information services to those who need them.

Appropriations:

(a) Personal services and employee benefits	1,982.2	672.5	2,654.7	
(b) Contractual services	127.3	9.5	136.8	
(c) Other	1,533.1	37.2	774.9	2,345.2

Performance measures:

(a) Output:	Number of library transactions using electronic resources funded by the New Mexico state library	5,815,000
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(4) Arts:

The purpose of the arts program is to preserve, enhance and develop the arts in New Mexico through partnerships, public awareness and education.

Appropriations:

(a) Personal services and employee benefits	692.2	168.5	860.7
(b) Contractual services	545.0	398.1	943.1
(c) Other	95.1	49.6	144.7

(5) Program support:

The purpose of program support is to deliver effective, efficient, high-quality services in concert with the core agenda of the governor.

Appropriations:

(a) Personal services and employee benefits	3,587.7	3,587.7	
(b) Contractual services	249.9	35.9	285.8

(c) Other	284.4		284.4
Subtotal			41,004.5

NEW MEXICO LIVESTOCK BOARD:

(1) Livestock inspection:

The purpose of the livestock inspection program is to protect the livestock industry from loss of livestock by theft or straying and to help control the spread of dangerous livestock diseases.

Appropriations:

(a) Personal services and employee benefits	574.4	4,400.2		4,974.6
(b) Contractual services		218.4		218.4
(c) Other		1,417.6		1,417.6
Subtotal				6,610.6

DEPARTMENT OF GAME AND FISH:

(1) Field operations:

The purpose of the field operations program is to promote and assist the implementation of law enforcement, habitat and public outreach programs throughout the state.

Appropriations:

(a) Personal services and employee benefits	6,970.1		312.4	7,282.5
(b) Contractual services	128.7			128.7

(c) Other	1,822.9		1,822.9
Performance measures:			
(a) Output:	Number of conservation officer hours spent in the field checking for compliance		56,000

(2) Conservation services:

The purpose of the conservation services program is to provide information and technical guidance to any person wishing to conserve and enhance wildlife habitat and recover indigenous species of threatened and endangered wildlife.

Appropriations:

(a) Personal services and employee benefits	4,096.3	6,625.7	10,722.0
(b) Contractual services	1,726.6	1,991.2	3,717.8
(c) Other	3,131.9	5,303.1	8,435.0
(d) Other financing uses	182.3		182.3

The other state funds appropriation to the conservation services program of the department of game and fish in the other financing uses category includes one hundred thousand dollars (\$100,000) from the game protection fund for Ute dam operations and eighty-two thousand three hundred dollars (\$82,300) from the game protection fund for Eagle Nest dam operations for the interstate stream compact compliance and water development program of the state engineer. Any unexpended balances remaining at the end of fiscal year 2020 from these appropriations shall revert to the game protection fund.

~~[The other state funds appropriations to the conservation services program of the department of game~~

~~and fish include five hundred thousand dollars (\$500,000) from the game protection fund for the management, enhancement and conservation of public wildlife habitat pursuant to Section 17-1-5.1 NMSA 1978 and the federal Pittman-Robertson Wildlife Restoration Act and the federal Dingell-Johnson Sport Fish Restoration Act at New Mexico state park properties.] LINE-ITEM VETO~~

Performance measures:

(a) Outcome:	Number of elk licenses offered on an annual basis in New Mexico	33,000
(b) Outcome:	Percent of public hunting licenses drawn by New Mexico resident hunters	86%
(c) Output:	Annual output of fish from the department's hatchery system, in pounds	640,000

(3) Wildlife depredation and nuisance abatement:

The purpose of the wildlife depredation and nuisance abatement program is to provide complaint administration and intervention processes to private landowners, leaseholders and other New Mexicans so they may be relieved of, and precluded from, property damage and annoyances or risks to public safety caused by protected wildlife.

Appropriations:

(a) Personal services and employee benefits	322.3	322.3
(b) Contractual services	125.7	125.7
(c) Other	565.9	565.9

Performance measures:

(a) Outcome:	Percent of depredation complaints resolved within the mandated one-year timeframe	98%
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(4) Program support:

The purpose of program support is to provide an adequate and flexible system of direction, oversight, accountability and support to all divisions so they may successfully attain planned outcomes for all department programs.

Appropriations:

(a) Personal services and employee benefits	3,830.3	206.2	4,036.5
(b) Contractual services	258.0		258.0
(c) Other	2,947.2		2,947.2
Subtotal			40,546.8

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT:

(1) Energy conservation and management:

The purpose of the energy conservation and management program is to develop and implement clean energy programs to decrease per capita energy consumption; use New Mexico's substantial renewable energy resources; minimize local, regional and global air emissions; lessen dependence on foreign oil and reduce in-state water demands associated with fossil-fueled electrical generation.

Appropriations:

(a) Personal services and employee benefits	893.4	528.1	1,421.5
(b) Contractual services	192.4	192.2	384.6
(c) Other	6.7	1,196.6	1,203.3

(2) Healthy forests:

The purpose of the healthy forests program is to promote the health of New Mexico's forest lands by managing wildfires, mitigating urban-interface fire threats and providing stewardship of private and state forest lands and associated watersheds.

Appropriations:

(a) Personal services and employee benefits	3,194.2	212.2	3,238.2	6,644.6
(b) Contractual services	69.8	52.0	382.2	504.0
(c) Other	536.8	305.3	5,613.5	6,455.6
Performance measures:		48.9		48.9
(a) Output:				
Number of nonfederal wildland firefighters provided professional and technical incident command system training				1,500
(b) Output:				
Number of acres treated in New Mexico's forests and watersheds				14,500

(3) State parks:

The purpose of the state parks program is to create the best recreational opportunities possible in state parks by preserving cultural and natural resources, continuously improving facilities and providing quality, fun activities and to do it all efficiently.

Appropriations:

(a) Personal services and employee benefits	7,710.8	4,450.9	379.6	12,541.3
(b) Contractual services	75.0	825.8		900.8

(c) Other	170.0	9,053.1	1,541.4	2,403.3	13,167.8
(d) Other financing uses		1,145.4			1,145.4

The general fund appropriations to the state parks program of the energy, minerals and natural resources department include seventy-five thousand dollars (\$75,000) to support Rio Grande trail commission efforts to define viable path routes, mitigate challenges and establish the Rio Grande trail to run the length of the state from Colorado to Texas.

Performance measures:

- (a) Explanatory: Number of visitors to state parks
- (b) Explanatory: Amount of self-generated revenue per visitor, in dollars

(4) Mine reclamation:

The purpose of the mine reclamation program is to implement the state laws that regulate the operation and reclamation of hard rock and coal mining facilities and to reclaim abandoned mine sites.

Appropriations:

(a) Personal services and employee benefits	473.9	563.9	79.0	1,880.4	2,997.2
(b) Contractual services		35.6		4,707.4	4,743.0
(c) Other	17.1	99.8	17.9	245.0	379.8
(d) Other financing uses		37.0			37.0

(5) Oil and gas conservation:

The purpose of the oil and gas conservation program is to assure the conservation and responsible development of oil and gas resources through professional, dynamic regulation.

Appropriations:

(a) Personal services and employee benefits	5,223.4	145.7	222.1	5,591.2
(b) Contractual services	80.0	4,251.5	450.0	4,781.5
(c) Other	509.4	242.7	113.3	865.4
Performance measures:		284.0		284.0
(a) Output:	Number of inspections of oil and gas wells and associated facilities			42,000
(b) Outcome:	Number of abandoned oil and gas wells properly plugged			50

(6) Program leadership and support:

The purpose of program leadership and support is to provide leadership, set policy and provide support for every division in achieving their goals.

Appropriations:

(a) Personal services and employee benefits	2,792.0	953.5	644.2	4,389.7
(b) Contractual services	111.8	29.2	3.4	144.4
(c) Other	27.5	113.9	203.8	345.2
Subtotal				68,976.2

YOUTH CONSERVATION CORPS:

The purpose of the youth conservation corps is to provide funding for the employment of New Mexicans between the ages of fourteen and twenty-five to work on projects that will improve New Mexico's natural,

cultural, historical and agricultural resources.

Appropriations:

(a) Personal services and employee benefits	173.4	173.4
(b) Contractual services	3,478.1	3,478.1
(c) Other	87.3	87.3
Performance measures:	125.0	125.0
(a) Output: Number of youth employed annually		825
Subtotal		3,863.8

INTERTRIBAL CEREMONIAL OFFICE:

The purpose of the intertribal ceremonial office is to aid in the planning, coordination and development of a successful intertribal ceremonial event in coordination with the Native American population.

Appropriations:

(a) Contractual services	100.0	100.0
Subtotal		100.0

COMMISSIONER OF PUBLIC LANDS:

(1) Land trust stewardship:

The purpose of the land trust stewardship program is to generate sustainable revenue from state trust lands to support public education and other beneficiary institutions and to build partnerships with all New Mexicans to conserve, protect and maintain the highest level of stewardship for these lands so that they may be a significant legacy for generations to come.

Appropriations:

(a) Personal services and employee benefits	13,380.9	13,380.9
(b) Contractual services	2,677.6	2,677.6
(c) Other	2,256.0	2,256.0

The commissioner of public lands is authorized to hold in suspense amounts received pursuant to agreements entered into for the sale of state royalty interests that, as a result of the sale, became eligible for tax credits under Section 29 of the federal Internal Revenue Code, above those amounts required by law to be transferred to the land grant permanent fund. The commissioner may expend as much of the money so held in suspense, as well as additional money held in escrow accounts resulting from the sales and money held in fund balance, as is necessary to repurchase the royalty interests pursuant to the agreements.

Performance measures:

(a) Outcome:	Dollars generated through oil, natural gas and mineral audit activities, in millions	\$3
(b) Output:	Average income per acre from oil, natural gas and mining activities, in dollars	\$205
(c) Output:	Number of acres restored to desired conditions for future sustainability	15,000
Subtotal		18,314.5

STATE ENGINEER:

(1) Water resource allocation:

The purpose of the water resource allocation program is to provide for efficient use of the available surface and underground waters of the state so any person can maintain their quality of life and to provide

safety inspections of all nonfederal dams within the state so owners and operators of such dams can operate the dams safely.

Appropriations:

(a) Personal services and employee benefits	11,627.3	553.1	109.7	12,290.1
(b) Contractual services			624.7	624.7
(c) Other		85.8	1,257.8	1,343.6

The internal service funds/interagency transfers appropriations to the water resource allocation program of the state engineer include one million eight hundred forty-four thousand six hundred dollars (\$1,844,600) from the New Mexico irrigation works construction fund and one hundred forty-seven thousand six hundred dollars (\$147,600) from the improvement of the Rio Grande income fund.

Performance measures:

(a) Output:	Average number of unprotested new and pending applications processed per month	50
(b) Outcome:	Number of transactions abstracted annually into the water administration technical engineering resource system database	20,000

(2) Interstate stream compact compliance and water development:

The purpose of the interstate stream compact compliance and water development program is to provide resolution of federal and interstate water issues and to develop water resources and stream systems for the people of New Mexico so they can have maximum sustained beneficial use of available water resources.

Appropriations:

(a) Personal services and employee benefits	1,609.9	82.2	2,230.2	3,922.3
(b) Contractual services		70.0	4,891.8	4,961.8
(c) Other		715.9	3,820.7	4,536.6

The internal service funds/interagency transfers appropriations to the interstate stream compact compliance and water development program of the state engineer include one million one hundred six thousand eight hundred dollars (\$1,106,800) from the New Mexico unit fund.

The internal service funds/interagency transfers appropriations to the interstate stream compact compliance and water development program include seven million one hundred thousand six hundred dollars (\$7,100,600) from the New Mexico irrigation works construction fund, one million eight hundred eighty-five thousand dollars (\$1,885,000) from the improvement of Rio Grande income fund, one hundred thousand dollars (\$100,000) from the game protection fund for Ute dam operations and eighty-two thousand three hundred dollars (\$82,300) from the game protection fund for Eagle Nest dam operations. Any unexpended balances remaining at the end of fiscal year 2020 from these appropriations shall revert to the appropriate fund.

Revenue from the sale of water to United States government agencies by New Mexico for the emergency drought water agreement and from contractual reimbursements associated with the interstate stream compact compliance and water development program of the state engineer is appropriated to the interstate stream compact compliance and water development program to be used per the agreement with the United States bureau of reclamation.

The appropriations to the interstate stream compact compliance and water development program of the state engineer include one million nine hundred thousand dollars (\$1,900,000): (a) to match seventeen and one-half percent of the cost of work undertaken by the United States army corps of engineers pursuant to the federal Water Resources Development Act of 1986, provided that no amount of this appropriation shall be expended for any project unless the appropriate acequia system or community ditch has agreed to provide seven and one-half percent of the cost from any source other than the New Mexico irrigation works construction fund or improvement of the Rio Grande income fund and provided that no more than two hundred fifty thousand dollars (\$250,000) shall be allocated to any one acequia or community ditch per fiscal year; (b) for the construction, restoration, repair and protection from floods of dams, reservoirs, ditches, diversions, flumes and appurtenances of acequias and community ditches in the state through the interstate stream commission 90/10 match program provided that no more than one hundred fifty thousand dollars (\$150,000) of this appropriation shall be used as the state share for any one acequia or community ditch per state fiscal year and capital appropriations shall not be used to meet the acequia's or community ditch's ten percent share of project costs; and (c) up to three hundred thousand dollars (\$300,000) may be used for engineering services for approved acequia or community ditch projects.

The interstate stream commission's authority to make loans for irrigation improvements includes five hundred thousand dollars (\$500,000) for loans to acequia, irrigation and conservancy districts and five hundred thousand dollars (\$500,000) for loans to irrigation districts, conservancy districts and soil and water conservation districts for re-loan to farmers for implementation of water conservation improvements.

The interstate stream commission's authority to make loans from the New Mexico irrigation works

construction fund includes two million dollars (\$2,000,000) for irrigation districts, acequias, conservancy districts and soil and water conservation districts for purchase and installation of meters and measuring equipment. The maximum loan term is five years.

Performance measures:

- (a) Outcome: Cumulative state-line delivery credit per the Pecos river compact and amended decree at the end of the calendar year, in acre-feet >0
- (b) Outcome: Cumulative state-line delivery credit per the Rio Grande compact at the end of the calendar year, in acre-feet >0

(3) Litigation and adjudication:

The purpose of the litigation and adjudication program is to obtain a judicial determination and definition of water rights within each stream system and underground basin to effectively perform water rights administration and meet interstate stream obligations.

Appropriations:

(a) Personal services and employee benefits	1,973.1	1,728.0	1,014.8	4,715.9
(b) Contractual services			1,735.8	1,735.8
(c) Other			336.0	336.0
(d) Other financing uses		432.0		432.0

The internal service funds/interagency transfers appropriations to the litigation and adjudication program of the state engineer include two million five hundred forty-seven thousand eight hundred dollars (\$2,547,800) from the New Mexico irrigation works construction fund and five hundred thirty-eight thousand

eight hundred dollars (\$538,800) from the improvement of Rio Grande income fund.

The other state funds appropriations to the litigation and adjudication program of the state engineer include two million one hundred sixty thousand dollars (\$2,160,000) from the water project fund pursuant to Section 72-4A-9 NMSA 1978.

Performance measures:

(a) Outcome:	Number of offers to defendants in adjudications	250
(b) Outcome:	Percent of all water rights with judicial determinations	70%

(4) Program support:

The purpose of program support is to provide necessary administrative support to the agency programs so they may be successful in reaching their goals and objectives.

Appropriations:

(a) Personal services and employee benefits	3,356.0		3,356.0
(b) Contractual services	29.5	211.5	241.0
(c) Other		797.6	797.6

The internal service funds/interagency transfers appropriations to program support of the state engineer include eight hundred nine thousand one hundred dollars (\$809,100) from the New Mexico irrigation works construction fund and two hundred thousand dollars (\$200,000) from the improvement of Rio Grande income fund.

On or before October 1, 2019, the office of the state engineer shall present to the legislature a five-year plan, covering a period beginning in fiscal year 2021, to reduce expenditures from the trust funds for operations by replacing it with general fund revenue and to address the long-term solvency of the irrigation works construction fund and the improvement of Rio Grande income fund, to include a plan to engage and support beneficiaries including but not limited to acequias, community ditches and other partners.

Subtotal					39,293.4
TOTAL AGRICULTURE, ENERGY AND NATURAL RESOURCES	73,017.3	85,787.7	19,890.5	40,014.3	218,709.8

F. HEALTH, HOSPITALS AND HUMAN SERVICES

OFFICE OF AFRICAN AMERICAN AFFAIRS:

(1) Public awareness:

The purpose of the public awareness program is to provide information and advocacy services to all New Mexicans and to empower African Americans of New Mexico to improve their quality of life.

Appropriations:					
(a) Personal services and employee benefits	509.2				509.2
(b) Contractual services	509.2				509.2
(c) Other	141.9				141.9
Subtotal					758.3

COMMISSION FOR DEAF AND HARD-OF-HEARING PERSONS:

(1) Deaf and hard-of-hearing:

The purpose of the deaf and hard-of-hearing program is to serve as a dynamic resource that will enhance the quality of life for deaf and hard-of-hearing citizens of New Mexico by being the recognized advocate on important issues impacting the deaf and hard-of-hearing community, the proactive provider of innovative programs and services and the statewide umbrella and information clearinghouse for interested individuals, organizations, agencies and institutions.

Appropriations:

(a) Personal services and employee benefits		1,162.3	1,162.3
(b) Contractual services	327.4	1,392.9	1,720.3
(c) Other		282.1	282.1
(d) Other financing uses		116.5	116.5

The general fund appropriation to the deaf and hard-of-hearing program of the commission for deaf and hard-of-hearing persons includes three hundred thousand dollars (\$300,000) for deaf and deaf-blind support service provider programs.

The internal service funds/interagency transfers appropriation to the deaf and hard-of-hearing program of the commission for deaf and hard-of-hearing persons in the other financing uses category includes ninety-one thousand five hundred dollars (\$91,500) to transfer to the rehabilitation services program of the division of vocational rehabilitation to match with federal funds to provide deaf and hard-

of-hearing rehabilitation services and twenty-five thousand dollars (\$25,000) to transfer to the signed language interpreting practices board of the regulation and licensing department for interpreter licensure services.

Performance measures:

(a) Output:	Number of accessible technology equipment distributions	1,070
Subtotal		3,281.2

MARTIN LUTHER KING, JR. COMMISSION:

The purpose of the Martin Luther King, Jr. commission is to promote Martin Luther King, Jr.'s nonviolent principles and philosophy to the people of New Mexico through remembrance, celebration and action so that everyone gets involved in making a difference toward the improvement of interracial cooperation and reduction of youth violence in our communities.

Appropriations:

(a) Personal services and employee benefits	203.7	203.7
(b) Contractual services	29.0	29.0
(c) Other	118.0	118.0
Subtotal		350.7

COMMISSION FOR THE BLIND:

(1) Blind services:

The purpose of the blind services program is to assist blind or visually impaired citizens of New Mexico to achieve economic and social equality so they can have independence based on their personal interests and abilities.

Appropriations:

(a) Personal services and employee benefits	1,255.0	169.6	200.0	3,460.9	5,085.5
(b) Contractual services	42.0			102.3	144.3
(c) Other	654.3	4,750.4	139.8	1,787.6	7,332.1
(d) Other financing uses	100.0	6.7			106.7

The appropriations to the blind services program of the commission for the blind in the other financing uses category include one hundred six thousand seven hundred dollars (\$106,700) to transfer to the rehabilitation services program of the division of vocational rehabilitation to match with federal funds to provide rehabilitation services for the disabled.

The internal service funds/interagency transfers appropriation to the blind services program of the commission for the blind includes two hundred thousand dollars (\$200,000) from the division of vocational rehabilitation to provide services to the blind or visually impaired citizens of New Mexico.

Any unexpended balances in the commission for the blind remaining at the end of fiscal year 2020 from appropriations made from the general fund shall not revert.

Performance measures:

(a) Outcome:	Average hourly wage for the blind or visually impaired person	\$17.00
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(b) Outcome:	Number of people who avoided or delayed moving into a nursing home or assisted living facility as a result of receiving independent living services	95
Subtotal		12,668.6

INDIAN AFFAIRS DEPARTMENT:

(1) Indian affairs:

The purpose of the Indian affairs program is to coordinate intergovernmental and interagency programs concerning tribal governments and the state.

Appropriations:

(a) Personal services and employee benefits	1,075.8		1,075.8
(b) Contractual services	389.1	249.3	638.4
(c) Other	789.4		789.4

The internal service funds/interagency transfers appropriation to the Indian affairs program of the Indian affairs department includes two hundred forty-nine thousand three hundred dollars (\$249,300) from the tobacco settlement program fund for tobacco cessation and prevention programs for Native American communities throughout the state.

Subtotal		2,503.6
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AGING AND LONG-TERM SERVICES DEPARTMENT:

(1) Consumer and elder rights:

The purpose of the consumer and elder rights program is to provide current information, assistance, counseling, education and support to older individuals and people with disabilities, residents of long-term care facilities and their families and caregivers that allow them to protect their rights and make informed choices about quality services.

Appropriations:

(a) Personal services and employee benefits	1,566.6	1,200.0	939.5	3,706.1
(b) Contractual services	24.8		591.1	615.9
(c) Other	195.1		522.7	717.8

Performance measures:

(a) Quality:	Percent of calls to the aging and disability resource center answered by a live operator			90%
(b) Outcome:	Percent of residents who remained in the community six months following a nursing home care transition			90%

(2) Aging network:

The purpose of the aging network program is to provide supportive social and nutrition services for older individuals and persons with disabilities so they can remain independent and involved in their communities and to provide training, education and work experience to older individuals so they can enter or re-enter the workforce and receive appropriate income and benefits.

Appropriations:

(a) Personal services and employee benefits	583.8	34.9	529.3	1,148.0
(b) Contractual services	622.2	10.0		632.2
(c) Other	27,787.0	70.9	10,506.6	38,364.5

The general fund appropriation to the aging network program of the aging and long-term services department in the other category to supplement the federal Older Americans Act shall be contracted to the designated area agencies on aging.

Any unexpended or unencumbered balances remaining in the aging network from the conference on aging at the end of fiscal year 2020 from appropriations made from other state funds for the conference on aging shall not revert to the general fund.

Any unexpended or unencumbered balances remaining from the tax refund contribution senior fund, which provides for the provision of supplemental senior services throughout the state, at the end of fiscal year 2020 shall not revert to the general fund.

The general fund appropriation to the aging network program of the aging and long-term services department in the other category shall allow for an additional twelve and one-half percent distribution from the department of finance and administration for initial payments to aging network providers at the beginning of the fiscal year.

Performance measures:

(a) Outcome:	Percent of older New Mexicans whose food insecurity is alleviated by meals received through the aging network	98%
(b) Outcome:	Number of hours of caregiver support provided	423,000

(3) Adult protective services:

The purpose of the adult protective services program is to investigate allegations of abuse, neglect and exploitation of seniors and adults with disabilities and provide in-home support services to adults at high risk of repeat neglect.

Appropriations:

(a) Personal services and employee benefits	8,618.3		8,618.3
(b) Contractual services	1,285.3	2,164.4	3,449.7
(c) Other	1,460.4	11.9	1,472.3

Performance measures:

(a) Output:	Number of active clients who receive home care or adult day services as a result of an investigation of abuse, neglect or exploitation	1,500
(b) Outcome:	Percent of emergency or priority one investigations in which a caseworker makes initial face-to-face contact with the alleged victim within prescribed timeframes	>99%

(4) Program support:

The purpose of program support is to provide clerical, record-keeping and administrative support in the areas of personnel, budget, procurement and contracting to agency staff, outside contractors and external control agencies to implement and manage programs.

Appropriations:

(a) Personal services and employee benefits	3,209.6	98.5	3,308.1
(b) Contractual services	136.8		136.8
(c) Other	315.6		315.6
Subtotal			62,485.3

HUMAN SERVICES DEPARTMENT:

(1) Medical assistance:

The purpose of the medical assistance program is to provide the necessary resources and information to enable low-income individuals to obtain either free or low-cost healthcare.

Appropriations:

(a) Personal services and employee benefits	5,039.0			7,599.6	12,638.6
(b) Contractual services	12,688.4	1,655.3	759.9	47,728.1	62,831.7
(c) Other	873,268.8	73,181.0	222,490.6	4,264,083.2	5,433,023.6

Performance measures:

The appropriations to the medical assistance program of the human services department assume the state will receive an enhanced federal medical assistance percentage rate for those enrolled in the new adult category through fiscal year 2020 as provided for in the federal Patient Protection and Affordable Care Act, as amended by the Health Care and Education Reconciliation Act of 2010. Should the federal government reduce or rescind the federal medical assistance percentage rates established by the federal Patient Protection and Affordable Care Act, the human services department shall reduce or rescind eligibility for the new adult category.

The internal service funds/interagency transfers appropriations to the medical assistance program of the human services department include one million two hundred fifty-five thousand four hundred dollars (\$1,255,400) from the tobacco settlement program fund for the breast and cervical cancer treatment program

and six million five hundred sixty-three thousand nine hundred dollars (\$6,563,900) from the tobacco settlement program fund for medicaid programs.

The internal service funds/interagency transfers appropriations to the medical assistance program of the human services department include thirty-four million five hundred eighty thousand dollars (\$34,580,000) from the county-supported medicaid fund.

The general fund appropriation to the medical assistance program of the human services department in the other category includes funding to support medicaid provider rate adjustments, including personal care services, five hundred thousand dollars (\$500,000) to support lower-tier rate adjustments to address rate disparity among federally qualified health centers and two hundred thousand dollars (\$200,000) to support expanding graduate medical education positions in family medicine and psychiatry programs and start new residencies, especially in rural settings.

Performance measures:

(a) Outcome:	Percent of children ages two to twenty years enrolled in medicaid managed care who had at least one dental visit during the measurement year	70%
(b) Explanatory:	Percent of infants in medicaid managed care who had six or more well-child visits with a primary care physician before the age of fifteen months	
(c) Outcome:	Average percent of children and youth ages twelve months to nineteen years in medicaid managed care who received one or more well-child visits with a primary care physician during the measurement year	88%
(d) Outcome:	Percent of hospital readmissions for adults in Medicaid managed care, eighteen and over, within thirty days of	<10%

	discharge		
(e) Outcome:	Percent of member birth deliveries who received a prenatal care visit in the first trimester or within forty-two days of eligibility		83%
(f) Outcome:	Rate per one thousand members of emergency room use categorized as nonemergent care		.45

(2) Medicaid behavioral health:

The purpose of the medicaid behavioral health program is to provide the necessary resources and information to enable low-income individuals to obtain either free or low-cost behavioral healthcare.

Appropriations:			
(a) Other	110,153.0	421,066.0	531,219.0
Performance measures:			
(a) Outcome:	Percent of readmissions to same level of care or higher for children or youth discharged from residential treatment centers and inpatient care		5%
(b) Output:	Number of individuals served annually in substance abuse or mental health programs administered through the behavioral health collaborative and medicaid programs		165,000

(3) Income support:

The purpose of the income support program is to provide cash assistance and supportive services to eligible low-income families so they can achieve self-sufficiency. Eligibility requirements are established by state law within broad federal statutory guidelines.

Appropriations:

(a) Personal services and employee benefits	19,944.9	431.2	38,076.3	58,452.4
(b) Contractual services	6,612.4	75.8	36,068.6	42,756.8
(c) Other	19,638.2	188.5	836,497.1	856,323.8

The federal funds appropriations to the income support program of the human services department include eleven million five hundred seven thousand seven hundred dollars (\$11,507,700) from the federal temporary assistance for needy families block grant for administration of the New Mexico Works Act.

The appropriations to the income support program of the human services department include eighty-seven thousand one hundred dollars (\$87,100) from the general fund and forty-eight million five hundred seventy-six thousand six hundred dollars (\$48,576,600) from the federal temporary assistance for needy families block grant to provide cash assistance grants to participants as defined in the New Mexico Works Act, including wage subsidies for participants, two clothing allowances per year, diversion payments and state-funded payments to aliens.

The federal funds appropriations to the income support program of the human services department include nineteen million six hundred fifty-one thousand dollars (\$19,651,000) from the federal temporary assistance for needy families block grant for job training and placement and job-related transportation services, employment-related costs and a transitional employment program. The funds for the transitional employment program and the wage subsidy program may be used interchangeably.

The federal funds appropriations to the income support program of the human services department include thirty-six million five hundred twenty-seven thousand five hundred dollars (\$36,527,500) from the

federal temporary assistance for needy families block grant for transfer to the children, youth and families department for childcare programs, five million dollars (\$5,000,000) for home-visiting programs, fourteen million one hundred thousand dollars (\$14,100,000) for prekindergarten and nine hundred thousand dollars (\$900,000) for a supportive housing project.

The federal funds appropriations to the income support program of the human services department include three million five hundred thousand dollars (\$3,500,000) from the federal temporary assistance for needy families block grant for transfer to the public education department for prekindergarten and two hundred thousand dollars (\$200,000) for the graduation, reality and dual-role skills program.

The appropriations to the income support program of the human services department include seven million two hundred twenty thousand dollars (\$7,220,000) from the general fund and three million eighty thousand three hundred dollars (\$3,080,300) from federal funds for general assistance.

Any unexpended balances remaining at the end of fiscal year 2020 from the other state funds appropriations derived from reimbursements received from the social security administration for the general assistance program shall not revert.

Performance measures:

(a) Outcome:	Percent of parent participants who meet temporary assistance for needy families federal work participation requirements	53%
(b) Outcome:	Percent of temporary assistance for needy families two-parent recipients meeting federal work participation requirements	62%

(c) Outcome: Percent of eligible children in families with incomes of one hundred thirty percent of the federal poverty level participating in the supplemental nutrition assistance program 94%

(4) Behavioral health services:

The purpose of the behavioral health services program is to lead and oversee the provision of an integrated and comprehensive behavioral health prevention and treatment system so that the program fosters recovery and supports the health and resilience of all New Mexicans.

Appropriations:

(a) Personal services and employee benefits	2,780.4	407.5	3,187.9
(b) Contractual services	35,084.9	20,831.8	55,916.7
(c) Other	671.4	1,268.2	1,939.6

The general fund appropriation to the behavioral health services program of the human services department in the contractual services category includes two hundred thousand dollars (\$200,000) to fund the assisted outpatient treatment program in accordance with the Assisted Outpatient Treatment Act and five hundred thousand dollars (\$500,000) to provide evidence-based residential substance use disorder treatment services.

Performance measures:

(a) Outcome:	Percent of individuals discharged from inpatient facilities who receive follow-up services at thirty days	70%
(b) Outcome:	Percent of people with a diagnosis of alcohol or drug	30%

dependency who initiated treatment and received two or more additional services within thirty days of the initial visit

(5) Child support enforcement:

The purpose of the child support enforcement program is to provide location, establishment and collection services for custodial parents and their children; to ensure that all court orders for support payments are being met to maximize child support collections; and to reduce public assistance rolls.

Appropriations:

(a) Personal services and employee benefits	4,826.4	1,948.7	12,908.4	19,683.5
(b) Contractual services	1,620.3	654.2	4,333.5	6,608.0
(c) Other	1,290.1	413.5	3,259.5	4,963.1

Performance measures:

(a) Outcome:	Amount of child support collected, in millions	\$140.5
(b) Outcome:	Percent of current support owed that is collected	62%
(c) Outcome:	Percent of cases with support orders	85%
(d) Outcome:	Percent of cases having support arrears due for which arrears are collected	67%

(6) Program support:

The purpose of program support is to provide overall leadership, direction and administrative support to each agency program and to assist it in achieving its programmatic goals.

Appropriations:

(a) Personal services and employee benefits	4,114.6	573.1	13,897.5	18,585.2
(b) Contractual services	7,068.2	23.8	14,057.9	21,149.9
(c) Other	4,949.0	114.5	10,842.4	15,905.9
Subtotal				7,145,185.7

WORKFORCE SOLUTIONS DEPARTMENT:

(1) Unemployment insurance:

The purpose of the unemployment insurance program is to administer an array of demand-driven workforce development services to prepare New Mexicans to meet the needs of business.

Appropriations:

(a) Personal services and employee benefits	658.3	1,881.0	4,563.6	7,102.9
(b) Contractual services	200.0	23.4	20.5	243.9
(c) Other	136.3	611.7	500.4	1,248.4

The internal service funds/interagency transfers appropriations to the unemployment insurance program of the workforce solutions department include four hundred fifty thousand dollars (\$450,000) from the workers' compensation administration fund of the workers' compensation administration.

Performance measures:

(a) Output:	Percent of eligible unemployment insurance claims issued a determination within twenty-one days from the date of claim	89%
(b) Output:	Average wait time to speak to a customer service agent in the unemployment insurance operation center to file	18

(c) Output: a new unemployment insurance claim, in minutes
 Average wait time to speak to a customer service agent
 in the unemployment insurance operation center to file
 a weekly certification, in minutes 15

(2) Labor relations:

The purpose of the labor relations program is to provide employment rights information and other work-site-based assistance to employers and employees.

Appropriations:

(a) Personal services and employee benefits	1,682.8	360.6	253.0	2,296.4
(b) Contractual services		5.7		5.7
(c) Other	140.1			
		1,987.0	5.8	2,132.9

The internal service funds/interagency transfers appropriations to the labor relations program of the workforce solutions department include six hundred thousand dollars (\$600,000) from the workers' compensation administration fund of the workers' compensation administration.

Performance measures:

(a) Output: Average number of days to investigate and issue a
 determination on a charge of discrimination 185

(b) Output: Number of compliance reviews and quality assessments on
 registered apprenticeship programs 6

(3) Workforce technology:

The purpose of the workforce technology program is to provide and maintain customer-focused, effective and innovative information technology services for the department and its service providers.

Appropriations:

(a) Personal services and employee benefits	255.4	64.8	3,297.3	3,617.5
(b) Contractual services	3,824.5	2,508.1	1,249.4	7,582.0
(c) Other	1,961.2	18.5	244.9	2,224.6

Performance measures:

(a) Outcome:	Percent of time the unemployment framework for automated claims and tax services is available during scheduled uptime			99%
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(4) Employment services:

The purpose of the employment services program is to provide standardized business solution strategies and labor market information through the New Mexico public workforce system that is responsive to the needs of New Mexico businesses.

Appropriations:

(a) Personal services and employee benefits	210.8		6,476.1	6,686.9
(b) Contractual services	9.1		1,064.2	1,073.3
(c) Other	372.0		4,412.1	4,784.1

The general fund appropriation to the employment services program of the workforce solutions department in

the other category includes one hundred fifty thousand dollars (\$150,000) for individual development accounts.

Performance measures:

(a) Outcome:	Percent of unemployed individuals employed after receiving Wagner-Peyser employment services	55%
(b) Outcome:	Average six-month earnings of individuals entering employment after receiving Wagner-Peyser employment services	\$13,600

(5) Program support:

The purpose of program support is to provide overall leadership, direction and administrative support to each agency program to achieve organizational goals and objectives.

Appropriations:

(a) Personal services and employee benefits	453.5	197.0	6,119.7	6,770.2
(b) Contractual services	10.7	91.5	760.5	862.7
(c) Other	51.5	227.3	18,751.8	19,030.6

Performance measures:

(a) Output:	Number of adult and dislocated workers receiving supplemental services of the Workforce Innovation and Opportunity Act as administered and directed by the local area workforce board	2,700
(b) Outcome:	Percent of individuals who enter employment after receiving supplemental services of the Workforce Innovation and Opportunity Act as administered and directed by the local area workforce board	70%
(c) Output:	Percent of individuals who retain employment after receiving supplemental services of the Workforce	89%

Innovation and Opportunity Act as administered and directed by the local area workforce board

Subtotal

65,662.1

WORKERS' COMPENSATION ADMINISTRATION:

(1) Workers' compensation administration:

The purpose of the workers' compensation administration program is to assure the quick and efficient delivery of indemnity and medical benefits to injured and disabled workers at a reasonable cost to employers.

Appropriations:

(a) Personal services and employee benefits	8,390.4	8,390.4
(b) Contractual services	375.8	375.8
(c) Other	1,424.1	1,424.1
(d) Other financing uses	1,050.0	1,050.0

The other state funds appropriation to the workers' compensation administration program of the workers' compensation administration in the other financing uses category includes four hundred fifty thousand dollars (\$450,000) from the workers' compensation administration fund for the unemployment insurance program of the workforce solutions department and six hundred thousand dollars (\$600,000) from the workers' compensation administration fund for the labor relations program of the workforce solutions department.

Performance measures:

(a) Outcome:	Rate of serious injuries and illnesses caused by	≤0.6
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	workplace conditions per one hundred workers		
(b) Outcome:	Percent of employers determined to be in compliance with insurance requirements of the Workers' Compensation Act after initial investigations		≥95%

(2) Uninsured employers' fund:

Appropriations:

(a) Personal services and employee benefits	335.3		335.3
(b) Contractual services	103.7		103.7
(c) Other	461.1		461.1
Subtotal			12,140.4

DIVISION OF VOCATIONAL REHABILITATION:

(1) Rehabilitation services:

The purpose of the rehabilitation services program is to promote opportunities for people with disabilities to become more independent and productive by empowering individuals with disabilities so they may maximize their employment, economic self-sufficiency, independence and inclusion and integration into society.

Appropriations:

(a) Personal services and employee benefits			10,530.3	10,530.3
(b) Contractual services			1,595.5	1,595.5
(c) Other	5,498.6	191.5	6,322.9	12,013.0
(d) Other financing uses			200.0	200.0

The internal service funds/interagency transfers appropriation to the rehabilitation services program of the division of vocational rehabilitation in the other category includes one hundred thousand dollars (\$100,000) from the commission for the blind to match with federal funds to provide rehabilitation services to New Mexicans.

The internal service funds/interagency transfers appropriation to the rehabilitation services program of the division of vocational rehabilitation in the other category includes ninety-one thousand five hundred dollars (\$91,500) from the commission for deaf and hard-of-hearing persons to match with federal funds to support and enhance deaf and hard-of-hearing rehabilitation services.

The federal funds appropriation to the rehabilitation services program of the division of vocational rehabilitation in the other financing uses category includes two hundred thousand dollars (\$200,000) for the independent living program of the commission for the blind to provide services to blind or visually impaired New Mexicans.

Performance measures:

(a) Outcome:	Number of clients achieving suitable employment for a minimum of ninety days	1,000
(b) Outcome:	Percent of clients achieving suitable employment outcomes of all cases closed after receiving planned services	45%

(2) Independent living services:

The purpose of the independent living services program is to increase access for individuals with

disabilities to technologies and services needed for various applications in learning, working and home management.

Appropriations:

(a) Contractual services			51.5	51.5
(b) Other	650.0	6.7	720.7	1,377.4
(c) Other financing uses			59.8	59.8

The internal service funds/interagency transfers appropriation to the independent living services program of the division of vocational rehabilitation in the other category includes six thousand seven hundred dollars (\$6,700) from the commission for the blind to match with federal funds to provide independent living services to New Mexicans with disabilities.

The federal funds appropriation to the independent living program of the division of vocational rehabilitation in the other financing uses category includes fifty-nine thousand eight hundred dollars (\$59,800) for the commission for the blind to provide services to blind or visually impaired New Mexicans.

Performance measures:

(a) Output:	Number of independent living plans developed	600
(b) Output:	Number of individuals served for independent living	630

(3) Disability determination:

The purpose of the disability determination program is to produce accurate and timely eligibility determinations to social security disability applicants so they may receive benefits.

Appropriations:

(a) Personal services and employee benefits	6,513.3	6,513.3
(b) Contractual services	2,610.3	2,610.3
(c) Other	4,491.0	4,491.0

Performance measures:

(a) Efficiency:	Average number of days for completing an initial disability claim	100
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(4) Administrative services:

The purpose of the administration services program is to provide leadership, policy development, financial analysis, budgetary control, information technology services, administrative support and legal services to the division of vocational rehabilitation. The administration services program function is to ensure the division of vocational rehabilitation achieves a high level of accountability and excellence in services provided to the people of New Mexico.

Appropriations:

(a) Personal services and employee benefits	3,637.1	3,637.1
(b) Contractual services	375.9	375.9
(c) Other	1,831.7	1,831.7

Any unexpended balances in the division of vocational rehabilitation remaining at the end of fiscal year 2020 from appropriations made from the general fund shall not revert and may be expended in fiscal year 2021.

Subtotal

45,286.8

GOVERNOR'S COMMISSION ON DISABILITY:

(1) Governor's commission on disability:

The purpose of the governor's commission on disability program is to promote policies and programs that focus on common issues faced by New Mexicans with disabilities, regardless of type of disability, age or other factors. The commission educates state administrators, legislators and the general public on the issues facing New Mexicans with disabilities, especially as they relate to Americans with Disabilities Act directives, building codes, disability technologies and disability culture so they can improve the quality of life of New Mexicans with disabilities.

Appropriations:

(a) Personal services and employee benefits	712.8	251.7	251.7
(b) Contractual services	52.0	100.0	152.0
(c) Other	244.2 100.0	113.7	457.9

Performance measures:

(a) Outcome:	Percent of requested architectural plan reviews and site inspections completed	≥99%
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(2) Brain injury advisory council:

The purpose of the brain injury advisory council program is to provide guidance on the use and implementation of programs provided through the human services department's brain injury services fund so the department may align service delivery with needs identified by the brain injury community.

Appropriations:

(a) Personal services and employee benefits	70.6		70.6
(b) Contractual services	50.2		50.2
(c) Other	79.3		79.3
Subtotal			1,774.5

DEVELOPMENTAL DISABILITIES PLANNING COUNCIL:

(1) Developmental disabilities planning council:

The purpose of the developmental disabilities planning council program is to provide and produce opportunities for persons with disabilities so they may realize their dreams and potential and become integrated members of society.

Appropriations:

(a) Personal services and employee benefits	328.7	256.8	585.5
(b) Contractual services	60.6	245.0	305.6
(c) Other	301.1		

(2) Office of guardianship:

The purpose of the office of guardianship program is to enter into, monitor and enforce guardianship contracts for income-eligible persons and to help file, investigate and resolve complaints about guardianship services provided by contractors to maintain the dignity, safety and security of the indigent and incapacitated adults of the state.

Appropriations:

(a) Personal services and employee benefits	632.2	126.9		759.1
(b) Contractual services	3,684.7	271.1	550.0	4,505.8
(c) Other	125.7			125.7

Any unexpended balances in the office of guardianship program of the developmental disabilities planning council remaining at the end of fiscal year 2020 from appropriations made from the general fund and internal service funds/interagency transfers shall not revert.

Performance measures:

(a) Outcome:	Average amount of time spent on wait list	6 Months
(b) Outcome:	Number of guardianship investigations completed	20
Subtotal		6,657.8

MINERS' HOSPITAL OF NEW MEXICO:

(1) Healthcare:

The purpose of the healthcare program is to provide quality acute care, long-term care and related health services to the beneficiaries of the miners' trust fund of New Mexico and the people of the region so they can maintain optimal health and quality of life.

Appropriations:

(a) Personal services and employee benefits	8,772.4	3,922.4	6,170.6	18,865.4
(b) Contractual services	2,442.9	1,092.3	1,718.3	5,253.5
(c) Other	3,321.7	1,485.3	2,336.5	7,143.5

The internal service funds/interagency transfers appropriations to the healthcare program of miners' hospital of New Mexico include six million five hundred thousand dollars (\$6,500,000) from the miners' trust fund.

Performance measures:

(a) Quality:	Percent of patients readmitted to the hospital within thirty days with the same or similar diagnosis	<2%
(b) Quality:	Percent of emergency room patients returning to the emergency room with same or similar diagnosis within seventy-two hours of their initial visit	<1%
Subtotal		31,262.4

DEPARTMENT OF HEALTH:

(1) Public health:

The purpose of the public health program is to provide a coordinated system of community-based public health services focusing on disease prevention and health promotion to improve health status, reduce disparities and ensure timely access to quality, culturally competent healthcare.

Appropriations:

(a) Personal services and employee benefits	21,686.8	3,097.4	3,047.9	22,335.6	50,167.7
(b) Contractual services	15,367.1	4,950.5	12,086.7	10,760.0	43,164.3
(c) Other	12,259.1	33,401.2	305.9	30,888.8	76,855.0
(d) Other financing uses	462.3				462.3

The internal service funds/interagency transfers appropriations to the public health program of the

department of health include five million four hundred thirty-five thousand two hundred dollars (\$5,435,200) from the tobacco settlement program fund for smoking cessation and prevention programs, seven hundred fifteen thousand five hundred dollars (\$715,500) from the tobacco settlement program fund for diabetes prevention and control services, two hundred ninety-three thousand dollars (\$293,000) from the tobacco settlement program fund for harm reduction services and one hundred twenty-eight thousand six hundred dollars (\$128,600) from the tobacco settlement program fund for breast and cervical cancer screening.

Performance measures:

(a) Quality:	Percent of female public health office family planning clients ages fifteen to nineteen who were provided most or moderately effective contraceptives	≥62%
(b) Quality:	Percent of school-based health centers funded by the department of health that demonstrate improvement in their primary care or behavioral healthcare focus area	≥95%
(c) Outcome:	Percent of preschoolers ages nineteen to thirty-five months indicated as being fully immunized	≥65%

(2) Epidemiology and response:

The purpose of the epidemiology and response program is to monitor health, provide health information, prevent disease and injury, promote health and healthy behaviors, respond to public health events, prepare for health emergencies and provide emergency medical and vital registration services to New Mexicans.

Appropriations:

(a) Personal services and employee benefits	4,206.9	101.8	465.9	9,853.1	14,627.7
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(b) Contractual services	1,213.5	234.1	122.4	5,497.3	7,067.3
(c) Other	4,495.3	75.2	72.5	1,856.7	6,499.7

Performance measures:

(a) Explanatory:	Drug overdose death rate per one hundred thousand population				
(b) Explanatory:	Alcohol-related death rate per one hundred thousand population				
(c) Outcome:	Percent of retail pharmacies that dispense naloxone				≥80%
(d) Outcome:	Percent of opioid patients also prescribed benzodiazepines				≤5%

(3) Laboratory services:

The purpose of the laboratory services program is to provide laboratory analysis and scientific expertise for policy development for tax-supported public health, environment and toxicology programs in the state of New Mexico to provide timely identification of threats to the health of New Mexicans.

Appropriations:

(a) Personal services and employee benefits	5,213.6	1,235.7	115.4	1,495.6	8,060.3
(b) Contractual services	170.6	33.5	34.5	61.2	299.8
(c) Other	2,193.8	593.9	628.1	1,551.3	4,967.1

(4) Facilities management:

The purpose of the facilities management program is to provide oversight for department of health facilities that provide health and behavioral healthcare services, including mental health, substance abuse, nursing home and rehabilitation programs in both facility- and community-based settings, and serve

as the safety net for the citizens of New Mexico.

Appropriations:

(a) Personal services and employee benefits	44,346.9	44,019.9	716.0	4,323.2	93,406.0
(b) Contractual services	4,637.5	5,867.1	734.5	308.8	11,547.9
(c) Other	10,611.1	10,491.4	2,981.3	363.5	24,447.3

The general fund appropriation to the facilities management program of the department of health in the personal services and employee benefits category is sufficient for an appropriate placement salary adjustment effective the first full pay period after July 1, 2019 for all psychiatric technicians and certified nursing assistants in budgeted positions with satisfactory job performance and a completed probationary period.

The department of health shall evaluate and plan for the ways in which department of health facilities can fully leverage newly available medicaid funding generated through recent federal and state medicaid policy changes for fiscal year 2020 and report a plan to use this newly available funding to the governor, legislative health and human services committee and legislative finance committee on or before October 30, 2019.

Performance measures:

(a) Efficiency: Percent of eligible third-party revenue collected at all agency facilities ≥93%

~~[(b) Efficiency: Percent of operational beds occupied 80%~~

LINE-ITEM VETO

(5) Developmental disabilities support:

The purpose of the developmental disabilities support program is to administer a statewide system of community-based services and support to improve the quality of life and increase the independence and interdependence of individuals with developmental disabilities and children with or at risk for developmental delay or disability and their families.

Appropriations:

(a) Personal services and employee benefits	7,421.6		6,217.1	588.9	14,227.6
(b) Contractual services	8,675.2	207.9	1,454.3	2,158.3	12,495.7
(c) Other	26,882.6	1,177.1	1,663.4	83.6	29,806.7
(d) Other financing uses	131,944.3		19.2		131,963.5

The general fund appropriations to the developmental disabilities support program of the department of health include two million six hundred thousand dollars (\$2,600,000) to support rate adjustments for family, infant, toddler program service providers, one million six hundred thousand dollars (\$1,600,000) to support rate adjustments for developmental disabilities medicaid waiver service providers, seven million five hundred thousand dollars (\$7,500,000) for the state match of the federal medical assistance percentage to increase the number of allocated slots for home- and community-based medicaid waiver services, two million six hundred fifty thousand dollars (\$2,650,000) to serve more children in the family, infant,

toddler program, one million five hundred thousand dollars (\$1,500,000) to establish the necessary statewide infrastructure and capacity to support the planning, development and implementation of a supports waiver, to include assessing the needs and providing services to people on the waiting list and two hundred fifty thousand dollars (\$250,000) for autism support services.

The general fund appropriation to the developmental disabilities support program of the department of health in the other financing uses category includes four million dollars (\$4,000,000) for the state match of the federal medical assistance percentage for average cost increases. The department of health shall develop a plan to address average per-capita cost increases for fiscal year 2020 and report the plan to the governor, legislative health and human services committee and legislative finance committee on or before October 30, 2019.

Performance measures:

- (a) Explanatory: Number of individuals receiving developmental disabilities waiver services
- (b) Explanatory: Number of individuals on the developmental disabilities waiver waiting list

(6) Health certification, licensing and oversight:

The purpose of the health certification, licensing and oversight program is to provide health facility licensing and certification surveys, community-based oversight and contract compliance surveys and a statewide incident management system so that people in New Mexico have access to quality healthcare and that vulnerable populations are safe from abuse, neglect and exploitation.

Appropriations:

(a) Personal services and employee benefits	4,140.3	1,650.4	4,217.7	2,012.6	12,021.0
(b) Contractual services	609.5	139.1	170.5	96.0	1,015.1
(c) Other	510.2	208.0	452.0	334.2	1,504.4

The general fund appropriation to the health certification, licensing and oversight program of the department of health in the other category includes five hundred thousand dollars (\$500,000) for receivership services.

Performance measures:

(a) Outcome:	Abuse rate for developmental disability waiver and mi via waiver clients	≤7%
(b) Outcome:	Re-abuse rate for developmental disabilities waiver and mi via waiver clients	≤6%
(c) Explanatory:	Percent of long-stay nursing home residents receiving psychoactive drugs without evidence of psychotic or related conditions	
(d) Quality:	Percent of abuse, neglect and exploitation investigations completed according to established timelines	90%

(7) Medical cannabis:

The purpose of the medical cannabis program is to provide qualified patients with the means to legally and beneficially consume medical cannabis in a regulated system for alleviating symptoms caused by debilitating medical conditions and their medical treatments and to regulate a system of production and distribution of medical cannabis to ensure an adequate supply.

Appropriations:

(a) Personal services and employee benefits	1,698.0	1,698.0
(b) Contractual services	503.5	503.5
(c) Other	973.2	973.2

(8) Administration:

The purpose of the administration program is to provide leadership, policy development, information technology, administrative and legal support to the department of health so it achieves a high level of accountability and excellence in services provided to the people of New Mexico.

Appropriations:

(a) Personal services and employee benefits	5,158.2	998.1	6,077.1	12,233.4
(b) Contractual services	144.7	323.8	709.6	1,178.1
(c) Other	511.3	40.0	636.4	1,187.7
Subtotal				562,380.3

DEPARTMENT OF ENVIRONMENT:

(1) Resource protection:

The purpose of the resource protection program is to monitor and provide regulatory oversight of the generation, storage, transportation and disposal of wastes in New Mexico. The program also oversees the investigation and cleanup of environmental contamination covered by the Resource Conservation and Recovery Act.

Appropriations:

(a) Personal services and employee benefits	1,451.3	6,051.6	2,444.0	9,946.9
(b) Contractual services	207.5	313.5	1,227.2	1,748.2
(c) Other	276.3	970.7	647.8	1,894.8

Performance measures:

(a) Outcome:	Percent of underground storage tank facilities in significant operational compliance with release prevention and release detection requirements	90%
(b) Outcome:	Percent of permitted active solid waste facilities and infectious waste generators inspected found to be in substantial compliance with New Mexico solid waste rules	95%

(2) Water protection:

The purpose of the water protection program is to protect and preserve the ground, surface and drinking water resources of the state for present and future generations. The program also helps New Mexico communities develop sustainable and secure water, wastewater and solid waste infrastructure through funding, technical assistance and project oversight.

Appropriations:

(a) Personal services and employee benefits	1,670.7	100.0	5,252.6	7,697.6	14,720.9
(b) Contractual services	344.7		2,821.1	2,871.1	6,036.9
(c) Other	182.7		1,287.5	2,397.7	3,867.9

Performance measures:

(a) Output:	Percent of facilities operating under a groundwater discharge permit inspected each year	63%
(b) Outcome:	Percent of assessed stream and river miles meeting water quality standards	50%

(3) Environmental protection:

The purpose of the environmental protection program is to ensure New Mexicans breathe healthy air, to protect public health and the environment through specific programs that provide regulatory oversight of food service and food processing facilities, on-site treatment and disposal of liquid wastes, public swimming pools and baths and medical radiation and radiological technologist certification and to ensure every employee has safe and healthful working conditions.

Appropriations:

(a) Personal services and employee benefits	4,017.6	26.4	10,557.2	2,288.1	16,889.3
(b) Contractual services	4.4		995.9	503.7	1,504.0
(c) Other	1,238.1		1,981.8	1,198.5	4,418.4

Performance measures:

(a) Outcome:	Percent of serious worker health and safety violations corrected within the timeframes designated on issued citations from the consultation and compliance sections	96%
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(4) Resource management:

The purpose of the resource management program is to provide overall leadership, administrative, legal and information management support to all programs within the department. This support allows the department to operate in the most responsible, efficient and effective manner so the public can receive the information it needs to hold the department accountable.

Appropriations:

(a) Personal services and employee benefits	2,205.9	2,219.5	1,865.1	6,290.5
(b) Contractual services	267.8	78.7	194.0	540.5
(c) Other	103.2	5.0	442.6	892.9

Performance measures:

(a) Output:	Percent of positive outcomes of legal action	95%
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(5) Special revenue funds:

Appropriations:

(a) Contractual services	2,800.0	2,800.0
(b) Other	10,410.0	10,410.0
(c) Other financing uses	32,049.2	32,049.2
Subtotal		114,010.4

OFFICE OF THE NATURAL RESOURCES TRUSTEE:

(1) Natural resource damage assessment and restoration:

The purpose of the natural resources trustee program is to restore or replace natural resources injured or lost due to releases of hazardous substances or oil into the environment.

Appropriations:

(a) Personal services and employee benefits	266.0	25.5	291.5
(b) Contractual services		2,008.5	2,008.5
(c) Other		22.2	22.2
Subtotal			2,322.2

VETERANS' SERVICES DEPARTMENT:

(1) Veterans' services:

The purpose of the veterans' services program is to carry out the mandates of the New Mexico legislature and the governor to provide information and assistance to veterans and their eligible dependents to obtain the benefits to which they are entitled to improve their quality of life.

Appropriations:

(a) Personal services and employee benefits	3,000.0	25.0	142.9	3,167.9
(b) Contractual services	484.4	29.0	118.1	631.5
(c) Other	636.5	0.5	109.0	746.0

Performance measures:

(a) Output:	Number of businesses established by veterans with assistance provided by the veterans' business outreach center	18
(b) Outcome:	Percent of eligible deceased veterans and family members interred in a regional state veterans' cemetery	10%

(2) Healthcare Coordination:

The purpose of the healthcare coordination program is to provide nursing and alzheimer's care services to veterans, surviving spouses, and gold star parents and to develop and coordinate veterans programs and outreach, including transitional living, housing and healthcare programs.

Appropriations:

(a) Personal services and	514.0	8,694.6	3,031.8	12,240.4
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employee benefits					
(b) Contractual services	869.0	500.6			1,369.6
(c) Other	243.0	1,500.0		821.3	2,564.3
Performance measures:					
(a) Quality:	Percent of long-term care residents experiencing facility acquired pressure injuries				<2%
(b) Explanatory:	Customer overall satisfaction				
(c) Efficiency:	Percent of eligible third-party revenue collected at the facility				96%
(d) Quality:	Percent of long-term care residents experiencing one or more falls with major injury				<4%
Subtotal					20,719.7

CHILDREN, YOUTH AND FAMILIES DEPARTMENT:

(1) Juvenile justice facilities:

The purpose of the juvenile justice facilities program is to provide rehabilitative services to youth committed to the department, including medical, educational, mental health and other services that will support their rehabilitation.

Appropriations:

(a) Personal services and employee benefits	52,253.5	1,490.5			53,744.0
(b) Contractual services	12,532.7	845.9	423.9	327.6	14,130.1
(c) Other	4,881.9	26.0		72.4	4,980.3

Any unexpended balances in the juvenile justice facilities program of the children, youth and families department remaining at the end of fiscal year 2020 from appropriations made from the general fund shall

not revert and may be expended in fiscal year 2021.

Performance measures:

(a) Outcome:	Recidivism rate for youth discharged from active field supervision	12%
(b) Outcome:	Recidivism rate for youth discharged from commitment	35%
(c) Outcome:	Percent of juvenile justice division facility clients age 18 and older who enter adult corrections within two years after discharge from a juvenile justice facility	9%
(d) Output:	Number of physical assaults in juvenile justice facilities	<285

(2) Protective services:

The purpose of the protective services program is to receive and investigate referrals of child abuse and neglect and provide family preservation and treatment and legal services to vulnerable children and their families to ensure their safety and well-being.

Appropriations:

(a) Personal services and employee benefits	51,648.9		1,151.6	13,507.0	66,307.5
(b) Contractual services	17,342.3	592.2	900.0	8,735.8	27,570.3
(c) Other	34,322.7	1,643.2	237.8	32,592.2	68,795.9

The internal service funds/interagency transfers appropriations to the protective services program of the children, youth and families department include nine hundred thousand dollars (\$900,000) from the federal temporary assistance for needy families block grant to New Mexico for supportive housing.

Any unexpended balances in the protective services program of the children, youth and families department remaining at the end of fiscal year 2020 from appropriations made from the general fund shall not revert and may be expended in fiscal year 2021.

Performance measures:

(a) Outcome:	Percent of children in foster care for more than eight days, who achieve permanency within twelve months of entry into foster care	40.5%
(b) Outcome:	Rate of maltreatment victimizations per one hundred thousand days in foster care	≤8.5%
(c) Output:	Turnover rate for protective services workers	20%
(d) Outcome:	Percent of children in foster care for twenty-four months at the start of a twelve month period, who achieve permanency within that twelve months	32%
(e) Outcome:	Percent of children in foster care for twelve to twenty-three months at the start of a twelve-month period, who achieve permanency within that twelve months	44%
(f) Outcome:	Percent of children who were victims of a substantiated maltreatment report during a twelve-month period, who were victims of another substantiated maltreatment allegation within twelve months of their initial report	≤9.1%

(3) Early childhood services:

The purpose of the early childhood services program is to provide quality childcare, nutrition services, early childhood education and training to enhance the physical, social and emotional growth and development of children.

Appropriations:

(a) Personal services and employee benefits	3,454.6			6,930.8	10,385.4
(b) Contractual services	45,147.4	1,184.8	19,100.0	10,887.0	76,319.2
(c) Other	57,337.4	1,600.0	36,527.5	101,912.5	197,377.4

The internal service funds/interagency transfers appropriations to the early childhood services program of the children, youth and families department include fifty-five million six hundred twenty-seven thousand five hundred dollars (\$55,627,500) from the federal temporary assistance for needy families block grant: thirty-six million five hundred twenty-seven thousand five hundred dollars (\$36,527,500) for child care, fourteen million one hundred thousand dollars (\$14,100,000) for prekindergarten and five million dollars (\$5,000,000) for home-visiting services.

Performance measures:

(a) Outcome:	Percent of licensed childcare providers participating in high-quality programs	39%
(b) Outcome:	Percent of parents participating in home visits who demonstrate progress in practicing positive parent-child interactions	45%
(c) Outcome:	Percent of children in prekindergarten funded by the children, youth and families department showing measurable progress on the school readiness fall-preschool assessment tool	94%

(4) Behavioral health services:

The purpose of the behavioral health services program is to provide coordination and management of behavioral health policy, programs and services for children.

Appropriations:

(a) Personal services and employee benefits	4,858.2	406.4		5,264.6
(b) Contractual services	12,089.0	31.7	865.9	12,986.6
(c) Other	381.4		36.7	418.1

Any unexpended balances in the behavioral health services program of the children, youth and families department remaining at the end of fiscal year 2020 from appropriations made from the general fund shall not revert and may be expended in fiscal year 2021.

Performance measures:

(a) Outcome:	Percent of infants served by infant mental health teams with a team recommendation for unification who have not had additional referrals to protective services	92%
(b) Output:	Percent of children, youth and families department children and youth involved in the estimated target population who are receiving services from community behavioral health clinicians	75%

(5) Program support:

The purpose of program support is to provide the direct services divisions with functional and administrative support so they may provide client services consistent with the department's mission and also support the development and professionalism of employees.

Appropriations:

(a) Personal services and employee benefits	8,727.9		4,060.2	12,788.1
(b) Contractual services	916.4	71.5	572.5	1,560.4

(c) Other	3,084.3			1,714.4	4,798.7
Subtotal					557,426.6
TOTAL HEALTH, HOSPITALS AND HUMAN SERVICES	1,823,578.5	287,715.5	374,059.3	6,161,523.3	8,646,876.6

G. PUBLIC SAFETY

DEPARTMENT OF MILITARY AFFAIRS:

(1) National guard support:

The purpose of the national guard support program is to provide administrative, fiscal, personnel, facility construction and maintenance support to the New Mexico national guard in maintaining a high degree of readiness to respond to state and federal missions and to supply an experienced force to protect the public, provide direction for youth and improve the quality of life for New Mexicans.

Appropriations:

(a) Personal services and employee benefits	3,561.4			6,292.2	9,853.6
(b) Contractual services	425.6		165.1	2,905.7	3,496.4
(c) Other	3,105.3	78.0	25.0	7,658.6	10,866.9

Performance measures:

(a) Outcome:	Percent strength of the New Mexico national guard	98%
(b) Output:	Percent of New Mexico national guard youth challenge academy cadets who earn their high school equivalency, annually	65%

Subtotal					24,216.9
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PAROLE BOARD:

(1) Adult parole:

The purpose of the adult parole program is to provide and establish parole conditions and guidelines for inmates and parolees so they may reintegrate back into the community as law-abiding citizens.

Appropriations:

(a) Personal services and employee benefits	373.9	373.9
(b) Contractual services	8.6	8.6
(c) Other	137.3	137.3

Performance measures:

(a) Efficiency:	Percent of revocation hearings held within thirty days of a parolee's return to the corrections department	97%
Subtotal		519.8

JUVENILE PUBLIC SAFETY ADVISORY BOARD:

The purpose of the juvenile public safety advisory board is to monitor each youth's rehabilitative process through therapy and support services to assure a low risk for reoffending or re-victimizing the community.

Appropriations:

(a) Other	8.3	8.3
Subtotal		8.3

CORRECTIONS DEPARTMENT:

(1) Inmate management and control:

The purpose of the inmate management and control program is to incarcerate in a humane, professionally sound manner offenders sentenced to prison and to provide safe and secure prison operations. This includes quality hiring and in-service training of correctional officers, protecting the public from escape risks and protecting prison staff, contractors and inmates from violence exposure to the extent possible within budgetary resources.

Appropriations:

(a) Personal services and employee benefits	101,437.5	962.7	16,944.8	119,345.0
(b) Contractual services	54,477.8			54,477.8
(c) Other	116,317.3	1,415.9		54,477.8
Performance measures:				117,733.2

The general fund appropriation to the inmate management and control program of the corrections department in the other category includes an additional one million five hundred thousand dollars (\$1,500,000) to implement highly rated, evidence-based inmate programming.

The general fund appropriation to the inmate management and control program of the corrections department in the other category includes one million seven hundred fifty thousand dollars (\$1,750,000) for [~~private~~] prison population and rate increases. *LINE-ITEM VETO*

~~[Penalties against private prisons for staffing violations may not be assessed by the New Mexico corrections department in fiscal year 2020.]~~ *LINE-ITEM VETO*

The general fund appropriation to the inmate management and control program of the corrections

department in the personal services and employee benefits category includes two hundred nine thousand two hundred dollars (\$209,200) for a ten percent pay increase for behavioral health and mental health staff.

The general fund appropriation to the inmate management and control program of the corrections department in the personal services and employee benefits category includes two hundred thirty-three thousand five hundred dollars (\$233,500) to fully fund the office of recidivism reduction.

Performance measures:

(a) Outcome:	Vacancy rate of correctional officers in public facilities	20%
(b) Outcome:	Vacancy rate of correctional officers in private facilities	20%
(c) Output:	Number of inmate-on-inmate assaults with serious injury	8
(d) Output:	Number of inmate-on-staff assaults with serious injury	2
(e) Explanatory:	Percent of participating inmates who have completed adult basic education	
(f) Explanatory:	Percent of residential drug abuse program graduates reincarcerated within thirty-six months of release	
(g) Outcome:	Percent of release-eligible female inmates incarcerated past their scheduled release date	6%
(h) Outcome:	Percent of release-eligible male inmates incarcerated past their scheduled release date	6%
(i) Outcome:	Percent of prisoners reincarcerated within thirty-six months	45%

(2) Corrections industries:

The purpose of the corrections industries program is to provide training and work experience opportunities for inmates to instill a quality work ethic and to prepare them to perform effectively in an employment

position and to reduce idle time of inmates while in prison.

Appropriations:

(a) Personal services and employee benefits	2,132.2	2,132.2
(b) Contractual services	51.4	51.4
(c) Other	8,735.4	8,735.4

Performance measures:

(a) Output:	Percent of inmates receiving vocational or educational training assigned to corrections industries	>20%
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(3) Community offender management:

The purpose of the community offender management program is to provide programming and supervision to offenders on probation and parole, with emphasis on high-risk offenders, to better ensure the probability of them becoming law-abiding citizens, to protect the public from undue risk and to provide intermediate sanctions and post-incarceration support services as a cost-effective alternative to incarceration.

Appropriations:

(a) Personal services and employee benefits	21,444.9	21,444.9
(b) Contractual services	10,012.5	10,012.5
(c) Other	3,855.2 3,196.4	7,051.6

The general fund appropriation to the community offender management program of the corrections department in the contractual services category includes an additional seven hundred fifty thousand dollars (\$750,000) to implement highest-rated, evidence-based programming at halfway houses.

Performance measures:

(a) Outcome:	Percent of prisoners reincarcerated within thirty-six months due to technical parole violations	20%
(b) Outcome:	Percent of contacts per month made with high-risk offenders in the community	95%
(c) Quality:	Average standard caseload per probation and parole officer	105
(d) Output:	Percent of male offenders who graduated from the men's recovery center and are reincarcerated within thirty-six months	23%
(e) Output:	Percent of female offenders who graduated from the women's recovery center and are reincarcerated within thirty-six months	20%
(f) Outcome:	Vacancy rate of probation and parole officers	15%

(4) Program support:

The purpose of program support is to provide quality administrative support and oversight to the department operating units to ensure a clean audit, effective budget, personnel management and cost-effective management information system services.

Appropriations:

(a) Personal services and employee benefits	10,670.8		10,670.8
(b) Contractual services	355.2	200.0	555.2
(c) Other	1,812.9	154.8	1,967.7
Subtotal			354,177.7

CRIME VICTIMS REPARATION COMMISSION:

(1) Victim compensation:

The purpose of the victim compensation program is to provide financial assistance and information to victims of violent crime in New Mexico so they can receive services to restore their lives.

Appropriations:

(a) Personal services and employee benefits	1,213.4	1,213.4
(b) Contractual services	3,632.3	3,632.3
(c) Other	928.5 1,144.0	2,072.5

Performance measures:

(a) Outcome:	Percent of payment for care and support paid to individual victims	100%
(b) Explanatory:	Number of sexual assault service provider programs funded throughout New Mexico	

(2) Federal grant administration:

The purpose of the federal grant administration program is to provide funding and training to nonprofit providers and public agencies so they can provide services to victims of crime.

Appropriations:

(a) Personal services and employee benefits	737.1	737.1
(b) Contractual services	70.3	70.3
(c) Other	22,272.6	22,272.6

Performance measures:

(a) Efficiency:	Percent of subgrantees who receive compliance monitoring via desk audits	100%
(b) Efficiency:	Percent of site visits conducted	40%
Subtotal		29,998.2

DEPARTMENT OF PUBLIC SAFETY:

(1) Law enforcement:

The purpose of the law enforcement program is to provide the highest quality of law enforcement services to the public and ensure a safer state.

Appropriations:

(a) Personal services and employee benefits	84,695.8	995.0	3,527.9	4,898.5	94,117.2
(b) Contractual services	1,307.6		100.0	1,293.5	2,701.1
(c) Other	21,869.5	1,745.0	2,413.3	1,698.9	27,726.7

The internal service funds/interagency transfers appropriations to the law enforcement program of the department of public safety include ninety-four thousand five hundred dollars (\$94,500) from the weight distance tax identification permit fund. Any unexpended balances in the motor transportation bureau of the law enforcement program of the department of public safety remaining at the end of fiscal year 2020 from appropriations made from the weight distance tax identification permit fund shall revert to the weight distance tax identification permit fund.

The department of public safety may use vacancy savings in the law enforcement program to provide pay increases to commissioned officers within the New Mexico state police career pay system.

The department of public safety shall report to the legislative finance committee and the department of finance and administration by October 1, 2019 on the need for a staffing study.

Performance measures:

(a) Explanatory:	Percent of state police cadets who graduate per recruit class	
(b) Explanatory:	Rate of commissioned state police officer turnover	
(c) Explanatory:	Rate of commissioned state police officer vacancies	
(d) Output:	Number of commercial motor vehicle safety inspections conducted	88,000
(e) Output:	Number of driving-while-intoxicated arrests	2,250

(2) Statewide law enforcement support program:

The purpose of the statewide law enforcement support program is to promote a safe and secure environment for the state of New Mexico through intelligently led policing practices, vital scientific and technical support, current and relevant training and innovative leadership for the law enforcement community.

Appropriations:

(a) Personal services and employee benefits	9,160.2	2,039.6	220.0	874.7	12,294.5
(b) Contractual services	896.0	849.0	70.0	814.3	2,629.3
(c) Other	2,809.3	3,087.7	370.0	584.0	6,851.0

Performance measures:

(a) Outcome:	Percent of forensic firearm and toolmark cases completed	100%
(b) Outcome:	Percent of forensic latent fingerprint cases completed	100%
(c) Outcome:	Percent of forensic chemistry cases completed	90%
(d) Outcome:	Percent of forensic biology and DNA cases completed	100%

(3) Program support:

The purpose of program support is to manage the agency's financial resources, assist in attracting and

retaining a quality workforce and provide sound legal advice and a clean, pleasant working environment.

Appropriations:

(a) Personal services and employee benefits	3,676.1		130.2	518.2	4,324.5
(b) Contractual services	147.3		5.0		152.3
(c) Other	346.8		6.7	3,036.0	3,389.5
Subtotal					154,186.1

HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT:

(1) Homeland security and emergency management program:

The purpose of the homeland security and emergency management program is to provide for and coordinate an integrated, statewide, comprehensive emergency management system for New Mexico, including all agencies, branches and levels of government for the citizens of New Mexico.

Appropriations:

(a) Personal services and employee benefits	2,221.9	32.4	103.0	2,552.4	4,909.7
(b) Contractual services	74.2			779.1	853.3
(c) Other	782.4	22.6	67.0	21,067.0	21,939.0

Performance measures:

(a) Outcome:	Percent of compliance of all federal-grants-measuring visits				100%
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Subtotal					27,702.0
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TOTAL PUBLIC SAFETY	461,765.8	26,642.1	24,348.0	78,053.1	590,809.0
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H. TRANSPORTATION

DEPARTMENT OF TRANSPORTATION:

(1) Project design and construction:

The purpose of the project design and construction program is to provide improvements and additions to the state's highway infrastructure to serve the interest of the general public. These improvements include those activities directly related to highway planning, design and construction necessary for a complete system of highways in the state.

Appropriations:

(a) Personal services and employee benefits	22,949.4	2,439.4	25,388.8
(b) Contractual services	91,810.4	250,076.3	341,886.7
(c) Other	75,628.8	113,617.3	189,246.1

Notwithstanding the provisions of Article 21 of Chapter 6 NMSA 1978, any funds received by the New Mexico finance authority from the department of transportation in fiscal year 2020 as an annual administrative fee for issuing state transportation bonds pursuant to Sections 67-3-59.3 and 67-3-59.4 NMSA 1978 shall not be deposited into the local transportation infrastructure fund.

The other state funds appropriations to the project design and construction program of the department of transportation include ten million nine hundred fifty-seven thousand dollars (\$10,957,000) for maintenance, reconstruction and related construction costs of state-managed highways.

Performance measures:

(a) Outcome:	Percent of projects in production let to bid as scheduled	>67%
(b) Quality:	Percent of final cost-over-bid amount, less gross receipts tax, on highway construction projects	<3%
(c) Outcome:	Percent of projects completed according to schedule	>88%

(2) Highway operations:

The purpose of the highway operations program is to maintain and provide improvements to the state's highway infrastructure to serve the interest of the general public. These improvements include those activities directly related to preserving roadway integrity and maintaining open highway access throughout the state system.

Appropriations:

(a) Personal services and employee benefits	103,240.8	3,000.0	106,240.8
(b) Contractual services	54,698.6		54,698.6
(c) Other	87,250.8		87,250.8

Performance measures:

(a) Output:	Number of statewide pavement lane miles preserved	>2,750
(b) Outcome:	Number of combined systemwide lane miles in poor condition	<5,500
(c) Outcome:	Percent of bridges in fair, or better, condition based on deck area	90%

(3) Program support:

The purpose of program support is to provide management and administration of financial and human resources, custody and maintenance of information and property and management of construction and

maintenance projects.

Appropriations:

(a) Personal services and employee benefits	25,340.4			25,340.4
(b) Contractual services	4,615.4			4,615.4
(c) Other	13,292.8			13,292.8

Performance measures:

(a) Explanatory: Vacancy rate of all programs

(4) Modal:

The purpose of the modal program is to provide federal grants management and oversight of programs with dedicated revenues, including transit and rail, traffic safety and aviation.

Appropriations:

(a) Personal services and employee benefits	3,381.2	519.4	1,290.2	5,190.8
(b) Contractual services	18,878.1	2,000.0	11,346.8	32,224.9
(c) Other	9,132.3	1,000.0	19,772.8	29,905.1

The internal services funds/interagency transfers appropriations to the modal program of the department of transportation includes three million two hundred nineteen thousand four hundred dollars (\$3,219,400) from the weight distance tax identification permit fund to hire contract workers, purchase equipment for commercial truck permitting and maintain and fund capital improvements for the port-of-entry facilities.

Performance measures:					
(a) Outcome:	Number of traffic fatalities				<355
(b) Outcome:	Number of alcohol-related traffic fatalities				<135
	Subtotal				915,281.2
TOTAL TRANSPORTATION	510,219.0	3,519.4	401,542.8		915,281.2

I. OTHER EDUCATION

PUBLIC EDUCATION DEPARTMENT:

The purpose of the public education department is to provide a public education to all students. The secretary of public education is responsible to the governor for the operation of the department. It is the secretary's duty to manage all operations of the department and to administer and enforce the laws with which the secretary or the department is charged. To do this, the department is focusing on leadership and support, productivity, building capacity, accountability, communication and fiscal responsibility.

Appropriations:

(a) Personal services and employee benefits	11,162.1	2,895.6	45.0	6,848.5	20,951.2
(b) Contractual services	1,406.4	783.3		19,331.9	21,521.6
(c) Other	678.1	455.2		3,571.8	4,705.1

The public education department shall investigate and report the planning and startup costs for new charter schools, expansion costs for charter schools adding new grade levels and sources of funding used to establish or expand charter schools in the annual report pursuant to Section 22-8B-17.1 NMSA 1978.

~~[Performance measures:]~~

~~(a) Output: Number of eligible children served in state-funded
prekindergarten 13,700~~

~~(b) Output: Number of eligible children served in kindergarten-three
plus 65,000~~

~~(c) Output: Number of eligible children served in kindergarten-five plus 98,000]~~

LINE-ITEM VETO

Subtotal 47,177.9

REGIONAL EDUCATION COOPERATIVES:

Appropriations:

(a) Northwest	103.9	3,953.1		786.7	4,843.7
(b) Northeast	103.9	376.9		445.5	926.3
(c) Lea county	103.9	840.9	1,410.4	330.6	2,685.8
(d) Pecos valley	103.9	260.4		512.8	877.1
(e) Southwest	103.9	975.0	133.0	600.0	1,811.9
(f) Central	103.9	3,082.1		4,455.0	7,641.0
(g) High plains	103.9	4,132.4		262.5	4,498.8
(h) Clovis	103.9	478.7		973.9	1,556.5
(i) Ruidoso	103.9	15,000.0		3,000.0	18,103.9
(j) Four corners	103.9	500.0			603.9

The general fund appropriation to the four corners regional education cooperative is contingent on authorization of a four corners regional education cooperative by the public education department pursuant to Section 22-2B-3 NMSA 1978 and full operation in fiscal year 2020.

Subtotal			43,548.9
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PUBLIC EDUCATION DEPARTMENT SPECIAL APPROPRIATIONS:

Appropriations:

(a) Principals pursuing excellence	2,500.0		2,500.0
(b) Career technical education pilot	3,000.0		3,000.0
(c) School-based health centers	1,350.0		1,350.0
(d) Teachers pursuing excellence	2,500.0		2,500.0
(e) Breakfast for elementary students	1,600.0		1,600.0
(f) Public pre-kindergarten fund	39,000.0	3,500.0	42,500.0
(g) Graduation, reality and dual-role skills	200.0	200.0	400.0
(h) Community school initiatives	2,000.0		2,000.0
(i) Indigenous education initiatives	1,000.0		1,000.0
(j) New Mexico grown fresh fruits and vegetables	200.0		200.0
(k) Advanced placement	1,500.0		1,500.0
(l) Bilingual and multicultural education support	2,500.0		2,500.0

(m) Science, technology, engineering, arts and math initiatives	5,000.0		5,000.0
(n) Teacher and administrator evaluation system	1,000.0	1,000.0	2,000.0

The internal service funds/interagency transfers appropriation to the public pre-kindergarten fund of the public education department is from the federal temporary assistance for needy families block grant to New Mexico.

The appropriations to the public pre-kindergarten fund of the public education department include sufficient funding to continue the established extended-day prekindergarten pilot program during the 2019-2020 school year.

~~[The secretary of public education shall not make an award to a prekindergarten program at a school district or charter school that provides fewer days each week for its prekindergarten program than the number of school days provided each week in that school district or charter school for other grade levels during the school year.]~~ *LINE-ITEM VETO*

The general fund appropriation to the public education department for bilingual and multicultural education support shall be used to support English learners and bilingual and multicultural education program instruction, meet statutory requirements pursuant to the Bilingual Multicultural Education Act and provide local professional learning opportunities and resources for students, parents and school personnel on culturally and linguistically responsive instruction.

The general fund appropriation to the public education department for school-based health centers shall be used to establish or expand school-based health centers statewide.

The general fund appropriation to the public education department for the career technical education pilot is contingent on enactment of a bill in the first session of the fifty-fourth legislature establishing a career technical education pilot program. A school district or charter school may submit an application to the public education department for an allocation from the career technical education pilot appropriation to develop a new industry-validated career pathway aligned to department-approved academic content and performance standards.

The internal service funds/interagency transfers appropriation to the graduation, reality and dual-role skills program of the public education department is from the federal temporary assistance for needy families block grant to New Mexico.

The general fund appropriation to the public education department for community school initiatives shall be used to establish, expand or support community school initiatives pursuant to Section 22-32-4 NMSA 1978.

The general fund appropriation to the public education department for indigenous education initiatives shall be used to engage a cohort of public schools focused on transforming educational opportunities available to native students through additional resources, key supports, innovation and a community-led school engagement process.

The other state funds appropriation to the public education department for the teacher and administrator evaluation system is from the educator licensure fund.

Except for appropriations to the public pre-kindergarten fund, any unexpended balances in the special appropriations to the public education department remaining at the end of fiscal year 2020 from appropriations made from the general fund shall revert to the general fund.

Subtotal 68,050.0

PUBLIC SCHOOL FACILITIES AUTHORITY:

The purpose of the public school facilities authority is to oversee public school facilities in all eighty-nine school districts to ensure correct and prudent planning, building and maintenance using state funds and to ensure adequacy of all facilities in accordance with public education department approved educational programs.

Appropriations:		
(a) Personal services and employee benefits	4,127.6	4,127.6
(b) Contractual services	94.7	94.7
(c) Other	1,124.5	1,124.5

The other state funds appropriation to the public school facilities authority includes five million three hundred forty-six thousand eight hundred dollars (\$5,346,800) from the public school capital outlay fund less any amount in excess of the limitation established in Section 22-24-4(G) NMSA 1978.

Subtotal					5,346.8
TOTAL OTHER EDUCATION	77,635.6	40,080.4	5,288.4	41,119.2	164,123.6

J. HIGHER EDUCATION

On approval of the higher education department, the state budget division of the department of finance and administration may approve increases in budgets of agencies in this subsection, with the exception of the policy development and institutional financial oversight program of the higher education department, whose other state funds exceed amounts specified. In approving budget increases, the director of the state budget division shall advise the legislature through its officers and appropriate committees, in writing, of the justification for the approval.

The department of finance and administration shall, as directed by the secretary of higher education, withhold from an educational institution or program that the higher education department places under an enhanced fiscal oversight program a portion, up to ten percent, of the institution's or program's general fund allotments. On written notice by the secretary of higher education that the institution or program has made sufficient progress toward satisfying the requirements imposed by the higher education department under the enhanced fiscal oversight program, the department of finance and administration shall release the withheld allotments. Money withheld in accordance with this provision and not released at the end of fiscal year 2020 shall revert to the general fund. The secretary of the department of finance and administration shall advise the legislature through its officers and appropriate committees, in writing, of the status of all withheld allotments.

Except as otherwise provided, any unexpended balances remaining at the end of fiscal year 2020 shall not revert to the general fund.

HIGHER EDUCATION DEPARTMENT:

(1) Policy development and institutional financial oversight:

The purpose of the policy development and institutional financial oversight program is to provide a continuous process of statewide planning and oversight within the department's statutory authority for the state higher education system and to ensure both the efficient use of state resources and progress in implementing a statewide agenda.

Appropriations:

(a) Personal services and employee benefits	2,939.1	242.0	43.3	1,127.6	4,352.0
(b) Contractual services	862.5	151.5		867.0	1,881.0
(c) Other	12,845.5	114.6	242.4	7,260.5	20,463.0

The general fund appropriation to the policy development and institutional financial oversight program of the higher education department in the other category includes eight million two hundred thirty-five thousand nine hundred dollars (\$8,235,900) to provide adults with education services and materials and access to high school equivalency tests, of which, up to three million dollars (\$3,000,000) in fiscal year 2020 may be used to pilot adult education services for students involved in the criminal justice system and prioritize services for adults impacted contingent on the enactment of Senate Bill 1 or House Bill 5 in the first session of the fifty-fourth legislature establishing a maximum age of twenty-two in public schools,

one hundred thirty-eight thousand three hundred dollars (\$138,300) for workforce development programs at community colleges that primarily educate and retrain recently displaced workers, four hundred sixty-one thousand one hundred dollars (\$461,100) for the high skills program, ninety-two thousand six hundred dollars (\$92,600) for English-learner teacher preparation and one hundred eighty-three thousand nine hundred dollars (\$183,900) to the tribal college dual-credit program fund.

The general fund appropriation to the policy development and institutional financial oversight program of the higher education department in the other category includes twenty-six thousand (\$26,000) for state higher education officer annual dues and one hundred fifty-three thousand dollars (\$153,000) for the western interstate commission on higher education dues.

The general fund appropriation to the policy development and institutional financial oversight program of the higher education department in the contractual services category includes six hundred ninety-six thousand one hundred dollars (\$696,100) for an adult literacy program.

The general fund appropriation to the policy development and institutional financial oversight program of the higher education department in the other category includes one million dollars (\$1,000,000) for creating centers of excellence at higher education institutions to promote development in the cybersecurity, sustainable agriculture, renewable energy industries and bioscience.

Any unexpended balances in the policy development and institutional financial oversight program of the higher education department remaining at the end of fiscal year 2020 from appropriations made from the

general fund shall revert to the general fund.

Performance measures:

(a) Outcome:	Percent of unemployed adult education students obtaining employment two quarters after exit	40%
(b) Outcome:	Percent of adult education high school equivalency test takers who earn a high school equivalency credential	85%
(c) Outcome:	Percent of high-school-equivalency graduates entering postsecondary degree or certificate programs	50%

(2) Student financial aid:

The purpose of the student financial aid program is to provide access, affordability and opportunities for success in higher education to students and their families so that all New Mexicans may benefit from postsecondary education and training beyond high school.

Appropriations:

(a) Contractual services	20.0				20.0
(b) Other	22,173.2	150.0	42,030.0	340.0	64,693.2

Performance measures:

(a) Explanatory:	Percent of eligible state loan repayment applicants receiving funds
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Subtotal	91,409.2
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UNIVERSITY OF NEW MEXICO:

(1) Main campus:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the workforce, compete and advance in the new economy and contribute to social advancement through informed citizenship.

Appropriations:

(a) Instruction and general purposes	188,848.8	186,115.0	3,919.0	378,882.8
(b) Other		135,681.0	143,389.0	279,070.0
(c) Athletics	3,741.5	28,607.0	31.0	32,379.5
(d) Educational television	1,092.3	6,608.0		7,700.3
(e) Judicial education center	400.0			400.0
(f) Research instruction and general adjustment	235.4			235.4

The general fund appropriation to the athletics department of the university of New Mexico may be used for the reinstatement of the national collegiate athletic association sports women's ski team, women's beach volleyball team, men's ski team and men's soccer team.

Performance measures:

(a) Outcome:	Percent of a cohort of first-time, full-time, degree-seeking freshmen who complete a baccalaureate program within one hundred fifty percent of standard graduation time	50%
(b) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	80%

(2) Gallup branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit

and noncredit postsecondary education and training opportunities to New Mexicans so they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Instruction and general purposes	8,622.0	6,227.0	410.0	15,259.0
(b) Other		1,502.0	824.0	2,326.0
(c) Dual-credit adjustment	5.6			5.6

Performance measures:

(a) Outcome:	Percent of first-time, full-time freshmen retained to the third semester			65.5%
(b) Outcome:	Percent of a cohort of first-time, full-time, degree-seeking or certificate-seeking students who complete an academic program within one hundred fifty percent of standard graduation time			14%

(3) Los Alamos branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Instruction and general purposes	1,814.5	2,717.0	481.0	5,012.5
(b) Other		381.0	356.0	737.0
(c) Dual-credit adjustment	23.5			23.5

Performance measures:

(a) Outcome:	Percent of a cohort of first-time, full-time, degree-seeking or certificate-seeking students who complete an			11%
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	academic program within one hundred fifty percent of standard graduation time		
(b) Outcome:	Percent of first-time, full-time freshmen retained to the third semester		57%

(4) Valencia branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Instruction and general purposes	5,474.3	5,004.4	430.7	10,909.4
(b) Other		840.3	1,975.6	2,815.9
(c) Dual-credit adjustment				

Performance measures:	100.5			100.5
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(a) Outcome:	Percent of a cohort of first-time, full-time, degree- seeking or certificate-seeking students who complete an academic program within one hundred fifty percent of standard graduation time		18%
(b) Outcome:	Percent of first-time, full-time freshmen retained to the third semester		65%

(5) Taos branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Instruction and general purposes	3,540.5	3,235.0	838.0	7,613.5
(b) Other		1,196.0	1,462.0	2,658.0
(c) Dual-credit adjustment	124.5			124.5

Performance measures:

(a) Outcome:	Percent of a cohort of first-time, full-time, degree-seeking or certificate-seeking students who complete an academic program within one hundred fifty percent of standard graduation time	17%
(b) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	50%

(6) Research and public service projects:

Appropriations:

(a) Veterans student services	250.0	250.0
(b) Judicial selection	21.4	21.4
(c) Southwest research center	1,059.8	1,059.8
(d) Substance abuse program	69.0	69.0
(e) Resource geographic information system	61.7	61.7
(f) Southwest Indian law clinic	193.0	193.0
(g) Geospatial and population studies/bureau of business and economic research	360.2	360.2
(h) New Mexico historical review	44.6	44.6
(i) Ibero-American education	83.7	83.7
(j) Manufacturing engineering program	523.1	523.1
(k) Wildlife law education	90.0	90.0

(l) Morrissey hall programs	103.6	103.6
(m) Disabled student services	176.1	176.1
(n) Minority student services	706.6	706.6
(o) Community-based education	530.2	530.2
(p) Corrine Wolfe children's law center	160.0	160.0
(q) Utton transboundary resources center	321.9	321.9
(r) Student mentoring program	273.2	273.2
(s) Land grant studies	122.1	122.1
(t) Gallup branch - nurse expansion	192.1	192.1
(u) Valencia branch - nurse expansion	155.8	155.8
(v) Taos branch - nurse expansion	223.8	223.8
(w) Gallup branch - workforce development programs	200.0	200.0

(7) Health sciences center:

The purpose of the instruction and general program at the university of New Mexico health sciences center is to provide educational, clinical and research support for the advancement of health of all New Mexicans.

Appropriations:

(a) Instruction and general purposes	60,124.0	57,896.6	4,000.0	122,020.6
(b) Other		388,000.0	94,900.0	482,900.0

The other state funds appropriation to the health sciences center of the university of New Mexico in the

instruction and general purposes category includes five hundred eighty-one thousand five hundred dollars (\$581,500) from the tobacco settlement program fund.

Performance measures:

(a) Output:	Pass rate of medical school students on United States medical licensing examination, step two clinical skills exam, on first attempt	96%
(b) Outcome:	Percent of nursing graduates passing the requisite licensure exam on first attempt	89%

(8) Health sciences center research and public service projects:

Appropriations:

(a) Office of medical investigator	5,313.4	4,600.0	2.5	9,915.9
(b) Native American suicide prevention	92.8	100.0		192.8
(c) Minority student services	182.9			182.9
(d) Children's psychiatric hospital	7,076.6	11,800.0		18,876.6
(e) Carrie Tingley hospital	5,201.1	16,200.0		21,401.1
(f) Newborn intensive care	3,145.8	2,100.0		5,245.8
(g) Pediatric oncology	1,220.9	250.0		1,470.9
(h) Pediatric speciality education		250.0		250.0
(i) Internal medicine residencies	999.6			999.6
(j) Poison and drug information center	1,493.0	600.0	108.0	2,201.0
(k) Cancer center	3,299.0	5,300.0	13,200.0	21,799.0
(l) Genomics, biocomputing and environmental health		1,300.0	6,500.0	7,800.0

	research		
(m)	Trauma specialty education	250.0	250.0
(n)	Native American health center	255.7	255.7
(o)	Nurse expansion	1,012.3	1,012.3
(p)	Graduate nurse education	1,514.7	1,514.7
(q)	Psychiatry residencies	377.2	377.2
(r)	General surgery/family community medicine residencies	313.9	313.9
(s)	Child abuse evaluation center	150.0	150.0
(t)	Hepatitis community health outcomes	2,196.1	2,196.1

The health sciences center shall seek federal medicaid matching funds from the human services department to leverage general fund appropriations made to the hepatitis community health outcomes research and public service project.

The other state funds appropriations to the health sciences center research and public service projects program of the university of New Mexico include two million two hundred seventy-seven thousand six hundred dollars (\$2,277,600) from the tobacco settlement program fund.

Subtotal			1,453,501.4
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NEW MEXICO STATE UNIVERSITY:

(1) Main campus:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the workforce, compete and advance in the new economy and contribute to social advancement through informed citizenship.

Appropriations:		27.1		27.1
(a) Other				
(b) Instruction and general purposes	116,434.2	104,500.0	2,200.0	223,134.2
(c) Other		57,600.0	77,600.0	135,200.0
(d) Athletics	3,658.8	12,300.0		15,958.8
(e) Educational television	1,023.7	1,000.0		2,023.7
(f) Research instruction and general adjustment		105.3		105.3
Performance measures:				
(a) Outcome:	Percent of a cohort of first-time, full-time, degree-seeking freshmen who complete a baccalaureate program within one hundred fifty percent of standard graduation time			48%
(b) Outcome:	Percent of first-time, full-time freshmen retained to the third semester			80%

(2) Alamogordo branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:				
(a) Instruction and general	7,080.5	3,600.0	400.0	11,080.5

purposes				
(b) Other		700.0	1,574.0	2,274.0
(c) Dual-credit adjustment	31.2			31.2
Performance measures:				
(a) Outcome:	Percent of a cohort of first-time, full-time, degree-seeking or certificate-seeking students who complete an academic program within one hundred fifty percent of standard graduation time			14%
(b) Outcome:	Percent of first-time, full-time freshmen retained to the third semester			55%

(3) Carlsbad branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:				
(a) Instruction and general purposes	4,051.1	8,800.0	600.0	13,451.1
(b) Other		600.0	1,500.0	2,100.0
(c) Dual-credit adjustment	78.3			78.3
Performance measures:				
(a) Outcome:	Percent of a cohort of first-time, full-time, degree-seeking or certificate-seeking students who complete an academic program within one hundred fifty percent of standard graduation time			16%
(b) Outcome:	Percent of first-time, full-time freshmen retained to the third semester			55%

(4) Dona Ana branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Instruction and general purposes	22,793.9	16,900.0	1,200.0	40,893.9
(b) Other		3,400.0	14,400.0	17,800.0
(c) Dual-credit adjustment	197.6			197.6

Performance measures:

(a) Outcome:	Percent of a cohort of first-time, full-time, degree-seeking or certificate-seeking students who complete an academic program within one hundred fifty percent of standard graduation time	15%
(b) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	60%

(5) Grants branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Instruction and general purposes	3,398.0	1,500.0	1,200.0	6,098.0
(b) Other		400.0	1,700.0	2,100.0
(c) Dual-credit adjustment	49.5			49.5

Performance measures:

(a) Outcome:	Percent of a cohort of first-time, full-time, degree-seeking or certificate-seeking students who complete an academic program within one hundred fifty percent of standard graduation time	20%
(b) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	53%

(6) Department of agriculture:

Appropriations:	11,558.2	4,234.9	1,751.1	17,544.2
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~~[The general fund appropriation includes sufficient funding to the department of agriculture at New Mexico state university to promulgate rules to solely regulate seed.]~~ *LINE-ITEM VETO*

(7) Agricultural experiment station:

Appropriations:	14,130.7	3,743.0	14,250.0	32,123.7
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(8) Cooperative extension service:

Appropriations:	12,781.2	8,570.0	5,100.0	26,451.2
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(9) Research and public service projects:

Appropriations:				
(a) Autism program	200.0			200.0
(b) Sunspot solar observatory consortium	100.0			100.0
(c) STEM alliance for minority	307.6			307.6

	participation		
(d)	Mental health nurse practitioner	643.9	643.9
(e)	Water resource research institute	916.0	916.0
(f)	Indian resources development	275.9	275.9
(g)	Manufacturing sector development program	513.9	513.9
(h)	Arrowhead center for business development	322.2	322.2
(i)	Nurse expansion	700.2	700.2
(j)	Alliance teaching and learning advancement	150.0	150.0
(k)	College assistance migrant program	202.0	202.0
(l)	Carlsbad branch - manufacturing sector development program	221.0	221.0
(m)	Carlsbad branch - nurse expansion	108.9	108.9
(n)	Dona Ana branch - dental hygiene program	206.0	206.0
(o)	Dona Ana branch - nurse expansion	193.5	193.5
	Subtotal		553,783.4

NEW MEXICO HIGHLANDS UNIVERSITY:

(1) Main campus:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the workforce,

compete and advance in the new economy and contribute to social advancement through informed citizenship.

Appropriations:

(a) Instruction and general purposes	27,917.4	12,216.7	172.5	40,306.6
(b) Other		13,500.0	9,500.0	23,000.0
(c) Athletics	2,329.9	500.0		2,829.9
(d) Dual-credit adjustment	19.1			19.1

Performance measures:

(a) Output:	Percent of a cohort of first-time, full-time, degree-seeking freshmen who complete a baccalaureate program within one hundred fifty percent of standard graduation time	22%
(b) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	53%

(2) Research and public service projects:

Appropriations:

(a) Native american social work institute	50.0	50.0
(b) Advanced placement	213.3	213.3
(c) Minority student services	520.4	520.4
(d) Forest and watershed institute	294.9	294.9
(e) Nurse expansion	211.0	211.0
Subtotal		67,445.2

WESTERN NEW MEXICO UNIVERSITY:

(1) Main campus:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the workforce, compete and advance in the new economy and contribute to social advancement through informed citizenship.

Appropriations:

(a) Instruction and general purposes	17,464.6	13,202.0	200.0	30,866.6
(b) Other		6,600.0	7,000.0	13,600.0
(c) Athletics	2,090.6	600.0		2,690.6
(d) Dual-credit adjustment	179.0			179.0

Performance measures:

(a) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	57%
(b) Output:	Percent of a cohort of first-time, full-time, degree-seeking freshmen who complete a baccalaureate program within one hundred fifty percent of standard graduation time	25%

(2) Research and public service projects:

Appropriations:

(a) Instructional television	72.4	72.4
(b) Truth or Consequences and Deming expansion	300.0	300.0
(c) Pharmacy and phlebotomy programs	57.2	57.2
(d) Web-based teacher licensure	129.2	129.2
(e) Child development center	205.2	205.2
(f) Nurse expansion	857.8	857.8
Subtotal		48,958.0

EASTERN NEW MEXICO UNIVERSITY:

(1) Main campus:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the workforce, compete and advance in the new economy and contribute to social advancement through informed citizenship.

Appropriations:

(a) Instruction and general purposes	27,782.6	19,500.0	2,300.0	49,582.6
(b) Other		13,200.0	27,000.0	40,200.0
(c) Athletics	2,323.6	2,200.0	11.0	4,534.6
(d) Educational television	1,037.6	1,400.0	25.0	2,462.6
(e) Dual-credit adjustment	176.8			176.8

Performance measures:

(a) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	65%
(b) Output:	Percent of a cohort of first-time, full-time, degree-seeking freshmen who complete a baccalaureate program within one hundred fifty percent of standard graduation time	34%

(2) Roswell branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Instruction and general purposes	11,441.6	6,500.0	1,400.0	19,341.6
(b) Other		3,700.0	6,000.0	9,700.0
(c) Dual-credit adjustment	136.4			136.4

Performance measures:

(a) Outcome:	Percent of a cohort of first-time, full-time, degree-seeking or certificate-seeking students who complete an academic program within one hundred fifty percent of standard graduation time	30%
(b) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	55%

(3) Ruidoso branch:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Instruction and general purposes	2,024.0	1,800.0	700.0	4,524.0
(b) Other		31.2	1,500.0	1,531.2
(c) Dual-credit adjustment	31.5			31.5

Performance measures:

(a) Outcome:	Percent of a cohort of first-time, full-time, degree-seeking or certificate-seeking students who complete an academic program within one hundred fifty percent of standard graduation time	26%
(b) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	40%

(4) Research and public service projects:

Appropriations:

(a) Blackwater draw site and museum	89.4	32.0	121.4
(b) Student success programs	417.0		417.0
(c) Nurse expansion	328.0		328.0
(d) At-risk student tutoring	224.6		224.6
(e) Allied health	142.4		142.4
(f) Roswell branch - nurse expansion	100.0		100.0
(g) Roswell branch - airframe mechanics	75.1		75.1
(h) Roswell branch - special services program	118.6		118.6
Subtotal			133,748.4

NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY:

(1) Main campus:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the workforce, compete and advance in the new economy and contribute to social advancement through informed citizenship.

Appropriations:

(a) Instruction and general purposes	27,539.8	24,500.0	52,039.8
(b) Other		20,981.0	15,275.0
(c) Research instruction and	59.3		59.3

general adjustment

Performance measures:

(a) Output:	Percent of a cohort of first-time, full-time, degree-seeking freshmen who complete a baccalaureate program within one hundred fifty percent of standard graduation time	50%
(b) Outcome:	Percent of first-time, full-time freshman retained to the third semester	80%

(2) Bureau of mine safety:

Appropriations:	314.4	255.0	569.4
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(3) Bureau of geology and mineral resources:

Appropriations:	4,121.8	1,122.0	295.0	5,538.8
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The general fund appropriation to the bureau of geology and mineral resources program of the New Mexico institute of mining and technology includes one hundred thousand dollars (\$100,000) from federal Mineral Leasing Act receipts.

(4) Petroleum recovery research center:

Appropriations:	1,864.6	553.0	4,539.0	6,956.6
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(5) Geophysical research center:

Appropriations:	1,088.7	1,045.0	1,934.0	4,067.7
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(6) Research and public service projects:

Appropriations:

(a) Cybersecurity education and research center	150.0			150.0
(b) Energetic materials research center	788.9	5,425.0	27,848.0	34,061.9
(c) Science and engineering fair	200.4			200.4
(d) Institute for complex additive systems analysis	805.9	805.9	1,392.0	2,575.9
(e) Cave and karst research	358.6	62.0		420.6
(f) Homeland security center	519.8		3,583.0	4,102.8
Subtotal				146,999.2

NORTHERN NEW MEXICO COLLEGE:

(1) Main campus:

The purpose of the instruction and general program is to provide education services designed to meet the intellectual, educational and quality of life goals associated with the ability to enter the workforce, compete and advance in the new economy and contribute to social advancement through informed citizenship.

Appropriations:

(a) Instruction and general purposes	10,039.3	5,000.0	4,200.0	19,239.3
(b) Other		2,900.0	4,700.0	7,600.0
(c) Athletics	559.1	200.0		759.1
(d) Dual-credit adjustment	56.4			56.4

Performance measures:

(a) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	66.5%
(b) Output:	Percent of a cohort of first-time, full-time, degree-seeking freshmen who complete a baccalaureate program within one hundred fifty percent of standard graduation time	25%

(2) Research and public service projects:

Appropriations:			
(a) Nurse expansion	233.0		233.0
(b) Science, technology, engineering, arts and math initiatives	137.3		137.3
(c) Veterans center	116.9		116.9
Subtotal			28,142.0

SANTA FE COMMUNITY COLLEGE:

(1) Main campus:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:				
(a) Instruction and general purposes	10,006.2	26,473.0	3,300.0	39,779.2
(b) Other		1,374.0	15,477.0	16,851.0
(c) Dual-credit adjustment	68.1			68.1

Performance measures:

(a) Outcome:	Percent of a cohort of first-time, full-time, degree-seeking or certificate-seeking students who complete an academic program within one hundred fifty percent of standard graduation time	18%
(b) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	50%

(2) Research and public service projects:

Appropriations:

(a) First born, home visiting and technical assistance	150.0		150.0
(b) Small business development centers	4,141.6	2,600.0	6,741.6
(c) Nurse expansion	253.9		253.9
Subtotal			63,843.8

CENTRAL NEW MEXICO COMMUNITY COLLEGE:

(1) Main campus:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Instruction and general purposes	57,937.8	91,000.0	4,000.0	152,937.8
(b) Other		7,000.0	22,000.0	29,000.0

(c) Dual-credit adjustment	349.9		349.9
Performance measures:			
(a) Outcome:	Percent of a cohort of first-time, full-time, degree-seeking or certificate-seeking students who complete an academic program within one hundred fifty percent of standard graduation time		27%
(b) Outcome:	Percent of first-time, full-time freshmen retained to the third semester		64%

(2) Research and public service projects:

Appropriations:			
(a) Nurse expansion	179.6		179.6
Subtotal			182,467.3

LUNA COMMUNITY COLLEGE:

(1) Main campus:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:				
(a) Instruction and general purposes	6,778.4	87.1	182.1	7,047.6
(b) Other		1,808.3	58.3	1,866.6
(c) Athletics	480.3			480.3
(d) Dual-credit adjustment	22.9			22.9

Performance measures:

(a) Outcome:	Percent of a cohort of first-time, full-time, degree-seeking or certificate-seeking students who complete an academic program within one hundred fifty percent of standard graduation time	35%
(b) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	53%

(2) Research and public service projects:

Appropriations:

(a) Nurse expansion	267.0	267.0
(b) Student retention and completion	530.6	530.6
Subtotal		10,215.0

MESALANDS COMMUNITY COLLEGE:

(1) Main campus:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Instruction and general purposes	3,927.5	962.0	550.0	5,439.5
(b) Other		600.0	700.0	1,300.0
(c) Athletics	228.3			228.3
(d) Dual-credit adjustment	28.7			28.7

Performance measures:

(a) Outcome:	Percent of a cohort of first-time, full-time, degree-seeking or certificate-seeking students who complete an academic program within one hundred fifty percent of standard graduation time	44%
(b) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	65%

(2) Research and public service projects:

Appropriations:

(a) Wind training center	113.4	113.4
Subtotal		7,109.9

NEW MEXICO JUNIOR COLLEGE:

(1) Main campus:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Instruction and general purposes	5,522.5	15,000.0	450.0	20,972.5
(b) Other		3,600.0	2,000.0	5,600.0
(c) Athletics	553.7			553.7
(d) Dual-credit adjustment	55.7			55.7

Performance measures:

(a) Outcome:	Percent of a cohort of first-time, full-time, degree-seeking or certificate-seeking students who complete an academic program within one hundred fifty percent of standard graduation time	36%
(b) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	60%

(2) Research and public service projects:

Appropriations:

(a) Oil and gas management program	171.3	171.3
(b) Nurse expansion	299.9	299.9
(c) Lea county distance education consortium	29.2	29.2
Subtotal		27,682.3

SAN JUAN COLLEGE:

(1) Main campus:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Instruction and general purposes	23,775.6	34,000.0	6,000.0	63,775.6
(b) Other		14,000.0	22,000.0	36,000.0
(c) Dual-credit adjustment	106.8			106.8

Performance measures:

(a) Outcome:	Percent of a cohort of first-time, full-time, degree-seeking or certificate-seeking students who complete an academic program within one hundred fifty percent of standard graduation time	26%
(b) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	62%

(2) Research and public service projects:

Appropriations:

(a) Dental hygiene program	175.0	175.0
(b) Nurse expansion	250.0	250.0
Subtotal		100,307.4

CLOVIS COMMUNITY COLLEGE:

(1) Main campus:

The purpose of the instruction and general program at New Mexico's community colleges is to provide credit and noncredit postsecondary education and training opportunities to New Mexicans so they have the skills to be competitive in the new economy and are able to participate in lifelong learning activities.

Appropriations:

(a) Instruction and general purposes	9,501.9	5,500.0	1,200.0	16,201.9
(b) Other		500.0	5,900.0	6,400.0
(c) Dual-credit adjustment	58.1			58.1

Performance measures:

(a) Outcome:	Percent of a cohort of first-time, full-time, degree-seeking or certificate-seeking students who complete an academic program within one hundred fifty percent of standard graduation time	35%
(b) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	63%

(2) Research and public service projects:

Appropriations:			
(a) Nurse expansion	272.9		272.9
Subtotal			22,932.9

NEW MEXICO MILITARY INSTITUTE:

(1) Main campus:

The purpose of the New Mexico military institute is to provide college-preparatory instruction for students in a residential, military environment culminating in a high school diploma or associates degree.

Appropriations:				
(a) Instruction and general purposes	1,328.5	26,300.0	225.0	27,853.5
(b) Other		7,600.0	1,130.0	8,730.0
(c) Athletics	350.6	500.0		850.6
(d) Knowles legislative scholarship program	1,284.7			1,284.7
Performance measures:				
(a) Outcome:	Average American college testing composite scores for graduating high school seniors			22

(b) Outcome:	Proficiency profile reading scores for graduating college sophomores	117.1
Subtotal		38,718.8

NEW MEXICO SCHOOL FOR THE BLIND AND VISUALLY IMPAIRED:

(1) Main campus:

The purpose of the New Mexico school for the blind and visually impaired program is to provide the training, support and resources necessary to prepare blind and visually impaired children of New Mexico to participate fully in their families, communities and workforce and to lead independent, productive lives.

Appropriations:

(a) Instruction and general purposes	1,004.8	15,207.0	131.0	16,342.8
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Performance measures:

(a) Output:	Number of New Mexico teachers who complete a personnel preparation program to become a teacher of the visually impaired	16
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(2) Research and public service projects:

Appropriations:

(a) Early childhood center	361.9	361.9
(b) Low vision clinic programs	111.1	111.1
Subtotal		16,815.8

NEW MEXICO SCHOOL FOR THE DEAF:

(1) Main campus:

The purpose of the New Mexico school for the deaf program is to provide a school-based comprehensive, fully accessible and language-rich learning environment for its students who are deaf and hard-of-hearing and to work collaboratively with families, agencies and communities throughout the state to meet the unique communication, language and learning needs of children and youth who are deaf and hard-of-hearing.

Appropriations:

(a) Instruction and general purposes	3,876.4	12,100.0	300.0	16,276.4
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Performance measures:

(a) Outcome:	Rate of transition to postsecondary education, vocational-technical training school, junior colleges, work training or employment for graduates based on a three-year rolling average			80%
(b) Outcome:	Percent of first-year signers who demonstrate improvement in American sign language based on fall or spring assessments			100%

(2) Research and public service projects:

Appropriations:

(a) Statewide outreach services	236.6			236.6	
Subtotal				16,513.0	
TOTAL HIGHER EDUCATION	838,321.8	1,516,025.6	42,315.7	613,929.9	3,010,593.0

K. PUBLIC SCHOOL SUPPORT

Except as otherwise provided, unexpended balances of appropriations made in this subsection shall not revert at the end of fiscal year 2020.

PUBLIC SCHOOL SUPPORT:

(1) State equalization guarantee distribution:

The purpose of public school support is to carry out the mandate to establish and maintain a uniform system of free public schools sufficient for the education of, and open to, all the children of school age in the state.

Appropriations:	3,068,803.4	5,000.0	3,073,803.4
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The rate of distribution of the state equalization guarantee distribution shall be based on a program unit value determined by the secretary of public education. The secretary of public education shall establish a preliminary unit value to establish budgets for the 2019-2020 school year and then, on verification of the number of units statewide for fiscal year 2020 but no later than January 31, 2020, the secretary of public education may adjust the program unit value. In setting the preliminary unit value and the final unit value in January, the public education department shall consult with the department of finance and administration, the legislative finance committee and the legislative education study committee.

The general fund appropriation to the state equalization guarantee distribution includes forty million four hundred thirty-three thousand dollars (\$40,433,000) contingent on enactment of House Bill 5 or Senate Bill 1 in the first session of the fifty-fourth legislature amending the School Personnel Act to

increase teacher and administrator minimum salary levels. The secretary of public education shall ensure that during fiscal year 2020 no full-time level one teacher receives a base salary less than forty-one thousand dollars (\$41,000), no full-time level two teacher receives a base salary less than fifty thousand dollars (\$50,000), no full-time level three-A teacher receives a base salary less than sixty thousand dollars (\$60,000) and no full-time level three-B school principal or level three-B assistant school principal receives a base salary less than sixty thousand dollars (\$60,000) multiplied by the applicable responsibility factor as defined in Subsection B of Section 22-10A-2 NMSA 1978.

The general fund appropriation to the state equalization guarantee distribution includes seventy-seven million seven hundred fifty-three thousand dollars (\$77,753,000) to provide a six percent salary increase to all licensed teachers whose primary duty is classroom instruction. This amount shall be provided separately and prior to any amendments to the statutory minimum salary of level one teachers, level two teachers and level three-A teachers in the School Personnel Act enacted in the first session of the fifty-fourth legislature. The secretary of public education shall not approve the operating budget of a school district or charter school that does not provide a six percent salary increase for all licensed teachers whose primary duty is classroom instruction.

The general fund appropriation to the state equalization guarantee distribution includes six million two hundred twenty-five thousand four hundred dollars (\$6,225,400) to provide a six percent salary increase to all licensed school principals and licensed assistant school principals whose primary duty is school administration. This amount shall be provided separately and prior to any amendments to the statutory minimum salary of level three-B administrators in the School Personnel Act enacted in the first session of

the fifty-fourth legislature. The secretary of public education shall not approve the operating budget of a school district or charter school that does not provide a six percent salary increase for all licensed school principals and licensed assistant school principals whose primary duty is school administration.

The general fund appropriation to the state equalization guarantee distribution includes thirty-seven million six hundred ninety-four thousand four hundred dollars (\$37,694,400) to provide a six percent salary increase for all instructional staff and other licensed and unlicensed staff, other than licensed teachers with a primary duty of classroom instruction and licensed school principals or licensed assistant school principals with a primary duty of school administration. Provided however that salary increases for district superintendents shall be established by the district school board. The secretary of public education shall not approve the operating budget of a school district or charter school that does not provide a six percent salary increase for all instructional staff and other licensed and unlicensed staff, other than licensed teachers with a primary duty of classroom instruction, or licensed school principals and licensed assistant school principals with a primary duty of school administration. The secretary of public education shall not approve the operating budget of a school district or charter school that does not prioritize salary increases for instructional staff or disproportionately allocates salary increases for central office administrators; provided that school districts and charter schools are encouraged to allocate average salary increases for all school staff the same as licensed teachers with a primary duty of classroom instruction.

The general fund appropriation to the state equalization guarantee distribution includes four million two hundred fifty thousand dollars (\$4,250,000) to provide public education employees eligible for coverage

under the Educational Retirement Act an employer-paid pension increase contingent on enactment of House Bill 501 or similar legislation in the first session of the fifty-fourth legislature amending the Educational Retirement Act to increase employer-paid pension contributions by twenty-five hundredths of one percent.

The general fund appropriation to the state equalization guarantee distribution includes one hundred three million two hundred eleven thousand eight hundred dollars (\$103,211,800) contingent on enactment of House Bill 5 or Senate Bill 1 in the first session of the fifty-fourth legislature amending the Public School Code to do the following: define a maximum age for a school-age person and a qualified student of twenty-two years old, increase the at-risk index multiplier to twenty-five hundredths, eliminate school size adjustments for schools in large school districts and establish a formula factor for schools in rural areas.

The general fund appropriation to the state equalization guarantee distribution includes sixty-two million four hundred ninety-seven thousand five hundred dollars (\$62,497,500) contingent on enactment of House Bill 5 or Senate Bill 1 in the first session of the fifty-fourth legislature amending the Public School Code to establish an extended learning time program factor in the public school funding formula for extended learning time programs. The secretary of public education shall consider those extended learning time programs eligible for state financial support and the amount of state funding available for extended learning time programs and determine, in consultation with the department of finance and administration, legislative finance committee and legislative education study committee, the programs and consequent numbers of students in extended learning time programs that will be used to calculate the number of

additional program units for extended learning time programs. Any amount of the sixty-two million four hundred ninety-seven thousand five hundred dollar (\$62,497,500) appropriation that is not distributed through the new extended learning time program factor, calculated by multiplying the final program unit value set for the 2019-2020 school year by the total extended learning time program units and subtracting that product from sixty-two million four hundred ninety-seven thousand five hundred dollars (\$62,497,500), shall be transferred to the public education reform fund.

The general fund appropriation to the state equalization guarantee distribution includes one hundred nineteen million eight hundred ninety-five thousand nine hundred dollars (\$119,895,900) contingent on enactment of House Bill 5 or Senate Bill 1 in the first session of the fifty-fourth legislature amending the Public School Code to establish a K-5 plus factor in the public school funding formula for K-5 plus programs. The secretary of public education shall consider those K-5 plus programs eligible for state financial support and the amount of state funding available for K-5 plus programs and determine, in consultation with the department of finance and administration, legislative finance committee and legislative education study committee, the programs and consequent numbers of students in K-5 plus programs that will be used to calculate the number of additional program units for K-5 plus programs. Any amount of the one hundred nineteen million eight hundred ninety-five thousand nine hundred dollar (\$119,895,900) appropriation that is not distributed through the new K-5 plus program factor, calculated by multiplying the final program unit value set for the 2019-2020 school year by the total K-5 plus program units and subtracting that product from one hundred nineteen million eight hundred ninety-five thousand nine hundred dollars (\$119,895,900), shall be transferred to the public education reform fund.

For fiscal year 2020, if the program cost made available is insufficient to meet the level of state support required by the special education maintenance of effort requirements of Part B of the federal Individuals with Disabilities Education Act, the public education department shall reduce the program cost in an amount that equals the projected shortfall and distribute that amount to school districts and charter schools in the same manner and on the same basis as the state equalization guarantee distribution to meet the level of support required by Part B of the federal Individuals with Disabilities Education Act for fiscal year 2020 and shall reduce the final unit value to account for the reduction.

After considering those elementary physical education programs eligible for state financial support and the amount of state funding available for elementary physical education, the secretary of public education shall annually determine the programs and the consequent numbers of students in elementary physical education that will be used to calculate the number of elementary physical education program units [~~provided that no school district or charter school shall generate elementary physical education program units in fiscal year 2020 in excess of the total average number of elementary school students enrolled on the second and third reporting date of the 2018-2019 school year multiplied by the cost differential factor of six one hundredths as established in Section 22-8-23.7 NMSA 1978.~~] *LINE-ITEM VETO*

The public education department shall monitor and evaluate the ways in which school districts and individual schools use funding distributed for at-risk program units, bilingual and multicultural education program units, extended learning time program units, K-5 plus program units, instructional materials and classroom instruction in fiscal year 2020 and report its findings and recommendations to the governor, legislative education study committee and legislative finance committee on or before December 1, 2019.

The general fund appropriation to the state equalization guarantee distribution includes sufficient funding for school districts and charter schools to purchase culturally appropriate instructional materials for eligible students. The public education department shall monitor and evaluate the extent to which schools purchase and use instructional materials relevant to the cultures, languages, history and experiences of culturally diverse students.

The public education department shall not approve the operating budget of any school district or charter school to operate a four-day school week during the 2019-2020 school year that did not provide a four-day school week during the 2018-2019 school year.

The public education department shall not approve the operating budget of any school district or charter school with fewer than fifty thousand students that spends less than one standard deviation below the average expenditure rate of comparable school districts and charter schools on instruction, student support services and instructional support services unless that school district or charter school demonstrates the budgeted spending level for instruction, student support services and instructional support services is sufficient to provide a free and appropriate public education to all students.

The public education department shall not approve the operating budget of any school district or charter school with greater than or equal to fifty thousand students that spends less than seventy-five percent of general fund appropriations on instruction, student support services and instructional support services unless that school district or charter school demonstrates the budgeted spending level for instruction, student support services and instructional support services is sufficient to provide a free

and appropriate public education to all students.

Funds appropriated from the general fund to the state equalization guarantee distribution or any cash balances derived from appropriations from the general fund to the state equalization guarantee distribution in any year shall not be used to fund any litigation against the state unless or until a court issues a final decision in favor of a plaintiff school district or charter school and all legal remedies have been exhausted.

The general fund appropriation to the public school fund shall be reduced by the amounts transferred to the public school fund from the current school fund and from federal Mineral Leasing Act receipts otherwise unappropriated.

The general fund appropriation to the state equalization guarantee distribution reflects the deduction of federal revenue pursuant to Paragraph (2) of Subsection C of Section 22-8-25 NMSA 1978 that includes payments to school districts and charter schools commonly known as "impact aid funds" pursuant to 20 U.S.C. 7701 et seq., and formerly known as "PL874 funds."

The other state funds appropriation is from the balances received by the public education department pursuant to Section 66-5-44 NMSA 1978.

~~[Within thirty calendar days of initial submission, the secretary of public education shall process and pay each request for reimbursement submitted to the public education department by a school district or charter school.]~~ *LINE-ITEM VETO*

The department of finance and administration may adjust a school district's or charter school's monthly state equalization guarantee progress payment to provide flexibility to meet cash flow needs, provided that no school district or charter school shall receive an annual state equalization guarantee distribution that is more than their proportionate fiscal year 2020 share.

Any unexpended balances in the authorized distributions remaining at the end of fiscal year 2020 from appropriations made from the general fund shall revert to the general fund.

Performance measures:

(a) Outcome:	Percent of fourth-grade students who achieve proficiency or above on the standards-based assessment in reading	30%
(b) Outcome:	Percent of fourth-grade students who achieve proficiency or above on the standards-based assessment in mathematics	30%
(c) Outcome:	Percent of eighth-grade students who achieve proficiency or above on the standards-based assessment in reading	30%
(d) Outcome:	Percent of eighth-grade students who achieve proficiency or above on the standards-based assessment in mathematics	30%
(e) Quality:	Current four-year cohort graduation rate using shared accountability	75%
(f) Outcome:	Percent of dollars budgeted by districts with fewer than 750 members for instructional support, budget categories 1000, 2100 and 2200	65%
(g) Outcome:	Percent of dollars budgeted by districts with 750 members or greater for instructional support, budget categories 1000, 2100 and 2200	75%
(h) Outcome:	Percent of dollars budgeted by charter schools for instructional support, budget categories 1000, 2100 and 2200	68%
(i) Outcome:	Percent of fifth-grade students who achieve proficiency	45%

(j) Outcome:	or above on the standards-based assessment in science Percent of eighth-grade students who achieve proficiency or above on the standards-based assessment in science	45%] LINE-ITEM VETO
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(2) Transportation distribution:

Appropriations:	88,628.5	25,000.0	113,628.5
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The other state funds appropriation to the transportation distribution is from the public school capital outlay fund.

The general fund appropriation to the transportation distribution includes three million five hundred sixty-seven thousand six hundred dollars (\$3,567,600) to provide a six percent salary increase to all school transportation employees. The secretary of public education shall not approve the operating budget of a school district or charter school that does not provide a six percent salary increase for all school transportation employees.

The general fund appropriation to the transportation distribution includes two million seven hundred forty-five thousand six hundred dollars (\$2,745,600) for transportation of students to extended learning time programs contingent on enactment of House Bill 5 or Senate Bill 1 in the first session of the fifty-fourth legislature amending the Public School Code to establish an extended learning time program factor. If a school district or state-chartered charter school does not transport students to extended learning time programs, the school district's or state-chartered charter school's proportionate share of the two million seven hundred forty-five thousand six hundred dollar (\$2,745,600) appropriation to the

transportation distribution for extended learning time programs shall be transferred to the public education reform fund.

The general fund appropriation to the transportation distribution includes three million seven hundred forty-four thousand dollars (\$3,744,000) for transportation of students to K-5 plus programs contingent on enactment of House Bill 5 or Senate Bill 1 in the first session of the fifty-fourth legislature amending the Public School Code to establish a K-5 plus program factor. If a school district or state-chartered charter school does not transport students to K-5 plus programs, the school district's or state-chartered charter school's proportionate share of the three million seven hundred forty-four thousand dollar (\$3,744,000) appropriation to the transportation distribution for extended learning time programs shall be transferred to the public education reform fund.

(3) Supplemental distribution:

Appropriations:

(a) Out-of-state tuition	300.0	300.0
(b) Emergency supplemental	1,000.0	1,000.0

The secretary of public education shall not distribute any emergency supplemental funds to a school district or charter school that is not in compliance with the Audit Act or that has cash and invested reserves, or other resources or any combination thereof, equaling five percent or more of their operating budget.

Any unexpended balances in the supplemental distribution of the public education department remaining

at the end of fiscal year 2020 from appropriations made from the general fund shall revert to the general fund.

Subtotal		3,188,731.9
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INSTRUCTIONAL MATERIALS:

(1) Dual-credit instructional materials:

Appropriations:	1,000.0	1,000.0
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The general fund appropriation to the public education department for dual-credit instructional materials shall be used by the department to reimburse school districts, charter schools, state-supported schools and bureau of Indian education high schools in New Mexico for the cost of required textbooks and other course supplies for students enrolled in the dual-credit program to the extent of the available funds.

Any unexpended balances in the dual-credit instructional materials appropriation remaining at the end of fiscal year 2020 from appropriations made from the general fund shall revert to the general fund.

Subtotal		1,000.0
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INDIAN EDUCATION FUND:

Appropriations:	6,000.0	6,000.0
Subtotal		6,000.0

STANDARDS-BASED ASSESSMENTS:

Appropriations: 6,000.0 6,000.0

Any unexpended balances in the standards-based assessments appropriation remaining at the end of fiscal year 2020 from appropriations made from the general fund shall revert to the general fund.

Subtotal					6,000.0
TOTAL PUBLIC SCHOOL SUPPORT	3,171,731.9	30,000.0			3,201,731.9
GRAND TOTAL FISCAL YEAR 2020 APPROPRIATIONS	6,961,352.1	4,122,121.1	628,125.8	7,358,844.0	19,070,443.0

Chapter 271 Section 5 Laws 2019

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
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Section 5. **SPECIAL APPROPRIATIONS.**--The following amounts are appropriated from the general fund or other funds as indicated for the purposes specified. Unless otherwise indicated, the appropriation may be expended in fiscal years 2019 and 2020. Unless otherwise indicated, any unexpended balances of the appropriations remaining at the end of fiscal year 2020 shall revert to the appropriate fund.

(1)	LEGISLATIVE COUNCIL SERVICE	1.5			1.5
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For energy council dues.

(2) LEGISLATIVE COUNCIL SERVICE 2,000.0 2,000.0

For capitol repairs, equipment, security and infrastructure upgrades. The other state funds appropriation is from cash balances.

(3) LEGISLATIVE COUNCIL SERVICE 200.0 200.0

For capitol buildings planning commission for master planning and statewide inventory purposes. The other state funds appropriation is from the capitol building repair fund.

(4) SENATE CHIEF CLERK 350.0 350.0

For leadership staff at the capitol and travel and other related operational expenses to provide constituent services as determined by senate leadership to be disbursed on vouchers signed by the director of legislative council service.

(5) HOUSE CHIEF CLERK 350.0 350.0

For leadership staff at the capitol and travel and other related operational expenses to provide constituent services as determined by house leadership to be disbursed on vouchers signed by the director of legislative council service.

(6) NEW MEXICO COMPILATION 219.0 219.0
COMMISSION

To provide uninterrupted public access to the New Mexico statutes annotated during the transition to a

private vendor.

(7) ADMINISTRATIVE OFFICE
OF THE COURTS

The period of time for expending one million dollars (\$1,000,000) appropriated from the general fund in Subsection 5 of Section 5 of Chapter 73 of Laws 2018 for reforming the New Mexico guardianship system is extended through fiscal year 2020.

(8)	ADMINISTRATIVE OFFICE OF THE COURTS	1,800.0	1,800.0
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To redact personally identifiable information from historical court case filings. The other state funds appropriation is from the electronic services fund.

(9)	ADMINISTRATIVE OFFICE OF THE COURTS	450.0	450.0
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For a statewide online dispute resolution program.

(10)	ADMINISTRATIVE OFFICE OF THE COURTS	50.0	50.0
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For magistrate courts to purchase recording licenses, equipment, installation, training and support.

(11)	ADMINISTRATIVE OFFICE OF THE COURTS	100.0	100.0
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For the judicial performance evaluation fund.

(12)	ADMINISTRATIVE OFFICE OF THE COURTS	375.4	375.4
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For a unified special appropriation for information technology, furniture and other expenses for the district courts.

(13)	ADMINISTRATIVE OFFICE OF THE COURTS	251.0	251.0
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To upgrade network infrastructure to improve bandwidth at courthouses statewide.

(14)	FIRST JUDICIAL DISTRICT COURT	65.0	65.0
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For the first judicial district court to purchase recording licenses, equipment, installation, training and support.

(15)	SECOND JUDICIAL DISTRICT COURT	325.5	325.5
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To upgrade network server hardware and software and replace aging desktop computers and scanners. The other state funds appropriation is from the enterprise equipment replacement fund.

(16)	FOURTH JUDICIAL DISTRICT COURT	21.2	21.2
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To replace obsolete desktop computers for the fourth judicial district court. The other state funds appropriation is from the enterprise equipment replacement fund.

(17) EIGHTH JUDICIAL DISTRICT COURT 35.0 35.0

To replace obsolete computers for the eighth judicial district court. The other state funds appropriation is from the enterprise equipment replacement fund.

(18) EIGHTH JUDICIAL DISTRICT COURT 17.0 17.0

To replace obsolete scanners for uploading data to the court's case management system. The other state funds appropriation is from the enterprise equipment replacement fund.

(19) EIGHTH JUDICIAL DISTRICT COURT 31.0 31.0

To upgrade the telephone system at the eighth judicial district court. The other state funds appropriation is from the enterprise equipment replacement fund.

(20) EIGHTH JUDICIAL DISTRICT COURT 10.0 10.0

To purchase internet routers for Taos county and Colfax county courthouses. The other state funds appropriation is from the enterprise equipment replacement fund.

(21) TENTH JUDICIAL DISTRICT 70.0 70.0
ATTORNEY

To purchase two new vehicles.

(22) ADMINISTRATIVE OFFICE
OF THE DISTRICT ATTORNEYS

Any unexpended balances remaining at the end of fiscal year 2019 from revenues received in fiscal year 2019 and prior years by a district attorney or the administrative office of the district attorneys from the United States department of justice pursuant to the southwest border prosecution initiative shall not revert and shall remain with the recipient district attorney's office for expenditure in fiscal year 2020. Prior to November 1, 2019, the administrative office of the district attorneys shall provide to the department of finance and administration and the legislative finance committee a detailed report documenting the amount of all southwest border prosecution initiative funds that do not revert at the end of fiscal year 2019 for each of the district attorneys and the administrative office of the district attorneys.

(23) ADMINISTRATIVE OFFICE
OF THE DISTRICT ATTORNEYS

Any unexpended balances remaining at the end of fiscal year 2019 from revenues received in fiscal year 2019 and prior years by a district attorney from any Native American tribe, pueblo or political subdivision pursuant to a contract, memorandum of understanding, joint powers agreement or grant shall not revert and shall remain with the recipient district attorney's office for expenditure in fiscal year 2020. Prior to November 1, 2019, the administrative office of the district attorneys shall provide to the department of finance and administration and the legislative finance committee a detailed report documenting the amount of all funds received from Native American tribes, pueblos and political subdivisions pursuant to a contract, memorandum of understanding, joint powers agreement or grant that do not revert at the end of fiscal year 2019 for each of the district attorneys and the administrative office of the district attorneys.

(24) ADMINISTRATIVE OFFICE 200.0 200.0
OF THE DISTRICT ATTORNEYS

To provide a workload assessment and an information technology security assessment of all district attorney offices.

(25) PUBLIC DEFENDER DEPARTMENT 130.0 130.0

To integrate the public defender department's case management system with the administrative office of the court's odyssey system. The other state funds appropriation is from the enterprise equipment replacement fund.

(26) PUBLIC DEFENDER DEPARTMENT 730.0 730.0

For information technology expenses at the public defender department.

(27) PUBLIC DEFENDER DEPARTMENT

The period of time for expending the fifty thousand dollars (\$50,000) appropriated from the general fund and matching funds of fifty thousand dollars (\$50,000) in Subsection 22 of Section 5 of Chapter 73 of Laws 2018 to conduct a workload study is extended through fiscal year 2020. The general fund appropriation is contingent on contribution of fifty thousand dollars (\$50,000) from a non-public entity.

(28) ATTORNEY GENERAL 400.0 313.0 713.0

For extraordinary litigation expenses, including litigation regarding New Mexico's opioid crisis and the

investigation and prosecution of clergy abuse in New Mexico. The other state funds appropriation is from the consumer settlement fund.

(29) ATTORNEY GENERAL 250.0 250.0

For investigation and prosecution of guardianship cases.

(30) ATTORNEY GENERAL

The period of time for expending two million dollars (\$2,000,000) appropriated from the general fund in Subsection 25 of Section 5 of Chapter 73 of Laws 2018 for defending the Rio Grande compact is extended through fiscal year 2020.

(31) ATTORNEY GENERAL 3,500.0 3,500.0

For interstate water litigation costs.

(32) TAXATION AND REVENUE DEPARTMENT 1,000.0 1,000.0

To implement insurance premium tax changes and the provisions of House Bill 6 or similar legislation of the first session of the fifty-fourth legislature.

(33) ADMINISTRATIVE HEARINGS OFFICE 20.0 20.0

To install a bullet-resistant security glass barrier between the reception desk and public waiting area at the administrative hearings office location in Albuquerque.

(34) DEPARTMENT OF FINANCE
AND ADMINISTRATION

Contingent on fiscal year 2019 general fund revenues exceeding seven billion six hundred twenty million dollars (\$7,620,000,000), up to thirty-one million dollars (\$31,000,000) is appropriated to the department of finance and administration from the general fund multiplied by a quotient where the numerator is the value of the fiscal year 2019 general fund forecast from the consensus forecast presented to the legislative finance committee in August 2019 minus seven billion six hundred twenty million dollars (\$7,620,000,000) and the denominator is thirty-one million dollars (\$31,000,000), as follows: (a) up to fifteen million dollars (\$15,000,000) to the economic development department for economic development projects pursuant to the Local Economic Development Act; (b) up to eleven million dollars (\$11,000,000) to the department of transportation to be distributed equally among the six transportation districts statewide for roadway planning, design, construction and maintenance in accordance with projects identified on the statewide transportation improvement program, any unexpended or unencumbered balance remaining from this appropriation at the end of fiscal year 2024 shall revert to the general fund; and (c) up to five million dollars (\$5,000,000) to the higher education department to replenish the college affordability endowment fund.

(35) DEPARTMENT OF FINANCE
AND ADMINISTRATION

400.0

400.0

For disbursement to the New Mexico mortgage finance authority to provide matching funds for a youth homelessness demonstration program grant from the United States department of housing and urban development to address youth homelessness.

(36) DEPARTMENT OF FINANCE 250.0 250.0
AND ADMINISTRATION

For distribution to agencies to address shortfalls for salaries and benefits of cabinet secretaries.

(37) DEPARTMENT OF FINANCE 3,500.0 3,500.0
AND ADMINISTRATION

For planning to support local government complete count efforts and training for the 2020 census. The department of finance and administration shall provide a plan for complete count activities to the legislative finance committee by December 2019.

(38) DEPARTMENT OF FINANCE 1,250.0 1,250.0
AND ADMINISTRATION

For startup costs related to the new early childhood education and care department contingent on enactment of Senate Bill 22 or similar legislation of the first session of the fifty-fourth legislature and certification by the department of finance and administration that no funding was included in Senate Bill 22 or similar legislation of the first session of the fifty-fourth legislature.

(39) DEPARTMENT OF FINANCE 500.0 500.0
AND ADMINISTRATION

For the ethics commission, contingent on enactment of House Bill 4 or similar legislation of the first session of the fifty-fourth legislature.

(40) DEPARTMENT OF FINANCE 200.0 200.0

AND ADMINISTRATION

For disbursement to the New Mexico mortgage finance authority for regional housing oversight, training and technical assistance.

(41)	DEPARTMENT OF FINANCE AND ADMINISTRATION	200.0	200.0
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For disbursement to the renewable energy transmission authority for operating costs.

(42)	DEPARTMENT OF FINANCE AND ADMINISTRATION	500.0	500.0
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For a comprehensive review and reengineering of the existing state chart of accounts.

(43)	GENERAL SERVICES DEPARTMENT	2,500.0	2,500.0
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For new vehicles for state central fleet administration bureau fleet operations.

(44)	EDUCATIONAL RETIREMENT BOARD	1,545.9	1,545.9
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For expenditures required to implement and conduct a data cleanse project. The other state funds appropriation is from the educational retirement fund. Any unexpended balances at the end of the fiscal year 2020 from this appropriation shall be used exclusively for expenditures in fiscal year 2021 for the same purpose.

(45)	SECRETARY OF STATE	3,500.0	3,500.0
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For a shortfall in the local election act fund to be used for the 2019 local election and subsequent elections. Any unexpended balances from this appropriation remaining at the end of fiscal year 2020 shall not revert and may be expended in subsequent fiscal years.

(46)	SECRETARY OF STATE	185.0	185.0
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To provide state matching funds required for a federal grant.

(47)	SECRETARY OF STATE	260.0	260.0
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To upgrade the state election registration and voter information system.

(48)	PERSONNEL BOARD	300.0	300.0
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For staffing analysis.

(49)	STATE TREASURER	332.6	332.6
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To contract with a state agency or private entity to administer the disposition of forfeited property on behalf of the state treasurer as required by the Forfeiture Act, contingent on the contract providing a maximum percent of the forfeiture disposition proceeds as compensation to the state agency or private entity.

(50)	BORDER AUTHORITY	50.0	50.0
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For the New Mexico-Chihuahua and New Mexico-Sonora commissions for cross-border collaboration.

(51) TOURISM DEPARTMENT 600.0 600.0

For the marketing and promotion of the inaugural Virgin Galactic flight in New Mexico.

(52) TOURISM DEPARTMENT 300.0 300.0

For branded partnerships between New Mexico true and the special olympics.

(53) TOURISM DEPARTMENT 250.0 250.0

For foundational research to include a return on investment, advertising effectiveness and a destination development roadmap study with emphasis on developing the outdoor economy.

(54) ECONOMIC DEVELOPMENT
DEPARTMENT

The period of time for expending the six million nine hundred thousand dollars (\$6,900,000) from the general fund in Subsection 11 of Section 5 of Chapter 135 of Laws 2017 for economic development projects pursuant to the Local Economic Development Act is extended through fiscal year 2020.

(55) ECONOMIC DEVELOPMENT
DEPARTMENT

The period of time for expending the five million dollars (\$5,000,000) from the general fund in Subsection 48 of Section 5 of Chapter 73 of Laws 2018 for economic development projects pursuant to the Local Economic Development Act is extended through fiscal year 2020.

(56)	ECONOMIC DEVELOPMENT DEPARTMENT	5,000.0		5,000.0
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To the development training fund for the job training incentive program.

(57)	ECONOMIC DEVELOPMENT DEPARTMENT	60,000.0		60,000.0
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For economic development projects pursuant to the Local Economic Development Act.

(58)	REGULATION AND LICENSING DEPARTMENT	100.0		100.0
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To replace computers and other information technology equipment for the construction industries and manufacturing program in the regulation and licensing department.

(59)	REGULATION AND LICENSING DEPARTMENT		340.0	340.0
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To replace core network infrastructure in the regulation and licensing department network including data storage and servers. The other state funds appropriation is from the enterprise equipment replacement fund.

(60)	REGULATION AND LICENSING DEPARTMENT	400.0		400.0
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To purchase replacement vehicles.

(61)	PUBLIC REGULATION COMMISSION	198.9	99.0	297.9
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To purchase ten vehicles for public regulation commission operations.

(62)	BOARD OF NURSING	300.0	300.0
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For the New Mexico nursing education consortium. The other state funds appropriation is from licensing fees.

(63)	OFFICE OF MILITARY BASE PLANNING AND SUPPORT	500.0	500.0
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For potential base realignment and closure actions contingent on enactment of federal legislation to initiate a base realignment and closure process.

(64) SPACEPORT AUTHORITY

The period of time for expending the ten million dollars (\$10,000,000) from the general fund in Subsection 54 of Section 5 of Chapter 173 of Laws 2018 for the planning and construction of an aerospace satellite testing and development hangar is extended through fiscal year 2020. The appropriation is contingent on the New Mexico spaceport authority contracting with a vendor specializing in advance aerospace products and technologies to use the hangar.

(65)	CULTURAL AFFAIRS DEPARTMENT	441.0	441.0
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To repay a debt to the general fund. The other state funds appropriation is from fund balances.

(66) CULTURAL AFFAIRS DEPARTMENT 300.0 300.0

For design, site preparation, construction and equipment for a department of cultural affairs storage expansion at the center for New Mexico archaeology in Santa Fe county.

(67) CULTURAL AFFAIRS DEPARTMENT 200.0 200.0

For planning and initiation of operations at the contemporary art space in the Santa Fe railyard building owned by the cultural affairs department, the New Mexico museum of art Vladem contemporary.

~~[(68) STATE ENGINEER 2,000.0 2,000.0~~

~~To the forest land protection revolving fund, contingent on the passage of House Bill 266 or similar legislation of the first session of the fifty fourth legislature that provides for recurring appropriations from these trust funds. The other state funds appropriations include eight hundred thousand dollars (\$800,000) from the improvement of Rio Grande income fund and one million two hundred thousand dollars (\$1,200,000) from the New Mexico irrigation works construction fund.] LINE-ITEM VETO~~

(69) STATE ENGINEER 50.0 50.0

To build a comprehensive acequia and conveyance mapping database.

(70) STATE ENGINEER 200.0 200.0

For dam safety risk-based screening and assessments.

(71) STATE ENGINEER 350.0 350.0

For salt basin project development matching funds, contingent on matching federal funds secured by the United States bureau of reclamation.

(72) STATE ENGINEER 1,070.0 1,070.0

For interstate compacts litigation.

(73) COMMISSION FOR DEAF AND 400.0 400.0 800.0
HARD-OF-HEARING PERSONS

For operational and service funding to supplement telecommunications relay service fund collections contingent on revenue collections shortfall certified by the board of finance. The other state funds appropriation is from cash balances.

(74) AGING AND LONG-TERM 200.0 200.0
SERVICES DEPARTMENT

For aging network needs assessment and technical assistance.

(75) AGING AND LONG-TERM 400.0 400.0
SERVICES DEPARTMENT

For a reserve for emergency advancements in the aging network. The department, in coordination with the area agencies on aging and the department of finance and administration, shall develop a process allowing aging network providers to apply for and receive timely emergency advancements ~~[in cases where federal or~~

~~state fund reimbursements are untimely and pose a hardship to aging network providers]~~. The department shall report all emergency advancements to the legislative finance committee prior to December 2020. *LINE-ITEM VETO*

(76)	AGING AND LONG-TERM SERVICES DEPARTMENT	100.0	100.0
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For network security upgrades.

(77)	HUMAN SERVICES DEPARTMENT	2,500.0	2,500.0
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To reduce reincarceration and homelessness rates and to improve prison and county jail reentry services and healthcare diagnoses for incarcerated nonviolent offenders. The behavioral health services program of the human services department, in consultation with the behavioral health purchasing collaborative and the mortgage finance authority, shall establish a process by which counties and agencies may apply for grants to increase access to evidence-based behavioral health services and improve local indigent housing options. To prioritize funding, the behavioral health services program of the human services department and the behavioral health purchasing collaborative shall consider epidemiological data and other source data including incarceration and reincarceration rates, behavioral health housing needs, alcohol use mortality rates, drug overdose deaths and suicide rates. Counties and agencies that leverage other revenue sources, including federal funds, shall also receive prioritization. The behavioral health services program of the human services department shall report outcomes, types and numbers of individuals served to the governor, legislative finance committee and legislative health and human services committee by November 1, 2019.

(78) HUMAN SERVICES DEPARTMENT

Contingent on enactment of House Bill 6 or similar legislation of the first session of the fifty-fourth legislature that repeals Section 7-9-96.1 NMSA 1978 and applies the gross receipts or governmental gross receipts tax to nonprofit and government hospitals, an additional thirty-four million dollars (\$34,000,000) is appropriated from the general fund to the medical assistance program of the human services department for use in fiscal year 2020 to implement changes in the medicaid program to increase reimbursement rates paid to hospitals in medicaid managed care and fee-for-service programs. These increases shall include increased inpatient and outpatient rates paid to all hospitals and may include targeted increased rates for rural, behavioral health and specialty hospitals. The department shall ensure the approved increases are paid by the managed care organizations to hospitals.

(79)	WORKERS' COMPENSATION ADMINISTRATION	199.0	199.0
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To update the security badging system at the Albuquerque and Las Vegas locations and replace two servers. The other state funds appropriation is from fund balances.

(80)	WORKERS' COMPENSATION ADMINISTRATION	153.0	153.0
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For building and parking lot maintenance at the Albuquerque and Las Vegas locations. The other state funds appropriation is from fund balances.

(81) DEPARTMENT OF HEALTH

Any unexpended balances in the developmental disabilities support program of the department of health remaining at the end of fiscal year 2019 from appropriations made from the general fund shall not revert and shall be expended in fiscal year 2020 to support the developmental disability medicaid waiver.

(82) DEPARTMENT OF HEALTH 500.0 500.0

To provide economic feasibility and master planning assessments for five department of health hospitals and the veterans' home in Truth or Consequences.

(83) DEPARTMENT OF HEALTH

Any unexpended balances in the vital records and health statistics bureau of the epidemiology and response program of the department of health remaining at the end of fiscal year 2019 from appropriations made from the general fund and federal funds shall not revert and shall be expended in fiscal year 2020.

(84) DEPARTMENT OF HEALTH

Any unexpended balances in the administration program of the department of health remaining at the end of fiscal year 2019 from appropriations made from federal indirect cost-sharing revenue shall not revert and shall be expended in fiscal year 2020 for program support.

(85) DEPARTMENT OF HEALTH 2,000.0 2,000.0

For Jackson lawsuit trial expenses.

(86) DEPARTMENT OF HEALTH 1,100.0 1,100.0

For a long-acting reversible contraception mentorship program.

(87) DEPARTMENT OF HEALTH

Any unexpended balances in the health certification, licensing and oversight program of the department of health remaining at the end of fiscal year 2019 from appropriations made from the general fund shall not revert and shall be expended in fiscal year 2020 for receivership services.

(88) DEPARTMENT OF HEALTH 113.5 113.5

To support the hiring of two dental assistants.

(89) DEPARTMENT OF ENVIRONMENT 629.5 629.5 1,259.0

To clean up and to match federal funds for clean up of superfund hazardous waste sites in New Mexico. The other state funds appropriation is from the corrective action fund. Any unexpended balances from this appropriation remaining at the end of fiscal year 2020 shall not revert and may be expended in subsequent fiscal years.

(90) DEPARTMENT OF ENVIRONMENT 2,000.0 2,000.0

For environmental litigation, administrative hearings and regulatory matters. Any unexpended balances from this appropriation remaining at the end of fiscal year 2020 shall not revert and may be expended in

subsequent fiscal years.

(91) DEPARTMENT OF ENVIRONMENT 273.6 273.6

For a cost share for clean up of the Pecos mine and El Molino operable units. Any unexpended balances from this appropriation remaining at the end of fiscal year 2020 shall not revert and may be expended in subsequent fiscal years.

(92) CHILDREN, YOUTH AND 250.0 250.0
FAMILIES DEPARTMENT

To provide funding for fiscal and landscaping consultants to assist the department in maximizing federal funds.

(93) CORRECTIONS DEPARTMENT 1,750.2 1,750.2

For improvements at correctional facilities statewide. The other state funds appropriation is from the penitentiary income fund.

(94) DEPARTMENT OF PUBLIC SAFETY

Any unexpended balances in the law enforcement program of the department of public safety remaining at the end of fiscal year 2019 from appropriations made from the general fund shall not revert and shall be expended in fiscal year 2020 for border security.

(95) DEPARTMENT OF PUBLIC SAFETY

The period of time to expend one hundred thousand dollars (\$100,000) from the general fund in Subsection 98 of Section 5 of Chapter 73 of Laws 2018 to maintain a flash roll for criminal investigations by the New Mexico state police is extended through fiscal year 2020.

(96) DEPARTMENT OF PUBLIC SAFETY 3,100.0 3,100.0

To purchase lapel cameras for state police officers.

(97) DEPARTMENT OF PUBLIC SAFETY 3,100.0 3,100.0

To purchase police vehicles for state police officers.

(98) HOMELAND SECURITY AND 2,500.0 2,500.0
EMERGENCY MANAGEMENT

For border security, public health and communications.

(99) DEPARTMENT OF TRANSPORTATION

Any unexpended or unencumbered balances of other state funds and federal funds appropriations to the project design and construction program, highway operations program and modal program of the department of transportation pertaining to prior fiscal years is extended through fiscal year 2020.

(100) DEPARTMENT OF TRANSPORTATION

The period of time for expending the four million dollars (\$4,000,000) from the general fund in Item 106 of Section 5 of Chapter 73 of Laws 2018 for statewide rest area improvements is extended through fiscal year 2020.

(101) DEPARTMENT OF TRANSPORTATION

The period of time for expending the twenty million dollars (\$20,000,000) from the general fund in Item 105 of Section 5 of Chapter 73 of Laws 2018 for the local government road fund is extended through fiscal year 2020.

(102) DEPARTMENT OF TRANSPORTATION

The period of time for expending the forty-four million dollars (\$44,000,000) from the general fund in Item 104 of Section 5 of Chapter 73 of Laws 2018 for road improvement projects is extended through fiscal year 2020.

(103)	PUBLIC EDUCATION DEPARTMENT	2,000.0	2,000.0
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To pilot a career technical education program, including an online supplemental learning system that integrates algebra and geometry into career technical education studies, and to teach online workplace soft skills for high school students.

(104)	PUBLIC EDUCATION DEPARTMENT	1,000.0	1,000.0
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For emergency support to school districts experiencing shortfalls. All requirements for distribution shall be made in accordance with Section 22-8-30 NMSA 1978.

(105) PUBLIC EDUCATION DEPARTMENT 1,250.0 1,250.0

For legal fees related to defending the state in Martinez v. state of New Mexico No. D-101-CV-2014-00793 and Yazzie v. state of New Mexico No. D-101-CV-2014-02224.

(106) PUBLIC EDUCATION DEPARTMENT 2,000.0 2,000.0

For improvements to standards-based assessments.

(107) PUBLIC EDUCATION DEPARTMENT 1,000.0 1,000.0

For improvements to the teacher and administrator evaluation system.

(108) PUBLIC EDUCATION DEPARTMENT 1,000.0 1,000.0

For a teacher residency pilot.

(109) HIGHER EDUCATION DEPARTMENT 20,000.0 20,000.0

To replenish the college affordability endowment fund.

(110) UNIVERSITY OF NEW MEXICO 1,250.0 1,250.0

To the cancer center of the university of New Mexico health sciences center to offset financial losses

associated with changing federal requirements on pharmacy reimbursements.

(111) NEW MEXICO STATE UNIVERSITY 500.0 500.0

For partnering with math and science teacher preparation programs to establish mathematics and science specializations, to enhance instructional and professional development strategies for science, technology, engineering and math, and to integrate culturally and linguistically relevant teacher practices, contingent on New Mexico State University providing five hundred thousand dollars (\$500,000) of matching funds from private or federal sources.

(112) PUBLIC SCHOOL SUPPORT

After calculation of the final state equalization guarantee distribution for fiscal year 2019 and prior to the end of fiscal year 2019, the public education department shall transfer fourteen million dollars (\$14,000,000) of the unallocated state equalization guarantee distribution in Subsection K of Section 4 of Chapter 73 of Laws 2018 to the state-support reserve fund.

(113) PUBLIC SCHOOL SUPPORT 500.0 500.0

For dual-credit instructional materials to reimburse school districts, charter schools, state-supported schools and bureau of Indian education high schools in New Mexico for the cost of required textbooks and other course supplies for students enrolled in the dual-credit program.

(114) PUBLIC SCHOOL SUPPORT 26,500.0 26,500.0

For instructional materials. The public education department shall distribute an amount to each school district and charter school that is proportionate to each school district's and charter school's share of total program units computed pursuant to Section 22-8-18 NMSA 1978.

(115)	COMPUTER SYSTEM ENHANCEMENT FUND	31,986.4				31,986.4
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For transfer to the computer system enhancement fund for system replacements or enhancements.

TOTAL SPECIAL APPROPRIATIONS	198,381.4	12,641.3	99.0			211,121.7
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Chapter 271 Section 6 Laws 2019

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
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Section 6. **SUPPLEMENTAL AND DEFICIENCY APPROPRIATIONS.**--The following amounts are appropriated from the general fund or other funds as indicated for expenditure in fiscal year 2019 for the purposes specified. Disbursement of these amounts shall be subject to certification by the agency to the department of finance and administration and the legislative finance committee that no other funds are available in fiscal year 2019 for the purpose specified and approval by the department of finance and administration. Any unexpended balances remaining at the end of fiscal year 2019 shall revert to the appropriate fund.

(1)	ADMINISTRATIVE OFFICE OF THE	120.0				120.0
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COURTS

For national center for state courts membership fees.

(2) FIRST JUDICIAL DISTRICT COURT 8.3 8.3

~~For shortfalls in the personal services and employee benefits category [contingent on administrative office of the courts certification to the department of finance and administration of a reversion of eight thousand three hundred dollars (\$8,300) by May 1, 2019]. LINE-ITEM VETO~~

(3) SECOND JUDICIAL DISTRICT COURT 274.3 274.3

~~For shortfalls in the personal services and employee benefits category [contingent on administrative office of the courts certification to the department of finance and administration of a reversion of two hundred seventy four thousand three hundred dollars (\$274,300) by May 1, 2019]. LINE-ITEM VETO~~

(4) SECOND JUDICIAL DISTRICT COURT 120.0 120.0

For pro tempore judges.

(5) SEVENTH JUDICIAL DISTRICT COURT 10.9 10.9

~~For shortfalls in the personal services and employee benefits category [contingent on administrative office of the courts certification to the department of finance and administration of a reversion of ten thousand nine hundred dollars (\$10,900) by May 1, 2019]. LINE-ITEM VETO~~

(6) NINTH JUDICIAL DISTRICT COURT 9.1 9.1

~~For shortfalls in the personal services and employee benefits category [contingent on administrative office of the courts certification to the department of finance and administration of a reversion of nine thousand one hundred dollars (\$9,100) by May 1, 2019]. LINE-ITEM VETO~~

(7) TENTH JUDICIAL DISTRICT COURT 7.1 7.1

~~For shortfalls in the personal services and employee benefits category [contingent on administrative office of the courts certification to the department of finance and administration of a reversion of seven thousand one hundred dollars (\$7,100) by May 1, 2019]. LINE-ITEM VETO~~

(8) TWELFTH JUDICIAL DISTRICT COURT 6.2 6.2

~~For shortfalls in the personal services and employee benefits category [contingent on administrative office of the courts certification to the department of finance and administration of a reversion of six thousand two hundred dollars (\$6,200) by May 1, 2019]. LINE-ITEM VETO~~

(9) BERNALILLO COUNTY 176.7 176.7
METROPOLITAN COURT

~~For shortfalls in the personal services and employee benefits category [contingent on administrative office of the courts certification to the department of finance and administration of a reversion of one hundred seventy-six thousand seven hundred dollars (\$176,700) by May 1, 2019]. LINE-ITEM VETO~~

(10)	FIFTH JUDICIAL DISTRICT ATTORNEY	77.2	77.2
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To purchase new vehicles.

(11)	PUBLIC DEFENDER DEPARTMENT	700.0	700.0
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To provide defense counsel and litigation expert services for complex and high profile cases.

(12)	DEPARTMENT OF FINANCE AND ADMINISTRATION	80.0	80.0
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For a shortfall in the personal services and employee benefits category for the local government division.

(13)	DEPARTMENT OF FINANCE AND ADMINISTRATION	5.9	5.9
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For a unified supplemental appropriation for agencies with prior year budget deficits due to over-reversions.

(14)	GENERAL SERVICES DEPARTMENT	997.4	997.4
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To address the general fund budget shortfall resulting from the children, youth and families department wellness center site purchase.

(15)	GOVERNOR	100.0	100.0
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For a personal services and employee benefits shortfall and for annual leave payouts.

(16) SECRETARY OF STATE 151.5 151.5

For a shortfall in the administration and operations program of the secretary of state.

(17) SECRETARY OF STATE 250.0 250.0

For a shortfall in the elections program of the secretary of state.

(18) SECRETARY OF STATE 100.0 100.0

For startup costs related to the Local Election Act.

(19) PUBLIC EMPLOYEE LABOR 3.6 3.6
RELATIONS BOARD

For department of information technology expenses incurred in fiscal year 2017.

(20) NEW MEXICO STATE FAIR 4,994.4 4,994.4

For obligations to the general services department.

(21) STATE RACING COMMISSION 70.8 70.8

For a feasibility study for a sixth racing license and court reporting services.

(22) STATE ENGINEER 1,200.0 1,200.0

For interstate compacts litigation.

(23) DEPARTMENT OF HEALTH 2,800.0 2,800.0

To cover funding deficits due to rising costs for individuals on the two developmental disability waivers.

(24) DEPARTMENT OF HEALTH 800.0 800.0

To support a two percent rate adjustment for developmental disability waiver providers for all services.

(25) DEPARTMENT OF HEALTH 2,641.9 2,641.9

To address the projected increase in the number of children referred to and determined eligible for the family, infant, toddler program.

(26) DEPARTMENT OF HEALTH 400.0 400.0

To cover the fiscal year 2019 personal services and employee benefit shortfall in the administrative services division.

(27) VETERANS' SERVICES DEPARTMENT 200.0 200.0

To support information technology upgrades through the department of veterans services.

(28) VETERANS' SERVICES DEPARTMENT 2,753.0 2,753.0

For a shortfall at the New Mexico veterans' home.

(29) CORRECTIONS DEPARTMENT 2,543.4 2,543.4

To pay costs due to the equipment replacement fund for fiscal year 2017. The other state funds appropriation is from the penitentiary income fund.

(30) CORRECTIONS DEPARTMENT 500.0 500.0

For a projected shortfall in the personal services and employee benefits category and for offender monitoring services in the other costs category in the community offender management program in fiscal year 2019. The other state funds appropriation is from the penitentiary income fund.

(31) CORRECTIONS DEPARTMENT 2,250.8 2,250.8

For a projected shortfall in the inmate management and control program in fiscal year 2019. The other state funds appropriation is from the penitentiary income fund.

TOTAL SUPPLEMENTAL AND DEFICIENCY APPROPRIATIONS 19,058.3 5,294.2 24,352.5

Chapter 271 Section 7 Laws 2019

Section 7. **INFORMATION TECHNOLOGY APPROPRIATIONS.**--The following amounts are appropriated from the computer systems enhancement fund, or other funds as indicated, for the purposes specified. Unless otherwise indicated, the appropriation may be expended in fiscal years 2019, 2020 and 2021. Unless otherwise indicated, any unexpended balances remaining at the end of fiscal year 2021 shall revert to the

computer systems enhancement fund or other funds as indicated. For each executive branch agency project, the state chief information officer shall certify compliance with the project certification process prior to the allocation of thirty-one million six hundred ninety-eight thousand four hundred dollars (\$31,698,400) by the department of finance and administration from the funds for the purposes specified. The judicial information systems council shall certify compliance to the department of finance and administration for judicial branch projects. For executive branch agencies, all hardware and software purchases funded through appropriations made in Sections 4, 5, 6 and 7 of this act shall be procured using consolidated purchasing led by the state chief information officer and state purchasing division to achieve economies of scale and to provide the state with the best unit price.

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
(1) ADMINISTRATIVE OFFICE OF THE COURTS		163.0			163.0

To implement the e-signature module in the odyssey case management system for secure electronic signature of court case documents.

(2) ADMINISTRATIVE OFFICE OF THE COURTS		125.0			125.0
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To purchase and install hardware to upgrade storage capacity.

(3)	ADMINISTRATIVE OFFICE OF THE DISTRICT ATTORNEYS	300.0	300.0
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To purchase and install hardware and software to replace end-of-life servers and upgrade infrastructure.

(4)	TAXATION AND REVENUE DEPARTMENT	3,000.0	3,000.0
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To implement [~~the insurance premium tax program in~~] the tax administration software system of the taxation and revenue department. *LINE-ITEM VETO*

(5)	TAXATION AND REVENUE DEPARTMENT	235.0	235.0
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To purchase and install hardware and software for an automated call distribution and interactive voice response system.

(6)	TAXATION AND REVENUE DEPARTMENT	1,150.0	1,150.0
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To implement data analytical solutions or other analytic tools to create predictive models, improve security and implement models for the use by all divisions in the taxation and revenue department. The appropriation is contingent on the taxation and revenue department submitting a project plan to the department of information technology, the department of finance and administration and the legislative finance committee, including an estimated completion date, estimated costs and expected deliverables and providing quarterly project status reports to the appropriate interim legislative committee.

(7)	TAXATION AND REVENUE DEPARTMENT	715.0	715.0
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To implement point-of-sale cashiering functionality in the tax administration software system for the compliance enforcement program of the taxation and revenue department.

(8) TAXATION AND REVENUE DEPARTMENT

The period of time for expending the two million dollars (\$2,000,000) of the other state funds appropriation in Subsection 6 of Section 7 of Chapter 11 of Laws 2016 as extended in Subsection 7 of Section 7 of Chapter 73 of Laws 2018 to modernize the property tax business system is extended through fiscal year 2020. The other state funds appropriation is from the delinquent property tax fund.

(9)	DEPARTMENT OF FINANCE AND ADMINISTRATION	500.0	500.0
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To implement the property tax module in the local government budget management system.

(10)	DEPARTMENT OF FINANCE AND ADMINISTRATION	4,000.0	4,000.0
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To continue the implementation of an enterprise budget system. The appropriation is contingent on the legislative finance committee and the department of finance and administration entering into a joint powers agreement for the purpose of cooperating and cost-sharing in the joint design, development, acquisition and implementation of the enterprise budget system.

(11)	GENERAL SERVICES DEPARTMENT	550.0	550.0
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To implement the statewide human resources, accounting and management reporting system asset management

module. The appropriation is contingent on the general services department's coordination with the department of information technology to ensure configuration meets the general services department's business requirements, including the migration of existing fixed asset data to the statewide human resources, accounting and management reporting system asset management module.

(12)	GENERAL SERVICES DEPARTMENT	1,090.1	1,090.1
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To continue the risk management information system replacement with a commercial off-the-shelf solution. The other state funds appropriations are from the public property reserve fund, the public liability fund and the workers' compensation retention fund.

(13)	SECRETARY OF STATE	267.0	267.0
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To implement enhancements in the business filing system portal, including online credit card payment options, and maintain purchase card industry compliance.

(14)	REGULATION AND LICENSING DEPARTMENT	500.0	500.0
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To modernize the permitting and inspection software. The appropriation is contingent on the regulation and licensing department issuing a request for information and providing to the department of information technology, the department of finance and administration and the legislative finance committee a detailed report and quarterly project status reports, including the estimated completion date, estimated total costs and expected deliverables.

(15) REGULATION AND LICENSING
DEPARTMENT

The balance of the computer systems enhancement fund appropriations in Subsection 16 of Section 7 of Chapter 73 of Laws 2018 to replace the permitting and inspection software shall not be expended for the original purpose but is appropriated to stabilize and modernize the permitting and inspection software. The other state funds appropriation includes three hundred fifty thousand dollars (\$350,000) from the housing and urban development federal manufactured housing fund.

(16) PUBLIC REGULATION COMMISSION 190.0 190.0

To purchase and install hardware and software to upgrade the public regulation commission's document management system.

(17) CULTURAL AFFAIRS DEPARTMENT 350.0 350.0

To upgrade hardware and software and implement an enterprise content management system for digital delivery to improve museum exhibition content.

(18) COMMISSIONER OF PUBLIC LANDS

The period of time for expending the five million dollars (\$5,000,000) of the other state funds appropriation to replace the oil and natural gas administration and revenue database from the state lands maintenance fund made to the taxation and revenue department in Subsection 5 of Section 7 of Chapter 11 of Laws 2016 and re-appropriated to the commissioner of public lands in Subsection 7 of Section 7 of Chapter

135 of Laws 2017 as extended in Subsection 18 of Section 7 of Chapter 73 of Laws 2018 to replace royalty, oil and gas management and accounting functionality of the oil and natural gas administration and revenue database is extended through fiscal year 2020.

(19) HUMAN SERVICES DEPARTMENT

The period of time for expending five million dollars (\$5,000,000) appropriated from the computer systems enhancement fund in Subsection 9 of Section 7 of Chapter 135 of Laws 2017 for replacement of the medicaid management information system is extended through fiscal year 2020.

(20) HUMAN SERVICES DEPARTMENT

The period of time for expending the three million four hundred thousand dollars (\$3,400,000) of the other state funds appropriation in Subsection 19 of Section 7 of Chapter 101 of Laws 2015 as extended in Subsection 8 of Section 7 of Laws 2017 for the planning phase to enhance or replace the current child support enforcement system is extended through fiscal year 2020.

(21)	HUMAN SERVICES DEPARTMENT	1,783.6	3,462.2	5,245.8
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To continue the planning phase to enhance or replace the current child support enforcement system.

(22)	HUMAN SERVICES DEPARTMENT	1,255.6	11,300.5	12,556.1
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To continue the implementation of the medicaid management information system replacement project.

(23) DEPARTMENT OF HEALTH 900.0 900.0

For the initiation and planning phase to implement a database for healthcare cost data.

(24) DEPARTMENT OF HEALTH 4,000.0 4,000.0

To purchase and implement an enterprise electronic healthcare records system for public health offices statewide.

(25) DEPARTMENT OF HEALTH

The period of time for expending the two million four hundred thousand dollars (\$2,400,000) appropriated from the computer systems enhancement fund in Subsection 10 of Section 7 of Chapter 135 of Laws 2017 to continue the implementation of the developmental disabilities client management support system is extended through fiscal year 2020.

(26) DEPARTMENT OF HEALTH 440.0 440.0

To integrate toxicology instrumentation data into the department of health's laboratory information management system.

(27) DEPARTMENT OF HEALTH 2,100.0 2,100.0

To continue the implementation of an integrated document management system and upgrade the vital records database.

(28)	CHILDREN, YOUTH AND FAMILIES DEPARTMENT	5,500.0	1,520.5	7,020.5
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To continue planning the modernization of the comprehensive child welfare information system.

(29)	CORRECTIONS DEPARTMENT	4,105.2		4,105.2
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To implement additional components of the commercial off-the-shelf offender management system, including mobile functionality, a business intelligence tool and data standardization functionality. The other state funds appropriation includes one million fifty-two thousand six hundred dollars (\$1,052,600) from the penitentiary income fund.

(30)	DEPARTMENT OF PUBLIC SAFETY			
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The period of time to expend one hundred fifty thousand dollars (\$150,000) appropriated from the computer systems enhancement fund in Subsection 30 of Section 7 of Chapter 73 of Laws of 2018 to enhance the consolidated offender query database for the criminal history clearinghouse is extended through fiscal year 2020.

(31)	PUBLIC EDUCATION DEPARTMENT	258.1		258.1
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To purchase and implement a modernized licensure system.

(32)	PUBLIC EDUCATION DEPARTMENT	651.5		651.5
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For the initiation and planning phase to implement a statewide real-time data management solution.

TOTAL INFORMATION TECHNOLOGY
APPROPRIATIONS

34,129.1

16,283.2

50,412.3

Chapter 271 Section 8 Laws 2019

Section 8. **COMPENSATION APPROPRIATIONS.** --

A. Fifty-four million four hundred fifty-eight thousand nine hundred dollars (\$54,458,900) is appropriated from the general fund to the department of finance and administration for expenditure in fiscal year 2020 to provide salary increases to employees in budgeted positions who have completed their probationary period subject to satisfactory job performance. Police officers of the department of public safety shall be exempt from the requirement to complete their probationary period. The salary increases shall be effective the first full pay period after July 1, 2019 and distributed as follows:

(1) four hundred seventy-one thousand dollars (\$471,000) to provide permanent legislative employees, including permanent employees of the legislative council service, legislative finance committee, legislative education study committee, legislative building services, the house and senate, house and senate chief clerks' offices and house and senate leadership with an [~~average salary~~] increase of four percent; *LINE-ITEM VETO*

(2) seven million four hundred nineteen thousand dollars (\$7,419,000) to provide all judicial permanent employees excluding judges, all district attorney permanent employees, all public defender department permanent employees, judicial child support hearing officers and judicial special commissioners with an [~~average salary~~] increase of four percent; *LINE-ITEM VETO*

(3) one million six hundred seventy-five thousand two hundred dollars (\$1,675,200) to provide judges an [~~average salary~~] increase of six percent; *LINE-ITEM VETO*

(4) twenty-one million six hundred eleven thousand two hundred dollars (\$21,611,200) to provide incumbents in agencies governed by the State Personnel Act, the New Mexico state police career pay system, attorney general employees, workers' compensation judges and executive exempt employees with an [~~average salary~~] increase of four percent; *LINE-ITEM VETO*

(5) twenty-three million two hundred eighty-two thousand five hundred dollars (\$23,282,500) to the higher education department to provide faculty and staff of two-year and four-year public post-secondary educational institutions, New Mexico military institute, New Mexico school for the blind and visually impaired and New Mexico school for the deaf with an [~~average salary~~] increase of four percent.
LINE-ITEM VETO

B. One hundred two thousand eight hundred dollars (\$102,800) to provide an additional one percent salary increase to incumbents earning less than twenty-five thousand dollars per year on a full time equivalent basis to be distributed as follows:

(1) three thousand seven hundred dollars (\$3,700) for permanent employees of the legislative building services;

(2) eleven thousand one hundred dollars (\$11,100) for judicial permanent employees, all district attorney permanent employees and public defender department permanent employees;

(3) eighty-eight thousand dollars (\$88,000) for agencies governed by the State Personnel Act, the New Mexico state police career pay system and attorney general employees.

C. The department of finance and administration shall distribute a sufficient amount to each agency to provide the appropriate increases for those employees whose salaries are received as a result of the general fund appropriation in the General Appropriation Act of 2019. Any unexpended or unencumbered balances remaining at the end of fiscal year 2020 shall revert to the general fund.

D. For those state employees whose salaries are referenced in or received as a result of nongeneral fund appropriations in the General Appropriation Act of 2019, the department of finance and administration shall transfer from the appropriate fund to the appropriate agency the amount required for the [~~salary~~] increases equivalent to those provided for in this section. Such amounts are appropriated for expenditure in fiscal year 2020. Any unexpended or unencumbered balances remaining at the end of fiscal year 2020 shall revert to the appropriate fund. *LINE-ITEM VETO*

E. One million two hundred sixty-seven thousand four hundred dollars (\$1,267,400) is appropriated from the general fund to the department of finance and administration to provide incumbents [~~in positions covered by state general member coverage plan 3~~] an employer-paid pension increase contingent on enactment

of House Bill 501 or similar legislation increasing employer-paid pension contributions by twenty-five hundredths of one percent. Any unexpended or unencumbered balances remaining at the end of fiscal year 2020 shall revert to the general fund. *LINE-ITEM VETO*

F. One million one hundred nineteen thousand four hundred dollars (\$1,119,400) is appropriated from the general fund to the higher education department to provide faculty and staff of two-year and four-year public postsecondary educational institutions, New Mexico military institute, New Mexico school for the blind and visually impaired and New Mexico school for the deaf an employer-paid pension increase contingent on enactment of House Bill 501 or similar legislation increasing employer-paid pension contributions by twenty-five hundredths of one percent. Any unexpended or unencumbered balances remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 271 Section 9 Laws 2019

Section 9. **SPECIAL TRANSPORTATION APPROPRIATIONS.**--The following amounts are appropriated from the general fund to the department of transportation for the purposes specified. Unless otherwise indicated, the appropriation may be expended in fiscal year 2019 and subsequent fiscal years. Unless otherwise indicated, any unexpended balances of the appropriations remaining at the end of a fiscal year shall not revert.

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
(1) DEPARTMENT OF TRANSPORTATION	250,000.0				250,000.0

For acquisition of rights of way, planning, design, and construction and to match federal and other state funds for projects including: eighteen million dollars (\$18,000,000) for New Mexico highway 404 in transportation district one; three million dollars (\$3,000,000) for Interstate 10 in transportation

district one; twenty-one million dollars (\$21,000,000) for U.S. highway 285 in transportation district two; ten million dollars (\$10,000,000) for the Los Lunas east/west corridor in transportation district three; eight million dollars (\$8,000,000) for Interstate 25 at the Gibson exit in transportation district three; three million dollars (\$3,000,000) for Paseo del Volcan in transportation district three; ten million five hundred thousand dollars (\$10,500,000) for New Mexico highway 39 in transportation district four; ten million five hundred thousand dollars (\$10,500,000) U.S. highway 54 in transportation district four; ten million five hundred thousand dollars (\$10,500,000) for Interstate 25 in transportation district five; ten million five hundred thousand dollars (\$10,500,000) for New Mexico highway 68 in transportation district five; twelve million dollars (\$12,000,000) for U.S. highway 491 interchange and Carbon Coal road in transportation district six; four million five hundred thousand dollars (\$4,500,000) for the Allison corridor in transportation district six; four million five hundred thousand dollars (\$4,500,000) for Interstate 40 in transportation district six; and two million dollars (\$2,000,000) for the New Mexico rail runner line in Albuquerque. Of this amount, fifty million dollars (\$50,000,000) is appropriated in fiscal year 2020. Any unexpended or unencumbered balance remaining from this appropriation at the end of fiscal year 2024 shall revert to the general fund.

(2)	DEPARTMENT OF TRANSPORTATION	89,000.0	89,000.0
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To be distributed equally among the six transportation districts statewide for roadway planning, design, construction and maintenance in accordance with projects identified on the statewide transportation improvement program. This amount is appropriated in fiscal year 2020. Any unexpended or unencumbered balance remaining from this appropriation at the end of fiscal year 2024 shall revert to the general fund.

(3)	DEPARTMENT OF TRANSPORTATION	50,000.0	50,000.0
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To the local government transportation project fund, contingent on enactment of House Bill 694 or similar legislation of the fifty-fourth legislature. Up to five million dollars (\$5,000,000) may be expended for acquisition of rights of way, planning, design, and construction of a relief route for U.S. highway 285 in Carlsbad. This amount is appropriated in fiscal year 2020. Any unexpended or unencumbered balance remaining from this appropriation at the end of fiscal year 2024 shall revert to the general fund.

TOTAL SPECIAL TRANSPORTATION APPROPRIATIONS	389,000.0	389,000.0
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Chapter 271 Section 10 Laws 2019

Section 10. **ADDITIONAL FISCAL YEAR 2019 BUDGET ADJUSTMENT AUTHORITY.**--During fiscal year 2019, subject to review and approval by the department of finance and administration, pursuant to Sections 6-3-23 through 6-3-25 NMSA 1978, in addition to the budget adjustment authority in the General Appropriation Act of 2018:

A. the second judicial district court may request budget increases up to two hundred fifty thousand dollars (\$250,000) from other state funds from the city of Albuquerque for the assisted outreach program, may request budget increases up to three hundred thousand dollars (\$300,000) from internal service funds/interagency transfers received from the human services department for the competency program, may request budget increases up to thirty thousand dollars (\$30,000) from other state funds received from the

national council of juvenile and family court judges for the juvenile drug-court program, may request budget increases up to two hundred thousand dollars (\$200,000) from other state funds received from safe exchange and supervised visitation service providers for the safe exchange and supervised visitation program and may request budget increases up to sixty thousand dollars (\$60,000) from other state funds received from the state bar of New Mexico for the foreclosure settlement program;

B. the fourth judicial district court may request budget increases up to ten thousand dollars (\$10,000) from other state funds from alternative dispute resolution fees for operating expenses;

C. the fifth judicial district court may request budget increases up to twenty-two thousand dollars (\$22,000) from other state funds for the family reunification drug-court program, may request budget increases up to seventy thousand dollars (\$70,000) from other state funds from duplication fees, may request budget increases up to seventy thousand dollars (\$70,000) from other state funds from mediation safe exchange and supervised visitation fees and may request thirty thousand dollars (\$30,000) from other state funds from alternative dispute resolution mediation fees in civil cases;

D. the ninth judicial district court may request budget increases up to twenty-five thousand dollars (\$25,000) from other state funds from drug-court fees and may request budget increases up to twenty-five thousand dollars (\$25,000) from other state funds from domestic filing fees;

E. the thirteenth judicial district court may request budget increases up to ten thousand dollars (\$10,000) from other state funds for domestic relations mediation;

F. the second judicial district attorney may request budget increases up to two million dollars (\$2,000,000) from federal funds and other state funds from grants from local governments and federal agencies for case prosecution and related support services;

G. the eleventh judicial district attorney, division II may request budget increases up to fifty thousand dollars (\$50,000) from internal service funds/interagency transfers and other state funds from any political subdivision of the state or from Native American tribes for the prosecution of crimes within McKinley county and may request budget increases up to seventy-five thousand dollars (\$75,000) from internal service funds/interagency transfers and other state funds received from forfeiture revenues pursuant to Section 31-27-1 NMSA 1978, for prosecution of cases;

H. the public defender department may request budget increases up to five hundred thousand dollars (\$500,000) from other state funds and internal service funds/interagency transfers from the public defender automation fund and from Bernalillo county grant agreements for operating expenses;

I. The state printing and graphics program of the general services department may request budget increases up to two hundred thousand dollars (\$200,000) from other state funds;

J. the New Mexico sentencing commission may request budget increases up to fifty thousand dollars (\$50,000) from other state funds from funds received for the Rio Arriba law enforcement assisted diversion program study and other potential nonfederal contracts or grants, payable to the university of New Mexico;

K. the board of veterinary medicine may request budget increases from other state funds to make disbursements from the animal care and facility fund to qualifying animal shelters;

L. the New Mexico spaceport authority may request budget increases up to one million two hundred thousand dollars (\$1,200,000) from other state funds for agency operating expenses;

M. the department of cultural affairs may request budget increases up to one million dollars (\$1,000,000) from other state funds for operating expenses;

N. the commission for the blind may request budget increases from other state funds to contract with blind or visually impaired vendors to operate food services at the federal law enforcement training center;

O. the workforce solutions department may request program transfers between programs up to one million five hundred thousand dollars (\$1,500,000);

P. the independent living services program of the division of vocational rehabilitation may request budget increases up to sixty thousand dollars (\$60,000) from other state funds for independent living services for the disabled, the rehabilitation services program may request budget increases up to one hundred sixteen thousand five hundred dollars (\$116,500) from other state funds for rehabilitation services for the disabled and the disability determination program may request budget increases up to twelve thousand eight hundred dollars (\$12,800) from other state funds for disability determination services for the disabled;

Q. the office of guardianship program of the developmental disabilities planning council may request budget increases from fund balances to eliminate corporate guardianship wait lists;

R. the juvenile justice facilities program may request budget increases up to two million dollars (\$2,000,000) from other state funds from distributions from the land grant permanent and land income funds and may request additional budget increases up to two hundred thousand dollars (\$200,000) from other state funds for the juvenile continuum grant fund;

S. the New Mexico crime victims reparation commission may request budget increases up to two hundred fifty thousand dollars (\$250,000) from other state funds from fees for care and support;

T. the department of transportation may request budget increases up to thirty-five million dollars (\$35,000,000) from other state funds and fund balances to meet federal matching requirements, for debt service and related costs, intergovernmental agreements, lawsuits and construction- and maintenance-related costs.

Chapter 271 Section 11 Laws 2019

Section 11. **CERTAIN FISCAL YEAR 2020 BUDGET ADJUSTMENTS AUTHORIZED.--**

A. As used in this section and Section 10 of the General Appropriation Act of 2019:

(1) "budget category" means an item or an aggregation of related items that represents

the object of an appropriation. Budget categories include personal services and employee benefits, contractual services, other and other financing uses;

(2) "budget increase" means an approved increase in expenditures by an agency from a specific source;

(3) "category transfer" means an approved transfer of funds from one budget category to another budget category, provided that a category transfer does not include a transfer of funds between divisions; and

(4) "program transfer" means an approved transfer of funds from one program of an agency to another program of that agency.

B. Pursuant to Sections 6-3-23 through 6-3-25 NMSA 1978, those budget adjustments specified in this section are authorized for fiscal year 2020.

C. In addition to the specific category transfers authorized in Subsection E of this section and unless a conflicting category transfer is authorized in Subsection E of this section, all agencies, including legislative agencies, may request category transfers among personal services and employee benefits, contractual services and other.

D. Unless a conflicting budget increase is authorized in Subsection E of this section, a program with internal service funds/interagency transfers appropriations or other state funds

appropriations that collects money in excess of those appropriated may request budget increases in an amount not to exceed five percent of its internal service funds/interagency transfers or other state funds appropriation contained in Section 4 of the General Appropriation Act of 2019. To track the five percent transfer limitation, agencies shall report cumulative budget adjustment request totals on each budget request submitted. The department of finance and administration shall certify agency reporting of these cumulative totals.

E. In addition to the budget authority otherwise provided in the General Appropriation Act of 2019, the following agencies may request specified budget adjustments:

(1) the New Mexico compilation commission may request budget increases from internal service funds/interagency transfers and other state funds for publishing expenses;

(2) the judicial standards commission may request budget increases up to thirty thousand dollars (\$30,000) from other state funds from investigation and trial cost reimbursements;

(3) the administrative office of the courts may request budget increases up to five hundred thousand dollars (\$500,000) from internal service funds/interagency transfers and other state funds received from electronic service fees and may request budget increases up to two hundred fifty thousand dollars (\$250,000) from internal service funds/interagency transfers and other state funds received from the water rights adjudication fund;

(4) the second judicial district court may request budget increases up to an additional

fifty thousand dollars (\$50,000) from other state funds for other program revenue received from the collection of adult drug-court fees, may request budget increases up to an additional twenty thousand dollars (\$20,000) from internal services funds/interagency transfers and other state funds for funds received from copies, tapes and parking reimbursements, may request budget increases up to two hundred fifty thousand dollars (\$250,000) from internal service funds/interagency transfers received from the city of Albuquerque for the assisted outreach program, may request budget increases up to three hundred fifty thousand dollars (\$350,000) from internal service funds/interagency transfers received from the human services department for the competency program, may request budget increases up to thirty thousand dollars (\$30,000) from other state funds received from the national council of juvenile and family court judges for the juvenile drug-court program, may request budget increases up to two hundred thousand dollars (\$200,000) from other state funds received from safe exchange and supervised visitation service providers for the safe exchange and supervised visitation program, may request budget increases up to one hundred twenty thousand dollars (\$120,000) from other state funds received from the state bar of New Mexico for the foreclosure settlement program and may request budget increases up to four hundred thousand dollars (\$400,000) from other state funds received from Bernalillo county;

(5) the third judicial district court may request budget increases up to thirty-five thousand dollars (\$35,000) from other state funds for program revenues received from the collection of mediation and alternative dispute resolution fees, may request up to five thousand dollars (\$5,000) from other state funds from copy fees for operating expenses and may request budget increases up to thirty-five thousand three hundred dollars (\$35,300) from other state funds from specialty court fees for specialty court operations;

(6) the fourth judicial district court may request budget increases up to twenty-five thousand dollars (\$25,000) from other state funds for mediation fees for operating expenses, may request budget increases up to fifteen thousand dollars (\$15,000) from other state funds from copy fees for operating expenses and may request budget increases up to ten thousand dollars (\$10,000) from other state funds from alternative dispute resolution fees for operating expenses;

(7) the eleventh judicial district court may request budget increases up to fifty thousand dollars (\$50,000) from drug-court fund balances for treatment services, may request budget increases up to twenty-five thousand dollars (\$25,000) from internal service funds/interagency transfers from drug-court fees for treatment services, may request budget increases up to seventy-five thousand dollars (\$75,000) from other state funds for mediation operating expenses and may request budget increases up to twenty-five thousand dollars (\$25,000) from internal service funds/interagency transfers from mediation services for mediation operating expenses;

(8) the thirteenth judicial district court may request budget increases up to ten thousand dollars (\$10,000) from other state funds for domestic mediation;

(9) the second judicial district attorney may request budget increases up to three million dollars (\$3,000,000) from internal service funds/interagency transfers and other state funds from grants, local governments and federal agencies for case prosecution and related support services;

(10) the thirteenth judicial district attorney may request budget increases up to five

hundred thousand dollars (\$500,000) from internal service funds/interagency transfers and other state funds from any political subdivision of the state or from Native American tribes to assist in case prosecution;

(11) the public defender department may request budget increases up to five hundred thousand dollars (\$500,000) in other state funds from the public defender automation fund and from Bernalillo county grant agreements for operating expenses;

(12) the attorney general may request budget increases up to four hundred fifty thousand dollars (\$450,000) from other state funds from the consumer settlement fund for operating expenses and may request budget increases from other state funds from the medicaid fraud fund for federal matching requirements;

(13) the office of the state auditor may request budget increases up to one hundred thousand dollars (\$100,000) [~~from other state funds from audit fees to assist local public bodies with meeting financial reporting requirements~~]; *LINE-ITEM VETO*

(14) the state investment council may request budget increases from other state funds for investment-related management fees and to meet emergencies or unexpected physical plant failures that might impact the health and safety of workers or visitors to the agency;

(15) the administrative hearings office may request budget increases up to thirty thousand dollars (\$30,000) from other state funds received from other state agencies for administrative hearings;

(16) the department of finance and administration may request program transfers between programs to support local government complete count efforts and training for the 2020 census;

(17) the state printing and graphics program of the general services department may request budget increases up to two hundred thousand dollars (\$200,000) from other state funds.

(18) the benefits, risk and program support programs of the public school insurance authority may request budget increases from internal service funds/interagency transfers, other state funds and fund balances for claims;

(19) the healthcare benefits administration program of the retiree health care authority may request budget increases from other state funds for claims;

(20) the procurement services program of the general services department may request budget increases up to five hundred thousand dollars (\$500,000) from other state funds for operating expenses;

(21) the educational retirement board may request budget increases from other state funds for investment-related asset management fees and to meet emergencies or unexpected physical plant failures that might impact the health and safety of workers or visitors to the agency;

(22) the New Mexico sentencing commission may request budget increases from fund balances for operating expenses and may request budget increases up to one hundred fifty thousand dollars (\$150,000)

from other state funds from funds received for the Rio Arriba law enforcement assisted diversion program study and other non-federal contracts or grants, payable to the university of New Mexico;

(23) the department of information technology may request budget increases up to four million dollars (\$4,000,000) from fund balances for telecommunication, information processing and the statewide human resources, accounting and management reporting system, may request budget increases up to ten percent of internal service funds/interagency transfers and other state funds appropriated in Section 4 of the General Appropriation Act of 2019 to support existing or new services and may request budget increases from fund balances up to the amount of depreciation expense, as reported in the notes to the financial statements of the agency's independent audit of the fiscal year ended June 30, 2019 to acquire and replace capital equipment and associated software used to provide enterprise services;

(24) the public employees retirement association may request budget increases from other state funds for investment-related asset management fees and to meet emergencies or unexpected physical plant failures that might impact the health and safety of workers or visitors to the agency;

(25) the marketing and promotion program of the tourism department may request budget increases up to one million dollars (\$1,000,000) from other state funds to grow advertising efforts by leveraging partnership dollars in the tourism enterprise fund;

(26) the boards and commissions program of the regulation and licensing department may request budget increases up to one hundred thousand dollars (\$100,000) from other state funds for operating

expenses and staffing needs and the securities program may request budget increases from other state funds up to two hundred thousand dollars (\$200,000) for information technology and training needs associated with enforcement and outreach activities;

(27) the patient's compensation fund program of the office of superintendent of insurance may request budget increases from other state funds for patient compensation settlements and court-ordered payments;

(28) the New Mexico medical board may request budget increases up to one hundred thousand dollars (\$100,000) from other state funds from licensing and renewal fees for the administrative hearing and litigation process;

(29) the department of cultural affairs may request program transfers up to one million dollars (\$1,000,000) among programs and may request budget increases from the cultural affairs department enterprise fund, the museum and historic sites program may request budget increases from other state funds, and the preservation program may request budget increases from other state funds for archeological services or historic preservation services;

(30) the department of game and fish may request budget increases up to five hundred thousand dollars (\$500,000) from the game protection fund for emergencies;

(31) the energy, minerals and natural resources department may request budget increases from internal service funds/interagency transfers from the department of environment, department of game

and fish, homeland security and emergency management department and office of state engineer from federal funds to allow programs to maximize the use of federal grants, the state parks program may request budget increases from internal services funds/interagency transfers from the department of transportation, New Mexico youth conservation corps, tourism department, economic development department and department of game and fish from funds related to projects approved by the Rio Grande trail commission, the oil and gas conservation program may request budget increases from internal service funds/interagency transfers from the department of environment for the water quality program and may request budget increases from internal service funds/interagency transfers, other state funds and fund balances from the Carlsbad brine well remediation fund for the continued remediation of the Carlsbad brine well, the healthy forests program may request budget increases from internal service funds/interagency transfers from the New Mexico youth conservation corps fund for projects approved by the New Mexico youth conservation corps commission and may request budget increases up to fifty thousand dollars (\$50,000) from other state funds for the inmate work camp program and the energy conservation and management program may request budget increases from internal service funds/interagency transfers and other state funds for project implementation;

(32) the youth conservation corps may request budget increases up to three hundred thousand dollars (\$300,000) from other state funds for additional youth conservation corp projects upon approval by the youth conservation corp commission;

(33) the commissioner of public lands may request budget increases up to five million dollars (\$5,000,000) from the state trust lands restoration and remediation fund to address surface damage, remediation of hazardous waste sites and watershed restoration on state trust lands;

(34) the interstate stream compact compliance and water development program of the office of the state engineer may request budget increases up to two hundred fifty thousand dollars (\$250,000) from other state funds into the Ute construction fund for operational and maintenance requirements at the Ute reservoir, may request budget increases up to three hundred fifty thousand dollars (\$350,000) from the irrigation works construction fund for operational and maintenance costs associated with the Pecos river settlement agreement, may request budget increases up to five hundred thousand dollars (\$500,000) from the irrigation works construction fund for Elephant Butte channel and other Rio Grande river maintenance and restoration work and may request budget increases up to one million six hundred ninety-eight thousand dollars (\$1,698,000) from the New Mexico unit fund to meet water supply demands in the southwest water planning region of New Mexico including costs associated with planning, environmental compliance activities, environmental mitigation and restoration and the litigation and adjudication program may request budget increases up to two million five hundred thousand dollars (\$2,500,000) from internal service funds/interagency transfers from the irrigation works construction fund for operations in the event water project fund revenues are insufficient to meet operating budget needs, notwithstanding the provisions of Article 14 of Chapter 72 NMSA 1978;

(35) the commission for deaf and hard-of-hearing persons may request budget increases up to four hundred thousand dollars (\$400,000) from other state funds for relay services and telecommunication equipment;

(36) the commission for the blind may request budget increases from other state funds for the employment of blind or visually impaired persons pursuant to the federal Randolph-Sheppard Act, the

federal Javits-Wagner-O'Day Act or the federal ability one program and may request budget increases from other state funds to contract with blind or visually impaired vendors to operate food services at the federal law enforcement training center;

(37) the aging and long-term services department may request program transfers up to five hundred thousand dollars (\$500,000) between programs for budget shortfalls;

(38) the human services department may request program transfers between the medical assistance program and the medicaid behavioral health program;

(39) the workforce solutions department may request program transfers between programs up to one million five hundred thousand dollars (\$1,500,000);

(40) the office of guardianship program of the developmental disabilities planning council may request budget increases from fund balances to eliminate corporate guardianship wait lists;

(41) the miners' hospital of New Mexico may request budget increases from other state funds from fees from patient revenues for operating expenses;

(42) the health certification, licensing and oversight program of the department of health may request budget increases from other state funds from health facility license and certification fees pursuant to Subsection G of Section 24-1-5 NMSA 1978, the developmental disabilities support program may request budget increases from other state funds from private insurer payments, may request category

transfers between the other category and the other financing uses category for the supports waiver and family, infant, toddler program and may request category transfers from the personal services and employee benefits category, contractual services category and other category to the other financing uses category for developmental disabilities waiver services, the epidemiology and response program may request budget increases from internal service funds/interagency transfers and other state funds from payments for prevention services, conducting health surveys and analyzing data, the laboratory services program may request budget increases from internal service funds/interagency transfers and other state funds for operating expenses and the medical cannabis program may request budget increases from other state funds from medical cannabis revenue for operating expenses;

(43) the water protection program of the department of environment may request budget increases up to three hundred fifty thousand dollars (\$350,000) from other state funds and internal service funds/interagency transfers for providing additional technical or community services if requested, the resource protection program may request budget increases from other state funds and internal service funds/interagency transfers from the hazardous waste emergency fund for emergencies and may request budget increases from other state funds and internal service funds/interagency transfers from the corrective action fund for claims and the environmental protection program may request budget increases up to one hundred thousand dollars (\$100,000) from other state funds for administrative expenditures related to the Volkswagen litigation settlement;

(44) the children, youth and families department may request program transfers between programs up to two million dollars (\$2,000,000), the juvenile justice facilities program may request budget

increases up to two million dollars (\$2,000,000) from other state funds from distributions from the land grant permanent fund and land income fund, the juvenile justice facilities program may request budget increases up to six hundred thousand dollars (\$600,000) from other state funds for the juvenile continuum grant fund and may request budget increases up to four hundred thousand dollars (\$400,000) from other state funds for the juvenile community corrections grant fund;

(45) the department of military affairs may request budget increases up to fifty thousand dollars (\$50,000) from other state funds from leases, land royalties, miscellaneous gifts or grants for support of national guard facility operations and maintenance and repair of the New Mexico youth challenge academy;

(46) the corrections department may request program transfers up to one million five hundred thousand dollars (\$1,500,000) between programs for budget shortfalls, the community offender management program may request budget increases up to five hundred thousand dollars (\$500,000) from internal service funds/interagency transfers and other state funds from program fees, probation and parole fees, cash balances and the community corrections grant fund for operating expenses and may request budget increases up to five hundred thousand dollars (\$500,000) from fund balances for operating expenses, program support may request budget increases up to five hundred thousand dollars (\$500,000) from internal service funds/interagency transfers and other state funds from social security administration incentive payments and additional payments from international cadet training classes, the inmate management and control program may request budget increases up to two million dollars (\$2,000,000) from internal service funds/interagency transfers and other state funds from the penitentiary income fund and inmate work crew

program income and the corrections industries program may request budget increases up to one million five hundred thousand dollars (\$1,500,000) from internal service funds/interagency transfers and other state funds from sales, fund balances, inmate canteen purchases and telephone services for operating expenses;

(47) the New Mexico crime victims reparation commission may request budget increases up to two hundred fifty thousand dollars (\$250,000) from other state funds from fees for care and support;

(48) the department of public safety may request budget increases up to one million five hundred thousand dollars (\$1,500,000) from internal service/interagency transfers and other state funds for public safety special projects and activities with other state agencies, local governments, and other law enforcement entities and may request program transfers from the law enforcement program to the statewide law enforcement support program;

(49) the department of transportation may request program transfers between the project design and construction program, the highway operations program and the modal program for costs related to engineering, construction and maintenance services, may request program transfers into the personal services and employee benefits category for prospective salary increases and the employer's share of applicable taxes and retirement benefits, may request budget increases up to fifty-five million dollars (\$55,000,000) from other state funds and fund balances to meet federal matching requirements for debt service and related costs, intergovernmental agreements, lawsuits, transfer to the Carlsbad brine well remediation fund and construction- and maintenance-related costs and may request budget increases up to three million five hundred thousand dollars (\$3,500,000) from other state funds, internal service

funds/interagency transfers and fund balances from the weight distance tax identification permit fund of the taxation and revenue department, if sufficient funds are available; and

(50) the public education department may request budget increases up to twenty thousand dollars (\$20,000) from the school transportation training fund for public school transportation workshops and training, including supplies and professional development for public education department staff.

F. The department of military affairs, the homeland security and emergency management department, the department of public safety and the energy, minerals and natural resources department may request budget increases from the general fund as required by an executive order declaring a disaster or emergency.

Chapter 271 Section 12 Laws 2019

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
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Section 12. **FUND TRANSFERS.**--The following amounts are transferred from the general fund to the following funds in the fiscal years specified.

(1)	DEPARTMENT OF FINANCE AND ADMINISTRATION	10,000.0			10,000.0
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To the state-support reserve fund in fiscal year 2020.

(2) DEPARTMENT OF FINANCE 40,000.0 40,000.0
AND ADMINISTRATION

For disbursement to the tobacco settlement permanent fund at the state investment council in fiscal year 2019.

~~[(3) DEPARTMENT OF FINANCE 40,000.0 40,000.0
AND ADMINISTRATION~~

~~To the public-private partnership project fund at the New Mexico finance authority in fiscal year 2019—
contingent on enactment of House Bill 534 or similar legislation of the first session of the fifty-fourth—
legislature.] LINE-ITEM VETO~~

(4) DEPARTMENT OF FINANCE 6,000.0 6,000.0
AND ADMINISTRATION

For disbursement to the water project fund at the New Mexico finance authority in fiscal year 2019 to be awarded to mutual domestic water consumers associations by the water trust board in fiscal year 2019.

(5) DEPARTMENT OF FINANCE 4,000.0 4,000.0
AND ADMINISTRATION

For disbursement to the primary care fund at the New Mexico finance authority in fiscal year 2019.

(6) DEPARTMENT OF 1,000.0 1,000.0
CULTURAL AFFAIRS

To the rural libraries endowment fund in fiscal year 2020 contingent on enactment of Senate Bill 264 or

similar legislation of the first session of the fifty-fourth legislature creating the fund.

(7)	HIGHER EDUCATION DEPARTMENT	20,000.0	20,000.0
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To the teacher loan repayment fund in fiscal year 2019. Ten million dollars (\$10,000,000) shall be transferred from the teacher loan repayment fund to the teacher preparation affordability scholarship fund contingent on enactment of House Bill 275 or similar legislation of the first session of the fifty-fourth legislature.

TOTAL FUND TRANSFERS	121,000.0	121,000.0
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Chapter 271 Section 13 Laws 2019

Section 13. **TRANSFER AUTHORITY.**-- In addition to the transfer authority provided in Section 12 of Chapter 73 of Law 2018, if revenue and transfers to the general fund at the end of fiscal year 2019 are not sufficient to meet appropriations, the governor, with the state board of finance approval, may transfer to the appropriation account of the general fund the amount necessary to meet that fiscal year's obligations from the operating reserve provided that the total additional amount transferred pursuant to this section shall not exceed eighty-five million dollars (\$85,000,000).

If revenue and transfers to the general fund at the end of fiscal year 2020 are not sufficient to meet appropriations, the governor, with the state board of finance approval, may transfer to the appropriation account of the general fund the amount necessary to meet that fiscal year's obligations from

the operating reserve provided that the total transferred pursuant to this section shall not exceed one hundred ninety million dollars (\$190,000,000).

Chapter 271 Section 14 Laws 2019

Section 14. **SEVERABILITY.**--If any part or application of this act is held invalid, the remainder or its application to other situations or persons shall not be affected.=====

HAFC/House Bills 2 and 3, aa, w/cc, partial veto

Approved April 4, 2019

LAWS 2019, CHAPTER 272

AN ACT

RELATING TO COMMITMENT PROCEDURES; AMENDING THE DETOXIFICATION REFORM ACT TO ADD A PUBLIC SERVICE OFFICER AS AN AUTHORIZED PERSON FOR THE PURPOSE OF REQUESTING COMMITMENT OF AN INTOXICATED OR INCAPACITATED PERSON TO A TREATMENT FACILITY.

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

Chapter 272 Section 1 Laws 2019

SECTION 1. Section 43-2-2 NMSA 1978 (being Laws 1977, Chapter 374, Section 1, as amended) is amended to read:

"43-2-2. DEFINITIONS.--As used in the Detoxification Reform Act:

A. "alcohol-impaired person" means a person who uses alcoholic beverages to the extent that the person's health and well-being are substantially impaired or endangered;

B. "authorized person" means a physician, public service officer or police officer;

C. "consistent with the least drastic means principle" means that the habilitation, protective custody or treatment and the conditions of habilitation, protective custody or treatment separately and in combination:

(1) are no more harsh, hazardous or intrusive than necessary to achieve acceptable treatment objectives or protection for the person committed; and

(2) involve no restrictions on physical movement except as reasonably necessary for the administration of treatment, for the security of the facility or for the protection of the person committed or another from physical injury;

D. "department" means the department of health;

E. "detention center" means a city, county or other jail, the administration of which agrees to accept intoxicated persons for protective custody; provided, however, that a detention center is authorized to hold a person in protective custody pursuant to

Section 43-2-8 NMSA 1978 but is not otherwise subject to the provisions of the Detoxification Reform Act;

F. "drug-impaired person" means a person who uses drugs to the extent that the person's health and well-being are substantially impaired or endangered;

G. "incapacitated person" means a person who, as a result of the use of alcohol or drugs, is unconscious or has the person's judgment otherwise so impaired that the person is incapable of realizing and making rational decisions;

H. "intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or drugs;

I. "likely to inflict serious physical harm on another" means that it is more likely than not that in the near future the person will inflict serious, unjustified bodily harm on another person or commit a criminal sexual offense as evidenced by behavior causing, attempting or threatening such harm, which behavior gives rise to a reasonable fear of such harm from that person;

J. "likely to inflict serious physical harm on oneself" means that it is more likely than not that in the near future the person will attempt to commit suicide or will cause serious bodily harm to that person's self by violent or passive or other self-destructive means as evidenced by behavior causing, attempting or threatening the infliction of serious bodily harm to that person's self;

K. "protective custody" means confinement of an intoxicated person, for a period not less than twelve hours or more than seventy-two hours in length and under conditions consistent with the least drastic means principle;

L. "public service officer" means a civilian

employee within a police department who is authorized by the police department to transport intoxicated or incapacitated persons to a treatment facility or detention center;

M. "treatment" means the broad range of emergency, outpatient, intermediate and inpatient services and care, including protective custody, diagnostic evaluation, medical, psychiatric, psychological and social service care, vocational rehabilitation and career counseling, which may be extended to alcohol-impaired, drug-impaired and intoxicated persons; and

N. "treatment facility" means:

(1) an institution under the supervision of the department and approved by the department for the care and treatment of alcohol-impaired persons or drug-impaired persons;

(2) a public institution approved by the department for the care and treatment of alcohol-impaired persons or drug-impaired persons, but not specifically under the supervision of the department; or

(3) any other facility that provides any of the services specified in the Detoxification Reform Act and is licensed by the department for those services." _____

House Bill 234, aa

Approved April 4, 2019

LAWS 2019, CHAPTER 273

AN ACT

RELATING TO SEVERANCE TAX BONDING; PROVIDING FOR A MINIMUM DISTRIBUTION FROM THE SEVERANCE TAX BONDING FUND TO THE SEVERANCE TAX PERMANENT FUND EVERY YEAR FOR TEN YEARS; LIMITING THE AMOUNT OF SUPPLEMENTAL SEVERANCE TAX BONDS OR NOTES ISSUED IN 2019.

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

Chapter 273 Section 1 Laws 2019

SECTION 1. Section 7-27-10 NMSA 1978 (being Laws 1961, Chapter 5, Section 8, as amended) is amended to read:

"7-27-10. STATE BOARD OF FINANCE SHALL ISSUE BONDS.--

A. The state board of finance is authorized to issue and sell severance tax bonds within the provisions of the Severance Tax Bonding Act, and no other agency of the state is authorized to issue or sell severance tax bonds.

B. The state board of finance may issue and sell supplemental severance tax bonds within the provisions of the Severance Tax Bonding Act, and no other agency of

the state is authorized to issue or sell supplemental severance tax bonds. As a temporary measure for fiscal year 2019, the state board of finance shall not issue and sell more than one hundred eighty-one million eight hundred thousand dollars (\$181,800,000) of supplemental severance tax bonds or notes."

Chapter 273 Section 2 Laws 2019

SECTION 2. Section 7-27-10.1 NMSA 1978 (being Laws 2003, Chapter 134, Section 1, as amended) is amended to read:

"7-27-10.1. TRANSFER TO SEVERANCE TAX PERMANENT FUND BEFORE DETERMINING BONDING CAPACITY--AUTHORIZATION FOR SEVERANCE TAX BONDS--PRIORITY FOR WATER PROJECTS AND TRIBAL INFRASTRUCTURE PROJECTS.--

A. On December 31 of each year from 2019 through 2028, the division shall transfer twenty-three million six hundred ninety thousand dollars (\$23,690,000) from the severance tax bonding fund to the severance tax permanent fund, unless the state board of finance determines that a lesser transfer amount is necessary pursuant to Section 7-27-8 NMSA 1978 to avoid a potential shortfall in debt service obligations.

B. By January 15 of each year, the division shall estimate the amount of bonding capacity available for severance tax bonds to be authorized by the legislature.

C. For each year except 2017, the division shall allocate nine percent of the estimated bonding capacity each year for water projects, and the legislature authorizes the state board of finance to issue severance tax bonds in the annually allocated amount for use by the water trust board to fund water projects statewide. The water trust board shall certify to the state board of finance the need for issuance of bonds for water projects. The state board of finance may issue and sell the bonds in the same manner as other severance tax bonds in an amount not to exceed the authorized amount provided for in this subsection. If necessary, the state board of finance shall take the appropriate steps to comply with the federal Internal Revenue Code of 1986, as amended. Proceeds from the sale of the bonds are appropriated to the water project fund in the New Mexico finance authority for the purposes certified by the water trust board to the state board of finance.

D. The division shall allocate the following percentage of the estimated bonding capacity for tribal infrastructure projects:

- (1) in 2016, six and one-half percent; and

(2) in 2017 and each subsequent year, four and one-half percent.

E. The legislature authorizes the state board of finance to issue severance tax bonds in the amount provided for in this section for use by the tribal infrastructure board to fund tribal infrastructure projects. The tribal infrastructure board shall certify to the state board of finance the need for issuance of bonds for tribal infrastructure projects. The state board of finance may issue and sell the bonds in the same manner as other severance tax bonds in an amount not to exceed the authorized amount provided for in this section. If necessary, the state board of finance shall take the appropriate steps to comply with the federal Internal Revenue Code of 1986, as amended. Proceeds from the sale of the bonds are appropriated to the tribal infrastructure project fund for the purposes certified by the tribal infrastructure board to the state board of finance.

F. Money from the severance tax bonds provided for in this section shall not be used to pay indirect project costs. Any unexpended balance from proceeds of severance tax bonds issued for a water project or a tribal infrastructure project shall revert to the severance tax bonding fund within six months of completion of the project. The New Mexico finance authority shall monitor and ensure proper reversions of the bond proceeds appropriated for water projects, and the department of finance and administration shall monitor and ensure proper reversions of the bond proceeds appropriated for tribal infrastructure projects.

G. As used in this section:

(1) "division" means the board of finance division of the department of finance and administration;

(2) "tribal infrastructure project" means a qualified project under the Tribal Infrastructure Act; and

(3) "water project" means a capital outlay project for:

(a) the storage, conveyance or delivery of water to end users;

(b) the implementation of federal Endangered Species Act of 1973 collaborative programs;

(c) the restoration and management of watersheds;

(d) flood prevention; or

water." _____ (e) conservation, recycling, treatment or reuse of

SFC/Senate Bill 535, aa

Approved April 4, 2019

LAWS 2019, CHAPTER 274

AN ACT

RELATING TO TAXATION; DE-EARMARKING CERTAIN MUNICIPAL AND COUNTY LOCAL OPTION GROSS RECEIPTS TAXES; PROVIDING THAT CERTAIN MUNICIPAL GROSS RECEIPTS TAXES MAY BE USED FOR ANY MUNICIPAL PURPOSE; PROVIDING THAT CERTAIN COUNTY GROSS RECEIPTS TAXES MAY BE USED FOR ANY COUNTY PURPOSE; PROVIDING THAT CHANGES OR REPEALS OF CERTAIN LOCAL OPTION GROSS RECEIPTS TAXES SHALL NOT IMPAIR OUTSTANDING REVENUE BONDS; PROVIDING THAT PREVIOUSLY DEDICATED REVENUE ATTRIBUTABLE TO A LOCAL OPTION GROSS RECEIPTS TAX BEING AMENDED OR REPEALED BY THIS ACT SHALL CONTINUE TO BE DEDICATED FOR THE SAME PURPOSES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

Chapter 274 Section 1 Laws 2019

SECTION 1. Section 3-31-1 NMSA 1978 (being Laws 1973, Chapter 395, Section 3, as amended) is amended to read:

"3-31-1. REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF REVENUES--LIMITATION ON TIME OF ISSUANCE.--

A. In addition to any other law and constitutional home rule powers authorizing a municipality to issue revenue bonds, a municipality may issue revenue bonds pursuant to Chapter 3, Article 31 NMSA 1978 for the purposes specified in this section.

B. Utility revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing or otherwise improving a municipal utility or for any combination of the foregoing purposes. The municipality may pledge irrevocably any or all of the net

revenues from the operation of the municipal utility or of any one or more of other such municipal utilities for payment of the interest on and principal of the revenue bonds.

C. Joint utility revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing or otherwise improving joint water facilities, sewer facilities, gas facilities or electric facilities or for any combination of the foregoing purposes. The municipality may pledge irrevocably any or all of the net revenues from the operation of these municipal utilities for the payment of the interest on and principal of the bonds.

D. Gross receipts tax revenue bonds may be issued for any municipal purpose. A municipality may pledge irrevocably any or all of the gross receipts tax revenue received by the municipality pursuant to Section 7-1-6.4 or 7-1-6.12 NMSA 1978 to the payment of the interest on and principal of the gross receipts tax revenue bonds or for any area of municipal government services. A law that imposes or authorizes the imposition of a tax authorized by the Municipal Local Option Gross Receipts Taxes Act or that affects the tax, or a law supplemental thereto or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge of such tax unless the outstanding revenue bonds have been discharged in full or provision has been fully made therefor. Revenues in excess of the annual principal and interest due on gross receipts tax revenue bonds secured by a pledge of gross receipts tax revenue may be accumulated in a debt service reserve account. The governing body of the municipality may appoint a commercial bank trust department to act as trustee of the gross receipts tax revenue and to administer the payment of principal of and interest on the bonds.

E. Gasoline tax revenue bonds may be issued for laying off, opening, constructing, reconstructing, resurfacing, maintaining, acquiring rights of way, repairing and otherwise improving municipal buildings, alleys, streets, public roads and bridges or any combination of the foregoing purposes. The municipality may pledge irrevocably any or all of the gasoline tax revenue received by the municipality to the payment of the interest on and principal of the gasoline tax revenue bonds.

F. Project revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping and rehabilitating any revenue-producing project, including, where applicable, purchasing, otherwise acquiring or improving the ground therefor, including acquiring and improving parking lots, or for any combination of the foregoing purposes. The municipality may pledge irrevocably any or all of the net revenues from the operation of the revenue-producing project for which the particular project revenue bonds are issued to the payment of the interest on and principal of the project revenue bonds. The net revenues of any revenue-producing project may not be pledged to the project revenue

bonds issued for a revenue-producing project that clearly is unrelated in nature; but nothing in this subsection shall prevent the pledge to such project revenue bonds of any revenues received from existing, future or disconnected facilities and equipment that are related to and that may constitute a part of the particular revenue-producing project. A general determination by the governing body that any facilities or equipment is reasonably related to and constitutes a part of a specified revenue-producing project shall be conclusive if set forth in the proceedings authorizing the project revenue bonds.

G. Fire district revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping and rehabilitating any fire district project, including, where applicable, purchasing, otherwise acquiring or improving the ground therefor, or for any combination of the foregoing purposes. The municipality may pledge irrevocably any or all of the revenues received by the fire district from the fire protection fund as provided in the Fire Protection Fund Law and any or all of the revenues provided for the operation of the fire district project for which the particular bonds are issued to the payment of the interest on and principal of the bonds. The revenues of any fire district project shall not be pledged to the bonds issued for a fire district project that clearly is unrelated in its purpose; but nothing in this section prevents the pledge to such bonds of any revenues received from existing, future or disconnected facilities and equipment that are related to and that may constitute a part of the particular fire district project. A general determination by the governing body of the municipality that any facilities or equipment is reasonably related to and constitutes a part of a specified fire district project shall be conclusive if set forth in the proceedings authorizing the fire district bonds.

H. Law enforcement protection revenue bonds may be issued for the repair and purchase of law enforcement apparatus and equipment that meet nationally recognized standards. The municipality may pledge irrevocably any or all of the revenues received by the municipality from the law enforcement protection fund distributions pursuant to the Law Enforcement Protection Fund Act to the payment of the interest on and principal of the law enforcement protection revenue bonds.

I. Except for the purpose of refunding previous revenue bond issues, no municipality may sell revenue bonds payable from pledged revenues after the expiration of two years from the date of the ordinance authorizing the issuance of the bonds or, for bonds to be issued and sold to the New Mexico finance authority as authorized in Subsection C of Section 3-31-4 NMSA 1978, after the expiration of two years from the date of the resolution authorizing the issuance of the bonds. However, any period of time during which a particular revenue bond issue is in litigation shall not be counted in determining the expiration date of that issue."

Chapter 274 Section 2 Laws 2019

SECTION 2. A new Section 3-31-1.1 NMSA 1978 is enacted to read:

"3-31-1.1. DEFINITIONS.--As used in Chapter 3, Article 31 NMSA 1978:

A. "bond" means any obligation of a municipality issued under Chapter 3, Article 31 NMSA 1978, whether designated as a bond, note, loan, warrant, debenture, lease-purchase agreement or other instrument evidencing an obligation of a municipality to make payments;

B. "gasoline tax revenue" means all or portions of the amounts of tax revenues distributed to municipalities pursuant to Sections 7-1-6.9 and 7-1-6.27 NMSA 1978;

C. "gasoline tax revenue bonds" means the bonds authorized by Subsection E of Section 3-31-1 NMSA 1978;

D. "gross receipts tax revenue" means the amount of money distributed to a municipality pursuant to Section 7-1-6.4 NMSA and transferred to a municipality pursuant to Section 7-1-6.12 NMSA 1978 for any municipal gross receipts tax imposed pursuant to the Municipal Local Option Gross Receipts Taxes Act;

E. "gross receipts tax revenue bonds" means the bonds authorized by Subsection D of Section 3-31-1 NMSA 1978;

F. "joint utility revenue bonds" or "joint utility bonds" means the bonds authorized by Subsection C of Section 3-31-1 NMSA 1978;

G. "pledged revenues" means the revenues, net income or net revenues authorized to be pledged to the payment of revenue bonds as specifically provided in Chapter 3, Article 31 NMSA 1978;

H. "project revenue bonds" means the bonds authorized by Subsection F of Section 3-31-1 NMSA 1978; and

I. "utility revenue bonds" or "utility bonds" means the bonds authorized by Subsection B of Section 3-31-1 NMSA 1978."

Chapter 274 Section 3 Laws 2019

SECTION 3. Section 4-61-3 NMSA 1978 (being Laws 1982, Chapter 44, Section 3, as amended) is amended to read:

"4-61-3. SMALL COUNTIES ASSISTANCE FUND--DISTRIBUTION.--

A. The "small counties assistance fund" is created within the state treasury.

B. On or before September 1, 2003 and on or before September 1 of each subsequent year, the demographer shall certify in writing to the department of finance and administration the population of the state and of each county as of June 30 of the year.

C. On or before September 15, 2003 and on or before September 15 of each subsequent year, the secretary of finance and administration shall certify to the state treasurer with respect to each qualifying county:

- (1) its population as certified by the demographer;
- (2) its total valuation for the preceding property tax year; and
- (3) the distribution amount calculated for it.

D. The distribution amount for each qualifying county shall be determined for 2003 and each subsequent year in accordance with the following table; provided that the bracket amounts in the first two columns of the table shall be adjusted annually after 2003 by the adjustment factor. The bracket amounts in the last column shall be adjusted annually after 2005 by the inflation factor and, in 2011 and subsequent years, shall be adjusted by the tax rate factor. The department of finance and administration may round the results of the adjustments made pursuant to this subsection to the nearest one thousand dollars (\$1,000).

If the county's total valuation for the preceding property tax year is:

at least:	but less than:	and the county population is:	then the distribution amount is:
\$ 0	\$100,000,000	under 1,000	\$515,000
\$ 0	\$100,000,000	at least 1,000 but under 4,000	\$370,000
\$ 0	\$100,000,000	at least 4,000	\$285,000
\$100,000,000	\$230,000,000	under 12,000	\$200,000
\$100,000,000	\$230,000,000	at least 12,000	\$145,000
\$230,000,000	\$1,400,000,000	under 48,000	\$85,000.

E. If the balance in the small counties assistance fund as of the preceding August 31 exceeds the sum of the distributions to be made to qualifying counties pursuant to the provisions of Subsection D of this section, the department of finance and administration shall increase the distribution amount for each county receiving a distribution amount pursuant to the provisions of Subsection D of this section by:

(1) fifty thousand dollars (\$50,000) if the county has imposed and has in effect on July 1 of the year in which the distribution is to be made a county gross receipts tax at a rate of at least one-eighth percent; provided that the ordinance imposing the increment shall dedicate the revenue from the increment:

(a) for the purpose of operating, maintaining, constructing, purchasing, furnishing, equipping, rehabilitating, expanding or improving a judicial-correctional or a county correctional facility or the grounds of a judicial-correctional or county correctional facility, including acquiring and improving parking lots, landscaping or any combination of the foregoing;

(b) for the purpose of transporting or extraditing prisoners; or

(c) to payment of principal and interest on revenue bonds or refunding bonds issued pursuant to Section 4-62-1 NMSA 1978;

(2) twenty thousand dollars (\$20,000) if the county has imposed and has in effect on July 1 of the year in which the distribution is to be made a county gross receipts tax increment of one-sixteenth percent; or

(3) seventy thousand dollars (\$70,000) if the county has met the requirements of Paragraphs (1) and (2) of this subsection.

F. If the balance in the small counties assistance fund as of the preceding August 31 is less than the sum of the distributions determined pursuant to Subsection D of this section plus the distribution increases authorized pursuant to Subsection E of this section, the distribution increases pursuant to Subsection E of this section shall be proportionately reduced.

G. If the balance in the small counties assistance fund as of the preceding August 31 is less than the sum of the distributions to be made to qualifying counties, the department of finance and administration shall reduce each qualifying county's calculated distribution by a percentage computed by dividing the amount by which the fund is insufficient by the sum of all the calculated distributions and shall certify the reduced amounts as the qualifying counties' distributions.

H. Any interest accruing from the temporary investment of the small counties assistance fund shall be credited to the general fund.

I. On or before September 30, 2003 and on or before September 30 of each subsequent year, the state treasurer shall distribute to each county for whom a distribution has been certified for that year the amount certified for that county for that year. If the balance in the fund as of the preceding August 31 exceeds the sum of certified amounts distributed, the difference shall revert to the general fund.

J. If any date specified in Subsection B, C or I of this section falls on a Saturday, Sunday or legal holiday, any action required to be performed as provided in those subsections is timely if performed on the next day that is not a Saturday, Sunday or legal holiday."

Chapter 274 Section 4 Laws 2019

SECTION 4. Section 4-62-1 NMSA 1978 (being Laws 1992, Chapter 95, Section 1, as amended) is amended to read:

"4-62-1. REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF REVENUES--LIMITATION ON TIME OF ISSUANCE.--

A. In addition to any other law authorizing a county to issue revenue bonds, a county may issue revenue bonds pursuant to Chapter 4, Article 62 NMSA 1978 for the purposes specified in this section.

B. Gross receipts tax revenue bonds may be issued for any county purpose. A county may pledge irrevocably any or all of the revenue received by the county pursuant to Section 7-1-6.13 NMSA 1978 for payment of principal and interest due in connection with, and other expenses related to, gross receipts tax revenue bonds or for any area of county government services. If the revenue is pledged for payment of principal and interest as authorized by this subsection, the pledge shall require the revenues received to be deposited into a special bond fund for payment of the principal, interest and expenses. At the end of each fiscal year, money remaining in the special bond fund after the annual obligations for the bonds are fully met may be transferred to any other fund of the county. Revenues in excess of the annual principal and interest due on gross receipts tax revenue bonds secured by a pledge of gross receipts tax revenue may be accumulated in a debt service reserve account. The governing body of the county may appoint a commercial bank trust department to act as trustee of the proceeds of the tax and to administer the payment of principal of and interest on the bonds.

C. Gasoline tax revenue bonds may be issued for the acquisition of rights of way for and the construction, reconstruction, resurfacing, maintenance, repair or other improvement of county roads and bridges. A county may pledge irrevocably any or all of the county gasoline tax revenue for payment of principal and interest due in connection with, and other expenses related to, county gasoline tax revenue bonds.

D. Utility revenue bonds or joint utility revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing or otherwise improving water facilities, sewer facilities, gas facilities or electric facilities. A county may pledge irrevocably any or all of the net revenues from the operation of the utility or joint utility for which the particular utility or joint utility bonds are issued to the payment of principal and interest due in connection with, and other expenses related to, utility or joint utility revenue bonds.

E. Project revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping or rehabilitating any revenue-producing project, including, as applicable, purchasing, otherwise acquiring or improving the ground for the project and acquiring and improving parking lots. The county may pledge irrevocably any or all of the net revenues from the operation of the revenue-producing project for which the particular project revenue bonds are issued to the payment of the interest on and principal of the project revenue bonds. The net revenues of any revenue-producing project shall not be pledged to the project revenue bonds issued for any other revenue-producing project that is clearly unrelated in nature; but nothing in this subsection prevents the pledge to any of the project revenue bonds of the revenues received from existing, future or disconnected facilities and equipment that are related to and that may constitute a part of the particular revenue-producing project. A general determination by the governing body that facilities or equipment is reasonably related to and constitutes a part of a specified revenue-producing project shall be conclusive if set forth in the proceedings authorizing the project revenue bonds.

F. Fire district revenue bonds may be issued for acquiring, extending, enlarging, bettering, repairing, improving, constructing, purchasing, furnishing, equipping and rehabilitating a fire district project, including, as applicable, purchasing, otherwise acquiring or improving the ground for the project. The county may pledge irrevocably any or all of the revenues received by the fire district from the fire protection fund as provided in the Fire Protection Fund Law and any or all of the revenues provided for the operation of the fire district project for which the particular bonds are issued to the payment of the interest on and principal of the bonds. The revenues of a fire district project shall not be pledged to the bonds issued for a fire district project that clearly is unrelated in its purpose; but nothing in this section prevents the pledge to such bonds of revenues received from existing, future or disconnected facilities and equipment that are related to and that may constitute a part of the particular fire district

project. A general determination by the governing body of the county that facilities or equipment is reasonably related to and constitutes a part of a specified fire district project shall be conclusive if set forth in the proceedings authorizing the fire district revenue bonds.

G. Law enforcement protection revenue bonds may be issued for the repair and purchase of law enforcement apparatus and equipment that meet nationally recognized standards. The county may pledge irrevocably any or all of the revenues received by the county from the law enforcement protection fund distributions pursuant to the Law Enforcement Protection Fund Act to the payment of the interest on and principal of the law enforcement protection revenue bonds.

H. PILT revenue bonds may be issued by a county to repay all or part of the principal and interest of an outstanding loan owed by the county to the New Mexico finance authority. A county may pledge irrevocably all or part of PILT revenue to the payment of principal of and interest on new loans or preexisting loans provided by the New Mexico finance authority to finance a public project.

I. Except for the purpose of refunding previous revenue bond issues, no county may sell revenue bonds payable from pledged revenue after the expiration of two years from the date of the ordinance authorizing the issuance of the bonds or, for bonds to be issued and sold to the New Mexico finance authority as authorized in Subsection C of Section 4-62-4 NMSA 1978, after the expiration of two years from the date of the resolution authorizing the issuance of the bonds. However, any period of time during which a particular revenue bond issue is in litigation shall not be counted in determining the expiration date of that issue.

J. No bonds may be issued by a county, other than an H class county, a class B county as defined in Section 4-36-8 NMSA 1978 or a class A county as described in Section 4-36-10 NMSA 1978, to acquire, equip, extend, enlarge, better, repair or construct a utility unless the utility is regulated by the public regulation commission pursuant to the Public Utility Act and the issuance of the bonds is approved by the commission.

K. Any law that imposes or authorizes the imposition of a tax authorized by the County Local Option Gross Receipts Taxes Act or that affects that tax shall not be repealed or amended in such a manner as to impair outstanding revenue bonds that are issued pursuant to Chapter 4, Article 62 NMSA 1978 and that may be secured by a pledge of the tax unless the outstanding revenue bonds have been discharged in full or for which provision has been fully made."

Chapter 274 Section 5 Laws 2019

SECTION 5. A new Section 4-62-1.1 NMSA 1978 is enacted to read:

"4-62-1.1. DEFINITIONS.--As used in Chapter 4, Article 62 NMSA 1978:

A. "bond" means any obligation of a county issued under Chapter 4, Article 62 NMSA 1978, whether designated as a bond, note, loan, warrant, debenture, lease-purchase agreement or other instrument evidencing an obligation of a county to make payments;

B. "gasoline tax revenue" means the revenue from that portion of the gasoline tax distributed to the county pursuant to Sections 7-1-6.9 and 7-1-6.26 NMSA 1978;

C. "gasoline tax revenue bonds" means the bonds authorized by Subsection C of Section 4-62-1 NMSA 1978;

D. "gross receipts tax revenue" means the revenue attributable to the county gross receipts tax transferred to the county pursuant to Section 7-1-6.13 NMSA 1978 and any distribution made pursuant to Section 7-1-6.16 NMSA 1978;

E. "gross receipts tax revenue bonds" means the bonds authorized by Subsection B of Section 4-62-1 NMSA 1978;

F. "PILT revenue" means revenue received by a county from the federal government as payments in lieu of taxes;

G. "pledged revenue" means the revenue, net income or net revenue authorized to be pledged to the payment of particular revenue bonds as specifically provided in Section 4-62-1 NMSA 1978;

H. "project revenues" means the net revenues of revenue-producing projects that may be pledged to project revenue bonds pursuant to Subsection E of Section 4-62-1 NMSA 1978;

I. "public project" means "public project" as defined in Subsection E of Section 6-21-3 NMSA 1978;

J. "utility" means a water, wastewater, sewer, gas or electric utility or joint utility servicing the public; and

K. "utility revenue bonds" or "joint utility revenue bonds" means the bonds authorized by Subsection D of Section 4-62-1 NMSA 1978."

Chapter 274 Section 6 Laws 2019

SECTION 6. Section 5-10-3 NMSA 1978 (being Laws 1993, Chapter 297, Section 3, as amended) is amended to read:

"5-10-3. DEFINITIONS.--As used in the Local Economic Development Act:

A. "arts and cultural district" means a developed district of public and private uses that is created pursuant to the Arts and Cultural District Act;

B. "broadband telecommunications network facilities" means the electronics, equipment, transmission facilities, fiber-optic cables and any other item directly related to a system capable of transmission of internet protocol or other formatted data at current federal communications commission minimum speed standard, all of which will be owned and used by a provider of internet access services;

C. "cultural facility" means a facility that is owned by the state, a county, a municipality or a qualifying entity that serves the public through preserving, educating and promoting the arts and culture of a particular locale, including theaters, museums, libraries, galleries, cultural compounds, educational organizations, performing arts venues and organizations, fine arts organizations, studios and media laboratories and live-work housing facilities;

D. "department" means the economic development department;

E. "economic development project" or "project" means the provision of direct or indirect assistance to a qualifying entity by a local or regional government and includes:

(1) the purchase, lease, grant, construction, reconstruction, improvement or other acquisition or conveyance of land, buildings or other infrastructure;

(2) rights-of-way infrastructure, including trenching and conduit, for the placement of new broadband telecommunications network facilities;

(3) public works improvements essential to the location or expansion of a qualifying entity;

(4) payments for professional services contracts necessary for local or regional governments to implement a plan or project;

(5) the provision of direct loans or grants for land, buildings or infrastructure;

(6) technical assistance to cultural facilities;

(7) loan guarantees securing the cost of land, buildings or infrastructure in an amount not to exceed the revenue that may be derived from an increment of the:

(a) municipal gross receipts tax imposed at a rate not to exceed one-fourth percent and dedicated by the ordinance imposing the increment to a project; or

(b) county gross receipts tax imposed at a rate not to exceed one-eighth percent and dedicated by the ordinance imposing the increment to a project;

(8) grants for public works infrastructure improvements essential to the location or expansion of a qualifying entity; grants or subsidies to cultural facilities;

(9) the purchase of land for a publicly held industrial park or a publicly owned cultural facility; and

(10) the construction of a building for use by a qualifying entity;

F. "governing body" means the city council, city commission or board of trustees of a municipality or the board of county commissioners of a county;

G. "local government" means a municipality or county;

H. "municipality" means an incorporated city, town or village;

I. "person" means an individual, corporation, association, partnership or other legal entity;

J. "qualifying entity" means a corporation, limited liability company, partnership, joint venture, syndicate, association or other person that is one or a combination of two or more of the following:

(1) an industry for the manufacturing, processing or assembling of agricultural or manufactured products;

(2) a commercial enterprise for storing, warehousing, distributing or selling products of agriculture, mining or industry, but, other than as provided in Paragraph (5), (6) or (9) of this subsection, not including any enterprise for sale of goods or commodities at retail or for distribution to the public of electricity, gas, water or telephone or other services commonly classified as public utilities;

(3) a business, including a restaurant or lodging establishment, in which all or part of the activities of the business involves the supplying of services to the general public or to governmental agencies or to a specific industry or customer, but, other than as provided in Paragraph (5) or (9) of this subsection, not including businesses primarily engaged in the sale of goods or commodities at retail;

(4) an Indian nation, tribe or pueblo or a federally chartered tribal corporation;

(5) a telecommunications sales enterprise that makes the majority of its sales to persons outside New Mexico;

(6) a facility for the direct sales by growers of agricultural products, commonly known as farmers' markets;

(7) a business that is the developer of a metropolitan redevelopment project;

(8) a cultural facility; and

(9) a retail business;

K. "regional government" means any combination of municipalities and counties that enter into a joint powers agreement to provide for economic development projects pursuant to a plan adopted by all parties to the joint powers agreement; and

L. "retail business" means a business that is primarily engaged in the sale of goods or commodities at retail and that is located in a municipality with a population, according to the most recent federal decennial census, of:

(1) ten thousand or less; or

(2) more than ten thousand but less than thirty-five thousand if:

(a) the economic development project is not funded or financed with state government revenues; and

(b) the business created through the project will not directly compete with an existing business that is: 1) in the municipality; and 2) engaged in the sale of the same or similar goods or commodities at retail."

Chapter 274 Section 7 Laws 2019

SECTION 7. Section 5-10-4 NMSA 1978 (being Laws 1993, Chapter 297, Section 4, as amended) is amended to read:

"5-10-4. ECONOMIC DEVELOPMENT PROJECTS--RESTRICTIONS ON PUBLIC EXPENDITURES OR PLEDGES OF CREDIT.--

A. No local or regional government shall provide public support for economic development projects as permitted pursuant to Article 9, Section 14 of the constitution of New Mexico except as provided in the Local Economic Development Act or as otherwise permitted by law.

B. The total amount of public money expended and the value of credit pledged in the fiscal year in which that money is expended by a local government for economic development projects pursuant to Article 9, Section 14 of the constitution of New Mexico and the Local Economic Development Act shall not exceed ten percent of the annual general fund expenditures of the local government in that fiscal year. The limits of this subsection shall not apply to:

(1) the value of any land or building contributed to any project pursuant to a project participation agreement;

(2) revenue generated through the imposition of an increment of the municipal gross receipts tax at a rate not to exceed one-fourth percent and dedicated to furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act; provided that no more than the greater of fifty thousand dollars (\$50,000) or ten percent of the revenue collected shall be used for promotion and administration of or professional services contracts related to the implementation of any such economic development plan adopted by the governing body;

(3) revenue generated through the imposition of an increment of the county gross receipts tax at a rate not to exceed one-eighth percent and dedicated to furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act; provided that no more than the greater of fifty thousand dollars (\$50,000) or ten percent of the revenue collected shall be used for promotion and administration of or professional services contracts related to the implementation of any such economic development plan adopted by the governing body;

(4) the proceeds of a revenue bond issue to which municipal infrastructure gross receipts tax revenue is pledged;

(5) the proceeds of a revenue bond issue to which the revenue from an increment of the county gross receipts tax, imposed at a rate not to exceed one-eighth percent and dedicated by the ordinance imposing the increment to a project, is pledged; or

(6) funds donated by private entities to be used for defraying the cost of a project.

C. A regional or local government that generates revenue for economic development projects to which the limits of Subsection B of this section do not apply shall create an economic development fund into which such revenues shall be deposited. The economic development fund and income from the economic development fund shall be deposited as provided by law. Money in the economic development fund may be expended only as provided in the Local Economic Development Act or the Statewide Economic Development Finance Act.

D. In order to expend money from an economic development fund for arts and cultural district purposes, cultural facilities or retail businesses, the governing body of a municipality or county that has imposed a municipal or county local option infrastructure gross receipts tax for furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act by referendum of the majority of the voters voting on the question approving the ordinance imposing the municipal or county infrastructure gross receipts tax before July 1, 2013 shall be required to adopt a resolution. The resolution shall call for an election to approve arts and cultural districts as a qualifying purpose and cultural facilities or retail businesses as a qualifying entity before any revenue generated by the municipal or county local option gross receipts tax for furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act can be expended from the economic development fund for arts and cultural district purposes, cultural facilities or retail businesses.

E. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of approving arts and cultural districts as a qualifying purpose and cultural facilities or retail businesses as a qualifying entity eligible to utilize revenue generated by the Municipal Local Option Gross Receipts Taxes Act or the County Local Option Gross Receipts Taxes Act for furthering or implementing economic development plans and projects as defined in the Local Economic Development Act or projects as defined in the Statewide Economic Development Finance Act.

F. The question shall be submitted to the voters of the municipality or county as a separate question at a regular local or county election or at a special election called for that purpose by the governing body. A special local election shall be called, conducted and canvassed as provided in the Local Election Act. A special county election shall be called, conducted and canvassed in substantially the same manner as provided by law for general elections.

G. If a majority of the voters voting on the question approves the ordinance adding arts and cultural districts and cultural facilities or retail businesses as an approved use of the local option municipal or county economic development infrastructure gross receipts tax fund, the ordinance shall become effective on July 1 or January 1, whichever date occurs first after the expiration of three months from the date of the adopted ordinance. The ordinance shall include the effective date."

Chapter 274 Section 8 Laws 2019

SECTION 8. Section 5-15-15 NMSA 1978 (being Laws 2006, Chapter 75, Section 15, as amended) is amended to read:

"5-15-15. TAX INCREMENT FINANCING--GROSS RECEIPTS TAX INCREMENT.--

A. Notwithstanding any law to the contrary, but in accordance with the provisions of the Tax Increment for Development Act, a tax increment development plan, as originally approved or as later modified, may contain a provision that a portion of certain gross receipts tax increments collected within the tax increment development area after the effective date of approval of the tax increment development plan may be dedicated for the purpose of securing gross receipts tax increment bonds pursuant to the Tax Increment for Development Act.

B. As to a district formed by a municipality, a portion of the following may be paid by the state directly into a special fund of the district to pay the principal of, the interest on and any premium due in connection with the bonds of, loans or advances to, or any indebtedness incurred by, whether funded, refunded, assumed or otherwise, the authority for financing or refinancing, in whole or in part, a tax increment development project within the tax increment development area:

(1) an increment of a municipal option gross receipts tax that is dedicated by the ordinance imposing the increment to the tax increment development project;

(2) an amount distributed to municipalities pursuant to Sections 7-1-6.4 and 7-1-6.46 NMSA 1978; and

(3) the state gross receipts tax.

C. As to a district formed by a county, a portion of the following may be paid by the state directly into a special fund of the district to pay the principal of, the interest on and any premium due in connection with the bonds of, loans or advances to or any indebtedness incurred by, whether funded, refunded, assumed or otherwise, the district for financing or refinancing, in whole or in part, a tax increment development project within the tax increment development area:

(1) an increment of a county option gross receipts tax that is dedicated by the ordinance imposing the increment to the tax increment development project;

(2) the amount distributed to counties pursuant to Section 7-1-6.47 NMSA 1978; and

(3) the state gross receipts tax.

D. The gross receipts tax increment generated by the imposition of municipal or county local option gross receipts taxes specified by statute for particular purposes may nonetheless be dedicated for the purposes of the Tax Increment for Development Act if intent to do so is set forth in the tax increment development plan approved by the governing body, if the purpose for which the increment is intended to be used is consistent with the purposes set forth in the statute authorizing the municipal or county local option gross receipts tax.

E. An imposition of a gross receipts tax increment attributable to the imposition of a gross receipts tax by a taxing entity may be dedicated for the purpose of securing gross receipts tax increment bonds with the agreement of the taxing entity, evidenced by a resolution adopted by a majority vote of that taxing entity. A taxing entity shall not agree to dedicate for the purposes of securing gross receipts tax increment bonds more than seventy-five percent of its gross receipts tax increment attributable to the imposition of gross receipts taxes by the taxing entity. A resolution of the taxing entity to dedicate a gross receipts tax increment or to increase the dedication of a gross receipts tax increment shall become effective only on January 1 or July 1 of the calendar year.

F. An imposition of a gross receipts tax increment attributable to the imposition of the state gross receipts tax within a district less the distributions made pursuant to Section 7-1-6.4 NMSA 1978 may be dedicated for the purpose of securing gross

receipts tax increment bonds with the agreement of the state board of finance, evidenced by a resolution adopted by a majority vote of the state board of finance. The state board of finance shall not agree to dedicate more than seventy-five percent of the gross receipts tax increment attributable to the imposition of the state gross receipts tax within the district. The resolution of the state board of finance shall become effective only on January 1 or July 1 of the calendar year and shall find that:

(1) the state board of finance has reviewed the request for the use of the state gross receipts tax;

(2) based upon review by the state board of finance of the applicable tax increment development plan, the dedication by the state board of finance of a portion of the gross receipts tax increment attributable to the imposition of the state gross receipts tax within the district for use in meeting the required goals of the tax increment plan is reasonable and in the best interest of the state; and

(3) the use of the state gross receipts tax is likely to stimulate the creation of jobs, economic opportunities and general revenue for the state through the addition of new businesses to the state and the expansion of existing businesses within the state.

G. The governing body of the jurisdiction in which a tax increment development district has been established shall timely notify the assessor of the county in which the district has been established, the taxation and revenue department and the local government division of the department of finance and administration when:

(1) a tax increment development plan has been approved that contains a provision for the allocation of a gross receipts tax increment;

(2) any outstanding bonds of the district have been paid off; and

(3) the purposes of the district have otherwise been achieved."

Chapter 274 Section 9 Laws 2019

SECTION 9. Section 6-25-7 NMSA 1978 (being Laws 2003, Chapter 349, Section 7, as amended) is amended to read:

"6-25-7. PROJECT REVENUE BONDS.--

A. The authority may issue project revenue bonds on behalf of an eligible entity to provide funds for a project. Project revenue bonds issued pursuant to the Statewide

Economic Development Finance Act shall not be a general obligation of the authority or the state within the meaning of any provision of the constitution of New Mexico and shall never give rise to a pecuniary liability of the authority or the state or a charge against the general credit or taxing powers of the state. Project revenue bonds shall be payable from the revenue derived from a project being financed by the bonds and from other revenues pledged by an eligible entity and may be secured in such manner as provided in the Statewide Economic Development Finance Act and as determined by the authority. Project revenue bonds may be executed and delivered at any time, may be in such form and denominations, may be payable in installments and at times not exceeding thirty years from their date of delivery, may bear or accrete interest at a rate or rates and may contain such provisions not inconsistent with the Statewide Economic Development Finance Act, all as provided in the resolution and proceedings of the authority authorizing issuance of the bonds. Project revenue bonds issued by the authority pursuant to the Statewide Economic Development Finance Act may be sold at public or private sale in such manner and from time to time as may be determined by the authority, and the authority may pay all expenses that the authority may determine necessary in connection with the authorization, sale and issuance of the bonds. All project revenue bonds issued pursuant to the Statewide Economic Development Finance Act shall be negotiable.

B. The principal of and interest on project revenue bonds issued pursuant to the Statewide Economic Development Finance Act shall be secured by a pledge of the revenues of the project being financed with the proceeds of the bonds, may be secured by a mortgage of all or a part of the project being financed or other collateral pledged by an eligible entity and may be secured by the lease of such project, which collateral and lease may be assigned, in whole or in part, by the department to the authority or to third parties to carry out the purposes of the Statewide Economic Development Finance Act. The resolution of the authority pursuant to which the project revenue bonds are authorized to be issued or any such mortgage may contain any agreement and provisions customarily contained in instruments securing bonds, including provisions respecting the fixing and collection of all revenues from any project to which the resolution or mortgage pertains, the terms to be incorporated in the lease of the project, the maintenance and insurance of the project, the creation and maintenance of special funds from the revenues of the project and the rights and remedies available in event of default to the bondholders or to the trustee under a mortgage, all as determined by the authority or the department and as shall not be in conflict with the Statewide Economic Development Finance Act; provided, however, that, in making any such agreements or provisions, the authority and the department may not obligate themselves except with respect to the project and application of the revenues from the project, and except as expressly permitted by the Statewide Economic Development Finance Act, and shall not have the power to incur a pecuniary liability or a charge or to pledge the general credit or taxing power of the state. The resolution authorizing the issuance of project revenue bonds may provide procedures and remedies in the event of default in payment

of the principal of or interest on the bonds or in the performance of any agreement. No breach of any such agreement shall impose any pecuniary liability upon the authority, the department or the state or any charge against the general credit or taxing powers of the state.

C. The authority may arrange for such other guarantees, insurance or other credit enhancements or additional security provided by an eligible entity as determined by the authority for the project revenue bonds and may provide for the payment of the costs from the proceeds of the bonds or may require payment of the costs by the eligible entity on whose behalf the bonds are issued.

D. Project revenue bonds issued to finance a project may also be secured by pledging a portion of the qualifying municipal or county gross receipts tax revenues by the municipality or county in which the project is located, as permitted by the Local Economic Development Act.

E. The project revenue bonds and the income from the bonds, all mortgages or other instruments executed as security for the bonds, all lease agreements made pursuant to the provisions of the Statewide Economic Development Finance Act and revenue derived from any sale or lease of a project shall be exempt from all taxation by the state or any political subdivision of the state. The authority may issue project revenue bonds the interest on which is exempt from taxation under federal law.

F. In any calendar year, no more than fifteen percent of the state ceiling allocated pursuant to the Private Activity Bond Act may be used for projects financed pursuant to the Statewide Economic Development Finance Act."

Chapter 274 Section 10 Laws 2019

SECTION 10. Section 7-1-3 NMSA 1978 (being Laws 1965, Chapter 248, Section 3, as amended) is amended to read:

"7-1-3. DEFINITIONS.--Unless the context clearly indicates a different meaning, the definitions of words and phrases as they are stated in this section are to be used, and whenever in the Tax Administration Act these words and phrases appear, the singular includes the plural and the plural includes the singular:

A. "automated clearinghouse transaction" means an electronic credit or debit transmitted through an automated clearinghouse payable to the state treasurer and deposited with the fiscal agent of New Mexico;

B. "department" means the taxation and revenue department, the secretary or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

C. "electronic payment" means a payment made by automated clearinghouse deposit, any funds wire transfer system or a credit card, debit card or electronic cash transaction through the internet;

D. "employee of the department" means any employee of the department, including the secretary, or any person acting as agent or authorized to represent or perform services for the department in any capacity with respect to any law made subject to administration and enforcement under the provisions of the Tax Administration Act;

E. "financial institution" means any state or federally chartered, federally insured depository institution;

F. "hearing officer" means a person who has been designated by the chief hearing officer to serve as a hearing officer and who is:

- (1) the chief hearing officer;
- (2) an employee of the administrative hearings office; or
- (3) a contractor of the administrative hearings office;

G. "Internal Revenue Code" means the Internal Revenue Code of 1986, as that code may be amended or its sections renumbered;

H. "levy" means the lawful power, hereby invested in the secretary, to take into possession or to require the present or future surrender to the secretary or the secretary's delegate of any property or rights to property belonging to a delinquent taxpayer;

I. "local option gross receipts tax" means a tax authorized to be imposed by a county or municipality upon the taxpayer's gross receipts, as that term is defined in the Gross Receipts and Compensating Tax Act, and required to be collected by the department at the same time and in the same manner as the gross receipts tax;

J. "managed audit" means a review and analysis conducted by a taxpayer under an agreement with the department to determine the taxpayer's compliance with a

tax administered pursuant to the Tax Administration Act and the presentation of the results to the department for assessment of tax found to be due;

K. "net receipts" means the total amount of money paid by taxpayers to the department in a month pursuant to a tax or tax act less any refunds disbursed in that month with respect to that tax or tax act;

L. "overpayment" means an amount paid, pursuant to any law subject to administration and enforcement under the provisions of the Tax Administration Act, by a person to the department or withheld from the person in excess of tax due from the person to the state at the time of the payment or at the time the amount withheld is credited against tax due;

M. "paid" includes the term "paid over";

N. "pay" includes the term "pay over";

O. "payment" includes the term "payment over";

P. "person" means any individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, limited liability partnership, joint venture, syndicate, other association or gas, water or electric utility owned or operated by a county or municipality; "person" also means, to the extent permitted by law, a federal, state or other governmental unit or subdivision, or an agency, department or instrumentality thereof; and "person", as used in Sections 7-1-72 through 7-1-74 NMSA 1978, also includes an officer or employee of a corporation, a member or employee of a partnership or any individual who, as such, is under a duty to perform any act in respect of which a violation occurs;

Q. "property" means property or rights to property;

R. "property or rights to property" means any tangible property, real or personal, or any intangible property of a taxpayer;

S. "return" means any tax or information return, application or form, declaration of estimated tax or claim for refund, including any amendments or supplements to the return, required or permitted pursuant to a law subject to administration and enforcement pursuant to the Tax Administration Act and filed with the secretary or the secretary's delegate by or on behalf of any person;

T. "return information" means a taxpayer's name, address, government-issued identification number and other identifying information; any information contained in or

derived from a taxpayer's return; any information with respect to any actual or possible administrative or legal action by an employee of the department concerning a taxpayer's return, such as audits, managed audits, denial of credits or refunds, assessments of tax, penalty or interest, protests of assessments or denial of refunds or credits, levies or liens; or any other information with respect to a taxpayer's return or tax liability that was not obtained from public sources or that was created by an employee of the department; but "return information" does not include statistical data or other information that cannot be associated with or directly or indirectly identify a particular taxpayer;

U. "secretary" means the secretary of taxation and revenue and, except for purposes of Subsection B of Section 7-1-4 NMSA 1978, also includes the deputy secretary or a division director or deputy division director delegated by the secretary;

V. "secretary or the secretary's delegate" means the secretary or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

W. "security" means money, property or rights to property or a surety bond;

X. "state" means any state of the United States, the District of Columbia, the commonwealth of Puerto Rico and any territory or possession of the United States;

Y. "tax" means the total amount of each tax imposed and required to be paid, withheld and paid or collected and paid under provision of any law made subject to administration and enforcement according to the provisions of the Tax Administration Act, including the amount of any interest or civil penalty relating thereto; "tax" also means any amount of any abatement of tax made or any credit, rebate or refund paid or credited by the department under any law subject to administration and enforcement under the provisions of the Tax Administration Act to any person contrary to law, including the amount of any interest or civil penalty relating thereto;

Z. "tax return preparer" means a person who prepares for others for compensation or who employs one or more persons to prepare for others for compensation any return of income tax, a substantial portion of any return of income tax, any claim for refund with respect to income tax or a substantial portion of any claim for refund with respect to income tax; provided that a person shall not be a "tax return preparer" merely because such person:

(1) furnishes typing, reproducing or other mechanical assistance;

(2) is an employee who prepares an income tax return or claim for refund with respect to an income tax return of the employer, or of an officer or employee of the employer, by whom the person is regularly and continuously employed; or

(3) prepares as a trustee or other fiduciary an income tax return or claim for refund with respect to income tax for any person; and

AA. "taxpayer" means a person liable for payment of any tax; a person responsible for withholding and payment or for collection and payment of any tax; a person to whom an assessment has been made, if the assessment remains unabated or the amount thereof has not been paid; or a person who entered into a special agreement pursuant to Section 7-1-21.1 NMSA 1978 to assume the liability of gross receipts tax or governmental gross receipts tax of another person and the special agreement was approved by the secretary pursuant to the Tax Administration Act."

Chapter 274 Section 11 Laws 2019

SECTION 11. Section 7-9-3 NMSA 1978 (being Laws 1978, Chapter 46, Section 1, as amended) is amended to read:

"7-9-3. DEFINITIONS.--As used in the Gross Receipts and Compensating Tax Act:

A. "buying" or "selling" means a transfer of property for consideration or the performance of service for consideration;

B. "department" means the taxation and revenue department, the secretary of taxation and revenue or an employee of the department exercising authority lawfully delegated to that employee by the secretary;

C. "financial corporation" means a savings and loan association or an incorporated savings and loan company, trust company, mortgage banking company, consumer finance company or other financial corporation;

D. "initial use" or "initially used" means the first employment for the intended purpose and does not include the following activities:

(1) observation of tests conducted by the performer of services;

(2) participation in progress reviews, briefings, consultations and conferences conducted by the performer of services;

(3) review of preliminary drafts, drawings and other materials prepared by the performer of the services;

(4) inspection of preliminary prototypes developed by the performer of services; or

(5) similar activities;

E. "leasing" means an arrangement whereby, for a consideration, property is employed for or by any person other than the owner of the property, except that the granting of a license to use property is licensing and is not a lease;

F. "local option gross receipts tax" means a tax authorized to be imposed by a county or municipality upon the taxpayer's gross receipts and required to be collected by the department at the same time and in the same manner as the gross receipts tax;

G. "manufactured home" means a movable or portable housing structure for human occupancy that exceeds either a width of eight feet or a length of forty feet constructed to be towed on its own chassis and designed to be installed with or without a permanent foundation;

H. "manufacturing" means combining or processing components or materials to increase their value for sale in the ordinary course of business, but does not include construction;

I. "person" means:

(1) an individual, estate, trust, receiver, cooperative association, club, corporation, company, firm, partnership, limited liability company, limited liability partnership, joint venture, syndicate or other entity, including any gas, water or electric utility owned or operated by a county, municipality or other political subdivision of the state; or

(2) a national, federal, state, Indian or other governmental unit or subdivision, or an agency, department or instrumentality of any of the foregoing;

J. "property" means real property, tangible personal property, licenses other than the licenses of copyrights, trademarks or patents and franchises. Tangible personal property includes electricity and manufactured homes;

K. "research and development services" means an activity engaged in for other persons for consideration, for one or more of the following purposes:

- (1) advancing basic knowledge in a recognized field of natural science;
- (2) advancing technology in a field of technical endeavor;
- (3) developing a new or improved product, process or system with new or improved function, performance, reliability or quality, whether or not the new or improved product, process or system is offered for sale, lease or other transfer;
- (4) developing new uses or applications for an existing product, process or system, whether or not the new use or application is offered as the rationale for purchase, lease or other transfer of the product, process or system;
- (5) developing analytical or survey activities incorporating technology review, application, trade-off study, modeling, simulation, conceptual design or similar activities, whether or not offered for sale, lease or other transfer; or
- (6) designing and developing prototypes or integrating systems incorporating the advances, developments or improvements included in Paragraphs (1) through (5) of this subsection;

L. "secretary" means the secretary of taxation and revenue or the secretary's delegate;

M. "service" means all activities engaged in for other persons for a consideration, which activities involve predominantly the performance of a service as distinguished from selling or leasing property. "Service" includes activities performed by a person for its members or shareholders. In determining what is a service, the intended use, principal objective or ultimate objective of the contracting parties shall not be controlling. "Service" includes construction activities and all tangible personal property that will become an ingredient or component part of a construction project. That tangible personal property retains its character as tangible personal property until it is installed as an ingredient or component part of a construction project in New Mexico. Sales of tangible personal property that will become an ingredient or component part of a construction project to persons engaged in the construction business are sales of tangible personal property; and

N. "use" or "using" includes use, consumption or storage other than storage for subsequent sale in the ordinary course of business or for use solely outside this state."

Chapter 274 Section 12 Laws 2019

SECTION 12. Section 7-9F-3 NMSA 1978 (being Laws 2000 (2nd S.S.), Chapter 22, Section 3, as amended) is amended to read:

"7-9F-3. DEFINITIONS.--As used in the Technology Jobs and Research and Development Tax Credit Act:

A. "affiliate" means a person who directly or indirectly owns or controls, is owned or controlled by or is under common ownership or control with another person through ownership of voting securities or other ownership interests representing a majority of the total voting power of the entity;

B. "annual payroll expense" means the wages paid or payable to employees in the state by the taxpayer in the taxable year for which the taxpayer applies for an additional credit pursuant to the Technology Jobs and Research and Development Tax Credit Act;

C. "base payroll expense" means the wages paid or payable by the taxpayer in the taxable year prior to the taxable year for which the taxpayer applies for an additional credit pursuant to the Technology Jobs and Research and Development Tax Credit Act, adjusted for any increase from the preceding taxable year in the consumer price index for the United States for all items as published by the United States department of labor in the taxable year for which the additional credit is claimed. In a taxable year during which a taxpayer has been part of a business merger or acquisition or other change in business organization, the taxpayer's base payroll expense shall include the payroll expense of all entities included in the reorganization for all positions that are included in the business entity resulting from the reorganization;

D. "department" means the taxation and revenue department, the secretary of taxation and revenue or any employee of the department exercising authority lawfully delegated to that employee by the secretary;

E. "facility" means a factory, mill, plant, refinery, warehouse, dairy, feedlot, building or complex of buildings located within the state, including the land on which it is located and all machinery, equipment and other real and tangible personal property located at or within it and used in connection with its operation;

F. "local option gross receipts tax" means a tax authorized to be imposed by a county or municipality upon the taxpayer's gross receipts, as that term is defined in the Gross Receipts and Compensating Tax Act, and required to be collected by the department at the same time and in the same manner as the gross receipts tax;

G. "qualified expenditure" means an expenditure or an allocated portion of an expenditure by a taxpayer in connection with qualified research at a qualified facility, including expenditures for depletable land and rent paid or incurred for land, improvements, the allowable amount paid or incurred to operate or maintain a facility, buildings, equipment, computer software, computer software upgrades, consultants and contractors performing work in New Mexico, payroll, technical books and manuals and test materials, but not including any expenditure on property that is owned by a municipality or county in connection with an industrial revenue bond project, property for which the taxpayer has received any credit pursuant to the Investment Credit Act, property that was owned by the taxpayer or an affiliate before July 3, 2000 or research and development expenditures reimbursed by a person who is not an affiliate of the taxpayer. If a "qualified expenditure" is an allocation of an expenditure, the cost accounting methodology used for the allocation of the expenditure shall be the same cost accounting methodology used by the taxpayer in its other business activities;

H. "qualified facility" means a facility in New Mexico at which qualified research is conducted other than a facility operated by a taxpayer for the United States or any agency, department or instrumentality thereof;

I. "qualified research" means research:

(1) that is undertaken for the purpose of discovering information:

(a) that is technological in nature; and

(b) the application of which is intended to be useful in the development of a new or improved business component of the taxpayer; and

(2) substantially all of the activities of which constitute elements of a process of experimentation related to a new or improved function, performance, reliability or quality, but not related to style, taste or cosmetic or seasonal design factors;

J. "qualified research and development small business" means a taxpayer that:

(1) employed no more than fifty employees as determined by the number of employees for which the taxpayer was liable for unemployment insurance coverage in the taxable year for which an additional credit is claimed;

(2) had total qualified expenditures of no more than five million dollars (\$5,000,000) in the taxable year for which an additional credit is claimed; and

(3) did not have more than fifty percent of its voting securities or other equity interest with the right to designate or elect the board of directors or other governing body of the business owned directly or indirectly by another business;

K. "rural area" means any area of the state other than the state fairgrounds, an incorporated municipality with a population of thirty thousand or more according to the most recent federal decennial census and any area within three miles of the external boundaries of an incorporated municipality with a population of thirty thousand or more according to the most recent federal decennial census;

L. "taxpayer" means any of the following persons, other than a federal, state or other governmental unit or subdivision or an agency, department, institution or instrumentality thereof:

(1) a person liable for payment of any tax;

(2) a person responsible for withholding and payment or collection and payment of any tax;

(3) a person to whom an assessment has been made if the assessment remains unabated or the assessed amount has not been paid; or

(4) for purposes of the additional credit against the taxpayer's income tax pursuant to the Technology Jobs and Research and Development Tax Credit Act and to the extent of their respective interest in that entity, the shareholders, members, partners or other owners of:

(a) a small business corporation that has elected to be treated as an S corporation for federal income tax purposes; or

(b) an entity treated as a partnership or disregarded entity for federal income tax purposes; and

M. "wages" means remuneration for services performed by an employee in New Mexico for an employer."

Chapter 274 Section 13 Laws 2019

SECTION 13. Section 7-19D-9 NMSA 1978 (being Laws 1978, Chapter 151, Section 1, as amended) is amended to read:

"7-19D-9. MUNICIPAL GROSS RECEIPTS TAX--AUTHORITY TO IMPOSE RATE.--

A. The majority of the members of the governing body of any municipality may impose by ordinance an excise tax on the gross receipts of any person engaging in business in the municipality for the privilege of engaging in business in the municipality. A tax imposed pursuant to this section shall be imposed by the enactment of one or more ordinances. The governing body of a municipality may, at the time of enacting the ordinance, dedicate the revenue for any municipal purpose. If the governing body proposes to dedicate such revenue, the ordinance and, if any election is held, the ballot shall clearly state the purpose to which the revenue will be dedicated, and any revenue so dedicated shall be used by the municipality for that purpose unless a subsequent ordinance is adopted to change the purpose to which dedicated or to place the revenue in the general fund of the municipality.

B. The tax imposed pursuant to Subsection A of this section may be referred to as the "municipal gross receipts tax".

C. The maximum rate of the municipal gross receipts tax on the gross receipts of any person engaging in business in the municipality shall not exceed two and one-half percent. Of that two and one-half percent:

(1) a governing body may choose to require an election to impose increments that total two and five-hundredths percent; and

(2) the remaining increments, totaling forty-five hundredths percent, shall not go into effect until after an election is held and a majority of the voters in the municipality voting in the election votes in favor of the tax. Increments approved by voters prior to the effective date of this 2019 act shall be included in the increments approved by the voters, as provided in this paragraph.

D. An election shall be called on the questions of disapproval or approval of any ordinance enacted pursuant to Subsection C of this section or any ordinance amending such ordinance:

(1) if the governing body chooses to provide in the ordinance that it shall not be effective until the ordinance is approved by the majority of the registered voters voting on the question at an election to be held pursuant to the provisions of the Local Election Act; or

(2) if the ordinance does not contain a mandatory election provision as provided in Paragraph (1) of this subsection, upon the filing of a petition requesting such an election if the petition is filed:

(a) pursuant to the requirements of a referendum provision contained in a municipal home-rule charter and signed by the number of registered voters in the municipality equal to the number of registered voters required in its charter to seek a referendum; or

(b) in all other municipalities, with the municipal clerk within thirty days after the adoption of such ordinance and the petition has been signed by a number of registered voters in the municipality equal to at least five percent of the number of the voters in the municipality who were registered to vote in the most recent regular municipal election.

E. The signatures on the petition filed in accordance with Subsection D of this section shall be verified by the municipal clerk. If the petition is verified by the municipal clerk as containing the required number of signatures of registered voters, the governing body shall adopt an election resolution calling for the holding of a special election on the question of approving or disapproving the ordinance unless the ordinance is repealed before the adoption of the election resolution. An election held pursuant to Subparagraph (a) or (b) of Paragraph (2) of Subsection D of this section shall be called, conducted and canvassed as provided in the Local Election Act, and the election shall be held within seventy-five days after the date the petition is verified by the municipal clerk or it may be held in conjunction with a regular local election if such election occurs within seventy-five days after the date of verification by the municipal clerk.

F. If at an election called pursuant to Subsection D of this section a majority of the registered voters voting on the question approves the ordinance imposing the tax, the ordinance shall become effective in accordance with the provisions of the Municipal Local Option Gross Receipts Taxes Act. If at such an election a majority of the registered voters voting on the question disapproves the ordinance, the ordinance imposing the tax shall be deemed repealed and the question of imposing any increment of the municipal gross receipts tax authorized in this section shall not be considered again by the governing body for a period of one year from the date of the election.

G. Any law that imposes or authorizes the imposition of a municipal gross receipts tax or that affects the municipal gross receipts tax, or any law supplemental thereto or otherwise appertaining thereto, shall not be repealed or amended or otherwise directly or indirectly modified in such a manner as to impair adversely any outstanding revenue bonds that may be secured by a pledge of such municipal gross

receipts tax unless such outstanding revenue bonds have been discharged in full or provision has been fully made therefor."

Chapter 274 Section 14 Laws 2019

SECTION 14. Section 7-20E-9 NMSA 1978 (being Laws 1983, Chapter 213, Section 30, as amended) is amended to read:

"7-20E-9. COUNTY GROSS RECEIPTS TAX--AUTHORITY TO IMPOSE RATE--COUNTY HEALTH CARE ASSISTANCE FUND REQUIREMENTS.--

A. A majority of the members of the governing body of a county may impose by ordinance an excise tax on the gross receipts of a person engaging in business in the county or the county area. A tax imposed pursuant to this section shall be imposed by the enactment of one or more ordinances. The governing body may, at the time of enacting the ordinance, dedicate the revenue for any county purpose.

B. The tax authorized by this section is to be referred to as the "county gross receipts tax".

C. The maximum rate of the county gross receipts tax on the gross receipts of any person engaging in business in a county shall not exceed one and twenty-five hundredths percent. Of that one and twenty-five hundredths percent:

(1) a governing body may choose to require an election to impose increments that total one percent; and

(2) increments up to a total of twenty-five hundredths percent shall not go into effect until after an election is held and a majority of the voters in the county voting in the election votes in favor of the tax. Increments approved by voters prior to the effective date of this 2019 act shall be included in the increments approved by the voters, as provided in this paragraph.

D. The maximum rate of the county gross receipts tax on the gross receipts of any person engaging in business in a county area shall not exceed one-half percent. Of that one-half percent:

(1) a governing body may choose to require an election to impose increments that total twelve hundredths percent; and

(2) remaining increments, totaling thirty-eight hundredths percent, shall not go into effect until after an election is held and a majority of the voters in the county

area voting in the election votes in favor of the tax. Increments approved by voters prior to the effective date of this 2019 act shall be included in the increments approved by the voters, as provided in this paragraph.

E. A class A county with a county hospital operated and maintained pursuant to a lease or operating agreement with a state educational institution named in Article 12, Section 11 of the constitution of New Mexico shall provide not less than one million dollars (\$1,000,000) in funds, and that amount shall be dedicated to the support of indigent patients who are residents of that county. Funds for indigent care shall be made available each month of each year the tax is in effect in an amount not less than eighty-three thousand three hundred thirty-three dollars thirty-three cents (\$83,333.33). The interest from the investment of county funds for indigent care may be used for other assistance to indigent persons, not to exceed twenty thousand dollars (\$20,000) for all other assistance in any year.

F. A county, except a class A county with a county hospital operated and maintained pursuant to a lease or operating agreement with a state educational institution named in Article 12, Section 11 of the constitution of New Mexico, shall be required to dedicate revenue produced by the imposition of a one-eighth percent gross receipts tax increment for the support of indigent patients who are residents of that county. A county that imposed up to two one-eighth percent increments on January 1, 1996 for support of indigent patients in the county or, after January 1, 1996, imposes a one-eighth percent increment and dedicates one-half of that increment for county indigent patient purposes shall deposit the revenue dedicated for county indigent purposes that is transferred to the county in the county health care assistance fund, and such revenues shall be expended pursuant to the Indigent Hospital and County Health Care Act."

Chapter 274 Section 15 Laws 2019

SECTION 15. TEMPORARY PROVISION--OUTSTANDING REVENUE BONDS--DEDICATIONS.--

A. The repeal of and changes to certain taxes made in this act shall not impair outstanding bonds that are secured by a pledge of those taxes.

B. If a municipality or county has issued a revenue bond that is secured by a pledge of a tax being amended or repealed by this act, the revenue received by the municipality or county is impressed with the obligation to repay the outstanding bond and is dedicated to that repayment until the bond is fully discharged or otherwise provided for in full.

C. If a municipality or county has dedicated any amount of revenue attributable to a tax being amended or repealed by this act, the municipality or county shall continue to dedicate the same amount of revenue attributable to the tax until the ordinance dedicating the revenue expires, the term of the dedication expires, the governing body acts to change the dedication or, in the case of bonded indebtedness, the debt is fully discharged or otherwise provided for in full.

Chapter 274 Section 16 Laws 2019

SECTION 16. REPEAL.--

A. Sections 7-19D-10 through 7-19D-12 and 7-19D-18 NMSA 1978 (being Laws 1990, Chapter 99, Section 51, Laws 1991, Chapter 9, Section 3, Laws 2001, Chapter 172, Section 1 and Laws 2013, Chapter 160, Section 11, as amended) are repealed.

B. Sections 7-20C-1 through 7-20C-17 NMSA 1978 (being Laws 1991, Chapter 176, Sections 1 through 9, Laws 1993, Chapter 306, Section 4, Laws 1991, Chapter 176, Sections 10 through 15 and Laws 1996, Chapter 18, Sections 3 and 4, as amended) are repealed.

C. Sections 7-20E-10 through 7-20E-12, 7-20E-15 through 7-20E-17, 7-20E-19, 7-20E-21, 7-20E-24, 7-20E-27 and 7-20E-28 NMSA 1978 (being Laws 1983, Chapter 213, Sections 32 and 35, Laws 1989, Chapter 239, Section 1, Laws 1979, Chapter 398, Sections 3 and 8, Laws 1990, Chapter 99, Section 58, Laws 1998, Chapter 90, Section 7, Laws 2001, Chapter 172, Section 2, Laws 2005, Chapter 212, Section 1, Laws 2010, Chapter 31, Section 1 and Laws 2013, Chapter 160, Section 12, as amended) are repealed.

D. Sections 7-20F-1 through 7-20F-12 NMSA 1978 (being Laws 1993, Chapter 303, Sections 1 through 12, as amended) are repealed.

E. Sections 7-24B-1 through 7-24B-9 NMSA 1978 (being Laws 1987, Chapter 45, Sections 10 through 13, Laws 1990, Chapter 88, Section 16 and Laws 1987, Chapter 45, Sections 15 through 18, as amended) are repealed.

F. Section 60-2E-47.1 NMSA 1978 (being Laws 2010, Chapter 31, Section 3) is repealed.

Chapter 274 Section 17 Laws 2019

SECTION 17. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019.

House Bill 479, aa

Approved April 4, 2019

LAWS 2019, CHAPTER 275

AN ACT

RELATING TO TAX INCREMENT DEVELOPMENT DISTRICTS; CLARIFYING THAT THE TAX INCREMENT FOR DEVELOPMENT ACT ONLY ALLOWS STATE GROSS RECEIPTS TAX INCREMENTS TO BE USED TO SECURE BONDS THAT ARE AUTHORIZED BY THE LEGISLATURE PURSUANT TO LAW; LIMITING THE AMOUNT OF REVENUE FROM THE STATE GROSS RECEIPTS TAX THAT MAY BE DEDICATED; REQUIRING THE STATE BOARD OF FINANCE TO PRIORITIZE IN ITS CONSIDERATION NEW FULL-TIME ECONOMIC BASE JOB CREATION WHEN REVIEWING A TAX INCREMENT DEVELOPMENT PLAN FOR APPROVAL; PROVIDING FOR A FILING FEE; REQUIRING TAX INCREMENT DEVELOPMENT DISTRICTS TO REPORT TO THE STATE BOARD OF FINANCE AND THE LEGISLATIVE FINANCE COMMITTEE.

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

Chapter 275 Section 1 Laws 2019

SECTION 1. Section 5-15-3 NMSA 1978 (being Laws 2006, Chapter 75, Section 3) is amended to read:

"5-15-3. DEFINITIONS.--As used in the Tax Increment for Development Act:

A. "base gross receipts taxes" means:

(1) the total amount of gross receipts taxes collected within a tax increment development district, as estimated by the governing body that adopted a resolution to form that district, in consultation with the taxation and revenue department, in the calendar year preceding the formation of the tax increment development district or, when an area is added to an existing district, the amount of gross receipts taxes collected in the calendar year preceding the effective date of the modification of the tax

increment development plan and designated by the governing body to be available as part of the gross receipts tax increment; and

(2) any amount of gross receipts taxes that would have been collected in such year if any applicable additional gross receipts taxes imposed after that year had been imposed in that year;

B. "base property taxes" means:

(1) the portion of property taxes produced by the total of all property tax levied at the rate fixed each year by each governing body levying a property tax on the assessed value of taxable property within the tax increment development area last certified for the year ending immediately prior to the year in which a tax increment development plan is approved for the tax increment development area, or, when an area is added to an existing tax increment development area, "base property taxes" means that portion of property taxes produced by the total of all property tax levied at the rate fixed each year by each governing body levying a property tax upon the assessed value of taxable property within the tax increment development area on the date of the modification of the tax increment development plan and designated by the governing body to be available as part of the property tax increment; and

(2) any amount of property taxes that would have been collected in such year if any applicable additional property taxes imposed after that year had been imposed in that year;

C. "county option gross receipts taxes" means gross receipts taxes imposed by counties pursuant to the County Local Option Gross Receipts Taxes Act and designated by the governing body of the county to be available as part of the gross receipts tax increment;

D. "district" means a tax increment development district;

E. "district board" means a board formed in accordance with the provisions of the Tax Increment for Development Act to govern a tax increment development district;

F. "enhanced services" means public services provided by a municipality or county within the district at a higher level or to a greater degree than otherwise available to the land located in the district from the municipality or county, including such services as public safety, fire protection, street or sidewalk cleaning or landscape maintenance in public areas; provided that "enhanced services" does not include the basic operation and maintenance related to infrastructure improvements financed by the district pursuant to the Tax Increment for Development Act;

G. "governing body" means the city council or city commission of a city, the board of trustees or council of a town or village or the board of county commissioners of a county;

H. "gross receipts tax increment" means the gross receipts taxes collected within a tax increment development district in excess of the base gross receipts taxes collected in the district;

I. "gross receipts tax increment bonds" means bonds issued by a district in accordance with the Tax Increment for Development Act, the pledged revenue for which is a gross receipts tax increment;

J. "local government" means a municipality or county;

K. "municipal option gross receipts taxes" means those gross receipts taxes imposed by municipalities pursuant to the Municipal Local Option Gross Receipts Taxes Act and designated by the governing body of the municipality to be available as part of the gross receipts tax increment;

L. "municipality" means an incorporated city, town or village;

M. "new full-time economic base job" means a job:

(1) that is primarily performed in New Mexico;

(2) that is held by an employee who is hired to work an average of at least thirty-two hours per week for at least forty-eight weeks per year;

(3) that is:

(a) involved, directly or in a supervisory capacity, with the production of: 1) a service; provided that the majority of the revenue generated from the service is from sources outside the state; or 2) tangible or intangible personal property for sale; or

(b) held by an employee that is employed at a regional, national or international headquarters operation or at an operation that primarily provides services for other operations of the qualifying entity that are located outside the state; and

(4) that is not directly involved with natural resources extraction or processing, on-site services where the customer is present for the delivery of the

service, retail, construction or agriculture except for value-added processing performed on agricultural products that would then be sold for wholesale or retail consumption;

N. "owner" means a person owning real property within the boundaries of a district;

O. "person" means an individual, corporation, association, partnership, limited liability company or other legal entity;

P. "project" means a tax increment development project;

Q. "property tax increment" means all property tax collected on real property within the designated tax increment development area that is in excess of the base property tax until termination of the district and distributed to the district in the same manner as distributions are made under the provisions of the Tax Administration Act;

R. "property tax increment bonds" means bonds issued by a district in accordance with the Tax Increment for Development Act, the pledged revenue for which is a property tax increment;

S. "public improvements" means on-site improvements and off-site improvements that directly or indirectly benefit a tax increment development district or facilitate development within a tax increment development area and that are dedicated to the governing body in which the district lies. "Public improvements" includes:

(1) sanitary sewage systems, including collection, transport, treatment, dispersal, effluent use and discharge;

(2) drainage and flood control systems, including collection, transport, storage, treatment, dispersal, effluent use and discharge;

(3) water systems for domestic, commercial, office, hotel or motel, industrial, irrigation, municipal or fire protection purposes, including production, collection, storage, treatment, transport, delivery, connection and dispersal;

(4) highways, streets, roadways, bridges, crossing structures and parking facilities, including all areas for vehicular use for travel, ingress, egress and parking;

(5) trails and areas for pedestrian, equestrian, bicycle or other non-motor vehicle use for travel, ingress, egress and parking;

(6) pedestrian and transit facilities, parks, recreational facilities and open space areas for the use of members of the public for entertainment, assembly and recreation;

(7) landscaping, including earthworks, structures, plants, trees and related water delivery systems;

(8) public buildings, public safety facilities and fire protection and police facilities;

(9) electrical generation, transmission and distribution facilities;

(10) natural gas distribution facilities;

(11) lighting systems;

(12) cable or other telecommunications lines and related equipment;

(13) traffic control systems and devices, including signals, controls, markings and signage;

(14) school sites and facilities with the consent of the governing board of the public school district for which the facility is to be acquired, constructed or renovated;

(15) library and other public educational or cultural facilities;

(16) equipment, vehicles, furnishings and other personal property related to the items listed in this subsection;

(17) inspection, construction management, planning and program management and other professional services costs incidental to the project;

(18) workforce housing; and

(19) any other improvement that the governing body determines to be for the use or benefit of the public;

T. "resident qualified elector" means a person who resides within the boundaries of a tax increment development district or proposed tax increment development district and who is qualified to vote in the general elections held in the state pursuant to Section 1-1-4 NMSA 1978;

U. "state gross receipts tax" means the gross receipts tax imposed pursuant to the Gross Receipts and Compensating Tax Act, but does not include that portion distributed to municipalities pursuant to Sections 7-1-6.4 and 7-1-6.46 NMSA 1978 or to counties pursuant to Section 7-1-6.47 NMSA 1978;

V. "sustainable development" means land development that achieves sustainable economic and social goals in ways that can be supported for the long term by conserving resources, protecting the environment and ensuring human health and welfare using mixed-use, pedestrian-oriented, multimodal land use planning;

W. "tax increment development area" means the land included within the boundaries of a tax increment development district;

X. "tax increment development district" means a district formed for the purposes of carrying out tax increment development projects;

Y. "tax increment development plan" means a plan for the undertaking of a tax increment development project;

Z. "tax increment development project" means activities undertaken within a tax increment development area to enhance the sustainability of the local, regional or statewide economy; to support the creation of jobs, schools and workforce housing; and to generate tax revenue for the provision of public improvements and may include:

(1) acquisition of land within a designated tax increment development area or a portion of that tax increment development area;

(2) demolition and removal of buildings and improvements and installation, construction or reconstruction of streets, utilities, parks, playgrounds and improvements necessary to carry out the objectives of the Tax Increment for Development Act;

(3) installation, construction or reconstruction of streets, water utilities, sewer utilities, parks, playgrounds and other public improvements necessary to carry out the objectives of the Tax Increment for Development Act;

(4) disposition of property acquired or held by a tax increment development district as part of the undertaking of a tax increment development project at the fair market value of such property for uses in accordance with the Tax Increment for Development Act;

(5) payments for professional services contracts necessary to implement a tax increment development plan or project;

(6) borrowing to purchase land, buildings or infrastructure in an amount not to exceed the revenue stream that may be derived from the gross receipts tax increment or the property tax increment estimated to be received by a tax increment development district; and

(7) grants for public improvements essential to the location or expansion of a business;

AA. "taxing entity" means the governing body of a political subdivision of the state, the gross receipts tax increment or property tax increment of which may be used for a tax increment development project; and

BB. "workforce housing" means decent, safe and sanitary dwellings, apartments, single-family dwellings or other living accommodations that are affordable for persons or families earning less than eighty percent of the median income within the county in which the tax increment development project is located; provided that an owner-occupied housing unit is affordable to a household if the expected sales price is reasonably anticipated to result in monthly housing costs that do not exceed thirty-three percent of the household's gross monthly income; provided that:

(1) determination of mortgage amounts and payments are to be based on down payment rates and interest rates generally available to lower- and moderate-income households; and

(2) a renter-occupied housing unit is affordable to a household if the unit's monthly housing costs, including rent and basic utility and energy costs, do not exceed thirty-three percent of the household's gross monthly income."

Chapter 275 Section 2 Laws 2019

SECTION 2. Section 5-15-15 NMSA 1978 (being Laws 2006, Chapter 75, Section 15, as amended) is amended to read:

"5-15-15. TAX INCREMENT FINANCING--GROSS RECEIPTS TAX INCREMENT TO SECURE BONDS.--

A. A tax increment development plan, as originally approved or as later modified, may contain a provision that gross receipts tax increments collected within the tax increment development area after the effective date of approval of the tax increment

development plan may be dedicated for the purpose of securing gross receipts tax increment bonds pursuant to the Tax Increment for Development Act.

B. A municipality may dedicate a portion of a gross receipts tax increment from any of the following taxes to pay the principal of, the interest on and any premium due in connection with the bonds of, loans or advances to, or any indebtedness incurred by, whether funded, refunded, assumed or otherwise, the authority for financing or refinancing, in whole or in part, a tax increment development project within the tax increment development area:

(1) municipal gross receipts tax authorized pursuant to the Municipal Local Option Gross Receipts Taxes Act;

(2) municipal environmental services gross receipts tax authorized pursuant to the Municipal Local Option Gross Receipts Taxes Act;

(3) municipal infrastructure gross receipts tax authorized pursuant to the Municipal Local Option Gross Receipts Taxes Act;

(4) municipal capital outlay gross receipts tax authorized pursuant to the Municipal Local Option Gross Receipts Taxes Act; and

(5) an amount distributed to municipalities pursuant to Sections 7-1-6.4 and 7-1-6.46 NMSA 1978.

C. A county may dedicate a portion of a gross receipts tax increment from any of the following taxes to pay the principal of, the interest on and any premium due in connection with the bonds of, loans or advances to or any indebtedness incurred by, whether funded, refunded, assumed or otherwise, the district for financing or refinancing, in whole or in part, a tax increment development project within the tax increment development area:

(1) county gross receipts tax authorized pursuant to the County Local Option Gross Receipts Taxes Act;

(2) county environmental services gross receipts tax authorized pursuant to the County Local Option Gross Receipts Taxes Act;

(3) county infrastructure gross receipts tax authorized pursuant to the County Local Option Gross Receipts Taxes Act;

(4) county capital outlay gross receipts tax authorized pursuant to the County Local Option Gross Receipts Taxes Act;

(5) county regional transit gross receipts tax authorized pursuant to the County Local Option Gross Receipts Taxes Act; and

(6) the amount distributed to counties pursuant to Section 7-1-6.47 NMSA 1978.

D. Subject to the provisions of Subsection G of this section, the state board of finance may dedicate a gross receipts tax increment attributable to the state gross receipts tax to pay the financing and refinancing costs, the principal of, the interest on and any premium due in connection with gross receipts tax increment bonds issued to finance a tax increment development project within the tax increment development area; provided that:

(1) beginning July 1, 2029 the increment from the state gross receipts tax is no more than the average of:

(a) the increment from municipal option gross receipts taxes dedicated by resolution by the municipality, if the district is located in a municipality; and

(b) the increment from county option gross receipts taxes dedicated by resolution by the county;

(2) the state board of finance has adopted a resolution dedicating an increment attributable to the state gross receipts tax for the purpose of securing gross receipts tax increment bonds pursuant to Subsection G of this section; and

(3) the dedication shall be conditioned on the gross receipts tax increment bonds being issued no later than four years after the state board of finance has adopted the resolution dedicating the increment.

E. The gross receipts tax increment generated by the imposition of municipal or county option gross receipts taxes specified by statute for particular purposes may nonetheless be dedicated for the purposes of the Tax Increment for Development Act if intent to do so is set forth in the tax increment development plan approved by the governing body, if the purpose for which the increment is intended to be used is consistent with the purposes set forth in the statute authorizing the municipal or county option gross receipts tax.

F. An imposition of a gross receipts tax increment attributable to a gross receipts tax by a taxing entity may be dedicated for the purpose of securing gross receipts tax increment bonds with the agreement of the taxing entity, evidenced by a resolution adopted by a majority vote of that taxing entity. A taxing entity shall not agree to dedicate for the purposes of securing gross receipts tax increment bonds more than seventy-five percent of its gross receipts tax increment attributable to gross receipts taxes by the taxing entity. A resolution of the taxing entity to dedicate a gross receipts tax increment or to increase the dedication of a gross receipts tax increment shall become effective only on January 1 or July 1 of the calendar year.

G. The state board of finance shall condition a dedication of a gross receipts tax increment attributable to the state gross receipts tax on the approval required pursuant to Section 5-15-21 NMSA 1978 and that the initial gross receipts tax increment bonds issuance secured by a portion of the gross receipts tax increment attributable to the state gross receipts tax shall be issued no later than four years after the state board of finance has adopted the resolution making the dedication. Subject to the limitations provided in Subsection D of this section, the state board of finance shall not agree to dedicate more than seventy-five percent of the gross receipts tax increment attributable to the state gross receipts tax within the district. The resolution of the state board of finance shall become effective on January 1 or July 1 of the calendar year following the notification period pursuant to Section 5-15-27 NMSA 1978 and shall find that:

(1) the state board of finance has reviewed the request for the use of the state gross receipts tax;

(2) based upon review by the state board of finance of the applicable tax increment development plan, the dedication by the state board of finance of a portion of the gross receipts tax increment within the district for use in meeting the required goals of the tax increment plan is reasonable and in the best interest of the state; and

(3) based upon the review by the state board of finance, the use of the state gross receipts tax is likely to stimulate the creation of jobs, economic opportunities and general revenue for the state through the addition of new businesses to the state and the expansion of existing businesses within the state; provided that, when reviewing the applicable tax increment development plan to create jobs and economic opportunities, the state board of finance shall prioritize in its consideration net, new full-time economic base jobs that would not have occurred on a similar scale and time line but for the use of the state gross receipts tax increment. The benefit to be evaluated is the marginal benefit of the speed-up in time or the incremental change in job creation above expected normal growth and shall exclude retail jobs, call center jobs and service jobs where the customer is typically on site.

H. The governing body of the jurisdiction in which a tax increment development district has been established shall timely notify the assessor of the county in which the district has been established, the taxation and revenue department and the local government division of the department of finance and administration when:

- (1) a tax increment development plan has been approved that contains a provision for the allocation of a gross receipts tax increment;
- (2) any outstanding bonds of the district have been paid off; and
- (3) the purposes of the district have otherwise been achieved."

Chapter 275 Section 3 Laws 2019

SECTION 3. A new Section 5-15-15.1 NMSA 1978 is enacted to read:

"5-15-15.1. FILING FEE FOR EVALUATING USE OF STATE GROSS RECEIPTS TAX INCREMENT.--Prior to approval of a dedication of a gross receipts tax increment attributable to the state gross receipts tax by the state board of finance pursuant to Section 5-15-15 NMSA 1978, a tax increment development district shall submit a filing fee to the state board of finance to pay the reasonable costs, as determined by the department of finance and administration, of evaluating the tax increment development plan and the district's requested use of a state gross receipts tax increment."

Chapter 275 Section 4 Laws 2019

SECTION 4. Section 5-15-16 NMSA 1978 (being Laws 2006, Chapter 75, Section 16) is amended to read:

"5-15-16. BONDING AUTHORITY--GROSS RECEIPTS TAX INCREMENT.--

A. A district may issue gross receipts tax increment revenue bonds, the pledged revenue for which is a gross receipts tax increment dedicated in accordance with the provisions of the Tax Increment for Development Act, for any one or more of the purposes authorized by that act.

B. A district may pledge irrevocably the revenue from a gross receipts tax increment received by the district to the payment of the interest on and principal of the gross receipts tax increment bonds for any of the purposes authorized in the Tax Increment for Development Act. A law that imposes or authorizes the imposition of a municipal or county gross receipts tax or that affects the municipal or county gross

receipts tax shall not be repealed, amended or otherwise directly or indirectly modified in any manner to adversely impair any outstanding gross receipts tax increment bonds that may be secured by a pledge of any municipal or county option gross receipts tax increment, unless those outstanding bonds have been discharged in full or provision has been fully made for those bonds.

C. Revenues in excess of the annual principal and interest due on gross receipts tax increment bonds secured by a pledge of gross receipts tax increment revenue may be accumulated in a debt service reserve account. The district may appoint a commercial bank trust department to act as paying agent or trustee of the gross receipts tax increment revenue and to administer the payment of principal of and interest on the bonds.

D. Except as otherwise provided in the Tax Increment for Development Act, gross receipts tax increment bonds:

(1) may have interest, principal value or any part thereof payable at intervals or at maturity as may be determined by the governing body;

(2) may be subject to a prior redemption at the district's option at a time and upon terms and conditions, with or without the payment of a premium, as determined by the district board;

(3) may mature at any time not exceeding twenty-five years after the date of issuance;

(4) may be serial in form and maturity, may consist of one bond payable at one time or in installments or may be in another form determined by the district board;

(5) shall be sold for cash at, above or below par and at a price that results in a net effective interest rate that does not exceed the maximum permitted by the Public Securities Act and the Public Securities Short-Term Interest Rate Act; and

(6) may be sold at public or negotiated sale.

E. At a regular or special meeting, the district board may adopt a resolution that:

(1) declares the necessity for issuing gross receipts tax increment bonds;

(2) authorizes the issuance of gross receipts tax increment bonds by an affirmative vote of a majority of all the members of the district board; and

(3) designates the sources of gross receipts increments thereof to be pledged to the repayment of the gross receipts tax increment bonds."

Chapter 275 Section 5 Laws 2019

SECTION 5. Section 5-15-20 NMSA 1978 (being Laws 2006, Chapter 75, Section 20) is amended to read:

"5-15-20. GENERAL BONDING AUTHORITY OF A TAX INCREMENT DEVELOPMENT DISTRICT--OTHER LIMITATIONS.--

A. A district board shall not issue bonds against gross receipts tax increments attributable to:

(1) the state gross receipts tax without:

(a) the state board of finance adopting a resolution dedicating a gross receipts tax increment attributable to the state gross receipts tax for the purpose of securing the gross receipts tax increment bonds pursuant to Subsection G of Section 5-15-15 NMSA 1978; and

(b) the approval required by Section 5-15-21 NMSA 1978; and

(2) a gross receipts tax imposed by a taxing entity without the agreement of the taxing entity as evidenced by a resolution adopted pursuant to Subsection B or C of Section 5-15-15 NMSA 1978.

B. Except as otherwise provided in this section, a district board shall not issue bonds against either gross receipts tax increments or property tax increments without the express written authorization of the department of finance and administration, as evidenced by a letter signed by the secretary of finance and administration. A district formed and approved by a class A county or by a municipality within a class A county if the municipality has a population of more than sixty-five thousand persons, according to the most recent federal decennial census, is not required to obtain express written authorization of the department of finance and administration for the issuance of gross receipts tax increment bonds or property tax increment bonds.

C. Prior to the issuance of indebtedness evidenced by the gross receipts tax increment bonds or property tax increment bonds issued by a district pursuant to the

Tax Increment for Development Act, the property owners within the district shall contribute a minimum of twenty percent of the initial public infrastructure costs, which may be reimbursed with proceeds of gross receipts tax increment or property tax increment bonds; unless the project to be financed with gross receipts tax increment bonds or property tax increment bonds is a metropolitan redevelopment project pursuant to the Metropolitan Redevelopment Code.

D. The amount of indebtedness evidenced by the gross receipts tax increment bonds or property tax increment bonds issued pursuant to the Tax Increment for Development Act shall not exceed the estimated cost of the public improvements plus all costs connected with the public infrastructure purposes and the issuance and sale of bonds, including, without limitation, formation costs, credit enhancement and liquidity support fees and costs.

E. The indebtedness evidenced by the gross receipts tax increment bonds or property tax increment bonds shall not affect the general obligation bonding capacity of the municipality or county in which the tax increment development district is located.

F. The indebtedness evidenced by the gross receipts tax increment bonds or property tax increment bonds shall be payable only from the special funds into which are deposited the gross receipts tax increments and property tax increments as set forth in the Tax Increment for Development Act.

G. Bonds issued by a tax increment development district shall not be a general obligation of the state, the county or the municipality in which the tax increment development district is located and shall not pledge the full faith and credit of the state, the county or the municipality in which the tax increment development district is located."

Chapter 275 Section 6 Laws 2019

SECTION 6. Section 5-15-21 NMSA 1978 (being Laws 2006, Chapter 75, Section 21, as amended) is amended to read:

"5-15-21. APPROVAL REQUIRED FOR ISSUANCE OF BONDS AGAINST STATE GROSS RECEIPTS TAX INCREMENTS.--

A. In addition to all other requirements of the Tax Increment for Development Act, prior to a district board issuing bonds that are issued in whole or in part against a gross receipts tax increment attributable to the state gross receipts tax within a district and before a distribution attributable to the state gross receipts tax is made pursuant to Section 7-1-6.54 NMSA 1978, the New Mexico finance authority shall review the

proposed issuance of the bonds and determine that the proceeds of the bonds will be used for a tax increment development project in accordance with the district's tax increment development plan and present the proposed issuance of the bonds to the legislature for approval.

B. The issuance of the bonds and the maximum amount of bonds to be issued shall be specifically authorized by law."

Chapter 275 Section 7 Laws 2019

SECTION 7. Section 5-15-27 NMSA 1978 (being Laws 2006, Chapter 75, Section 27) is amended to read:

"5-15-27. DEDICATION OF GROSS RECEIPTS TAX INCREMENT-- NOTICE TO TAXATION AND REVENUE DEPARTMENT.--

A. If the state board of finance or a taxing entity approves a dedication or increase in the dedication of a gross receipts tax increment to a district, the state board of finance or the taxing entity shall notify the taxation and revenue department of that approval at least one hundred twenty days before the effective date of the dedication or increase in the dedication; provided that the effective date of the dedication by the state board of finance is on or after the date the bonds are approved by the legislature pursuant to Section 5-15-21 NMSA 1978.

B. In regard to a dedication of a gross receipts tax increment attributable to the state gross receipts tax, if the approval required pursuant to Section 5-15-21 NMSA 1978 has not occurred when the notice pursuant to Subsection A of this section is made, the state board of finance shall include in the notice that legislative approval is needed prior to a distribution pursuant to Section 7-1-6.54 NMSA 1978 attributable to the state gross receipts tax can be made. Upon approval pursuant to Section 5-15-21 NMSA 1978, the state board of finance shall notify the department of the approval."

Chapter 275 Section 8 Laws 2019

SECTION 8. A new section of the Tax Increment for Development Act is enacted to read:

"REPORT REQUIRED.--On September 1 of each year, the district board of a district that receives a distribution of a gross receipts tax increment attributable to the state gross receipts tax shall submit a report to the state board of finance and the legislative finance committee that includes the estimated capital investment in the district, the estimated total net new jobs and new full-time economic base jobs created

in the district and the total revenues distributed to the district in each previous fiscal year."

Chapter 275 Section 9 Laws 2019

SECTION 9. Section 7-1-6.54 NMSA 1978 (being Laws 2006, Chapter 75, Section 29) is amended to read:

"7-1-6.54. DISTRIBUTIONS--TAX INCREMENT DEVELOPMENT DISTRICTS.-
-A distribution for a tax increment development district shall be made by the department to a special fund of the district, in accordance with a notice that is filed pursuant to Section 5-15-27 NMSA 1978 with respect to a dedication of a gross receipts tax increment, to a special fund of the tax increment development district."

Chapter 275 Section 10 Laws 2019

SECTION 10. APPLICABILITY.--The provisions of this act shall not apply to dedications of gross receipts tax increments by the state board of finance made prior to the effective date of this act.

Chapter 275 Section 11 Laws 2019

SECTION 11. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2019. _____

Senate Bill 566, aa

Approved April 4, 2019

LAWS 2019, CHAPTER 276

AN ACT

RELATING TO PUBLIC FINANCE; MAKING CERTAIN LOCAL GOVERNMENT-OWNED PRIMARY CARE CLINICS ELIGIBLE FOR PRIMARY CARE CAPITAL FUNDING; ALLOWING THE NEW MEXICO FINANCE AUTHORITY TO RECEIVE COMPENSATION FROM THE PRIMARY CARE CAPITAL FUND FOR ITS COSTS OF ADMINISTERING THE PRIMARY CARE CAPITAL FUNDING ACT; MAKING AN APPROPRIATION.

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

Chapter 276 Section 1 Laws 2019

SECTION 1. Section 24-1C-3 NMSA 1978 (being Laws 1994, Chapter 62, Section 9, as amended) is amended to read:

"24-1C-3. DEFINITIONS.--As used in the Primary Care Capital Funding Act:

- A. "authority" means the New Mexico finance authority;
- B. "capital project" means repair, renovation or construction of a facility; purchase of land; acquisition of capital equipment of a long-term nature; or acquisition of capital equipment to be used in the delivery of primary care, telehealth or hospice services;
- C. "department" means the department of health;
- D. "eligible entity" means:
 - (1) a community-based nonprofit primary care clinic or hospice that operates in a rural or other health care underserved area of the state, that is a 501(c)(3) nonprofit corporation for federal income tax purposes and that is eligible for funding pursuant to the Rural Primary Health Care Act;
 - (2) a school-based health center that operates in a public school district and that meets department requirements or that is funded by the federal department of health and human services;
 - (3) a primary care clinic that operates in a rural or other health care underserved area of the state, that is owned by a county or municipality and that meets department requirements for eligibility; or
 - (4) a telehealth site that is operated by an entity described in this subsection;
- E. "fund" means the primary care capital fund; and
- F. "primary care" means the first level of basic or general health care for an individual's health needs, including diagnostic and treatment services and including services delivered at a primary care clinic, a telehealth site or a school-based health

center; "primary care" includes the provision of mental health services if those services are integrated into the eligible entity's service array."

Chapter 276 Section 2 Laws 2019

SECTION 2. Section 24-1C-4 NMSA 1978 (being Laws 1994, Chapter 62, Section 10, as amended) is amended to read:

"24-1C-4. PRIMARY CARE CAPITAL FUND--CREATION.--

A. The "primary care capital fund" is created as a revolving fund in the state treasury. The fund shall consist of appropriations, loan repayments, gifts, grants, donations and interest earned on investment of the fund. A separate account shall be maintained for appropriations, loan repayments, gifts, grants, donations and interest earned on investment of the account for loans to school-based health centers and telehealth sites. Money in the fund shall not revert at the end of a fiscal year.

B. The fund shall be administered by the authority. The authority may recover from the fund the costs of administering the fund and originating loans up to an amount equal to ten percent of original loan amounts. Money in the fund shall be expended only on warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the chief executive officer of the authority or the chief executive officer's authorized representative." _____

Senate Bill 126

Approved April 4, 2019

LAWS 2019, CHAPTER 277

AN ACT

RELATING TO CAPITAL EXPENDITURES; MAKING APPROPRIATIONS FROM THE GENERAL FUND AND OTHER STATE FUNDS; AUTHORIZING EXPENDITURES FROM CERTAIN FUNDS AND BALANCES; PROVIDING FOR THE ISSUANCE OF SEVERANCE TAX BONDS AND APPROPRIATION OF SEVERANCE TAX BOND PROCEEDS FOR CERTAIN PROJECTS PREVIOUSLY AUTHORIZED BY LAW AND TO CERTAIN FUNDS AS PROVIDED BY SECTIONS 7-27-10.1 and 7-27-12.5 NMSA 1978 (BEING LAWS 2003, CHAPTER 134, SECTION 1 AND LAWS 2010, CHAPTER 10, SECTION 9, AS AMENDED); ESTABLISHING CONDITIONS FOR THE REVERSION OF UNEXPENDED BALANCES; DECLARING AN EMERGENCY.

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

Chapter 277 Section 1 Laws 2019

SECTION 1. GENERAL FUND AND OTHER FUND APPROPRIATIONS--LIMITATIONS--REVERSIONS.--

A. Except as otherwise specifically provided by law:

(1) the unexpended balance of an appropriation made in this act from the general fund or other state funds shall revert no later than the following dates:

(a) for a project for which an appropriation was made to match federal grants, six months after completion of the project;

(b) for a project for which an appropriation was made to purchase vehicles, including emergency vehicles and other vehicles that require special equipment; heavy equipment; books; educational technology; or other equipment or furniture that is not related to a more inclusive construction or renovation project, at the end of the fiscal year two years following the fiscal year in which the appropriation was made for the purchase; and

(c) for any other project for which an appropriation was made, within six months of completion of the project, but no later than the end of fiscal year 2023; and

(2) all remaining balances from an appropriation made in this act for a project shall revert three months after the latest reversion date specified for that type of project in Paragraph (1) of this subsection.

B. Upon certification by a state agency that money from the general fund is needed for a purpose specified in this act, the secretary of finance and administration shall disburse such amount of the appropriation for that project as is necessary to meet that need.

C. If a political subdivision of the state that would receive a capital project appropriation, either as a project recipient or fiscal agent, has had a disclaimed or adverse opinion on its most recent annual or special audit, the political subdivision shall not receive the appropriation or act as fiscal agent for a project recipient. This requirement shall not apply to a disclaimed or adverse opinion based on a component unit, as defined by the governmental accounting standards board, of the political subdivision. The state agency that certifies the capital project appropriation shall try to find another appropriate political subdivision to act as fiscal agent. If an appropriate political subdivision cannot be found, the state agency, with the governor's approval, shall serve as the fiscal agent for the project. If the governor fails to approve the state agency acting as fiscal agent, the authorization or appropriation shall be void.

D. Except for appropriations to the capital program fund, money from appropriations made in this act shall not be used to pay indirect project costs.

E. Except as provided in Subsection G of this section, the balance of an appropriation made from the general fund shall revert in the time frame set forth in Subsection A of this section to the capital projects fund.

F. Except as provided in Subsection G of this section, the balance of an appropriation made from other state funds shall revert in the time frame set forth in Subsection A of this section to the originating fund.

G. The balance of an appropriation made from the general fund or other state funds to the Indian affairs department or the aging and long-term services department for a project located on lands of an Indian nation, tribe or pueblo shall revert in the time frame set forth in Subsection A of this section to the tribal infrastructure project fund.

H. For the purpose of this section, "unexpended balance" means the remainder of an appropriation after reserving for unpaid costs and expenses covered by binding written obligations to third parties.

Chapter 277 Section 2 Laws 2019

SECTION 2. ADMINISTRATIVE OFFICE OF THE COURTS PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the administrative office of the courts for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, for the following purposes:

1. one million seven hundred ninety-nine thousand eight hundred thirty dollars (\$1,799,830) to plan, design, construct, furnish and equip a new courtroom, including demolition of the existing third floor area courtroom, at the second judicial district court in Albuquerque in Bernalillo county;

~~2. three hundred fifty thousand dollars (\$350,000) to plan and design, including specific cost estimates, a joint magistrate and municipal court complex in Anthony in Dona Ana county;~~

~~3. twenty one thousand three hundred sixty one dollars (\$21,361) to purchase and equip microfilm scanners for the third judicial district court in Las Cruces in Dona Ana county;~~

~~4. fifteen thousand dollars (\$15,000) to purchase and install security equipment, including walk-through metal detectors, x-ray machines, generators and related equipment and infrastructure, for the third judicial district court in Las Cruces in Dona Ana county;] LINE-ITEM VETO~~

5. one million five hundred thousand dollars (\$1,500,000) to purchase and install security systems, technology upgrades and facility upgrades related to security systems at magistrate courts and judicial district courts statewide;

6. eight hundred thousand dollars (\$800,000) to plan, design, construct, furnish and equip facility improvements and to purchase and install telephone systems at the fourth judicial district court, the ninth judicial district court and magistrate courts statewide; and

7. seven hundred thousand dollars (\$700,000) to purchase and install technology upgrades at magistrate courts and judicial district courts statewide.

Chapter 277 Section 3 Laws 2019

~~[SECTION 3. ADMINISTRATIVE OFFICE OF THE DISTRICT ATTORNEYS--PROJECT--GENERAL FUND.--One hundred fifty thousand dollars (\$150,000) is appropriated from the general fund to the administrative office of the district attorneys for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, to plan, design, construct, purchase, furnish, equip and install information technology improvements, including security systems and infrastructure, for the administrative office of the district attorneys in district attorney's offices statewide.]~~
LINE-ITEM VETO

Chapter 277 Section 4 Laws 2019

SECTION 4. AGING AND LONG-TERM SERVICES DEPARTMENT PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the aging and long-term services department for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act or in the items below, for the following purposes:

1. two hundred forty-seven thousand dollars (\$247,000) to purchase and equip a meal delivery vehicle and to make improvements to the facility at the Whispering Pines senior meal site in Bernalillo county;
2. fifty thousand dollars (\$50,000) to plan, design, construct, equip and furnish improvements to the Alameda senior meal site in Bernalillo county;
3. four hundred thousand dollars (\$400,000) to plan, design and construct repairs and improvements, including site improvements, and to purchase and install equipment and furniture at the Paradise Hills community center senior annex in Albuquerque in Bernalillo county;
4. twenty-five thousand dollars (\$25,000) to plan, design, construct, equip and furnish improvements, including to the front and rear patios, entrance, storage, bathroom, dining room, multipurpose rooms and parking, at the Rio Bravo senior meal site in Bernalillo county;
5. one hundred forty-five thousand one hundred sixty-seven dollars (\$145,167) to purchase and equip an accessible vehicle and to plan, design, construct, equip and install improvements, including improvements to comply with the federal

Americans with Disabilities Act of 1990, an air quality control vacuum system, a ventilation system and mezzanine improvements, at the South Valley multipurpose senior center in Bernalillo county;

6. four hundred ninety-five thousand dollars (\$495,000) to purchase land and a building for and to plan, design, construct, renovate, furnish and equip an adult daycare and respite facility in the Atrisco community in Albuquerque in Bernalillo county;

7. thirty-five thousand dollars (\$35,000) to plan, design, construct, renovate, furnish and equip improvements to the Bear Canyon senior center in Albuquerque in Bernalillo county;

8. three hundred thirty-four thousand dollars (\$334,000) for expenditure in fiscal years 2020 through 2023 to plan, design, construct, renovate, equip and furnish the Tijeras senior center in Tijeras in Bernalillo county;

9. one hundred thousand dollars (\$100,000) to plan, design, construct and equip an addition to a senior center in Tijeras in Bernalillo county;

10. forty thousand dollars (\$40,000) to plan, design, construct, furnish and equip improvements to the Glenwood senior center in Glenwood in Catron county;

11. forty thousand dollars (\$40,000) to plan, design, construct, furnish and equip improvements to the Quemado senior center in Quemado in Catron county;

12. forty thousand dollars (\$40,000) to plan, design, construct, furnish and equip improvements to the Reserve senior center in Reserve in Catron county;

13. fifty thousand dollars (\$50,000) for expenditure in fiscal years 2020 through 2023 to plan, design, construct, purchase and install an emergency generator at the Eagle Nest senior center in Eagle Nest in Colfax county;

14. twenty-six thousand dollars (\$26,000) to plan, design, purchase and construct improvements, including a drop ceiling, at Eagle Nest senior center in Eagle Nest in Colfax county;

15. one hundred fifteen thousand dollars (\$115,000) to plan, design, construct, replace, purchase, furnish and equip a heating, ventilation and air conditioning system for the Friendship senior center in Clovis in Curry county;

16. one hundred fifty-nine thousand dollars (\$159,000) to plan, design, construct and equip improvements, including roofing, stucco, painting, exterior doors

and heating, ventilation and air conditioning units, to a senior center in Anthony in Dona Ana county;

17. sixty-one thousand nine hundred seven dollars (\$61,907) for expenditure in fiscal years 2020 through 2023 to purchase and equip vehicles for the Santa Clara senior center in Santa Clara in Grant county;

18. sixty-one thousand two hundred twenty-three dollars (\$61,223) for expenditure in fiscal years 2020 through 2023 for renovations, including the purchase and installation of equipment, at the Silver City senior center in Silver City in Grant county;

19. sixty thousand six hundred ten dollars (\$60,610) for expenditure in fiscal years 2020 through 2023 to purchase and equip vehicles for the Silver City senior center in Silver City in Grant county;

20. nine thousand five hundred dollars (\$9,500) to purchase, equip and install a dishwasher at the senior center in the Puerto de Luna area in Guadalupe county;

21. twenty thousand dollars (\$20,000) to develop a feasibility study [~~in conjunction with Hidalgo county and the Animas public school district~~] to create a senior center in Animas in Hidalgo county; *LINE-ITEM VETO*

22. fifty-five thousand two hundred sixty-two dollars (\$55,262) for expenditure in fiscal years 2020 through 2023 to purchase and equip vehicles for the Ena Mitchell senior center in Lordsburg in Hidalgo county;

23. thirty-nine thousand six hundred dollars (\$39,600) for expenditure in fiscal years 2020 through 2023 to purchase and equip vehicles for the Eunice senior center in Eunice in Lea county;

24. forty-nine thousand two hundred dollars (\$49,200) for expenditure in fiscal years 2020 through 2023 for renovations, including the purchase and installation of equipment and building systems, at the Ruidoso community center in Ruidoso in Lincoln county;

25. one hundred twenty-five thousand seven hundred ninety-six dollars (\$125,796) for expenditure in fiscal years 2020 through 2023 for renovations, including the purchase and installation of equipment and building systems, at the Ruidoso Downs senior center in Ruidoso Downs in Lincoln county;

26. ten thousand dollars (\$10,000) to plan, design and construct parking lot improvements, including accessibility ramps and handrails, at the senior center in Ruidoso Downs in Lincoln county;

27. one hundred forty thousand dollars (\$140,000) for expenditure in fiscal years 2020 through 2023 to plan, design, renovate and install equipment, including meals equipment, at the Betty Ehart senior center in Los Alamos in Los Alamos county;

28. one hundred eighteen thousand dollars (\$118,000) for expenditure in fiscal years 2020 through 2023 to purchase and equip vehicles for senior centers countywide in Los Alamos county;

29. two hundred two thousand five hundred dollars (\$202,500) to plan, design and construct a senior center hogan, including replacement of heating, ventilation and air conditioning systems and development of an outdoor community garden wellness park, for a senior center in McKinley county;

30. seventy thousand dollars (\$70,000) to plan, design, construct, furnish and equip a senior center in the Casamero Lake chapter of the Navajo Nation in McKinley county;

31. ten thousand dollars (\$10,000) to purchase, equip and install a hot water heater at the senior center addition in the Chichiltah chapter of the Navajo Nation in McKinley county;

32. five thousand dollars (\$5,000) to purchase and install a storage unit for the senior center in the Mexican Springs chapter of the Navajo Nation in McKinley county;

33. forty-one thousand eight hundred dollars (\$41,800) for expenditure in fiscal years 2020 through 2023 to plan, design, construct, renovate, equip and furnish the Pueblo of Zuni senior center, including site and drainage improvements, in McKinley county;

34. seven hundred sixty-five thousand six hundred dollars (\$765,600) to plan, design, construct, furnish, equip and make phase 4 and 5 improvements, including parking lot paving, to the senior center in Wagon Mound in Mora county;

35. sixty thousand five hundred sixty-five dollars (\$60,565) for expenditure in fiscal years 2020 through 2023 for renovations, including the purchase

and installation of equipment, at the Tucumcari senior center in Tucumcari in Quay county;

36. seventy-five thousand dollars (\$75,000) to purchase and equip senior transportation vehicles in Rio Arriba county;

37. thirty thousand dollars (\$30,000) for expenditure in fiscal years 2020 through 2023 to purchase and equip vehicles for the Espanola adult daycare center in Espanola in Rio Arriba county;

38. fourteen thousand dollars (\$14,000) to purchase a van for a veterans' transportation program in Espanola in Rio Arriba county;

39. one million dollars (\$1,000,000) to plan, design, purchase, improve, renovate, repair, furnish and equip a nursing home facility in Espanola in Rio Arriba county;

40. one hundred thousand one hundred seventy-seven dollars (\$100,177) for expenditure in fiscal years 2020 through 2023 to purchase and equip vehicles for the Lower Valley senior center in San Juan county;

41. fifty-three thousand eight hundred dollars (\$53,800) for expenditure in fiscal years 2020 through 2023 for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Aztec senior center in Aztec in San Juan county;

42. fifty-seven thousand dollars (\$57,000) for expenditure in fiscal years 2020 through 2023 to purchase and equip vehicles for the Beclabito senior center in the Beclabito chapter of the Navajo Nation in San Juan county;

43. one hundred forty-three thousand dollars (\$143,000) for expenditure in fiscal years 2020 through 2023 for renovations, including the purchase and installation of equipment and building systems, at the Bloomfield senior center in Bloomfield in San Juan county;

44. one hundred thirty-five thousand dollars (\$135,000) for expenditure in fiscal years 2020 through 2023 for improvements to the facility to address code compliance issues and for the purchase and installation of equipment at the Bonnie Dallas senior center in Farmington in San Juan county;

45. three hundred fifty-six thousand five hundred dollars (\$356,500) to plan, design, construct, furnish and equip a senior center in the Gadii'ahi chapter of the Navajo Nation in San Juan county;

46. fifty thousand dollars (\$50,000) to plan, design and construct improvements to the Hogback senior center in the Tse'Daa'kaan chapter of the Navajo Nation in San Juan county;

47. fifty thousand dollars (\$50,000) to plan, design, construct, purchase, furnish, equip and install improvements, including heating, ventilation and air conditioning systems, electrical systems and accessibility, to the senior center in the Toadlena/Two Grey Hills chapter of the Navajo Nation in San Juan county;

48. four hundred thousand dollars (\$400,000) to plan, design, construct, furnish and equip phase 2 of a senior center, including an addition, for the Upper Fruitland chapter of the Navajo Nation in San Juan county;

49. forty-three thousand dollars (\$43,000) to plan, design and construct the northside parking lot of the Las Vegas senior center, including drainage and accessibility improvements, in Las Vegas in San Miguel county;

50. twenty-five thousand dollars (\$25,000) for expenditure in fiscal years 2020 through 2023 to purchase and install equipment, including meals equipment, at the Pecos senior center in Pecos in San Miguel county;

51. twenty-five thousand three hundred sixty-five dollars (\$25,365) for expenditure in fiscal years 2020 through 2023 to plan, design, construct, renovate, equip and furnish the Meadowlark senior center in Rio Rancho in Sandoval county;

52. forty-four thousand dollars (\$44,000) to purchase and equip a vehicle for the Meadowlark senior center in Rio Rancho in Sandoval county;

53. fifty thousand dollars (\$50,000) to plan, design, construct and furnish a senior center at the Pueblo of San Felipe in Sandoval county;

54. twenty-three thousand dollars (\$23,000) for expenditure in fiscal years 2020 through 2023 for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Pueblo of San Ildefonso senior center in Santa Fe county;

55. eight hundred thousand dollars (\$800,000) for expenditure in fiscal years 2020 through 2023 to plan, design, construct, equip and furnish a senior center in the area of New Mexico highway 14 in Santa Fe county;

56. sixty-eight thousand dollars (\$68,000) for expenditure in fiscal years 2020 through 2023 to purchase and equip vehicles for the Pueblo of San Ildefonso senior center in Santa Fe county;

57. twenty-two thousand six hundred fifty dollars (\$22,650) for expenditure in fiscal years 2020 through 2023 to purchase and install equipment, including meals equipment, at the Mary Esther Gonzales senior center in Santa Fe in Santa Fe county;

58. one hundred ten thousand eight hundred ninety dollars (\$110,890) for expenditure in fiscal years 2020 through 2023 to purchase and equip vehicles for the Mary Esther Gonzales senior center in Santa Fe in Santa Fe county;

59. thirty-four thousand nine hundred eighty dollars (\$34,980) for expenditure in fiscal years 2020 through 2023 for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Magdalena senior center in Magdalena in Socorro county;

60. one hundred sixteen thousand five hundred thirty-two dollars (\$116,532) for expenditure in fiscal years 2020 through 2023 for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Socorro senior center in Socorro in Socorro county;

61. sixty-three thousand two hundred sixty-two dollars (\$63,262) for expenditure in fiscal years 2020 through 2023 to purchase and equip vehicles for the Socorro senior center in Socorro in Socorro county;

62. sixty-four thousand two hundred thirty-six dollars (\$64,236) for expenditure in fiscal years 2020 through 2023 for improvements to the facility to address code compliance issues and for the purchase and installation of equipment at the Veguita senior center in Socorro county;

63. fifty thousand eight hundred twenty dollars (\$50,820) for expenditure in fiscal years 2020 through 2023 to purchase and equip vehicles for the Veguita senior center in Socorro county;

64. four hundred eighty thousand four hundred dollars (\$480,400) to purchase equipment, vehicles and furniture and to purchase and install kitchen appliances and building system improvements for senior centers statewide;

65. five hundred thousand dollars (\$500,000) for expenditure in fiscal years 2020 through 2023 for repair, replacement or installation needed on an emergency basis or for immediate code compliance to ensure continued and safe operation of senior centers statewide;

66. five hundred thousand dollars (\$500,000) for expenditure in fiscal years 2020 through 2023 to purchase and install kitchen or exercise equipment [~~valued at less than twenty thousand dollars (\$20,000)~~] for senior centers statewide and without which a recipient senior center would not be able to provide core services; *LINE-ITEM VETO*

67. forty-three thousand three hundred ninety-seven dollars (\$43,397) to plan, design, purchase, construct and furnish a senior center in Taos county;

68. six hundred thirty-seven thousand seven hundred thirty-three dollars (\$637,733) for expenditure in fiscal years 2020 through 2023 to plan, design, construct, renovate, equip and furnish the Taos senior center in Taos in Taos county;

69. one million two hundred sixty thousand dollars (\$1,260,000) to acquire easements and rights of way for and to plan, design, construct and equip a senior daycare facility in the Pueblo of Taos in Taos county;

70. fifty thousand dollars (\$50,000) to purchase and equip a home meal delivery vehicle for the Clayton senior center in Clayton in Union county;

71. fifty thousand dollars (\$50,000) for expenditure in fiscal years 2020 through 2023 to purchase and equip vehicles for the Belen senior center in Belen in Valencia county;

72. fifty thousand dollars (\$50,000) for expenditure in fiscal years 2020 through 2023 to purchase and equip vehicles for the Del Rio senior center in Belen in Valencia county;

73. fifty thousand dollars (\$50,000) for expenditure in fiscal years 2020 through 2023 to purchase and equip vehicles for the Bosque Farms senior center in Bosque Farms in Valencia county; and

74. fifty thousand dollars (\$50,000) for expenditure in fiscal years 2020 through 2023 to purchase and equip vehicles for the Fred Luna senior center in Los Lunas in Valencia county.

Chapter 277 Section 5 Laws 2019

SECTION 5. BERNALILLO COUNTY METROPOLITAN COURT PROJECT--GENERAL FUND.--Two hundred thirty thousand dollars (\$230,000) is appropriated from the general fund to the Bernalillo county metropolitan court for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, to purchase and install upgrades to the existing security access control system, including software and hardware upgrades, configuration and data migration, at the Bernalillo county metropolitan court in Albuquerque in Bernalillo county.

Chapter 277 Section 6 Laws 2019

SECTION 6. BORDER AUTHORITY PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the border authority for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, for the following purposes:

1. five million four hundred thousand dollars (\$5,400,000) to plan, design and construct a road between Santa Teresa and Sunland Park in Dona Ana county; and
2. three million five hundred thousand dollars (\$3,500,000) to purchase land and to plan, design and construct flood control infrastructure, including a flood diversion berm, ponding detention areas and a bridge, at the Columbus land port of entry in Columbus in Luna county.

Chapter 277 Section 7 Laws 2019

SECTION 7. CAPITAL PROGRAM FUND PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the capital program fund for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act or in the items below, for the following purposes:

1. two million dollars (\$2,000,000) to plan, design, construct, purchase, equip and install improvements to the state police fleet warehouse in Albuquerque in Bernalillo county;
2. twenty-six million three hundred thousand dollars (\$26,300,000) for expenditure in fiscal years 2020 through 2023 to plan, design, construct, improve,

renovate, repair, remediate, furnish and equip facility improvements and infrastructure upgrades at the children, youth and families department campus on Indian School road in Albuquerque in Bernalillo county;

3. one hundred thousand dollars (\$100,000) to plan, design, construct, improve, renovate, remediate, furnish and equip a physical plant building at the youth diagnostic and development center in Albuquerque in Bernalillo county;

4. four million five hundred thousand dollars (\$4,500,000) to plan, design, construct, improve, renovate, repair, remediate, furnish and equip infrastructure extending from springs located in the Gila national forest to the old Fort Bayard water tanks and to certify code compliance to provide water to the current Fort Bayard medical facility in Grant county;

5. four hundred thousand dollars (\$400,000) to plan, design, construct, improve, renovate, remediate, furnish and equip infrastructure improvements to the laundry building at the old Fort Bayard medical center in Santa Clara in Grant county;

6. nine hundred thousand dollars (\$900,000) to plan, design, construct, improve, renovate, remediate, furnish and equip athletic fields, including the purchase and installation of grass turf and lighting, at the youth diagnostic and development center in Albuquerque in Bernalillo county and at the John Paul Taylor center in Las Cruces in Dona Ana county;

7. two million dollars (\$2,000,000) for expenditure in fiscal years 2020 through 2023 to plan, design, construct, improve, renovate, remediate, furnish and equip facility repairs and improvements at the youth diagnostic and development center and Camino Nuevo youth center facilities in Bernalillo county, the John Paul Taylor center in Las Cruces in Dona Ana county and the Eagle Nest reintegration center in Eagle Nest in Colfax county;

8. nine hundred thousand dollars (\$900,000) to plan, design, construct, improve, renovate, remediate, equip, purchase and install interior service windows and related interior improvements to comply with provisions of the federal Health Insurance Portability and Accountability Act of 1996 at the Harriet Sammons building in Farmington in San Juan county and the James Murray building in Hobbs in Lea county;

9. two million dollars (\$2,000,000) to plan, design, construct, renovate, equip, purchase and install infrastructure improvements, including roofs and heating, ventilation and air conditioning systems, at the Albert Amador building in Espanola in Rio Arriba county and the Harriet Sammons building in Farmington in San Juan county;

10. one million four hundred forty-five thousand one hundred ninety-five dollars (\$1,445,195) to plan, design, construct, improve, renovate, remediate, furnish and equip an apartment complex for the commission for the blind in Alamogordo in Otero county;

11. three million dollars (\$3,000,000) to purchase and install furniture, fixtures and equipment for phase 3 of the Meadows building and for other infrastructure improvements at the New Mexico behavioral health institute at Las Vegas in San Miguel county;

12. thirty million dollars (\$30,000,000) for expenditure in fiscal years 2020 through 2023 to plan, design, construct, renovate, furnish and equip a new state police crime laboratory evidence and records storage facility, including expansion of the existing crime laboratory, including the purchase and installation of information technology equipment, in Santa Fe in Santa Fe county;

13. one million five hundred thousand dollars (\$1,500,000) to plan, design, construct, purchase, equip and install electric vehicle charging stations at state-owned facilities in Santa Fe in Santa Fe county;

14. two hundred thirty-three thousand forty-one dollars (\$233,041) to plan, design, construct, improve, renovate, remediate, furnish and equip improvements and infrastructure upgrades to commission for the blind facilities statewide;

15. thirteen million dollars (\$13,000,000) for expenditure in fiscal years 2020 through 2023 to plan, design, construct, renovate, furnish, remediate, equip, repair, purchase and install equipment and improve infrastructure, including roofs, additions to existing buildings, replacement of heating, ventilation and air conditioning systems, fire suppression and alarm systems and telephone, sewer and security systems upgrades, at correctional facilities statewide;

16. twenty million dollars (\$20,000,000) to plan, design, construct, repair, renovate, replace, improve and upgrade building systems, including implementation of renewable energy, energy storage and energy efficiency system infrastructure improvements, at state-owned buildings statewide;

17. six million dollars (\$6,000,000) for expenditure in fiscal years 2020 through 2023 to plan, design, construct, improve, renovate, repair, remediate, furnish, equip, purchase and install equipment and for infrastructure upgrades at department of health facilities statewide;

18. one million dollars (\$1,000,000) to plan, design, construct, improve, renovate, remediate, furnish and equip facilities, including infrastructure upgrades, at New Mexico state police facilities statewide;

~~[19. five hundred thousand dollars (\$500,000) to develop a master plan for facilities management division owned facilities statewide;] LINE-ITEM VETO~~

20. two million dollars (\$2,000,000) for expenditure in fiscal years 2020 through 2023 to plan, design, construct, improve, renovate, remediate, furnish and equip facilities, including infrastructure upgrades, at state-owned facilities statewide; and

21. three million dollars (\$3,000,000) to decommission and demolish buildings, including abatement of hazardous materials, at state-owned facilities statewide, including facilities at the Los Lunas campus in Los Lunas in Valencia county and at the New Mexico behavioral health institute at Las Vegas in San Miguel county.

Chapter 277 Section 8 Laws 2019

~~[SECTION 8. CORRECTIONS DEPARTMENT PROJECT--GENERAL FUND.--Three hundred thousand dollars (\$300,000) is appropriated from the general fund to the corrections department for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, to develop a master plan, including planning for a new correctional facility, for state correctional facilities statewide.] LINE-ITEM VETO~~

Chapter 277 Section 9 Laws 2019

SECTION 9. CULTURAL AFFAIRS DEPARTMENT PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the cultural affairs department for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act or in the items below, for the following purposes:

1. four hundred ninety-nine thousand seventy dollars (\$499,070) to plan, design, construct, renovate, furnish and equip the site and facilities, including restoration of the historic ruins footprint, ruins and exhibits, at the Coronado historic site in Bernalillo county;

2. one million one hundred fifty thousand dollars (\$1,150,000) to plan, design, construct and equip a mobile exhibition hall and for upgrades to the site, exhibits and facilities at the New Mexico museum of natural history and science in Albuquerque in Bernalillo county;

3. one million sixty-five thousand dollars (\$1,065,000) to plan, design, construct, create, renovate, repair, furnish, equip and make improvements to the site, facilities, theaters, exhibits and buildings at the national Hispanic cultural center in Albuquerque in Bernalillo county;
4. one million three hundred ten thousand dollars (\$1,310,000) to plan, design, construct, renovate, equip and make improvements at the farm and ranch heritage museum in Dona Ana county;
5. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, renovate, furnish, purchase and equip improvements to the Fort Selden historic site, including construction of a shade structure for outdoor classrooms, in Dona Ana county;
6. eight hundred thousand dollars (\$800,000) to plan, design, construct, repair, renovate, equip and make improvements to facilities and exhibits, including site improvements, to the Taylor-Barela-Reynolds-Mesilla historic site in Dona Ana county;
7. fifty thousand dollars (\$50,000) to plan, design, construct, purchase, equip and install improvements to the Fort Stanton historic site, including roof and structural repairs to the power plant and officer quarters and perimeter fencing improvements, in Capitan in Lincoln county;
8. fifty thousand dollars (\$50,000) to plan, design and construct improvements to the Lincoln historic site, including structural restoration at the Tunstall store and San Juan church and interpretive signs and displays, in Lincoln in Lincoln county;
9. nine hundred thousand dollars (\$900,000) to plan, design, construct, purchase and install improvements to the New Mexico museum of space history in Alamogordo in Otero county;
10. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, renovate, furnish, equip, repair and preserve the casa grande and other buildings and to improve the site, facilities and exhibits at Los Luceros historic property in Rio Arriba county;
11. thirty thousand dollars (\$30,000) to plan, design, construct, furnish and equip improvements, including the roof, to the David F. Cargo library in Villanueva in San Miguel county;

12. one hundred sixty thousand dollars (\$160,000) to plan, design, construct, furnish and equip improvements, including the visitors' center, exhibits, historic ruins, paths and site improvements, at the Jemez historic site in Sandoval county;

13. three hundred fourteen thousand dollars (\$314,000) to plan, design, construct, purchase, furnish, equip and install improvements to the center for contemporary arts, including fire suppression systems, security systems, lighting and parking lot improvements, in Santa Fe in Santa Fe county;

14. four million ten thousand dollars (\$4,010,000) to plan, design, construct, renovate, furnish and equip improvements to the interior of the New Mexico museum of art Vlamem contemporary annex in Santa Fe in Santa Fe county;

15. one million two hundred eleven thousand dollars (\$1,211,000) to plan, design, construct, equip and install the "Here, Now and Always" core exhibition and gallery renovations at the museum of Indian arts and culture in Santa Fe in Santa Fe county;

16. one hundred ninety-three thousand seven hundred seventy-seven dollars (\$193,777) to plan, design and construct improvements, including roofing, skylights and stucco, at the Santa Fe children's museum in Santa Fe in Santa Fe county;

17. fifty thousand dollars (\$50,000) to plan, design and construct phase 1 improvements, including accessibility improvements, to the Museum Hill campus in Santa Fe in Santa Fe county; and

18. four million five hundred thousand dollars (\$4,500,000) for expenditure in fiscal years 2020 through 2023 to plan, design, construct, renovate, furnish and equip improvements to buildings, sites and exhibits, including fire suppression, mitigation, climate control and security systems and the purchase and equipping of a bookmobile, at museums, monuments, historic sites and cultural facilities statewide.

Chapter 277 Section 10 Laws 2019

SECTION 10. CUMBRES AND TOLTEC SCENIC RAILROAD COMMISSION PROJECT--GENERAL FUND.--One million dollars (\$1,000,000) is appropriated from the general fund to the Cumbres and Toltec scenic railroad commission for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, for track rehabilitation and related infrastructure improvements, including locomotive and

boiler upgrades to comply with federal railroad administration standards, and for improvements to passenger cars for the Cumbres and Toltec scenic railroad operating between New Mexico and Colorado.

Chapter 277 Section 11 Laws 2019

SECTION 11. NEW MEXICO SCHOOL FOR THE DEAF PROJECT--GENERAL FUND.--Eight hundred seventy-five thousand dollars (\$875,000) is appropriated from the general fund to the board of regents of the New Mexico school for the deaf for expenditure in fiscal years 2020 through 2023, unless otherwise provided in Section 1 of this act, to plan, design and construct roof replacements and repairs, including windows and stucco improvements, at student cottages, Connor hall and the dining hall at the New Mexico school for the deaf in Santa Fe in Santa Fe county.

Chapter 277 Section 12 Laws 2019

SECTION 12. DISTRICT ATTORNEY OF THE FIRST JUDICIAL DISTRICT PROJECT--GENERAL FUND.--Sixty thousand dollars (\$60,000) is appropriated from the general fund to the district attorney of the first judicial district for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, to purchase and equip vehicles for the first judicial district attorney in Santa Fe in Santa Fe county.

Chapter 277 Section 13 Laws 2019

SECTION 13. DISTRICT ATTORNEY OF THE THIRD JUDICIAL DISTRICT PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the district attorney of the third judicial district for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, for the following purposes:

1. sixty-seven thousand two hundred ninety-seven dollars (\$67,297) to purchase and install information technology, including licenses, for the third judicial district attorney's office in Las Cruces in Dona Ana county; and

2. nine thousand dollars (\$9,000) to purchase and install security and surveillance system upgrades in the third judicial district attorney's office in Las Cruces in Dona Ana county.

Chapter 277 Section 14 Laws 2019

~~[SECTION 14. DISTRICT ATTORNEY OF THE FIFTH JUDICIAL DISTRICT PROJECT--GENERAL FUND.--Fifty thousand dollars (\$50,000) is appropriated from the general fund to the district attorney of the fifth judicial district for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, to furnish and equip the fifth judicial district attorney's office in Lovington in Lea county.]~~ *LINE-ITEM VETO*

Chapter 277 Section 15 Laws 2019

SECTION 15. DISTRICT ATTORNEY OF THE NINTH JUDICIAL DISTRICT PROJECT--GENERAL FUND.--Ninety thousand dollars (\$90,000) is appropriated from the general fund to the district attorney of the ninth judicial district for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, to purchase and equip vehicles and to purchase, install and improve information technology, including related equipment, furniture and infrastructure, for the ninth judicial district attorney's office in Curry and Roosevelt counties.

Chapter 277 Section 16 Laws 2019

SECTION 16. DISTRICT ATTORNEY OF THE TENTH JUDICIAL DISTRICT PROJECT--GENERAL FUND.--Twenty-one thousand dollars (\$21,000) is appropriated from the general fund to the district attorney of the tenth judicial district for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, to plan, design, construct, equip and furnish child safe house interview rooms for the tenth judicial district attorney in Tucumcari in Quay county.

Chapter 277 Section 17 Laws 2019

~~[SECTION 17. DISTRICT ATTORNEY OF THE TWELFTH JUDICIAL DISTRICT PROJECT--GENERAL FUND.--Two hundred twenty-five thousand dollars (\$225,000) is appropriated from the general fund to the district attorney of the twelfth judicial district for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, to plan, design and construct a satellite office at the Horton complex for the twelfth judicial district attorney in Ruidoso in Lincoln county.]~~ *LINE-ITEM VETO*

Chapter 277 Section 18 Laws 2019

SECTION 18. FIRST JUDICIAL DISTRICT COURT PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the first

judicial district court for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, for the following purposes:

1. twenty-five thousand dollars (\$25,000) to purchase and install security equipment, including an x-ray machine and a metal detector, at the first judicial district court in Los Alamos in Los Alamos county;

2. twenty-five thousand dollars (\$25,000) to purchase and install security equipment, including an x-ray machine and a metal detector, at the first judicial district court in Tierra Amarilla in Rio Arriba county;

3. sixty thousand dollars (\$60,000) to plan, design, construct, purchase, equip and install a security camera system for the first judicial district court complex in Santa Fe in Santa Fe county;

~~4. two hundred twenty-two thousand dollars (\$222,000) to plan, design, construct and renovate a file room as a conference room, including the purchase and installation of furniture, equipment and information technology, at the Steve Herrera judicial complex in the first judicial district court in Santa Fe in Santa Fe county; and~~

~~5. nineteen thousand eight hundred dollars (\$19,800) to purchase and install a speaker system for the jury assembly room at the Steve Herrera judicial complex in the first judicial district court in Santa Fe in Santa Fe county].~~ *LINE-ITEM VETO*

Chapter 277 Section 19 Laws 2019

SECTION 19. ECONOMIC DEVELOPMENT DEPARTMENT PROJECTS-- GENERAL FUND.--The following amounts are appropriated from the general fund to the economic development department for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, for the following purposes:

1. eight hundred forty thousand dollars (\$840,000) to plan, design, construct and renovate a former church property as a multi-use science and technology innovation center for a cooperative economic development project between Innovate ABQ incorporated and the university of New Mexico in Albuquerque in Bernalillo county;

2. two hundred sixty thousand dollars (\$260,000) to plan, design and construct improvements, including new roofing and the purchase and installation of information technology and related furniture, equipment and infrastructure, energy efficiency systems and audiovisual, training and laboratory equipment, for the Santa Fe business incubator in Santa Fe in Santa Fe county;

3. four million dollars (\$4,000,000) to plan, design and construct infrastructure improvements in mainstreet districts and local arts and cultural districts statewide; and

4. one hundred thousand dollars (\$100,000) for upgrades and repairs to the mobile livestock slaughter unit for the Taos county economic development corporation in Taos county.

Chapter 277 Section 20 Laws 2019

SECTION 20. PUBLIC EDUCATION DEPARTMENT PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the public education department for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, for the following purposes:

1. two hundred forty-five thousand dollars (\$245,000) to plan, design, purchase, install, furnish and equip buildings and grounds, including security and intercom systems, an accessible elevator, science equipment, fencing, information technology and related equipment infrastructure, at the Twenty-First Century public academy in Albuquerque in Bernalillo county;

2. seventy-five thousand dollars (\$75,000) to plan, design, construct and equip improvements, including site improvements and information technology, including related equipment, furniture and infrastructure, at the ACE Leadership high school in Albuquerque in Bernalillo county;

3. one hundred thousand dollars (\$100,000) to plan, design, purchase, construct, renovate, furnish and equip buildings and grounds, including science and robotics equipment and information technology, including related equipment, furniture and infrastructure, at the Albuquerque school of excellence in Albuquerque in Bernalillo county;

4. two hundred thousand dollars (\$200,000) to plan, design and construct a school facility for the Albuquerque sign language academy in Bernalillo county;

5. one hundred forty-five thousand dollars (\$145,000) to plan, design, construct, renovate, furnish and equip buildings and grounds, including purchase and installation of equipment, fencing, information technology and infrastructure, for Altura preparatory school in Albuquerque in Bernalillo county;

6. one hundred seventy thousand dollars (\$170,000) to plan, design, construct, purchase, install, renovate, furnish and equip buildings and grounds, including information technology and related equipment, furniture and infrastructure, at Cesar Chavez community school in Albuquerque in Bernalillo county;

7. seventy-five thousand dollars (\$75,000) to purchase and equip a vehicle and to plan, design, construct, renovate, furnish, install and equip improvements, including information technology and wiring, at Cien Aguas international school in Albuquerque in Bernalillo county;

8. two hundred sixty-five thousand dollars (\$265,000) to plan, design, construct, purchase, improve, furnish and equip buildings and grounds, including security systems, fencing and information technology and related equipment, furniture and infrastructure, at Cottonwood classical preparatory school in Albuquerque in Bernalillo county;

9. one hundred seventeen thousand dollars (\$117,000) to plan, design, construct, renovate, purchase, furnish and equip improvements, including heating, ventilation and air conditioning systems, fencing, information technology and related infrastructure, to El Camino Real academy charter school in Albuquerque in Bernalillo county;

10. ninety-five thousand dollars (\$95,000) to plan, design, construct, renovate, furnish and equip improvements, including fencing, information technology, wiring and infrastructure, to Gilbert L. Sena charter high school in Albuquerque in Bernalillo county;

11. fifty thousand dollars (\$50,000) to plan, design, purchase, construct, equip and install security improvements at Gordon Bernell charter school in Albuquerque in Bernalillo county;

12. one hundred thousand dollars (\$100,000) to plan, design, construct, renovate, furnish and equip buildings, including site improvements, fencing, information technology, wiring, paving and infrastructure, for the Health Leadership high school in Albuquerque in Bernalillo county;

13. eighty-five thousand dollars (\$85,000) to plan, design, purchase, construct and improve buildings and grounds, including fencing, paving, information technology and related equipment, furniture and infrastructure, at the International school at Mesa del Sol charter school in Albuquerque in Bernalillo county;

14. one hundred seventy-five thousand dollars (\$175,000) to plan, design, construct, renovate, furnish, equip, purchase and install a heating, ventilation and air conditioning system and related equipment, fencing, information technology, wiring, infrastructure and site improvements, for the Media Arts collaborative charter school in Albuquerque in Bernalillo county;

15. one hundred twenty-five thousand dollars (\$125,000) to purchase and equip vehicles and to plan, design and construct improvements to buildings and grounds, including information technology and related equipment, furniture and infrastructure, at the Montessori elementary and middle school in Albuquerque in Bernalillo county;

16. twenty-four thousand eight hundred fifty-two dollars (\$24,852) to purchase and install equipment for a track and field shed at Rio Grande high school in the Albuquerque public school district in Bernalillo county;

17. sixty thousand dollars (\$60,000) to plan, design, construct, equip and furnish improvements, including lighting, security and photovoltaic systems, to Robert F. Kennedy charter school in the Albuquerque public school district in Bernalillo county;

18. sixty thousand dollars (\$60,000) to plan, design, construct, renovate, furnish and equip the buildings and grounds, including bathroom improvements to comply with the federal Americans with Disabilities Act of 1990, fencing, information technology, wiring and infrastructure, at SAMS academy charter school in Albuquerque in Bernalillo county;

19. two hundred fifteen thousand dollars (\$215,000) to acquire land and buildings for and to plan, design, construct, renovate, furnish and equip the South Valley preparatory school in Albuquerque in Bernalillo county;

20. two hundred thirty-four thousand dollars (\$234,000) to plan, design, purchase, construct, improve, equip and furnish buildings and grounds, including a security system, an intercom system, fencing, information technology and related equipment, furniture and infrastructure, at Southwest Secondary learning center charter school in Albuquerque in Bernalillo county;

21. two hundred eighty-six thousand eight hundred ninety-seven dollars (\$286,897) to plan, design, construct, furnish and equip the Tierra Adentro charter school in the Sawmill district of Albuquerque in Bernalillo county;

22. two hundred twenty thousand dollars (\$220,000) to plan, design, construct, renovate, equip and install science, technology, engineering and

mathematics materials, site improvements and fixtures, including the purchase of information technology and related equipment, furniture and infrastructure, at Volcano Vista high school in the Albuquerque public school district in Bernalillo county;

23. five thousand four hundred seventy-seven dollars (\$5,477) to plan, design, construct, renovate, equip and provide improvements to fine art facilities, art rooms, performing arts buildings and music classrooms, including the purchase and installation of stage curtains, seating, carpet, sound and lighting, refinishing of stages, kilns, musical instruments, band equipment, choir risers, information technology and related equipment and furniture, at A. Montoya elementary school in the Albuquerque public school district in Bernalillo county;

24. thirty-five thousand dollars (\$35,000) to plan, design, purchase, equip, furnish and install fixtures, furniture and related equipment for Adobe Acres elementary school in the Albuquerque public school district in Bernalillo county;

25. thirty-four thousand nine hundred ninety-six dollars (\$34,996) to plan, design, purchase, equip, furnish and install fixtures, furniture and related equipment for Alameda elementary school in the Albuquerque public school district in Bernalillo county;

26. one hundred ninety thousand eight hundred sixty-one dollars (\$190,861) to plan, design, construct and renovate the grounds and playgrounds, including the purchase and installation of related equipment, fencing, shade structures, turf, drainage improvements and landscaping, at Alamosa elementary school in the Albuquerque public school district in Bernalillo county;

27. one million six hundred twenty-eight thousand two hundred twenty-seven dollars (\$1,628,227) to plan, design and construct infrastructure and site improvements, to purchase and equip vehicles and food trucks and to purchase and install equipment, fixtures, furniture and information technology for culinary arts, automotive repair, computer aided drawing and other career technical programs throughout the Albuquerque public school district in Bernalillo county;

28. one hundred fifteen thousand dollars (\$115,000) to plan, design, construct and improve buildings and facilities for the junior reserve officers' training corps program, including the purchase and installation of related equipment, furniture, rifles and marksmanship target ranges, in the Albuquerque public school district in Bernalillo county;

29. five hundred seventy thousand dollars (\$570,000) to plan, design, construct, renovate, furnish and equip pre-kindergarten classrooms, including

improvements to facilities and the purchase of classroom resources, for pre-kindergarten programs district-wide in the Albuquerque public school district in Bernalillo county;

30. one hundred ninety-nine thousand three hundred seventy-three dollars (\$199,373) to plan, design, construct, improve, renovate, landscape and equip the buildings, grounds, courtyards, trails and fields and to purchase and install science, technology, engineering and mathematics field and laboratory resources, including the purchase and installation of related equipment, infrastructure, fixtures, information technology and site improvements, at Sandia Mountain natural history center in the Albuquerque public school district in Bernalillo county;

31. six hundred ten thousand dollars (\$610,000) to plan, design, renovate, purchase and install infrastructure and security upgrades, including security cameras, an access card system, fencing, telecommunications, alarms and information technology, for multiple school and district sites and to purchase and equip vehicles for school and district security personnel in the Albuquerque public school district in Bernalillo county;

32. thirty-five thousand dollars (\$35,000) to plan, design, construct, renovate, purchase, equip and furnish improvements to facilities and grounds, including bleachers, at Albuquerque high school in the Albuquerque public school district in Bernalillo county;

33. thirty-five thousand dollars (\$35,000) to plan, design, construct, renovate and improve the grounds, playgrounds and facilities, including the purchase of land, the installation of related equipment, fencing, shade structures, turf, drainage improvements, painting, landscaping and creating murals, at Albuquerque high school in the Albuquerque public school district in Bernalillo county;

34. one hundred five thousand dollars (\$105,000) to plan, design and construct improvements to classrooms, including acoustic supports, flooring and interactive boards, and to purchase and install information technology, including related equipment, furniture and infrastructure, for Alice King community school in the Albuquerque public school district in Bernalillo county;

35. one hundred twenty-five thousand one hundred four dollars (\$125,104) to plan, design, purchase, equip, furnish and install fixtures, furniture and related equipment for Alvarado elementary school in the Albuquerque public school district in Bernalillo county;

36. one hundred forty-one thousand eight hundred seventy-nine dollars (\$141,879) to plan, design, construct and renovate the grounds and parking lots, including the purchase and installation of related equipment, fencing, resurfacing, striping, drainage improvements, traffic signs and landscaping, at Apache elementary school in the Albuquerque public school district in Bernalillo county;

37. fifty-four thousand eight hundred three dollars (\$54,803) to purchase and install library equipment, furniture, fixtures, bookshelves, information technology and infrastructure in the libraries and bookrooms at Armijo elementary school in the Albuquerque public school district in Bernalillo county;

38. thirty thousand dollars (\$30,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Arroyo del Oso elementary school in the Albuquerque public school district in Bernalillo county;

39. twelve thousand nine hundred fifty-seven dollars (\$12,957) to plan, design, construct and renovate the grounds and parking lots, including the purchase and installation of related equipment, fencing, resurfacing, striping, drainage improvements, traffic signs and landscaping, at Atrisco elementary school in the Albuquerque public school district in Bernalillo county;

40. twenty-five thousand dollars (\$25,000) to plan, design, construct and renovate the grounds, fields and track areas, including the purchase and installation of related equipment, track resurfacing, asphalt paving, drainage improvements and landscaping, at Atrisco Heritage high school in the Albuquerque public school district in Bernalillo county;

41. fifty thousand dollars (\$50,000) to plan, design, purchase, equip, furnish and install fixtures, furniture and related equipment for Bandelier elementary school in the Albuquerque public school district in Bernalillo county;

42. two thousand five hundred dollars (\$2,500) to purchase and install a public address and sound system, including related equipment, furniture and infrastructure, at Barcelona elementary school in the Albuquerque public school district in Bernalillo county;

43. two hundred fifteen thousand dollars (\$215,000) to plan, design, purchase, equip, furnish and install fixtures, furniture and related equipment for Bel-Air elementary school in the Albuquerque public school district in Bernalillo county;

44. eleven thousand nine hundred fourteen dollars (\$11,914) to purchase and install information technology, including related equipment, furniture and

infrastructure, at Bellehaven elementary school in the Albuquerque public school district in Bernalillo county;

45. eighty thousand dollars (\$80,000) to plan, renovate, equip and purchase a school bus, including related equipment, at Career Enrichment and Early College academy high school in the Albuquerque public school district in Bernalillo county;

46. one hundred sixty thousand dollars (\$160,000) to plan, design, construct and renovate the grounds and playgrounds, including the purchase and installation of related equipment, fencing, shade structures, turf, drainage improvements and landscaping, at Carlos Rey elementary school in the Albuquerque public school district in Bernalillo county;

47. two hundred sixty-five thousand dollars (\$265,000) to plan, design, construct and renovate the grounds, fields and track areas, including the purchase and installation of related equipment, track resurfacing, asphalt paving, drainage improvements and landscaping, at Chamiza elementary school in the Albuquerque public school district in Bernalillo county;

48. one hundred seventy-five thousand dollars (\$175,000) to plan, design, purchase, equip, furnish and install fixtures, furniture and related equipment for Chaparral elementary school in the Albuquerque public school district in Bernalillo county;

49. one hundred eighty thousand dollars (\$180,000) to plan, design, construct and renovate the grounds, fields and track areas, including the purchase and installation of related equipment, track resurfacing, asphalt paving, drainage improvements and landscaping, at Chelwood elementary school in the Albuquerque public school district in Bernalillo county;

50. three hundred thousand dollars (\$300,000) to purchase and install a public address and sound system, including related equipment, furniture and infrastructure, at Cibola high school in the Albuquerque public school district in Bernalillo county;

51. sixty-six thousand six hundred fifty-two dollars (\$66,652) to plan, design, purchase, equip, furnish and install fixtures, furniture and related equipment for Cleveland middle school in the Albuquerque public school district in Bernalillo county;

52. twenty-five thousand dollars (\$25,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Cochiti elementary school in the Albuquerque public school district in Bernalillo county;

53. twenty-seven thousand six hundred fifty-three dollars (\$27,653) to purchase and install information technology, including related equipment, furniture and infrastructure, at Collet Park elementary school in the Albuquerque public school district in Bernalillo county;

54. twenty-five thousand nine hundred eighty dollars (\$25,980) to plan, design, construct and renovate the grounds, courtyard and improvements to facilities, including the purchase and installation of related equipment, fencing, shade structures, turf, outdoor benches, tables, drainage improvements and landscaping, at Corrales elementary school in the Albuquerque public school district in Bernalillo county;

55. twenty-five thousand dollars (\$25,000) to plan, design, construct, renovate, purchase, equip and furnish improvements to facilities and grounds, including drainage and xeriscaping, at Coyote Willow family school in the Albuquerque public school district in Bernalillo county;

56. one hundred six thousand two hundred eighty-four dollars (\$106,284) to plan, design, construct, renovate, equip and provide improvements to fine art facilities, art rooms, performing arts buildings and music classrooms, including the purchase and installation of stage curtains, seating, carpet, sound and lighting, refinishing of stages, kilns, musical instruments, band equipment, choir risers, information technology and related equipment and furniture, at Del Norte high school in the Albuquerque public school district in Bernalillo county;

57. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, renovate, purchase, equip and furnish improvements to facilities and grounds, including drainage improvements and xeriscaping, at Dennis Chavez elementary school in the Albuquerque public school district in Bernalillo county;

58. eighty thousand dollars (\$80,000) to plan, design, construct, renovate, purchase and improve the grounds and facilities, including the installation of secure vestibule entry ways, related equipment and locks, and to improve, purchase and install infrastructure and security upgrades to the site and buildings, including security cameras and an access card security system, fencing, telecommunications, alarm upgrades and information technology, for Dennis Chavez elementary school in the Albuquerque public school district in Bernalillo county;

59. eighty thousand dollars (\$80,000) to plan, design, construct, renovate, purchase and improve the grounds and facilities, including the installation of secure vestibule entry ways, related equipment and locks, and to improve, purchase and install infrastructure and security upgrades to the site and buildings, including security cameras and an access card security system, fencing, telecommunications, alarm upgrades and information technology, for Desert Ridge middle school in the Albuquerque public school district in Bernalillo county;

60. sixty-five thousand two hundred forty-five dollars (\$65,245) to purchase and install information technology, including related equipment, furniture and infrastructure, at Desert Willow family school in the Albuquerque public school district in Bernalillo county;

61. one hundred twenty thousand dollars (\$120,000) to plan, design, construct, renovate, furnish, landscape and equip facilities and grounds, including purchase of activity transportation and information technology and related equipment, furniture and infrastructure, at Digital Arts and Technology academy charter school in the Albuquerque public school district in Bernalillo county;

62. eighty-four thousand one hundred eight dollars (\$84,108) to purchase and install information technology, including related equipment, furniture and infrastructure, at Dolores Gonzales elementary school in the Albuquerque public school district in Bernalillo county;

63. eighty thousand dollars (\$80,000) to plan, design, construct, renovate, purchase and improve the grounds and facilities, including the installation of secure vestibule entry ways, related equipment and locks, and to improve, purchase and install infrastructure and security upgrades to the site and buildings, including security cameras and an access card security system, fencing, telecommunications, alarm upgrades and information technology, for Double Eagle elementary school in the Albuquerque public school district in Bernalillo county;

64. one hundred two thousand six hundred sixty-six dollars (\$102,666) to purchase and install information technology, including related equipment, furniture and infrastructure, at Double Eagle elementary school in the Albuquerque public school district in Bernalillo county;

65. fifty thousand dollars (\$50,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Douglas MacArthur elementary school in the Albuquerque public school district in Bernalillo county;

66. fifty thousand dollars (\$50,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Duranes elementary school in the Albuquerque public school district in Bernalillo county;

67. eighty thousand dollars (\$80,000) to plan, design, construct, renovate, furnish, equip and install improvements to bathrooms at East Mountain high school in the Albuquerque public school district in Bernalillo county;

68. one hundred thirty thousand dollars (\$130,000) to plan, design, construct, purchase, equip and install heating, ventilation and air conditioning system improvements at East Mountain high school in the Albuquerque public school district in Bernalillo county;

69. forty-five thousand dollars (\$45,000) to purchase and install information technology, including related equipment, at East Mountain high school in the Albuquerque public school district in Bernalillo county;

70. thirty-five thousand dollars (\$35,000) to plan, design, construct, replace, equip and install intercom and emergency systems for East Mountain high school in the Albuquerque public school district in Bernalillo county;

71. seventy-three thousand dollars (\$73,000) to plan, design, construct, renovate, demolish, furnish, equip and install improvements to science classrooms at East Mountain high school in the Albuquerque public school district in Bernalillo county;

72. thirty-five thousand dollars (\$35,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Ecademy school in the Albuquerque public school district in Bernalillo county;

73. one hundred twenty thousand dollars (\$120,000) to plan, design, construct and renovate the grounds, courtyard and facilities, including the purchase and installation of related equipment, fencing, shade structures, turf, outdoor benches, tables, drainage improvements and landscaping, at Edmund G. Ross school in the Albuquerque public school district in Bernalillo county;

74. two hundred fifty-two thousand dollars (\$252,000) to plan, design, construct and renovate the grounds, courtyard and improvements to facilities, including the purchase and installation of related equipment, fencing, shade structures, turf, outdoor benches, tables, drainage improvements and landscaping, at Edward Gonzales elementary school in the Albuquerque public school district in Bernalillo county;

75. two hundred thousand dollars (\$200,000) to plan, design, construct and renovate the grounds, fields and track areas, including the purchase and installation of related equipment, track resurfacing, asphalt paving, drainage improvements and landscaping, at Eisenhower middle school in the Albuquerque public school district in Bernalillo county;

76. one hundred ten thousand dollars (\$110,000) to plan, design, construct and renovate the grounds and parking lots, including the purchase and installation of related equipment, fencing, resurfacing, striping, drainage improvements, traffic signs and landscaping, at Eldorado high school in the Albuquerque public school district in Bernalillo county;

77. eighty-five thousand dollars (\$85,000) to plan, design, construct and renovate the grounds and parking lots, including the purchase and installation of related equipment, fencing, resurfacing, striping, drainage improvements, traffic signs and landscaping, at Emerson elementary school in the Albuquerque public school district in Bernalillo county;

78. six thousand five hundred fifty-seven dollars (\$6,557) to plan, design, construct and renovate the grounds, parking lots and bus drop-off and pick-up areas, including the purchase and installation of related equipment, fencing, resurfacing, striping, shade structures, drainage improvements, traffic signs and landscaping, at Ernie Pyle middle school in the Albuquerque public school district in Bernalillo county;

79. forty-three thousand dollars (\$43,000) to plan, design, purchase, equip, furnish and install fixtures, furniture and related equipment for Eugene Field elementary school in the Albuquerque public school district in Bernalillo county;

80. thirty-five thousand dollars (\$35,000) to plan, design, construct and renovate the grounds, courtyard and improvements to facilities, including the purchase and installation of related equipment, fencing, shade structures, turf, outdoor benches, tables, drainage improvements and landscaping, at Freedom high school in the Albuquerque public school district in Bernalillo county;

81. sixty thousand dollars (\$60,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Garfield middle school in the Albuquerque public school district in Bernalillo county;

82. twenty-five thousand dollars (\$25,000) to purchase and install a public address and sound system, including related equipment, furniture and infrastructure, at George I. Sanchez collaborative community school in the Albuquerque public school district in Bernalillo county;

83. thirteen thousand five hundred thirty-two dollars (\$13,532) to plan, design, construct, renovate, purchase, equip and furnish improvements to facilities, including gym floor upgrades and related equipment and construction, at Georgia O'Keeffe elementary school in the Albuquerque public school district in Bernalillo county;

84. ninety-nine thousand seven hundred sixty-six dollars (\$99,766) to purchase and install library equipment, furniture, fixtures, bookshelves, information technology and infrastructure in the libraries and book rooms at Governor Bent elementary school in the Albuquerque public school district in Bernalillo county;

85. one hundred fifty-three thousand seven hundred eighty-two dollars (\$153,782) to purchase and install library equipment, furniture, fixtures, bookshelves, information technology and infrastructure in the libraries and book rooms at Grant middle school in the Albuquerque public school district in Bernalillo county;

86. twenty-two thousand four hundred sixty-five dollars (\$22,465) to purchase and install information technology, including related equipment, furniture and infrastructure, at Griegos elementary school in the Albuquerque public school district in Bernalillo county;

87. seventy thousand dollars (\$70,000) to plan, design, construct, renovate, purchase, equip and furnish improvements to facilities and weight rooms, including weight room equipment and dance mats, at Harrison middle school in the Albuquerque public school district in Bernalillo county;

88. one hundred thousand dollars (\$100,000) to purchase and install library equipment, furniture, fixtures, bookshelves, information technology and infrastructure in the libraries and book rooms at Hawthorne elementary school in the Albuquerque public school district in Bernalillo county;

89. one hundred ninety-four thousand five hundred seven dollars (\$194,507) to plan, design, construct and renovate the grounds and playgrounds, including the purchase and installation of related equipment, fencing, shade structures, turf, drainage improvements and landscaping, at Hawthorne elementary school in the Albuquerque public school district in Bernalillo county;

90. one hundred thousand dollars (\$100,000) to plan, design, construct and renovate the grounds, fields and track areas, including the purchase and installation of related equipment, track resurfacing, asphalt paving, drainage improvements and landscaping, at Hayes middle school in the Albuquerque public school district in Bernalillo county;

91. seventy-nine thousand dollars (\$79,000) to plan, design, construct and renovate the grounds, courtyard and improvements to facilities, including the purchase and installation of related equipment, fencing, shade structures, turf, outdoor benches, tables, drainage improvements and landscaping, at Helen Cordero elementary school in the Albuquerque public school district in Bernalillo county;

92. thirty thousand dollars (\$30,000) to purchase and equip a food truck for the culinary arts program at Highland high school in the Albuquerque public school district in Bernalillo county;

93. one hundred fifty thousand dollars (\$150,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Highland high school in the Albuquerque public school district in Bernalillo county;

94. sixty-six thousand dollars (\$66,000) to purchase and equip an activity van for Highland high school in the Albuquerque public school district in Bernalillo county;

95. twenty-three thousand eight hundred sixty-two dollars (\$23,862) to plan, design, purchase, equip, furnish and install fixtures, furniture and related equipment for Hodgkin elementary school in the Albuquerque public school district in Bernalillo county;

96. one hundred fifty thousand dollars (\$150,000) to plan, design, purchase, equip, furnish and install fixtures, furniture and related equipment for Hoover middle school in the Albuquerque public school district in Bernalillo county;

97. sixty thousand dollars (\$60,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Hubert H. Humphrey elementary school in the Albuquerque public school district in Bernalillo county;

98. twenty-five thousand dollars (\$25,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Inez elementary school in the Albuquerque public school district in Bernalillo county;

99. twenty-five thousand dollars (\$25,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Jackson middle school in the Albuquerque public school district in Bernalillo county;

100. forty-six thousand eight hundred fifty-seven dollars (\$46,857) to purchase and install information technology and a public address and sound system,

including related equipment, furniture and infrastructure, at James Monroe middle school in the Albuquerque public school district in Bernalillo county;

101. fifty thousand dollars (\$50,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Janet Khan school of integrated arts in the Albuquerque public school district in Bernalillo county;

102. eighty-two thousand dollars (\$82,000) to purchase and install library equipment, furniture, fixtures, bookshelves, information technology and infrastructure in the libraries and book rooms at Jefferson middle school in the Albuquerque public school district in Bernalillo county;

103. one hundred seventy-one thousand eight hundred seventy dollars (\$171,870) to plan, design, construct and renovate the grounds, courtyard and improvements to facilities, including the purchase and installation of related equipment, fencing, shade structures, turf, outdoor benches, tables, drainage and landscaping, at Jimmy Carter middle school in the Albuquerque public school district in Bernalillo county;

104. one hundred fifty-five thousand dollars (\$155,000) to plan, design, construct, renovate, purchase, equip and furnish improvements to facilities and grounds, including drainage improvements and xeriscaping, at John Adams middle school in the Albuquerque public school district in Bernalillo county;

105. forty-seven thousand dollars (\$47,000) to plan, design, purchase, equip, furnish and install fixtures, furniture and related equipment for John Baker elementary school in the Albuquerque public school district in Bernalillo county;

106. two hundred three thousand seventy-five dollars (\$203,075) to purchase and install information technology, including related equipment, furniture and infrastructure, at Kennedy middle school in the Albuquerque public school district in Bernalillo county;

107. thirty thousand dollars (\$30,000) to plan, design, purchase, equip, furnish and install fixtures, furniture and related equipment for Kirtland elementary school in the Albuquerque public school district in Bernalillo county;

108. one hundred ninety-four thousand two hundred fifty-four dollars (\$194,254) to plan, design, construct and renovate the grounds and playgrounds, including the purchase and installation of related equipment, fencing, shade structures, turf, drainage improvements and landscaping, at Kit Carson elementary school in the Albuquerque public school district in Bernalillo county;

109. twenty-seven thousand dollars (\$27,000) to plan, design, construct, renovate, furnish and equip buildings, including site improvements, fencing, information technology, wiring and infrastructure, for La Academia de Esperanza charter school in Bernalillo county;

110. one hundred forty-six thousand dollars (\$146,000) to purchase and equip a cargo trailer and to plan, design, construct, improve and equip the facilities and drill hall, including the purchase and installation of equipment for science, technology, engineering and mathematics, and marksmanship range safety equipment, of the marine junior reserve officers training corps program at La Cueva high school in the Albuquerque public school district in Bernalillo county;

111. one hundred ninety-seven thousand four hundred thirteen dollars (\$197,413) to plan, design, construct and renovate the grounds, fields and track areas, including the purchase and installation of related equipment, track resurfacing, asphalt paving, drainage improvements and landscaping, at La Cueva high school in the Albuquerque public school district in Bernalillo county;

112. forty-five thousand dollars (\$45,000) to plan, design, purchase, equip, furnish and install fixtures, furniture and related equipment for La Luz elementary school in the Albuquerque public school district in Bernalillo county;

113. eighty thousand dollars (\$80,000) to plan, design, purchase, equip, furnish and install fixtures, furniture and related equipment for La Mesa elementary school in the Albuquerque public school district in Bernalillo county;

114. twenty-four thousand nine hundred fifty-one dollars (\$24,951) to plan, design, purchase, equip, furnish and install fixtures, furniture and related equipment for Lavaland elementary school in the Albuquerque public school district in Bernalillo county;

115. fifteen thousand dollars (\$15,000) to plan, design, construct and renovate the grounds, including a community garden and related equipment, fencing, shade structures, turf, outdoor benches, tables, drainage improvements and landscaping, at Lew Wallace elementary school in the Albuquerque public school district in Bernalillo county;

116. fifty thousand dollars (\$50,000) to purchase and install information technology and a public address and sound system, including related equipment, furniture and infrastructure, at Los Padillas elementary school in the Albuquerque public school district in Bernalillo county;

117. one hundred eighty thousand dollars (\$180,000) to plan, design, construct, improve, equip and furnish a portable classroom building at Los Puentes charter school in the Albuquerque public school district in Bernalillo county;

118. seventy-five thousand dollars (\$75,000) to plan, design, construct and renovate the grounds, courtyard and improvements to facilities, including the purchase and installation of related equipment, fencing, shade structures, turf, outdoor benches, tables, drainage improvements and landscaping, at Los Ranchos elementary school in the Albuquerque public school district in Bernalillo county;

119. thirty-five thousand dollars (\$35,000) to plan, design, purchase, equip, furnish and install fixtures, furniture and related equipment for Lowell elementary school in the Albuquerque public school district in Bernalillo county;

120. seventy-eight thousand six hundred fifty dollars (\$78,650) to plan, design, construct and renovate the grounds, fields and track areas, including the purchase and installation of related equipment, track resurfacing,

asphalt paving, drainage improvements and landscaping, at Lyndon B. Johnson middle school in the Albuquerque public school district in Bernalillo county;

121. ninety-six thousand eight hundred forty dollars (\$96,840) to purchase and install information technology, including related equipment, furniture and infrastructure, at Madison middle school in the Albuquerque public school district in Bernalillo county;

122. fifty-nine thousand three hundred nine dollars (\$59,309) to plan, design, construct, renovate, equip and provide improvements to fine art facilities, art rooms, performing arts buildings and music classrooms, including the purchase and installation of stage curtains, seating, carpet, sound and lighting, refinishing of stages, kilns, musical instruments, band equipment, choir risers, information technology and related equipment and furniture, at Manzano high school in the Albuquerque public school district in Bernalillo county;

123. four hundred forty-three thousand four hundred ninety-seven dollars (\$443,497) to plan, design, construct and renovate the grounds, courtyard and improvements to facilities, including the purchase and installation of related equipment, fencing, shade structures, turf, outdoor benches, tables, drainage improvements and landscaping, at Manzano high school in the Albuquerque public school district in Bernalillo county;

124. fifty thousand dollars (\$50,000) to plan, design, construct and renovate the grounds and playgrounds, including the purchase and installation of related equipment, fencing, shade structures, turf, drainage improvements and landscaping, at Manzano Mesa elementary school in the Albuquerque public school district in Bernalillo county;

125. sixty-two thousand seven hundred thirty-six dollars (\$62,736) to plan, design, construct and renovate the grounds, courtyard and facilities, including the purchase and installation of related equipment, fencing, shade structures, turf, outdoor benches, tables, drainage and landscaping, at Marie M. Hughes elementary school in the Albuquerque public school district in Bernalillo county;

126. ninety-seven thousand dollars (\$97,000) to plan, design, construct, furnish and equip buildings and grounds, including the purchase of information technology and related infrastructure, furniture and equipment, for the Mark Armijo Academy charter school in the Albuquerque public school district in Bernalillo county;

127. eighteen thousand dollars (\$18,000) to plan, design, purchase, equip, furnish and install fixtures, furniture and related equipment for Mark Twain elementary school in the Albuquerque public school district in Bernalillo county;

128. two hundred sixty-seven thousand dollars (\$267,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Mary Ann Binford elementary school in the Albuquerque public school district in Bernalillo county;

129. sixty thousand dollars (\$60,000) to plan, design, construct and renovate the grounds, courtyard and improvements to facilities, including the purchase and installation of related equipment, fencing, shade structures, turf, outdoor benches, tables, drainage improvements and landscaping, at Matheson Park elementary school in the Albuquerque public school district in Bernalillo county;

130. one hundred forty-two thousand sixty-two dollars (\$142,062) to plan, design, construct and renovate the grounds and parking lots, including the purchase and installation of related equipment, fencing, resurfacing, striping, drainage improvements, traffic signs and landscaping, at McCollum elementary school in the Albuquerque public school district in Bernalillo county;

131. forty-six thousand dollars (\$46,000) to plan, design, construct and renovate the grounds, including a community garden and related equipment, fencing, shade structures, turf, outdoor benches, tables, drainage improvements and

landscaping, at McKinley middle school in the Albuquerque public school district in Bernalillo county;

132. fifty-three thousand dollars (\$53,000) to plan, design, construct and renovate the grounds, courtyard and improvements to facilities, including the purchase and installation of related equipment, fencing, shade structures, turf, outdoor benches, tables, drainage improvements and landscaping, at Mission Avenue elementary school in the Albuquerque public school district in Bernalillo county;

133. one hundred thousand dollars (\$100,000) to purchase and install library equipment, furniture, fixtures, bookshelves, information technology and infrastructure in the libraries and book rooms at Mitchell elementary school in the Albuquerque public school district in Bernalillo county;

134. seventy-seven thousand dollars (\$77,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Monte Vista elementary school in the Albuquerque public school district in Bernalillo county;

135. fifty thousand dollars (\$50,000) to plan, design, construct, purchase, furnish, equip and install information technology at Montessori of the Rio Grande charter school in the Albuquerque public school district in Bernalillo county;

136. one hundred forty-seven thousand dollars (\$147,000) to plan, design, construct and renovate the grounds, courtyard and improvements to facilities, including the purchase and installation of related equipment, fencing, shade structures, turf, outdoor benches, tables, drainage improvements and landscaping, at Montessori of the Rio Grande elementary school in the Albuquerque public school district in Bernalillo county;

137. eighty thousand dollars (\$80,000) to plan, design, construct and renovate the grounds and playgrounds, including the purchase and installation of related equipment, fencing, shade structures, turf, drainage improvements and landscaping, at Montezuma elementary school in the Albuquerque public school district in Bernalillo county;

138. fifty thousand dollars (\$50,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Mountain View elementary school in the Albuquerque public school district in Bernalillo county;

139. forty thousand dollars (\$40,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Navajo elementary school in the Albuquerque public school district in Bernalillo county;

140. one hundred sixty-five thousand dollars (\$165,000) to plan, design, purchase and install perimeter and playground area security fencing and gates at the New Mexico international school in the Albuquerque public school district in Bernalillo county;

141. sixty-six thousand two hundred ninety dollars (\$66,290) to plan, design, purchase, equip, furnish and install fixtures, furniture and related equipment for North Star elementary school in the Albuquerque public school district in Bernalillo county;

142. eighty thousand dollars (\$80,000) to plan, design, construct, renovate, purchase and improve the grounds and facilities, including the installation of secure vestibule entry ways, related equipment and locks, and to improve, purchase and install infrastructure and security upgrades to the site and buildings, including security cameras and access cards security system, fencing, telecommunications, alarm upgrades and information technology, for North Star elementary school in the Albuquerque public school district in Bernalillo county;

143. thirty thousand dollars (\$30,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Onate elementary school in the Albuquerque public school district in Bernalillo county;

144. one hundred four thousand eighty-four dollars (\$104,084) to plan, design, construct and renovate the grounds, courtyards and facilities, including the purchase and installation of related equipment, fencing, shade structures, turf, outdoor benches, tables, drainage improvements and landscaping, at Painted Sky elementary school in the Albuquerque public school district in Bernalillo county;

145. fifty thousand dollars (\$50,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Pajarito elementary school in the Albuquerque public school district in Bernalillo county;

146. eleven thousand four hundred twelve dollars (\$11,412) to plan, design, purchase, equip, furnish and install fixtures, furniture and related equipment for Petroglyph elementary school in the Albuquerque public school district in Bernalillo county;

147. fifty thousand dollars (\$50,000) to plan, design, construct and renovate the grounds, fields and track areas, including the purchase and installation of related equipment, track resurfacing, asphalt paving, drainage improvements and landscaping, at Polk middle school in the Albuquerque public school district in Bernalillo county;

148. eighty thousand dollars (\$80,000) to purchase and equip vehicles for the Public Academy for performing arts in the Albuquerque public school district in Bernalillo county;

149. seventy-eight thousand five hundred dollars (\$78,500) to purchase and install information technology, including related equipment, furniture and infrastructure, at Reginald Chavez elementary school in the Albuquerque public school district in Bernalillo county;

150. four hundred fifty thousand dollars (\$450,000) to plan, design, construct, improve, renovate and landscape the grounds, parking lots and bus drop-off and pick-up areas, including the purchase and installation of related equipment, fencing, traffic signs and lighting, and to plan, design, improve, construct, renovate and landscape the grounds, courtyard and facilities, including fields and track areas, and the purchase and installation of related equipment, shade structures and furniture, and to improve the exterior lighting and electrical systems and to purchase and install a marquee, public address and sound system, including information technology, related equipment, furniture and infrastructure, at Rio Grande high school in the Albuquerque public school district in Bernalillo county;

151. seventy-five thousand dollars (\$75,000) to purchase and install information technology, including furniture, equipment and infrastructure, at Robert F. Kennedy charter school in the Albuquerque public school district in Bernalillo county;

152. one hundred eleven thousand two hundred eighty-four dollars (\$111,284) to plan, design, construct, renovate, equip and provide improvements to fine art facilities, art rooms, performing arts buildings and music classrooms, including the purchase and installation of stage curtains, seating, carpet, sound and lighting, refinishing of stages, kilns, musical instruments, band equipment, choir risers, information technology and related equipment and furniture, at Roosevelt middle school in the Albuquerque public school district in Bernalillo county;

153. twenty-five thousand dollars (\$25,000) to plan, design, construct and renovate the grounds, courtyard and improvements to facilities, including the purchase and installation of related equipment, fencing, shade structures, turf, outdoor

benches, tables, drainage improvements and landscaping, at Rudolfo Anaya elementary school in the Albuquerque public school district in Bernalillo county;

154. fifty-five thousand dollars (\$55,000) to purchase and install a public address and sound system, including related equipment, furniture and infrastructure, at S.Y. Jackson elementary school in the Albuquerque public school district in Bernalillo county;

155. one hundred ninety-four thousand one hundred thirty-eight dollars (\$194,138) to purchase and install information technology, including related equipment, furniture and infrastructure, at San Antonito elementary school in the Albuquerque public school district in Bernalillo county;

156. twenty-nine thousand three hundred nine dollars (\$29,309) to plan, design, purchase, equip, furnish and install fixtures, furniture and related equipment for Sandia high school in the Albuquerque public school district in Bernalillo county;

157. one hundred thirteen thousand two hundred eighty-nine dollars (\$113,289) to plan, design, construct and renovate the grounds and parking lots, including the purchase and installation of related equipment, fencing, resurfacing, striping, drainage improvements, traffic signs and landscaping, at School on Wheels high school in the Albuquerque public school district in Bernalillo county;

158. twelve thousand one hundred thirty-one dollars (\$12,131) to plan, design, construct and renovate the grounds and parking lots, including the purchase and installation of related equipment, fencing, resurfacing, striping, drainage improvements, traffic signs and landscaping, at Seven Bar elementary school in the Albuquerque public school district in Bernalillo county;

159. twenty-six thousand seventy-six dollars (\$26,076) to purchase and install information technology, including related equipment, furniture and infrastructure, at Sierra Vista elementary school in the Albuquerque public school district in Bernalillo county;

160. seventy-six thousand seven hundred seventy-nine dollars (\$76,779) to plan, design, construct and renovate the grounds, courtyard and improvements to facilities, including the purchase and installation of related equipment, fencing, shade structures, turf, outdoor benches, tables, drainage improvements and landscaping, at Sombra del Monte elementary school in the Albuquerque public school district in Bernalillo county;

161. two hundred fifteen thousand dollars (\$215,000) to plan, design, construct and renovate the grounds and parking lots, including the purchase and installation of related equipment, fencing, resurfacing, striping, drainage improvements, traffic signs and landscaping, and to plan, design, construct, renovate, improve, purchase, equip and furnish site improvements, including portable classroom installation and related equipment, drainage and infrastructure upgrades, at South Valley Academy charter school in the Albuquerque public school district in Bernalillo county;

162. eighty-one thousand dollars (\$81,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Taft middle school in the Albuquerque public school district in Bernalillo county;

163. one hundred fourteen thousand one hundred sixty-seven dollars (\$114,167) to plan, design, construct, renovate, purchase, equip and furnish improvements to facilities and weight rooms, including weight room equipment and dance mats, at Taylor middle school in the Albuquerque public school district in Bernalillo county;

164. thirty-nine thousand three hundred seventeen dollars (\$39,317) to plan, design, construct and renovate the grounds, courtyard and facilities, including the purchase and installation of related equipment, fencing, shade structures, turf, outdoor benches, tables, drainage and landscaping, at Tierra Antigua elementary school in the Albuquerque public school district in Bernalillo county;

165. thirteen thousand five hundred thirty-two dollars (\$13,532) to plan, design, construct, renovate, purchase, equip and furnish improvements to facilities, including gym floor upgrades and related equipment and construction, at Tomasita elementary school in the Albuquerque public school district in Bernalillo county;

166. fifty-six thousand two hundred ten dollars (\$56,210) to plan, design, construct and renovate the grounds, courtyard and facilities, including the purchase and installation of related equipment, fencing, shade structures, turf, outdoor benches, tables, drainage and landscaping, at Tony Hillerman middle school in the Albuquerque public school district in Bernalillo county;

167. thirty thousand seven hundred fifty-seven dollars (\$30,757) to plan, design, construct, renovate, purchase, equip and furnish improvements to facilities and grounds, including bleachers, at Tres Volcanes community collaborative school in the Albuquerque public school district in Bernalillo county;

168. two hundred seventy-eight thousand dollars (\$278,000) to purchase and install information technology, including related equipment, furniture and

infrastructure, at Truman middle school in the Albuquerque public school district in Bernalillo county;

169. seventy-seven thousand one hundred fifty-three dollars (\$77,153) to purchase and install a public address and sound system, including related equipment, furniture and infrastructure, at Valle Vista elementary school in the Albuquerque public school district in Bernalillo county;

170. one hundred seventy-five thousand dollars (\$175,000) to purchase and install library equipment, furniture, fixtures, bookshelves, information technology and infrastructure in the libraries and book rooms at Valley high school in the Albuquerque public school district in Bernalillo county;

171. forty thousand eight hundred ninety dollars (\$40,890) to plan, design, purchase, equip, furnish and install fixtures, furniture and related equipment for Van Buren middle school in the Albuquerque public school district in Bernalillo county;

172. sixty-one thousand six hundred fifty dollars (\$61,650) to plan, design, construct and renovate the grounds, courtyard and facilities, including the purchase and installation of related equipment, fencing, shade structures, turf, outdoor benches, tables, drainage and landscaping, at Ventana Ranch elementary school in the Albuquerque public school district in Bernalillo county;

173. twenty-two thousand four hundred thirty-three dollars (\$22,433) to plan, design, construct and renovate the grounds, courtyard and improvements to facilities, including the purchase and installation of related equipment, fencing, shade structures, turf, outdoor benches, tables, drainage improvements and landscaping, at Vision Quest alternative middle school in the Albuquerque public school district in Bernalillo county;

174. one hundred thousand seven hundred ninety-six dollars (\$100,796) to plan, design, construct and renovate the grounds, courtyard and facilities, including the purchase and installation of related equipment, fencing, shade structures, turf, outdoor benches, tables, drainage and landscaping, at Volcano Vista high school in the Albuquerque public school district in Bernalillo county;

175. one hundred sixty thousand dollars (\$160,000) to purchase and install a public address and sound system, including related equipment, furniture and infrastructure, at Washington middle school in the Albuquerque public school district in Bernalillo county;

176. two hundred ninety-nine thousand ninety-five dollars (\$299,095) to purchase and install a public address and sound system, including related equipment, furniture and infrastructure, at West Mesa high school in the Albuquerque public school district in Bernalillo county;

177. one hundred thousand dollars (\$100,000) to plan, design, construct and renovate the grounds, courtyard and improvements to facilities, including the purchase and installation of related equipment, fencing, shade structures, turf, outdoor benches, tables, drainage improvements and landscaping, at Wherry elementary school in the Albuquerque public school district in Bernalillo county;

178. forty-one thousand dollars (\$41,000) to plan, design, construct and renovate the grounds, courtyard and improvements to facilities, including the purchase and installation of related equipment, fencing, shade structures, turf, outdoor benches, tables, drainage improvements and landscaping, at Whittier elementary school in the Albuquerque public school district in Bernalillo county;

179. one hundred fifty-four thousand eight hundred forty-three dollars (\$154,843) to purchase and install information technology, including related equipment, furniture and infrastructure, at Wilson middle school in the Albuquerque public school district in Bernalillo county;

180. one hundred fifteen thousand dollars (\$115,000) to plan, design, construct, purchase, equip and install site improvements, including an electronic message board and security equipment, at Zia elementary school in the Albuquerque public school district in Bernalillo county;

181. fifty-four thousand dollars (\$54,000) to purchase and install information technology, including related equipment, furniture and infrastructure, at Zia elementary school in the Albuquerque public school district in Bernalillo county;

182. ninety-five thousand seven hundred eighty-four dollars (\$95,784) to purchase and install information technology and a public address and sound system, including related equipment, furniture and infrastructure, at Zuni elementary school in the Albuquerque public school district in Bernalillo county;

183. four hundred thousand dollars (\$400,000) to plan, design, construct, repair, furnish and equip Lake Arthur high school, including electrical systems, roofing, carpet, balustrade and accessibility improvements, in the Lake Arthur municipal school district in Chaves county;

184. one hundred fifty thousand dollars (\$150,000) to plan, design, construct and refurbish running tracks for the Lake Arthur municipal school district in Chaves county;

185. two hundred forty thousand dollars (\$240,000) to purchase and equip an activity bus for the Lake Arthur municipal school district in Chaves county;

186. one hundred forty thousand dollars (\$140,000) to plan, design, construct, purchase and install bleachers at the main gymnasium in the Lake Arthur municipal school district in Chaves county;

187. one hundred twenty thousand dollars (\$120,000) to plan, design, construct, purchase, furnish, equip and install improvements, including seating, to the gymnasium at the Maxwell municipal school district in Colfax county;

188. eighty-five thousand dollars (\$85,000) to plan, design, purchase, equip and install a security system in the High Plains regional education cooperative building in Raton in Colfax county;

189. one hundred fifty thousand dollars (\$150,000) to purchase and equip an activity bus for the Melrose public school district in Melrose in Curry county;

190. two hundred thousand dollars (\$200,000) to purchase and equip an activity bus for the Gadsden independent school district in Dona Ana county;

191. sixty thousand dollars (\$60,000) to plan, design, construct, equip, install and make improvements to the playground and walking track at the J. Paul Taylor academy in Las Cruces in Dona Ana county;

192. ten thousand dollars (\$10,000) to plan, design, construct, purchase, renovate, furnish and equip improvements to the New America school-Las Cruces buildings and grounds, including information technology and related equipment, vehicles and infrastructure, in Las Cruces in Dona Ana county;

193. thirty-five thousand dollars (\$35,000) to purchase equipment and furniture for classrooms, offices, a kitchen and playgrounds at the Raices del Saber Xinachtli community school in Las Cruces in Dona Ana county;

194. two hundred thousand dollars (\$200,000) to purchase, install and equip weight room equipment for Onate high school in the Las Cruces public school district in Dona Ana county;

195. three hundred twenty-six thousand dollars (\$326,000) to plan, design, conduct site preparation, construct and install heating, ventilation and air conditioning units at Hermosa elementary school in the Artesia public school district in Eddy county;

196. five hundred eighty-one thousand nine hundred five dollars (\$581,905) to plan, design, purchase, construct and install security fencing and gates at Carlsbad high school in the Carlsbad municipal school district in Eddy county;

197. three hundred eleven thousand dollars (\$311,000) to purchase and install information technology, including related equipment, furniture and infrastructure, for the Cobre consolidated school district in Grant county;

198. one hundred five thousand dollars (\$105,000) to purchase and equip vehicles for the Aldo Leopold charter school in Silver City in Grant county;

199. fifty thousand dollars (\$50,000) to purchase and equip vehicles for the Silver consolidated school district in Grant county;

200. fifty-one thousand dollars (\$51,000) to purchase and equip a tractor for the Mosquero municipal school district in Harding county;

201. forty-nine thousand dollars (\$49,000) to purchase and equip vehicles for the Mosquero municipal school district in Harding county;

202. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, purchase and install security equipment, including entry doors, cameras, fencing and alarm systems, for the Animas public school district in Hidalgo county;

203. one hundred seventy thousand dollars (\$170,000) to plan, design, purchase, install and implement an emergency alert management and communication system at the Lovington municipal school district in Lea county;

204. one hundred sixty-five thousand dollars (\$165,000) to purchase and equip an activity bus for the Tatum municipal school district in Lea county;

205. two hundred thousand dollars (\$200,000) to plan, design, construct, purchase, equip and install improvements, including bleachers and lighting, to the Angelo Dipaolo stadium in the Gallup-McKinley county school district in McKinley county;

206. seventy-five thousand dollars (\$75,000) to plan, design, construct, purchase and install improvements to parking lots at schools in the Gallup-McKinley county school district in McKinley county;

207. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, equip and install portable buildings for the Gallup-McKinley county school district in McKinley county;

208. three hundred thirty-seven thousand dollars (\$337,000) to purchase and equip small transport vehicles and buses for the Gallup-McKinley county school district in McKinley county;

209. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and upgrade facilities in the Mora independent school district in Mora county;

210. fifty thousand dollars (\$50,000) to purchase and install an IP network video surveillance system for the Mora independent school district in Mora county;

211. twenty-six thousand dollars (\$26,000) to plan, design, construct, purchase, equip and install an outdoor electronic message board to improve communication and security in the Wagon Mound public school district in Mora county;

212. one hundred sixty thousand dollars (\$160,000) to purchase musical instruments and storage equipment for the music programs at Carlos F. Vigil middle school and Espanola Valley high school in the Espanola public school district in Rio Arriba county;

213. seventy-five thousand dollars (\$75,000) to purchase and equip a bus for the Espanola public school district in Rio Arriba county;

214. one hundred fifty thousand dollars (\$150,000) to plan, design, construct and renovate roofing at schools in the Espanola public school district in Rio Arriba county;

215. forty thousand dollars (\$40,000) to plan, design, construct, purchase, equip and install water wells for the district schools, including Carlos F. Vigil middle school and Alcalde elementary school, in the Espanola public school district in Rio Arriba county;

216. one hundred ninety-three thousand dollars (\$193,000) to purchase and equip an activity bus for the Elida municipal school district in Roosevelt county;

217. one hundred thousand dollars (\$100,000) to plan, design and construct a transportation and bus shed for the Floyd municipal school district in Roosevelt county;

218. eighty thousand dollars (\$80,000) to plan, design, construct and renovate a lift station, including remediation of odor and septic issues, and for a preliminary engineering report to relocate the lift station, for the Central consolidated school district in Kirtland in San Juan county;

219. thirty thousand dollars (\$30,000) to purchase and install information technology, including related equipment, furniture and infrastructure, for a computer classroom at Rio Gallinas charter school in San Miguel county;

220. three hundred ninety-two thousand dollars (\$392,000) to purchase and equip activity buses for the Las Vegas city public school district in San Miguel county;

221. ninety thousand dollars (\$90,000) to purchase and equip a bus for the Pecos independent school district in San Miguel county;

222. one hundred eighty-four thousand dollars (\$184,000) to purchase and equip activity buses for the west Las Vegas public school district in San Miguel county;

223. seventy-five thousand dollars (\$75,000) to purchase and equip food service department cargo vehicles for the west Las Vegas public school district in San Miguel county;

224. ten thousand dollars (\$10,000) to plan, design, construct and equip an early childhood playground for the west Las Vegas public school district head start program in San Miguel county;

225. ten thousand dollars (\$10,000) for a web portal license and information technology for the financial management division of the west Las Vegas public school district in San Miguel county;

226. two hundred twenty-four thousand dollars (\$224,000) to plan, design, purchase and construct improvements, including security equipment, fencing, information technology and related infrastructure, furniture and equipment, at the ASK academy charter school in Rio Rancho in Sandoval county;

227. two hundred fifteen thousand dollars (\$215,000) to plan, design, purchase and install a facility management system for Independence high school in the Rio Rancho public school district in Sandoval county;

228. eighty-five thousand dollars (\$85,000) to plan, design, purchase and install a facility management system for Rio Rancho Cyber academy in the Rio Rancho public school district in Sandoval county;

229. two hundred sixty-five thousand dollars (\$265,000) for a master drainage and erosion plan for Rio Rancho high school in the Rio Rancho public school district in Sandoval county;

230. two hundred thousand dollars (\$200,000) to plan, design, purchase and install security cameras in the elementary schools in the Rio Rancho public school district in Sandoval county;

231. twenty-five thousand dollars (\$25,000) to plan, design, purchase, construct and install light emitting diode lighting in the Rio Rancho public school district office in Sandoval county;

232. three hundred thousand dollars (\$300,000) to plan, design, construct, purchase, replace and install gates at V. Sue Cleveland high school in the Rio Rancho public school district in Sandoval county;

233. two hundred thousand dollars (\$200,000) to plan, design and construct security improvements at Vista Grande elementary school in the Rio Rancho public school district in Sandoval county;

234. four hundred seventy-five thousand dollars (\$475,000) to plan, design, construct, purchase, equip and install accessible playground equipment at elementary schools in the Rio Rancho public school district in Sandoval county;

235. fifty thousand dollars (\$50,000) to plan, design, construct, purchase and install fencing at the Aspen community magnet school in the Santa Fe public school district in Santa Fe county;

236. forty thousand dollars (\$40,000) to plan, design, construct, purchase and install improvements to the cafeteria courtyard, including concrete and flagstone, at Capital high school in the Santa Fe public school district in Santa Fe county;

237. ten thousand dollars (\$10,000) to plan, design, construct, purchase, install and make improvements to the playground at Edward Ortiz middle school in the Santa Fe public school district in Santa Fe county;

238. thirty-five thousand dollars (\$35,000) to plan, design, construct, equip, furnish and install a Kiva outdoor classroom and seating area at Nina Otero community school in the Santa Fe public school district in Santa Fe county;

239. four million two hundred fifty-seven thousand five hundred dollars (\$4,257,500) to plan, design, construct and equip a student dormitory and cafeteria for the New Mexico school for the arts on the site located at 500 Montezuma street in Santa Fe in Santa Fe county, contingent upon the transfer of the existing property development right by the New Mexico school for the arts-art institute without consideration as its match for the statewide project;

240. ten thousand dollars (\$10,000) for development of an educational specification plan for alternative site facilities and to plan, design, construct, purchase and make improvements for permanent facilities at these sites in the Santa Fe public school district in Santa Fe county;

241. five hundred thirty thousand dollars (\$530,000) to plan, design, construct, furnish and equip an addition at the dance barns facility in the Santa Fe public school district in Santa Fe county;

242. ten thousand dollars (\$10,000) to acquire property and to plan, design and construct a school facility for the Tierra Encantada charter school in Santa Fe in Santa Fe county;

243. fifty thousand dollars (\$50,000) to plan, design, construct, renovate, purchase, furnish and equip improvements, including security system upgrades, information technology, fencing and wiring, to the Turquoise Trail charter school in Santa Fe in Santa Fe county;

244. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, equip and install electric gates, cameras and related infrastructure and a plaza/amphitheater at the Academy for technology and the classics in the Santa Fe public school district in Santa Fe county;

245. ten thousand dollars (\$10,000) to plan, design, construct, purchase, equip and install improvements to the playground at Acequia Madre elementary school in the Santa Fe public school district in Santa Fe county;

246. fifty thousand dollars (\$50,000) to plan, design, construct, purchase, equip and install a playground at Atalaya elementary school in the Santa Fe public school district in Santa Fe county;

247. forty thousand dollars (\$40,000) to plan, design, construct, purchase and install sidewalks at the playground perimeter at Chaparral elementary school in the Santa Fe public school district in Santa Fe county;

248. thirty thousand dollars (\$30,000) to plan, design, construct, purchase, install and make improvements to a playground, including shade structures, at E.J. Martinez elementary school in the Santa Fe public school district in Santa Fe county;

249. fifteen thousand dollars (\$15,000) to plan, design, construct, purchase, equip and install built-in display cases and improvements to the playground and shade structures at El Dorado community school in the Santa Fe public school district in Santa Fe county;

250. fifteen thousand dollars (\$15,000) to plan, design, construct, purchase, equip and install improvements to the playground at Gonzales community school in the Santa Fe public school district in Santa Fe county;

251. thirty-five thousand dollars (\$35,000) to plan, design, construct, purchase, equip, furnish and install improvements to Kearny elementary school, including basketball court improvements and shade structures for the bus area and playgrounds, in the Santa Fe public school district in Santa Fe county;

252. ten thousand dollars (\$10,000) to plan, design, construct, equip, furnish and install improvements to Mandela international magnet school, including the entrance and the main hall flooring, in the Santa Fe public school district in Santa Fe county;

253. fifty thousand dollars (\$50,000) to purchase resources for the library at Milagro middle school in the Santa Fe public school district in Santa Fe county;

254. thirty thousand dollars (\$30,000) to plan, design, construct, purchase, equip and install shade structures at playgrounds at Ramirez Thomas elementary school in the Santa Fe public school district in Santa Fe county;

255. fifty thousand dollars (\$50,000) to plan, design, construct, renovate, equip and furnish the art studio at Salazar elementary school in the Santa Fe public school district in Santa Fe county;

256. three hundred thirty thousand eight hundred dollars (\$330,800) to plan, design, construct, purchase, equip and install a backup generator for the educational services center in the Santa Fe public school district in Santa Fe county;

257. thirty-five thousand dollars (\$35,000) to plan, design, construct, purchase, install and make improvements to the playground at Sweeney elementary school in the Santa Fe public school district in Santa Fe county;

258. twenty thousand dollars (\$20,000) to plan, design, construct, purchase, equip, install and make improvements to the playground at Wood Gormley elementary school in the Santa Fe public school district in Santa Fe county;

259. twelve thousand dollars (\$12,000) to purchase and install security cameras, infrastructure and surveillance cameras and systems at Cottonwood Valley charter school in Socorro in Socorro county;

260. twenty-eight thousand dollars (\$28,000) to plan, design, purchase and construct a shade structure at Cottonwood Valley charter school in Socorro in Socorro county;

261. two hundred twenty thousand dollars (\$220,000) to purchase a scoreboard for Taos high school and to plan, design, construct, replace and equip plumbing at schools in the Taos municipal school district in Taos county;

262. one hundred twenty-five thousand dollars (\$125,000) to purchase and install information technology and related equipment, furniture and infrastructure, including message boards and fiber optics, and to purchase and install security systems for the Questa independent school district in Taos county;

263. three hundred thousand dollars (\$300,000) to plan, design and construct a building for the Red River Valley charter school in Red River in Taos county;

264. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, furnish and equip security systems for the Taos municipal school district in Taos county;

265. sixty thousand dollars (\$60,000) to purchase and equip a vehicle for the agricultural program at Mountainair high school in the Mountainair public school district in Torrance county;

266. two hundred fifty thousand dollars (\$250,000) to plan, design, renovate and construct classrooms and instructional spaces for middle and high school students in the Des Moines municipal school district in Union county; and

267. four hundred eighty-five thousand dollars (\$485,000) to plan, design, purchase and install information technology and related furniture, equipment and infrastructure at the School of Dreams academy in Los Lunas in Valencia county.

Chapter 277 Section 21 Laws 2019

SECTION 21. ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the energy, minerals and natural resources department for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, for the following purposes:

1. fifty thousand dollars (\$50,000) to conduct a feasibility study and preliminary design of a visitor and trail complex in and around Mount Cristo Rey in Sunland Park in Dona Ana county;

2. twenty-five thousand dollars (\$25,000) to plan, design, construct and equip site improvements to the visitor center at Cerrillos Hills state park in Cerrillos in Santa Fe county;

3. five hundred thousand dollars (\$500,000) to purchase and equip fire engines and firefighting vehicles for the New Mexico forestry division statewide; and

4. four million dollars (\$4,000,000) to plan, design and construct watershed restoration and community wildfire protection improvements, including forest thinning, statewide.

Chapter 277 Section 22 Laws 2019

SECTION 22. STATE PARKS DIVISION OF THE ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the state parks division of the energy, minerals and natural resources department for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, for the following purposes:

1. two million one hundred thousand dollars (\$2,100,000) to plan, design, construct, purchase, equip and install improvements, including a new visitor

services and administrative facility, at state-owned property in Pecos canyon in San Miguel county;

2. fifty thousand dollars (\$50,000) to purchase and equip a vehicle for the state parks division of the energy, minerals and natural resources department for Storrie Lake state park in San Miguel county;

3. one million dollars (\$1,000,000) to plan, design, construct and equip infrastructure improvements, including electrical infrastructure replacement, at state parks statewide; and

4. five hundred thousand dollars (\$500,000) to purchase and equip law enforcement vehicles for state parks statewide.

Chapter 277 Section 23 Laws 2019

SECTION 23. OFFICE OF THE STATE ENGINEER PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the office of the state engineer for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, for the following purposes:

1. twenty thousand dollars (\$20,000) to plan, design, construct, repair and renovate the Cimarroncito dam in Cimarron in Colfax county;

2. one million dollars (\$1,000,000) to acquire property and to plan, design, construct and equip a drainage channel as part of an extension to the Brahman diversion channel and future Brahman dam in Dona Ana county;

3. one million four hundred fifty thousand dollars (\$1,450,000) to acquire property and to plan, design, construct and equip a flood control dam on the Spring Canyon arroyo in Dona Ana county;

4. two hundred thousand dollars (\$200,000) to plan, design and construct water system improvements to the Rodey lateral, including flood control, water conservation and trail development, and to replace and improve culverts in the Colorado spur drain for the Elephant Butte irrigation district in Dona Ana county;

5. six hundred fifty thousand dollars (\$650,000) to plan, design and construct improvements to the district irrigation ditch, including the Blanco flume, for the Bloomfield irrigation district in San Juan county;

6. fifty-two thousand dollars (\$52,000) to plan, design, construct, purchase and install improvements to electrical lines, including lines and components serving the Santa Cruz dam, for the Santa Cruz irrigation district in Santa Fe county; and

7. eighty thousand dollars (\$80,000) to purchase water rights for the El Prado water and sanitation district in Taos county.

Chapter 277 Section 24 Laws 2019

SECTION 24. INDIAN WATER RIGHTS SETTLEMENT FUND--GENERAL FUND.--Twelve million dollars (\$12,000,000) is appropriated from the general fund to the Indian water rights settlement fund. Notwithstanding the requirement for a joint resolution of the legislature in Subsection A of Section 72-1-11 NMSA 1978, if a corresponding commitment has been made for the federal portion of the settlement in the Aamodt case, the money may be expended by the interstate stream commission in fiscal year 2020 and subsequent fiscal years to implement the state's portion of the settlement, and any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert.

Chapter 277 Section 25 Laws 2019

SECTION 25. INDIAN WATER RIGHTS SETTLEMENT FUND AAMODT ADDITIONAL COSTS--GENERAL FUND.--Two million dollars (\$2,000,000) is appropriated from the general fund to the Indian water rights settlement fund. Notwithstanding the requirement for a joint resolution of the legislature in Subsection A of Section 72-1-11 NMSA 1978, if a corresponding commitment has been made for the federal portion of the settlement in the Aamodt case, the money may be expended by the interstate stream commission in fiscal year 2019 and subsequent fiscal years to implement the state's portion of the settlement, and any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert. This appropriation of two million dollars (\$2,000,000), in combination with other appropriations made to the Indian water rights settlement fund in this act, constitutes approximately twenty percent of the state's contribution toward the Aamodt settlement to pay both the state's current cost-share obligation and additional amounts necessary for the state's share of non-federal cost overruns.

Chapter 277 Section 26 Laws 2019

SECTION 26. DEPARTMENT OF ENVIRONMENT PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the department of environment for expenditure in fiscal years 2019 through 2023, unless

otherwise provided in Section 1 of this act or in the items below, for the following purposes:

1. one million five hundred thousand dollars (\$1,500,000) for expenditure in fiscal years 2020 through 2023 to plan, design and construct projects that improve surface water quality and river habitat statewide;

~~2. two hundred thousand dollars (\$200,000) to plan and design a reclamation plant for the Albuquerque-Bernalillo county water utility authority in Bernalillo county;~~

~~3. twelve thousand five hundred dollars (\$12,500) to plan and design a gravity sanitary sewer system in the area of Carnuel in Bernalillo county;]~~ *LINE-ITEM VETO*

4. two million one hundred forty-one thousand dollars (\$2,141,000) to plan, design and construct a wastewater reclamation plant for the Albuquerque-Bernalillo county water utility authority to serve the Winrock site and parks in Bernalillo county;

5. two hundred forty-two thousand dollars (\$242,000) to plan, design and construct improvements to water systems, including replacement of hazardous material collection cannisters, delivery pipes and water meters, for Tierra Monte water users, incorporated, in Albuquerque in Bernalillo county;

6. five hundred thousand dollars (\$500,000) to plan, design and construct phase 2c water system improvements for the Albuquerque-Bernalillo county water utility authority in Carnuel in Bernalillo county;

7. fifty thousand dollars (\$50,000) to plan, design and construct phase 4 water system improvements for the Albuquerque-Bernalillo county water utility authority in Carnuel in Bernalillo county;

8. two hundred fifty thousand dollars (\$250,000) to plan, design and construct a third water well and related infrastructure in Tijeras in Bernalillo county;

9. two hundred thousand dollars (\$200,000) to plan, design, construct, demolish, renovate, purchase and install wastewater system improvements to the Quemado mutual water and sewage works association, including removal of a wastewater lagoon cell, rehabilitation of a wastewater lagoon cell and extension of sewer service, in Catron county;

10. one hundred thousand dollars (\$100,000) to plan, design and construct water system improvements for Reserve in Catron county;
11. five hundred thousand dollars (\$500,000) to plan, design and construct sewer system improvements in Hagerman in Chaves county;
12. three hundred fifty thousand dollars (\$350,000) to purchase and equip a sewer vacuum truck for Hagerman in Chaves county;
13. seven hundred fifty thousand dollars (\$750,000) to plan, design and construct water system improvements, including replacement of major water line valves, in Roswell in Chaves county;
14. sixty thousand dollars (\$60,000) to plan, design, construct, equip and install a supervisory control and data acquisition system in Angel Fire in Colfax county;
15. one hundred sixty thousand dollars (\$160,000) to plan, design, purchase, install, construct and replace the filter media and ventilation system at the Springer municipal water plant in Springer in Colfax county;
16. one hundred fifty thousand dollars (\$150,000) to plan, design and construct improvements to a wastewater plant in Springer in Colfax county;
17. two hundred forty thousand dollars (\$240,000) to plan, design, repair and rehabilitate a water tank in Texico in Curry county;
18. seventy-five thousand dollars (\$75,000) to plan, design, construct and equip wastewater system improvements in Fort Sumner in De Baca county;
19. two hundred fifty thousand dollars (\$250,000) for closure of the Mesquite wetlands wastewater treatment facility, including earthwork and capping and construction of monitoring wells, in the lower Rio Grande public water works authority service area in Dona Ana county;
20. one hundred thousand dollars (\$100,000) to plan, design and construct wastewater system improvements for the south central wastewater collection area, including lift stations, manholes and main lines, in Dona Ana county;
21. one hundred thousand dollars (\$100,000) to purchase and equip a dump truck for the lower Rio Grande public water works authority service area in Dona Ana county;

~~[22. thirty-nine thousand dollars (\$39,000) to purchase, install and implement information technology to automate timekeeping, payroll and staffing management for the lower Rio Grande public water works authority in Dona Ana county;]~~ *LINE-ITEM VETO*

23. one hundred thirty-nine thousand dollars (\$139,000) to plan, design and construct a water line extension on Jacquez road from Three Saints road to the end of Jacquez road in the lower Rio Grande public water works authority service area in Dona Ana county;

24. one hundred twenty thousand dollars (\$120,000) to purchase and equip a mini-excavator for the lower Rio Grande public water works authority in Dona Ana county;

25. fifty thousand dollars (\$50,000) to purchase, install and implement information technology and related equipment for a radio-read water meter system in the lower Rio Grande public water works authority service area in Dona Ana county;

~~[26. twenty-five thousand dollars (\$25,000) to plan, design and construct a solid waste transfer station in Anthony in Dona Ana county;]~~ *LINE-ITEM VETO*

27. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, install and equip a water tank, including lines and line extensions, in the Anthony water and sanitation district in Dona Ana county;

28. four million seven hundred ten thousand dollars (\$4,710,000) to plan, design, construct and equip improvements to the South Central wastewater treatment plant in La Mesa in Dona Ana county;

29. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase and install improvements, including construction of a maintenance storage building, for La Union mutual domestic sewer and water association in Dona Ana county;

30. one million six thousand three hundred seventy dollars (\$1,006,370) to plan, design and construct phase 2 and 3 septic systems replacements and improvements in Las Cruces in Dona Ana county;

31. two hundred fifty thousand dollars (\$250,000) to plan, design and construct a wastewater collection system at McDowell road in Mesilla in Dona Ana county;

32. three million four hundred thousand dollars (\$3,400,000) to plan, design and construct wastewater system improvements and extensions to the Sleepy Farms area near Vado in Dona Ana county;
33. three hundred fifty thousand dollars (\$350,000) to plan, design and construct water system improvements, including lines, valves, fittings, fire hydrants and street excavation and repair, in Artesia in Eddy county;
34. two hundred fifty thousand dollars (\$250,000) to plan, design, purchase, equip and install a generator for a sewer lift station in Carlsbad in Eddy county;
35. four hundred thousand dollars (\$400,000) to plan, design, construct, improve and replace the water system in Loving in Eddy county;
36. five hundred forty-two thousand dollars (\$542,000) to plan, design, construct, replace and improve wastewater systems, including manholes, sewer lines, service connections, fences and gates, in Loving in Eddy county;
37. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and install water system improvements for the Casas Adobes mutual domestic water consumers association in Grant county;
38. two hundred twenty thousand dollars (\$220,000) to purchase and equip a dozer for the Southwest solid waste authority in Grant county;
39. five hundred fifty thousand dollars (\$550,000) to plan, design and construct wastewater system improvements, including the purchase of sludge dewatering equipment, in Bayard in Grant county;
40. two hundred forty thousand dollars (\$240,000) to plan, design, construct and equip water system improvements for Hurley in Grant county;
41. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, furnish and equip water system improvements for Santa Clara in Grant county;
42. sixty thousand dollars (\$60,000) to plan, design and construct water system improvements for the Puerto de Luna mutual domestic water consumers and mutual sewage works association in Guadalupe county;

43. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, purchase and install water meters for the water system in Vaughn in Guadalupe county;

44. one million dollars (\$1,000,000) to plan, design and construct water system improvements, including a water well, fluoride treatment, water line replacement, redundant power backup and capacity enhancement, in Lordsburg in Hidalgo county;

45. one hundred ninety-two thousand dollars (\$192,000) to plan, design, construct and replace the sewer system, including accessibility and road improvements, from New Mexico highway 18 along Central avenue to Joe Harvey boulevard, east along Joe Harvey boulevard to Grimes street and north along Grimes street to Millen drive in Hobbs in Lea county;

46. seven hundred fifty thousand dollars (\$750,000) to plan, design, construct and extend water and sewer systems to a newly annexed area of Hobbs and the Lea county airport in Hobbs in Lea county;

47. seven hundred fifty thousand dollars (\$750,000) to plan, design and construct an aerobic digester facility at the wastewater reclamation facility in Hobbs in Lea county;

48. four hundred thousand five hundred dollars (\$400,500) to plan, design, construct and equip water wells in Jal in Lea county;

49. two hundred fifty thousand dollars (\$250,000) to plan, design, construct and replace water lines in Capitan in Lincoln county;

50. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct and replace water pipe, fire hydrants, valves, tie-ins and services in Capitan in Lincoln county;

51. six hundred thousand dollars (\$600,000) to plan, design, construct, purchase and equip wells and well houses for Carrizozo in Lincoln county;

~~52. twelve thousand dollars (\$12,000) to plan, design, construct, purchase, equip and install improvements to the water system in Corona in Lincoln county;]~~ *LINE-ITEM VETO*

53. five hundred seventy-six thousand six hundred dollars (\$576,600) to plan, design, construct and equip improvements to the Alto water treatment plant in Ruidoso in Lincoln county;

54. twenty thousand dollars (\$20,000) to plan, design, replace and construct improvements, including the roof, ceiling panels and insulation, at the Greentree solid waste authority administration building in Ruidoso Downs in Lincoln county;

55. twenty-five thousand dollars (\$25,000) to purchase and equip a baler for the Greentree solid waste authority recycling center in Ruidoso Downs in Lincoln county;

56. two hundred seventy-five thousand dollars (\$275,000) to purchase and equip a solid waste truck for the Greentree solid waste authority in Ruidoso Downs in Lincoln county;

57. five hundred thousand dollars (\$500,000) to plan, design and construct a waterline extension in Ruidoso Downs in Lincoln county;

58. two hundred thousand dollars (\$200,000) to plan, design and construct a water system for the Williams Acres water and sanitation district in McKinley county;

59. thirty-four thousand five hundred dollars (\$34,500) to plan, design, construct, purchase, equip and install water system improvements, including automatic read water meters and related software, for the White Cliffs mutual domestic water users association in McKinley county;

60. sixty thousand dollars (\$60,000) to plan, design, construct, purchase, equip and install automatic read water meter systems for the Gameraco water and sanitation district in McKinley county;

61. fifty-five thousand dollars (\$55,000) to purchase and equip transport trailers and roll-off trucks for the northwest New Mexico regional waste authority in Thoreau in McKinley county;

62. forty thousand dollars (\$40,000) to plan, design, construct, purchase, equip and install automatic read water meter systems in the Ya-Ta-Hey water and sanitation district in McKinley county;

63. one hundred thousand dollars (\$100,000) to plan, design and construct a water storage tank for the Cleveland mutual domestic water consumers and sewage works association in Mora county;

64. eighty-five thousand dollars (\$85,000) to plan, design and construct water system improvements for the Buena Vista mutual domestic water consumer's and sewage works association in Mora county;

65. forty-five thousand dollars (\$45,000) to plan, design and construct water system improvements for the upper Holman community mutual domestic water consumers and mutual sewage works association in Mora county;

66. four hundred fifty thousand dollars (\$450,000) to plan, design and construct a water storage containment reservoir, including fittings, valves, gauges, fencing and access road, for the Timberon water and sanitation district in Otero county;

67. three hundred thousand dollars (\$300,000) to plan, design, purchase and construct improvements to the water system for Timberon water and sanitation district in Otero county;

68. six hundred fifty thousand dollars (\$650,000) to plan, design, construct, purchase and install equipment for the water treatment plant and to purchase and install an emergency generator in Cloudcroft in Otero county;

69. seven hundred fifty thousand dollars (\$750,000) to plan, design, construct, purchase, equip and install improvements, including an emergency generator and fan press, to a wastewater treatment facility in Cloudcroft in Otero county;

70. two hundred forty-two thousand five hundred twelve dollars (\$242,512) to purchase and equip a solid waste collection truck for Tularosa in Otero county;

71. five hundred thousand dollars (\$500,000) to plan, design, purchase, equip and construct improvements to the wastewater treatment plant and system, including rehabilitation of an aeration basin and purchase of a monitoring system, in Tularosa in Otero county;

72. two hundred thousand dollars (\$200,000) to plan, design and construct water system improvements, including a water storage tank, in San Jon in Quay county;

73. two hundred twenty-six thousand dollars (\$226,000) to plan, design and construct improvements to water storage tanks, including protection doors, access ladders, sediment removal, coating and access hatches, in Tucumcari in Quay county;

74. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements to the wastewater treatment facility, including the purchase and installation of equipment, fencing and sludge removal, for the Abiquiu mutual domestic water consumers and mutual sewage works association in Abiquiu in Rio Arriba county;

75. twenty-five thousand dollars (\$25,000) to plan, design and construct water system improvements for the Plaza Blanca mutual domestic water consumers association in Rio Arriba county;

76. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, replace and improve a water system, including a water hauling station, tank restoration and pipelines, for the Lybrook mutual domestic water consumers association in Rio Arriba county;

77. seventy-five thousand dollars (\$75,000) to plan, design and construct water system improvements for the Rio Chiquito mutual domestic water consumers and mutual sewage works association in Rio Arriba county;

78. fifty thousand dollars (\$50,000) to plan, design and construct water system improvements for the Alcalde mutual domestic water consumers and mutual sewage works association in Rio Arriba county;

79. twenty-five thousand dollars (\$25,000) to plan, design and construct water system improvements for the Canjilon mutual domestic water consumers and mutual sewage works association in Rio Arriba county;

80. seventy-five thousand dollars (\$75,000) to plan, design, construct and equip improvements to a water system for the Cebolla mutual domestic water consumers and sewage works association in Rio Arriba county;

81. fifty thousand dollars (\$50,000) to plan, design and construct water system improvements for the Cordova mutual domestic water consumers association in Rio Arriba county;

82. twenty-five thousand dollars (\$25,000) to plan, design and construct water system improvements, including a water storage tank and a well, for El Rito regional water and wastewater association in El Rito in Rio Arriba county;

83. two hundred thousand dollars (\$200,000) to purchase, equip and install radio read meters for the Agua Sana water users association in Rio Arriba county;

84. seventy-five thousand dollars (\$75,000) to plan, design and construct water system improvements for the Ancones mutual domestic water and wastewater consumers association in Rio Arriba county;

85. four hundred thousand dollars (\$400,000) to plan, design and construct a regional pipeline connection to the Flora Vista water system from the North Star domestic water consumers and mutual sewage works cooperative in San Juan county;

86. six hundred thousand dollars (\$600,000) to plan, design, purchase, construct and equip a wastewater pump station for the Valley water and sanitation district in San Juan county;

87. five hundred thousand dollars (\$500,000) to plan, design and construct a water line extension from the Blanco mutual domestic water consumers and mutual sewage works association to the Turley and San Juan and Las Vegas communities in San Juan county;

88. one hundred five thousand dollars (\$105,000) to plan, design and construct water system improvements for the Chapelle mutual domestic consumers association in San Miguel county;

89. one hundred ten thousand dollars (\$110,000) to plan, design and construct water system improvements for El Creston mutual domestic water consumers association in San Miguel county;

90. eighty-five thousand dollars (\$85,000) to purchase and equip a transport truck for roll-off containers for the solid waste department in San Miguel county;

91. twenty thousand dollars (\$20,000) to purchase and equip solid waste bins for the solid waste department in San Miguel county;

92. sixty-five thousand dollars (\$65,000) to plan, design and construct water system improvements for the Tecolotito mutual domestic water consumers association in San Miguel county;

93. four hundred thousand dollars (\$400,000) to plan, design and construct water system improvements and replace water mains in Las Vegas in San Miguel county;

94. fifty thousand dollars (\$50,000) to plan, design and construct a sanitary sewer system for the east Pecos mutual domestic water consumers association in San Miguel county;

95. two hundred twenty-five thousand dollars (\$225,000) to plan, design, construct, renovate, equip and improve water and wastewater systems in Pecos in San Miguel county;

96. eighty thousand dollars (\$80,000) to plan, design and construct water system improvements for the Rowe mutual domestic water consumers association in San Miguel county;

97. twenty-five thousand dollars (\$25,000) to plan, design and construct water system improvements for the Rowe mutual domestic water consumers association in San Miguel county;

98. one hundred twenty-five thousand dollars (\$125,000) to plan, design and construct water system improvements for the Regina mutual domestic water consumers association in Sandoval county;

99. four hundred eight thousand dollars (\$408,000) to plan, design and construct drainage and flood control improvements in the Lisbon arroyo and its tributaries for the southern Sandoval county arroyo flood control authority in Sandoval county;

100. one hundred forty-five thousand dollars (\$145,000) to plan, design and construct the Lomitas Negras phase 3 drainage improvements, including detention ponds and outlet structures, for the southern Sandoval county arroyo flood control authority in Sandoval county;

101. seventy-five thousand dollars (\$75,000) to plan, design and construct water system improvements for the Canon mutual domestic water consumers and sewage works association in Sandoval county;

102. one hundred fifteen thousand dollars (\$115,000) to plan, design and construct phase 2 of a regional water system for the San Luis-Cabezon mutual domestic water association in Sandoval county;

103. one million five hundred ninety thousand dollars (\$1,590,000) to acquire easements and rights of way for and to plan, design and construct water system improvements [~~for the mid-region council of governments~~] in Bernalillo in Sandoval county; *LINE-ITEM VETO*

104. one hundred thirty-six thousand dollars (\$136,000) to plan, design and construct channel and other improvements to the Coronado arroyo for the southern Sandoval county arroyo flood control authority in Bernalillo in Sandoval county;

105. fifty thousand dollars (\$50,000) to plan, design and construct water and wastewater system improvements from casa San Ysidro and the historic old church to Corrales road for a visitors center in Corrales in Sandoval county;

106. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to a water system in Cuba in Sandoval county;

107. one hundred thousand dollars (\$100,000) to plan, design and construct water system improvements, including water line replacements, for the Jemez Springs domestic water association in Sandoval county;

108. sixty thousand dollars (\$60,000) to plan, design, construct and replace a water storage tank for La Jara mutual domestic water consumers' and mutual sewage works association in La Jara in Sandoval county;

109. fifty thousand dollars (\$50,000) to plan, design and construct water and septic system improvements for the Pena Blanca water and sanitation district in Sandoval county;

110. forty-nine thousand nine hundred ninety-five dollars (\$49,995) to plan, design, construct, purchase and replace water lines for the Ponderosa mutual domestic water consumers' association and sewage works association in Sandoval county;

111. thirty thousand dollars (\$30,000) to replace, equip and install radio read meters, including information technology, for the Ponderosa mutual domestic water consumers' association and sewage works association in Sandoval county;

112. one hundred ten thousand dollars (\$110,000) to plan, design and construct improvements to the water system for the Chupadero-water-sewage corporation in Santa Fe county;

113. two hundred sixty thousand dollars (\$260,000) to plan, design, construct, purchase, equip and install a drinking water project for the Greater Glorieta community regional mutual domestic water consumers and sewage works in Santa Fe county;

114. five hundred fifty thousand dollars (\$550,000) to acquire water rights for, including needed applications and transfers, and for improvements to the water distribution system and wells in Agua Fria in Santa Fe county;

115. one hundred thousand dollars (\$100,000) to plan, design and construct the Agua Fria village utility expansion project for wastewater service, including relocation costs of other utilities within the corridor, in Santa Fe county;

116. three hundred twelve thousand dollars (\$312,000) to plan, design and construct improvements to a regional water supply system for the Eldorado area and Canoncito through a partnership between the county and the Eldorado area water and sanitation district in Santa Fe county;

117. eighty-six thousand dollars (\$86,000) to plan, design and construct water system improvements for the Galisteo mutual domestic water consumers association in Santa Fe county;

118. three hundred seventy-five thousand dollars (\$375,000) to plan, design and construct a wastewater system expansion, including relocation of other utilities within the corridor, in the Agua Fria village area of Santa Fe county;

119. six hundred twenty-five thousand seven hundred twenty-eight dollars (\$625,728) to plan, design and construct improvements to the wastewater treatment system in Edgewood in Santa Fe county;

120. fifty thousand dollars (\$50,000) to plan, design and construct water system improvements for the La Bajada mutual domestic water consumers association in Santa Fe county;

121. one hundred thousand dollars (\$100,000) to plan, design and construct water system improvements for the El Prado water and sanitation district in Taos county;

122. sixty-two thousand dollars (\$62,000) to plan, design and construct water system improvements for the lower Des Montes mutual domestic water consumers association in Taos county;

123. thirty-eight thousand dollars (\$38,000) to plan, design and construct water system improvements for the Talpa mutual domestic water consumers association in Taos county;

124. ninety thousand dollars (\$90,000) to plan, design and construct septic system improvements in Arroyo Hondo in Taos county;

125. seventy-nine thousand four hundred thirty-five dollars (\$79,435) to plan, design, construct and replace a water tank for the Upper Arroyo Hondo mutual domestic water consumers association in Taos county;

~~126. twenty-five thousand dollars (\$25,000) to plan, design, construct and equip improvements to a water system for the Ojo Caliente mutual domestic water consumers association in Taos county;]~~ *LINE-ITEM VETO*

127. one hundred thousand dollars (\$100,000) to plan, design and construct water system improvements and water lines in Questa in Taos county;

128. three hundred fifteen thousand dollars (\$315,000) to plan, design, construct, equip and install corresponding distribution network infrastructure to develop Gunsight springs as a supplemental supply source for the water system in Taos in Taos county;

129. one hundred thirty thousand dollars (\$130,000) for a preliminary engineering report for water and sewer systems development at the airport in Taos in Taos county;

130. one million three hundred thousand dollars (\$1,300,000) to plan, design, construct and improve the wastewater treatment plant in Taos Ski Valley in Taos county;

131. thirty-five thousand dollars (\$35,000) to plan, design, construct, equip and install water lines in Estancia in Torrance county;

132. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, equip and install improvements to three wastewater collection and treatment lift stations in Estancia in Torrance county;

133. one hundred thousand dollars (\$100,000) to plan, design, upgrade and construct water system improvements in Moriarty in Torrance county;

134. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, purchase and install water valves and related improvements for the water system in Moriarty in Torrance county;

135. one hundred seventeen thousand dollars (\$117,000) to plan, design and construct wastewater collection system improvements in Willard in Torrance county;

136. fifty thousand dollars (\$50,000) to plan, design and construct improvements to a wastewater treatment plant, including dosing tanks, pumps, piping and controls, in Willard in Torrance county;

137. two hundred fifty thousand dollars (\$250,000) to purchase and equip a solid waste truck for Clayton in Union county;

138. one million two hundred five thousand dollars (\$1,205,000) to plan, design, construct and equip a second wastewater treatment plant clarifier in Bosque Farms in Valencia county; and

139. eight hundred thousand dollars (\$800,000) to plan, design and construct phase 2 improvements for a wastewater collection system in Peralta in Valencia county.

Chapter 277 Section 27 Laws 2019

SECTION 27. STATE FAIR COMMISSION PROJECTS--GENERAL FUND.--
The following amounts are appropriated from the general fund to the state fair commission for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, for the following purposes:

1. one million seven hundred thousand dollars (\$1,700,000) to plan, design and construct a kitchen addition at the African American performing arts center at the New Mexico state fairgrounds in Albuquerque in Bernalillo county;

2. one hundred thousand dollars (\$100,000) to plan, design, purchase and install exhibits and artifacts and to equip and furnish the African American performing arts center at the New Mexico state fairgrounds in Albuquerque in Bernalillo county;

3. one hundred sixty thousand dollars (\$160,000) to plan, design, construct, furnish, equip and install secure booths at the Alice K. Hoppes pavilion at the New Mexico state fairgrounds in Albuquerque in Bernalillo county;

4. five hundred thousand dollars (\$500,000) to plan, design, construct, purchase, furnish and equip a multipurpose facility, including a kitchen, at the African American performing arts center at the New Mexico state fairgrounds in Albuquerque in Bernalillo county; and

5. four million five hundred thousand dollars (\$4,500,000) to plan, design, renovate, construct and equip infrastructure improvements at the New Mexico state fairgrounds in Albuquerque in Bernalillo county.

Chapter 277 Section 28 Laws 2019

SECTION 28. DEPARTMENT OF FINANCE AND ADMINISTRATION PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the department of finance and administration for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, for the following purposes:

~~[1. one hundred five thousand dollars (\$105,000) to repay an anticipated drinking water state revolving loan fund loan to be used to provide water services to the Los Padillas community for the Albuquerque Bernalillo county water utility authority in Bernalillo county;] *LINE-ITEM VETO*~~

2. nine hundred five thousand dollars (\$905,000) to acquire the Piedra Lumbre visitors center from the United States forest service for the San Joaquin del Rio de Chama, Juan Bautista Baldez and Tierra Amarilla land grants-mercedes in Rio Arriba county;

3. two million dollars (\$2,000,000) for the New Mexico mortgage finance authority to build or rehabilitate affordable housing statewide, pursuant to the New Mexico Housing Trust Fund Act and the Affordable Housing Act;

4. one million dollars (\$1,000,000) for the New Mexico mortgage finance authority to weatherize and improve energy efficiency in housing for low-income households statewide, pursuant to the Affordable Housing Act; and

5. one million five hundred fourteen thousand seventeen dollars (\$1,514,017) to provide emergency funding for ~~[local government]~~ infrastructure needs statewide. *LINE-ITEM VETO*

Chapter 277 Section 29 Laws 2019

SECTION 29. GENERAL SERVICES DEPARTMENT PROJECT--GENERAL FUND.--One million dollars (\$1,000,000) is appropriated from the general fund to the general services department for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, to purchase and equip electric vehicles statewide.

Chapter 277 Section 30 Laws 2019

SECTION 30. HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT PROJECT--GENERAL FUND.--One million eight hundred forty thousand dollars (\$1,840,000) is appropriated from the general fund to the homeland security and emergency management department for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, to purchase radios and to plan, design, purchase, install and equip an emergency broadcast system, including transmitters, translators and emergency operation communications equipment, in Hidalgo county.

Chapter 277 Section 31 Laws 2019

SECTION 31. INDIAN AFFAIRS DEPARTMENT PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the Indian affairs department for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act or in the items below, for the following purposes:

1. one million one hundred three thousand five hundred dollars (\$1,103,500) to acquire property and to plan, design, construct, equip and furnish an opportunity center and makerspace at the Indian pueblo cultural center in Albuquerque in Bernalillo county;

2. one hundred thirty thousand dollars (\$130,000) to plan, design and construct water system improvements and to purchase, replace and install booster pumps and a pressure-reducing valve for the To'hajiilee chapter of the Navajo Nation in Bernalillo county;

3. fifty thousand dollars (\$50,000) to plan, design, purchase, equip and replace an information technology system in the Pueblo of Acoma in Cibola county;

4. five hundred sixty-five thousand dollars (\$565,000) to plan, design and develop a mainstreet corridor project plan, including archaeological and environmental studies, at the Pueblo of Acoma in Cibola county;

5. three million three hundred forty-two thousand seven hundred ninety-five dollars (\$3,342,795) to acquire easements and rights of way for and to plan, design and construct a natural gas distribution system, including archaeological and environmental studies, for the Pueblo of Acoma in Cibola county;
6. one hundred seventy thousand dollars (\$170,000) to plan, design, construct, purchase and equip the outdoor track and field area, including installation of a synthetic infield surface, in the Pueblo of Acoma in Cibola county;
7. eighty thousand dollars (\$80,000) to plan, design, construct, equip and install phase 2 improvements to solar wells, including windmill conversion and installation of solar batteries, at the Pueblo of Acoma in Cibola county;
8. one hundred seventy-eight thousand dollars (\$178,000) to purchase and equip an ambulance for the Pueblo of Laguna in Cibola county;
9. one hundred ninety thousand dollars (\$190,000) to plan, design, construct and equip the Laguna K'awaika community center in the Pueblo of Laguna in Cibola county;
10. two hundred one thousand four hundred dollars (\$201,400) to plan, design and construct a fire station for the Pueblo of Laguna in Cibola county;
11. fifty-eight thousand five hundred dollars (\$58,500) to plan, design and construct New Mexico highway 124 bike and pedestrian connector and safety enhancements in the Pueblo of Laguna in Cibola county;
12. two hundred forty-two thousand dollars (\$242,000) to plan and design water and wastewater systems, highway access and infrastructure improvements for the imminent construction and development of facilities at the Fort Sill Apache Tribe reservation in Luna county;
13. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, equip and install water line extensions for the Bahast'lah chapter of the Navajo Nation in McKinley county;
14. eighty-five thousand dollars (\$85,000) to plan, design and construct powerline extensions and house wiring to homes in the Coalmine area of the Fort Defiance chapter of the Navajo Nation in McKinley county;
15. two hundred twenty thousand dollars (\$220,000) to plan, design, construct, furnish and equip a multipurpose building, including demolition and removal

of an existing structure and archaeological and environmental studies, in the Mariano Lake chapter of the Navajo Nation in McKinley county;

16. one million fifty-four thousand four hundred seventy-three dollars (\$1,054,473) to plan, design, construct, furnish and equip a Navajo code talkers museum and veterans' center in the Tse Bonito area of the Navajo Nation in McKinley county;

17. six hundred seventy-five thousand dollars (\$675,000) to plan, design and construct a regional supervisory control and data acquisition system, including rights of way, for the Mariano Lake, Baca, Thoreau and Smith Lake chapters of the Navajo Nation in McKinley county;

18. one million two hundred thousand dollars (\$1,200,000) for a facility master plan for a judicial complex and for infrastructure extensions to the site in Tse Bonito in McKinley county;

19. seventy-five thousand dollars (\$75,000) to plan, design, construct, purchase, renovate, furnish and equip improvements to the Baahaali chapter house in the Navajo Nation in McKinley county;

20. fifty thousand dollars (\$50,000) to purchase and equip a vehicle for the Baahaali chapter of the Navajo Nation in McKinley county;

21. one hundred twenty-five thousand four hundred seventy-five dollars (\$125,475) to purchase and equip a maintenance backhoe for the Baca/Prewitt chapter of the Navajo Nation in McKinley county;

22. five hundred fifteen thousand dollars (\$515,000) to plan, design, construct, renovate, equip and furnish a facility for veterans in the Becenti chapter of the Navajo Nation in McKinley county;

23. forty thousand dollars (\$40,000) to plan, design and construct a community cemetery in the Casamero Lake chapter of the Navajo Nation in McKinley county;

24. three hundred seventy-three thousand five hundred dollars (\$373,500) to acquire rights of way and easements for and to plan, design and construct power line extensions, including archaeological and environmental studies, in the Casamero Lake chapter in the Navajo Nation in McKinley county;

25. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, purchase, equip and install bathroom additions in the Chichiltah chapter of the Navajo Nation in McKinley county;

26. two hundred thousand dollars (\$200,000) to purchase and equip heavy equipment, including a road grader and a haul trailer, in the Chichiltah chapter of the Navajo Nation in McKinley county;

27. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to the water system at the Coyote Canyon chapter of the Navajo Nation in McKinley county;

28. six hundred twenty thousand dollars (\$620,000) for expenditure in fiscal years 2020 through 2023 to plan, design and construct the Navajo Nation livestock, research and extension center on the Crownpoint campus of Dine college;

29. two hundred thousand dollars (\$200,000) to plan, design, construct, purchase, equip and install solar street lights in the Crownpoint chapter of the Navajo Nation in McKinley county;

30. five thousand dollars (\$5,000) to plan, design, construct, furnish and equip improvements to a veterans facility, including the purchase of a propane tank and related infrastructure, information technology and office furniture, in the Crownpoint chapter of the Navajo Nation in McKinley county;

31. one hundred eighty thousand dollars (\$180,000) to plan, design, construct, purchase and install perimeter fencing for the chapter house tract in the Iyanbito chapter of the Navajo Nation in McKinley county;

32. forty thousand dollars (\$40,000) to purchase and equip a vehicle for the Iyanbito chapter of the Navajo Nation in McKinley county;

33. one hundred thousand dollars (\$100,000) for development of a community land use master plan for the Manuelito chapter of the Navajo Nation in McKinley county;

34. sixty thousand dollars (\$60,000) to purchase and equip a motor grader for the Manuelito chapter of the Navajo Nation in McKinley county;

35. two hundred thousand dollars (\$200,000) to plan, design and construct a multipurpose building for the Mexican Springs chapter of the Navajo Nation in McKinley county;

36. three hundred eighty-two thousand five hundred dollars (\$382,500) to plan, design, construct and equip powerline/solar systems, including environmental assessments, rights of way and archaeological clearances, in the Mexican Springs chapter of the Navajo Nation in McKinley county;

37. five hundred ten thousand dollars (\$510,000) to plan, design and construct bathroom additions in the Pinedale chapter of the Navajo Nation in McKinley county;

38. one hundred ninety-five thousand dollars (\$195,000) to plan, design and construct a power line extension to the Seewald estates area in Prewitt in the Navajo Nation in McKinley county;

39. fifty thousand dollars (\$50,000) to purchase and equip road maintenance equipment for the Pueblo Pintado chapter of the Navajo Nation in McKinley county;

40. four hundred fifty thousand dollars (\$450,000) to purchase and equip vehicles for the Ramah Navajo police department in the Ramah chapter of the Navajo Nation in Cibola county;

41. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, renovate, furnish and equip improvements to the Red Rock chapter house, including the kitchen, meeting room and offices, in the Red Rock chapter of the Navajo Nation in McKinley county;

42. seventy thousand dollars (\$70,000) to purchase and equip a vehicle for the Red Rock chapter of the Navajo Nation in McKinley county;

43. five hundred nineteen thousand dollars (\$519,000) to plan, design and construct a parking lot, including solar lighting, parking barriers, curbs, drainage and fencing, at the Smith Lake chapter of the Navajo Nation in McKinley county;

44. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, renovate and improve the Smith Lake veterans center for the Smith Lake chapter of the Navajo Nation in McKinley county;

45. three hundred thirty-six thousand five hundred dollars (\$336,500) to plan, design, construct, furnish and equip a veterans service center in the Thoreau chapter of the Navajo Nation in McKinley county;

46. three hundred thousand dollars (\$300,000) to plan, design, construct, furnish and equip a warehouse for heavy equipment storage in the Tohatchi chapter of the Navajo Nation in McKinley county;

47. three hundred sixty thousand dollars (\$360,000) to plan, design and construct house wiring and powerline extensions, including easements, rights of way and archaeological and environmental studies, in the Tsa-ya-toh chapter in the Navajo Nation in McKinley county;

48. two hundred thousand dollars (\$200,000) to plan, design, construct, furnish and equip a head start building in the Tse'ii'ahi' chapter of the Navajo Nation in McKinley county;

~~[49. fifty thousand dollars (\$50,000) to plan, design, construct, furnish and equip a maintenance/patrol yard at the Whitehorse Lake chapter of the Navajo Nation in McKinley and San Juan counties;]~~ *LINE-ITEM VETO*

50. one hundred fifty thousand dollars (\$150,000) to plan, design and construct bathroom additions in the Whitehorse Lake chapter of the Navajo Nation, including the Whitehorse Lake, Rincon Marquez and Sandsprings communities, in McKinley county;

51. two hundred twenty-five thousand dollars (\$225,000) to plan, design and construct phase 2 of a fair building for the Pueblo of Zuni in McKinley county;

~~[52. thirty-six thousand five hundred twenty-five dollars (\$36,525) to plan and design a public library for the Pueblo of Zuni in McKinley county;]~~ *LINE-ITEM VETO*

53. six hundred fifty thousand dollars (\$650,000) to plan, design and construct phase 3 of the Zuni veterans' memorial visitors' center building in the Pueblo of Zuni in McKinley county;

54. two million dollars (\$2,000,000) to plan, design and construct wastewater infrastructure for a commercial development area at the Pueblo of Zuni in McKinley county;

55. two hundred twenty-five thousand dollars (\$225,000) to plan, design and construct water system and water line improvements for the Navajo Nation in San Juan and McKinley counties;

56. two million dollars (\$2,000,000) to plan, design, construct, purchase, equip and install renewable energy systems for the Navajo Nation in McKinley, San Juan and Sandoval counties;

57. one hundred forty-nine thousand two hundred six dollars (\$149,206) to plan, design, construct and renovate the Pueblo of Isleta veterans association office complex, including site improvements, in Valencia county;

58. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, furnish and equip a fire and emergency medical services facility in the Pueblo of Sandia in Sandoval county;

59. eighty-seven thousand three hundred dollars (\$87,300) to plan, design, construct, renovate and repair the tribal administrative offices, including a roof replacement, for the Mescalero Apache Tribe in Otero county;

60. six hundred fifteen thousand dollars (\$615,000) to purchase and equip ambulances and fire trucks for the Mescalero Apache Tribe in Otero county;

61. four hundred twenty-two thousand eight hundred dollars (\$422,800) to purchase and equip a bus for the head start program for the Mescalero Apache Tribe in Otero county;

62. one hundred eighty thousand dollars (\$180,000) to purchase and equip a heavy duty truck with roll-off system for the Mescalero Apache Tribe in Otero county;

63. sixty thousand dollars (\$60,000) to purchase and equip roll-off containers for the Mescalero Apache Tribe in Otero county;

64. eight hundred forty-five thousand dollars (\$845,000) to plan, design, construct, purchase, equip and install a communications tower and broadband systems for the Jicarilla Apache Nation in Rio Arriba county;

65. two hundred two thousand five hundred dollars (\$202,500) to purchase and equip a septic truck for the Jicarilla Apache Nation in Rio Arriba county;

66. three hundred eighty-two thousand five hundred dollars (\$382,500) to purchase and equip a vactor truck for septic and sewer line maintenance for the Jicarilla Apache Nation in Rio Arriba county;

~~[67. twenty-five thousand dollars (\$25,000) to plan, design and construct a water system to connect the Jicarilla Apache Nation to the Cutter lateral regional water system for the Jicarilla Apache Nation in Rio Arriba county;] LINE-ITEM VETO~~

68. one million two hundred thousand dollars (\$1,200,000) to plan, design, construct, equip and install water system improvements in Dulce in the Jicarilla Apache Nation in Rio Arriba county;

69. seven hundred fifty thousand dollars (\$750,000) for a water study to investigate and analyze the quantity and quality of water available for domestic and agricultural use for Ohkay Owingeh in Rio Arriba county;

70. eight hundred ten thousand fifty-nine dollars (\$810,059) to plan, design, construct and equip a regional outdoor recreation facility for Ohkay Owingeh in Rio Arriba county;

71. one million dollars (\$1,000,000) to plan, design and construct a storm water control system for Ohkay Owingeh in Rio Arriba county;

72. one million thirty thousand dollars (\$1,030,000) to plan, design, construct, renovate, furnish and equip a facility for a community health program in the Pueblo of Santa Clara in Rio Arriba county;

73. seven hundred twenty thousand dollars (\$720,000) to plan, design and construct improvements to the water and sewer systems in the Pueblo of Santa Clara in Rio Arriba county;

74. eight hundred fifty-five thousand dollars (\$855,000) to plan, design, construct, purchase, equip and improve the water system, including water line replacements, in the Pueblo of Santa Clara in Rio Arriba county;

75. three hundred sixty-two thousand five hundred dollars (\$362,500) to plan, design, construct, purchase, equip and install security and communications systems equipment at the Navajo preparatory school in San Juan county;

76. ninety thousand dollars (\$90,000) to plan, design and construct water lines to connect the Navajo-Gallup water supply project to the Tse Alnaozt'ii, or Sanostee, chapter in the Navajo Nation in San Juan county;

77. three million one hundred fifty thousand dollars (\$3,150,000) to demolish and remove an existing facility and to plan, design and construct a judicial/public safety complex for the police department in Shiprock in San Juan county;

78. nine hundred five thousand four hundred dollars (\$905,400) to acquire rights of way for and to plan, design and construct powerline extensions, including archaeological and environmental studies, for the Tooh Haltsooi chapter of the Navajo Nation in San Juan county;

79. four hundred thousand dollars (\$400,000) to plan, design and construct a helipad in the Beclabito chapter of the Navajo Nation in San Juan county;

80. six hundred thousand dollars (\$600,000) to plan, design, construct, furnish and equip a government complex in the Gadii'ahi/To'koi chapter of the Navajo Nation in San Juan county;

81. one hundred thousand dollars (\$100,000) to plan, design and construct a cemetery in the Huerfano chapter of the Navajo Nation in San Juan county;

82. seventy-five thousand dollars (\$75,000) to purchase and equip heavy equipment for the Lake Valley chapter of the Navajo Nation in San Juan county;

83. one hundred thousand dollars (\$100,000) to plan, design and construct powerlines in the Lake Valley chapter of the Navajo Nation in San Juan county;

84. one hundred seventy-five thousand dollars (\$175,000) to purchase and equip a road grader for the Nageezi chapter in the Navajo Nation in San Juan county;

85. one hundred thousand dollars (\$100,000) to acquire rights of way and easements, to plan and design archaeological and environmental studies and to plan, design and construct powerline extensions in the Naschitti chapter of the Navajo Nation in San Juan county;

86. one hundred seventy-five thousand dollars (\$175,000) to plan, design and construct a water line extension for the Newcomb chapter of the Navajo Nation in San Juan county;

87. three hundred fifty thousand dollars (\$350,000) to acquire easements and rights of way for and to plan, design and construct powerlines to homes on the New Mexico side of the state line in the Mitten Rock area of the Red Valley chapter of the Navajo Nation in San Juan county;

88. eighty thousand dollars (\$80,000) to plan, design and construct a community cemetery in the Tse Alnaozt'ii, or Sanostee, chapter of the Navajo Nation in San Juan county;

89. two hundred thousand dollars (\$200,000) to plan, design and construct a veterans' center in the Shiprock chapter of the Navajo Nation in San Juan county;

90. fifty thousand dollars (\$50,000) to acquire easements and to plan, design and construct a wastewater line from the Navajo utility authority system to a veterans' center in the Shiprock chapter of the Navajo Nation in San Juan county;

91. one hundred thousand dollars (\$100,000) to develop a comprehensive plan for the chapter complex in the Shiprock chapter in the Navajo Nation in San Juan county;

92. three hundred thousand dollars (\$300,000) to acquire easements and rights of way and to plan, design and construct a powerline extension south of the Tiis Tsoh Sikaad chapter of the Navajo Nation in San Juan county;

93. four hundred seventy-two thousand dollars (\$472,000) to plan, design and construct powerline extensions in the Tse'Daa'Kaan chapter of the Navajo Nation in San Juan county;

94. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, furnish, equip and install improvements, including water and sewage systems, parking lot, accessibility and infrastructure, to the Toadlena/Two Grey Hills chapter of the Navajo Nation in San Juan county;

95. one hundred thousand dollars (\$100,000) to plan, design, construct, furnish and equip improvements to a multipurpose building in the White Rock chapter of the Navajo Nation in San Juan county;

96. three hundred twenty-five thousand dollars (\$325,000) to plan, design, construct, equip and furnish improvements to the veterans building and veterans memorial park area in the White Rock chapter of the Navajo Nation in San Juan county;

97. one hundred thousand dollars (\$100,000) to plan, design and construct a multipurpose building and veterans' facility in the Rock Springs chapter of the Navajo Nation in McKinley county;

98. two hundred ninety-five thousand dollars (\$295,000) to plan, design and construct erosion control and mitigation measures for the Jicarilla Apache Nation in Sandoval county;

99. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, purchase, equip, install and furnish an early childhood development facility, including safety doors, playground equipment, site improvements and fencing, for the Pueblo of Cochiti in Sandoval county;

100. one million sixty-one thousand five hundred fifty dollars (\$1,061,550) to plan, design, renovate, equip and furnish a multi-use facility at the Pueblo of Cochiti in Sandoval county;

101. one hundred fifty thousand dollars (\$150,000) to plan, design and construct improvements to the Lybrook water system for the Counselor chapter of the Navajo Nation in Sandoval county;

102. one million three hundred thousand dollars (\$1,300,000) to plan, design, construct, equip, install and extend fiber-optic lines throughout the Pueblo of Jemez in Sandoval county;

103. two million eighty thousand dollars (\$2,080,000) to plan, design, construct, furnish and equip a head start and early childhood learning center for the Pueblo of Jemez in Sandoval county;

104. seventy-one thousand dollars (\$71,000) to plan, design, construct, furnish and equip a multipurpose facility in the Pueblo of Jemez in Sandoval county;

105. fifty thousand dollars (\$50,000) to plan, design, construct, repair and replace the stucco and roof of the Walatowa child care center in the Pueblo of Jemez in Sandoval county;

106. fifty thousand dollars (\$50,000) to purchase and install water meters at the Pueblo of Jemez in Sandoval county;

107. two hundred thousand dollars (\$200,000) to purchase equipment for the farm services program at the Pueblo of San Felipe in Sandoval county;

108. one hundred twenty thousand dollars (\$120,000) to plan, design and construct improvements to the pump house, including the emergency backup system, at the Pueblo of San Felipe in Sandoval county;

109. one million two hundred thirty-one thousand two hundred dollars (\$1,231,200) to plan, design, construct, replace and improve water lines in the Pueblo of San Felipe in Sandoval county;

110. one million three hundred eleven thousand seven hundred ninety-five dollars (\$1,311,795) to plan, design and construct the Mission Hills subdivision and park at the Pueblo of Sandia in Sandoval county;

111. one million six hundred ninety-five thousand forty-seven dollars (\$1,695,047) to plan, design and construct a solid waste transfer station for the Pueblo of Sandia in Sandoval county;

112. two hundred ninety-two thousand dollars (\$292,000) to plan, design, construct and equip water and wastewater system improvements, including a lift station, for the Pueblo of Sandia in Sandoval county;

113. three hundred sixty thousand dollars (\$360,000) to plan, design, construct, furnish and equip an education complex, including a library, for the Pueblo of Santa Ana in Sandoval county;

114. ninety thousand dollars (\$90,000) to plan, design and construct an underground electrical grid system in the traditional village of Tamaya in the Pueblo of Santa Ana in Sandoval county;

115. six hundred thirty-five thousand dollars (\$635,000) to plan, design, construct, equip, furnish and install fixtures for a public safety, judicial and social services complex for the Pueblo of Santa Ana in Sandoval county;

116. five hundred forty-five thousand dollars (\$545,000) to plan, design, construct and equip water system improvements, including a water storage tank, at the Pueblo of Santa Ana in Sandoval county;

117. fifty thousand dollars (\$50,000) to purchase and equip a backhoe for the Pueblo of Santo Domingo in Sandoval county;

118. one million two hundred thousand dollars (\$1,200,000) to plan, design, construct and improve wastewater lagoon systems for the Pueblo of Santo Domingo in Sandoval county;

119. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, equip and furnish an emergency medical service building for the Torreon-Star Lake chapter of the Navajo Nation in Sandoval county;

~~[120. fifty thousand dollars (\$50,000) to plan, design and construct a collection and wastewater treatment system at the Torreon Star Lake chapter of the Navajo Nation in Sandoval county;] LINE-ITEM VETO~~

121. one million nine hundred fifteen thousand eight hundred twenty dollars (\$1,915,820) to plan, design, construct, equip and furnish a child development center, including head start and native language instruction facilities, for the Pueblo of Zia in Sandoval county;

122. one million eight hundred eighty thousand dollars (\$1,880,000) to plan, design and construct an administration building ~~[for the economic development-cooperative]~~ at the Pueblo of Nambe in Santa Fe county; *LINE-ITEM VETO*

123. five hundred forty-three thousand dollars (\$543,000) to plan, design and construct an expansion of the health and wellness center in the Pueblo of Nambe in Santa Fe county;

124. one million two hundred sixty thousand dollars (\$1,260,000) to plan, design, construct, furnish and equip a teen center facility for the Pueblo of Nambe in Santa Fe county;

125. one hundred fifty-seven thousand five hundred dollars (\$157,500) to plan, design, construct, furnish and equip a tribal administration building for the Pueblo of Pojoaque in Santa Fe county;

126. ninety-nine thousand seven hundred fifty dollars (\$99,750) to plan, design, construct, equip and furnish an early childhood development center in the Pueblo of Pojoaque in Santa Fe county;

127. four hundred seventy thousand dollars (\$470,000) to plan, design, construct, equip, renovate, repair and make improvements to the Poeh cultural center and museum at the Pueblo of Pojoaque in Santa Fe county;

128. seven hundred thousand dollars (\$700,000) to plan, design, construct, equip, repair and upgrade the Pojoaque Pueblo wellness center in Santa Fe county;

129. five hundred forty thousand eight hundred fifty dollars (\$540,850) to plan, design, construct, equip and expand the wastewater treatment facility and to purchase and implement a supervisory control and data acquisition upgrade, in the Pueblo of Pojoaque in Santa Fe county;

130. two million sixteen thousand dollars (\$2,016,000) to plan, design and construct a museum and cultural center for the Pueblo of San Ildefonso in Santa Fe county;

131. two million fifteen thousand dollars (\$2,015,000) to plan, design and construct an irrigation system and improvements to an irrigation ditch system for the Pueblo of San Ildefonso in Santa Fe county;

132. one million forty thousand nine hundred eighty-five dollars (\$1,040,985) to plan, design and construct phase 2 of the wastewater system for the Pueblo of San Ildefonso in Santa Fe county;

133. one million ninety-five thousand dollars (\$1,095,000) to plan, design and construct phase 1 of an access lane and road improvements, including ingress and egress, curb and gutter and storm drainage, at the Santa Fe Indian school in Santa Fe in Santa Fe county;

134. twenty-five thousand dollars (\$25,000) to purchase furniture, information technology and equipment for the leadership institute at the Santa Fe Indian school in Santa Fe in Santa Fe county;

135. one hundred twenty-six thousand twenty dollars (\$126,020) to purchase and equip a wildland fire engine for the Pueblo of Tesuque in Santa Fe county;

136. five hundred thousand dollars (\$500,000) to purchase and equip a road grader for the Alamo chapter of the Navajo Nation in Socorro county;

137. seven hundred eighty-seven thousand five hundred dollars (\$787,500) to plan, design, construct and drill a new well in the Alamo chapter in the Navajo Nation in Socorro county;

138. one million eighty thousand dollars (\$1,080,000) to plan, design, construct, renovate and repair, including electrical wiring, phone lines, internet cabling, heating, ventilation and air conditioning, roofing and insulation, to the administration building at the Pueblo of Picuris in Taos county;

139. one hundred fifty thousand dollars (\$150,000) to purchase and equip heavy equipment, including a backhoe and a dump truck, for the Pueblo of Picuris in Taos county;

140. one million twelve thousand five hundred dollars (\$1,012,500) to plan, design, construct, improve, renovate, repair, equip and furnish the interpretive center in the Pueblo of Picuris in Taos county;

141. one million thirty-five thousand dollars (\$1,035,000) to plan, design, construct, repair, renovate, equip and furnish a solid waste transfer station for the Pueblo of Picuris in Taos county;

142. seven hundred eighty-seven thousand five hundred dollars (\$787,500) to plan, design, construct, replace and upgrade water systems, including water lines, in the Pueblo of Picuris in Taos county;

143. ninety thousand dollars (\$90,000) to purchase and equip farm equipment for the Pueblo of Taos in Taos county;

144. eight hundred thousand dollars (\$800,000) to plan, design, construct, preserve and renovate the historic village at the Pueblo of Taos in Taos county;

145. one million eight hundred thousand dollars (\$1,800,000) to plan, design, construct, furnish and equip a multipurpose tribal complex in the Pueblo of Taos in Taos county;

146. one hundred thousand dollars (\$100,000) to purchase and equip heavy road equipment for the Pueblo of Taos in Taos county; and

147. five hundred seventy-one thousand dollars (\$571,000) to plan, design, construct, furnish and equip a wellness center for the Pueblo of Taos in Taos county.

Chapter 277 Section 32 Laws 2019

SECTION 32. DEPARTMENT OF INFORMATION TECHNOLOGY PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the department of information technology for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act or in the items below, for the following purposes:

1. three million one hundred sixty thousand dollars (\$3,160,000) to plan, design, purchase, install and equip infrastructure to stabilize and modernize public safety radio communications, including the purchase of radios, in Hidalgo county;

2. two hundred fifty-nine thousand six hundred eighty-four dollars (\$259,684) to plan, design, construct, equip and install rural broadband services for the north central New Mexico economic development district in Rio Arriba and Santa Fe counties;

3. fifty thousand dollars (\$50,000) to plan, design, construct, furnish and equip a wi-fi system for the New Mexico rail runner express between Belen and Santa Fe, operated by the Rio Metro regional transit district in Bernalillo, Sandoval, Santa Fe and Valencia counties;

4. ten million dollars (\$10,000,000) for expenditure in fiscal years 2020 through 2023 for broadband expansion, including assessments and contracts, in rural areas statewide;

5. six million dollars (\$6,000,000) to plan, design, construct and implement an enterprise cybersecurity operation center system, including the purchase and installation of equipment, for state agencies statewide;

6. one million dollars (\$1,000,000) for expenditure in fiscal years 2020 through 2023 to the library broadband infrastructure fund for expenditure by the department of information technology for library broadband expansion and improvement statewide, including assessments and contracts, contingent upon the execution of a memorandum of understanding for use of the funds with the cultural affairs department; and

7. seven million dollars (\$7,000,000) for expenditure in fiscal years 2020 through 2023 to purchase radios and to plan, design, purchase, install, equip and implement infrastructure to stabilize and modernize public safety radio communications statewide.

Chapter 277 Section 33 Laws 2019

SECTION 33. INTERSTATE STREAM COMMISSION PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the interstate stream commission for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, for the following purposes:

1. ten thousand six hundred dollars (\$10,600) to plan, design and construct improvements to the Pajarito acequia and its laterals, including banks, pipes and headgates, for the middle Rio Grande conservancy district in Bernalillo county;

2. forty-nine thousand five hundred dollars (\$49,500) to plan, design, construct, equip and improve the water system, including the purchase and installation of headwalls, diversion gates and pumps, in the Fort Sumner irrigation district in De Baca county;
3. two hundred forty-five thousand dollars (\$245,000) to purchase and equip a motor grader for the Carlsbad irrigation district in Eddy county;
4. forty thousand five hundred dollars (\$40,500) to plan, design and construct improvements to west Puerto de Luna acequia in Guadalupe county;
5. one hundred thousand dollars (\$100,000) to plan, design, construct and install pipes for the east Puerto de Luna acequia association in Guadalupe county;
6. twenty thousand dollars (\$20,000) to plan, design, construct, purchase and install improvements to the Providencia ditch, including a dam, culverts, sluice boxes and clean-outs, in Lincoln county;
7. sixty thousand two hundred dollars (\$60,200) to plan, design and construct improvements to the Storm ditch in the Hondo area of Lincoln county;
8. seventy thousand dollars (\$70,000) to purchase and equip machinery for the acequia de la Sierra in Mora county;
9. ten thousand dollars (\$10,000) to plan, design and construct improvements, including bank stabilization and the purchase and installation of culverts, to the acequia del Rito de Diego in Mora county;
10. fifty thousand dollars (\$50,000) to plan, design and construct improvements to the ditch and to purchase equipment for the Sandoval ditch association in Mora county;
11. ten thousand dollars (\$10,000) to plan, design and construct improvements to the Morphy lake intake canal for the acequia de la Isla in Mora county;
12. eight thousand six hundred ninety-five dollars (\$8,695) to plan, design and construct improvements to the acequia de la Lomita in Santa Fe and Rio Arriba counties;
13. ten thousand dollars (\$10,000) to plan, design and construct improvements to the acequia de los Espinosa in Rio Arriba and Santa Fe counties;

14. ten thousand dollars (\$10,000) to plan, design and construct improvements to the acequia Martinez Medio in Santa Fe and Rio Arriba counties;

15. one hundred twenty-seven thousand five hundred dollars (\$127,500) to plan, design and construct improvements, including installation of pipe, replacement of headgates and widening and reconstruction of banks, to acequia de Anton Chico, acequia de Tecolotito and acequia de los Ranchitos in Guadalupe and San Miguel counties;

16. one hundred thousand dollars (\$100,000) to plan, design and construct ditch improvements for the Tularosa community ditch association in Otero county;

17. ten thousand dollars (\$10,000) to plan, design and construct improvements, including erosion control structures, to the acequia de Alcalde in Rio Arriba county;

18. seventy-five thousand dollars (\$75,000) to plan, design and construct improvements to the acequia de los Vigiles in Rio Arriba county;

19. seventy thousand dollars (\$70,000) to plan, design and construct improvements, including a diversion dam and underground pipe, for the acequia del Molino in the Petaca area in Rio Arriba county;

20. twenty thousand dollars (\$20,000) to plan, design and construct improvements for the acequia Mesa del Medio in Rio Arriba county;

21. seventy-five thousand dollars (\$75,000) to plan, design, construct, repair, replace and install improvements, including culverts, headgates and gabions, to acequia Sancochada in Rio Arriba county;

22. seventy-five thousand dollars (\$75,000) to plan, design and construct improvements to La Mesilla community ditch in Rio Arriba county;

23. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements to the MB ditch for the MB community ditch association in Rio Arriba county;

24. fifty thousand dollars (\$50,000) to purchase water to be stored in the Rio Chama irrigation reserve for use by the twenty-one member Rio de Chama acequia association during water shortages in accordance with the office of the state engineer's active water resource management program in Rio Arriba county;

25. seventy thousand dollars (\$70,000) to plan, design and construct improvements to the acequia de los Duranes in Rio Arriba county;
26. one hundred twenty-five thousand dollars (\$125,000) to plan, design and construct diversion dam improvements for the acequia de los Garcias y Duranes in the Medanales area in Rio Arriba county;
27. ten thousand dollars (\$10,000) to plan, design and construct improvements to the acequia San Rafael del Guique in Rio Arriba county;
28. ten thousand dollars (\$10,000) to plan, design and construct improvements to the acequia de Chamita in Rio Arriba county;
29. ten thousand dollars (\$10,000) to plan, design and construct improvements to the acequia de la Otro Vanda in Rio Arriba county;
30. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to the acequia del Llano in Rio Arriba county;
31. three million three hundred twenty-one thousand dollars (\$3,321,000) to plan, design, construct and equip phase 1 improvements to the Farmers mutual ditch in San Juan county;
32. thirty-five thousand dollars (\$35,000) to plan, design and construct improvements to the Turley-Manzanaras community ditch in San Juan county;
33. fifty-seven thousand dollars (\$57,000) to plan, design and construct improvements and repairs to the acequia de la Placita in and near North San Isidro in San Miguel county;
34. ten thousand dollars (\$10,000) to purchase and equip a dozer/loader for acequia de los Seguras in San Miguel county;
35. forty thousand dollars (\$40,000) to plan, design and construct improvements to the acequia de los Seguras in San Miguel county;
36. forty thousand dollars (\$40,000) to plan, design and construct improvements for the acequia de los Vecinos de los Vallecitos west in San Miguel county;
37. fifteen thousand dollars (\$15,000) to plan, design and construct improvements to the East Pecos ditch in San Miguel county;

38. forty thousand dollars (\$40,000) to plan, design and construct improvements for La Fragua Puerticito y Saiz community ditch in San Miguel county;

39. forty thousand dollars (\$40,000) to plan, design and construct improvements to Los Trigos ditch in San Miguel county;

40. thirty thousand dollars (\$30,000) to plan, design, construct and equip improvements and repairs for the Rio de la Vaca acequia in San Miguel county;

41. one hundred fifty thousand dollars (\$150,000) to plan, design and construct improvements for the Tecolote acequia association in San Miguel county;

42. sixty thousand dollars (\$60,000) to plan, design and construct improvements to acequias, including repair or replacement of a dam and a water inlet, for the West Pecos acequia association in Pecos in San Miguel county;

43. thirty-three thousand dollars (\$33,000) to plan, design and construct improvements to the acequia de la Agua Caliente in and near San Jose in San Miguel county;

44. twenty thousand dollars (\$20,000) to plan, design and construct improvements for the Northside acequia madre de Villanueva in San Miguel county;

45. one hundred twenty thousand dollars (\$120,000) to plan, design and construct phase 3 system and pipeline improvements to the Archibeque ditch in Sandoval county;

46. nineteen thousand five hundred five dollars (\$19,505) to plan, design, construct and install head gates for the Garcia Lucero acequia association in Sandoval county;

47. seventy-five thousand dollars (\$75,000) to plan, design and construct improvements for the Nacimiento community ditch association in Sandoval county;

48. fifty-three thousand dollars (\$53,000) to plan, design and construct improvements to acequia de la Cienega, including a supplemental well, in Santa Fe county;

49. one hundred thirty-three thousand two hundred dollars (\$133,200) to plan, design, construct, furnish and equip improvements and repairs to the acequia de los Ortiz de Nambe in Santa Fe county;

50. ninety thousand dollars (\$90,000) to plan, design and construct improvements to the acequia de Santa Cruz in Santa Fe county;
51. seventy-four thousand six hundred eighty-five dollars (\$74,685) to plan, design and construct improvements, including runoff diversion culverts, to acequia de Sombrillo in Santa Fe county;
52. thirty-five thousand eight hundred sixty-one dollars (\$35,861) to plan, design and construct improvements to las acequias de Chupadero in Santa Fe county;
53. seventeen thousand nine hundred forty-five dollars (\$17,945) to plan, design and construct improvements to the Teodoro y Teodora ditch in Santa Fe county;
54. forty-seven thousand nine hundred fifty dollars (\$47,950) to plan, design and construct improvements to the acequia de la Otra Banda in Santa Fe county;
55. twenty-seven thousand seven hundred fifty dollars (\$27,750) to plan, design, construct, equip, replace, repair and make improvements to the acequia de los Trujillos in Santa Fe county;
56. thirteen thousand one hundred thirty-five dollars (\$13,135) to plan, design and construct improvements to the acequia del Barranco Alto in Santa Fe county;
57. fifteen thousand dollars (\$15,000) to plan and design a diversion structure for the acequia del Molino in Santa Fe county;
58. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, equip and make improvements, including watershed restoration and fire protection, to El Guicu community ditch in Santa Fe county;
59. forty-five thousand dollars (\$45,000) to plan, design, construct, repair, rehabilitate and improve La Bajada community ditch in the La Bajada area in Santa Fe county;
60. sixty-eight thousand six hundred ninety dollars (\$68,690) to plan, design and construct improvements to the acequia de la Comunidad in Santa Fe county;
61. one hundred thousand dollars (\$100,000) to plan, design, construct and install a pipeline for the San Miguel community ditch in Sierra county;

62. fifty thousand dollars (\$50,000) to plan, design and construct improvements to the acequia de la Joya in Socorro county;

63. two million dollars (\$2,000,000) for grants to plan, design, renovate, construct and equip improvements to acequias statewide;

64. eighty thousand dollars (\$80,000) to purchase and equip an excavator for the acequia del Llano de San Miguel, the acequia de Arriba and the acequia de Abajo in Taos county;

65. thirty-seven thousand dollars (\$37,000) to plan, design and construct a diversion overflow and control system for the acequia del Monte and the acequia del Madre in Taos county;

66. one hundred thirty thousand dollars (\$130,000) to plan, design, construct and improve an irrigation reservoir, including the purchase and equipping of a vehicle to clear vegetation, for the acequia del Monte and the acequia del Madre in Taos county;

67. fifty thousand dollars (\$50,000) to plan, design, construct, furnish and equip ditch improvements for the Pilar acequia association in Taos county;

68. one hundred ten thousand dollars (\$110,000) to purchase a mini-excavator for the acequias de Chamisal y Ojito in Taos county; and

69. one hundred seventy thousand dollars (\$170,000) to plan, design and construct improvements for the Torreon acequia in Torrance county.

Chapter 277 Section 34 Laws 2019

SECTION 34. LOCAL GOVERNMENT DIVISION OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the local government division of the department of finance and administration for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, for the following purposes:

1. two million dollars (\$2,000,000) to acquire land for and to plan, design, construct, purchase and equip a route 66 visitors center in Albuquerque in Bernalillo county;

2. six hundred thousand dollars (\$600,000) to plan, design and construct phase 1 infrastructure and site improvements and to renovate facilities at Carlito Springs open space in Bernalillo county;

3. one hundred seventy thousand dollars (\$170,000) to plan, design, construct, equip and install improvements to Altamont little league fields, including fencing, turf, seating, dugout roofing, backstops and windscreens, in the north Albuquerque acres area in Bernalillo county;

4. one hundred twenty-five thousand dollars (\$125,000) to purchase and install furniture and equipment, including a forklift, a shredder and sanitation equipment, for facilities and programs at a community development and assistance agency in Bernalillo county;

5. one hundred seventy-five thousand dollars (\$175,000) to acquire property for a Crestview bluffs open space area and to match funds for a national park service land and water conservation fund grant for the purchase of Crestview bluffs in Bernalillo county;

6. five hundred thousand dollars (\$500,000) to acquire land for and to plan, design, construct, equip and furnish an aquatic facility in the North Valley in Bernalillo county;

7. three hundred fifty thousand dollars (\$350,000) to plan, design, construct, equip and furnish phase 2 improvements, including physically connecting the community center and the pool, in the Paradise Hills community center in Bernalillo county;

8. five hundred thirty-one thousand six hundred forty-seven dollars (\$531,647) to plan, design, construct, equip and furnish phase 1 site improvements, including paving, drainage, trees, irrigation and landscaping, to the common areas between fields for the Paradise Hills little league in Bernalillo county;

9. two hundred thirty-four thousand dollars (\$234,000) to purchase body armor and equipment for active shooter situations for the Bernalillo county sheriff's department in Bernalillo county;

~~[10. two hundred thirty thousand dollars (\$230,000) to purchase land for and to plan, design, construct, renovate and equip a public safety complex, including a training facility and helicopter hangar, for the sheriff's office in Bernalillo county;]~~ *LINE-ITEM VETO*

11. three hundred sixty thousand dollars (\$360,000) to purchase and equip vehicles for the sheriff's office in Bernalillo county;

~~[12. thirteen thousand dollars (\$13,000) to plan, design and construct improvements, including infrastructure, outdoor fields, parking, site improvements and phase 1 of an indoor recreational facility, at the Swede Scholer recreational complex in Bernalillo county;]~~ *LINE-ITEM VETO*

13. one hundred thousand dollars (\$100,000) to plan, design, construct and equip improvements, including cricket pitches, batting cages, trails and a concession stand, to Tom Tenorio park in Bernalillo county;

14. seventy-five thousand dollars (\$75,000) to plan, design, construct, equip and furnish a boxing, wrestling and martial arts gym at the West Side community center in Bernalillo county;

15. one million one hundred eighty-five thousand dollars (\$1,185,000) to acquire land for and to plan, design, construct and equip a fire station on the west side of Bernalillo county;

16. one hundred thirty-five thousand dollars (\$135,000) to purchase and equip vehicles for a youth employment and workforce development project in Bernalillo county;

17. four hundred seven thousand dollars (\$407,000) to plan, design, purchase, construct, equip, furnish and install improvements and an addition, including an entry area, medical hold area and visitors' center, for the county youth services center in Bernalillo county;

18. five hundred fifty-five thousand dollars (\$555,000) to plan, design, construct, equip and furnish improvements, including a bath house, locker room, parking lot, site improvements and drainage, at the South Valley aquatics facility at Rio Bravo park in Bernalillo county;

19. five hundred sixty thousand dollars (\$560,000) to plan, design, construct, furnish and equip buildings and infrastructure at the South Valley commons in Bernalillo county;

20. eighty thousand dollars (\$80,000) to plan, design, purchase, construct and install access control gates for ditches and acequias in the South Valley area of Bernalillo county;

21. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, furnish and equip improvements to the South Valley economic development center in Bernalillo county;

22. four hundred thirty thousand dollars (\$430,000) to plan, design, demolish and construct a phased redevelopment and replacement of buildings and facilities for a family services program in the South Valley in Bernalillo county;

23. two hundred sixty thousand dollars (\$260,000) to plan, design, purchase, construct and equip improvements for the South Valley little league and soccer club, including parking, drainage and a trail, at Rio Bravo park in Bernalillo county;

24. two hundred thousand dollars (\$200,000) to plan, design and construct the multi-use Alameda Drain trail and bridge in Albuquerque in Bernalillo county;

~~[25. twenty thousand dollars (\$20,000) to conduct a feasibility study for a public multi-use trail along the Alameda drain from interstate 40 to the Albuquerque BioPark in Albuquerque in Bernalillo county;]~~ *LINE-ITEM VETO*

26. fifty thousand dollars (\$50,000) to plan, design and construct improvements to the Alameda little league complex in Albuquerque in Bernalillo county;

27. one hundred thousand dollars (\$100,000) to plan, design, construct and renovate fencing for the Alameda little league in Albuquerque in Bernalillo county;

28. eighty thousand dollars (\$80,000) to plan, design, construct, renovate and equip improvements to Alvarado park in Albuquerque in Bernalillo county;

29. ninety thousand dollars (\$90,000) to plan and design a permanent exhibit to commemorate the fiftieth anniversary of the Albuquerque international balloon fiesta at the Anderson-Abruzzo Albuquerque international balloon museum in Albuquerque in Bernalillo county;

30. one hundred thousand dollars (\$100,000) to plan, design, construct, improve and equip sand traps and tee boxes at Arroyo del Oso golf course in Albuquerque in Bernalillo county;

31. five hundred seven thousand dollars (\$507,000) to plan, design and construct a shelter for victims of domestic violence and survivors of sexual assault among the Asian and Pacific Islander population in Albuquerque in Bernalillo county;

32. seven thousand dollars (\$7,000) to purchase tools and equipment for a community bicycle recycling program in the Atrisco community and southwest area of Albuquerque in Bernalillo county;

33. seven million five hundred thousand dollars (\$7,500,000) to acquire rights of way and to plan, design and construct improvements to Balloon Fiesta park access[, including a new rail spur and stop, slip ramp and parking lot,] in Albuquerque in Bernalillo county; *LINE-ITEM VETO*

34. twenty thousand dollars (\$20,000) to purchase equipment for a community garden in the Barelvas area of Albuquerque in Bernalillo county;

35. sixteen million seven hundred ninety-two thousand forty-three dollars (\$16,792,043) to plan, design, construct, purchase and install regional emergency communications infrastructure for Albuquerque and Bernalillo county;

36. one hundred ten thousand dollars (\$110,000) to plan, design, construct, improve and equip the Candelaria nature preserve in Albuquerque in Bernalillo county;

37. three hundred thousand dollars (\$300,000) to acquire land for and to plan, design, construct and equip improvements to the Candelaria nature preserve in Albuquerque in Bernalillo county;

38. six hundred thousand dollars (\$600,000) to plan, design and construct phase 1 of the Cibola loop community complex, including a library and multigenerational center, in Albuquerque in Bernalillo county;

39. fifty thousand dollars (\$50,000) to plan, design, construct and equip solar lighting at City View park in Albuquerque in Bernalillo county;

40. seventy-five thousand dollars (\$75,000) to plan, design, construct, purchase, equip and install improvements, including heating, ventilation and air conditioning systems, at a community dental program in Albuquerque in Bernalillo county;

~~[41. one hundred twenty five thousand dollars (\$125,000) to plan, design and purchase equipment and facilities for a multipurpose center to support community media and access to training, production and programming services for access television and a low power FM radio station serving the greater Albuquerque area in Bernalillo county;] *LINE-ITEM VETO*~~

42. three hundred thousand dollars (\$300,000) to purchase rights of way and to plan, design and construct a multi-use trail along Copper avenue adjacent to the Los Altos golf course in Albuquerque in Bernalillo county;

43. three hundred sixty thousand five hundred dollars (\$360,500) to acquire property and to plan, design and construct an urban green space along the Crestview bluff area off the Arenal drain from west Central avenue to Bridge boulevard both within and outside the city limits of Albuquerque in Bernalillo county;

44. two hundred thousand dollars (\$200,000) to plan, design, construct and equip an inclusive park in Albuquerque in Bernalillo county;

45. three hundred seventy-five thousand dollars (\$375,000) to plan, design, purchase and construct a day shelter and behavioral health services center in Albuquerque in Bernalillo county;

46. forty-five thousand four hundred dollars (\$45,400) to plan, design and construct batting cages at the Eastdale little league facilities in Albuquerque in Bernalillo county;

47. nine thousand dollars (\$9,000) to plan, design and construct concession stands at the Eastdale little league facilities in Albuquerque in Bernalillo county;

48. one hundred sixty-six thousand nine hundred dollars (\$166,900) to plan, design and construct permanent restrooms at the Eastdale little league facility in Albuquerque in Bernalillo county;

49. one hundred ninety thousand dollars (\$190,000) to plan, design, construct, purchase, equip and install improvements to Eisenhower pool, including roofing, deck and shade structures, in Albuquerque in Bernalillo county;

50. fifty thousand dollars (\$50,000) to plan, design, construct, equip and install electronic digital display signs in Albuquerque in Bernalillo county;

51. two hundred thousand dollars (\$200,000) to plan, design, construct, preserve and improve the Elena Gallegos open space in Albuquerque in Bernalillo county;

52. nine hundred eighty-five thousand dollars (\$985,000) to plan, design, construct, furnish and equip an emergency shelter for people experiencing homelessness in Albuquerque in Bernalillo county;

53. one million five hundred sixty-five thousand dollars (\$1,565,000) to plan, design, construct and equip phase 1B of the cradle through career science, technology, engineering and mathematics learning campus, including design, construction, purchase and installation of exhibits, furnishings, equipment, information technology and related infrastructure, at the Explora science center and children's museum in Albuquerque in Bernalillo county;

54. one hundred fifteen thousand dollars (\$115,000) to purchase and equip a vehicle and to upgrade facilities and purchase equipment for a specialized family services program in Albuquerque in Bernalillo county;

55. seven hundred fifty thousand dollars (\$750,000) to plan, design, construct and repair the Albuquerque fire rescue training academy drill field in Albuquerque in Bernalillo county;

56. one million four hundred thousand dollars (\$1,400,000) to purchase and equip an emergency response aerial platform apparatus for the fire rescue department in Albuquerque in Bernalillo county;

57. three hundred thousand dollars (\$300,000) to purchase and equip a fire engine for Albuquerque fire rescue in Albuquerque in Bernalillo county;

58. seven hundred thousand dollars (\$700,000) to purchase and equip a hazardous materials squad vehicle for the fire rescue department in Albuquerque in Bernalillo county;

~~[59. thirty thousand four hundred thirty-three dollars (\$30,433) to purchase and equip an advanced life support transport unit for Albuquerque fire rescue in Bernalillo county;]~~ *LINE-ITEM VETO*

60. one million five hundred thousand dollars (\$1,500,000) to purchase and equip safety improvements and to upgrade firefighting protective gear for the fire rescue department in Albuquerque in Bernalillo county;

61. one hundred sixty thousand dollars (\$160,000) to purchase land and rights of way and to plan, design, develop, construct, upgrade and equip phase 1 of fire station 12 in Albuquerque in Bernalillo county;

62. one hundred thirty thousand forty-seven dollars (\$130,047) to plan, design, construct and replace drive pads at fire stations in Albuquerque in Bernalillo county;

63. two hundred ninety thousand dollars (\$290,000) to acquire land for and to plan, design, construct, furnish, equip and install equipment for a commercial kitchen and food business incubator in Albuquerque in Bernalillo county;

64. twenty thousand dollars (\$20,000) to plan, design, construct, furnish and equip a covered accessible bus stop at Golf Course road serving southbound commuter route 92 at Homestead trail in Albuquerque in Bernalillo county;

65. fifty thousand dollars (\$50,000) to purchase, equip and install solar lighting for Holiday park in Albuquerque in Bernalillo county;

66. eight hundred twenty-three thousand eight hundred ninety-eight dollars (\$823,898) to plan, design, construct and renovate a facility for the Holocaust and Intolerance museum in Albuquerque in Bernalillo county;

67. one hundred forty-five thousand dollars (\$145,000) to purchase and equip a bus and to plan, design and construct improvements, including a kitchen, a classroom, a wellness center and security features, for a facility for homeless children in Albuquerque in Bernalillo county;

68. two hundred twenty thousand dollars (\$220,000) to purchase and equip a vehicle to provide outreach and health services to people experiencing homelessness in Albuquerque in Bernalillo county;

69. ninety-five thousand dollars (\$95,000) to furnish, equip and purchase information technology for a flamenco institute headquarters in Albuquerque in Bernalillo county;

70. one million nine hundred sixteen thousand dollars (\$1,916,000) to plan, design, construct, furnish and equip a library and related infrastructure and site improvements in the International district of Albuquerque in Bernalillo county;

71. forty-eight thousand dollars (\$48,000) to plan, design and construct a playground at Jade park in Albuquerque in Bernalillo county;

72. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, renovate, furnish, equip and install phase 3 improvements, including a basketball court, to the Joan Jones community center in Albuquerque in Bernalillo county;

73. two hundred thousand dollars (\$200,000) to acquire property for and to plan, design, construct and equip phase 2 of Juan Tabo hills park in Albuquerque in Bernalillo county;

74. two hundred twenty-five thousand dollars (\$225,000) to plan, design, construct, renovate, expand, furnish and equip improvements to the Juan Tabo library in Albuquerque in Bernalillo county;

75. sixty thousand dollars (\$60,000) to plan, design, purchase, construct, improve and install lighting at Kirtland park in Albuquerque in Bernalillo county;

76. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, equip and install improvements to Ladera golf course, including the driving range and patio, in Albuquerque in Bernalillo county;

77. one hundred eighty thousand dollars (\$180,000) to plan, design and construct accessible bathroom facilities, walkways and other site improvements, including lighting, shade structures and the purchase of a field tractor, for Lobo little league facilities in Albuquerque in Bernalillo county;

78. one hundred seventy-five thousand dollars (\$175,000) to plan, design, construct, equip and install improvements to Martineztown park, including High street site improvements and Camino Real trail improvements, in Albuquerque in Bernalillo county;

79. two hundred fifty-nine thousand dollars (\$259,000) to purchase and equip a cab-chassis for the Albuquerque metropolitan arroyo flood control authority in Albuquerque in Bernalillo county;

80. four hundred eighty-one thousand three hundred seventy dollars (\$481,370) to plan, design and construct improvements to the fields and infrastructure for Mile High little league in Albuquerque in Bernalillo county;

81. two hundred sixty thousand dollars (\$260,000) to plan, design, construct, renovate, purchase, equip and install improvements to Montgomery park, including irrigation and forestry, in Albuquerque in Bernalillo county;

~~82. fifty thousand dollars (\$50,000) to acquire land and rights of way for and to plan, design, construct and equip a multigenerational center on the northwest side of Albuquerque in Bernalillo county;~~ *LINE-ITEM VETO*

83. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, furnish and equip an aquatics center in north Domingo Baca park in Albuquerque in Bernalillo county;
84. forty-eight thousand five hundred dollars (\$48,500) to plan, design and construct improvements, including resurfacing, at the north Domingo Baca dog park in Albuquerque in Bernalillo county;
85. three hundred thousand dollars (\$300,000) to plan, design and construct a parking lot for the north Domingo Baca multigenerational center and park in Albuquerque in Bernalillo county;
86. eight hundred thousand dollars (\$800,000) to plan, design and construct a splash pad at the north Domingo Baca multigenerational center in Albuquerque in Bernalillo county;
87. one hundred forty-seven thousand four hundred dollars (\$147,400) to plan, design and construct a bocce court at north Domingo Baca park in Albuquerque in Bernalillo county;
88. one hundred thirty thousand dollars (\$130,000) to plan, design, construct and equip improvements to a multipurpose building in the north valley of Albuquerque in Bernalillo county;
89. one hundred twenty thousand dollars (\$120,000) to plan, design, construct, purchase and install lighting in multiple neighborhoods in Albuquerque in Bernalillo county;
90. six hundred fifteen thousand one hundred sixty-six dollars (\$615,166) to acquire land for and to plan, design, construct, preserve, expand, improve and equip a plaza and mixed-use facilities, including infrastructure, for the Nuevo Atrisco project in the west Central metropolitan redevelopment area in Albuquerque in Bernalillo county;
91. one hundred forty-five thousand dollars (\$145,000) to purchase and install equipment and furnishings, including sound and audiovisual systems, seating, lighting, musical instruments and furniture, for a performance and art space in Albuquerque in Bernalillo county;
92. one hundred eleven thousand six hundred thirty-six dollars (\$111,636) to plan, design, construct, furnish and equip accessibility improvements to

Petroglyph little league park, including a parking lot, walkways and bleachers, in Albuquerque in Bernalillo county;

93. one hundred six thousand six hundred sixty-six dollars (\$106,666) to plan, design, construct, purchase, equip and install lighting, including poles and foundations, at Petroglyph little league park in Albuquerque in Bernalillo county;

94. two hundred forty-five thousand five hundred dollars (\$245,500) to plan, design and construct a little league field with all appurtenances for the Petroglyph little league at Mariposa Basin park in Albuquerque in Bernalillo county;

95. twenty-five thousand dollars (\$25,000) to plan, design, construct, equip and install metal shade structures for Petroglyph little league park in Albuquerque in Bernalillo county;

96. eighty-six thousand ninety-one dollars (\$86,091) to plan, design, construct, purchase, furnish and equip Piedras Marcadas park, including phase 2 site improvements, in Albuquerque in Bernalillo county;

97. one hundred thousand dollars (\$100,000) to purchase and equip marked and unmarked vehicles for the Albuquerque police department in Albuquerque in Bernalillo county;

98. six hundred ten thousand dollars (\$610,000) to plan, design, purchase, equip and install improvements to crime-fighting technology, including information technology and automobile anti-theft monitoring devices, for the police department in Albuquerque in Bernalillo county;

99. one hundred fifty thousand dollars (\$150,000) to plan, design, purchase, equip and install improvements to crime-fighting technology, including information technology and bomb squad equipment, for the police department in Albuquerque in Bernalillo county;

100. one million thirty-two thousand dollars (\$1,032,000) to plan, design, purchase, equip and install improvements to crime-fighting technology, including information technology and automation of the DNA section, for the police department in Albuquerque in Bernalillo county;

101. three hundred thousand dollars (\$300,000) to plan, design, purchase, equip and install improvements to crime-fighting technology, including information technology and a gun intelligence center, for the police department in Albuquerque in Bernalillo county;

102. one million five hundred twenty thousand dollars (\$1,520,000) to plan, design, purchase, equip and install improvements to crime-fighting technology, including information technology and a gunshot detection system, for the police department in Albuquerque in Bernalillo county;

103. one hundred thirty-five thousand dollars (\$135,000) to plan, design and equip construction of outdoor public murals in Albuquerque in Bernalillo county;

104. fifty-one thousand seven hundred fifty dollars (\$51,750) to plan, design, construct, equip and install improvements to the playground at Quintessence park in Albuquerque in Bernalillo county;

105. seven million five hundred thousand dollars (\$7,500,000) to plan, design, construct, renovate and equip improvements to the rail yards, including environmental remediation, paving, roofing and safety improvements, in Albuquerque in Bernalillo county;

106. two hundred forty thousand dollars (\$240,000) to plan, design, purchase, construct, replace and install a lighting system at Roadrunner little league baseball fields in Albuquerque in Bernalillo county;

107. fifty thousand dollars (\$50,000) to plan, design, construct and install route 66 signage at the Central avenue and Lomas boulevard intersection area in Albuquerque in Bernalillo county;

108. seventy thousand dollars (\$70,000) to plan, design, develop, construct and equip the Sandia Vista dog park in southeast Albuquerque in Bernalillo county;

109. three hundred fifty-nine thousand one hundred sixty-six dollars (\$359,166) to plan, design, construct, demolish, renovate, expand, furnish and equip a police substation in the southeast area of Albuquerque in Bernalillo county;

110. two hundred fifty thousand dollars (\$250,000) for a feasibility study and to develop and purchase identified lands and to plan, design, construct, purchase, equip and install interpretive signage for the Singing Arrow-San Miguel de Carnuel archaeological site LA 12315 in Albuquerque in Bernalillo county;

111. one hundred five thousand dollars (\$105,000) to plan, design, construct, furnish and equip a driver's room at the Spanish Bit transit station in Albuquerque in Bernalillo county;

112. one hundred sixty thousand dollars (\$160,000) to plan, design, construct and equip improvements, including shade structures, to Sunrise Terrace park in Albuquerque in Bernalillo county;

113. fifty thousand dollars (\$50,000) to plan, design, construct and equip solar lighting at Supper Rock park in Albuquerque in Bernalillo county;

~~[114. fifty thousand dollars (\$50,000) to purchase, restore and conserve land in the Tijeras biozone in Albuquerque in Bernalillo county;]~~ *LINE-ITEM VETO*

115. five hundred ninety-five thousand dollars (\$595,000) to plan, design, construct, renovate and equip site improvements, including perimeter fencing, to the tiny home village site for the homeless in the International district of Albuquerque in Bernalillo county;

116. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase and equip improvements to Valley Gardens park in Albuquerque in Bernalillo county;

117. four hundred ninety thousand dollars (\$490,000) to plan, design, construct, furnish and equip a bicycle repair education facility in Villela park in Albuquerque in Bernalillo county;

118. three hundred thousand dollars (\$300,000) to plan, design and construct phase 3 of Vista del Norte park in Albuquerque in Bernalillo county;

119. two hundred seven thousand dollars (\$207,000) to acquire land for and to plan, design and construct infrastructure improvements in the west Central avenue area for the west Central metropolitan redevelopment district in Albuquerque in Bernalillo county;

120. two hundred forty thousand dollars (\$240,000) to purchase property for the development of a park near the Wells Park community center in Albuquerque in Bernalillo county;

121. one million eight hundred five thousand nine hundred thirty-three dollars (\$1,805,933) to acquire land and rights of way for and to plan, design, construct, furnish and equip an indoor sports complex in the west side area of Albuquerque in Bernalillo county;

122. one hundred seventy thousand dollars (\$170,000) to acquire land for and to plan, design, construct, purchase, equip and furnish the Westgate community center in Albuquerque in Bernalillo county;

123. one hundred thousand dollars (\$100,000) to acquire land for and to plan, design, construct and equip the Westgate little league complex in Albuquerque in Bernalillo county;

124. one hundred seventy-one thousand five hundred forty-eight dollars (\$171,548) to plan, design, construct, expand and make improvements, including for code compliance, to the Wheels museum in Albuquerque in Bernalillo county;

125. five hundred thousand dollars (\$500,000) to plan, design, construct and equip a women's memorial park at Amole mesa and 118th street sw in Albuquerque in Bernalillo county;

126. one hundred seventy-five thousand dollars (\$175,000) to plan, design, construct and equip a living facility for youth in transition in Albuquerque in Bernalillo county;

127. one hundred twenty thousand dollars (\$120,000) to plan, design, construct, purchase, equip and install improvements to Zia little league facilities in Albuquerque in Bernalillo county;

128. one hundred twenty-five thousand dollars (\$125,000) to plan, design, repair and construct a roof system at the Albuquerque museum in Albuquerque in Bernalillo county;

129. eight hundred thirty-five thousand dollars (\$835,000) to plan, design, renovate, construct, furnish and equip office space, a pump house, a pool house and related facilities, including demolition, site improvements, utility infrastructure, water and septic systems, the purchase and installation of security cameras and a security system and improvements to the parking lot and landscaping, at a transitional living center in Albuquerque in Bernalillo county;

130. fifty thousand dollars (\$50,000) to purchase, equip and install solar lighting for Don Juan de Onate park in Albuquerque in Bernalillo county;

131. sixty-eight thousand dollars (\$68,000) to plan, design, construct, install and equip a recreational vehicle park on the common lands of the Canon de Carnue land grant-merced in Bernalillo county;

132. two hundred fifty thousand dollars (\$250,000) to plan, design, construct and equip improvements and repairs to an agriculture education facility in Los Ranchos de Albuquerque in Bernalillo county;

133. one hundred twenty-five thousand dollars (\$125,000) to purchase and equip a brush fire truck in Tijeras in Bernalillo county;

~~134. sixty thousand dollars (\$60,000) to plan, design, construct, repair and upgrade the roof for the sheriff's department in Catron county;~~ *LINE-ITEM VETO*

135. sixty thousand dollars (\$60,000) to purchase and equip a vehicle for the sheriff's department in Catron county;

136. two hundred fifty thousand dollars (\$250,000) to purchase and equip vehicles and to plan, design, construct, furnish and equip a shed for Catron county;

137. fifty thousand dollars (\$50,000) to plan, design, construct, renovate, furnish and equip improvements to parks in Reserve in Catron county;

138. four hundred fifty thousand dollars (\$450,000) to plan, design, purchase, repair and replace windows and for the replacement of historic windows in the Chaves county courthouse in Chaves county;

139. one hundred fifty thousand dollars (\$150,000) to plan, design, construct and equip a walking and exercise trail at the Chaves county complex in Roswell in Chaves county;

140. four hundred thousand dollars (\$400,000) to purchase and equip a water tank truck for the Sierra volunteer fire department in Chaves county;

141. forty thousand dollars (\$40,000) to purchase and equip a vehicle for the southeastern New Mexico economic development district in Chaves county;

142. two hundred eighty-eight thousand seven hundred fifty dollars (\$288,750) to plan, design, purchase, construct and install floating docks at lake Van in Dexter in Chaves county;

143. forty-two thousand dollars (\$42,000) to purchase and equip a heavy-duty vehicle for Hagerman in Chaves county;

144. sixty thousand dollars (\$60,000) to purchase and equip a heavy-duty truck for Lake Arthur in Chaves county;

145. fifty thousand dollars (\$50,000) to purchase and equip a truck for Lake Arthur in Chaves county;
146. three hundred thousand dollars (\$300,000) to purchase and equip a combination vacuum and jetter truck for Lake Arthur in Chaves county;
147. one hundred thousand dollars (\$100,000) to purchase and equip wheelchair-accessible vans for the southeast New Mexico veterans transportation network in Chaves county;
148. four hundred fifty thousand dollars (\$450,000) to plan, design, construct, purchase, furnish, equip and install improvements to Carpenter park, including a splash pad aquatic feature and related equipment, sidewalk improvements, benches and safety equipment, in Roswell in Chaves county;
149. five hundred sixteen thousand dollars (\$516,000) to plan, design, construct, purchase, renovate and improve the McBride veterans cemetery in Roswell in Chaves county;
150. three hundred thousand dollars (\$300,000) to purchase and equip heavy equipment, including a skidsteer, for Cibola county;
151. one hundred eighty-four thousand dollars (\$184,000) to purchase and equip vehicles for the police department in Grants in Cibola county;
152. one hundred forty thousand dollars (\$140,000) to purchase and equip vehicles and a pavement roller for the streets in Grants in Cibola county;
153. three hundred seventy-two thousand dollars (\$372,000) to plan, design, construct, equip and make improvements to Kearns field to comply with the federal Americans with Disabilities Act of 1990 in Milan in Cibola county;
154. two hundred twenty-five thousand dollars (\$225,000) to purchase and equip police vehicles for Milan in Cibola county;
155. three hundred thousand dollars (\$300,000) to plan, design, construct and equip a wastewater treatment facility in Milan in Cibola county;
156. two hundred forty-five thousand dollars (\$245,000) to purchase and equip vehicles for the sheriff's department in Colfax county;

157. two million fifty thousand dollars (\$2,050,000) to plan, design, construct and equip a health care and ambulance clinic and related infrastructure for the south central Colfax county special hospital district in Colfax county;

158. one hundred ten thousand dollars (\$110,000) to purchase and equip an ambulance in Angel Fire in Colfax county;

159. seventy thousand dollars (\$70,000) to acquire property for and to plan, design and construct improvements, including accessibility, to the village hall in Cimarron in Colfax county;

160. one hundred fifty thousand dollars (\$150,000) to plan, design and construct improvements, including sidewalk soil restoration, to Enchanted Eagle park in Eagle Nest in Colfax county;

161. fifty thousand dollars (\$50,000) to purchase and equip vehicles, including information technology and surveillance systems, for the police department in Raton in Colfax county;

162. two hundred thousand dollars (\$200,000) to purchase and equip public works equipment, including a backhoe, dump truck, mowers, ice control spreaders and an asphalt hotbox, in Raton in Colfax county;

163. four hundred thousand dollars (\$400,000) to plan, design and construct a building for the volunteer fire department in the Ranchvale fire district in Curry county;

164. fifty thousand dollars (\$50,000) to plan, design, construct and install improvements to lighting at a food bank for eastern New Mexico in Clovis in Curry county;

165. one hundred fifty thousand dollars (\$150,000) to plan, design and construct improvements, including paving, to streets and parking lots at a food bank for eastern New Mexico in Clovis in Curry county;

166. two hundred fifty thousand dollars (\$250,000) to plan, design, remove and replace the roof on La Casa family health center in Clovis in Curry county;

167. five hundred seventy-five thousand dollars (\$575,000) to plan, design and construct a parking lot, including demolition and disposal of existing structures, on Main street in Clovis in Curry county;

168. one hundred thousand dollars (\$100,000) to plan, design and construct a mainstreet district site, lighting and sidewalk improvements, including the purchase and installation of public art, in downtown Clovis in Curry county;

169. two hundred fifty thousand dollars (\$250,000) to purchase property and to demolish, plan, design and construct a parking area in the railroad district in Clovis in Curry county;

170. one hundred sixty-five thousand dollars (\$165,000) to plan, design and construct improvements to parking lots at the Curry county events center and fairgrounds in Clovis in Curry county;

171. thirty thousand dollars (\$30,000) to plan, design, construct, purchase and install improvements, including heating, ventilation and air conditioning systems, to city hall in Melrose in Curry county;

172. sixteen thousand dollars (\$16,000) to plan, design, renovate, construct and make improvements to the De Baca county courthouse, including the steps, in Fort Sumner in De Baca county;

173. five hundred thousand dollars (\$500,000) to plan, design and construct phase 1 of a jail and administrative facility in Fort Sumner in De Baca county;

174. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, renovate, furnish and equip hangars and buildings to be used for economic development at the airport in Fort Sumner in De Baca county;

175. one hundred fifty thousand dollars (\$150,000) to purchase and equip an ambulance for the ambulance service in Fort Sumner in De Baca county;

176. two hundred twenty-five thousand dollars (\$225,000) to plan, design, construct, purchase, equip and install improvements to a baseball park in Dona Ana in Dona Ana county;

177. forty thousand dollars (\$40,000) to plan, design, purchase, construct and install improvements to restrooms at Butterfield community park in Dona Ana county;

178. forty thousand dollars (\$40,000) to plan, design, purchase, construct and equip improvements to East Mesa park/ballpark in Dona Ana county;

179. five hundred thousand dollars (\$500,000) to plan, design and construct improvements to the Dona Ana county fire and emergency services station, including living quarters, bathrooms and an apparatus bay, in Dona Ana county;

180. two hundred twenty-five thousand dollars (\$225,000) to plan, design, construct, replace, purchase, equip and install a microwave radio network and VoIP communications system in the Chaparral area of Dona Ana county;

181. two hundred fifty thousand dollars (\$250,000) to acquire property for and to plan, design, construct and equip a multigenerational facility and outdoor recreation area in Anthony in Dona Ana county;

182. two hundred thousand dollars (\$200,000) to acquire property for and to plan, design, construct and equip a transit bus facility for the south central regional transit district in Anthony in Dona Ana county;

183. sixty-nine thousand dollars (\$69,000) to plan, design, construct, purchase and install improvements, including playground equipment, to a park in Berino in Dona Ana county;

184. five hundred fifty thousand dollars (\$550,000) to acquire land for and to plan, design, construct, furnish and equip an office and community facility for the Chamberino mutual domestic water consumers and sewer association in Dona Ana county;

185. five hundred thousand dollars (\$500,000) to conduct a feasibility study and to develop an implementation schedule to plan, design and construct a sports complex at Delores Wright park, including the replacement of existing fields and the addition of basketball courts, a dirt bike track, a splash pad and permanent multi-use tables, in Chaparral in Dona Ana county;

186. one hundred twenty-four thousand dollars (\$124,000) to plan, design, purchase, construct and equip improvements at the Betty McKnight community center in Chaparral in Dona Ana county;

187. sixty thousand dollars (\$60,000) to plan, design, construct, purchase, equip and install improvements at the Dona Ana community center in Dona Ana county;

~~[188. fifteen thousand dollars (\$15,000) to plan and design a downtown park in Hatch in Dona Ana county;]~~ *LINE-ITEM VETO*

189. forty thousand dollars (\$40,000) to plan, design, furnish, equip and install improvements to the Hatch library, including the roof, in Dona Ana county;

190. fifty thousand dollars (\$50,000) to plan, design, construct, purchase, equip and install improvements at a baseball park in La Mesa in Dona Ana county;

191. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, equip and furnish improvements to the Amador hotel in Las Cruces in Dona Ana county;

192. one million dollars (\$1,000,000) to acquire rights of way and to plan, design, construct, improve, purchase and install signage, street lighting and infrastructure in the Las Cruces arts and cultural district in Las Cruces in Dona Ana county;

193. nine hundred fifty-three thousand three hundred forty-two dollars (\$953,342) to plan, design and construct a behavioral health facility in Las Cruces in Dona Ana county;

194. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, purchase and install phase 2 improvements, including structural stabilization and security systems, at the Branigan cultural center in Las Cruces in Dona Ana county;

195. seven hundred fifty thousand dollars (\$750,000) to plan, design, construct, furnish and equip a children's museum in Las Cruces in Dona Ana county;

196. four hundred forty-five thousand dollars (\$445,000) to plan, design, construct, furnish and equip a dental facility, including site preparation, sidewalks, lighting, security and a sustainable energy system, at the Mesilla valley community of hope campus in Las Cruces in Dona Ana county;

197. twenty-five thousand dollars (\$25,000) to plan, design, construct, purchase and install a flooring system at the Mesilla Valley community of hope campus in Las Cruces in Dona Ana county;

198. six hundred twenty-nine thousand dollars (\$629,000) to plan, design, construct, furnish and equip a facility for food storage and distribution, including offices for an emergency food program, at the Mesilla Valley community of hope campus in Las Cruces in Dona Ana county;

199. seven hundred thousand dollars (\$700,000) to plan, design, purchase, equip and install a digital communication system, including encryption and internet protocol capabilities, for the fire department in Las Cruces in Dona Ana county;

200. three hundred thousand dollars (\$300,000) to purchase personal protective equipment and related infrastructure and equipment for the fire department in Las Cruces in Dona Ana county;

201. one million one hundred thousand dollars (\$1,100,000) to plan, design, construct, purchase, equip and install improvements to the Las Cruces international airport and related infrastructure in Dona Ana county;

202. three hundred fifty thousand dollars (\$350,000) to plan, design, construct, purchase, equip and install improvements, including lighting, security cameras and information technology, for parks, plazas and parking lots in Las Cruces in Dona Ana county;

203. two million dollars (\$2,000,000) to plan, design, construct and equip a parking garage in Las Cruces in Dona Ana county;

204. one hundred fifty thousand dollars (\$150,000) to purchase and equip public safety vehicles, including the purchase and installation of mobile data terminals, for the police department in Las Cruces in Dona Ana county;

205. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, equip and install solar panels for the Mesilla Valley regional dispatch authority facility in Las Cruces in Dona Ana county;

206. one hundred thirty-two thousand one hundred thirty dollars (\$132,130) to conduct environmental and archaeological studies for and to plan, design, construct, purchase and equip La Llorona trail in Mesilla in Dona Ana county;

207. fifty thousand dollars (\$50,000) to purchase equipment for the marshal's department in Mesilla in Dona Ana county;

208. one hundred forty-two thousand dollars (\$142,000) to purchase, equip and install lighting improvements in the historic plaza in Mesilla in Dona Ana county;

209. fifty thousand dollars (\$50,000) to plan, design, construct, purchase and install skate park equipment for Mesquite community park in Mesquite in Dona Ana county;

210. fifty thousand dollars (\$50,000) to plan, design, construct, equip, furnish, purchase and install information technology and to furnish, equip and make phase 2 improvements to the Mesquite community center in Mesquite in Dona Ana county;

211. two hundred thousand dollars (\$200,000) to plan, design, purchase, equip and install improvements to a community center in Radium Springs in Dona Ana county;

212. three hundred fifty thousand dollars (\$350,000) to plan, design, construct and equip wastewater system improvements, including lift stations, manholes and wastewater collection, throughout the Camino Real regional utility authority service area in Sunland Park in Dona Ana county;

213. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, equip and install equipment for a dental clinic in Sunland Park in Dona Ana county;

214. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, equip and install hydroponic systems based on geothermal heat in Sunland Park and the surrounding areas in Dona Ana county;

215. one hundred thousand dollars (\$100,000) to plan, design, construct, furnish and equip improvements to parks and playgrounds in Sunland Park in Dona Ana county;

216. one hundred thousand dollars (\$100,000) to purchase and equip vehicles and heavy equipment for the public works department in Sunland Park in Dona Ana county;

217. five hundred thousand dollars (\$500,000) to plan, design and construct municipal splash pads in Sunland Park in Dona Ana county;

218. fifty thousand dollars (\$50,000) to acquire rights of way, easements and property and to plan, design and construct a restroom and water fountains for the Vado trail in Vado in Dona Ana county;

219. four hundred thousand dollars (\$400,000) to purchase and equip ambulances for Artesia in Eddy county;

220. five hundred seventy-nine thousand seven hundred fifty dollars (\$579,750) to plan, design and construct improvements to clinic spaces, including fire

suppression systems and accessibility, at the Artesia general hospital in the Artesia special hospital district in Eddy county;

221. five hundred nineteen thousand two hundred fifty dollars (\$519,250) to plan, design, purchase, construct and improve the mammography unit, including a digital mammography machine, information technology and related infrastructure, furniture, equipment and implementation, at the Artesia general hospital in Eddy county;

222. one hundred twenty-five thousand dollars (\$125,000) to plan, design and construct improvements to a commercial driver's license training facility, including the purchase and installation of information technology and exterior drive pads, in Artesia in Eddy county;

223. two hundred thousand dollars (\$200,000) to plan, design, construct, renovate, equip and furnish a residential treatment facility in Carlsbad in Eddy county;

224. two hundred thousand dollars (\$200,000) to plan, design, construct and improve the community center, including remodeling and replacement of damaged areas, in Hope in Eddy county;

225. two hundred thousand dollars (\$200,000) to plan, design, construct, renovate and repair the roof for the county administrative facility in Grant county;

226. one hundred fifteen thousand dollars (\$115,000) to purchase and equip vehicles for the sheriff's department in Grant county;

227. two hundred thirty thousand dollars (\$230,000) to plan, design, construct, purchase, equip and furnish recreational facility improvements, including site preparation, in Bayard in Grant county;

228. ninety thousand dollars (\$90,000) to purchase and equip a backhoe for Hurley in Grant county;

229. eighty thousand dollars (\$80,000) to purchase and equip vehicles for Hurley in Grant county;

230. thirty-two thousand dollars (\$32,000) to plan, design, construct, equip and furnish improvements to the Fort Bayard theater in Santa Clara in Grant county;

231. eighty thousand dollars (\$80,000) to plan, design, construct, furnish and equip municipal park improvements in Santa Clara in Grant county;

232. seventy-five thousand dollars (\$75,000) to purchase and equip vehicles for Santa Clara in Grant county;

233. two hundred thousand dollars (\$200,000) to plan, design, construct and renovate a parking lot for the Grant county administrative offices in Silver City in Grant county;

234. two hundred sixty-two thousand dollars (\$262,000) to plan, design, construct and replace the roof at the Gila regional medical center in Silver City in Grant county;

235. two hundred thousand dollars (\$200,000) to plan, design, construct, furnish and equip the Main street plaza in Silver City in Grant county;

236. two hundred sixty-five thousand dollars (\$265,000) to plan, design, construct, equip and furnish improvements to Scott park in Silver City in Grant county;

~~237. fifty thousand dollars (\$50,000) to purchase and equip vehicles for the southwest New Mexico council of governments in Silver City in Grant county;]~~
LINE-ITEM VETO

238. one hundred seventy thousand dollars (\$170,000) to purchase and equip vehicles for the Guadalupe county sheriff's office in Guadalupe county;

239. three hundred thousand dollars (\$300,000) to plan, design, equip, furnish and construct an auxiliary educational center and meeting space inside the Wilbur Young building in Santa Rosa in Guadalupe county;

240. three hundred thousand dollars (\$300,000) to plan, design, construct, renovate, purchase, equip and furnish improvements at the Pecos theater in Santa Rosa in Guadalupe county;

241. three hundred thousand dollars (\$300,000) to plan, design, purchase, equip, install and construct improvements, including landscaping, playgrounds, parking lots, bathrooms, picnic tables and canopies, at parks in Santa Rosa in Guadalupe county;

242. one hundred fifty thousand dollars (\$150,000) to plan, design and construct improvements, including heating, ventilation and air conditioning systems, to a community center in Vaughn in Guadalupe county;

243. twenty thousand dollars (\$20,000) to plan, design, construct, renovate, purchase, equip and install improvements, including fencing, to a veterans memorial park in Mosquero in Harding county;

244. two hundred fifty thousand dollars (\$250,000) to purchase and equip a medical rescue vehicle for emergency medical services in Hidalgo county;

245. thirty-five thousand dollars (\$35,000) to plan, design, construct, equip and furnish improvements to a library in Virden in Hidalgo county;

246. two hundred thousand dollars (\$200,000) to plan, design, construct, equip and furnish a fire station for the Knowles fire department in Lea county;

247. one million six hundred thousand dollars (\$1,600,000) to plan, design, renovate, construct, furnish and equip facilities, including infrastructure and site improvements, for a public safety and judicial complex in Eunice in Lea county;

248. two hundred twenty thousand dollars (\$220,000) to plan, design, construct and equip improvements, including fencing, water lines, parking and roads, to a cemetery in Jal in Lea county;

249. two hundred thousand dollars (\$200,000) to plan, design, purchase, construct, equip and install a sally port for the police department in Jal in Lea county;

250. two hundred eighty-seven thousand five hundred dollars (\$287,500) to plan, design, construct, furnish and equip a teen and community center in the Burke building in Jal in Lea county;

251. one million dollars (\$1,000,000) to plan, design, construct, renovate, furnish and equip the historic Lea county courthouse in Lovington in Lea county;

252. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and furnish an addition to the county detention center in Lovington in Lea county;

253. one hundred thousand dollars (\$100,000) to plan, design, construct, furnish and equip improvements to the fairgrounds in Lea county;

254. one hundred thousand dollars (\$100,000) to plan, design, construct, restore, remediate, purchase and equip the historic Lea theatre in Lovington in Lea county;

255. two hundred forty thousand dollars (\$240,000) to purchase and equip an ambulance for Lovington in Lea county;

256. two hundred fifty thousand dollars (\$250,000) to purchase and equip a fire rescue vehicle for the fire department in Lovington in Lea county;

257. six hundred thousand dollars (\$600,000) to plan, design, purchase, construct and equip a veterans' memorial and park in Lovington in Lea county;

258. six hundred thousand dollars (\$600,000) to purchase and install operating room equipment in the Nor-Lea special hospital district in Lea county;

259. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to a cemetery, including fencing, gates, an irrigation system and roads, in Tatum in Lea county;

260. ninety-one thousand dollars (\$91,000) to plan, design, construct, purchase, equip and furnish an expansion of a fire station in the White Oaks area in Lincoln county;

~~[261. ten thousand dollars (\$10,000) to plan, design, construct, purchase, furnish, equip and install improvements, including a chair lift, storage cabinets, audiovisual equipment and heating, ventilation and air conditioning, to the Capitan train depot in Capitan in Lincoln county;~~

~~262. five thousand dollars (\$5,000) to plan, design and construct improvements for a public library in Capitan in Lincoln county;]~~ *LINE-ITEM VETO*

263. ninety thousand dollars (\$90,000) to plan, design, purchase, construct and equip a metal building for the water department in Capitan in Lincoln county;

~~[264. five thousand dollars (\$5,000) to plan, design and construct improvements to a public library in Carrizozo in Lincoln county;]~~ *LINE-ITEM VETO*

265. fifty thousand dollars (\$50,000) to plan, design, construct, furnish and equip an expansion for the county detention center in Carrizozo in Lincoln county;

~~[266. five thousand dollars (\$5,000) to plan, design, construct and equip improvements for a public library in Corona in Lincoln county;~~

~~267. five thousand dollars (\$5,000) to plan, design, construct and equip improvements to a museum in Corona in Lincoln county;] LINE-ITEM VETO~~

268. one hundred thousand dollars (\$100,000) to plan, design, construct and equip improvements to the natural gas system, including an odorant injection system, in Corona in Lincoln county;

~~[269. three hundred thousand dollars (\$300,000) to demolish, abate and remove a hospital and to plan, design, construct and equip a replacement in Ruidoso in Lincoln county;] LINE-ITEM VETO~~

270. one hundred seventy-two thousand four hundred dollars (\$172,400) to acquire easements and rights of way for and to plan, design and construct watershed improvements and removal of trees for fire mitigation in Ruidoso in Lincoln county;

271. five hundred thousand dollars (\$500,000) to acquire property, easements and rights of way for and to plan, design, construct, demolish, renovate and equip improvements to the Horton complex in Ruidoso in Lincoln county;

272. two hundred eighty-seven thousand eight hundred dollars (\$287,800) to purchase and equip a sewer cleaning truck for Ruidoso Downs in Lincoln county;

273. four hundred seventy-five thousand dollars (\$475,000) to plan, design and construct affordable housing infrastructure in Los Alamos county;

274. five hundred thousand dollars (\$500,000) to plan, design, equip and construct site improvements for the Deming recreational reuse storage pond project in Deming in Luna county;

275. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, renovate, furnish and equip improvements to the Luna county community health and well-being complex, including roof replacement, heating, ventilation and air conditioning systems, electrical systems and parking, in Deming in Luna county;

276. twenty-five thousand dollars (\$25,000) to plan and design a preliminary engineering report for the Catalpa water association in McKinley county;

277. one hundred thousand dollars (\$100,000) to purchase and equip a truck and refrigerated trailer for a community food pantry in Gallup in McKinley county;

~~[278. seventy-five thousand dollars (\$75,000) to plan, design and construct a detention center in McKinley county;]~~ *LINE-ITEM VETO*

279. one hundred seventy-five thousand dollars (\$175,000) to purchase and equip public safety vehicles for the sheriff's department in McKinley county;

280. one hundred thousand dollars (\$100,000) to plan, design, construct, improve and replace lighting at Indian Hills park and field in Gallup in McKinley county;

281. fifty thousand dollars (\$50,000) to plan, design, construct, repair and equip improvements to the intertribal Indian ceremonial building in Gallup in McKinley county;

282. seventy-five thousand dollars (\$75,000) to plan, design, construct, purchase and install equipment for a picnic shelter, including tables and grills, at the playground of dreams in Gallup in McKinley county;

283. six million dollars (\$6,000,000) to plan, design and construct a building for the police department in Gallup in McKinley county;

284. four hundred fifty-five thousand dollars (\$455,000) to purchase and equip police vehicles for the police department in Gallup in McKinley county;

285. four hundred thousand dollars (\$400,000) to acquire property for and to plan, design and construct a regional animal shelter in Gallup in McKinley county;

286. fifty thousand dollars (\$50,000) to plan, design and construct pillars and panels for the veterans' memorial at the Gallup courthouse square in McKinley county;

287. three hundred five thousand dollars (\$305,000) to plan, design and construct an adolescent recovery center in Gallup in McKinley county;

288. five hundred thousand dollars (\$500,000) to plan, design, construct, furnish, equip and improve the Na'Nihzhoozhi center in Gallup in McKinley county;

289. seventy-five thousand dollars (\$75,000) to plan, design, construct, repair and improve the northwest New Mexico council of governments building, including the roof, in Gallup in McKinley county;

290. twenty-five thousand dollars (\$25,000) to plan, design, construct and equip a facility to house ambulances in Mora county;

291. two hundred twenty-five thousand dollars (\$225,000) to purchase and equip an ambulance for Mora county;

292. ninety thousand dollars (\$90,000) to purchase and equip vehicles for the Mora county sheriff's office in Mora county;

293. two hundred forty thousand dollars (\$240,000) to plan, design, construct, furnish and equip improvements, including a new screen, projection equipment, seats, restrooms and a concession area, to the Chief theater in Mora county;

294. four hundred thousand dollars (\$400,000) to plan, design, construct, furnish and equip phase 2 of a community center, including heating, ventilation and air conditioning systems, in Watrous in Mora county;

295. thirty-eight thousand dollars (\$38,000) to plan, design, construct and equip a rural electric vehicle charging network for the Greentree solid waste authority and the Mescalero Apache Tribe in Lincoln and Otero counties;

296. one hundred ninety-five thousand dollars (\$195,000) to purchase a long-reach excavator and canal maintenance equipment for the Arch Hurley conservancy district in Quay and San Miguel counties;

297. ninety-three thousand dollars (\$93,000) to purchase and equip a bus for the south central regional transit district in Dona Ana and Sierra counties;

298. three hundred sixty thousand dollars (\$360,000) to conduct a feasibility study to site, plan and develop a phasing schedule for construction of a library and health and wealth multiplex in Chaparral in Dona Ana or Otero county;

299. one hundred eighty-five thousand dollars (\$185,000) to purchase property and to plan, design and construct new recreational spaces and trails in Espanola in Rio Arriba and Santa Fe counties;

300. one hundred thousand dollars (\$100,000) to purchase and install equipment for an emergency operations center in Otero county;

301. one hundred forty-five thousand seven hundred fifty dollars (\$145,750) to purchase and equip buses to comply with the requirements of the Americans with Disabilities Act of 1990 in Alamogordo in Otero county;

302. seventy-one thousand two hundred dollars (\$71,200) to purchase and equip a hazardous materials identification tester for the fire department in Alamogordo in Otero county;

303. fourteen thousand dollars (\$14,000) to plan, design, construct, purchase and equip a verti-cutter for public parks in Alamogordo in Otero county;

304. thirty-six thousand eight hundred dollars (\$36,800) to plan, design, purchase and equip a verti-drain deep tine aerator for public parks in Alamogordo in Otero county;

305. two hundred fifty thousand dollars (\$250,000) to purchase and equip vehicles and equipment for the police department in Alamogordo in Otero county;

306. one hundred thirty-five thousand dollars (\$135,000) to plan, design and construct improvements, including bathrooms and entrances, at the public library in Alamogordo in Otero county;

~~[307. two hundred seventy-nine thousand seven hundred thirty-eight dollars (\$279,738) to plan, design, construct, furnish, install, replace, renovate, furnish and equip a patio area for the Alamogordo public library in Otero county;]~~ *LINE-ITEM VETO*

308. one hundred sixty thousand dollars (\$160,000) to purchase and equip heavy duty equipment, including a dump truck, for the public works department in Cloudcroft in Otero county;

309. eighty thousand dollars (\$80,000) to purchase and equip heavy duty equipment, including a mini-excavator, for the public works department in Cloudcroft in Otero county;

310. sixty thousand dollars (\$60,000) to purchase and equip a skidsteer loader for the public works department in Cloudcroft in Otero county;

311. twelve thousand ninety-five dollars (\$12,095) to plan, design and construct improvements to the Sacramento mountains museum and pioneer village in Cloudcroft in Otero county;

312. two hundred fifty thousand dollars (\$250,000) to purchase and equip vehicles for Tularosa in Otero county;

313. two hundred six thousand dollars (\$206,000) to purchase and equip a mobile performing arts stage in Rio Arriba county;

314. two hundred fifty thousand dollars (\$250,000) to purchase and equip a fire apparatus vehicle, including truck fire equipment, for the Agua Sana volunteer fire department in Rio Arriba county;

315. seventy thousand dollars (\$70,000) to purchase and equip an animal control vehicle for Rio Arriba county;

316. ten thousand dollars (\$10,000) to purchase and install equipment for the fire marshal in Rio Arriba county;

317. two hundred seventy-five thousand dollars (\$275,000) to plan, design, purchase, construct and equip information technology network improvements in Rio Arriba county;

318. two hundred forty thousand dollars (\$240,000) to purchase, equip and install body and dashboard cameras and related information technology for the sheriff's office in Rio Arriba county;

319. one hundred eighty thousand dollars (\$180,000) to purchase and equip vehicles for the sheriff's department in Rio Arriba county;

320. one hundred thousand dollars (\$100,000) to purchase and equip vehicles for the boys and girls club of Santa Fe/del norte in Rio Arriba county;

321. four hundred thousand dollars (\$400,000) to purchase and equip a fire truck for the Abiquiu volunteer fire department in Rio Arriba county;

322. one hundred seventy thousand dollars (\$170,000) to plan, design, renovate and repair facilities, including stucco, fencing and roofing improvements, for the Abiquiu land grant-merced in Rio Arriba county;

323. one hundred eighty thousand dollars (\$180,000) to plan, design and construct water system improvements, including supply pipeline extension, in Chama in Rio Arriba county;

324. one hundred seventy-five thousand dollars (\$175,000) to plan, design, construct, improve and equip a community services center in Coyote in Rio Arriba county;

325. one million one hundred two thousand dollars (\$1,102,000) to plan, design, construct, equip and furnish a maintenance facility, including a vehicle wash bay and fueling station, for the north central regional transit district in Espanola in Rio Arriba county;

326. one hundred thousand dollars (\$100,000) to plan, design, equip, renovate and repair a facility to serve as a community services delivery center and business development hub in Espanola in Rio Arriba county;

327. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct and equip a healing memorial, including horticultural and occupational therapeutic opportunities for coping with loss and trauma, in Espanola in Rio Arriba county;

328. one hundred ninety-five thousand dollars (\$195,000) to plan, design, prepare the site, construct, renovate and equip a lowrider museum in Espanola in Rio Arriba county;

329. three hundred seventy-two thousand dollars (\$372,000) to plan, design and construct a new fire station for east Espanola in Rio Arriba county;

330. forty-five thousand dollars (\$45,000) to plan, design, construct and equip repairs and improvements to the Lucero center recreational facility in Espanola in Rio Arriba county;

331. two hundred thousand dollars (\$200,000) to purchase and equip police vehicles for Espanola in Rio Arriba county;

332. three hundred thousand dollars (\$300,000) to plan, design, construct, purchase, equip and install improvements to Valdez park in Espanola in Rio Arriba county;

333. one hundred thousand dollars (\$100,000) to plan, design, construct, renovate, furnish and equip improvements to the county courthouse, including roof and infrastructure, in Tierra Amarilla in Rio Arriba county;

334. fifty thousand dollars (\$50,000) to purchase and equip tanker trucks for the fire department in Truchas in Rio Arriba county;

335. nine hundred forty thousand dollars (\$940,000) to plan, design, construct, renovate and equip a residential recovery facility in Velarde in Rio Arriba county;

336. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to the grounds and facilities to comply with the requirements of the federal Americans with Disabilities Act of 1990 at the Roosevelt county fairgrounds in Roosevelt county;

337. four hundred fifty thousand dollars (\$450,000) to purchase and equip motor graders for the county road department in Roosevelt county;

338. two hundred seventy-five thousand dollars (\$275,000) to plan, design and renovate kitchen and laundry areas, including replacement of kitchen and laundry equipment, at the Roosevelt county detention center in Portales in Roosevelt county;

339. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, equip and expand an emergency room at Roosevelt general hospital in the Roosevelt county special hospital district in Roosevelt county;

340. one million dollars (\$1,000,000) to acquire land for and to plan, design, construct and equip a regional film studio in San Juan county;

341. one million four hundred thousand dollars (\$1,400,000) to plan, design, construct, equip and install infrastructure improvements, including replacing the central utility plant chiller and cooling tower, for the San Juan regional medical center in Farmington in San Juan county;

342. one million nine hundred thousand dollars (\$1,900,000) to plan, design, construct, renovate and equip the pediatric unit, including relocation, room expansions and bathroom facilities improvements, for the San Juan regional medical center in Farmington in San Juan county;

343. one hundred thousand dollars (\$100,000) to plan, design, construct, renovate, equip and improve Talley park, including the purchase and installation of equipment, for the upper La Plata domestic water consumers and mutual sewage water cooperative in La Plata in San Juan county;

344. three hundred thousand dollars (\$300,000) to purchase and equip a fire truck for the Gallinas volunteer fire department in San Miguel county;

345. one hundred ten thousand dollars (\$110,000) to purchase and equip vehicles for the sheriff's department in San Miguel county;

346. eighteen thousand dollars (\$18,000) to plan, design and construct improvements, including fencing and site improvements, to the community center in the San Miguel del Bado land grant-merced in San Miguel county;

347. one hundred eighty thousand dollars (\$180,000) to purchase a digital recordkeeping system for the county clerk's office in San Miguel county;

348. forty-six thousand dollars (\$46,000) to plan, design, construct and equip improvements to the kitchen and laundry areas at the detention center in San Miguel county;

349. seventy-five thousand dollars (\$75,000) to purchase and equip a heavy equipment tractor truck for the public works department in San Miguel county;

350. forty thousand dollars (\$40,000) to purchase and equip a heavy equipment transport trailer for the public works department in San Miguel county;

351. one hundred thousand dollars (\$100,000) to purchase and equip a fire truck for El Pueblo volunteer fire department in San Miguel county;

352. six hundred seventy-four thousand four hundred sixty-five dollars (\$674,465) to purchase and equip a fire apparatus vehicle, including truck fire equipment, for the Las Vegas fire department in Las Vegas in San Miguel county;

353. seventy thousand dollars (\$70,000) to plan, design and construct museum displays and exhibits for a fire museum in the historic E. Romero hose and fire company building in Las Vegas in San Miguel county;

354. seventy thousand dollars (\$70,000) to plan, design and construct improvements to a park and walkway along the Gallinas river in Las Vegas in San Miguel county;

355. seventy thousand dollars (\$70,000) to plan, design and construct improvements, including safety improvements, for Las Vegas little league parks in Las Vegas in San Miguel county;

356. seventy thousand dollars (\$70,000) to plan, design and construct improvements to municipal parks in Las Vegas in San Miguel county;

357. fifty thousand dollars (\$50,000) to purchase and equip a vehicle for the Las Vegas police department evidence technician in Las Vegas in San Miguel county;

358. twenty-five thousand dollars (\$25,000) to plan, design, construct and make improvements to the Tri-County family justice center of northeast New Mexico in Las Vegas in San Miguel county;

359. fifty thousand dollars (\$50,000) to equip the region four narcotics task force and to purchase and equip vehicles, office furniture and equipment for the task force office for the sheriff's department in San Miguel county;

360. forty-one thousand five hundred dollars (\$41,500) to purchase and install information technology, including related infrastructure, equipment and furniture, in Pecos in San Miguel county;

361. sixty thousand dollars (\$60,000) to purchase and equip an ambulance for the San Miguel county ambulance service in Pecos in San Miguel county;

362. fifty thousand dollars (\$50,000) to plan, design, construct, renovate, furnish and equip improvements to the Tecolote land grant-merced multipurpose center, including the roof and septic system, in San Miguel county;

363. forty-five thousand dollars (\$45,000) to purchase and equip equipment for fire and emergency medical services for the Cochiti Lake fire department, serving the communities of Cochiti Lake, the Pueblo of Cochiti, the Pueblo of Santo Domingo, Sile and Pena Blanca in Sandoval county;

364. three hundred fifty thousand dollars (\$350,000) to plan, design, construct and expand the Placitas community library in Placitas in Sandoval county;

365. three hundred twenty thousand dollars (\$320,000) to plan, design and construct roof and stucco repair and replacements, structural repairs and mold and water damage remediation for a domestic violence shelter in Sandoval county;

366. one hundred eighty thousand two hundred seventy-six dollars (\$180,276) to purchase and equip vehicles for fire mitigation for Corrales in Sandoval county;

367. one hundred thousand dollars (\$100,000) to plan, design, construct and equip water lines and a water distribution system for fire suppression in Corrales in Sandoval county;

368. two hundred seventy-five thousand dollars (\$275,000) to purchase and install information technology, including equipment, furniture and infrastructure, for the municipal government in Corrales in Sandoval county;

369. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, repair and make improvements to municipal facilities in Corrales in Sandoval county;

370. one hundred ninety-five thousand six hundred sixty-six dollars (\$195,666) to purchase and equip vehicles and equipment, including tasers, body cameras, vests and laptops, for the police department in Corrales in Sandoval county;

371. fourteen thousand three hundred fifty dollars (\$14,350) to plan, design and construct a veterans memorial in Corrales in Sandoval county;

372. seventy thousand dollars (\$70,000) to plan, design, purchase, construct and furnish a building for the Sandoval county fair board in Cuba in Sandoval county;

373. one hundred ten thousand dollars (\$110,000) to plan, design and construct renovations and improvements to the Jemez Springs bath house in Jemez Springs in Sandoval county;

374. thirty thousand dollars (\$30,000) to plan and design improvements to a community park in Jemez Springs in Sandoval county;

375. sixty thousand dollars (\$60,000) to purchase and equip vehicles for the Jemez Springs police department in Sandoval county;

376. one hundred eighty thousand dollars (\$180,000) to plan, design, construct and equip improvements to little league grounds and facilities at Arroyo de Deportes park in Rio Rancho in Sandoval county;

377. six hundred forty-two thousand dollars (\$642,000) to purchase and equip road and right-of-way maintenance equipment for Rio Rancho in Sandoval county;

378. six hundred twenty-five thousand dollars (\$625,000) to plan, design and construct improvements, including site improvements, infrastructure, fields and facilities, to the sports complex north in Rio Rancho in Sandoval county;

379. two hundred thirty thousand dollars (\$230,000) to replace playground systems and improve accessibility, surfacing and shade structures at Vista Grande park in Rio Rancho in Sandoval county;

380. one hundred twenty thousand dollars (\$120,000) to plan, design, purchase, construct and install alert sirens for the San Antonio de las Huertas land grant-merced in Sandoval county;

381. one million five hundred thousand dollars (\$1,500,000) to plan, design and construct improvements to the community center and tribal council chambers in the Pueblo of San Felipe in Sandoval county;

382. fifty thousand dollars (\$50,000) to purchase and upgrade law enforcement information technology to comply with the national incident base reporting system in San Ysidro in Sandoval county;

383. sixty thousand dollars (\$60,000) to purchase traffic calming and traffic safety equipment, including a global information system, solar-powered department-of- transportation-standardized portable message boards and speed control signs, in San Ysidro in Sandoval county;

384. two hundred thirty-five thousand dollars (\$235,000) to plan, design, construct, purchase and upgrade the water system for fire suppression for the Madrid Water mutual domestic water consumers association in Santa Fe county;

385. two hundred twenty thousand dollars (\$220,000) to purchase equipment, including structural turnout gear, for a fire department in Santa Fe county;

386. one million five hundred thousand dollars (\$1,500,000) to plan, design, construct, renovate, furnish and equip a facility for a recovery program in Santa Fe county;

387. ninety-five thousand dollars (\$95,000) to plan, design, construct and equip a yurt for the Santa Fe mountain center youth and adult programs in Santa Fe county;

388. eighty-four thousand five hundred dollars (\$84,500) to plan, design, construct and equip improvements to the Santa Fe mountain center urban adventure center building in Santa Fe in Santa Fe county;

389. eighty thousand dollars (\$80,000) to purchase body cameras, information technology and equipment for the sheriff's office in Santa Fe county;

~~390. ten thousand dollars (\$10,000) to plan, design, construct, upgrade and make improvements to the first judicial district attorney's building in Santa Fe in Santa Fe county;]~~ *LINE-ITEM VETO*

391. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase and install plumbing and bathroom improvements, shelving and tool storage equipment in a maintenance building and for cisterns, site improvements and construction of a perimeter wall at the premises of the Agua Fria community water system association water board office in the Agua Fria area in Santa Fe county;

392. fifty thousand dollars (\$50,000) to plan, design, construct, purchase and equip improvements, including playground equipment, to community parks in Galisteo in Santa Fe county;

393. one hundred thousand dollars (\$100,000) to plan, design, construct, furnish and equip Pojoaque fire station two in the area of Jacona and El Rancho in Santa Fe county;

394. one hundred ninety-one thousand two hundred fifty dollars (\$191,250) to plan, design, construct and furnish improvements, renovations and upgrades to the buildings and parking lots, and to purchase and install security systems, including cameras, and to purchase and install information technology, including related infrastructure and equipment, at the boys and girls club facilities in Santa Fe and within Santa Fe county;

395. five hundred five thousand dollars (\$505,000) to plan, design, construct, purchase, equip and install photovoltaic units on county public safety and community facilities in Santa Fe county;

396. five hundred sixty-eight thousand two hundred seventy-three dollars (\$568,273) to plan, design, construct, furnish and equip phase 2 of the Edgewood health commons, including a senior and wellness center, in Edgewood in Santa Fe county;

397. two hundred thousand dollars (\$200,000) to plan, design and construct an extension to the Eldorado hike-bike network along avenida El Dorado, from avenida Torreon to the intersection with United States highway 285, in Eldorado in Santa Fe county;

~~398. five thousand dollars (\$5,000) to plan, design, construct, furnish and equip improvements to a community library in La Cienega in Santa Fe county;]~~
LINE-ITEM VETO

399. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, purchase, equip and upgrade the Oscar Huber memorial ballpark in Madrid in Santa Fe county;

400. fifty thousand dollars (\$50,000) to plan, design and construct plumbing for sewage line connection to the municipal sewer system, upgrade of sewage lines and replacement of pipes and flooring in the kitchen area and to make other interior and exterior improvements and repairs, including heating, ventilation and air conditioning systems, to a city-owned building occupied by the Comunidad de los Ninos in Santa Fe in Santa Fe county;

401. one hundred sixty thousand dollars (\$160,000) to plan, design, construct, furnish, equip and install improvements to El Museo Cultural, including roofing, lighting and heating, ventilation and air conditioning systems, in Santa Fe in Santa Fe county;

402. one hundred fifty thousand dollars (\$150,000) to plan, design and construct a greenhouse for a horticulture therapy program serving developmentally disabled individuals in Santa Fe in Santa Fe county;

403. one hundred seventeen thousand dollars (\$117,000) to plan, design, construct, purchase, install and equip a bulletproof window for the Santa Fe municipal court lobby customer service window in Santa Fe in Santa Fe county;

404. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, equip, purchase, furnish and install improvements to fields at the soccer valley in the Santa Fe municipal recreation complex in Santa Fe in Santa Fe county;

405. five hundred fifty thousand dollars (\$550,000) to plan, design, construct, furnish and equip public restrooms in Santa Fe in Santa Fe county;

406. nine million dollars (\$9,000,000) to plan, design, construct, furnish and equip a passenger terminal facility, including supporting infrastructure, for the Santa Fe regional airport in Santa Fe in Santa Fe county;

407. one hundred thousand dollars (\$100,000) to plan, design, repair and make improvements to the city-owned facility occupied by the Solace crisis treatment center, including stucco replacement, paving and drainage, in Santa Fe in Santa Fe county;

408. nine hundred twenty-five thousand dollars (\$925,000) to plan and design a public-private partnership for solar energy systems development and installation at city facilities in Santa Fe in Santa Fe county;

409. one million one hundred thousand dollars (\$1,100,000) to plan, design, construct, furnish and equip a southside teen and resource center in Santa Fe in Santa Fe county;

410. fifty thousand dollars (\$50,000) to plan, design and construct a facility for families with a behavioral health or substance abuse crisis, including a segregated emergency track, behavioral health unit upgrades and partial hospitalization facility, at Christus St. Vincent regional medical center in Santa Fe in Santa Fe county;

~~[411. fifty thousand dollars (\$50,000) to plan, design and construct welcome signage at major entrances to the city and at the Santa Fe regional airport in Santa Fe in Santa Fe county;]~~ *LINE-ITEM VETO*

412. one million two hundred fifty-nine thousand two hundred twenty-nine dollars (\$1,259,229) to plan, design and construct surgical facilities, including endoscopy, sterile, operating and operative rooms and inpatient beds, at Sierra Vista hospital in Truth or Consequences in Sierra county;

413. three hundred seventy thousand dollars (\$370,000) to plan, design, construct, furnish and equip phase 4 of a community center and commercial kitchen in Sabinal in Socorro county;

414. two hundred thousand dollars (\$200,000) to purchase and equip a roll-off tractor, trailer and roll-off container for the solid waste department in Socorro county;

415. one hundred thousand dollars (\$100,000) to plan, design, construct, renovate, furnish and equip a gymnasium in La Joya in Socorro county;

416. seventy-five thousand dollars (\$75,000) to demolish and remove an existing facility and to purchase, transport, install, remodel, furnish and equip a portable building to serve as offices and reception areas for an animal shelter in Socorro in Socorro county;

417. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, install and equip improvements to the county courthouse complex, including energy efficiency systems and windows, in Socorro in Socorro county;

418. one hundred fifty thousand dollars (\$150,000) to purchase, equip and install a full body scanner for the county detention center in Socorro in Socorro county;

419. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, purchase and install renewable energy systems at the county detention center in Socorro in Socorro county;

420. one hundred thousand dollars (\$100,000) to plan, design, construct, furnish and equip renovations to Finley gym and youth center in Socorro in Socorro county;

421. one hundred thousand dollars (\$100,000) to plan, design, purchase and construct a metal building, including infrastructure, for El Valle de los Ranchos water and sanitation district in Taos county;

422. fifty thousand dollars (\$50,000) to plan, design, construct, equip and install improvements, including roofing, playgrounds and parking areas, for the Talpa community center in Taos county;

423. one hundred thousand dollars (\$100,000) to purchase and equip a body scanner for the county detention facility in Taos county;

424. one hundred thousand dollars (\$100,000) to purchase and equip vehicles, including mobile data units, for the county sheriff's department in Taos county;

425. one hundred thousand dollars (\$100,000) to plan, design, renovate, construct, equip and furnish a multipurpose center in Cerro in Taos county;

426. fifty thousand dollars (\$50,000) to acquire land for and to plan and design a cultural enrichment center for the Chamisal mutual domestic water consumers association in Chamisal in Taos county;

427. fifty thousand dollars (\$50,000) for the land grant council to acquire land within and for the Cristobal de la Serna land grant-merced in Taos county;
428. fifty thousand dollars (\$50,000) to acquire land for and to plan, design, construct and equip a building for the Don Fernando de Taos land grant-merced in Taos county;
429. three hundred thousand dollars (\$300,000) to plan, design and construct improvements to utility infrastructure in a business park in Questa in Taos county;
430. fifty thousand dollars (\$50,000) to plan, design and construct a building for the fire department in Questa in Taos county;
431. five hundred eighty thousand dollars (\$580,000) to plan, design, construct, furnish and equip improvements to a library in Questa in Taos county;
432. three million two hundred thousand dollars (\$3,200,000) to plan, design, construct and equip a veterans' cemetery, including a columbarium wall, internment shelter and flagpole structure, in Ranchos de Taos in Taos county;
433. one million dollars (\$1,000,000) to acquire land for and to plan, design and construct buildings for a housing development in Red River in Taos county;
434. two hundred fifty thousand dollars (\$250,000) to purchase and equip police vehicles in Taos in Taos county;
435. eighty thousand dollars (\$80,000) to plan, design, purchase, equip and construct improvements, including an ultraviolet light disinfection and water treatment system, for the Taos youth and family center pools in Taos in Taos county;
436. three hundred thousand dollars (\$300,000) to plan, design, construct, furnish and equip a multipurpose community center for La Merced del Manzano land grant-merced in Torrance county;
437. two hundred thirty-five thousand dollars (\$235,000) to plan, design, construct, furnish and equip a multipurpose center for the Punta de Agua mutual domestic consumers' association in Torrance county;
438. ninety thousand dollars (\$90,000) to purchase and equip vehicles for the sheriff's office in Torrance county;

~~[439. five thousand dollars (\$5,000) to plan, design and construct improvements for a public library in Estancia in Torrance county;] LINE-ITEM VETO~~

440. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, furnish and equip improvements, including electrical and heating, ventilation and air conditioning systems, at the county administrative building in Estancia in Torrance county;

~~[441. twenty thousand dollars (\$20,000) to plan, design and construct a multipurpose building for the Torrance county fairgrounds;] LINE-ITEM VETO~~

442. one hundred sixty-five thousand dollars (\$165,000) to plan, design, repair, equip, furnish and construct improvements to an administrative complex for the municipal government in Moriarty in Torrance county;

443. four hundred fifty thousand dollars (\$450,000) to plan, design, construct, repair, equip and furnish a fire station in Moriarty in Torrance county;

~~[444. five thousand dollars (\$5,000) to plan, design and construct improvements for a public library in Mountainair in Torrance county;] LINE-ITEM VETO~~

445. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, equip, renovate, repair, furnish and install improvements, including park playground equipment, shade structures and drainage, to the Town of Tajique land grant-merced community center in Torrance county;

446. five hundred thousand dollars (\$500,000) to plan, design, construct, renovate, furnish and equip the former Kiser elementary school building to serve as county administrative offices in Clayton in Union county;

447. one hundred fifty thousand dollars (\$150,000) to purchase and equip public safety equipment, including emergency wildland and brush fire trucks, for the Rio Grande estates fire department in Valencia county;

448. fifty thousand dollars (\$50,000) to purchase updated cardiac monitors and automated external defibrillators for public buildings in Valencia county;

449. two hundred thousand dollars (\$200,000) to purchase and install interoperable communication equipment for public safety departments in Valencia county;

450. one million one hundred forty-eight thousand three hundred twenty-one dollars (\$1,148,321) to plan, design, construct, purchase, equip and install information technology improvements, including computer-aided dispatch and records management systems, for the Valencia regional emergency communications center in Valencia county;

451. three hundred thousand dollars (\$300,000) to plan, design and rehabilitate the grass fields and sprinkler systems at Eagle park in Belen in Valencia county;

452. one hundred sixty thousand dollars (\$160,000) to design and construct an addition to the kitchen at the community center in Bosque Farms in Valencia county;

453. six hundred thousand dollars (\$600,000) to plan, design and construct improvements to Daniel Fernandez memorial park and recreation center in Los Lunas in Valencia county;

454. two hundred thousand dollars (\$200,000) to plan, design and construct improvements to the museum of heritage and arts, including a covered patio for cultural events, in Los Lunas in Valencia county;

455. seventy-five thousand dollars (\$75,000) to plan, design and construct improvements to the River park and Bosque open space preserve in Los Lunas in Valencia county;

456. four hundred seventy-five thousand dollars (\$475,000) to plan, design and construct improvements to the sports complex in Los Lunas in Valencia county;

457. three hundred seventy-five thousand dollars (\$375,000) to plan, design, construct, purchase and equip phase 1 of a community center, including a multipurpose gymnasium and an outdoor recreation area, in Peralta in Valencia county;

458. three hundred seventy-five thousand dollars (\$375,000) to plan, design, construct, purchase, equip and install phase 2 improvements to a community center and park, including outdoor basketball courts, a baseball field, a playground and walking paths, in Peralta in Valencia county;

459. one hundred twenty-five thousand dollars (\$125,000) to purchase and equip public works department equipment in Peralta in Valencia county; and

460. two hundred fifty thousand dollars (\$250,000) to purchase abandoned real property sold by the taxation and revenue department pursuant to Section 7-38-67.1 NMSA 1978 that falls within the traditional land grant boundaries for the Town of Tome land grant-merced in Valencia county.

Chapter 277 Section 35 Laws 2019

SECTION 35. DEPARTMENT OF MILITARY AFFAIRS PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the department of military affairs for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, for the following purposes:

1. five hundred thousand dollars (\$500,000) to plan, design, construct, renovate, purchase and install equipment, infrastructure improvements and repairs, including energy efficiency systems, at the Gallup armory in Gallup in McKinley county;
2. two hundred thousand dollars (\$200,000) to plan, design, construct, purchase, equip and install electrical system improvements for the New Mexico military museum in Santa Fe in Santa Fe county; and
3. one million dollars (\$1,000,000) to plan, design, construct, renovate, purchase and install equipment, infrastructure improvements and repairs, including energy efficiency systems, to correct deficiencies at department of military affairs armories statewide.

Chapter 277 Section 36 Laws 2019

SECTION 36. PUBLIC SCHOOL FACILITIES AUTHORITY

PROJECT--GENERAL FUND.--Twenty-four million dollars (\$24,000,000) is appropriated from the general fund to the public school facilities authority for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, for planning, design and construction of infrastructure and facilities that fall outside the statewide adequacy standards developed pursuant to Subsection C of Section 22-24-5 NMSA 1978 at schools in one or more school districts that receive federal impact aid for tribal lands[~~contingent upon the approval of the public school capital outlay council. The public school capital outlay council shall require a local match pursuant to Subsection B of Section 22-24-5 NMSA 1978 for any grant made pursuant to this section~~]; provided that this appropriation shall not be considered a direct legislative appropriation, and no offsets shall be applied against the required local match pursuant to Paragraph (6) of Subsection B of Section 22-24-5 NMSA 1978.
LINE-ITEM VETO

Chapter 277 Section 37 Laws 2019

SECTION 37. OFFICE OF THE SECRETARY OF STATE PROJECT--GENERAL FUND.--One million nine hundred seventy-five thousand dollars (\$1,975,000) is appropriated from the general fund to the office of the secretary of state for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, to purchase voting tabulator systems for use in all elections conducted under the Election Code statewide.

Chapter 277 Section 38 Laws 2019

SECTION 38. SPACEPORT AUTHORITY PROJECT--GENERAL FUND.--Sixteen million dollars (\$16,000,000) is appropriated from the general fund to the spaceport authority for expenditure in fiscal years 2020 through 2023, unless otherwise provided in Section 1 of this act, to plan, design, construct and make improvements at spaceport America in Sierra county.

Chapter 277 Section 39 Laws 2019

SECTION 39. TAXATION AND REVENUE DEPARTMENT PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the taxation and revenue department for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, for the following purposes:

1. forty thousand dollars (\$40,000) to purchase security cameras for the audit and compliance division of the taxation and revenue department for field offices in Santa Fe in Santa Fe county, in Albuquerque in Bernalillo county and in Las Cruces in Dona Ana county;
2. nineteen thousand dollars (\$19,000) to purchase digital check scanners and related software for the audit and compliance division of the taxation and revenue department for the Roswell district office in Chaves county and the Las Cruces district office in Dona Ana county; and
3. two hundred seventy-five thousand dollars (\$275,000) to purchase mail processing inserters for the revenue processing division of the taxation and revenue department in Santa Fe in Santa Fe county.

Chapter 277 Section 40 Laws 2019

SECTION 40. DEPARTMENT OF TRANSPORTATION PROJECTS--
GENERAL FUND.--The following amounts are appropriated from the general fund to the department of transportation for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, for the following purposes:

1. one hundred fifty thousand dollars (\$150,000) to plan, design and construct improvements to median landscaping on Alameda boulevard NW in Bernalillo county;

2. five hundred thousand dollars (\$500,000) to plan, design and construct drainage improvements to Sunset road southwest between Neetsie drive and Gonzales road in the South Valley area of Bernalillo county;

3. two hundred forty thousand dollars (\$240,000) to plan, design and construct phase 2 improvements, including drainage, sidewalk and improvements to comply with the federal Americans with Disabilities Act of 1990, to Second street SW in Bernalillo county;

4. one hundred seventy thousand dollars (\$170,000) to plan, design and construct road and drainage improvements to Armijo road SW in the South Valley area of Bernalillo county;

5. two hundred fifty thousand dollars (\$250,000) to acquire rights of way for and to plan, design and construct a road, including drainage, off Atrisco drive between Rosendo Garcia road and San Ygnacio road in Bernalillo county;

6. two hundred twenty-five thousand dollars (\$225,000) to acquire rights of way and procure environmental clearances for and to plan, design, construct, extend and improve Atrisco Vista boulevard in Bernalillo county;

7. eight hundred thousand dollars (\$800,000) to plan, design and construct sidewalks and drainage infrastructure in the Mountainview area, including Prince street and Prosperity avenue, in Bernalillo county;

8. one hundred ninety-five thousand dollars (\$195,000) to plan, design, construct and install street lights in county commission district 2 in Bernalillo county;

9. one hundred fifty thousand dollars (\$150,000) to plan, design and construct phase 2 improvements, including bus shelters and median art, along Bridge boulevard between Young avenue and the Riverside drain in the South Valley in Bernalillo county;

10. sixty thousand dollars (\$60,000) to plan, design and construct paving and other improvements on Escarpment road on the southwest mesa in Bernalillo county;

11. twenty-seven thousand dollars (\$27,000) to plan, design, and construct road and storm drainage improvements at the termini of Greenwich road in the South Valley area in Bernalillo county;

12. seven hundred seventy-five thousand dollars (\$775,000) to plan, design and construct the rehabilitation of Isleta boulevard SW from Muniz road to interstate highway 25 in Bernalillo county;

13. twenty-five thousand dollars (\$25,000) to plan, design and construct pedestrian walkways and bicycle paths along New Mexico highway 14 in Bernalillo county;

14. one million dollars (\$1,000,000) to plan, design and construct the New Mexico highways 314, 45 and 317 realignment project to comply with road safety audit recommendations in the Pueblo of Isleta in Bernalillo county;

15. five hundred seventy thousand dollars (\$570,000) to acquire rights of way for and to plan, design and construct improvements at the intersection of Tablazon road and New Mexico highway 333, including realignment and road extension, in Bernalillo county;

16. fifty thousand dollars (\$50,000) to acquire rights of way for and to plan, design and construct an extension of Sunport boulevard in Albuquerque in Bernalillo county;

17. eighty thousand dollars (\$80,000) to plan, design and construct road and storm drain improvements along Tapia boulevard from San Ignacio road to the Beckham lateral in the South Valley in Bernalillo county;

18. eighty-five thousand dollars (\$85,000) to plan, design and construct improvements, including sidewalk infill, accessibility features and demolition of retaining walls, on Fourth street NW in Albuquerque in Bernalillo county;

19. one hundred thousand dollars (\$100,000) to plan, design and construct street and sidewalk improvements on Fourth street SW in the Barelás neighborhood of Albuquerque in Bernalillo county;

20. one hundred fifty-two thousand dollars (\$152,000) to acquire rights of way for and to plan, design and construct improvements, including accessibility, to sidewalks in the Parkland Hills neighborhood in Albuquerque in Bernalillo county;

21. seventy-five thousand dollars (\$75,000) to plan, design, construct, equip and install a storm water conveyance system on land owned by the city of Albuquerque in Petroglyph national monument in Albuquerque in Bernalillo county;

22. seventy-five thousand dollars (\$75,000) to plan, design and construct pedestrian and traffic calming improvements to the Santa Barbara-Martinez town area of Albuquerque in Bernalillo county;

23. three hundred ninety thousand dollars (\$390,000) to plan, design, construct, equip and install street lights for the southwest mesa area in Albuquerque in Bernalillo county;

24. one million two hundred fifty thousand dollars (\$1,250,000) to plan, design, construct and improve the Albuquerque westside arterial route in Albuquerque in Bernalillo county;

25. one hundred ten thousand dollars (\$110,000) to plan, design and construct an access road to Atrisco heritage high school, including modifications to Senator Dennis Chavez boulevard, 118th street and 98th street, in Albuquerque in Bernalillo county;

26. forty-five thousand dollars (\$45,000) to plan, design, construct and install speed humps and other traffic calming devices in county commission district 2 in Albuquerque in Bernalillo county;

27. one hundred fifty thousand dollars (\$150,000) to plan, design and construct improvements, including signals, lighting, bike lanes, accessibility features and sidewalks, to Bridge boulevard SW and avenida Cesar Chavez SE in Albuquerque in Bernalillo county;

~~[28. thirty thousand dollars (\$30,000) to plan, design and construct traffic circles and a traffic island on Candelaria road NW in Albuquerque in Bernalillo county;]~~

LINE-ITEM VETO

29. two hundred thirty thousand dollars (\$230,000) to plan, design and construct road, safety and lighting improvements to Cutler avenue in Albuquerque in Bernalillo county;

30. eighty-six thousand two hundred ninety-four dollars (\$86,294) to plan, design, construct and install improvements, including safety improvements, at the intersection of Eagle Ranch road and paseo del Norte in Albuquerque in Bernalillo county;

31. one hundred ten thousand dollars (\$110,000) to plan, design, construct, demolish, rehabilitate and install improvements on Granite avenue, including accessibility and sidewalk infill, between Seventh street and Fifteenth street in Albuquerque in Bernalillo county;

32. three hundred thousand dollars (\$300,000) to acquire rights of way for and to plan, design and construct road, signal and safety improvements to McMahon boulevard from Anasazi Ridge avenue and Kayenta street to Unser boulevard in Albuquerque in Bernalillo county;

33. four hundred thousand dollars (\$400,000) to plan, design and construct traffic control medians at Ouray road NW and 57th street NW in Albuquerque in Bernalillo county;

34. one hundred thousand dollars (\$100,000) to plan and design improvements to Palomas avenue NE from Louisiana boulevard to San Pedro road in Albuquerque in Bernalillo county;

35. two million one hundred ten thousand eight hundred sixty-four dollars (\$2,110,864) to acquire rights of way for and to plan, design and construct improvements on paseo del Norte in Albuquerque in Bernalillo county;

36. two hundred fifty thousand dollars (\$250,000) to plan, design and construct road and drainage improvements along Shari Vista road from the Pear road intersection to the end of Shari Vista road in Albuquerque in Bernalillo county;

37. twenty-five thousand dollars (\$25,000) to plan, design, construct and landscape a median on Tower road in Albuquerque in Bernalillo county;

38. four hundred fifty-five thousand dollars (\$455,000) to plan, design, construct and make safety and site improvements at the intersection of Tramway boulevard and Indian School road in Albuquerque in Bernalillo county;

39. one million one hundred twenty-nine thousand dollars (\$1,129,000) to plan, design, construct and extend Moonlight drive, including arroyo stabilization and a retention pond, in the Pueblo of Isleta in Bernalillo county;

40. nine hundred thousand dollars (\$900,000) to purchase rights of way and property for and to plan, design and construct improvements to Fourth street in Los Ranchos de Albuquerque in Bernalillo county;

41. two hundred fifty thousand dollars (\$250,000) to plan, design, construct and improve roads in Tijeras in Bernalillo county;

42. two hundred fifty thousand dollars (\$250,000) to repair, rebuild, reconstruct, renovate and replace components, signage and delineators for bridges on Red Bridge road at Berrendo creek and Rio Hondo in Chaves county;

43. one hundred ninety-five thousand dollars (\$195,000) to plan, design and construct street improvements, including accessibility compliance, curbs and gutters and sidewalks, in Hagerman in Chaves county;

44. five hundred sixty-nine thousand dollars (\$569,000) to plan, design, replace, construct and install culverts for the Hobson road detention pond and to plan, design and construct improvements, including paving, for Hobson road from Hummingbird lane to Baker road in Roswell in Chaves county;

45. eight hundred thousand dollars (\$800,000) to plan, design and construct a two-lane bridge, including sidewalks, at Lea avenue and west Deming street in Roswell in Chaves county;

46. seven hundred eighty-three thousand two hundred fifty dollars (\$783,250) to plan, design and construct improvements to south Main street from Hobson road to Gayle street in Roswell in Chaves county;

47. one million six hundred thousand dollars (\$1,600,000) to plan, design and construct improvements to First street, from Adams avenue to Roosevelt avenue, including accessibility ramps, curbs and gutters, drainage and signage, in Grants in Cibola county;

48. seventy-five thousand dollars (\$75,000) to purchase and equip road maintenance equipment for Colfax county;

49. fifty thousand dollars (\$50,000) to plan, design, construct and furnish street improvements in Cimarron in Colfax county;

50. sixty thousand dollars (\$60,000) to plan, design, construct and equip improvements to streets in Maxwell in Colfax county;

51. fifty thousand dollars (\$50,000) to plan, design and construct streets in Springer in Colfax county;

52. one million fifty thousand dollars (\$1,050,000) to plan, design and construct improvements to county roads 13, G and AB in Curry county;

53. one million dollars (\$1,000,000) to plan, design and construct a stormwater detention area and related phase 3 storm drain system improvements, including filing a letter of map revision with the federal emergency management agency, on 7th street in Clovis in Curry county;

54. three hundred thousand dollars (\$300,000) to plan, design and construct improvements to Martin Luther King, Jr. boulevard in Clovis in Curry county;

55. one hundred eighty thousand dollars (\$180,000) to plan, design and construct road and drainage improvements to Dripping Springs road in Dona Ana county;

56. fifty thousand dollars (\$50,000) to plan and design improvements, including performing a corridor study, to Baylor Canyon road in Dona Ana county;

57. seventy-five thousand dollars (\$75,000) to acquire property for and to plan, design and construct storm water and drainage improvements for the Hill area near Dona Ana in Dona Ana county;

58. seven hundred fifty-six thousand dollars (\$756,000) to plan, design and construct improvements, including increased weight capacity, to taxilane E at the Dona Ana international jetport in Santa Teresa in Dona Ana county;

59. four hundred thousand dollars (\$400,000) to plan, design and construct road and drainage improvements in the Organ area in Dona Ana county;

60. three hundred thousand dollars (\$300,000) to acquire property for and to plan, design and construct a drainage channel as part of the Tellbrook arroyo in Dona Ana county;

61. seventy-five thousand dollars (\$75,000) to plan, design and construct roadway and drainage improvements to Gabaldon road in La Union in Dona Ana county;

62. one hundred thousand dollars (\$100,000) to acquire rights of way for and to plan, design and construct sidewalks in La Union in Dona Ana county;

63. one hundred sixty-five thousand dollars (\$165,000) to acquire rights of way for and to plan, design and construct road and drainage improvements on Zeus avenue in the Butterfield area of Dona Ana county;

64. two hundred fifty-three thousand dollars (\$253,000) to plan, design and construct road and drainage improvements to Tornillo Flats drive in Chaparral in Dona Ana county;

65. one hundred thousand dollars (\$100,000) to acquire property for and to plan, design and construct drainage and park improvements to the Casas Lindas area in Dona Ana county;

66. three hundred twenty-four thousand dollars (\$324,000) to plan, design and construct sidewalk and lighting improvements in Dona Ana in Dona Ana county;

67. six hundred thirty thousand dollars (\$630,000) to remove a bridge and to plan, design and construct a low water crossing on Canal road in Hatch in Dona Ana county;

68. three hundred fifty thousand dollars (\$350,000) to plan, design and construct two gateway signs for Hatch in Dona Ana county;

69. four hundred ninety-two thousand dollars (\$492,000) to plan, design and construct drainage improvements in the East Mesa area of Las Cruces in Dona Ana county;

70. fifty thousand dollars (\$50,000) to plan, design, construct, equip and install phase 3 improvements for street medians, including landscaping and drainage, in Las Cruces in Dona Ana county;

71. five hundred sixty-one thousand one hundred three dollars (\$561,103) to acquire rights of way for and to plan, design and construct road improvements and flood control facilities, including utility improvements, in Las Cruces in Dona Ana county;

72. eighty thousand dollars (\$80,000) to plan, design, construct, purchase and install traffic calming devices, including speed indicators, in Las Cruces in Dona Ana county;

73. seventy-five thousand dollars (\$75,000) to plan, design and construct street, drainage and utility improvements on calle de Parian in Mesilla in Dona Ana county;

74. four million dollars (\$4,000,000) to plan, design and construct improvements to runway 10-28, including lighting, at the Dona Ana international jetport in Santa Teresa in Dona Ana county;

75. seventy-five thousand dollars (\$75,000) to plan, design and construct road and drainage improvements to Crawford road in Sunland Park in Dona Ana county;

76. one hundred fifty thousand dollars (\$150,000) to plan, design and construct road and drainage improvements to Riverside drive in Sunland Park in Dona Ana county;

77. ninety-six thousand dollars (\$96,000) to plan, design and construct road and drainage improvements in Sunland Park in Dona Ana county;

78. six million seven hundred thousand dollars (\$6,700,000) to plan, design, acquire rights of way for and construct a relief route from the Pecos highway/United States highway 285 across the Pecos river to the Hobbs highway/United States highway 62/180 in Carlsbad in Eddy county;

79. six hundred thousand dollars (\$600,000) to plan, design, construct and extend a storm drain from Canal street to west Fox street along west Greene and south Halagueno streets in Carlsbad in Eddy county;

80. eight hundred fifty thousand dollars (\$850,000) to plan, design and construct improvements to Kircher street in Carlsbad in Eddy county;

81. two hundred seventy-five thousand dollars (\$275,000) to plan, design and construct improvements for Little Walnut road, including rights of way, in Silver City in Grant county;

82. three hundred thousand dollars (\$300,000) to plan, design and construct sidewalks in Silver City in Grant county;

83. fifty thousand dollars (\$50,000) to purchase and equip equipment and supplies for maintenance in the state transportation commission district 4 Santa Rosa patrol in Guadalupe county;

84. five hundred thousand dollars (\$500,000) to acquire rights of way for and to plan, design and construct improvements, including widening and drainage, to west Bender boulevard in Hobbs in Lea county;

85. two hundred fifty thousand dollars (\$250,000) to plan, design and construct road and drainage improvements in Luna county;

86. one hundred thousand dollars (\$100,000) to plan, design and construct a paved trail from New Mexico highway 11 to Columbus elementary school in Luna county;

87. five hundred seventy-five thousand dollars (\$575,000) to plan, design, construct and install phase 1 improvements, including traffic signalization, on the Cedar street corridor in Deming in Luna county;

88. five hundred thousand dollars (\$500,000) to plan, design, construct and repair streets, including drainage, in Deming in Luna county;

89. eleven million dollars (\$11,000,000) to plan, design and construct road and drainage improvements to Carbon Coal road in McKinley county;

90. three hundred thousand dollars (\$300,000) to plan, design and construct improvements to county road 9, including resurfacing, in the Rock Springs chapter of the Navajo Nation in McKinley county;

91. one hundred twenty thousand dollars (\$120,000) to plan, design and construct improvements to Navajo route 52 and Navajo route 98, including archaeological and environmental clearances, rights of way, cattle guards, guardrails and signage, in the Nahodishgish chapter of the Navajo Nation in McKinley county;

92. two hundred thousand dollars (\$200,000) to plan, design and construct improvements to Red Willow road, also known as Navajo route 7113, including archaeological and environmental clearances, center line surveys and drainage, in the Mariano Lake chapter of the Navajo Nation in McKinley county;

93. three hundred thousand dollars (\$300,000) to plan, design and construct road improvements to west Tsayatoh road and Sunset Valley road, including environmental and archaeological clearances and rights of way, in the Tsayatoh chapter of the Navajo Nation in McKinley county;

94. one million five hundred thousand dollars (\$1,500,000) to plan, design and construct improvements to Allison road in McKinley county;

95. two hundred thousand dollars (\$200,000) to plan, design, construct and repair bridges countywide in McKinley county;

96. eight hundred sixty-two thousand dollars (\$862,000) to plan, design and construct road improvements, including lighting and striping, along New Mexico highway 118 for the Church Rock chapter in the Navajo Nation in McKinley county;

97. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to Blue Medicine Well road, including a center line survey, drainage study, easements and rights of way, in the Baahaali chapter of the Navajo Nation in McKinley county;

98. seventy-five thousand dollars (\$75,000) to plan, design and construct road improvements to Pinehaven road, including chip sealing, in the Baahaali chapter of the Navajo Nation in McKinley county;

99. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to county road 6, including resurfacing, in the Chichiltah chapter of the Navajo Nation in McKinley county;

100. six hundred seventy-seven thousand dollars (\$677,000) to plan, design and construct improvements to Coal avenue, including sidewalks, lighting and drainage, in Gallup in McKinley county;

101. one hundred fifty thousand dollars (\$150,000) to acquire property and rights of way for and to plan, design and construct storm drainage improvements along west Aztec avenue in Gallup in McKinley county;

102. seventy-five thousand dollars (\$75,000) to conduct archaeological and biological clearance studies of Tse De Tah Spring road, also known as Tse De Tah canyon or Spring road, in the Manuelito chapter of the Navajo Nation in McKinley county;

103. one hundred fifteen thousand dollars (\$115,000) to acquire rights of way for and to plan, design and construct road, drainage and utility improvements for the Red Lake chapter of the Navajo Nation in McKinley county;

104. five hundred fifty-eight thousand five hundred dollars (\$558,500) to plan, design and construct improvements, including a turnout, to the access road from United States highway 491 to Chee Dodge elementary school in the Rock Springs chapter of the Navajo Nation in McKinley county;

105. twenty-five thousand dollars (\$25,000) to plan, design, construct and make improvements to county road C001 in Mora county;

106. three million nine hundred eleven thousand five hundred dollars (\$3,911,500) to acquire rights of way for and to plan, design and construct paseo del Volcan, also known as New Mexico highway 347, in Bernalillo and Sandoval counties;

107. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and install an extension of main track 2, operated by the Rio Metro regional transit district in Albuquerque in Bernalillo, Santa Fe, Sandoval and Valencia counties;

108. one hundred fifty thousand dollars (\$150,000) to purchase and equip a dozer for the Chilili land grant-merced in Bernalillo and Tarrant counties;

109. one million two hundred fifty thousand dollars (\$1,250,000) to plan, design and construct a section of Alamo street in Otero county;

110. seven hundred fifty thousand dollars (\$750,000) to plan, design and construct improvements to Quay road 63 and Quay road AP in Quay county;

111. two million dollars (\$2,000,000) to plan, design and construct a gas pipeline from Chama to the Chama independent school district facilities in Tierra Amarilla in Rio Arriba county;

112. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, repair and improve county roads in Rio Arriba county;

113. three hundred eighty-three thousand dollars (\$383,000) to plan, design and construct county roads and road improvements in Roosevelt county;

114. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to streets in Elida in Roosevelt county;

115. three hundred seventy-one thousand dollars (\$371,000) to acquire easements and conduct archaeological and environmental studies and to plan, design and construct street improvements to Kilgore avenue in Portales in Roosevelt county;

116. one million three hundred thousand dollars (\$1,300,000) to plan, design, construct, purchase and install a traffic signal and related road work, including widening, at the intersection of New Mexico highway 371 and Navajo route 36 in San Juan county;

117. three million one hundred fifty-eight thousand dollars (\$3,158,000) to plan, design and construct the east Aztec arterial route in Aztec in San Juan county;

118. two million five hundred thousand dollars (\$2,500,000) to plan, design, construct and improve an extension to north Main avenue in Aztec in San Juan county;

119. one million eighty-four thousand dollars (\$1,084,000) to acquire land and archaeological and environmental clearances for and to plan, design and construct the Villa View flood control detention facility in Farmington in San Juan county;

120. fifty thousand dollars (\$50,000) to plan, design and construct improvements to county road A27 in the Gallinas area in San Miguel county;

121. fifty thousand dollars (\$50,000) to plan, design and construct road and drainage improvements to county road A34 in the Pendaries area in San Miguel county;

122. twenty-five thousand dollars (\$25,000) to plan, design, construct, equip, maintain and make improvements to Pendaries road, county road A4 and county road A34 in the Rociada area in San Miguel county;

123. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to county road B26C, including overlay, in the Chapelle area in San Miguel county;

124. fifty thousand dollars (\$50,000) to plan, design and construct low-water crossing structure and road overlay improvements to county road B51A in San Miguel county;

125. six hundred fifty-two thousand two hundred fourteen dollars (\$652,214) to plan, design and construct pavement and drainage improvements to streets in Las Vegas in San Miguel county;

126. two hundred thousand dollars (\$200,000) to plan, design and construct drainage and flood control improvements to Rio Mora road for the southern Sandoval county arroyo flood control authority in Sandoval county;

127. two hundred thousand dollars (\$200,000) to plan, design, construct and replace bridges on county road 11 in Sandoval county;

128. two hundred sixteen thousand seven hundred fifty dollars (\$216,750) to plan, design, construct, equip, repair and make improvements to sidewalks and crosswalks, including accessibility, [~~for the mid-region council of governments~~] in Bernalillo in Sandoval county; *LINE-ITEM VETO*

~~[129. one hundred thousand dollars (\$100,000) to plan, design and construct buried power lines along Corrales road from Cabezon road to camino Cesar Chavez in Corrales in Sandoval county;] *LINE-ITEM VETO*~~

130. one hundred thousand dollars (\$100,000) to plan, design and construct storm and flood control structures, including in the area west of Loma Larga, in Corrales in Sandoval county;

131. sixty-six thousand seven hundred fifty dollars (\$66,750) to plan, design, construct, repair and improve the infrastructure for roads and storm drainage in Corrales in Sandoval county;

132. five hundred thirty thousand dollars (\$530,000) to plan, design, replace, construct and improve paths and sidewalks along Meadowlark lane to comply with the requirements of the federal Americans with Disabilities Act of 1990 in Rio Rancho in Sandoval county;

133. six hundred thirty thousand dollars (\$630,000) to plan, design and construct safety improvements, including sidewalk and curb ramps, on Veranda road in Rio Rancho in Sandoval county;

134. two hundred thousand dollars (\$200,000) to plan, design, construct, purchase, equip and install wrong-way driving detection technology, including flashing lights and communication boards, for the interstate 25 northbound and southbound exits at Old Pecos trail in Santa Fe and at the Eldorado/Lamy/United States highway 285 exit in Santa Fe county;

135. one hundred thousand dollars (\$100,000) to purchase easements and rights of way for and to plan, design, extend and construct Zafarano drive from Rufina street to Agua Fria street in Santa Fe county;

136. four hundred fifty thousand dollars (\$450,000) to plan, design and construct improvements to Church street in Edgewood in Santa Fe county;

137. one hundred fifty thousand dollars (\$150,000) to plan, design and construct road improvements within the Eldorado subdivision in Santa Fe county;

138. one hundred twenty-five thousand dollars (\$125,000) to plan, design and construct rights of way improvements to Agua Fria street and South Meadows road in Santa Fe in Santa Fe county;

139. two hundred thousand dollars (\$200,000) to acquire rights of way for and to plan, design and construct lighting and sidewalk improvements along Harrison road from Cerrillos road to Agua Fria street in Santa Fe in Santa Fe county;

140. one million five hundred thousand dollars (\$1,500,000) to plan, design and construct a storm drainage system in the Pueblo of Tesuque in Santa Fe county;

141. one hundred ninety-eight thousand seven hundred seventy-one dollars (\$198,771) to plan, design and construct road improvements, including paving, on camino Cinco in Elephant Butte in Sierra county;

142. two hundred thousand dollars (\$200,000) to plan, design and construct streets in Socorro in Socorro county;

143. three hundred thousand dollars (\$300,000) to plan, design and construct improvements to roads, including Cabresto road, in Questa in Taos county;

144. nine hundred thousand dollars (\$900,000) to plan, design and construct a gas pipeline on New Mexico highway 518 in Taos county;

145. four hundred fifty-six thousand dollars (\$456,000) to plan, design, construct and equip a hangar at Taos regional airport in Taos county;

146. one hundred fifty thousand dollars (\$150,000) to plan, design and construct roads and road improvements in Union county;

147. three hundred thousand dollars (\$300,000) to plan, design, remove, improve and replace street lights along New Mexico highway 87 in Clayton in Union county;

148. one million seven hundred thirty-five thousand dollars (\$1,735,000) to plan, design and construct a flood protection retention pond in Belen in Valencia county;

149. three hundred thousand dollars (\$300,000) to plan, design and construct road improvements in Peralta in Valencia county;

150. one hundred fifteen thousand dollars (\$115,000) for a drainage master plan and to plan, design and construct drainage improvements in Rio Communities in Valencia county; and

151. sixty thousand dollars (\$60,000) to plan, design, purchase, equip and install solar-powered light-emitting diode street lighting in Rio Communities in Valencia county.

Chapter 277 Section 41 Laws 2019

SECTION 41. HIGHER EDUCATION DEPARTMENT PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the higher education department for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act or in the items below, for the following purposes:

1. three hundred thousand dollars (\$300,000) to plan, design and construct the central New Mexico community college film production center of excellence at the rail yards in Albuquerque in Bernalillo county;
2. one hundred forty thousand four hundred fifty-nine dollars (\$140,459) for expenditure in fiscal years 2020 through 2023 to plan, design, construct and upgrade sewer infrastructure campuswide at southwestern Indian polytechnic institute in Albuquerque in Bernalillo county;
3. seven hundred ninety-seven thousand seven hundred sixty dollars (\$797,760) for expenditure in fiscal years 2020 through 2023 to plan, design, construct and upgrade water infrastructure campuswide at southwestern Indian polytechnic institute in Albuquerque in Bernalillo county;
4. six hundred thousand dollars (\$600,000) for expenditure in fiscal years 2020 through 2023 to plan, design and construct electrical improvements at Clovis community college in Clovis in Curry county;
5. four hundred thousand dollars (\$400,000) to plan, design, construct, equip and renovate infrastructure, including the purchase and installation of fire alarm systems, security cameras and security systems, at New Mexico junior college in Hobbs in Lea county;
6. four hundred thousand dollars (\$400,000) for expenditure in fiscal years 2020 through 2023 to plan, design, construct and upgrade the aging fire alarm and life safety system and fire sprinkler system and to upgrade the exterior building

access vestibule and control areas and add a security camera and closed-circuit television system in Watson hall at New Mexico junior college in Hobbs in Lea county;

7. two hundred thousand dollars (\$200,000) to plan, design, purchase and install an electronic access control system campuswide at Navajo technical university in Crownpoint in McKinley county;

8. seven hundred fifty thousand dollars (\$750,000) for the expansion of the trades program facility at Navajo technical university in Crownpoint in McKinley county;

9. six hundred fifty thousand six hundred ninety-six dollars (\$650,696) for expenditure in fiscal years 2020 through 2023 to plan, design and replace the lighting controls at the Rio Rancho and Westside campuses of central New Mexico community college in Albuquerque and Rio Rancho in Bernalillo and Sandoval counties;

10. two hundred twenty thousand dollars (\$220,000) to plan, design, furnish, purchase, equip and construct improvements, including primary and backup transmitters, to KSFR radio station facilities in Los Alamos and Santa Fe counties;

11. three hundred fifty thousand dollars (\$350,000) to plan, design, construct, purchase, install and equip improvements, including a microgrid controller, storage battery array, transformers, solar panels and generators, at Mesalands community college in Tucumcari in Quay county;

12. two hundred ninety-seven thousand dollars (\$297,000) for expenditure in fiscal years 2020 through 2023 to plan, design, construct and renovate the roof of the Enterprise center at San Juan college in Farmington in San Juan county;

13. seven hundred sixty-eight thousand seven hundred fifty dollars (\$768,750) for expenditure in fiscal years 2020 through 2023 to plan, design, construct, renovate and equip emergency infrastructure campuswide, including fire alarm and suppression systems, at San Juan college in Farmington in San Juan county;

14. four hundred thousand dollars (\$400,000) to plan, design and construct an agricultural multipurpose center at the campus demonstration farm in the Shiprock branch campus of Dine college in the Navajo Nation in San Juan county;

15. six hundred fifty thousand dollars (\$650,000) for expenditure in fiscal years 2020 through 2023 to plan, design, construct, renovate and equip infrastructure improvements campuswide, including roadways, sidewalks, parking lots, building

entrances and bathrooms, at Luna community college in Las Vegas in San Miguel county;

16. two hundred seventy-five thousand dollars (\$275,000) for expenditure in fiscal years 2020 through 2023 to plan, design, construct, renovate and equip infrastructure upgrades campuswide, including a phone system and fiber optic infrastructure, at the institute of American Indian arts in Santa Fe county;

17. ten thousand dollars (\$10,000) to plan, design, construct, renovate, purchase, equip and install infrastructure improvements to Santa Fe community college adult education facilities, including flooring, equipment and training and laboratory space improvements, in Santa Fe county;

18. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, renovate, purchase, equip and install improvements to the controlled environment greenhouse laboratory, including training equipment and laboratory space improvements, for the controlled environment greenhouse agricultural program at Santa Fe community college in Santa Fe county;

19. fifteen thousand dollars (\$15,000) to plan, design, construct, purchase, renovate, equip and install emergency preparedness improvements campuswide at Santa Fe community college in Santa Fe county;

20. twenty-five thousand dollars (\$25,000) to purchase equipment and to plan, design, construct, purchase, equip and install improvements to the film and media department, including the laboratory, at Santa Fe community college in Santa Fe county;

21. one hundred fifteen thousand dollars (\$115,000) to purchase training equipment and to plan, design, construct, renovate, furnish and equip improvements to the health sciences simulation laboratory at Santa Fe community college in Santa Fe county;

22. one million dollars (\$1,000,000) for expenditure in fiscal years 2020 through 2023 to plan, design, construct and renovate roof A of the 500 building and roof I of the visual arts building at Santa Fe community college in Santa Fe county; and

23. one million five hundred fifty thousand dollars (\$1,550,000) to plan, design, construct, furnish and equip improvements to public educational television stations for a consortium of higher educational institutions statewide.

Chapter 277 Section 42 Laws 2019

SECTION 42. EASTERN NEW MEXICO UNIVERSITY PROJECTS--
GENERAL FUND.--The following amounts are appropriated from the general fund to the board of regents of eastern New Mexico university for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act or in the items below, for the following purposes:

1. one million two hundred thousand dollars (\$1,200,000) for expenditure in fiscal years 2020 through 2023 to plan, design, construct and equip an electrical supply line and related electrical infrastructure improvements at the Roswell branch campus of eastern New Mexico university in Chaves county;

2. one hundred thousand dollars (\$100,000) to plan, design, purchase and equip simulation mannequins and virtual reality systems for health care education programs at the Roswell branch campus of eastern New Mexico university in Chaves county;

3. ninety thousand dollars (\$90,000) to plan, design, construct, purchase, install and furnish improvements to the computer laboratory systems for the audiovisual technology industry programs at the Roswell branch campus of eastern New Mexico university in Chaves county;

4. four hundred thirty-six thousand dollars (\$436,000) for expenditure in fiscal years 2020 through 2023 to plan, design, construct and renovate infrastructure campuswide at the Ruidoso branch campus of eastern New Mexico university in Lincoln county;

5. thirty thousand dollars (\$30,000) to plan, design and construct improvements to a retaining wall at the Ruidoso branch campus of eastern New Mexico university in Lincoln county;

6. thirty thousand dollars (\$30,000) to plan, design, construct and renovate a roof for the Ruidoso branch campus of eastern New Mexico university in Lincoln county;

7. sixty-six thousand dollars (\$66,000) to purchase and install security enhancements and code blue towers and wall-mounted units for eastern New Mexico university in Portales in Roosevelt county;

8. seven hundred fifty thousand dollars (\$750,000) to plan, design and construct improvements, including roofing, to the Greyhound arena at eastern New Mexico university in Portales in Roosevelt county;

9. seven hundred thousand dollars (\$700,000) for expenditure in fiscal years 2020 through 2023 to plan, design, construct, upgrade and equip safety and infrastructure improvements campuswide at eastern New Mexico university in Portales in Roosevelt county;

10. two hundred fifty thousand dollars (\$250,000) to purchase and install equipment, including a television automation station, cameras and graphics packages, for KENW-TV for eastern New Mexico university in Portales in Roosevelt county;

11. one hundred thirty-five thousand dollars (\$135,000) to purchase maintenance equipment for eastern New Mexico university in Portales in Roosevelt county; and

12. six hundred fifty thousand dollars (\$650,000) to construct a president's residence and public event venue for eastern New Mexico university in Portales in Roosevelt county.

Chapter 277 Section 43 Laws 2019

SECTION 43. NEW MEXICO HIGHLANDS UNIVERSITY PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the board of regents of New Mexico highlands university for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act or in the items below, for the following purposes:

1. one hundred nineteen thousand dollars (\$119,000) to plan, design, purchase, construct, repair, equip and furnish athletic facilities at New Mexico highlands university in Las Vegas in San Miguel county;

2. one hundred sixty-five thousand dollars (\$165,000) to purchase, equip, upgrade and install improvements to campus and classroom technology at New Mexico highlands university in Las Vegas in San Miguel county;

3. three hundred fifty-seven thousand dollars (\$357,000) for expenditure in fiscal years 2020 through 2023 to plan, design, construct and renovate parking lots and sidewalks for the facilities division building at New Mexico highlands university in Las Vegas in San Miguel county;

4. eighty thousand dollars (\$80,000) to plan, design, construct, purchase, configure, upgrade, equip and install information technology, including wi-fi, enterprise-wide at New Mexico highlands university in Las Vegas in San Miguel county;

5. one million dollars (\$1,000,000) for expenditure in fiscal years 2020 through 2023 to plan, design, construct, renovate, furnish and equip Rodgers hall at New Mexico highlands university in Las Vegas in San Miguel county; and

6. one hundred three thousand dollars (\$103,000) for expenditure in fiscal years 2020 through 2023 to plan, design, renovate, purchase, equip and construct improvements to the facilities warehouse, including critical health and safety improvements, at New Mexico highlands university in Las Vegas in San Miguel county.

Chapter 277 Section 44 Laws 2019

SECTION 44. NEW MEXICO MILITARY INSTITUTE PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the board of regents of New Mexico military institute for the following purposes:

1. forty-one thousand dollars (\$41,000) for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, to purchase, equip and install an automated backup system for information technology at the New Mexico military institute in Roswell in Chaves county; and

2. five hundred thousand dollars (\$500,000) for expenditure in fiscal years 2020 through 2023, unless otherwise provided in Section 1 of this act, to plan, design, demolish, construct and equip security measures for the New Mexico military institute in Roswell in Chaves county.

Chapter 277 Section 45 Laws 2019

SECTION 45. NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the board of regents of New Mexico institute of mining and technology for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act or in the items below, for the following purposes:

1. one million two hundred ninety-five thousand dollars (\$1,295,000) for expenditure in fiscal years 2020 through 2023 to plan, design, construct and equip an electronic door lock system campuswide on the New Mexico institute of mining and technology campus in Socorro in Socorro county;

2. two million fifty-six thousand six hundred dollars (\$2,056,600) for expenditure in fiscal years 2020 through 2023 to plan, design, construct and renovate roofs on the Kelly building, the Gold building and Workman center at the New Mexico institute of mining and technology in Socorro in Socorro county;

3. fifteen thousand dollars (\$15,000) to plan, design, construct, furnish, equip and install information technology for the New Mexico institute of mining and technology New Mexico mathematics, engineering and science achievement program in school districts statewide;

~~[4. ten thousand dollars (\$10,000) to plan, design and construct a New Mexico miner memorial at the New Mexico institute of mining and technology in Socorro in Socorro county;]~~ and *LINE-ITEM VETO*

5. ninety-four thousand dollars (\$94,000) to purchase and equip vehicles for the New Mexico institute of mining and technology in Socorro in Socorro county.

Chapter 277 Section 46 Laws 2019

SECTION 46. NEW MEXICO STATE UNIVERSITY PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the board of regents of New Mexico state university for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act or in the items below, for the following purposes:

1. eleven million dollars (\$11,000,000) for expenditure in fiscal years 2020 through 2023 to plan, design, construct, improve, renovate, remediate, furnish and equip a new facility and infrastructure upgrades to existing facilities for the New Mexico department of agriculture in Las Cruces in Dona Ana county;

2. eight hundred eighty thousand dollars (\$880,000) for expenditure in fiscal years 2020 through 2023 to plan, design, construct, renovate and equip lighting, mechanical and fire alarm infrastructure and improvements to restrooms and locker rooms, including code compliance, at Fidel hall at the Grants branch campus of New Mexico state university in Cibola county;

~~[3. seventy thousand dollars (\$70,000) to plan, design, construct, furnish and equip a produce processing plant for the Anthony water and sanitation district in Dona Ana county;]~~ *LINE-ITEM VETO*

4. four hundred seventy-nine thousand dollars (\$479,000) to plan, design, construct and equip improvements to athletic facilities, including roofing, track and field facilities, soccer stadium lighting, accessibility improvements to the Pan American center and upgrades to the football stadium, at New Mexico state university in Las Cruces in Dona Ana county;

5. one hundred thousand dollars (\$100,000) to plan, design, construct, renovate, furnish, equip and upgrade the department of counseling and educational psychology training clinic at New Mexico state university in Las Cruces in Dona Ana county;

6. eight hundred sixty thousand three hundred ninety-seven dollars (\$860,397) to plan, design, construct, renovate, furnish and equip the college of engineering at New Mexico state university in Las Cruces in Dona Ana county;

7. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, furnish, equip and install improvements to the creative media institute, including information technology and audiovisual equipment, at New Mexico state university in Las Cruces in Dona Ana county;

8. four hundred fifty thousand dollars (\$450,000) for development and implementation of a crime prevention through environmental design program campuswide at New Mexico state university in Las Cruces in Dona Ana county;

9. three hundred twenty thousand five hundred dollars (\$320,500) to plan, design, construct, renovate, furnish and equip improvements to the fire station, including the southwest bay door and the roof, at New Mexico state university in Las Cruces in Dona Ana county;

10. four hundred nineteen thousand dollars (\$419,000) to purchase, equip and install cameras and information technology for KRWG TV at New Mexico state university in Las Cruces in Dona Ana county;

11. one hundred thousand dollars (\$100,000) to purchase instruments and electronic equipment for the music department at New Mexico state university in Las Cruces in Dona Ana county;

12. three hundred thousand dollars (\$300,000) to plan, design, construct, renovate, furnish, equip, make improvements and purchase vehicles for the police department at New Mexico state university in Las Cruces in Dona Ana county;

13. one million six hundred thousand dollars (\$1,600,000) for expenditure in fiscal years 2020 through 2023 to plan, design, abate and demolish the Regents Row residence center and for selective facilities decommissioning and demolition campuswide at New Mexico state university in Las Cruces in Dona Ana county;

14. four hundred thousand dollars (\$400,000) to plan, design, construct, renovate, furnish and equip improvements to the therapeutic riding program at New Mexico state university in Las Cruces in Dona Ana county;

15. three million dollars (\$3,000,000) for expenditure in fiscal years 2020 through 2023 to plan, design, construct and renovate utility tunnels at New Mexico state university in Las Cruces in Dona Ana county;

16. one hundred thousand dollars (\$100,000) to plan, design, construct, renovate and equip improvements to athletic facilities for women's sports at New Mexico state university in Las Cruces in Dona Ana county;

17. fifty thousand dollars (\$50,000) to plan, design, construct and equip improvements, including lighting for parking lots, at the Espina campus of Dona Ana branch community college of New Mexico state university in Las Cruces in Dona Ana county;

18. one million five hundred thousand dollars (\$1,500,000) for expenditure in fiscal years 2020 through 2023 to plan, design, construct, renovate and install roofs and parking lots at the workforce center campus of Dona Ana branch community college and for the purchase and installation of programmable locks at the East Mesa campus of Dona Ana branch community college of New Mexico state university in Dona Ana county;

19. seven hundred fifty thousand dollars (\$750,000) for expenditure in fiscal years 2020 through 2023 to plan, design, construct and renovate the roof of the computer building at the Carlsbad branch campus of New Mexico state university in Eddy county;

20. seventy-five thousand dollars (\$75,000) to purchase and equip a one-ton truck for the McKinley soil and water conservation district in McKinley county;

21. sixty thousand dollars (\$60,000) to plan, design and construct improvements to the western Mora soil and water conservation district building, including asbestos abatement, centralized heating and accessible bathrooms, in Mora in Mora county;

22. four hundred twenty-five thousand dollars (\$425,000) for expenditure in fiscal years 2020 through 2023 to plan, design and construct infrastructure improvements campuswide, including drainage, parking lots and lighting, at the Alamogordo branch campus of New Mexico state university in Otero county;

23. nineteen thousand four hundred dollars (\$19,400) to plan, design and construct a pole shed for equipment storage for the east Rio Arriba soil and water conservation district in Hernandez in Rio Arriba county;

24. eight hundred thousand dollars (\$800,000) to plan, design, construct, furnish and equip an office and warehouse facility for the San Juan soil and water conservation district in Aztec in San Juan county;

25. two hundred thousand dollars (\$200,000) to plan, design and construct improvements to reservoirs within the Coronado soil and water conservation district in Sandoval county;

26. three million dollars (\$3,000,000) for expenditure in fiscal years 2020 through 2023 to plan, design, construct, renovate, improve and equip agricultural science centers statewide;

27. fifty thousand dollars (\$50,000) to plan, design, construct, renovate and improve the Edgewood soil and water conservation district facility, including a solar array, floor resurfacing, a security gate, parking and exterior finishes, in Moriarty in Torrance county;

28. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, furnish, equip and install a boiler, including a control system and related infrastructure, at the New Mexico state university agricultural experiment station at Clayton livestock research center in Clayton in Union county; and

29. one hundred thousand dollars (\$100,000) to plan, design, construct, furnish and equip phase 2 of the Whitfield visitor and education center for the Valencia soil and water conservation district in Valencia county.

Chapter 277 Section 47 Laws 2019

SECTION 47. NORTHERN NEW MEXICO STATE SCHOOL PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the board of regents of northern New Mexico state school for the following purposes:

1. one hundred thirty-two thousand five hundred sixty-five dollars (\$132,565) for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, to plan, design and construct replacement of corroded pipes in a dormitory and kitchen at the northern New Mexico state school in El Rito in Rio Arriba county; and

2. one million eight hundred fifty-five thousand dollars (\$1,855,000) for expenditure in fiscal years 2020 through 2023, unless otherwise provided in Section 1 of this act, to plan, design, construct, renovate and equip infrastructure improvements campuswide, including roofs, stucco, accessibility and sustainability initiatives, at the Espanola campus of northern New Mexico state school in Rio Arriba county.

Chapter 277 Section 48 Laws 2019

SECTION 48. UNIVERSITY OF NEW MEXICO PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the board of regents of the university of New Mexico for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act or in the items below, for the following purposes:

1. one million one hundred fifty thousand dollars (\$1,150,000) to plan, design, purchase, equip, renovate and construct improvements to athletic facilities at the university of New Mexico in Albuquerque in Bernalillo county;

~~2. twenty-five thousand dollars (\$25,000) to plan, design, purchase, equip and renovate the center for financial capability at the university of New Mexico in Albuquerque in Bernalillo county;]~~ *LINE-ITEM VETO*

3. fifty thousand dollars (\$50,000) to plan, design, construct, renovate and make improvements to geography laboratories at the university of New Mexico in Albuquerque in Bernalillo county;

4. seventy-five thousand dollars (\$75,000) to plan and design an irrigation system, including reservoirs and pumping stations, at the university of New Mexico golf course in Albuquerque in Bernalillo county;

5. two hundred fifty thousand dollars (\$250,000) to plan, design, purchase, equip, renovate and improve the meteorite museum and other museum facilities at the university of New Mexico in Albuquerque in Bernalillo county;

6. one hundred thousand dollars (\$100,000) to purchase, install and make improvements to the natural history science center at the university of New Mexico in Albuquerque in Bernalillo county;

7. four hundred ten thousand dollars (\$410,000) to plan, design, construct, furnish and equip improvements to the university of New Mexico north golf course open space area and neighboring trails and streetscapes for the university of New Mexico in Albuquerque in Bernalillo county;

~~[8. five hundred thousand dollars (\$500,000) to plan, design, construct, purchase, install and equip an olympic sports training facility at the university of New Mexico in Albuquerque in Bernalillo county;]~~ *LINE-ITEM VETO*

9. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, equip, renovate and make improvements to academic and support spaces at the university of New Mexico in Albuquerque in Bernalillo county;

10. one hundred sixty thousand dollars (\$160,000) to plan, design, construct, purchase, equip, renovate and make improvements, including lighting and security, at the Art annex and Mattox sculpture center at the university of New Mexico in Albuquerque in Bernalillo county;

11. seven hundred fifty thousand dollars (\$750,000) to plan, design, purchase and construct improvements to baseball facilities at the university of New Mexico in Albuquerque in Bernalillo county;

12. seventy-five thousand dollars (\$75,000) to plan, design, purchase and install improvements, including a sound system, at the baseball facilities at the university of New Mexico in Albuquerque in Bernalillo county;

13. one hundred thousand dollars (\$100,000) to plan, design, purchase, construct and equip improvements to basketball facilities at the university of New Mexico in Albuquerque in Bernalillo county;

14. ten thousand dollars (\$10,000) to purchase and install equipment at the center for alcoholism, substance abuse and addictions at the university of New Mexico in Albuquerque in Bernalillo county;

~~[15. thirty thousand dollars (\$30,000) to plan, design and construct an expansion of the center for social policy at the university of New Mexico in Albuquerque in Bernalillo county;]~~ *LINE-ITEM VETO*

16. two hundred thousand dollars (\$200,000) to plan, design, construct, furnish, equip and install improvements, including bathrooms, office space, conference space and classrooms, at Charlie Morrissey research hall at the university of New Mexico in Albuquerque in Bernalillo county;

17. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, purchase, install, equip and make improvements to classroom safety and security infrastructure at the university of New Mexico in Albuquerque in Bernalillo county;

~~[18. two hundred twenty-five thousand dollars (\$225,000) to plan, design, construct, renovate, furnish and equip music practice rooms and sound system upgrades at the college of fine arts at the university of New Mexico in Albuquerque in Bernalillo county;] *LINE-ITEM VETO*~~

19. two hundred thirty thousand dollars (\$230,000) to plan, design, purchase, construct, equip and improve graduate spaces at the university of New Mexico in Albuquerque in Bernalillo county;

20. three million five hundred thousand dollars (\$3,500,000) for expenditure in fiscal years 2020 through 2023 to plan, design, construct, renovate, furnish and equip a movement disorders specialized center for the health sciences center at the university of New Mexico in Albuquerque in Bernalillo county;

21. one million four hundred thousand dollars (\$1,400,000) for expenditure in fiscal years 2020 through 2023 to purchase and install computed tomography equipment for the office of the medical examiner in Albuquerque in Bernalillo county;

22. one hundred thousand dollars (\$100,000) to purchase, install, equip and make improvements to the honors college at the university of New Mexico in Albuquerque in Bernalillo county;

23. four hundred twenty-eight thousand two hundred dollars (\$428,200) to plan, design, construct, furnish and equip an adult psychiatric regional crisis triage center at the university of New Mexico hospital in Albuquerque in Bernalillo county;

24. thirty million dollars (\$30,000,000) to plan, design, construct, furnish and equip a new medical tower, including medical facilities and inpatient beds, at the university of New Mexico hospital in Albuquerque in Bernalillo county;

25. six hundred fifty-five thousand dollars (\$655,000) to plan, design, construct, purchase, equip and install improvements to the information technology infrastructure campuswide at the university of New Mexico in Albuquerque in Bernalillo county;

26. forty-five thousand dollars (\$45,000) to purchase, equip and install improvements to library learning environments at the university of New Mexico in Albuquerque in Bernalillo county;

27. one million one hundred forty thousand dollars (\$1,140,000) to plan, design, construct, purchase, equip and install high-density compact library shelving at the university of New Mexico in Albuquerque in Bernalillo county;

28. one hundred fifty-eight thousand six hundred dollars (\$158,600) to plan, design, purchase, construct and equip track and cross-country locker rooms at the university of New Mexico in Albuquerque in Bernalillo county;

29. seventy-five thousand dollars (\$75,000) to plan, design, purchase, construct, equip and install improvements to outdoor student spaces at the university of New Mexico in Albuquerque in Bernalillo county;

30. one million dollars (\$1,000,000) to plan, design and construct improvements to Popejoy hall at the university of New Mexico in Albuquerque in Bernalillo county;

31. eighty-five thousand dollars (\$85,000) to purchase and install safety lighting at the university of New Mexico in Albuquerque in Bernalillo county;

32. one hundred forty-four thousand dollars (\$144,000) to plan, design, construct and equip a wellness center at Bratton Hall at the university of New Mexico school of law in Albuquerque in Bernalillo county;

33. six million dollars (\$6,000,000) for expenditure in fiscal years 2020 through 2023 to plan, design, construct, renovate and equip fire suppression systems and security cameras campuswide at the university of New Mexico in Albuquerque in Bernalillo county;

34. two hundred fifty thousand dollars (\$250,000) to plan, design, purchase, construct and install solar panels at the university of New Mexico in Albuquerque in Bernalillo county;

35. three hundred thousand dollars (\$300,000) to plan, design, purchase, equip and construct improvements to the volleyball and swimming and diving facilities at the university of New Mexico in Albuquerque in Bernalillo county;

36. two hundred ten thousand dollars (\$210,000) to plan, design, construct, purchase, equip and install improvements to the women's softball facilities at the university of New Mexico in Albuquerque in Bernalillo county;

37. seven hundred fifty thousand dollars (\$750,000) for expenditure in fiscal years 2020 through 2023 to plan, design, construct, furnish and equip

campuswide infrastructure improvements, including code compliance and lighting for building 6, at the Los Alamos branch campus of the university of New Mexico in Los Alamos county;

38. five hundred thousand dollars (\$500,000) for expenditure in fiscal years 2020 through 2023 to plan, design, remodel, renovate, furnish and equip the library at the Los Alamos branch campus of the university of New Mexico in Los Alamos county;

39. nine hundred seventy-five thousand dollars (\$975,000) for expenditure in fiscal years 2020 through 2023 to plan, design, construct, renovate and equip facilities and for infrastructure improvements, including removal of an old water pump station, at the Gallup branch campus of the university of New Mexico in McKinley county;

40. two hundred thousand dollars (\$200,000) to plan, design, renovate, furnish and equip a facility for the northern New Mexico land grant and acequia archives, including the purchase and installation of information technology and related equipment, furniture and infrastructure, in Taos county; and

41. one million five hundred thousand dollars (\$1,500,000) for expenditure in fiscal years 2020 through 2023 to plan, design, construct, renovate and equip infrastructure improvements campuswide at the Taos branch campus of the university of New Mexico in Taos county.

Chapter 277 Section 49 Laws 2019

SECTION 49. WESTERN NEW MEXICO UNIVERSITY PROJECTS--
GENERAL FUND.--The following amounts are appropriated from the general fund to the board of regents of western New Mexico university for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act or in the items below, for the following purposes:

1. one million two hundred fifty thousand dollars (\$1,250,000) for expenditure in fiscal years 2020 through 2023 to plan, design, construct, upgrade and equip an electronic door lock system campuswide at western New Mexico university in Silver City in Grant county;

2. four hundred thousand dollars (\$400,000) to plan, design, construct, equip and improve information technology infrastructure at western New Mexico university in Silver City in Grant county;

~~[3.—one million three hundred thirty-five thousand dollars (\$1,335,000) for expenditure in fiscal years 2020 through 2023 to plan, design, construct and renovate the exteriors of the Miller library and the student memorial building at western New Mexico university in Silver City in Grant county;]~~ *LINE-ITEM VETO*

4. fifty thousand dollars (\$50,000) to plan, design, construct, equip, furnish and renovate infrastructure, including site improvements, for a veterans' center at western New Mexico university in Silver City in Grant county; and

5. one million dollars (\$1,000,000) to acquire land for and to plan, design, construct, equip, demolish and renovate a learning center for western New Mexico university in Deming in Luna county.

Chapter 277 Section 50 Laws 2019

SECTION 50. VETERANS' SERVICES DEPARTMENT PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the veterans' services department for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, for the following purposes:

1. one hundred fifty-one thousand four hundred sixty-seven dollars (\$151,467) to plan, design, construct and equip improvements to the surveillance system at the New Mexico state veterans' home in Truth or Consequences in Sierra county; and

2. nine hundred fifty-eight thousand six hundred nineteen dollars (\$958,619) to plan, design and construct improvements, including walkways and parking areas, at the New Mexico state veterans' home in Truth or Consequences in Sierra county.

Chapter 277 Section 51 Laws 2019

SECTION 51. NEW MEXICO SCHOOL FOR THE BLIND AND VISUALLY IMPAIRED PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the board of regents of the New Mexico school for the blind and visually impaired for expenditure in fiscal years 2020 through 2023, unless otherwise provided in Section 1 of this act, for the following purposes:

1. three hundred forty-eight thousand six hundred seventy-five dollars (\$348,675) to plan, design, demolish and repave parking lots campuswide at the New Mexico school for the blind and visually impaired in Alamogordo in Otero county; and

2. six hundred ninety-eight thousand five hundred dollars (\$698,500) to plan, design, construct, renovate, furnish and equip a new superintendent's residence, including demolition of the existing residence, asbestos abatement and site improvements, at the New Mexico school for the blind and visually impaired in Alamogordo in Otero county.

Chapter 277 Section 52 Laws 2019

SECTION 52. WORKFORCE SOLUTIONS DEPARTMENT PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the workforce solutions department for the following purposes:

1. nine million dollars (\$9,000,000) for expenditure in fiscal years 2020 through 2023, unless otherwise provided in Section 1 of this act, to plan, design, construct, renovate, remodel, furnish and equip improvements to the workforce solutions department administration building in Albuquerque in Bernalillo county; and

2. five hundred thousand dollars (\$500,000) for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, to plan, design, repair and renovate workforce solutions department facilities statewide.

Chapter 277 Section 53 Laws 2019

SECTION 53. STATE PARKS DIVISION OF THE ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT PROJECT--APPROPRIATION FROM THE WATER PROJECT FUND.--Notwithstanding the provisions of the Water Project Finance Act to the contrary, one million three hundred fifty thousand dollars (\$1,350,000) is appropriated from the water project fund to the state parks division of the energy, minerals and natural resources department for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, to plan, design, construct and upgrade water and wastewater infrastructure at state parks statewide.

Chapter 277 Section 54 Laws 2019

SECTION 54. OFFICE OF THE STATE ENGINEER PROJECTS--APPROPRIATIONS FROM THE WATER PROJECT FUND.--Notwithstanding the provisions of the Water Project Finance Act to the contrary, the following amounts are appropriated from the water project fund to the office of the state engineer for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, for the following purposes:

1. four hundred twenty thousand dollars (\$420,000) to meet the state's cost share obligation for the San Juan river basin recovery implementation program in San Juan county;
2. four million dollars (\$4,000,000) to plan, design, construct, rehabilitate and make improvements to publicly owned dams statewide; and
3. one million dollars (\$1,000,000) to purchase, construct, install, map and calibrate surface and ground water measurement structures, equipment and related software for administrative purposes and accountability statewide.

Chapter 277 Section 55 Laws 2019

SECTION 55. UNIVERSITY OF NEW MEXICO PROJECT--APPROPRIATION FROM THE UNIVERSITY INCOME FUND.--Two million dollars (\$2,000,000) is appropriated from the university income fund to the board of regents of the university of New Mexico for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, to plan, design, demolish, construct, replace, renovate, furnish, equip and upgrade phase 2 of the reserve officer training corps facilities development at the university of New Mexico in Albuquerque in Bernalillo county.

Chapter 277 Section 56 Laws 2019

SECTION 56. STATE LAND OFFICE PROJECT--APPROPRIATION FROM THE STATE LANDS MAINTENANCE FUND.--Three hundred ninety thousand dollars (\$390,000) is appropriated from the state lands maintenance fund to the state land office for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, to replace the electrical system at the state land office in Santa Fe in Santa Fe county.

Chapter 277 Section 57 Laws 2019

SECTION 57. PUBLIC EDUCATION DEPARTMENT PROJECT--APPROPRIATION FROM THE PUBLIC SCHOOL CAPITAL OUTLAY FUND.--Thirty-two million eight hundred ninety-five thousand dollars (\$32,895,000) is appropriated from the public school capital outlay fund to the public education department for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, to purchase and equip district-owned school buses, including air conditioning on school buses in school districts in which temperatures are regularly high enough to pose a risk to students riding in a school bus without air conditioning, statewide.

Chapter 277 Section 58 Laws 2019

SECTION 58. PUBLIC SCHOOL FACILITIES AUTHORITY PROJECTS-- APPROPRIATIONS FROM THE PUBLIC SCHOOL CAPITAL OUTLAY FUND.--The following amounts are appropriated from the public school capital outlay fund to the public school facilities authority for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, for the following purposes:

1. ten million dollars (\$10,000,000) for teacher housing facilities for one or more school districts that receive federal impact aid for tribal lands[~~contingent upon the approval of the public school capital outlay council. The public school capital outlay council shall require a local match pursuant to Subsection B of Section 22-24-5 NMSA 1978 for any grant made pursuant to this section~~]; provided that this appropriation shall not be considered a direct legislative appropriation, and no offsets shall be applied against the required local match pursuant to Paragraph (6) of Subsection B of Section 22-24-5 NMSA 1978; and *LINE-ITEM VETO*

2. five million dollars (\$5,000,000) to plan, design, renovate and construct public school pre-kindergarten classrooms statewide. The public school capital outlay council shall require a local match pursuant to Subsection B of Section 22-24-5 NMSA 1978.

Chapter 277 Section 59 Laws 2019

SECTION 59. LOCAL GOVERNMENT DIVISION PROJECT-- APPROPRIATION FROM THE PRIMARY CARE CAPITAL FUND.--Four million dollars (\$4,000,000) is appropriated from the primary care capital fund to the local government division of the department of finance and administration for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, for renovations and improvements at Sierra Vista hospital in Truth or Consequences in Sierra county.

Chapter 277 Section 60 Laws 2019

~~[SECTION 60. OFFICE OF THE STATE ENGINEER PROJECT-- APPROPRIATION FROM THE NEW MEXICO UNIT FUND.--One million six hundred ninety eight thousand dollars (\$1,698,000) is appropriated from the New Mexico unit fund to the office of the state engineer for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, to plan and design a new water supply project in southwestern New Mexico, including environmental and archaeological studies, pursuant to the 2004 Arizona Water Settlements Act.]~~ *LINE-ITEM VETO*

Chapter 277 Section 61 Laws 2019

SECTION 61. DEPARTMENT OF INFORMATION TECHNOLOGY PROJECT-- APPROPRIATION FROM THE EQUIPMENT REPLACEMENT REVOLVING FUNDS.-- Six million two hundred ninety-eight thousand seven hundred fifteen dollars (\$6,298,715) is appropriated from the equipment replacement revolving funds to the department of information technology for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, to plan, design, purchase, install and implement infrastructure to improve or replace the central telephone system statewide.

Chapter 277 Section 62 Laws 2019

SECTION 62. CAPITAL PROGRAM FUND PROJECTS--APPROPRIATIONS FROM THE CAPITOL BUILDINGS REPAIR FUND.--Notwithstanding the provisions of Section 15-3B-17 NMSA 1978 to the contrary, the following amounts are appropriated from the capitol buildings repair fund to the capital program fund for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, for the following purposes:

1. four hundred thousand dollars (\$400,000) to plan, design, construct, furnish and equip a new building to house the department of health vital records and health statistics bureau, including the purchase and installation of information technology equipment, in Santa Fe in Santa Fe county;

2. two hundred thousand dollars (\$200,000) to plan, design, construct, renovate, improve, remediate, furnish and equip an addition to the homeland security and emergency management department garage in Santa Fe in Santa Fe county; and

3. nine hundred fifty-three thousand dollars (\$953,000) to plan, design, construct, improve, renovate, remediate, furnish and equip facilities, including infrastructure upgrades, and to purchase and install building systems at the Carruthers building for the state commission of public records in Santa Fe in Santa Fe county.

Chapter 277 Section 63 Laws 2019

SECTION 63. DEPARTMENT OF MILITARY AFFAIRS PROJECT-- APPROPRIATION FROM THE CAPITOL BUILDINGS REPAIR FUND.-- Notwithstanding the provisions of Section 15-3B-17 NMSA 1978 to the contrary, five hundred thousand dollars (\$500,000) is appropriated from the capitol buildings repair fund to the department of military affairs for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, to plan, design, construct, renovate, purchase and install equipment, infrastructure improvements and repairs,

including energy efficiency systems, to correct deficiencies at the New Mexico national guard military museum in Santa Fe in Santa Fe county.

Chapter 277 Section 64 Laws 2019

SECTION 64. DEPARTMENT OF GAME AND FISH PROJECTS-- APPROPRIATION FROM THE BIG GAME ENHANCEMENT ACCOUNT OF THE GAME PROTECTION FUND.--One million dollars (\$1,000,000) is appropriated from the big game enhancement account of the game protection fund to the department of game and fish for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, for wildlife and riparian habitat restoration and for improvements at properties owned by the state game commission statewide.

Chapter 277 Section 65 Laws 2019

SECTION 65. CAPITAL PROGRAM FUND PROJECTS--GENERAL FUND.-- The following amounts are appropriated from the general fund to the capital program fund for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, for the following purposes:

1. three million dollars (\$3,000,000) to plan, design, construct, improve, renovate, repair, remediate, furnish and equip facility improvements and infrastructure upgrades at the children, youth and families department campus on Indian School road in Albuquerque in Bernalillo county;
2. three million dollars (\$3,000,000) to plan, design, construct, renovate, furnish and equip a new state police crime laboratory evidence and records storage facility, including expansion of the existing crime laboratory, including the purchase and installation of information technology equipment, in Santa Fe in Santa Fe county;
3. three million dollars (\$3,000,000) to plan, design, construct, renovate, furnish, remediate, equip, repair, purchase and install equipment and improve infrastructure, including roofs, additions to existing buildings, replacement of heating, ventilation and air conditioning systems, fire suppression and alarm systems and telephone, sewer and security systems upgrades, at correctional facilities statewide;
4. three million dollars (\$3,000,000) to plan, design, construct, improve, renovate, repair, remediate, furnish, equip, purchase and install equipment and for infrastructure upgrades at department of health facilities statewide; and

5. three million dollars (\$3,000,000) to plan, design, construct, improve, renovate, remediate, furnish and equip facilities, including infrastructure upgrades, at state-owned facilities statewide.

Chapter 277 Section 66 Laws 2019

SECTION 66. INDIAN WATER RIGHTS SETTLEMENT FUND--GENERAL FUND.--Three million dollars (\$3,000,000) is appropriated from the general fund to the Indian water rights settlement fund. Notwithstanding the requirement for a joint resolution of the legislature in Subsection A of Section 72-1-11 NMSA 1978, if a corresponding commitment has been made for the federal portion of the settlement in the Aamodt case, the money may be expended by the interstate stream commission in fiscal year 2019 and subsequent fiscal years to implement the state's portion of the settlement, and any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert.

Chapter 277 Section 67 Laws 2019

SECTION 67. DEPARTMENT OF INFORMATION TECHNOLOGY PROJECT--GENERAL FUND.--Three million dollars (\$3,000,000) is appropriated from the general fund to the department of information technology for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, to purchase radios and to plan, design, purchase, install, equip and implement infrastructure to stabilize and modernize public safety radio communications statewide.

Chapter 277 Section 68 Laws 2019

SECTION 68. NEW MEXICO STATE UNIVERSITY PROJECT--GENERAL FUND.--Three million dollars (\$3,000,000) is appropriated from the general fund to the board of regents of New Mexico state university for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, to plan, design, construct, improve, renovate, remediate, furnish and equip a new facility and infrastructure upgrades to existing facilities for the New Mexico department of agriculture in Las Cruces in Dona Ana county.

Chapter 277 Section 69 Laws 2019

SECTION 69. SPACEPORT AUTHORITY PROJECT--GENERAL FUND.--Three million dollars (\$3,000,000) is appropriated from the general fund to the spaceport authority for expenditure in fiscal years 2019 through 2023, unless otherwise

provided in Section 1 of this act, to plan, design, construct and make improvements at spaceport America in Sierra county.

Chapter 277 Section 70 Laws 2019

SECTION 70. WORKFORCE SOLUTIONS DEPARTMENT PROJECT--GENERAL FUND.--Three million dollars (\$3,000,000) is appropriated from the general fund to the workforce solutions department for expenditure in fiscal years 2019 through 2023, unless otherwise provided in Section 1 of this act, to plan, design, construct, renovate, remodel, furnish and equip improvements to the workforce solutions department administration building in Albuquerque in Bernalillo county.

Chapter 277 Section 71 Laws 2019

SECTION 71. INDIAN WATER RIGHTS SETTLEMENT FUND--APPROPRIATION FROM THE WATER PROJECT FUND.--Three million dollars (\$3,000,000) is appropriated from the water project fund to the Indian water rights settlement fund. Notwithstanding the requirement for a joint resolution of the legislature in Subsection A of Section 72-1-11 NMSA 1978, if a corresponding commitment has been made for the federal portion of the settlement in the Aamodt case, the money may be expended by the interstate stream commission in fiscal year 2019 and subsequent fiscal years to implement the state's portion of the settlement, and any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert.

Chapter 277 Section 72 Laws 2019

SECTION 72. ISSUANCE OF SEVERANCE TAX BONDS AND APPROPRIATIONS FOR PROJECTS PREVIOUSLY AUTHORIZED BY LAW.--

A. As provided in Laws 2015 (1st S.S.), Chapter 3, the state board of finance may issue and sell severance tax bonds in an amount not to exceed four hundred eighty-five thousand dollars (\$485,000) for projects and in project amounts that are authorized pursuant to that chapter, but for which severance tax bonds have not been issued.

B. As provided in Laws 2018, Chapter 80, the state board of finance may issue and sell severance tax bonds in an amount not to exceed eight hundred fifty-eight thousand dollars (\$858,000) for projects and in project amounts that are authorized pursuant to that chapter, but for which severance tax bonds have not been issued.

C. Proceeds from the severance tax bonds issued as provided in this section are appropriated to the agencies for which the projects are authorized, as provided pursuant to Laws 2015 (1st. S.S.), Chapter 3 or Laws 2018, Chapter 80.

Chapter 277 Section 73 Laws 2019

SECTION 73. ISSUANCE OF SEVERANCE TAX BONDS AND APPROPRIATION OF BOND PROCEEDS TO CERTAIN FUNDS.--As provided in Sections 7-27-10.1 and 7-27-12.5 NMSA 1978, the state board of finance shall issue and sell severance tax bonds, and the proceeds of the bonds are appropriated to the water project fund, the tribal infrastructure project fund and the colonias infrastructure project fund, based on the severance tax bonding capacity estimate dated January 11, 2019 and made by the state board of finance on behalf of the department of finance and administration.

Chapter 277 Section 74 Laws 2019

SECTION 74. PROJECT SCOPE--EXPENDITURES.--If an appropriation for a project authorized in this act is not sufficient to complete all the purposes specified, the appropriation may be expended for any portion of the purposes specified in the appropriation. Expenditures shall not be made for purposes other than those specified in the appropriation.

Chapter 277 Section 75 Laws 2019

SECTION 75. ART IN PUBLIC PLACES.--Pursuant to Section 13-4A-4 NMSA 1978 and where applicable, the appropriations authorized in this act include one percent for the art in public places fund.

Chapter 277 Section 76 Laws 2019

SECTION 76. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately. _____

SFC/Senate Bill 280, w/ec, partial veto

Approved April 5, 2019

LAWS 2019, CHAPTER 278

AN ACT

MAKING APPROPRIATIONS AND AUTHORIZING EXPENDITURES IN FISCAL YEARS 2019 THROUGH 2022.

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

Chapter 278 Section 1 Laws 2019

SECTION 1. LEGISLATIVE.--

A. Twelve thousand dollars (\$12,000) is appropriated from the general fund to the legislative council service for expenditure in fiscal years 2019 and 2020 for the interim duties of the senate rules committee. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

B. One hundred fourteen thousand dollars (\$114,000) is appropriated from the general fund to the legislative finance committee for expenditure in fiscal years 2019 and 2020 for performance of a fiscal analysis for the health security plan. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 2 Laws 2019

SECTION 2. ADMINISTRATIVE OFFICE OF THE COURTS.--

A. The following amounts are appropriated from the general fund to the administrative office of the courts for expenditure in fiscal years 2019 and 2020 for the following purposes:

(1) two hundred eighteen thousand five hundred dollars (\$218,500) for crime reduction grants for pretrial services; and

(2) fifty thousand dollars (\$50,000) to fund the convening of a task force on family representation in child welfare proceedings.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 3 Laws 2019

SECTION 3. DISTRICT COURTS.--

A. The following amounts are appropriated from the general fund to the third judicial district court for expenditure in fiscal years 2019 and 2020 for the following purposes:

(1) seventy thousand dollars (\$70,000) for security cameras and software;

(2) sixty thousand dollars (\$60,000) to replace the public address system and audio systems for the courtrooms;

(3) eleven thousand dollars (\$11,000) to replace the ELMO systems courtroom audiovisual equipment;

(4) twenty-two thousand dollars (\$22,000) to replace computers, printers and servers;

(5) forty-one thousand dollars (\$41,000) to replace office furniture; and

(6) thirteen thousand dollars (\$13,000) to provide leadership training for court management to the chief judge and the court executive officer.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 4 Laws 2019

SECTION 4. ADMINISTRATIVE OFFICE OF THE DISTRICT ATTORNEYS.-- Fifty thousand dollars (\$50,000) is appropriated from the general fund to the administrative office of the district attorneys for expenditure in fiscal years 2019 and 2020 to purchase computers, software, equipment and vehicles in the first and ninth judicial district attorney's offices. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 5 Laws 2019

SECTION 5. DISTRICT ATTORNEYS.--

A. The following amounts are appropriated from the general fund to the following district attorney offices for expenditure in fiscal years 2019 and 2020 for the following purposes:

(1) fifty thousand dollars (\$50,000) to hire prosecutors and staff to focus on diversion and specialty courts in the second judicial district attorney's office;

(2) twenty thousand dollars (\$20,000) to replace ~~office furniture~~ and computer systems and software in the second judicial district attorney's office;

(3) twenty thousand dollars (\$20,000) to replace ~~office furniture~~ and computer systems and software in the third judicial district attorney's office;

(4) ninety thousand dollars (\$90,000) for three motor vehicles for the fifth judicial district attorney's office;

(5) fifty thousand dollars (\$50,000) for contract prosecutors and investigators for the eleventh judicial district attorney's office[; and

~~(6) eighty two thousand dollars (\$82,000) to fund additional work requirements in the thirteenth judicial district attorney's office].~~ *LINE-ITEM VETO*

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 6 Laws 2019

SECTION 6. PUBLIC DEFENDER DEPARTMENT.--One hundred fifty-seven thousand dollars (\$157,000) is appropriated from the general fund to the public defender department for expenditure in fiscal years 2019 and 2020 to improve representation in rural communities. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 7 Laws 2019

SECTION 7. TAXATION AND REVENUE DEPARTMENT.--Two hundred thousand dollars (\$200,000) is appropriated from the general fund to the taxation and revenue department for expenditure in fiscal years 2019 and 2020 for operations of the department. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 8 Laws 2019

SECTION 8. DEPARTMENT OF FINANCE AND ADMINISTRATION.--

A. The following amounts are appropriated from the general fund to the department of finance and administration for expenditure in fiscal years 2019 and 2020 for the following purposes:

(1) fifty-seven thousand dollars (\$57,000) for the New Mexico mortgage finance authority for oversight of the Affordable Housing Act;

~~[(2) fifty thousand dollars (\$50,000) for the New Mexico mortgage finance authority to carry out the provisions of the New Mexico Housing Trust Fund Act;~~

~~[(3) fifty thousand dollars (\$50,000) for the land grant merced assistance fund contingent on enactment of House Bill 36 or similar legislation of the first session of the fifty-fourth legislature;] *LINE-ITEM VETO*~~

(4) fifty thousand dollars (\$50,000) to purchase accident reconstruction equipment, SCRAM monitors and other equipment and for operating costs for the Eddy county driving while intoxicated program;

(5) seventy-five thousand dollars (\$75,000) for the New Mexico renewable energy transmission authority for operational expenses;

(6) fifty-seven thousand dollars (\$57,000) to the civil legal services fund; and

(7) for the local government division:

(a) one hundred fifty thousand dollars (\$150,000) to provide local youth programs for northern New Mexico youth;

(b) fifty thousand dollars (\$50,000) for the law enforcement-assisted diversion program;

(c) three hundred seven thousand dollars (\$307,000) for law enforcement-assisted diversion programs in Rio Arriba, Santa Fe, Bernalillo and Dona Ana counties;

(d) one hundred fifty thousand dollars (\$150,000) to purchase motor vehicles and equipment for the Bernalillo county sheriff's department;

(e) fifty thousand dollars (\$50,000) to purchase body armor for the Bernalillo county sheriff's department;

(f) fifty thousand dollars (\$50,000) to plan and design a facility in Edgewood for the department of behavioral health services in Bernalillo county;

(g) fifty thousand dollars (\$50,000) to allow Bernalillo county to contract with a community organization to expand on business incubation and entrepreneurial programs in the Ranchos de Atrisco community of Bernalillo county and the southwest quadrant of Albuquerque;

(h) fifty thousand dollars (\$50,000) for the investigation and seizure of controlled substances by the Catron county sheriff's department;

(i) one hundred thousand dollars (\$100,000) to purchase protective body armor for the Chaves county sheriff's office;

(j) one hundred forty-seven thousand dollars (\$147,000) to purchase pursuit vehicles with off-road capabilities for the Chaves county sheriff's office;

(k) fifty thousand dollars (\$50,000) to establish and operate law enforcement-assisted diversion programs in Dona Ana county and other counties;

(l) fifty thousand dollars (\$50,000) to support domestic violence services in McKinley county;

(m) seventy-five thousand dollars (\$75,000) for drug recognition training and protection equipment for the Sandoval county sheriff's office;

(n) ninety-three thousand dollars (\$93,000) for leasehold community assistance for Cochiti Lake;

(o) sixty-four thousand dollars (\$64,000) to purchase a mini-excavator for the public works department of the Pueblo of Jemez;

~~[(p) fifteen thousand dollars (\$15,000) for the purchase of mechanical biological treatment equipment for San Miguel county;]~~ *LINE-ITEM VETO*

(q) fifty thousand dollars (\$50,000) to provide funding for the law enforcement-assisted diversion program in Espanola;

(r) two hundred thousand dollars (\$200,000) to equip and operate a spay and neuter clinic at the Valencia county animal shelter;

(s) one hundred fifty-seven thousand dollars (\$157,000) for equipment for Valencia county senior centers;

~~[(t) fifty thousand dollars (\$50,000) for a person to operate a recycling center in Albuquerque for durable medical equipment, office furnishings and home furnishings for use by homeless persons and nonprofit organizations that serve the homeless;] LINE-ITEM VETO~~

(u) one hundred thousand dollars (\$100,000) for the rolling clean mobile hygiene program for the homeless in Albuquerque;

(v) two hundred seven thousand dollars (\$207,000) to host the national senior olympics in Albuquerque;

~~[(w) twenty-five thousand dollars (\$25,000) for the mobile zoo program at the Albuquerque biopark;~~

~~[(x) twenty thousand dollars (\$20,000) for an independent comprehensive budget study and analysis of existing affordable housing resources and unmet needs in Albuquerque;] LINE-ITEM VETO~~

(y) fifty thousand dollars (\$50,000) to purchase patrol cars and equipment for the Albuquerque police department;

~~[(z) fifty-seven thousand dollars (\$57,000) for planning, environmental studies and design for redevelopment of the rail yard in Albuquerque;] LINE-ITEM VETO~~

(aa) fifty thousand dollars (\$50,000) to fund the Casa Barelas services program in Albuquerque;

(bb) fifty thousand dollars (\$50,000) to plan, design and construct youth recreation facilities for baseball and softball at Rotary park in the town of Bernalillo;

(cc) two hundred thousand dollars (\$200,000) to purchase police cars for the Farmington police department;

~~[(dd) fifty-seven thousand dollars (\$57,000) to replace and maintain turf at Ricketts park in Farmington;] LINE-ITEM VETO~~

(ee) fifty thousand dollars (\$50,000) to purchase a heavy duty dump truck for Hagerman;

(ff) sixty thousand dollars (\$60,000) to purchase sports equipment and a trailer and for travel and operational expenses for a youth sports program in Jal;

(gg) sixty thousand dollars (\$60,000) for engineering, design, land surveying and permits for family workforce housing development for Jal;

(hh) one hundred fifty-seven thousand dollars (\$157,000) for police motor vehicles for Portales;

(ii) one hundred thousand dollars (\$100,000) for police motor vehicles for Roswell;

(jj) eighty-two thousand dollars (\$82,000) for drug recognition training and protection equipment for the Rio Rancho police department; and

(kk) fifty-seven thousand dollars (\$57,000) for the tipping points creative pipeline in Albuquerque.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 9 Laws 2019

SECTION 9. GENERAL SERVICES DEPARTMENT.--One hundred thousand dollars (\$100,000) is appropriated from the general fund to the general services department for expenditure in fiscal years 2019 and 2020 for staffing and professional services to operate an interagency pharmaceuticals purchasing collaborative. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 10 Laws 2019

SECTION 10. NEW MEXICO SENTENCING COMMISSION.--Two hundred eighteen thousand five hundred dollars (\$218,500) is appropriated from the general fund to the New Mexico sentencing commission for expenditure in fiscal years 2019 and 2020 for crime reduction grants to support a criminal justice data-sharing network. Any

unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 11 Laws 2019

SECTION 11. OFFICE OF THE GOVERNOR.--Fifty thousand dollars (\$50,000) is appropriated from the general fund to the office of the governor for expenditure in fiscal years 2019 and 2020 for a review of the Children's Code led by the children's cabinet. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 12 Laws 2019

SECTION 12. SECRETARY OF STATE.--Two hundred ten thousand dollars (\$210,000) is appropriated from the general fund to the office of the secretary of state for expenditure in fiscal years 2019 and 2020 for a shortfall in the elections program of the secretary of state. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 13 Laws 2019

SECTION 13. TOURISM DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the tourism department for expenditure in fiscal years 2019 and 2020 for the following purposes:

~~[(1) two hundred thousand dollars (\$200,000) for the "Tour of the Gila" event, the "Heart of the Gila" program and other tourism promotions in Grant county; and]~~ *LINE-ITEM VETO*

(2) one hundred thousand dollars (\$100,000) for advertising with targeted media buys for the Virgin Galactic inaugural flight.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 14 Laws 2019

SECTION 14. ECONOMIC DEVELOPMENT DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the economic development department for expenditure in fiscal years 2019 and 2020 for the following purposes:

(1) two hundred seven thousand dollars (\$207,000) for economic development projects pursuant to the Local Economic Development Act; and

(2) forty-five thousand dollars (\$45,000) to contract with economic development centers in Bernalillo and Sandoval counties to promote:

(a) the expansion and sustained growth of local farms, ranches and food entrepreneurs;

(b) value-added services, support and improvements to the complete process from origin of local foods through distribution to the marketplace;

(c) market and facility development and improved infrastructure;

(d) intrastate, e-commerce, local, regional and international trade of New Mexican food products; and

(e) community education to expand awareness and promote the benefits of good nutrition through the purpose of clearly labeled food.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 15 Laws 2019

SECTION 15. CULTURAL AFFAIRS DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the cultural affairs department for expenditure in fiscal years 2019 and 2020 for the following purposes:

~~[(1) two hundred thousand dollars (\$200,000) for a facilities study of all museums, monuments and other property under the department's control to determine needs, including repairs, replacement and upgrades;]~~ *LINE-ITEM VETO*

(2) fifty-two thousand six hundred dollars (\$52,600) to contract and commission a mural for the New Mexico museum of art; and

~~(3) forty-seven thousand dollars (\$47,000) to provide funding for a front house manager position, as well as recruit, train, orient, oversee and retain volunteers and interns and to provide usher services, for the national Hispanic cultural center].~~ *LINE-ITEM VETO*

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 16 Laws 2019

SECTION 16. INTERSTATE STREAM COMMISSION.--

A. The following amounts are appropriated from the general fund to the interstate stream commission for expenditure in fiscal years 2019 and 2020 for the following purposes:

(1) twenty thousand dollars (\$20,000) to plan, design and construct improvements to the acequia Madre de Las Vegas in San Miguel county; and

(2) two hundred forty-two thousand dollars (\$242,000) to administer the strategic water reserve pursuant to Section 72-14-3.3 NMSA 1978.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 17 Laws 2019

SECTION 17. COMMISSION ON THE STATUS OF WOMEN.--One hundred thousand dollars (\$100,000) is appropriated from the general fund to the commission on the status of women for expenditure in fiscal years 2019 and 2020 to fund the commission on the status of women pursuant to Section 28-3-2 NMSA 1978. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 18 Laws 2019

SECTION 18. INDIAN AFFAIRS DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the Indian affairs department for expenditure in fiscal years 2019 and 2020 for the following purposes:

~~[(1) seventy-five thousand dollars (\$75,000) to support the preservation of the Fort Sill Apache Tribe, including archiving, storage and display of cultural and historic artifacts;] LINE-ITEM VETO~~

(2) sixty-five thousand dollars (\$65,000) to support domestic violence services at the Shiprock home for women and children program in San Juan county; and

(3) ten thousand dollars (\$10,000) to provide a summer meal program at the Mescalero Apache Tribe community center.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 19 Laws 2019

SECTION 19. HUMAN SERVICES DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the human services department for expenditure in fiscal years 2019 and 2020 for the following purposes:

(1) one hundred fifty-seven thousand dollars (\$157,000) for start-up costs of a graduate medical education expansion grant program;

(2) one hundred thirty-two thousand dollars (\$132,000) for the study and administrative development of a medicaid buy-in plan that seeks any federal waivers necessary to offer the medicaid buy-in plan under Sections 1331 and 1332 of the federal Patient Protection and Affordable Care Act; and

~~[(3) fifty-four thousand four hundred dollars (\$54,400) to fund the Health Security Act, contingent on enactment of that act by the first session of the fifty-fourth legislature]. LINE-ITEM VETO~~

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 20 Laws 2019

SECTION 20. GOVERNOR'S COMMISSION ON DISABILITY.--Fifty thousand dollars (\$50,000) is appropriated from the general fund to the governor's commission on

disability for expenditure in fiscal years 2019 and 2020 to provide funding for assistive technology and devices and home modification for the care and maintenance of indigent persons living with disabilities. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 21 Laws 2019

SECTION 21. DEPARTMENT OF HEALTH.--

A. The following amounts are appropriated from the general fund to the department of health for expenditure in fiscal years 2019 and 2020 for the following purposes:

(1) one hundred thousand dollars (\$100,000) for a statewide prenatal collaborative and program to improve health outcomes for pregnant women and newborns;

(2) fifty thousand dollars (\$50,000) to fund health services in southwest New Mexico;

(3) fifty thousand dollars (\$50,000) to fund community health plans and other functions performed by county and tribal health councils;

(4) fifty thousand dollars (\$50,000) to provide low-income, at-risk children statewide with access to a best-practice, character-building youth dance program;

(5) fifty thousand dollars (\$50,000) to coordinate a certified lactation counselor job creation project specialty for low-income women of color to provide care to underserved communities statewide;

(6) one hundred fifty thousand dollars (\$150,000) for a developmental disabilities waiver [for La Vida Felicidad;

~~(7) one hundred fifty thousand dollars (\$150,000) for early intervention for La Vida Felicidad;]~~ *LINE-ITEM VETO*

(8) one hundred thousand dollars (\$100,000) for health care outreach for homeless persons in Bernalillo county;

(9) fifty thousand dollars (\$50,000) for telemedicine stations and equipment for San Juan regional medical center; and

(10) fifty thousand dollars (\$50,000) to carry out the provisions of the Child and Family Databank Act, contingent on enactment of House Bill 173, Senate Bill 202 or similar legislation of the first session of the fifty-fourth legislature.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 22 Laws 2019

SECTION 22. DEPARTMENT OF ENVIRONMENT.--

A. The following amounts are appropriated from the general fund to the department of environment for expenditure in fiscal years 2019 and 2020 for the following purposes:

(1) fifty thousand dollars (\$50,000) for a locations study, test and plan for municipal well number 3 in Tijeras;

(2) one hundred thousand dollars (\$100,000) to plan, design, construct and equip water system improvements, including a newly drilled well for residential water consumption, in Magdalena; and

(3) one hundred fifty thousand dollars (\$150,000) to plan, design, construct, furnish and equip the La Association de Agua de Los Brazos water system.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 23 Laws 2019

SECTION 23. CHILDREN, YOUTH AND FAMILIES DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the children, youth and families department for expenditure in fiscal years 2019 and 2020 for the following purposes:

(1) seventy-three thousand dollars (\$73,000) for the children, youth and families department coordinated community response;

(2) fifty thousand dollars (\$50,000) to fund legal services to support kinship caregivers statewide;

(3) fifty-seven thousand dollars (\$57,000) to support programs, plans, operations and personnel addressing domestic violence in New Mexico; and

(4) one hundred thousand dollars (\$100,000) for arts-based curricula for children in or released from juvenile detention.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 24 Laws 2019

SECTION 24. CRIME VICTIMS REPARATION COMMISSION.--One hundred thousand dollars (\$100,000) is appropriated from the general fund to the crime victims reparation commission for expenditure in fiscal years 2019 through 2021 to study sexual assault on people with disabilities. Any unexpended or unencumbered balance remaining at the end of fiscal year 2021 shall revert to the general fund.

Chapter 278 Section 25 Laws 2019

SECTION 25. DEPARTMENT OF TRANSPORTATION.--

A. The following amounts are appropriated from the general fund to the department of transportation for expenditure in fiscal years 2019 and 2020 for the following purposes:

(1) two hundred thousand dollars (\$200,000) to improve Isleta boulevard southwest in Bernalillo county;

~~[(2) sixty-five thousand dollars (\$65,000) to conduct a quiet road study for road noise mitigation on United States highway 84/285 north of Santa Fe;]~~
LINE-ITEM VETO

(3) fifteen thousand dollars (\$15,000) for road rehabilitation of county road A042 near Morphy lake in Mora county; and

(4) fifty thousand dollars (\$50,000) to plan and design improvements to Steeplechase roadway in Edgewood.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 26 Laws 2019

SECTION 26. PUBLIC EDUCATION DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the public education department for expenditure in fiscal years 2019 and 2020 for the following purposes:

- (1) two hundred ninety-three thousand dollars (\$293,000) for digital media education and training programs in public schools statewide;
- (2) three hundred fifty-seven thousand dollars (\$357,000) for a short dyslexia screening for first grade students and for a dyslexia professional development plan that provides dyslexia training for teachers;
- (3) three hundred fifty-seven thousand dollars (\$357,000) for an athletic stadium for the Gallup-McKinley county school district;
- (4) one hundred thousand dollars (\$100,000) to purchase a school bus for student transportation for the Pueblo of Jemez;
- (5) ninety thousand dollars (\$90,000) to create an auto diesel mechanic program in the Rio Rancho public school district;
- (6) fifty thousand dollars (\$50,000) for hardware and internet access for students in need in the Rio Rancho public school district;
- (7) sixty thousand dollars (\$60,000) for career technical education equipment in the Rio Rancho public school district;
- (8) two hundred thousand dollars (\$200,000) for a school activity bus for Alamogordo high school;
- (9) one hundred sixty thousand dollars (\$160,000) to replace the lighting at the Alamogordo high school baseball field; and
- (10) two hundred sixty-seven thousand dollars (\$267,000) for project design for a career technical public school for the Hobbs municipal school district.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 27 Laws 2019

SECTION 27. HIGHER EDUCATION DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the higher education department for expenditure in fiscal years 2019 and 2020, unless otherwise specified, for the following purposes:

(1) two hundred thirty-two thousand dollars (\$232,000) for expenditure in fiscal years 2019 through 2022 to obtain a facility needs assessment and institutional analysis for each public post-secondary educational institution and to organize and execute a systemwide plan that uses space optimization and other best practices to develop a comprehensive and uniform method for capital planning and funding;

~~[(2) sixty-seven thousand dollars (\$67,000) to expand the trades program at the Crownpoint campus of Navajo technical university;]~~ *LINE-ITEM VETO*

(3) fifty thousand dollars (\$50,000) to develop and implement a high school dual credit program at Clovis community college;

(4) fifty thousand dollars (\$50,000) to develop online programs ~~[and increase full-time resident student enrollment]~~ at Mesalands community college;
LINE-ITEM VETO

(5) one hundred thousand dollars (\$100,000) for security system technology improvements at San Juan college;

(6) one hundred fifty thousand dollars (\$150,000) for surgical first assistant program equipment and simulation training software at San Juan college; and

(7) one hundred twenty thousand dollars (\$120,000) to support workforce training, health care and education programs at New Mexico junior college.

B. Any unexpended or unencumbered balance remaining for all projects except in Paragraph (1) of Subsection A of this section at the end of fiscal year 2020 shall revert to the general fund. The appropriation in that paragraph shall revert at the end of fiscal year 2022.

Chapter 278 Section 28 Laws 2019

SECTION 28. UNIVERSITY OF NEW MEXICO.--

A. The following amounts are appropriated from the general fund to the board of regents of the university of New Mexico for expenditure in fiscal years 2019 and 2020 for the following purposes:

- (1) fifty thousand dollars (\$50,000) for the bioscience project;
- (2) thirty-four thousand dollars (\$34,000) for a Chicana and Chicano studies graduate assistantship;
- (3) fifty thousand dollars (\$50,000) to purchase computers, printers and software for student use at the American Indian student services;
- (4) fifty thousand dollars (\$50,000) to purchase a van for use by the American Indian student services;
- (5) one hundred thousand dollars (\$100,000) for the New Mexico HPV pap registry and the colorectal cancer screening information system;
- ~~[(6) fifty thousand dollars (\$50,000) for the bureau of business and economic research to evaluate the fiscal impact on state and local governments of the proposed Santolina development in Bernalillo county;]~~ *LINE-ITEM VETO*
- (7) one hundred fifty thousand dollars (\$150,000) to fund crisis intervention programs at project ECHO;
- ~~[(8) two hundred fifty-seven thousand dollars (\$257,000) for the university of New Mexico athletics department to purchase equipment and provide maintenance to improve the student fan experience;]~~ and *LINE-ITEM VETO*
- (9) three hundred fifty-seven thousand dollars (\$357,000) to plan, design, furnish and equip the reserve officer training corps building.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 29 Laws 2019

SECTION 29. NEW MEXICO STATE UNIVERSITY.--

A. The following amounts are appropriated from the general fund to the board of regents of New Mexico state university for expenditure in fiscal years 2019 and 2020 for the following purposes:

(1) fifty thousand dollars (\$50,000) for television equipment for KRWG-TV;

(2) one hundred seven thousand dollars (\$107,000) for the autism clinic at the department of counseling and educational psychology;

(3) fifty thousand dollars (\$50,000) for the department of animal and range science to study the quantity and quality of ground water resources in Colfax, Harding, Mora and Union counties, with a focus on Colfax and Harding counties, for the purpose of determining appropriate land use in rural agricultural areas of those counties;

(4) fifty thousand dollars (\$50,000) for [~~athletics administration,~~] athletic equipment, computers and furniture; *LINE-ITEM VETO*

(5) fifty-seven thousand dollars (\$57,000) for workforce development at the Grants branch campus;

(6) sixty-seven thousand dollars (\$67,000) to support workforce training, health care and education programs at the Carlsbad branch campus;

(7) ninety-seven thousand dollars (\$97,000) for workforce education and a gas compression program at the Carlsbad branch campus; and

(8) for the New Mexico department of agriculture:

(a) seventy-five thousand dollars (\$75,000) for marketing New Mexico agricultural projects;

(b) fifty thousand dollars (\$50,000) for a healthy soils program;

(c) fifty thousand dollars (\$50,000) to support emergency food bank services in McKinley county;

(d) one hundred thousand dollars (\$100,000) for the agricultural science center at Tucumcari for the small plot research combine;

(e) seventy-two thousand dollars (\$72,000) for the livestock research center at Clayton to purchase a motor vehicle and the installation of a feed box;

(f) eighty-five thousand dollars (\$85,000) for the agricultural science center at Clovis for a carbon, nitrogen and sulfur analyzer to test soil organic matter and soil health;

(g) fifty thousand dollars (\$50,000) to administer a program to promote and support farming and ranching systems and other forms of land management that increase soil organic matter, carbon content, aggregate stability, microbiology and water retention to improve the health, yield and profitability of the soils of the state;

(h) fifty thousand dollars (\$50,000) for the department to administer a program to provide hemp training and consultations for rural farmers;

(i) one hundred seven thousand dollars (\$107,000) for the cooperative extension service and the Arrowhead center to establish agribusiness accelerators in San Juan, McKinley, Cibola, Union, Colfax, Mora, Harding, San Miguel, Quay, Guadalupe, De Baca and Torrance counties;

(j) fifty-seven thousand dollars (\$57,000) for the agriculture experiment station in Farmington; and

(k) one hundred thousand dollars (\$100,000) for operating expenses of the cooperative extension service.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 30 Laws 2019

SECTION 30. EASTERN NEW MEXICO UNIVERSITY.--

A. The following amounts are appropriated from the general fund to the board of regents of eastern New Mexico university for expenditure in fiscal years 2019 and 2020 for the following purposes:

(1) one hundred thousand dollars (\$100,000) for KENW public radio Maljamar transmitter tower replacement; and

(2) fifty thousand dollars (\$50,000) for the robotics program.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 31 Laws 2019

SECTION 31. NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY.-- One hundred fifty-seven thousand dollars (\$157,000) is appropriated from the general fund to the board of regents of the New Mexico institute of mining and technology for expenditure in fiscal years 2019 and 2020 for cybersecurity education. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 32 Laws 2019

SECTION 32. NORTHERN NEW MEXICO COLLEGE.--Five hundred ninety thousand dollars (\$590,000) is appropriated from the general fund to the board of regents of northern New Mexico state school for expenditure in fiscal years 2019 and 2020 to establish the Anna, age eight institute for the data-driven prevention of childhood trauma and maltreatment. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 33 Laws 2019

SECTION 33. ADMINISTRATIVE OFFICE OF THE COURTS.--

A. The following amounts are appropriated from the general fund to the administrative office of the courts for expenditure in fiscal year 2020 for the following purposes:

(1) one hundred twenty-eight thousand five hundred dollars (\$128,500) for crime reduction grants for pretrial services;

(2) one hundred fifty thousand dollars (\$150,000) for a statewide early risk assessment program;

~~[(3) fifty thousand dollars (\$50,000) for a study of judicial education and the provision of judicial education;]~~ *LINE-ITEM VETO*

(4) one hundred thousand dollars (\$100,000) for a statewide automation program for the judicial information division; and

(5) fifty-seven thousand dollars (\$57,000) ~~[to establish a court-appointed attorney fund]~~ for the representation of children and families in abuse and neglect cases. *LINE-ITEM VETO*

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 34 Laws 2019

SECTION 34. DISTRICT COURTS.--

A. The following amounts are appropriated from the general fund to the named district courts for expenditure in fiscal year 2020 for the following purposes:

~~[(1) one hundred thousand dollars (\$100,000) to the fifth judicial district court for the Chaves county court-appointed special advocates courthouse dog program;]~~ *LINE-ITEM VETO*

(2) fifty thousand dollars (\$50,000) for alternative sentencing and crime reduction programs in the eleventh judicial district court in San Juan county; and

(3) fifty thousand dollars (\$50,000) to the thirteenth judicial district court for behavioral health pretrial services in Sandoval county.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 35 Laws 2019

SECTION 35. DISTRICT ATTORNEYS.--

A. The following amounts are appropriated from the general fund to the named district attorney's office for expenditure in fiscal year 2020 for the following purposes:

(1) two hundred fifty-seven thousand dollars (\$257,000) to the second judicial district attorney's office to hire prosecutors and staff to focus on diversion programs and specialty courts;

(2) fifty-seven thousand dollars (\$57,000) to the tenth judicial district attorney's office to support operations;

(3) fifty thousand dollars (\$50,000) to the eleventh judicial district attorney's office-division one for operations;

(4) seventy-five thousand dollars (\$75,000) to provide substance abuse prevention programming for underage and young adults in the eleventh judicial district attorney's office-division one;

(5) seventy-five thousand dollars (\$75,000) to run a truancy center program in the eleventh judicial district attorney's office-division one;

(6) thirty thousand dollars (\$30,000) for services with contract personnel in the eleventh judicial district attorney's office-division two in McKinley county;

~~[(7) twenty-five thousand dollars (\$25,000) to the twelfth judicial district attorney's office for salaries and benefits;]~~ and *LINE-ITEM VETO*

(8) fifty thousand dollars (\$50,000) for salary and benefits for one additional full-time-equivalent employee in the twelfth judicial district attorney's office.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 36 Laws 2019

SECTION 36. PUBLIC DEFENDER DEPARTMENT.--Twenty-five thousand dollars (\$25,000) is appropriated from the general fund to the public defender department for expenditure in fiscal year 2020 for salaries and benefits for public defenders in the twelfth judicial district. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 37 Laws 2019

SECTION 37. TAXATION AND REVENUE DEPARTMENT.--Three hundred thousand dollars (\$300,000) is appropriated from the general fund to the taxation and revenue department for expenditure in fiscal year 2020 for operations of the department. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 38 Laws 2019

SECTION 38. DEPARTMENT OF FINANCE AND ADMINISTRATION.--

A. The following amounts are appropriated from the general fund to the department of finance and administration for expenditure in fiscal year 2020 unless otherwise provided for the following purposes:

(1) one hundred thousand dollars (\$100,000) for expenditure in fiscal year 2020 and subsequent fiscal years for the New Mexico mortgage finance authority for oversight of the Affordable Housing Act;

(2) one hundred fifty thousand dollars (\$150,000) for the New Mexico mortgage finance authority to carry out the provisions of the New Mexico Housing Trust Fund Act;

(3) fifty thousand dollars (\$50,000) for the New Mexico mortgage finance authority to provide necessary rehabilitation for homes owned and occupied by low-income honorably discharged veterans in New Mexico whose income does not exceed sixty percent of the area median income;

(4) three hundred fourteen thousand dollars (\$314,000) to the civil legal services fund for contractual legal services;

(5) fifty-seven thousand dollars (\$57,000) to Sandoval county for the transport of state prisoners[; and

~~(6) fifty thousand dollars (\$50,000) for the southeastern New Mexico economic development district for salary and benefits for an additional full-time-equivalent employee and to enhance community and economic development planning assistance].~~ *LINE-ITEM VETO*

B. The following amounts are appropriated from the general fund to the local government division of the department of finance and administration for expenditure in fiscal year 2020 for the following purposes:

(1) seventy-five thousand dollars (\$75,000) to equip and operate a spay and neuter clinic at the Valencia county animal shelter;

(2) fifty-seven thousand dollars (\$57,000) to fund operational support for the law enforcement-assisted diversion program for the county and city of Santa Fe;

(3) fifty-seven thousand dollars (\$57,000) for the design, construction and equipping of a maintenance facility, vehicle wash bay and fueling station in the north central regional transit district;

(4) one hundred fifty thousand dollars (\$150,000) for law enforcement-assisted diversion programs in Rio Arriba, Santa Fe, Bernalillo and Dona Ana counties;

(5) sixty thousand dollars (\$60,000) to purchase sports equipment and for travel and operation expenses for a youth sports program in Jal;

(6) sixty thousand dollars (\$60,000) to develop a housing plan and promote permanent workforce housing in Jal;

(7) fifty thousand dollars (\$50,000) to purchase firefighter bunker gear for Albuquerque;

(8) one hundred thousand dollars (\$100,000) to procure recycling services for durable items for use by homeless persons and nonprofit organizations that serve the homeless in Albuquerque;

(9) one hundred thousand dollars (\$100,000) to purchase land mobile radio system equipment for Bernalillo county;

(10) eighty-two thousand dollars (\$82,000) to provide meals and temporary housing for men, women and children in Roswell;

(11) twenty-five thousand dollars (\$25,000) to the southwest New Mexico council of governments to support the community partnership for children;

(12) fifty-seven thousand dollars (\$57,000) for the investigation and seizure of controlled substances by the Socorro county sheriff's office;

(13) one hundred seven thousand dollars (\$107,000) to create a community custody program at the Sandoval county detention center targeting those with behavioral health needs;

(14) fifty thousand dollars (\$50,000) to provide behavioral health services to the detainee population of the San Juan county adult detention center;

(15) fifty thousand dollars (\$50,000) for public works equipment, facility maintenance and personnel for Corrales;

(16) fifty thousand dollars (\$50,000) for town events, public works equipment and personnel for the town of Bernalillo; and

(17) fifty thousand dollars (\$50,000) for the "discover the biopark" mobile education program.

C. Any unexpended or unencumbered balance remaining for all projects except Paragraph (1) of Subsection A of this section at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 39 Laws 2019

SECTION 39. GENERAL SERVICES DEPARTMENT.--Two hundred fifty-seven thousand dollars (\$257,000) is appropriated from the general fund to the general services department for expenditure in fiscal year 2020 for staffing and professional services to operate a pharmaceutical purchasing collaborative. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 40 Laws 2019

SECTION 40. NEW MEXICO SENTENCING COMMISSION.--One hundred seventy-eight thousand five hundred dollars (\$178,500) is appropriated from the general fund to the New Mexico sentencing commission for expenditure in fiscal year 2020 to award grants to support a criminal justice data-sharing network. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 41 Laws 2019

SECTION 41. STATE PERSONNEL OFFICE.--One hundred thousand dollars (\$100,000) is appropriated from the general fund to the state personnel office for expenditure in fiscal year 2020 to provide for internship programs [~~within the department of health, the cultural affairs department, the tourism department and the department of information technology~~] for high school and college students in New Mexico. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund. *LINE-ITEM VETO*

Chapter 278 Section 42 Laws 2019

SECTION 42. SECRETARY OF STATE.--Three hundred fifty-seven thousand dollars (\$357,000) is appropriated from the general fund to the office of the secretary of state for expenditure in fiscal year 2020 for other costs in the elections program of the

secretary of state. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 43 Laws 2019

SECTION 43. STATE TREASURER.--One hundred fifty thousand dollars (\$150,000) is appropriated from the general fund to the office of the state treasurer for expenditure in fiscal year 2020 for financial literacy training for children in foster care. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 44 Laws 2019

SECTION 44. TOURISM DEPARTMENT.--One hundred thousand dollars (\$100,000) is appropriated from the general fund to the tourism department for expenditure in fiscal year 2020 for branded partnerships between New Mexico true and the special olympics. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 45 Laws 2019

SECTION 45. ECONOMIC DEVELOPMENT DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the economic development department for expenditure in fiscal year 2020 for the following purposes:

(1) fifty thousand dollars (\$50,000) to convene a mobility industry market task force; and

(2) one hundred thousand dollars (\$100,000) for the New Mexico film division to support Native American filmmakers and film projects.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 46 Laws 2019

SECTION 46. OFFICE OF SUPERINTENDENT OF INSURANCE.--

A. The following amounts are appropriated from the general fund to the office of superintendent of insurance for expenditure in fiscal year 2020 for the following purposes:

~~[(1) eighty thousand dollars (\$80,000) for salary and benefits for an accountant-actuary to review actuarial disclosures for continuing care communities; and]~~ *LINE-ITEM VETO*

(2) fifty thousand dollars (\$50,000) to fund health policies, market conduct and cybersecurity personnel.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 47 Laws 2019

SECTION 47. SPACEPORT AUTHORITY.--One hundred thousand dollars (\$100,000) is appropriated from the general fund to the spaceport authority for expenditure in fiscal year 2020 for environmental, cultural and engineering surveys. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 48 Laws 2019

SECTION 48. CULTURAL AFFAIRS DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the cultural affairs department for expenditure in fiscal year 2020 for the following purposes:

(1) one hundred thousand dollars (\$100,000) for the New Mexico museum of space history for contract services, marketing, salaries and benefits, travel and exhibit support;

(2) one hundred thirty-seven thousand dollars (\$137,000) for the New Mexico museum of space history for security services, salaries and benefits for regional marketing personnel, travel and permanent exhibit support;

(3) seventy-five thousand dollars (\$75,000) to provide for youth symphony music programs and concerts in Roswell;

(4) one hundred seven thousand dollars (\$107,000) for a state poet laureate program; and

(5) one hundred thousand dollars (\$100,000) for a national history day program.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 49 Laws 2019

SECTION 49. ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT.--Fifty-one thousand dollars (\$51,000) is appropriated from the general fund to the state parks division of the energy, minerals and natural resources department for expenditure in fiscal year 2020 to fund a full-time park ranger advance position at Storrie Lake state park. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 50 Laws 2019

SECTION 50. INDIAN AFFAIRS DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the Indian affairs department for expenditure in fiscal year 2020 for the following purposes:

(1) fifty thousand dollars (\$50,000) for an empowerment program for young pueblo women;

(2) one hundred ninety-seven thousand dollars (\$197,000) for a self-help home construction program using high-performance adobe; and

(3) one hundred fifty thousand dollars (\$150,000) for the language retention program at the Pueblo of Acoma.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 51 Laws 2019

SECTION 51. AGING AND LONG-TERM SERVICES DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the aging and long-term services department for expenditure in fiscal year 2020 for the following purposes:

(1) two hundred thousand dollars (\$200,000) to create a statewide network of services and supports to grandparents raising grandchildren, including general support services, parent training, support groups, case management, social activities and enrichment activities for children;

~~[(2) seventy-five thousand dollars (\$75,000) to support the creation and operations of the aging and long-term services policy advisory committee; and]~~ *LINE-ITEM VETO*

(3) two hundred eighty-two thousand dollars (\$282,000) to operate Valencia county senior centers;

(4) one hundred thousand dollars (\$100,000) to purchase New Mexico-grown fresh fruits and vegetables for a senior citizen meals program and to provide financial assistance for a senior citizen farmers' market nutrition program;

(5) fifty thousand dollars (\$50,000) to purchase New Mexico-grown fresh fruits and vegetables for a senior citizen meals program; and

(6) fifty thousand dollars (\$50,000) for senior center services and programs at Navajo Nation senior centers.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 52 Laws 2019

SECTION 52. HUMAN SERVICES DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the human services department for expenditure in fiscal year 2020 for the following purposes:

(1) fifty thousand dollars (\$50,000) for a full-time family assistant analyst position in Santa Rosa;

(2) fifty thousand dollars (\$50,000) to the behavioral health program for substance abuse recovery services in Rio Arriba county; and

(3) fifty-seven thousand dollars (\$57,000) to fund the brain injury services fund.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 53 Laws 2019

SECTION 53. WORKFORCE SOLUTIONS DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the workforce solutions department for expenditure in fiscal year 2020 for the following purposes:

(1) fifty thousand dollars (\$50,000) to carry out the purposes of the Individual Development Account Act; and

(2) twenty-five thousand dollars (\$25,000) to fund the STEM boomerang program.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 54 Laws 2019

SECTION 54. GOVERNOR'S COMMISSION ON DISABILITY.--One hundred fifty thousand dollars (\$150,000) is appropriated from the general fund to the governor's commission on disability for expenditure in fiscal year 2020 to serve persons with disabilities. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 55 Laws 2019

SECTION 55. DEPARTMENT OF HEALTH.--

A. The following amounts are appropriated from the general fund to the department of health for expenditure in fiscal year 2020 for the following purposes:

(1) one hundred thousand dollars (\$100,000) for sexual assault services;

(2) one hundred thousand dollars (\$100,000) for neurodegenerative disease monitoring;

(3) eighty-two thousand dollars (\$82,000) to fund school-based health centers;

(4) one hundred thousand dollars (\$100,000) to contract with a program that provides youth development to reduce risk factors and promote resiliency through programming for youth who are trained in leadership development, media production, narrative strategy, civic engagement and early childhood development;

(5) fifty-seven thousand dollars (\$57,000) to fund the department's contract with the center for development and disability at the university of New Mexico for the development and implementation of diagnostic services for persons who are over the age of twenty-one years and to fund autism spectrum disorder evaluations for children;

(6) two hundred thirty-two thousand dollars (\$232,000) for ~~an after-school and summer camp support program for fifth grade girls in~~ Lea county to reduce teen pregnancy; *LINE-ITEM VETO*

(7) fifty thousand dollars (\$50,000) to provide low-income, at-risk children statewide with access to a best-practice, character-building youth dance program; and

(8) one hundred fifty thousand dollars (\$150,000) for developmental disability waivers.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 56 Laws 2019

SECTION 56. VETERANS' SERVICES DEPARTMENT.--Fifty-seven thousand dollars (\$57,000) is appropriated from the general fund to the veterans' services department for expenditure in fiscal year 2020 to fund a veterans' service coordinator located in northwest New Mexico. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 57 Laws 2019

SECTION 57. CHILDREN, YOUTH AND FAMILIES DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the children, youth and families department for expenditure in fiscal year 2020 for the following purposes:

(1) one hundred ten thousand dollars (\$110,000) to fund the provision of sexual assault services to children at child advocacy centers;

(2) two hundred thousand dollars (\$200,000) for domestic violence and protective services statewide;

(3) fifty thousand dollars (\$50,000) for domestic violence intervention programs in Santa Fe county;

(4) one hundred thousand dollars (\$100,000) to contract with a nonprofit organization focused on preventing domestic abuse in Santa Fe county; and

(5) one hundred thousand dollars (\$100,000) for ~~[supportive housing and]~~ behavioral health ~~[for pregnant and parenting teens]~~ in Lea county.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund. *LINE-ITEM VETO*

Chapter 278 Section 58 Laws 2019

SECTION 58. COMMISSION ON THE STATUS OF WOMEN.--Fifty thousand dollars (\$50,000) is appropriated from the general fund to the commission on the status of women for expenditure in fiscal year 2020 for operational expenses. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 59 Laws 2019

SECTION 59. CRIME VICTIMS REPARATION COMMISSION.--

A. The following amounts are appropriated from the general fund to the crime victims reparation commission for expenditure in fiscal year 2020 for the following purposes:

(1) fifty thousand dollars (\$50,000) for victims of human trafficking; and

(2) one hundred thousand dollars (\$100,000) for services for sexual assault victims.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 60 Laws 2019

SECTION 60. DEPARTMENT OF TRANSPORTATION.--Fifty thousand dollars (\$50,000) is appropriated from the general fund to the department of transportation for expenditure in fiscal year 2020 to plan and design roadway improvements in Tijeras. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 61 Laws 2019

SECTION 61. PUBLIC EDUCATION DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the public education department for expenditure in fiscal year 2020 for the following purposes:

(1) three hundred fifty-seven thousand dollars (\$357,000) for a short dyslexia screening for first grade students and for a dyslexia professional development plan that provides dyslexia training for teachers;

(2) fifty thousand dollars (\$50,000) for the purchase and distribution of New Mexico-grown fresh fruits and fresh vegetables to school districts, charter schools and juvenile detention centers throughout the department's school meal program;

(3) one hundred three thousand dollars (\$103,000) for the High Plains regional education cooperative to develop and operate a college and career readiness consortium for middle and high school students in northeastern New Mexico;

(4) eighty thousand dollars (\$80,000) for a career pathway coordinator in the Rio Rancho public school district;

(5) eighty thousand dollars (\$80,000) for an automotive program instructor in the Rio Rancho public school district;

(6) ninety thousand dollars (\$90,000) for instructional resource materials to include science classroom kits, forensic class materials and other science equipment and teaching materials in the Rio Rancho public school district;

(7) fifty thousand dollars (\$50,000) for educational field trip expenses, including gas, drivers, meals, admissions and parking, for the Alamogordo public school district;

(8) three hundred thousand dollars (\$300,000) for school media literacy programs for teachers in public schools statewide;

(9) fifty-seven thousand dollars (\$57,000) to contract [~~with a nonprofit organization~~] to recruit recent college graduates and professionals who have a demonstrated record of achievement to teach in low-income public schools and provide teaching support in public schools in which at least sixty percent of the enrolled students are eligible for free or reduced-fee lunch and with a priority for schools in which at least eighty-five percent of the enrolled students are eligible for free or reduced-fee lunch;
LINE-ITEM VETO

(10) fifty thousand dollars (\$50,000) for a media literacy program for teachers in public schools for the 2019-2020 school year; and

(11) seventy-five thousand dollars (\$75,000) to support the MESA program.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 62 Laws 2019

SECTION 62. HIGHER EDUCATION DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the higher education department for expenditure in fiscal year 2020 for the following purposes:

(1) two hundred twelve thousand dollars (\$212,000) to support workforce training, health care and education programs and economic development initiatives at New Mexico junior college; and

(2) fifty-seven thousand dollars (\$57,000) to support the San Juan college welding program.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 63 Laws 2019

SECTION 63. UNIVERSITY OF NEW MEXICO.--

A. The following amounts are appropriated from the general fund to the board of regents of the university of

New Mexico for expenditure in fiscal year 2020 for the following purposes:

(1) three hundred sixty-four thousand dollars (\$364,000) to support the extension for community healthcare outcomes program, also known as project ECHO; provided that one hundred seven thousand dollars (\$107,000) of this appropriation shall be for the HIV pre-exposure prophylaxis program;

(2) fifty thousand dollars (\$50,000) for the health sciences center to support coordination of nursing education statewide;

(3) one hundred seventy-five thousand dollars (\$175,000) to support the mock trial programs at the university of New Mexico school of law;

(4) one hundred fifty thousand dollars (\$150,000) to provide funding for the university of

New Mexico press;

~~[(5) three hundred fifty-seven thousand dollars (\$357,000) to provide nutrition and behavioral health services for student athletes;]~~ *LINE-ITEM VETO*

(6) three hundred fifty-seven thousand dollars (\$357,000) for the planning and design of the reserve officer training corps building;

(7) one hundred thousand dollars (\$100,000) to the health sciences center to support primary and secondary care residencies;

(8) one hundred thousand dollars (\$100,000) to fund the core operational infrastructure of the New Mexico HPV pap registry; and

(9) sixty thousand dollars (\$60,000) to support the American Indian student services bridge program.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 64 Laws 2019

SECTION 64. NEW MEXICO STATE UNIVERSITY.--

A. The following amounts are appropriated from the general fund to the board of regents of New Mexico state university for expenditure in fiscal year 2020 for the following purposes:

(1) four hundred fourteen thousand dollars (\$414,000) for the department of counseling and educational psychology autism clinic;

(2) one hundred seventy-three thousand dollars (\$173,000) for operations at the Sunspot solar observatory;

(3) fifty thousand dollars (\$50,000) for instruction [~~and general~~] purposes at the Alamogordo branch campus of New Mexico state university; *LINE-ITEM VETO*

(4) twenty-four thousand dollars (\$24,000) for national FFA organization chapters in the Corona public, Capitan municipal, Hondo Valley public and Carrizozo municipal school districts;

(5) two hundred seven thousand dollars (\$207,000) to increase instruction at the Grants branch campus;

(6) one hundred twenty-five thousand dollars (\$125,000) for athletics;

(7) eighty thousand dollars (\$80,000) for instruction [~~and general-operations~~] at the Alamogordo branch campus; and *LINE-ITEM VETO*

(8) for the New Mexico department of agriculture:

(a) one hundred three thousand dollars (\$103,000) to establish agribusiness accelerators in certain counties;

(b) fifty thousand dollars (\$50,000) to administer a healthy soils program;

(c) one hundred thousand dollars (\$100,000) for cooperative extension service operational expenses; and

(d) fifty thousand dollars (\$50,000) for agricultural experiment station operational expenses.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 65 Laws 2019

SECTION 65. NEW MEXICO HIGHLANDS UNIVERSITY.--One hundred twenty-five thousand dollars (\$125,000) is appropriated from the general fund to the board of regents of New Mexico highlands university for expenditure in fiscal year 2020 to create the Native American social work institute [at the Albuquerque branch campus of the university]. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund. *LINE-ITEM VETO*

Chapter 278 Section 66 Laws 2019

~~[SECTION 66. WESTERN NEW MEXICO UNIVERSITY.--Three hundred seventy-five thousand dollars (\$375,000) is appropriated from the general fund to the board of regents of western New Mexico university for expenditure in fiscal year 2020 for the expansion of the athletic department, specifically programs in men's baseball and women's soccer. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.] *LINE-ITEM VETO*~~

Chapter 278 Section 67 Laws 2019

SECTION 67. EASTERN NEW MEXICO UNIVERSITY.--

A. The following amounts are appropriated from the general fund to the board of regents of eastern New Mexico university for expenditure in fiscal year 2020 for the following purposes:

(1) two hundred thousand dollars (\$200,000) to fund tuition and fees for fifty teacher education students who are reflective of the eastern New Mexico university student body [ethnic and racial makeup, who have upon application to eastern New Mexico university a minimum ACT score of twenty-four and a minimum

~~high school grade point average of 3.33 out of 4.0]~~ and who commit to teach in one or more New Mexico public schools for four years; *LINE-ITEM VETO*

(2) one hundred fifty-seven thousand dollars (\$157,000) for the athletic department;

(3) fifty-seven thousand dollars (\$57,000) to manage and conduct a statewide robotics competition; and

(4) one hundred thousand dollars (\$100,000) for scholarships, tuition, fees, books, supplies and tools for adult education and youth challenge academy students to gain additional workforce training.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 278 Section 68 Laws 2019

SECTION 68. NORTHERN NEW MEXICO COLLEGE.--

A. The following amounts are appropriated from the general fund to the board of regents of northern New Mexico state school for expenditure in fiscal year 2020 for the following purposes:

(1) four hundred seventy-four thousand dollars (\$474,000) to establish the Anna, age eight institute for the data-driven prevention of childhood trauma and maltreatment;

(2) fifty thousand dollars (\$50,000) to ~~[create a branch campus of]~~ northern New Mexico college to provide technical and vocational courses; and *LINE-ITEM VETO*

(3) fifty-seven thousand dollars (\$57,000) to fund the northern New Mexico college athletics program.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund. _____

Approved April 5, 2019

LAWS 2019, CHAPTER 279

AN ACT

MAKING APPROPRIATIONS AND AUTHORIZING EXPENDITURES FOR FISCAL YEARS 2019 AND 2020.

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

Chapter 279 Section 1 Laws 2019

SECTION 1. LEGISLATIVE.--Two hundred seventy-five thousand dollars (\$275,000) is appropriated from the general fund to the legislative finance committee for expenditure in fiscal years 2019 and 2020 to undertake a fiscal analysis of the Health Security Act. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 2 Laws 2019

SECTION 2. ADMINISTRATIVE OFFICE OF THE COURTS.--Fifty thousand dollars (\$50,000) is appropriated from the general fund to the administrative office of the courts for expenditure in fiscal years 2019 and 2020 to convene a task force on family representation in child welfare proceedings. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 3 Laws 2019

SECTION 3. DISTRICT COURTS.--

A. The following amounts are appropriated from the general fund to the specified district courts for expenditure in fiscal years 2019 and 2020 for the following purposes:

(1) for the third judicial district court:

(a) forty thousand dollars (\$40,000) for courtroom equipment;

LINE-ITEM VETO [(b) five thousand dollars (\$5,000) for furniture;] and

(c) fifteen thousand dollars (\$15,000) for data systems equipment; and

(2) fifty thousand dollars (\$50,000) to purchase a van to transport victims to and from court for the twelfth judicial district court]. *LINE-ITEM VETO*

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 4 Laws 2019

SECTION 4. ADMINISTRATIVE OFFICE OF THE DISTRICT ATTORNEYS.--

A. The following amounts are appropriated from the general fund to the administrative office of the district attorneys for expenditure in fiscal years 2019 and 2020 for the following purposes:

(1) twenty-five thousand dollars (\$25,000) to cover backlog and conflict cases in any jurisdiction; and

(2) four hundred eighty-five thousand dollars (\$485,000) for upgrades to the statewide case management system and to replace prosecution diversion fees.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 5 Laws 2019

SECTION 5. DISTRICT ATTORNEYS.--

A. The following amounts are appropriated from the general fund to the specified district attorneys for expenditure in fiscal years 2019 and 2020 for the following purposes:

(1) for the fifth judicial district attorney:

(a) fifty thousand dollars (\$50,000) for personal services and employee benefits;

(b) fifty thousand dollars (\$50,000) to purchase computer equipment; and

(c) fifty thousand dollars (\$50,000) for contractual services for victims of child sexual violence in Carlsbad and Eddy county; and

(2) for the ninth judicial district attorney, fifty thousand dollars (\$50,000) for operations.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 6 Laws 2019

SECTION 6. TAXATION AND REVENUE DEPARTMENT.--Fifty thousand dollars (\$50,000) is appropriated from the general fund to the taxation and revenue department for expenditure in fiscal years 2019 and 2020 to conduct a motor vehicle division pilot program for mobile office operations in Shiprock. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 7 Laws 2019

SECTION 7. DEPARTMENT OF FINANCE AND ADMINISTRATION.--

A. The following amounts are appropriated from the general fund to the department of finance and administration for expenditure in fiscal years 2019 and 2020 for the following purposes:

(1) one hundred ten thousand dollars (\$110,000) for the New Mexico mortgage finance authority to rehabilitate homes owned and occupied by low-income veterans;

(2) seventy-five thousand dollars (\$75,000) for the New Mexico mortgage finance authority to oversee the Affordable Housing Act;

(3) fifty thousand dollars (\$50,000) for matching funds for the New Mexico mortgage finance authority for a homeless youth demonstration project in northern New Mexico;

(4) seventy-three thousand dollars (\$73,000) for the New Mexico mortgage finance authority homeless youth demonstration program; and

(5) for the local government division:

(a) one hundred forty-five thousand dollars (\$145,000) to equip and operate a spay and neuter program at the Valencia county animal shelter;

~~[(b) two hundred five thousand dollars (\$205,000) to conduct a study of existing affordable housing resources and unmet needs in Albuquerque;]~~ *LINE-ITEM VETO*

(c) two hundred thousand dollars (\$200,000) to expand business incubation and entrepreneurial programs in the Ranchos de Atrisco community;

(d) fifty thousand dollars (\$50,000) for the senior olympics in Albuquerque;

(e) fifty thousand dollars (\$50,000) ~~[to contract with a nonprofit organization]~~ for trail maintenance in the Gila national forest; *LINE-ITEM VETO*

(f) one hundred thousand dollars (\$100,000) for a comprehensive housing analysis for the greater Gallup area;

(g) fifty thousand dollars (\$50,000) for a public schools outreach program at the Explora science center and children's museum in Albuquerque;

(h) twenty thousand dollars (\$20,000) for security camera equipment and signage in the Four Hills district of Albuquerque;

(i) one hundred fifty thousand dollars (\$150,000) to purchase equipment for Cuba;

(j) fifty thousand dollars (\$50,000) to expand library services in Anthony;

(k) fifty thousand dollars (\$50,000) to purchase firearms and equipment for the Anthony police department;

(l) one hundred thousand dollars (\$100,000) for an outdoor recreation program in Anthony;

(m) thirty thousand dollars (\$30,000) for an express bus in Gallup;

(n) one hundred thousand dollars (\$100,000) for an inland port analysis for McKinley county;

(o) one hundred thousand dollars (\$100,000) for the BNSF downtown park development in Gallup;

(p) fifty thousand dollars (\$50,000) to purchase a van for a youth mentoring program in Gallup;

(q) twenty thousand dollars (\$20,000) for the Gallup community pantry program;

(r) fifteen thousand dollars (\$15,000) for maintenance, supplies and equipment for the Delores Wright community park in Dona Ana county;

(s) one hundred fifty thousand dollars (\$150,000) for firefighting equipment in Chaparral;

(t) five thousand dollars (\$5,000) for supplies for a spring-summer youth program at Delores Wright community park in Dona Ana county;

~~[(u) fifty thousand dollars (\$50,000) for operations of the frontier community program to conduct infrastructure surveys in Silver City;]~~ *LINE-ITEM VETO*

(v) one hundred thousand dollars (\$100,000) for equipment replacement and maintenance at Ricketts park in Farmington;

(w) fifty-four thousand dollars (\$54,000) for equipment for the Bernalillo fire department;

(x) fifty thousand dollars (\$50,000) for a tow truck for Sandoval county;

(y) fifty thousand dollars (\$50,000) for Bernalillo county sheriff's office firearm qualifications range equipment;

(z) fifty thousand dollars (\$50,000) for city-operated children's karate programs in Albuquerque;

(aa) seventy-five thousand dollars (\$75,000) for supplies and equipment for a youth theater media arts program in Albuquerque;

(bb) two hundred thousand dollars (\$200,000) to provide transitional housing and recovery services for youth in Bernalillo county;

(cc) fifty thousand dollars (\$50,000) to purchase and equip a fire truck for El Pueblo volunteer fire department in San Miguel county;

(dd) fifty thousand dollars (\$50,000) to purchase safety equipment, including structural turnout gear, for the Santa Fe county fire department;

(ee) fifty thousand dollars (\$50,000) for economic and infrastructure development for Pecos; and

(ff) one hundred thousand dollars (\$100,000) for equipment for the Luna county sheriff's department.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 8 Laws 2019

SECTION 8. GENERAL SERVICES DEPARTMENT.--Five thousand dollars (\$5,000) is appropriated from the general fund to the facilities management division of the general services department for expenditure in fiscal years 2019 and 2020 for a survey of the cemetery at Los Lunas medical center. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 9 Laws 2019

SECTION 9. ECONOMIC DEVELOPMENT DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the economic development department for expenditure in fiscal years 2019 and 2020 for the following purposes:

(1) one hundred ninety thousand dollars (\$190,000) to plan and develop the Prewitt industrial park in McKinley county;

(2) seventy-five thousand dollars (\$75,000) to fund the corporation created by the Economic Development Corporation Act;

(3) twenty-five thousand dollars (\$25,000) to promote and develop cooperative forms of business, including training and technical assistance; and

(4) fifty thousand dollars (\$50,000) for the Carlsbad mainstreet project.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 10 Laws 2019

SECTION 10. REGULATION AND LICENSING DEPARTMENT.--Two hundred thousand dollars (\$200,000) is appropriated from the general fund to the regulation and licensing department for expenditure in fiscal years 2019 and 2020 to implement the Home Inspector Licensing Act, contingent on the enactment of House Bill 433 or similar legislation of the first session of the fifty-fourth legislature. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 11 Laws 2019

SECTION 11. CULTURAL AFFAIRS DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the cultural affairs department for expenditure in fiscal years 2019 and 2020 for the following purposes:

(1) fifty thousand dollars (\$50,000) for national history day programming;

(2) one hundred thousand dollars (\$100,000) for a cultural resources study and inventory within the Ojo Encino and Torreon-Star Lake chapters of the Navajo Nation;

(3) twenty thousand dollars (\$20,000) to expand exhibits at the New Mexico museum of space history[;];

~~(4) ten thousand dollars (\$10,000) for the "zoo to you" program in Dona Ana county; and~~

~~(5) twenty-five thousand dollars (\$25,000) for the Albuquerque biopark "zoo to you" program.]~~ *LINE-ITEM VETO*

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 12 Laws 2019

SECTION 12. ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the energy, minerals and natural resources department for expenditure in fiscal years 2019 and 2020 for the following purposes:

- (1) fifty thousand dollars (\$50,000) for resource sustainability and security planning;
- (2) one hundred fifty thousand dollars (\$150,000) for maintenance supplies and equipment for Elephant Butte Lake state park; and
- (3) two hundred sixty thousand dollars (\$260,000) for the New Mexico renewable energy transmission authority to study renewable energy transmission and storage.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 13 Laws 2019

SECTION 13. COMMISSION ON THE STATUS OF WOMEN.--Fifty-five thousand dollars (\$55,000) is appropriated from the general fund to the commission on the status of women for expenditure in fiscal years 2019 and 2020 for operational expenses. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 14 Laws 2019

SECTION 14. OFFICE ON AFRICAN AMERICAN AFFAIRS.--

A. The following amounts are appropriated from the general fund to the office on African American affairs for expenditure in fiscal years 2019 and 2020 for the following purposes:

(1) sixty thousand dollars (\$60,000) for programs and exhibits at the African American performing arts center; and

(2) fifty thousand dollars (\$50,000) for a behavioral health initiative in the international district of Albuquerque.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 15 Laws 2019

SECTION 15. INDIAN AFFAIRS DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the Indian affairs department for expenditure in fiscal years 2019 and 2020 for the following purposes:

(1) one hundred thousand dollars (\$100,000) to establish a missing and murdered indigenous women task force;

(2) one hundred fifty thousand dollars (\$150,000) [~~for a summit~~] to promote American Indian women in business and to create a directory of American Indian women in business]; *LINE-ITEM VETO*

~~[(3) one hundred forty thousand dollars (\$140,000) for a study on streams and aquifers in the Espanola basin;] *LINE-ITEM VETO*~~

(4) forty thousand dollars (\$40,000) for a summer meal program at the Mescalero Apache Tribe community center; and

(5) twenty-five thousand dollars (\$25,000) to support the community and culturally based Santa Fe Indian school leadership institute.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 16 Laws 2019

SECTION 16. AGING AND LONG-TERM SERVICES DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the aging and long-term services department for expenditure in fiscal years 2019 and 2020 for the following purposes:

(1) twenty-five thousand dollars (\$25,000) for senior citizen services in Roswell;

(2) seventy-five thousand dollars (\$75,000) for operations of Valencia county senior centers;

(3) one hundred thousand dollars (\$100,000) for senior citizen services at the Artesia senior center; and

(4) one hundred fifty thousand dollars (\$150,000) to be divided evenly among the Fort Sumner, Santa Rosa and Puerto de Luna senior centers.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 17 Laws 2019

SECTION 17. WORKFORCE SOLUTIONS DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the workforce solutions department for expenditure in fiscal years 2019 and 2020 for the following purposes:

(1) one hundred forty-five thousand dollars (\$145,000) for the STEM boomerang program;

(2) one hundred thousand dollars (\$100,000) ~~[to implement an affinity-based network]~~ to assist low-income families to secure economic stability; and
LINE-ITEM VETO

(3) two hundred thousand dollars (\$200,000) to study and make recommendations on issues for transition to a clean energy economy.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 18 Laws 2019

SECTION 18. DEPARTMENT OF HEALTH.--

A. The following amounts are appropriated from the general fund to the department of health for expenditure in fiscal years 2019 and 2020 for the following purposes:

(1) one hundred thousand dollars (\$100,000) for teen ~~[mental-illness and]~~ suicide prevention ~~[classes through the public health division];~~ *LINE-ITEM VETO*

(2) sixty thousand dollars (\$60,000) for a comprehensive health careers program and the provision of regional training opportunities in primary care;

(3) twenty-five thousand dollars (\$25,000) for comprehensive health careers programs and the provision of regional training opportunities in primary care in Grant county;

(4) fifty thousand dollars (\$50,000) to contract with a ~~nonprofit~~ dance program for at-risk and low-income children in the Roswell independent school district;

(5) one hundred seventy thousand dollars (\$170,000) to contract with a ~~nonprofit~~ dance program for at-risk and low-income children statewide;

(6) two hundred seventy-five thousand dollars (\$275,000) ~~[for data collection and]~~ to study ~~[oversight of]~~ health care in New Mexico;

~~[(7) seventy five thousand dollars (\$75,000) for the child and family databank commission, contingent on enactment of House Bill 173 or similar legislation of the first session of the fifty-fourth legislature;]~~ *LINE-ITEM VETO*

(8) one hundred thousand dollars (\$100,000) for ~~[the southwest public health institute's]~~ operations and administration of health and social services infrastructure; *LINE-ITEM VETO*

(9) one hundred thousand dollars (\$100,000) to provide culturally and linguistically appropriate health care to ~~[immigrant]~~ children in Santa Fe county; *LINE-ITEM VETO*

(10) fifty thousand dollars (\$50,000) for a climate-controlled pharmacy at the Los Alamos public health office;

(11) fifty thousand dollars (\$50,000) for the nurse program [~~at the Phoenix house~~] in Hobbs; and *LINE-ITEM VETO*

(12) fifty thousand dollars (\$50,000) to provide low-income and at-risk children with a dance program in partnership with the Hobbs municipal school district.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 19 Laws 2019

SECTION 19. DEPARTMENT OF ENVIRONMENT.--Two hundred thousand dollars (\$200,000) is appropriated from the general fund to the department of environment for expenditure in fiscal years 2019 and 2020 for a clean drinking water ~~pilet~~ project in northern New Mexico. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 20 Laws 2019

SECTION 20. VETERANS' SERVICES DEPARTMENT.--Twenty-five thousand dollars (\$25,000) is appropriated from the general fund to the veterans' services department for expenditure in fiscal years 2019 and 2020 for a [~~full-time~~] service coordinator located in northwestern New Mexico. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund. *LINE-ITEM VETO*

Chapter 279 Section 21 Laws 2019

SECTION 21. CHILDREN, YOUTH AND FAMILIES DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the children, youth and families department for expenditure in fiscal years 2019 and 2020 for the following purposes:

(1) one hundred fifty thousand dollars (\$150,000) to provide sexual assault services for children at child advocacy centers;

(2) fifty thousand dollars (\$50,000) to support a facility providing care services for abandoned children in Farmington;

(3) twenty-five thousand dollars (\$25,000) for La Casa community behavioral health for a youth substance abuse prevention program in Chaves county;

(4) fifty thousand dollars (\$50,000) to provide sexual assault services to children at a child advocacy center in Alamogordo;

(5) fifty thousand dollars (\$50,000) for child advocacy centers for services to victims of child sexual violence in Dona Ana county;

(6) sixty thousand dollars (\$60,000) for after-school recreation counseling services for at-risk youth in Ruidoso;

(7) fifty thousand dollars (\$50,000) for an anti-violence program in Taos;

(8) thirty-five thousand dollars (\$35,000) for domestic violence operations;

(9) fifty thousand dollars (\$50,000) to support and expand services at the Artesia head start program; and

(10) one hundred thousand dollars (\$100,000) for a shelter providing domestic violence services in Santa Fe.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 22 Laws 2019

SECTION 22. CRIME VICTIMS REPARATION COMMISSION.--

A. The following amounts are appropriated from the general fund to the crime victims reparation commission for expenditure in fiscal years 2019 and 2020 for the following purposes:

(1) one hundred fifty thousand dollars (\$150,000) to provide sexual assault services statewide; and

(2) fifty thousand dollars (\$50,000) to study sexual assault on people with disabilities.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 23 Laws 2019

SECTION 23. DEPARTMENT OF PUBLIC SAFETY.--

A. The following amounts are appropriated from the general fund to the department of public safety for expenditure in fiscal years 2019 and 2020 for the following purposes:

(1) three hundred thousand dollars (\$300,000) to purchase fingerprint machines to cover the state and to ensure that the machines connect to the department; and

(2) seventy-five thousand dollars (\$75,000) for computer upgrades at the New Mexico law enforcement academy.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 24 Laws 2019

SECTION 24. DEPARTMENT OF TRANSPORTATION.--Fifty thousand dollars (\$50,000) is appropriated from the general fund to the department of transportation for expenditure in fiscal years 2019 and 2020 for a pilot project using fast-charging equipment for electric vehicles at a highway rest stop. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 25 Laws 2019

SECTION 25. PUBLIC EDUCATION DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the public education department for expenditure in fiscal years 2019 and 2020 for the following purposes:

(1) one hundred sixty-five thousand dollars (\$165,000) to provide feminine hygiene products in public schools;

~~[(2) one hundred thirty-seven thousand dollars (\$137,000) to establish a school media literacy advisory committee, contingent on enactment of House Bill 400 or similar legislation by the first session of the fifty-fourth legislature;]~~
LINE-ITEM VETO

(3) sixty thousand dollars (\$60,000) to contract for a bilingual STEM and mobile planetarium learning program;

(4) thirty thousand dollars (\$30,000) for mental health training for public education personnel at the Gadsden independent school district;

(5) eleven thousand dollars (\$11,000) for the black student union program at the Rio Rancho public school district;

(6) one hundred thousand dollars (\$100,000) for a public school teacher training program focusing on student mindfulness and emotional wellness;

(7) two hundred thousand dollars (\$200,000) to develop and implement a teacher professional development program for computer science courses;

(8) one hundred fifty thousand dollars (\$150,000) to foster one-to-one friendships with students with and without intellectual and developmental disabilities;

(9) fifty thousand dollars (\$50,000) for a center for after-school activities for students in the Central consolidated school district;

(10) twenty thousand dollars (\$20,000) to purchase an activity bus for the Alamogordo public school district;

(11) sixty thousand dollars (\$60,000) to upgrade the Alamogordo high school STEM and career technical programs;

(12) fifty thousand dollars (\$50,000) for programmatic support of the equestrian center of the Mosquero municipal school district;

(13) fifty thousand dollars (\$50,000) for science and technology equipment for the Lovington municipal school district;

- (14) fifty thousand dollars (\$50,000) for an architectural engineering plan for a building in the Jal public school district;
- (15) fifty thousand dollars (\$50,000) for a career technical center feasibility study for the Hobbs municipal school district;
- (16) one hundred thousand dollars (\$100,000) to develop strategies to increase Latino immigrant family engagement in education;
- (17) fifty thousand dollars (\$50,000) for curriculum development for the Gallup-McKinley county school district;
- (18) twenty thousand dollars (\$20,000) for the maker space project at Gadsden high school;
- (19) fifty thousand dollars (\$50,000) for the model internship program at Gadsden and Santa Teresa high schools;
- (20) thirty thousand dollars (\$30,000) for supplies and equipment for e-sports at the Gadsden independent school district;
- (21) ten thousand dollars (\$10,000) for supplies and equipment for the Allan service learning center at Gadsden elementary school;
- (22) thirty thousand dollars (\$30,000) for a career and technical education program at Gadsden and Santa Teresa high schools;
- (23) twenty thousand dollars (\$20,000) for supplies and equipment for the reserve officer training corps at Gadsden and Santa Teresa high schools;
- (24) twenty-five thousand dollars (\$25,000) for a black students' union at Cibola high school in the Albuquerque public school district;
- (25) one hundred seventy-five thousand dollars (\$175,000) for the student service department's mental health navigator program in the Rio Rancho public school district;
- (26) twenty-five thousand dollars (\$25,000) to advance critical thinking, problem solving and teamwork in the Roswell independent school district STEM program;

(27) twenty-five thousand dollars (\$25,000) for a Rio Rancho public school district mental health program;

(28) one hundred thousand dollars (\$100,000) for a career technical feasibility study for the Hobbs municipal school district;

(29) ten thousand dollars (\$10,000) for the Albuquerque public school district black students' union; and

(30) one hundred twenty-five thousand dollars (\$125,000) for a statewide literacy initiative for children and adults by the northeast regional education cooperative.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 26 Laws 2019

SECTION 26. HIGHER EDUCATION DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the higher education department for expenditure in fiscal years 2019 and 2020 for the following purposes:

(1) one hundred forty thousand dollars (\$140,000) for loans for service pursuant to the Grow Your Own Teachers Act, contingent on enactment of House Bill 20 or similar legislation of the first session of the fifty-fourth legislature;

(2) fifty thousand dollars (\$50,000) to establish a loan-for-service program to provide legal services for land grants-mercedes, acequias and colonias, contingent on enactment of House Bill 32 or similar legislation of the first session of the fifty-fourth legislature;

~~[(3) twenty-five thousand dollars (\$25,000) for a facility needs assessment and institutional analysis for each higher education institution;]~~ *LINE-ITEM VETO*

(4) thirty thousand dollars (\$30,000) for the MESA program;

(5) one hundred fifty thousand dollars (\$150,000) for equipment purchases for [the] grip and lighting [department] at Santa Fe community college; and *LINE-ITEM VETO*

(6) two hundred thousand dollars (\$200,000) to upgrade security equipment at San Juan college.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 27 Laws 2019

SECTION 27. UNIVERSITY OF NEW MEXICO.--

A. The following amounts are appropriated from the general fund to the board of regents of the university of New Mexico for expenditure in fiscal years 2019 and 2020 for the following purposes:

(1) one hundred forty thousand dollars (\$140,000) to the office of the medical investigator for the grief services program;

~~[(2) eighty thousand dollars (\$80,000) for the mock trial program at the school of law;]~~ *LINE-ITEM VETO*

(3) seventy-five thousand dollars (\$75,000) to create a pathway to college careers project within the Chicana and Chicano studies department;

(4) one hundred fifty thousand dollars (\$150,000) for the bureau of business and economic research to study and develop an education and training program to meet the demand for uranium mine cleanup;

(5) one hundred fifty thousand dollars (\$150,000) for a cultural art initiative at the Charlie Morrissey education center on the Gallup branch campus;

(6) forty thousand dollars (\$40,000) for the Charlie Morrissey education center on the Gallup branch campus;

(7) twelve thousand dollars (\$12,000) for ~~[the New Mexico]~~ bioscience ~~[authority]~~ at the health sciences center; *LINE-ITEM VETO*

(8) one hundred twenty-five thousand dollars (\$125,000) to develop a high school Chicano studies curriculum;

(9) fifty thousand dollars (\$50,000) for programs and services at the Charlie Morrissey research hall;

(10) fifty thousand dollars (\$50,000) for the African American student services bridge to success program; and

(11) two hundred fifty thousand dollars (\$250,000) for a women's beach volleyball program.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 28 Laws 2019

SECTION 28. NEW MEXICO STATE UNIVERSITY.--

A. The following amounts are appropriated from the general fund to the board of regents of New Mexico state university for expenditure in fiscal years 2019 and 2020 for the following purposes:

(1) for the New Mexico department of agriculture:

(a) seventy-five thousand dollars (\$75,000) for the Chaves county extension service for the operation of the 4-H program;

(b) one hundred seventy-five thousand dollars (\$175,000) for a healthy soils program;

(c) two hundred thousand dollars (\$200,000) for the agricultural experiment station in Farmington;

(d) one hundred forty thousand dollars (\$140,000) for supplemental funding and support for cooperative extension services and programs statewide;

(e) two hundred thousand dollars (\$200,000) for supplemental funding and support for agricultural experiment stations statewide;

(f) one hundred thousand dollars (\$100,000) for an agricultural workforce development program;

(g) twenty-five thousand dollars (\$25,000) for the weather modification program;

(h) twenty-five thousand dollars (\$25,000) for a food distribution program in McKinley county;

(i) fifty thousand dollars (\$50,000) to support 4-H club activities in the Shiprock, Kirtland and Upper Fruitland communities;

(j) twenty-five thousand dollars (\$25,000) for the Chaves county extension service for the 4-H program;

(k) fifty thousand dollars (\$50,000) for the Artesia agricultural experiment station;

(l) fifty thousand dollars (\$50,000) for the Eddy county agricultural experiment station;

(m) fifty thousand dollars (\$50,000) for supplemental funding for research and other programs at the Tucumcari agricultural experiment station;

(n) fifty thousand dollars (\$50,000) for FFA chapters in the Roswell independent, Dexter consolidated, Hagerman municipal and Artesia public school districts;

(o) eighty thousand dollars (\$80,000) for agricultural education programs in the Bernalillo public, Dulce independent and Jemez Valley public school districts;

(p) seventy-five thousand dollars (\$75,000) for FFA chapters in the Corona public, Capitan municipal, Hondo Valley public and Carrizozo municipal school districts; and

(q) fifty thousand dollars (\$50,000) to study state support for the commercial meat inspection program; and

(2) twenty-five thousand dollars (\$25,000) for the women's track program.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 29 Laws 2019

SECTION 29. NEW MEXICO HIGHLANDS UNIVERSITY.--Thirty thousand dollars (\$30,000) is appropriated from the general fund to the board of regents of New Mexico highlands university for expenditure in fiscal years 2019 and 2020 for the Native American social workers institute in the school of social work. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 30 Laws 2019

SECTION 30. WESTERN NEW MEXICO UNIVERSITY.--

A. The following amounts are appropriated from the general fund to the board of regents of western New Mexico university for expenditure in fiscal years 2019 and 2020 for the following purposes:

(1) fifty thousand dollars (\$50,000) for lighting equipment for the athletic department; and

(2) twenty-five thousand dollars (\$25,000) for early childhood development services.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 31 Laws 2019

SECTION 31. EASTERN NEW MEXICO UNIVERSITY.--

A. The following amounts are appropriated from the general fund to the board of regents of eastern New Mexico university for expenditure in fiscal years 2019 and 2020 for the following purposes:

(1) fifty thousand dollars (\$50,000) to manage and conduct statewide robot playshops and an international robot competition; and

(2) fifty thousand dollars (\$50,000) for adult education and youth challenge students to gain additional workforce training at the Roswell branch campus.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 32 Laws 2019

SECTION 32. NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY.--

A. The following amounts are appropriated from the general fund to the board of regents of the New Mexico institute of mining and technology for expenditure in fiscal years 2019 and 2020 for the following purposes:

(1) two hundred thousand dollars (\$200,000) for laboratory facility operations and equipment for the chemical engineering department;

(2) sixty-three thousand dollars (\$63,000) for undergraduate and graduate student assistanceships in the chemical engineering department;

(3) twenty-five thousand dollars (\$25,000) to support rural economic development;

(4) one hundred thousand dollars (\$100,000) for the bureau of geology and mineral resources; and

(5) fifty thousand dollars (\$50,000) for the MESA program.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 33 Laws 2019

SECTION 33. NEW MEXICO MILITARY INSTITUTE.--One hundred thousand dollars (\$100,000) is appropriated from the general fund to the board of regents of the New Mexico military institute for expenditure in fiscal years 2019 and 2020 for athletic program operations. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 34 Laws 2019

~~[SECTION 34. LEGISLATIVE.--Two hundred seventy five thousand dollars (\$275,000) is appropriated from the general fund to the legislative council service for expenditure in fiscal year 2020 for staff and expenses for a permanent legislative health and human services committee, contingent on enactment of House Bill 452 of the first session of the fifty fourth legislature. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.]~~ *LINE-ITEM VETO*

Chapter 279 Section 35 Laws 2019

SECTION 35. ADMINISTRATIVE OFFICE OF THE COURTS.--Five hundred eighty-five thousand dollars (\$585,000) is appropriated from the general fund to the administrative office of the courts for expenditure in fiscal year 2020 for pretrial services statewide. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 36 Laws 2019

SECTION 36. DISTRICT COURTS.--

A. The following amounts are appropriated from the general fund to the specified district courts for expenditure in fiscal year 2020 for the following purposes:

(1) one hundred five thousand dollars (\$105,000) to the first judicial district court for a full-time employee, supplies and travel for pretrial services;

(2) twenty-five thousand dollars (\$25,000) to the third judicial district court for courtroom equipment;

(3) fifty thousand dollars (\$50,000) for the fifth judicial district court for the court-appointed special advocate program in Lea county; and

(4) sixty thousand dollars (\$60,000) to the ninth judicial district court for personnel services and employee benefits.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 37 Laws 2019

~~[SECTION 37. ADMINISTRATIVE OFFICE OF THE DISTRICT ATTORNEYS.--Two hundred fifty thousand dollars (\$250,000) is appropriated from the general fund to the administrative office of the district attorneys for expenditure in fiscal year 2020 for personnel services and employee benefits. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.]~~

LINE-ITEM VETO

Chapter 279 Section 38 Laws 2019

SECTION 38. DISTRICT ATTORNEYS.--

A. The following amounts are appropriated from the general fund to the specified district attorneys for expenditure in fiscal year 2020 for the following purposes:

(1) sixty thousand dollars (\$60,000) to the fifth judicial district attorney for personnel services and employee benefits;

(2) sixty-five thousand dollars (\$65,000) to the ninth judicial district attorney for operational expenses;

(3) fifty thousand dollars (\$50,000) to the tenth judicial district attorney for personnel services and employee benefits; and

(4) to the twelfth judicial district attorney:

(a) fifty thousand dollars (\$50,000) for additional attorneys and staff;

~~[(b) fifty thousand dollars (\$50,000) for personnel services and employee benefits for one full-time employee;]~~ and *LINE-ITEM VETO*

(c) fifty thousand dollars (\$50,000) for personnel services and employee benefits for one full-time employee.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 39 Laws 2019

SECTION 39. DEPARTMENT OF FINANCE AND ADMINISTRATION.--

A. The following amounts are appropriated from the general fund to the department of finance and administration for expenditure in fiscal year 2020 for the following purposes:

(1) seventeen thousand five hundred dollars (\$17,500) for the New Mexico mortgage finance authority to rehabilitate homes owned and occupied by low-income veterans;

(2) two hundred twenty-five thousand dollars (\$225,000) for the New Mexico mortgage finance authority for operations of a shelter providing services to the homeless in Espanola;

(3) two hundred thousand dollars (\$200,000) to provide legal services for land grants-mercedes, acequias and indigent persons in colonias; and

(4) to the local government division:

(a) one hundred seventy-five thousand dollars (\$175,000) for equipment and operation of a spay and neuter program at the Valencia county animal shelter;

(b) five thousand dollars (\$5,000) for public schools outreach by the Explora science center and children's museum;

(c) one hundred fifty thousand dollars (\$150,000) for industrial infrastructure planning in Milan;

~~[(d) forty five thousand dollars (\$45,000) for planning and technical assistance services in the southeastern New Mexico economic development district;]~~ *LINE-ITEM VETO*

(e) sixty thousand dollars (\$60,000) for Chaves county to provide an equestrian-based therapy program for clients with autism and posttraumatic stress disorder;

(f) one hundred forty thousand dollars (\$140,000) for assistance for planning, development and construction of capital projects in ~~[northern]~~ New Mexico communities; *LINE-ITEM VETO*

(g) ten thousand dollars (\$10,000) for food distribution in Gallup;

(h) fifty thousand dollars (\$50,000) for homeless and veterans advocacy programs in McKinley county;

(i) fifty thousand dollars (\$50,000) for homeless services in Gallup;

(j) forty thousand dollars (\$40,000) for equipment for the Dona Ana county youth initiative program;

(k) sixty thousand dollars (\$60,000) for supplies and equipment for the public safety system in Sunland Park;

(l) seventeen thousand five hundred dollars (\$17,500) for supplies and equipment for the Chamberino water system;

(m) seventeen thousand five hundred dollars (\$17,500) for supplies and equipment for the La Union water system;

(n) ten thousand dollars (\$10,000) to purchase supplies and equipment for youth sports programming in Sunland Park;

(o) fifty thousand dollars (\$50,000) to supplement the head start program in Silver City;

(p) fifty thousand dollars (\$50,000) for community programs in Edgewood, including a neighborhood watch program, a spay and neuter program, a wi-fi program and a youth program;

(q) fifty thousand dollars (\$50,000) for Moriarty youth and community programs;

(r) fifty thousand dollars (\$50,000) for Rio Communities youth and community programs;

(s) fifty thousand dollars (\$50,000) for Mountainair youth and community programs;

(t) fifty thousand dollars (\$50,000) to purchase traffic accident reconstruction equipment for the Bernalillo county sheriff's office;

(u) fifty thousand dollars (\$50,000) to purchase traffic accident reconstruction equipment for the Albuquerque police department;

(v) fifty thousand dollars (\$50,000) for a literacy program in the South Valley of Bernalillo county;

(w) one hundred fifty thousand dollars (\$150,000) for transitional housing and recovery services for youth in Bernalillo county;

(x) one hundred thousand dollars (\$100,000) for a center providing homeless services in Hobbs;

(y) fifty thousand dollars (\$50,000) for a youth mentoring program, including a pre-kindergarten program, in Hobbs; and

(z) fifty thousand dollars (\$50,000) for a children's museum in Deming.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 40 Laws 2019

SECTION 40. GENERAL SERVICES DEPARTMENT.--Fifty thousand dollars (\$50,000) is appropriated from the general fund to the general services department for expenditure in fiscal year 2020 for staffing the interagency pharmaceuticals purchasing council. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 41 Laws 2019

SECTION 41. NEW MEXICO SENTENCING COMMISSION.--Five hundred ten thousand dollars (\$510,000) is appropriated from the general fund to the New Mexico sentencing commission for expenditure in fiscal year 2020 [~~for administrative staff~~] to support data governance structure. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund. *LINE-ITEM VETO*

Chapter 279 Section 42 Laws 2019

SECTION 42. STATE TREASURER.--One hundred thousand dollars (\$100,000) is appropriated from the general fund to the state treasurer for expenditure in fiscal year 2020 for a full-time employee. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 43 Laws 2019

SECTION 43. TOURISM DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the tourism department for expenditure in fiscal year 2020 for the following purposes:

(1) twenty-five thousand dollars (\$25,000) for advertising at the New Mexico bowl in December 2019;

(2) ten thousand dollars (\$10,000) for spaceport America promotion and advertising[;—and

~~(3) two hundred thousand dollars (\$200,000) for support of the Connie Mack world series, including transportation costs for the participating team].~~
LINE-ITEM VETO

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 44 Laws 2019

SECTION 44. ECONOMIC DEVELOPMENT DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the economic development department for expenditure in fiscal year 2020 for the following purposes:

(1) one hundred thousand dollars (\$100,000) to support the solo-worker program created pursuant to Section 9-15-57 NMSA 1978;

~~[(2) ten thousand dollars (\$10,000) for the planning and development of the Prewitt industrial park in McKinley county;]~~ *LINE-ITEM VETO*

(3) two hundred twenty-five thousand dollars (\$225,000) for the market mobility industry task force;

(4) one hundred fifty thousand dollars (\$150,000) for area services to foster space industry development in New Mexico;

(5) seventy-five thousand dollars (\$75,000) for promotion of economic development and revitalization of the West Central avenue corridor in Albuquerque;

(6) one hundred thousand dollars (\$100,000) for the outdoor equity fund grant program for grants to low-income children to participate in outdoor programs;

(7) twenty-five thousand dollars (\$25,000) for the Truth or Consequences mainstreet program for signage, planning and facade improvements[;—and

~~(8) twenty thousand dollars (\$20,000) for the New Mexico partnership].~~ *LINE-ITEM VETO*

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 45 Laws 2019

~~[SECTION 45. OFFICE OF SUPERINTENDENT OF INSURANCE.--One hundred thousand dollars (\$100,000) is appropriated from the general fund to the office of superintendent of insurance for expenditure in fiscal year 2020 for personnel services and employee benefits for health policy enforcement and audit examination staff. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.]~~ *LINE-ITEM VETO*

Chapter 279 Section 46 Laws 2019

SECTION 46. CULTURAL AFFAIRS DEPARTMENT.--Two hundred thousand dollars (\$200,000) is appropriated from the general fund to the cultural affairs department for expenditure in fiscal year 2020 for a performing arts program using a performing arts venue to extend outreach to youth in school groups in Santa Fe. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 47 Laws 2019

SECTION 47. ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the energy, minerals and natural resources department for expenditure in fiscal year 2020 for the following purposes:

(1) one hundred fifteen thousand dollars (\$115,000) to employ a chief sustainability and resilience officer;

(2) fifty thousand dollars (\$50,000) for the youth conservation corps program in the South Valley of Bernalillo county; and

(3) one hundred forty thousand dollars (\$140,000) for the New Mexico renewable energy transmission authority to undertake a renewable energy transmission and storage study.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 48 Laws 2019

SECTION 48. COMMISSION ON THE STATUS OF WOMEN.--Eighty thousand dollars (\$80,000) is appropriated from the general fund to the commission on the status of women for expenditure in fiscal year 2020 for operational expenses. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 49 Laws 2019

SECTION 49. OFFICE ON AFRICAN AMERICAN AFFAIRS.--Three hundred thousand dollars (\$300,000) is appropriated from the general fund to the office on African American affairs for expenditure in fiscal year 2020 for programs and exhibits at the African American performing arts center. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 50 Laws 2019

SECTION 50. INDIAN AFFAIRS DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the Indian affairs department for expenditure in fiscal year 2020 for the following purposes:

(1) twenty thousand dollars (\$20,000) for the Title 7 Indian elders coalition;

(2) sixty-five thousand dollars (\$65,000) to develop the Acoma-Keres language dictionary and curriculum for pre-kindergarten through eighth grade students; and

(3) one hundred thousand dollars (\$100,000) for the Santa Fe Indian school leadership institute.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 51 Laws 2019

SECTION 51. AGING AND LONG-TERM SERVICES DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the aging and long-term services department for expenditure in fiscal year 2020 for the following purposes:

- (1) one hundred twenty-five thousand dollars (\$125,000) for operation of senior centers in Valencia county;
- (2) ninety thousand dollars (\$90,000) for a senior citizen program in Roswell;
- (3) two hundred thousand dollars (\$200,000) for senior services throughout New Mexico;
- (4) fifty thousand dollars (\$50,000) for senior citizen services support through the northern agency council, Navajo area agency on aging;
- (5) twenty thousand dollars (\$20,000) for the senior meal site in Grant county;
- (6) thirty thousand dollars (\$30,000) for the senior meal site in Sierra county;
- (7) seven thousand five hundred dollars (\$7,500) for computers at the senior citizens program at the Betty McKnight community center in Dona Ana county;
- (8) seven thousand five hundred dollars (\$7,500) for furniture at the Otero community center;
- (9) seven thousand five hundred dollars (\$7,500) for the Butterfield community center for meals, equipment and supplies; and
- (10) fifty thousand dollars (\$50,000) for senior citizen services at the Artesia senior center.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 52 Laws 2019

SECTION 52. HUMAN SERVICES DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the human services department for expenditure in fiscal year 2020 for the following purposes:

(1) one hundred fifty thousand dollars (\$150,000) for the graduate medical education expansion grant program, contingent on the enactment of House Bill 480 or similar legislation of the first session of the fifty-fourth legislature;

(2) fifty thousand dollars (\$50,000) to provide behavioral health and mental health services for juveniles in Sandoval county;

(3) twenty thousand dollars (\$20,000) for the rape crisis center in La Pinon;

(4) ten thousand dollars (\$10,000) for domestic violence centers in Grant and Sierra counties;

~~[(5) ten thousand dollars (\$10,000) for the Sierra health council; and~~

~~(6) ten thousand dollars (\$10,000) for the Grant county community health council].~~ *LINE-ITEM VETO*

B. Ten thousand dollars (\$10,000) is appropriated from the general fund to the human services department for expenditure in fiscal year 2020 to seek any federal waivers necessary to offer the medicaid buy-in plan under Sections 1331 and 1332 of the federal Patient Protection and Affordable Care Act.

C. Any unexpended or unencumbered balances remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 53 Laws 2019

SECTION 53. WORKFORCE SOLUTIONS DEPARTMENT.--Two hundred thousand dollars (\$200,000) is appropriated from the general fund to the workforce solutions department for expenditure in fiscal year 2020 for a pilot apprenticeship and career readiness program in Gallup. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 54 Laws 2019

SECTION 54. DEPARTMENT OF HEALTH.--

A. The following amounts are appropriated from the general fund to the department of health for expenditure in fiscal year 2020 for the following purposes:

(1) one hundred ninety-two thousand five hundred dollars (\$192,500) for a comprehensive health careers program and to provide regional training opportunities in primary care;

(2) fifty thousand dollars (\$50,000) to contract with a nonprofit dance program for at-risk and low-income children in Bernalillo county;

(3) fifty thousand dollars (\$50,000) to contract with a nonprofit dance program for at-risk and low- income children statewide;

~~[(4) fifty thousand dollars (\$50,000) for the child and family databank commission, contingent on the enactment of House Bill 173 or similar legislation of the first session of the fifty-fourth legislature;]~~ *LINE-ITEM VETO*

(5) one hundred twenty-five thousand dollars (\$125,000) for support and services related to adult autism spectrum disorders;

(6) two hundred twenty-five thousand dollars (\$225,000) for support and services related to child autism spectrum disorders;

(7) one hundred fifty thousand dollars (\$150,000) for the public health division to expand hours and services at the Los Alamos public health office;

(8) fifty thousand dollars (\$50,000) for non-medicaid-reimbursed autism services in a clinic in Lea county;

(9) forty thousand dollars (\$40,000) for teen ~~[mental illness and]~~ suicide prevention classes; and *LINE-ITEM VETO*

(10) fifty thousand dollars (\$50,000) for ~~[after-school]~~ teen pregnancy reduction programs in Hobbs. *LINE-ITEM VETO*

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 55 Laws 2019

SECTION 55. DEPARTMENT OF ENVIRONMENT.--

A. The following amounts are appropriated from the general fund to the department of environment for expenditure in fiscal year 2020 for the following purposes:

(1) one hundred thousand dollars (\$100,000) for the Green Tree solid waste authority for a recycling program; and

(2) one hundred seventy-five thousand dollars (\$175,000) for planning and designing a water system for Magdalena.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 56 Laws 2019

SECTION 56. CHILDREN, YOUTH AND FAMILIES DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the children, youth and families department for expenditure in fiscal year 2020 for the following purposes:

(1) one hundred thousand dollars (\$100,000) to support domestic violence services in Grants;

(2) one hundred thousand dollars (\$100,000) for a youth mentoring program;

(3) one hundred ninety thousand dollars (\$190,000) for sexual assault services for children at child advocacy centers;

(4) fifty thousand dollars (\$50,000) for services related to domestic violence;

(5) twenty-five thousand dollars (\$25,000) to establish a shared service integration model for early childhood education in Silver City;

(6) fifty thousand dollars (\$50,000) to operate a home for battered women and children in Shiprock;

(7) fifty thousand dollars (\$50,000) for crisis intervention for those affected by domestic violence in Farmington;

(8) fifty thousand dollars (\$50,000) for an early literacy learning program through the southwest New Mexico council of governments;

(9) fifty thousand dollars (\$50,000) for training for staff located in Hobbs;

(10) thirty thousand dollars (\$30,000) for a youth substance abuse prevention program in Chaves county;

(11) one hundred thousand dollars (\$100,000) for family planning, prenatal care testing and postnatal counseling in Artesia;

(12) fifty thousand dollars (\$50,000) for the court-appointed special advocate program in Carlsbad; and

(13) fifty thousand dollars (\$50,000) for support of sexual assault programs in Clovis and Portales.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 57 Laws 2019

SECTION 57. CRIME VICTIMS REPARATION COMMISSION.--

A. The following amounts are appropriated from the general fund to the crime victims reparation commission for expenditure in fiscal year 2020 for the following purposes:

(1) one hundred fifty thousand dollars (\$150,000) for provision of sexual assault services statewide;

(2) seven thousand five hundred dollars (\$7,500) for provision of sexual assault services in Dona Ana county; and

(3) one hundred thousand dollars (\$100,000) for services for victims of human trafficking.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 58 Laws 2019

SECTION 58. DEPARTMENT OF PUBLIC SAFETY.--Fifty thousand dollars (\$50,000) is appropriated from the general fund to the department of public safety for expenditure in fiscal year 2020 for equipment for the traffic reconstruction unit for reconstruction of traffic accidents. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 59 Laws 2019

SECTION 59. DEPARTMENT OF TRANSPORTATION.--Twenty-five thousand dollars (\$25,000) is appropriated from the general fund to the department of transportation for expenditure in fiscal year 2020 for Milan to operate the Carrot express. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 60 Laws 2019

SECTION 60. PUBLIC EDUCATION DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the public education department for expenditure in fiscal year 2020 as follows:

(1) one hundred seventy thousand dollars (\$170,000) for public schools to provide feminine hygiene products;

(2) two hundred thousand dollars (\$200,000) to purchase and distribute New Mexico-grown fruits and vegetables to public schools;

~~[(3) one hundred fifty thousand dollars (\$150,000) for a drug counseling pilot project in the Rio Rancho public school district, contingent on enactment of House Bill 574 or similar legislation of the first session of the fifty-fourth legislature;]~~ *LINE-ITEM VETO*

(4) one hundred thousand dollars (\$100,000) to contract for a week-long high school civics course focusing on New Mexico state government;

(5) fifty thousand dollars (\$50,000) for a teaching pathways coordinator;

(6) two hundred thousand dollars (\$200,000) to develop and implement a teacher professional development program for computer science courses;

(7) fifty thousand dollars (\$50,000) for career and technical education in the Central consolidated school district;

(8) fifty thousand dollars (\$50,000) for an educational field trip [~~in the Alamogordo public school district~~]; *LINE-ITEM VETO*

(9) fifty thousand dollars (\$50,000) for STEM robotics and aerospace technology programs in the Eunice public school district;

(10) twenty-five thousand dollars (\$25,000) for equipment and supplies for the agricultural and horticultural program at Gadsden high school;

(11) twenty thousand dollars (\$20,000) to cover transportation costs and supplies to travel to extracurricular events for Chaparral middle school;

(12) fifty thousand dollars (\$50,000) for the career technical education program at Chaparral high school; and

(13) fifteen thousand dollars (\$15,000) for Chaparral elementary school.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 61 Laws 2019

SECTION 61. HIGHER EDUCATION DEPARTMENT.--

A. The following amounts are appropriated from the general fund to the higher education department for expenditure in fiscal year 2020 as follows:

(1) three hundred sixty thousand dollars (\$360,000) for the Grow Your Own Teachers Act, contingent on enactment of House Bill 20 or similar legislation of the first session of the fifty-fourth legislature;

(2) ten thousand dollars (\$10,000) for the Grow Your Own Teachers Act in Chaparral, contingent on enactment of House Bill 20 or similar legislation of the first session of the fifty-fourth legislature;

(3) fifty thousand dollars (\$50,000) to supplement the bilingual teacher preparation program;

(4) fifty thousand dollars (\$50,000) for a statewide adult literacy program;

(5) sixty thousand dollars (\$60,000) for technical assistance in the funding, planning and development of program and capital projects at northern New Mexico college and the university of New Mexico-Taos campus;

(6) eighty thousand dollars (\$80,000) for the tribal college dual credit program;

(7) one hundred twenty-five thousand dollars (\$125,000) to create a faculty position to design and implement an integrated renewable energy technology curriculum at Mesalands community college;

(8) seventy-five thousand dollars (\$75,000) for the dual credit program at Clovis community college; and

(9) fifty thousand dollars (\$50,000) for the allied health department to purchase emergency medical supplies and equipment to prepare for accreditation at Clovis community college.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 62 Laws 2019

SECTION 62. UNIVERSITY OF NEW MEXICO.--

A. The following amounts are appropriated from the general fund to the board of regents of the university of New Mexico for expenditure in fiscal year 2020 for the following purposes:

(1) four hundred fifty thousand dollars (\$450,000) for the health sciences center for programs to coordinate nursing education statewide;

(2) sixty-three thousand dollars (\$63,000) for the health sciences center for the New Mexico bioscience authority;

(3) one hundred fifty thousand dollars (\$150,000) for the health sciences center for the diversity pipeline program;

(4) two hundred twenty thousand dollars (\$220,000) for the office of the medical investigator for the grief services program;

(5) fifty thousand dollars (\$50,000) for the school of law for mock trial programs;

(6) fifty thousand dollars (\$50,000) to create a pathway to college careers project within the Chicana and Chicano studies department;

(7) fifty thousand dollars (\$50,000) for the Utton transboundary resource center for water research projects;

(8) fifty thousand dollars (\$50,000) for El Centro de la Raza student services;

(9) sixty thousand dollars (\$60,000) for Native American student services;

(10) sixty thousand dollars (\$60,000) for a cultural art initiative at the Charlie Morrissey education center at the Gallup branch campus;

(11) one hundred fifty thousand dollars (\$150,000) for the Africana studies program;

(12) fifty thousand dollars (\$50,000) for the EUREKA scholarship honors program;

(13) two hundred thousand dollars (\$200,000) for support of ongoing operations of Chicana and Chicano programs; and

(14) forty thousand dollars (\$40,000) for the Charlie Morrissey research hall for a science, technology, engineering and mathematics online distance learning program.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 63 Laws 2019

SECTION 63. NEW MEXICO STATE UNIVERSITY.--

A. The following amounts are appropriated from the general fund to the board of regents of New Mexico state university for expenditure in fiscal year 2020 for the following purposes:

- (1) one hundred thousand dollars (\$100,000) for business development at the Arrowhead center;
- (2) fifty thousand dollars (\$50,000) to establish a veterans service center at the Grants branch campus;
- (3) fifty thousand dollars (\$50,000) for dual credit program support at the Carlsbad branch campus;
- (4) one hundred fifty thousand dollars (\$150,000) for operation of the manufacturing sector development program;
- (5) for the New Mexico department of agriculture:
 - (a) one hundred thousand dollars (\$100,000) for the agriculture livestock incident response team;
 - (b) fifty thousand dollars (\$50,000) to establish the healthy soil program and the healthy soil grants program;
 - (c) one hundred twenty-five thousand dollars (\$125,000) to supplement agricultural education programs statewide;
 - (d) forty-five thousand dollars (\$45,000) to develop market opportunities for farmers, ranchers and agribusinesses;
 - (e) fifty thousand dollars (\$50,000) for the agricultural experiment station;
 - (f) fifty thousand dollars (\$50,000) for the cooperative extension service;
 - (g) fifty thousand dollars (\$50,000) to support the cooperative extension service in Otero county; and

(h) eighty thousand dollars (\$80,000) for the Bernalillo public, Dulce independent and Jemez Valley public school districts for agricultural education programs;

(6) seventy thousand dollars (\$70,000) for the college assistance migrant program;

(7) seventy-five thousand dollars (\$75,000) for teacher and student development and mentorships at Chaparral, Dona Ana and Otero schools; and

(8) one hundred thousand dollars (\$100,000) for the water resources research institute to research New Mexico aquifers.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 64 Laws 2019

SECTION 64. NEW MEXICO HIGHLANDS UNIVERSITY.--Fifty thousand dollars (\$50,000) is appropriated from the general fund to the board of regents of New Mexico highlands university for expenditure in fiscal year 2020 to increase funding for the minority student services program for education and study of diverse populations. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 65 Laws 2019

SECTION 65. EASTERN NEW MEXICO UNIVERSITY.--

A. The following amounts are appropriated from the general fund to the board of regents of eastern New Mexico university for expenditure in fiscal year 2020 for the following purposes:

(1) fifty thousand dollars (\$50,000) to manage and conduct statewide robot playshops and an international robot competition;

(2) one hundred thousand dollars (\$100,000) for the greyhound promise program for potential teachers; and

(3) sixty-five thousand dollars (\$65,000) for adult education and youth challenge students to gain additional workforce training at the Roswell branch campus.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund.

Chapter 279 Section 66 Laws 2019

SECTION 66. NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY.--

A. The following amounts are appropriated from the general fund to the board of regents of the New Mexico institute of mining and technology for expenditure in fiscal year 2020 for the following purposes:

(1) twenty-five thousand dollars (\$25,000) to support rural economic development;

(2) one hundred ten thousand dollars (\$110,000) for the bureau of geology and mineral resources to coordinate a water data council;

(3) fifty thousand dollars (\$50,000) for the national cave and karst research institute in Carlsbad; and

(4) eighty-seven thousand dollars (\$87,000) for undergraduate and graduate student research assistanceships in the chemical engineering department.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2020 shall revert to the general fund. _____

HAFC/House Bill 548, partial veto

Approved April 5, 2019

LAWS 2019, CHAPTER 280

AN ACT

RELATING TO CAPITAL EXPENDITURES; REAUTHORIZING OR REAPPROPRIATING BALANCES, EXPANDING, CLARIFYING OR CHANGING PURPOSES, EXTENDING EXPENDITURE PERIODS, CHANGING AGENCIES AND ESTABLISHING CONDITIONS FOR THE REVERSION OR TRANSFER OF

UNEXPENDED BALANCES OF APPROPRIATIONS MADE BY THE LEGISLATURE IN PRIOR YEARS; DECLARING AN EMERGENCY.

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

Chapter 280 Section 1 Laws 2019

SECTION 1. SEVERANCE TAX BONDS--REVERSION OF PROCEEDS.--

A. Except as otherwise provided in another section of this act:

(1) the unexpended balance from the proceeds of severance tax bonds issued for a project that has been reauthorized in this act shall revert to the severance tax bonding fund:

(a) at the end of the expenditure period as set forth in this act, if the expenditure period is changed in this act; or

(b) if the expenditure period is not changed in this act, pursuant to the time frame set forth in the law that originally authorized the severance tax bonds or the time frame set forth in any law that has previously reauthorized the expenditure of the proceeds, whichever is later; and

(2) all remaining balances from the proceeds of severance tax bonds issued for a project that has been reauthorized in this act shall revert to the severance tax bonding fund three months after the reversion date for the unexpended balances.

B. For the purpose of this section, "unexpended balance" means the remainder of an appropriation after reserving for unpaid costs and expenses covered by binding written obligations to third parties.

Chapter 280 Section 2 Laws 2019

SECTION 2. GENERAL FUND AND OTHER FUND APPROPRIATIONS--REVERSIONS.--

A. Except as otherwise provided in another section of this act:

(1) the unexpended balance of an appropriation from the general fund or other state fund that has been changed in this act shall revert:

(a) at the end of the expenditure period as set forth in this act, if the expenditure period is changed in this act; or

(b) if the expenditure period is not changed in this act, pursuant to the time frame set forth in the law in which the original appropriation was made or the time frame set forth in any law that has previously changed the appropriation, whichever is later; and

(2) all remaining balances of an appropriation from the general fund or other state fund that has been changed in this act shall revert three months after the reversion date for the unexpended balance.

B. Except as provided in Subsection C of this section, the balance of an appropriation made from the general fund or other state fund shall revert pursuant to Subsection A of this section to the originating fund.

C. The balance of an appropriation made from the general fund or other state fund to the Indian affairs department or the aging and long-term services department for a project located on lands of an Indian nation, tribe or pueblo shall revert pursuant to Subsection A of this section to the tribal infrastructure project fund.

D. For the purpose of this section, "unexpended balance" means the remainder of an appropriation after reserving for unpaid costs and expenses covered by binding written obligations to third parties.

Chapter 280 Section 3 Laws 2019

SECTION 3. ALBUQUERQUE SINGING ARROW COMMUNITY CENTER IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 56 of Section 28 of Chapter 3 of Laws 2015 (1st S.S.) to acquire land and rights of way for and to plan, design, construct, furnish and equip improvements to the Singing Arrow community center in Albuquerque in Bernalillo county is extended through fiscal year 2021.

Chapter 280 Section 4 Laws 2019

SECTION 4. BERNALILLO COUNTY AMISTAD YOUTH CRISIS CENTER IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 4 of Section 28 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design, construct, furnish and equip improvements to the Amistad youth crisis center in the South Valley area of Bernalillo county is extended through fiscal year 2021.

Chapter 280 Section 5 Laws 2019

SECTION 5. BERNALILLO COUNTY CARLITO SPRINGS OPEN SPACE IMPROVEMENTS PHASES 2 AND 3--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 5 of Section 28 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design, construct, renovate, equip and furnish phase 2 and phase 3 improvements to the Carlito Springs open space area in the East Mountain area of Bernalillo county is extended through fiscal year 2021.

Chapter 280 Section 6 Laws 2019

SECTION 6. SOUTH VALLEY COMMONS INFRASTRUCTURE CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 13 of Section 28 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design and construct infrastructure at the South Valley commons in Bernalillo county is extended through fiscal year 2021.

Chapter 280 Section 7 Laws 2019

SECTION 7. TECHNOLOGY LEADERSHIP HIGH SCHOOL LAND ACQUISITION--CHANGE TO SOUTH VALLEY ECONOMIC DEVELOPMENT CENTER CONSTRUCTION--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the public education department project in Subsection 18 of Section 15 of Chapter 3 of Laws 2015 (1st S.S.) to acquire land for Technology Leadership high school in Bernalillo county shall not be expended for the original purpose but is appropriated to the local government division to plan, design, construct, furnish and equip improvements to the South Valley economic development center in Bernalillo county. The time of expenditure is extended through fiscal year 2021.

Chapter 280 Section 8 Laws 2019

SECTION 8. SECOND JUDICIAL DISTRICT ATTORNEY SECURITY EQUIPMENT PURCHASE--EXPAND PURPOSE--SEVERANCE TAX BONDS.--The second judicial district attorney project in Laws 2018, Chapter 80, Section 11 to purchase and install security cameras, equipment and related technology for the office of the second judicial district attorney in Albuquerque in Bernalillo county may include planning, designing, constructing and renovating that office.

Chapter 280 Section 9 Laws 2019

SECTION 9. ALBUQUERQUE ASIAN AMERICAN MONUMENT CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 20 of Section 28 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design, landscape and construct an Asian American monument in Albuquerque in Bernalillo county is extended through fiscal year 2021.

Chapter 280 Section 10 Laws 2019

SECTION 10. ALBUQUERQUE DOWNTOWN ECONOMIC DEVELOPMENT PROJECT CONSTRUCTION--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The local government division project in Subsection 28 of Section 28 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design, construct, furnish and equip improvements for economic development projects in downtown Albuquerque in Bernalillo county may include planning, designing, constructing and equipping development projects at the rail yards in downtown Albuquerque. The time of expenditure is extended through fiscal year 2021.

Chapter 280 Section 11 Laws 2019

SECTION 11. ALBUQUERQUE EXPLORA SCIENCE CENTER AND CHILDREN'S MUSEUM PHASE 2C CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 31 of Section 28 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design, construct, equip and furnish phase 2c of the building addition and to design, construct, purchase and install exhibits, furnishings and equipment at the Explora science center and children's museum in Albuquerque in Bernalillo county is extended through fiscal year 2021.

Chapter 280 Section 12 Laws 2019

SECTION 12. ALBUQUERQUE SOUTHEAST ALTERNATIVE RESPONSE STATION CONSTRUCTION--CHANGE TO CONSTRUCT AND EQUIP FIRE STATION 12--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 54 of Section 28 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design, construct, furnish and equip an alternative response station in southeast Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to acquire rights of way and to plan, design, construct, furnish and equip fire station 12 in southeast Albuquerque. The time of expenditure is extended through fiscal year 2021.

Chapter 280 Section 13 Laws 2019

SECTION 13. ALBUQUERQUE HEIGHTS COMMUNITY CENTER IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 33 of Section 28 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design and construct improvements to the Heights community center in Albuquerque in Bernalillo county is extended through fiscal year 2021.

Chapter 280 Section 14 Laws 2019

SECTION 14. ALBUQUERQUE ROADRUNNER LITTLE LEAGUE INFRASTRUCTURE IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 51 of Section 28 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design, renovate and construct infrastructure improvements, including turf replacement, to the Roadrunner little league park and fields in Albuquerque in Bernalillo county is extended through fiscal year 2021.

Chapter 280 Section 15 Laws 2019

SECTION 15. ALBUQUERQUE WEST CENTRAL AVENUE ECONOMIC DEVELOPMENT PHASE 2 INFRASTRUCTURE CONSTRUCTION--CHANGE TO IMPROVE UNSER CROSSING INFRASTRUCTURE--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division originally authorized in Subsection 45 of Section 31 of Chapter 226 of Laws 2013 and reauthorized in Laws 2017, Chapter 133, Section 20 to plan, design and construct phase 2 infrastructure improvements for an economic development project along west Central avenue in Albuquerque in Bernalillo county shall not be expended for the original or reauthorized purpose but is changed to plan, design and construct infrastructure improvements for an economic development project at Unser crossing near the intersection of Central avenue and Unser boulevard in Albuquerque. The time of expenditure is extended through fiscal year 2021.

Chapter 280 Section 16 Laws 2019

SECTION 16. ALBUQUERQUE WELLS PARK COMMUNITY CENTER BASKETBALL FLOOR INSTALLATION--CHANGE TO RENOVATIONS--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 63 of Section 28 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design, construct, purchase and install a wood floor for a basketball court at the Wells Park community center in Albuquerque in Bernalillo county shall not

be expended for the original purpose but is changed to plan, design, construct, renovate and make improvements to that center. The time of expenditure is extended through fiscal year 2021.

Chapter 280 Section 17 Laws 2019

SECTION 17. ALBUQUERQUE WESTGATE COMMUNITY CENTER EQUIPMENT AND INFORMATION TECHNOLOGY PURCHASE--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 66 of Section 28 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design, construct and equip, including purchase and installation of information technology and related furniture and infrastructure, a community center for the Westgate community in Albuquerque in Bernalillo county is extended through fiscal year 2021.

Chapter 280 Section 18 Laws 2019

SECTION 18. AMY BIEHL HIGH SCHOOL ELEVATOR REPLACEMENT--CHANGE TO IMPROVE HEATING, VENTILATION AND AIR CONDITIONING SYSTEMS--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the public education department in Subsection 3 of Section 14 of Chapter 81 of Laws 2016 to plan, design, construct and replace an elevator at Amy Biehl high school in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to repair, upgrade, purchase and install boilers and heating, ventilation and air conditioning systems at that school. The time of expenditure is extended through fiscal year 2021.

Chapter 280 Section 19 Laws 2019

SECTION 19. BERNALILLO COUNTY NORTH VALLEY LITTLE LEAGUE FIELDS LAND ACQUISITION AND CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 76 of Section 28 of Chapter 3 of Laws 2015 (1st S.S.) to acquire land for and to plan, design, construct and equip ball fields for the North Valley little league in Albuquerque in Bernalillo county is extended through fiscal year 2021.

Chapter 280 Section 20 Laws 2019

SECTION 20. COTTONWOOD CLASSICAL PREPARATORY SCHOOL PHASE 1 SPORTS CENTER CONSTRUCTION--CHANGE TO IMPROVE BUILDINGS AND GROUNDS--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended

balance of the appropriation to the public education department in Subsection 6 of Section 15 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design and construct phase 1 of a multipurpose sports complex at Cottonwood Classical preparatory school in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to plan, design, construct, renovate, furnish and equip buildings and grounds, including the purchase of security systems, security fencing, information technology and installation of related equipment and infrastructure, at that school. The time of expenditure is extended through fiscal year 2021.

Chapter 280 Section 21 Laws 2019

SECTION 21. INTERSTATE 40 AND PASEO DEL VOLCAN INTERCHANGE RIGHTS OF WAY ACQUISITION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of transportation project in Subsection 8 of Section 33 of Chapter 3 of Laws 2015 (1st S.S.) to acquire rights of way for construction of the interstate 40 and Paseo del Volcan interchange in Albuquerque in Bernalillo county is extended through fiscal year 2021.

Chapter 280 Section 22 Laws 2019

SECTION 22. LA PROMESA EARLY LEARNING CENTER IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the public education department project in Subsection 11 of Section 15 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design, construct, renovate and equip facilities and to purchase and install information technology for La Promesa early learning center in Albuquerque in Bernalillo county is extended through fiscal year 2021.

Chapter 280 Section 23 Laws 2019

SECTION 23. NEW MEXICO STATE FAIR AFRICAN AMERICAN PAVILION STAGE CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the state fair commission project originally authorized in Subsection 1 of Section 17 of Chapter 66 of Laws 2014 and reauthorized in Laws 2017, Chapter 133, Section 26 to plan, design and construct a stage for the African American pavilion at the New Mexico state fairgrounds in Albuquerque in Bernalillo county is extended through fiscal year 2021.

Chapter 280 Section 24 Laws 2019

SECTION 24. NEW MEXICO STATE FAIR AFRICAN AMERICAN PERFORMING ARTS CENTER EXHIBIT CONSTRUCTION--EXTEND TIME--

SEVERANCE TAX BONDS.--The time of expenditure for the state fair commission project originally authorized in Subsection 2 of Section 17 of Chapter 66 of Laws 2014 and for which the time of expenditure was extended in Laws 2017, Chapter 133, Section 27 to design, construct, purchase and install exhibits and to acquire art, artifacts and equipment for the New Mexico state fair African American performing arts center in Albuquerque in Bernalillo county is extended through fiscal year 2021.

Chapter 280 Section 25 Laws 2019

SECTION 25. SOUTHWESTERN INDIAN POLYTECHNIC INSTITUTE FIRE ALARM IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the higher education department project in Subsection 2 of Section 34 of Chapter 3 of Laws 2015 (1st S.S.) for fire alarm improvements campuswide at southwestern Indian polytechnic institute in Albuquerque in Bernalillo county is extended through fiscal year 2021.

Chapter 280 Section 26 Laws 2019

SECTION 26. SOUTH VALLEY YOUTH CRISIS CENTER IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 83 of Section 28 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design, construct and furnish improvements to a youth crisis center in the South Valley in Albuquerque in Bernalillo county is extended through fiscal year 2021.

Chapter 280 Section 27 Laws 2019

SECTION 27. HOBSON ROAD IMPROVEMENTS ROSWELL--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of transportation project in Subsection 13 of Section 33 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design, repair, replace and construct improvements to Hobson road in Roswell in Chaves county is extended through fiscal year 2021.

Chapter 280 Section 28 Laws 2019

SECTION 28. ROSWELL STATE POLICE DISTRICT OFFICE RENOVATION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the capital program fund project in Laws 2015 (1st S.S.), Chapter 3, Section 65 to plan, design, renovate, equip and furnish, including temporary relocation, the New Mexico state police district office in Roswell in Chaves county is extended through fiscal year 2020.

Chapter 280 Section 29 Laws 2019

SECTION 29. COLFAX COUNTY INFORMATION TECHNOLOGY INFRASTRUCTURE PURCHASE--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 96 of Section 28 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design, construct, purchase and install information technology infrastructure, including related furniture and equipment, in Colfax county is extended through fiscal year 2021.

Chapter 280 Section 30 Laws 2019

SECTION 30. MINERS' COLFAX MEDICAL CENTER SOLARIUMS RENOVATION--CHANGE TO DESIGN AND CONSTRUCT PATIENT TREATMENT ROOMS, REGISTRATION AREA AND CLINIC ENTRANCE--EXTEND TIME--MINERS' TRUST FUND.--The unexpended balance of the appropriation to the miners' Colfax medical center in Subsection 5 of Section 72 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design, renovate, equip and furnish solariums at the miners' Colfax medical center in Raton in Colfax county shall not be expended for the original purpose but is changed to plan, design, construct and equip patient treatment rooms, the registration area and the entryway of the clinic at that medical center. The time of expenditure is extended through fiscal year 2021.

Chapter 280 Section 31 Laws 2019

SECTION 31. MINERS' COLFAX MEDICAL CENTER CARDIAC MONITORING SYSTEM PURCHASE--CHANGE TO PURCHASE MEDICAL, SURGICAL AND DIAGNOSTIC EQUIPMENT--EXTEND TIME--MINERS' TRUST FUND.--The unexpended balance of the appropriation to the miners' Colfax medical center originally authorized in Subsection 2 of Section 39 of Chapter 81 of Laws 2016 to purchase, install and equip a cardiac monitoring system at the miners' Colfax medical center in Colfax county shall not be expended for the original purpose but is changed to purchase medical, surgical and diagnostic equipment at that medical center in Raton in Colfax county. The time of expenditure is extended through fiscal year 2021.

Chapter 280 Section 32 Laws 2019

SECTION 32. MINERS' COLFAX MEDICAL CENTER EMERGENCY DEPARTMENT RENOVATION--CHANGE TO PURCHASE MOBILE OUTREACH VAN, SECURITY EQUIPMENT AND INFORMATION TECHNOLOGY--EXTEND TIME--MINERS' TRUST FUND.--The unexpended balance of the appropriation to the miners' Colfax medical center in Subsection 1 of Section 72 of Chapter 3 of Laws 2015 (1st

S.S.) to renovate emergency department facilities at the miners' Colfax medical center in Raton in Colfax county shall not be expended for the original purpose but is changed to purchase and equip a mobile occupational health screening outreach van, to purchase and install a patient call and security access system and to purchase and install information technology at that medical center. The time of expenditure is extended through fiscal year 2021.

Chapter 280 Section 33 Laws 2019

SECTION 33. MINERS' COLFAX MEDICAL CENTER EMERGENCY POWER SYSTEM MODIFICATIONS--CHANGE TO PARKING LOT AND LIGHTING IMPROVEMENTS AND EQUIPMENT PURCHASES--EXTEND TIME--MINERS' TRUST FUND.--The unexpended balance of the appropriation to the miners' Colfax medical center in Subsection 2 of Section 72 of Chapter 3 of Laws 2015 (1st S.S.) to modify emergency power systems at the miners' Colfax medical center in Raton in Colfax county shall not be expended for the original purpose but is changed to purchase and install parking lot improvements, to purchase equipment and vehicles and to purchase light emitting diode lighting at that medical center. The time of expenditure is extended through fiscal year 2021.

Chapter 280 Section 34 Laws 2019

SECTION 34. CLOVIS COMMUNITY COLLEGE BARRACKS DEMOLITION AND ASBESTOS ABATEMENT--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The higher education department project in Subsection 3 of Section 34 of Chapter 3 of Laws 2015 (1st S.S.) to demolish barracks and peripheral structures, including asbestos abatement, at Clovis community college in Curry county may include paving at that facility. The time of expenditure is extended through fiscal year 2021.

Chapter 280 Section 35 Laws 2019

SECTION 35. CLOVIS LYCEUM THEATER MULTI-USE FACILITY DEVELOPMENT--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 100 of Section 28 of Chapter 3 of Laws 2015 (1st S.S.) to renovate and restore the historic Lyceum theater and to acquire buildings and plan, design, renovate and equip property adjacent to the theater for a performing arts and multi-use facility in Clovis in Curry county is extended through fiscal year 2021.

Chapter 280 Section 36 Laws 2019

SECTION 36. CLOVIS SENIOR CENTER CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the aging and long-term services department project in Subsection 21 of Section 3 of Chapter 3 of Laws 2015 (1st S.S.) to acquire land for and to plan, design, construct, furnish and equip a senior center in Clovis in Curry county is extended through fiscal year 2021.

Chapter 280 Section 37 Laws 2019

SECTION 37. LAS CRUCES CINEMATIC INFRASTRUCTURE CONSTRUCTION--CHANGE TO PLAN, DESIGN AND CONSTRUCT ANTHONY STREET IMPROVEMENTS--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--Nine thousand nine hundred sixty-nine dollars (\$9,969) of the unexpended balance of the appropriation to the local government division in Subsection 114 of Section 28 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design, construct, furnish and equip a facility and infrastructure for film and entertainment arts production in Las Cruces in Dona Ana county shall not be expended for the original purpose but is appropriated to the department of transportation to plan, design and construct road and street improvements in Anthony in Dona Ana county. The time of expenditure is extended through fiscal year 2021.

Chapter 280 Section 38 Laws 2019

SECTION 38. DONA ANA COUNTY VADO TRAIL LIGHTING CONSTRUCTION--CHANGE TO EQUIP AND IMPROVE BERINO PARK--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 82 of Section 26 of Chapter 80 of Laws 2018 to plan, design and construct trail lighting in Vado in Dona Ana county shall not be expended for the original purpose but is changed to plan, design, construct, upgrade, purchase and install playground equipment and to make other improvements to the playground and park in Berino in Dona Ana county.

Chapter 280 Section 39 Laws 2019

SECTION 39. OTERO COUNTY DOG CANYON FLOOD CONTROL STRUCTURE CONSTRUCTION--CHANGE TO IMPROVE DELORES WRIGHT PARK--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the office of the state engineer in Subsection 4 of Section 18 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design and construct a flood control structure in the Dog canyon area of Otero county shall not be expended for the original purpose but is appropriated to the local government division to plan, design and construct improvements to Delores Wright park in Chaparral in Dona Ana county. The time of expenditure is extended through fiscal year 2021.

Chapter 280 Section 40 Laws 2019

SECTION 40. LAS CRUCES AMADOR HOTEL HAZARDOUS MATERIAL ABATEMENT--CHANGE TO INTERIOR AND EXTERIOR RENOVATIONS--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 91 of Section 22 of Chapter 81 of Laws 2016 for hazardous material abatement at the Amador hotel in Las Cruces in Dona Ana county shall not be expended for the original purpose but is changed to plan, design, construct, equip, purchase and install interior and exterior renovations at that historic hotel. The time of expenditure is extended through fiscal year 2021.

Chapter 280 Section 41 Laws 2019

SECTION 41. LAS CRUCES AMADOR HOTEL COLUMN REPLACEMENT--CHANGE TO INTERIOR AND EXTERIOR RENOVATIONS--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 113 of Section 28 of Chapter 3 of Laws 2015 (1st S.S.) to replace interior columns at the historic Amador hotel in Las Cruces in Dona Ana county shall not be expended for the original purpose but is changed to plan, design, construct, equip, purchase and install interior and exterior renovations at that hotel. The time of expenditure is extended through fiscal year 2021.

Chapter 280 Section 42 Laws 2019

SECTION 42. LAS CRUCES CINEMATIC INFRASTRUCTURE CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for three hundred eighty-six thousand five hundred sixty-one dollars (\$386,561) of the unexpended balance of the appropriation to the local government division in Subsection 114 of Section 28 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design, construct, furnish and equip a facility and infrastructure to be owned by Las Cruces in Dona Ana county for film, digital media and entertainment arts production is extended through fiscal year 2021.

Chapter 280 Section 43 Laws 2019

SECTION 43. LAS CRUCES COMMUNITY OF HOPE HOMELESS FACILITY KITCHEN AND LAUNDRY ROOM CONSTRUCTION--CHANGE TO CONSTRUCTION AND INSTALLATION OF FLOORING SYSTEMS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 90 of Section 26 of Chapter 80 of Laws 2018 for kitchen and laundry room facilities for the Mesilla Valley community of hope homeless facility in Las Cruces in Dona Ana

county shall not be expended for the original purpose but is changed to plan, design, construct, purchase and install flooring systems at that facility in Las Cruces in Dona Ana county.

Chapter 280 Section 44 Laws 2019

SECTION 44. SUNLAND PARK ANAPRA PUMP STATION CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 126 of Section 28 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design, construct and equip the Anapra pump station in Sunland Park in Dona Ana county is extended through fiscal year 2021.

Chapter 280 Section 45 Laws 2019

SECTION 45. ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT OIL CONSERVATION DIVISION ARTESIA OFFICE PLANNING AND DESIGN--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The capital program fund project in Subsection 5 of Section 6 of Chapter 3 of Laws 2015 (1st S.S.) to acquire land for and to plan and design a building for the oil conservation division of the energy, minerals and natural resources department in Artesia in Eddy county may include site improvements and construction. The time of expenditure is extended through fiscal year 2022.

Chapter 280 Section 46 Laws 2019

SECTION 46. HOBBS AQUIFER RECHARGE AND RECOVERY WASTEWATER SYSTEM CONSTRUCTION--CHANGE TO AEROBIC DIGESTER FACILITY REPLACEMENT--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of environment in Subsection 21 of Section 20 of Chapter 80 of Laws 2018 to construct an aquifer recharge and recovery system for the wastewater reclamation facility in Hobbs in Lea county shall not be expended for the original purpose but is changed to plan, design, construct, purchase and equip a replacement aerobic digester facility in Hobbs.

Chapter 280 Section 47 Laws 2019

SECTION 47. TATUM SENIOR CENTER IMPROVEMENTS AND EQUIPMENT--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the aging and long-term services department project in Subsection 32 of Section 3 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design and construct improvements and to

purchase and install furniture and equipment at the senior center in Tatum in Lea county is extended through fiscal year 2021.

Chapter 280 Section 48 Laws 2019

SECTION 48. CAPITAN DEPOT MUSEUM IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the energy, minerals and natural resources department project originally authorized in Subsection 1 of Section 16 of Chapter 3 of Laws 2015 (1st S.S.) and reauthorized to the local government division in Laws 2016, Chapter 83, Section 53 for improvements to the historic Capitan Depot museum, including grounds, facilities and structures, in Capitan in Lincoln county is extended through fiscal year 2021.

Chapter 280 Section 49 Laws 2019

SECTION 49. CORONA STREET CONSTRUCTION--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The department of transportation project in Subsection 43 of Section 33 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design and construct street improvements in Corona in Lincoln county may include the purchase and installation of street improvement materials. The time of expenditure is extended through fiscal year 2021.

Chapter 280 Section 50 Laws 2019

SECTION 50. MAIN STREET CORONA SIDEWALK IMPROVEMENTS--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The department of transportation project in Subsection 44 of Section 33 of Chapter 3 of Laws 2015 (1st S.S.) to construct and rehabilitate sidewalks to comply with the federal Americans with Disabilities Act of 1990 on Main street in Corona in Lincoln county may include planning and designing. The time of expenditure is extended through fiscal year 2021.

Chapter 280 Section 51 Laws 2019

SECTION 51. TWELFTH JUDICIAL DISTRICT COURT HORTON COMPLEX RENOVATION--CHANGE TO TWELFTH JUDICIAL DISTRICT AND MAGISTRATE COURT FACILITY CONSTRUCTION--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 122 of Section 26 of Chapter 80 of Laws 2018 to renovate space in the Horton complex for the twelfth judicial district court in Ruidoso in Lincoln county shall not be expended for the original purpose but is changed to plan, design, construct, furnish and equip a facility for the magistrate court and the twelfth judicial district court in Ruidoso in Lincoln county.

Chapter 280 Section 52 Laws 2019

SECTION 52. EASTERN NEW MEXICO UNIVERSITY RUIDOSO TRADES PROGRAM INSTRUCTIONAL SPACE DEVELOPMENT--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The board of regents of eastern New Mexico university project in Subsection 4 of Section 35 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design, renovate, construct and expand instructional space for the trades program at the Ruidoso branch community college of eastern New Mexico university in Lincoln county may include infrastructure improvements campuswide at the Ruidoso branch campus. The time of expenditure is extended through fiscal year 2021.

Chapter 280 Section 53 Laws 2019

SECTION 53. LOS ALAMOS-SANTA FE FIBER-OPTIC PATHWAY CONSTRUCTION--CHANGE TO LOS ALAMOS COUNTY INFRASTRUCTURE IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 144 of Section 22 of Chapter 81 of Laws 2016 to design and construct a fiber-optic pathway from Santa Fe to Los Alamos in Los Alamos and Santa Fe counties shall not be expended for the original purpose but is changed to plan, design and construct infrastructure improvements to facilitate affordable housing projects in Los Alamos county. The time of expenditure is extended through fiscal year 2021.

Chapter 280 Section 54 Laws 2019

SECTION 54. THOREAU VETERANS SERVICE CENTER CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the Indian affairs department project originally authorized in Subsection 23 of Section 25 of Chapter 3 of Laws 2015 (1st S.S.) to construct, equip and furnish a veterans service center in the Thoreau chapter of the Navajo Nation in McKinley county and reauthorized in Laws 2016, Chapter 83, Section 63 to include planning and design work is extended through fiscal year 2021.

Chapter 280 Section 55 Laws 2019

~~SECTION 55. PINEDALE CHAPTER VETERANS MODULAR BUILDING CONSTRUCTION--CHANGE TO IMPROVE NEW MEXICO HIGHWAY 118--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--Up to seventy thousand dollars (\$70,000) of the unexpended balance of the appropriation to the Indian affairs department in Subsection 19 of Section 25 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design and construct a modular building for veterans in the Pinedale chapter of the~~

~~Navajo Nation in McKinley county shall not be expended for the original purpose but is appropriated to the department of transportation to plan, design and construct road improvements, including lighting and striping, along New Mexico highway 118 for the Church Rock chapter of the Navajo Nation in McKinley county. The time of expenditure is extended through fiscal year 2021.]~~ *LINE-ITEM VETO*

Chapter 280 Section 56 Laws 2019

SECTION 56. BLUE MEDICINE WELL ROAD IMPROVEMENTS--CLARIFYING PROJECT--SEVERANCE TAX BONDS.--The department of transportation project in Subsection 43 of Section 32 of Chapter 80 of Laws 2018 is to design and construct improvements to Blue Medicine Well road in the Baahaali chapter of the Navajo Nation in McKinley county.

Chapter 280 Section 57 Laws 2019

SECTION 57. PINEDALE CHAPTER VETERANS MODULAR BUILDING CONSTRUCTION--CHANGE TO GALLUP VETERAN'S MEMORIAL PILLARS RENOVATION--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--Up to five thousand dollars (\$5,000) of the unexpended balance of the appropriation to the Indian affairs department in Subsection 19 of Section 25 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design and construct a modular building for veterans in the Pinedale chapter of the Navajo Nation in McKinley county shall not be expended for the original purpose but is appropriated to the local government division to renovate and purchase glass panels for the existing pillars at the veteran's memorial in Gallup in McKinley county. The time of expenditure is extended through fiscal year 2021.

Chapter 280 Section 58 Laws 2019

SECTION 58. CRYSTAL CHAPTER PARKING LOT REPAIR AND EXPANSION--CHANGE TO GALLUP VETERAN'S MEMORIAL PILLARS RENOVATION--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 37 of Section 25 of Chapter 3 of Laws 2015 (1st S.S.) to repair and expand a parking lot in the Crystal chapter of the Navajo Nation in San Juan county shall not be expended for the original purpose but is appropriated to the local government division to renovate and purchase glass panels for the existing pillars at the veteran's memorial in Gallup in McKinley county. The time of expenditure is extended through fiscal year 2021.

Chapter 280 Section 59 Laws 2019

SECTION 59. MCKINLEY COUNTY ROAD 16 IMPROVE AND ACQUIRE RIGHTS OF WAY--CHANGE TO GALLUP VETERAN'S MEMORIAL PILLARS RENOVATION--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of transportation in Subsection 46 of Section 33 of Chapter 3 of Laws 2015 (1st S.S.) to acquire rights of way and to design and construct improvements to McKinley county road 16 for the Church Rock chapter of the Navajo Nation in McKinley county shall not be expended for the original purpose but is appropriated to the local government division to renovate and purchase glass panels for the existing pillars at the veteran's memorial in Gallup in McKinley county. The time of expenditure is extended through fiscal year 2021.

Chapter 280 Section 60 Laws 2019

SECTION 60. UNIVERSITY OF NEW MEXICO GALLUP BRANCH CENTER FOR CAREER TECHNOLOGY EDUCATION PLANNING AND DESIGN PHASE 1--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the university of New Mexico project in Subsection 17 of Section 41 of Chapter 3 of Laws 2015 (1st S.S.) to plan and design phase 1 of the center for career technology education at the Gallup branch campus of the university of New Mexico in McKinley county is extended through fiscal year 2021.

Chapter 280 Section 61 Laws 2019

SECTION 61. THOREAU CHAPTER VETERANS' SERVICE CENTER CONSTRUCTION--CHANGE TO GALLUP-MCKINLEY COUNTY SCHOOL DISTRICT VEHICLE AND BUS PURCHASE--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the Indian affairs department originally authorized in Subsection 45 of Section 25 of Chapter 3 of Laws 2015 (1st S.S.) and reauthorized in Laws 2017, Chapter 133, Section 63 to plan, design and construct a veterans' service center in the Thoreau chapter of the Navajo Nation in McKinley county shall not be expended for the original or reauthorized purpose but is appropriated to the public education department to purchase and equip small transport vehicles and buses for the Gallup-McKinley county school district in McKinley county. The time of expenditure is extended through fiscal year 2021.

Chapter 280 Section 62 Laws 2019

SECTION 62. PUEBLO PINTADO CHAPTER SENIOR CENTER CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the aging and long-term services department project in Subsection 40 of Section 3 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design, construct, renovate,

equip and furnish the senior center in the Pueblo Pintado chapter of the Navajo Nation in McKinley county is extended through fiscal year 2020.

Chapter 280 Section 63 Laws 2019

SECTION 63. COMMISSION FOR THE BLIND FACILITIES ACCESSIBILITY RENOVATIONS--CHANGE TO HEALTH AND SAFETY CODE COMPLIANCE RENOVATIONS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the capital program fund in Subsection 3 of Section 8 of Chapter 80 of Laws 2018 to plan, design, construct, renovate, furnish and equip commission for the blind facilities to comply with the Americans with Disabilities Act of 1990 shall not be expended for the original purpose but is changed to plan, design, construct, renovate, furnish and equip commission for the blind facilities in Bernalillo and Otero counties to comply with health and safety codes and regulations.

Chapter 280 Section 64 Laws 2019

SECTION 64. DEPARTMENT OF HEALTH FACILITIES PATIENT HEALTH AND SAFETY UPGRADES--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the capital program fund project originally authorized in Subsection 8 of Section 9 of Chapter 226 of Laws 2013 and for which the time of expenditure was extended in Laws 2017, Chapter 133, Section 70 to plan, design, construct, install and equip patient health and safety upgrades at the New Mexico behavioral health institute in Las Vegas in San Miguel county, the New Mexico state veterans' home in Truth or Consequences in Sierra county, the Sequoyah facility in Albuquerque in Bernalillo county, the Los Lunas facility in Valencia county and Fort Bayard medical center in Santa Clara in Grant county is extended through fiscal year 2021.

Chapter 280 Section 65 Laws 2019

SECTION 65. HUMAN SERVICES DEPARTMENT JAMES MURRAY AND ALBERT ARAGON BUILDINGS RENOVATION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the capital program fund project in Subsection 9 of Section 6 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design and construct improvements at the James Murray building in Hobbs in Lea county and the Albert Aragon building in Espanola in Rio Arriba county is extended through fiscal year 2020.

Chapter 280 Section 66 Laws 2019

SECTION 66. PASEO DEL VOLCAN BYPASS UNSER BOULEVARD TO INTERSTATE 40 CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The

time of expenditure for the department of transportation project originally authorized in Subsection 54 of Section 36 of Chapter 226 of Laws 2013 and reauthorized in Laws 2015, Chapter 147, Section 62 and again in Laws 2017, Chapter 133, Section 69 to acquire rights of way and to plan, design and construct a Paseo del Volcan loop bypass road from Unser boulevard to interstate 40 in Bernalillo and Sandoval counties is extended through fiscal year 2021.

Chapter 280 Section 67 Laws 2019

SECTION 67. SPACEPORT SOUTHERN ACCESS ROAD CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the spaceport authority project originally authorized in Laws 2013, Chapter 226, Section 33 to plan, design and construct, including rights of way, easements and archaeological studies, the southern access road to Spaceport America in Dona Ana and Sierra counties and for which the time of expenditure was extended in Laws 2017, Chapter 133, Section 73 is extended through fiscal year 2020.

Chapter 280 Section 68 Laws 2019

SECTION 68. SPACEPORT TRANSPORTATION INFRASTRUCTURE IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the spaceport authority project originally authorized in Subsection C of Section 76 of Chapter 92 of Laws 2008 and for which the time of expenditure was extended in Laws 2012, Chapter 63, Section 62 and again in Laws 2014, Chapter 64, Section 37 and again in Laws 2016, Chapter 83, Section 69 and again in Laws 2018, Chapter 68, Section 83 to acquire rights of way, plan, design and construct drainage and paving improvements and transportation infrastructure improvements in Sierra county and Dona Ana county related to the spaceport is extended through fiscal year 2020.

Chapter 280 Section 69 Laws 2019

SECTION 69. ALAMOGORDO PLAYGROUND SHADE STRUCTURE CONSTRUCTION--CHANGE TO CONSTRUCT MUNICIPAL PLAYGROUND AND PUBLIC FACILITY SHADE STRUCTURES--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 133 of Section 26 of Chapter 80 of Laws 2018 to design, construct, purchase and equip playground shade structures in Alamogordo in Otero county shall not be expended for the original purpose but is changed to plan, design, construct, purchase and equip shade structures for municipal playgrounds and public facilities in Alamogordo.

Chapter 280 Section 70 Laws 2019

SECTION 70. NEW MEXICO SCHOOL FOR THE BLIND AND VISUALLY IMPAIRED WATKINS EDUCATION CENTER AND SAN ANDRES BUILDING--EXPAND PURPOSE--EXTEND TIME--PUBLIC SCHOOL CAPITAL OUTLAY FUND.--The New Mexico school for the blind and visually impaired project originally authorized in Subsection 3 of Section 54 of Chapter 226 of Laws 2013 and for which the time of expenditure was extended in Laws 2017, Chapter 133, Section 77 and reauthorized in Laws 2018, Chapter 68, Section 88 to plan, design, renovate and equip the Watkins education center and to demolish the San Andres building may include making other infrastructure improvements campuswide at the New Mexico school for the blind and visually impaired in Alamogordo in Otero county. The time of expenditure is extended through fiscal year 2020.

Chapter 280 Section 71 Laws 2019

SECTION 71. HIGH ROLLS SENIOR CENTER CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the aging and long-term services department project in Subsection 45 of Section 3 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design and construct a building, including related site improvements, a parking lot, equipment and furniture, for the High Rolls senior center in Otero county is extended through fiscal year 2021.

Chapter 280 Section 72 Laws 2019

SECTION 72. ACEQUIA DE LA PLAZA DE DIXON PHASE 2 IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the interstate stream commission project in Subsection 11 of Section 27 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design, construct and install phase 2 infrastructure improvements to the acequia de la Plaza de Dixon in Rio Arriba county is extended through fiscal year 2021.

Chapter 280 Section 73 Laws 2019

SECTION 73. ACEQUIA DE LOS VIGILES IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the interstate stream commission project in Subsection 7 of Section 27 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design and construct improvements for the acequia de los Vigiles in El Guache in Rio Arriba county is extended through fiscal year 2021.

Chapter 280 Section 74 Laws 2019

SECTION 74. ACEQUIA DE LAS CANOVAS CONSTRUCTION AND PIPING--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the interstate stream commission project in Subsection 9 of Section 27 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design and construct improvements to the acequia de las Canovas, including installing piping, in Servilleta Plaza in Rio Arriba county is extended through fiscal year 2021.

Chapter 280 Section 75 Laws 2019

SECTION 75. ACEQUIA DE LAS CANOVAS IMPROVEMENTS PLANNING AND DESIGN--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the interstate stream commission project in Subsection 10 of Section 27 of Chapter 3 of Laws 2015 (1st S.S.) to plan and design improvements to the acequia de las Canovas in Servilleta Plaza in Rio Arriba county is extended through fiscal year 2021.

Chapter 280 Section 76 Laws 2019

SECTION 76. PUEBLO OF SANTA CLARA GABIONS DESIGN--CHANGE TO REPAIR AND IMPROVE GABIONS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the Indian affairs department originally authorized in Subsection 29 of Section 19 of Chapter 66 of Laws 2014 and for which the time of expenditure was extended in Laws 2018, Chapter 68, Section 93 to plan and design gabion structures in Santa Clara creek in the Pueblo of Santa Clara in Rio Arriba county shall not be expended for the original purpose but is changed to repair and improve those gabions at the Pueblo of Santa Clara.

Chapter 280 Section 77 Laws 2019

SECTION 77. EAST AZTEC ARTERIAL ROUTE CONSTRUCTION-EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of transportation project in Subsection 54 of Section 33 of Chapter 3 of Laws 2015 (1st S.S.) to construct the east Aztec arterial route in Aztec in San Juan county is extended through fiscal year 2021.

Chapter 280 Section 78 Laws 2019

SECTION 78. BLOOMFIELD EFFLUENT REUSE PROJECT AND WASTEWATER TREATMENT PLANT IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of environment project originally authorized in Subsection 48 of Section 20 of Chapter 3 of Laws 2015 (1st S.S.) for a recycled water storage pond in Bloomfield in San Juan

county and reauthorized in Laws 2016, Chapter 83, Section 82 to plan, design and construct an effluent reuse project, including improvements to the wastewater treatment plant, in Bloomfield in San Juan county is extended through fiscal year 2021.

Chapter 280 Section 79 Laws 2019

SECTION 79. NEWCOMB MIDDLE SCHOOL DRAINAGE IMPROVEMENTS CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the public education department project in Subsection 228 of Section 15 of Chapter 3 of Laws 2015 (1st S.S.) for drainage improvements at Newcomb middle school in the Central consolidated school district in San Juan county is extended through fiscal year 2021.

Chapter 280 Section 80 Laws 2019

SECTION 80. SHIPROCK WELLNESS CENTER CONSTRUCTION--CHANGE TO PLAN AND DESIGN THE SHIPROCK CHAPTER COMPLEX AND SITE--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 44 of Section 25 of Chapter 3 of Laws 2015 (1st S.S.) to construct, purchase and install utilities infrastructure for the Shiprock wellness center in the Shiprock chapter of the Navajo Nation in San Juan county shall not be expended for the original purpose but is changed to develop a master plan for a Shiprock chapter complex and to plan, design and construct site improvements at that chapter. The time of expenditure is extended through fiscal year 2021.

Chapter 280 Section 81 Laws 2019

SECTION 81. LAS VEGAS SENIOR CENTER IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the aging and long-term services department project in Subsection 55 of Section 3 of Chapter 3 of Laws 2015 (1st S.S.) to make improvements for code compliance, including purchase and installation of equipment, to the senior center in Las Vegas in San Miguel county is extended through fiscal year 2020.

Chapter 280 Section 82 Laws 2019

SECTION 82. NEW MEXICO BEHAVIORAL HEALTH INSTITUTE NEW MEADOWS BUILDING PHASE 3 CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the capital program fund project in Subsection 13 of Section 6 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design, construct, furnish and equip phase 3 of the new Meadows building, including demolition,

utility rerouting, excavation and site improvements, at the New Mexico behavioral health institute at Las Vegas in San Miguel county is extended through fiscal year 2021.

Chapter 280 Section 83 Laws 2019

SECTION 83. PASEO DEL VOLCAN RIGHTS OF WAY ACQUISITION SANDOVAL COUNTY--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of transportation project in Subsection 57 of Section 33 of Chapter 3 of Laws 2015 (1st S.S.) to purchase rights of way for Paseo del Volcan from Unser boulevard to the Bernalillo-Sandoval county line is extended through fiscal year 2021.

Chapter 280 Section 84 Laws 2019

SECTION 84. ACEQUIA DE LOS PINOS IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the interstate stream commission project in Subsection 20 of Section 27 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design and construct improvements to the acequia de los Pinos in Cuba in Sandoval county is extended through fiscal year 2021.

Chapter 280 Section 85 Laws 2019

SECTION 85. PUEBLO OF JEMEZ VETERANS' BUILDING PLANNING AND DESIGN--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the Indian affairs department project originally authorized in Subsection 38 of Section 28 of Chapter 226 of Laws 2013 and for which the time of expenditure was extended in Laws 2017, Chapter 133, Section 98 to plan, design, purchase, install and prepare the site for a veterans' building in the Pueblo of Jemez in Sandoval county is extended through fiscal year 2021.

Chapter 280 Section 86 Laws 2019

SECTION 86. SAN FELIPE PUEBLO WELLNESS AND MULTIPURPOSE CENTER PLANNING AND DESIGN--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the Indian affairs department project in Subsection 50 of Section 25 of Chapter 3 of Laws 2015 (1st S.S.) to plan and design a wellness and multipurpose center at the Pueblo of San Felipe in Sandoval county is extended through fiscal year 2021.

Chapter 280 Section 87 Laws 2019

SECTION 87. SANTA FE COUNTY AGUA FRIA AREA ANTONIO LANE SEWER LINE EXTENSIONS AND CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of environment project in Subsection 65 of Section 20 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design and construct sewer line extensions through Antonio lane in the Agua Fria area of Santa Fe county is extended through fiscal year 2021.

Chapter 280 Section 88 Laws 2019

SECTION 88. SANTA FE COUNTY AGUA FRIA UTILITY LINES PLANNING AND DESIGN--CHANGE TO PLAN, DESIGN AND CONSTRUCT UTILITY INFRASTRUCTURE--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the department of environment project in Subsection 66 of Section 20 of Chapter 3 of Laws 2015 (1st S.S.) to plan and design utility corridors for Agua Fria village in Santa Fe county shall not be expended for the original purpose but is changed to plan, design and construct utility infrastructure in the area of Agua Fria village, including lateral lines and extending and relocating water lines, in Santa Fe county. The time of expenditure is extended through fiscal year 2021.

Chapter 280 Section 89 Laws 2019

SECTION 89. ELDORADO FIRE STATION 4 LAND ACQUISITION--CHANGE TO PLAN, DESIGN AND CONSTRUCT PARKING, TRAILHEAD AND EXTERIOR IMPROVEMENTS AND RESTORATIONS--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 193 of Section 22 of Chapter 81 of Laws 2016 to acquire land for and to plan and design fire station 4 in Eldorado in Santa Fe county shall not be expended for the original purpose but is changed to make improvements to comply with the federal Americans with Disabilities Act of 1990 and to plan, design and construct improvements and restorations to the exterior and surrounding areas, including parking lots and trailheads, of that fire station. The time of expenditure is extended through fiscal year 2021.

Chapter 280 Section 90 Laws 2019

SECTION 90. LA CIENEGA MUTUAL DOMESTIC WATER CONSUMERS AND MUTUAL SEWAGE WORKS WATER SYSTEM IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of environment project in Subsection 69 of Section 20 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design and construct water system improvements for La Cienega mutual domestic water consumers and mutual sewage works in Santa Fe county is extended through fiscal year 2021.

Chapter 280 Section 91 Laws 2019

SECTION 91. LA CIENEGA MUTUAL DOMESTIC WATER CONSUMERS AND MUTUAL SEWAGE WORKS WATER TANK IMPROVEMENTS--CHANGE TO WATER SYSTEM IMPROVEMENTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of environment in Subsection 62 of Section 20 of Chapter 80 of Laws 2018 to inspect, repair and improve a water tank for La Cienega mutual domestic water consumers and mutual sewage works in La Cienega in Santa Fe county shall not be expended for the original purpose but is changed to plan, design and construct improvements to the water system, including the water tank, wells and maintenance and administrative facilities, for La Cienega mutual domestic water consumers and mutual sewage works in Santa Fe county.

Chapter 280 Section 92 Laws 2019

SECTION 92. DEPARTMENT OF PUBLIC SAFETY SANTA FE FIRING RANGE COMPLEX CONSTRUCTION AND LAND ACQUISITION--EXTEND TIME--CAPITOL BUILDINGS REPAIR FUND.--The time of expenditure for the capital program fund project in Laws 2015 (1st S.S.), Chapter 3, Section 54 to acquire land for and to plan, design, renovate and construct upgrades at firing range sites in Santa Fe in Santa Fe county is extended through fiscal year 2022.

Chapter 280 Section 93 Laws 2019

SECTION 93. MUSEUM OF INDIAN ARTS AND CULTURE AMPHITHEATER RENOVATIONS--CHANGE TO CONSTRUCT THE HERE, NOW AND ALWAYS EXHIBIT AND GALLERIES--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the cultural affairs department in Subsection 12 of Section 9 of Chapter 80 of Laws 2018 to plan, design, construct and equip renovations and repairs to an amphitheater at the museum of Indian arts and culture in Santa Fe in Santa Fe county shall not be expended for the original purpose but is changed to plan, design, construct, renovate, upgrade, equip and install the Here, Now and Always exhibit and galleries at that museum.

Chapter 280 Section 94 Laws 2019

SECTION 94. NEW MEXICO SCHOOL FOR THE ARTS FACILITIES CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the public education department project in Subsection 240 of Section 15 of Chapter 3 of Laws 2015 (1st S.S.) to prepare the site for and plan, design, construct

and equip facilities for the New Mexico school for the arts in Santa Fe county is extended through fiscal year 2021.

Chapter 280 Section 95 Laws 2019

SECTION 95. SANTA FE COUNTY CIVIL WAR MONUMENT CONSTRUCTION--CLARIFY PROJECT--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 194 of Section 22 of Chapter 81 of Laws 2016 to plan, design and construct an American civil war monument in Glorieta in Santa Fe county shall not be expended for the original purpose but is appropriated to the department of military affairs to plan, design and construct an American civil war monument, including the purchase and installation of information technology and related equipment, furniture and infrastructure, at the New Mexico national guard Bataan military museum in Santa Fe in Santa Fe county. The time of expenditure is extended through fiscal year 2021.

Chapter 280 Section 96 Laws 2019

SECTION 96. STATE LAND OFFICE ELECTRICAL DISTRIBUTION SYSTEM REPLACEMENT--EXTEND TIME--STATE LANDS MAINTENANCE FUND.--The time of expenditure for the state land office project in Subsection 2 of Section 81 of Chapter 3 of Laws 2015 (1st S.S.) to replace the electrical system at the state land office in Santa Fe in Santa Fe county is extended through fiscal year 2021.

Chapter 280 Section 97 Laws 2019

SECTION 97. STATE LAND OFFICE PARKING LOT, SIDEWALKS AND GROUNDS CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the state land office project originally authorized in Subsection 2 of Section 48 of Chapter 66 of Laws 2014 and reauthorized in Laws 2017, Chapter 133, Section 111 and again in Laws 2018, Chapter 68, Section 125 to plan, design, excavate, replace and construct the parking lot and sidewalks and to maintain and improve the grounds at the state land office in Santa Fe in Santa Fe county is extended through fiscal year 2021.

Chapter 280 Section 98 Laws 2019

SECTION 98. CHILDREN, YOUTH AND FAMILIES DEPARTMENT CAMINO NUEVO EMERGENCY ACCESS DRIVEWAY CONSTRUCTION--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The capital program fund project in

Subsection 1 of Section 6 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design and construct a secondary emergency access road, including a sally port, retaining walls and related infrastructure and improvements, at the Camino Nuevo youth center and youth diagnostic and development center facilities in Albuquerque in Bernalillo county may include planning, designing, constructing, renovating, equipping and furnishing children, youth and families department facilities statewide. The time of expenditure is extended through fiscal year 2021.

Chapter 280 Section 99 Laws 2019

SECTION 99. HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT NATURAL HAZARD MITIGATION COMMUNITY PROJECTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the homeland security and emergency management department project in Laws 2015 (1st S.S.), Chapter 3, Section 24 for natural hazard mitigation community projects statewide is extended through fiscal year 2020.

Chapter 280 Section 100 Laws 2019

SECTION 100. HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT NATURAL HAZARD MITIGATION COMMUNITY PROJECTS--EXTEND TIME--SECURITIES ENFORCEMENT AND INVESTOR EDUCATION FUND.--The time of expenditure for the homeland security and emergency management department project in Laws 2015 (1st S.S.), Chapter 3, Section 80 for natural hazard mitigation community projects statewide is extended through fiscal year 2020.

Chapter 280 Section 101 Laws 2019

SECTION 101. HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT HAZARD MITIGATION GRANT MATCH--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the homeland security and emergency management department project originally authorized in Laws 2014, Chapter 66, Section 35 and reauthorized in Laws 2018, Chapter 68, Section 129 to match a federal emergency management agency hazard mitigation grant is extended through fiscal year 2020.

Chapter 280 Section 102 Laws 2019

SECTION 102. CHAMA STATE POLICE FACILITY CONSTRUCTION--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The capital

program fund project in Subsection 11 of Section 6 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design, construct, equip and furnish, including demolition, a building for the New Mexico state police in Chama in Rio Arriba county may include planning, designing, constructing, renovating, equipping and furnishing department of public safety facilities statewide. The time of expenditure is extended through fiscal year 2020.

Chapter 280 Section 103 Laws 2019

SECTION 103. COMMISSION FOR THE BLIND FACILITIES RENOVATION STATEWIDE--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the capital program fund project originally authorized in Subsection 10 of Section 6 of Chapter 3 of Laws 2015 (1st S.S.) and reauthorized in Laws 2017, Chapter 133, Section 117 to plan, design, construct, renovate, equip and furnish commission for the blind facilities statewide is extended through fiscal year 2020.

Chapter 280 Section 104 Laws 2019

SECTION 104. CHILDREN, YOUTH AND FAMILIES DEPARTMENT CAMINO NUEVO RECREATION BUILDING CONSTRUCTION AND JOHN PAUL TAYLOR CENTER ROOF AND HEATING, VENTILATION AND AIR CONDITIONING SYSTEM IMPROVEMENTS--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.-
-The capital program fund project in Subsection 8 of Section 6 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design, demolish, renovate and construct roofing systems for the Camino Nuevo youth center and youth diagnostic and development center recreational buildings in Albuquerque in Bernalillo county and to plan, design, renovate, purchase and install new heating, ventilation and air conditioning units and roof repairs at the John Paul Taylor center in Las Cruces in Dona Ana county may include planning, designing, constructing, renovating, equipping and furnishing children, youth and families department facilities statewide. The time of expenditure is extended through fiscal year 2020.

Chapter 280 Section 105 Laws 2019

SECTION 105. CHILDREN, YOUTH AND FAMILIES DEPARTMENT FACILITIES CONSTRUCTION AND RENOVATION STATEWIDE--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the capital program fund project originally authorized in Subsection 2 of Section 6 of Chapter 3 of Laws 2015 (1st S.S.) and reauthorized in Laws 2017, Chapter 133, Section 118 to include planning, designing, constructing, renovating, equipping and furnishing children, youth and families department facilities statewide is extended through fiscal year 2020.

Chapter 280 Section 106 Laws 2019

SECTION 106. LOCAL ECONOMIC DEVELOPMENT PROJECTS STATEWIDE--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the economic development department project in Subsection 1 of Section 14 of Chapter 3 of Laws 2015 (1st S.S.) for economic development projects statewide pursuant to the Local Economic Development Act is extended through fiscal year 2021.

Chapter 280 Section 107 Laws 2019

SECTION 107. NEW MEXICO BEHAVIORAL HEALTH INSTITUTE AND HEALTH FACILITIES STATEWIDE IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the capital program fund project in Subsection 12 of Section 6 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design, construct, renovate, equip and furnish facilities, including purchasing food delivery vehicles, security equipment and demolition, at the New Mexico behavioral health institute at Las Vegas in San Miguel county and at health facilities statewide is extended through fiscal year 2020.

Chapter 280 Section 108 Laws 2019

SECTION 108. NEW MEXICO STATE VETERANS' HOME PATIENT HEALTH AND SAFETY UPGRADES--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The capital program fund project in Subsection 15 of Section 6 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design and construct the remodeling of the fire barrier, ceilings and roof decks of the New Mexico state veterans' home may include planning, designing, constructing, renovating, equipping and furnishing veteran service facilities statewide. The time of expenditure is extended through fiscal year 2020.

Chapter 280 Section 109 Laws 2019

SECTION 109. CORRECTIONS DEPARTMENT MASTER PLAN DEVELOPMENT--CHANGE TO STATE CORRECTIONAL FACILITIES STATEWIDE MASTER PLAN AND PLAN NEW CORRECTIONAL FACILITY--GENERAL FUND.--The unexpended balance of the appropriation to the capital program fund in Laws 2018, Chapter 80, Section 40 to develop a master plan for correctional facilities statewide shall not be expended for the original purpose but is changed to develop a master plan, including planning for a new correctional facility, for state correctional facilities statewide.

Chapter 280 Section 110 Laws 2019

SECTION 110. TIWA BUILDING RENOVATION--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The capital program fund project in Subsection 4 of Section 6 of Chapter 3 of Laws 2015 (1st S.S.) to plan and design phase 1 renovation of the Tiwa building in Albuquerque in Bernalillo county may include planning, designing, constructing, renovating, equipping and furnishing of offices of the workforce solutions department statewide. The time of expenditure is extended through fiscal year 2020.

Chapter 280 Section 111 Laws 2019

SECTION 111. EL VALLE DE LOS RANCHOS TAFOYA SEWER LATERAL CONSTRUCTION--CHANGE TO PHASE 4 WASTEWATER SYSTEM IMPROVEMENTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of environment in Subsection 66 of Section 20 of Chapter 80 of Laws 2018 to plan, design and construct the Tafoya sewer main lateral for El Valle de los Ranchos water and sanitation district in the Talpa area in Taos county shall not be expended for the original purpose but is changed to plan, design and construct phase 4 improvements to a wastewater system for that district.

Chapter 280 Section 112 Laws 2019

SECTION 112. TORRANCE COUNTY ROAD DEPARTMENT ROAD RECLAIMER PURCHASE--CHANGE TO PURCHASE ROAD ROLLER--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 182 of Section 26 of Chapter 80 of Laws 2018 to purchase a road reclaimer for the road department in Torrance county shall not be expended for the original purpose but is changed to purchase and equip a road roller for that department.

Chapter 280 Section 113 Laws 2019

SECTION 113. CLAUNCH-PINTO SOIL AND WATER CONSERVATION DISTRICT METAL SHOP BUILDING CONSTRUCTION--CHANGE TO IMPROVE DISTRICT FACILITIES--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 219 of Section 22 of Chapter 81 of Laws 2016 to construct a metal shop building for the Claunch-Pinto soil and water conservation district in Torrance county shall not be expended for the original purpose but is appropriated to the board of regents of New Mexico state university to improve Claunch-Pinto soil and water conservation district facilities, including site work, exterior utilities and trenching, lighting, electrical, plumbing and heating, ventilation and air conditioning systems and purchase and installation of garage doors, in Mountainair in Torrance county. The time of expenditure is extended through fiscal year 2021.

Chapter 280 Section 114 Laws 2019

SECTION 114. BELEN HIGH SCHOOL FOOTBALL STADIUM PRESS BOX CONSTRUCTION--CHANGE TO IMPROVE SECURITY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the public education department in Subsection 257 of Section 15 of Chapter 3 of Laws 2015 (1st S.S.) to plan, design and construct a press box at the football stadium at Belen high school in the Belen consolidated school district in Valencia county shall not be expended for the original purpose but is changed to plan, design, construct, purchase and install security systems and improvements, including security cameras and infrastructure, at the high school. The time of expenditure is extended through fiscal year 2021.

Chapter 280 Section 115 Laws 2019

SECTION 115. LOS LUNAS SPORTS COMPLEX FACILITY IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 242 of Section 28 of Chapter 3 of Laws 2015 (1st S.S.) for design, construction and improvements to a sports complex in Los Lunas in Valencia county is extended through fiscal year 2021.

Chapter 280 Section 116 Laws 2019

SECTION 116. TOHATCHI CHAPTER POWERLINE EXTENSION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the appropriation originally made to the local government division in Subsection 154 of Section 26 of Chapter 2 of Laws 2007 and reappropriated to the Indian affairs department in Laws 2009, Chapter 128, Section 312 and for which the time of expenditure was extended in Laws 2011, Chapter 183, Section 66 and in Laws 2013, Chapter 202, Section 26 and reauthorized in Laws 2015, Chapter 147, Section 39 and again in Laws 2017, Chapter 133, Section 65 to plan, design and construct powerline extensions in the Tohatchi chapter of the Navajo Nation in McKinley county is extended through fiscal year 2021.

Chapter 280 Section 117 Laws 2019

SECTION 117. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately. _____

HTRC/House Bill 568, aa, w/ec, partial veto

Approved April 5, 2019

LAWS 2019, CHAPTER 281

AN ACT

RELATING TO COURTS; PROVIDING THAT ON-RECORD PROCEEDINGS IN METROPOLITAN COURTS MAY BE APPEALED DIRECTLY TO THE COURT OF APPEALS.

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

Chapter 281 Section 1 Laws 2019

SECTION 1. Section 34-8A-6 NMSA 1978 (being Laws 1979, Chapter 346, Section 6, as amended) is amended to read:

"34-8A-6. METROPOLITAN COURT--RULES--APPEAL.--

A. The supreme court shall adopt separate rules of procedure for the metropolitan courts. The rules shall provide simple procedures for the just, speedy and inexpensive determination of any metropolitan court action.

B. Other than for actions brought pursuant to the Uniform Owner-Resident Relations Act, the metropolitan court is a court of record for civil actions. Any party aggrieved by a judgment rendered by the metropolitan court in a civil action may appeal to the court of appeals. The manner and method for the appeal shall be set forth by supreme court rule.

C. The metropolitan court is not a court of record for civil actions brought pursuant to the Uniform Owner-Resident Relations Act. Any party aggrieved by a judgment rendered by the metropolitan court in a civil action brought pursuant to the Uniform Owner-Resident Relations Act may appeal to the district court of the county in which the metropolitan court is located within fifteen days after the judgment was rendered. The appeal shall be de novo.

D. The metropolitan court is a court of record for criminal actions involving driving while under the influence of intoxicating liquor or drugs or involving domestic violence. A criminal action involving domestic violence means an assault or battery under any state law or municipal or county ordinance in which the alleged victim is a household member as defined in the Family Violence Protection Act. Any party aggrieved by a judgment rendered by the metropolitan court in a criminal action

involving driving while under the influence of intoxicating liquor or drugs or involving domestic violence may appeal to the court of appeals. The manner and method of appeal shall be set forth by supreme court rule.

E. The metropolitan court is not a court of record for criminal actions other than driving while under the influence of intoxicating liquor or drugs or domestic violence actions. Any party aggrieved by a judgment rendered by the metropolitan court in a criminal action, other than driving while under the influence of intoxicating liquor or drugs or domestic violence action, may appeal to the district court of the county in which the metropolitan court is located within fifteen days after the judgment was rendered. The appeal shall be de novo.

F. All judgments rendered in civil actions in the metropolitan court shall be subject to the same provisions of law as those rendered in district court." _____

House Bill 279, aa

Approved April 5, 2019

LAWS 2019, SENATE JOINT RESOLUTION 2

A JOINT RESOLUTION

AUTHORIZING THE STATE GAME COMMISSION TO TRANSFER TWENTY-TWO AND FOUR HUNDRED FIVE THOUSANDTHS ACRES OF LAND, MORE OR LESS, COMPRISING THE LAGUNA DEL CAMPO LAND TRACT IN RIO ARRIBA COUNTY FROM THE DEPARTMENT OF GAME AND FISH TO THE TIERRA AMARILLA LAND GRANT-MERCED.

WHEREAS, Section 13-6-2 NMSA 1978 authorizes state agencies to donate real property to other state agencies, local public bodies, school districts or state educational institutions; and

WHEREAS, Section 13-6-3 NMSA 1978 provides in pertinent part that any sale, trade or lease of state real property for consideration of one hundred thousand dollars (\$100,000) or more shall be subject to the ratification and approval by the state legislature prior to the sale, trade or lease becoming effective; and

WHEREAS, in 1.5.23.7 NMAC, the state board of finance defines "sale, trade or lease" as any disposition of real property, including donation by one governmental entity to another governmental entity; and

WHEREAS, approximately twenty-two and four hundred five thousandths acres of land, more or less, within Rio Arriba county that is currently held by the state game commission comprises a tract of land known as Laguna del Campo, formerly known as Burns lake; and

WHEREAS, the department of game and fish issued "Professional Services Contract #18-516-0000-0036" to have the Laguna del Campo land tract appraised, and an appraisal report was issued on July 6, 2018 that valued the Laguna del Campo land tract at two hundred twenty-four thousand dollars (\$224,000); and

WHEREAS, the Laguna del Campo land tract does not substantially meet the purposes of the state game commission and the department of game and fish as such purposes are set forth in Chapter 17 NMSA 1978; and

WHEREAS, the Laguna del Campo land tract was originally part of the common lands of the Tierra Amarilla land grant-merced, a political subdivision of the state, to which the land should be returned; and

WHEREAS, upon transfer, this land should be administered as part of the common lands of the Tierra Amarilla land grant-merced, with title reverting to the state if it ceases to be part of the common lands of the land grant-merced;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the state game commission be authorized to transfer to the Tierra Amarilla land grant-merced ownership of the Laguna del Campo land tract, situated within the Tierra Amarilla land grant-merced within Rio Arriba county, being more particularly bounded and described as follows, to wit:

"Tract "B"

A certain tract of land near Los Ojos, Rio Arriba County, New Mexico; within the Tierra Amarilla Grant; located within projected Section 23, Township 29 North, Range 3 East, NMPM; described as part of Lot 2 of the Subdivision "G-1" of the Park View Tract of Catron Exclusions and more particularly described by metes and bounds as follows:BEGINNING at the NE corner of this tract, a #5221 1/2 in. rebar found, from which triangulation station on "Loop," a 1973 State Engineer's Office brass cap monument found bears N 53°58'27" E, 5101.04 ft. distant, thence;

S 54°59'55" E, 3.52 ft. to a point in a ditch, thence;

S 15°20'10" W, 722.27 ft. to a #7433 5/8 in. rebar found, thence;

S 38°10'05" E, 70.17 ft. to a #12441 1/2 in. rebar found, thence;

S 38°05'28" E, 190.90 ft. to the SE corner, a #7241/13976 1/2 in. rebar found, thence;

S 55°14'11" W, 299.70 ft. to a #7433 5/8 in. rebar found, thence;

N 35°05'47" W, 95.09 ft. to a #7433 5/8 in. rebar found, thence;

S 60°28'57" W, 197.43 ft. to a #7241 1/2 in. rebar found, thence;

S 60°35'10" W, 220.60 ft. to a #7241 1/2 in. rebar found, thence;

S 60°38'37" W, 161.13 ft. to a #7433 5/8 in. rebar found, thence;

S 68°06'36" W, 91.57 ft. to a #7241 1/2 in. rebar found, thence;

S 68°02'13" W, 228.97 ft. to a #7241 1/2 in. rebar found, thence;

S 67°54'13" W, 185.01 ft. to a #7433 5/8 in. rebar found, thence;

N 23°32'16" W, 56.24 ft. to a #11014 1/2 in. rebar found, thence;

N 22°45'46" W, 491.08 ft. to an un-capped 1/2 in. rebar found with #7241 tag, thence;

S 68°08'44" W, 69.87 ft. to an un-capped 1/2 in. rebar found, thence;

N 48°27'53" W, 56.10 ft. to a #7241 1/2 in. rebar found, thence;

S 77°01'48" W, 80.73 ft. to a #7241 1/2 in. rebar found, thence;

An arc distance of 63.90 along a 210.12 ft. radius curve to the right through a 17°25'28" central angle, the chord of which bears S 86°36'04" W, 63.65 ft. to an un-capped 1/2 in. rebar found, thence;

N 85°25'09" W, 138.30 ft. to a #7241 1/2 in. rebar found, thence;

An arc distance of 54.82 along a 142.64 ft. radius curve to the left through a $22^{\circ}01'16''$ central angle, the chord of which bears S $82^{\circ}24'54''$ W, 54.49 ft. to an un-capped 1/2 in. rebar found, thence;

S $72^{\circ}48'42''$ W, 151.75 ft. to an un-capped 1/2 in. rebar found, thence;

An arc distance of 62.24 along a 176.10 ft. radius curve to the right through a $20^{\circ}15'06''$ central angle, the chord of which bears S $83^{\circ}44'03''$ W, 61.92 ft. to an un-capped 1/2 in. rebar found, thence;

N $86^{\circ}35'14''$ W, 93.45 ft. to an un-capped 1/2 in. rebar found, thence;

N $87^{\circ}07'17''$ W, 83.89 ft. to a #7241 1/2 in. rebar found, thence;

An arc distance of 61.39 along a 543.69 ft. radius curve to the right through a $6^{\circ}28'11''$ central angle, the chord of which bears N $83^{\circ}08'07''$ W, 61.36 ft. to a #7241 1/2 in. rebar found, thence;

N $80^{\circ}08'00''$ W, 320.67 ft. to an un-capped 1/2 in. rebar found, thence;

An arc distance of 59.30 along a 208.96 ft. radius curve to the right through a $16^{\circ}15'32''$ central angle, the chord of which bears N $72^{\circ}04'06''$ W, 59.10 ft. to an un-capped 1/2 in. rebar found, thence;

N $63^{\circ}06'39''$ W, 136.04 ft. to an un-capped 1/2 in. rebar found, thence;

An arc distance of 64.01 along a 63.75 ft. radius curve to the right through a $57^{\circ}31'30''$ central angle, the chord of which bears N $31^{\circ}58'57''$ W, 61.35 ft. to an un-capped 1/2 in. rebar found, thence;

N $02^{\circ}36'36''$ W, 342.69 ft. to an un-capped 1/2 in. rebar found, thence;

An arc distance of 65.65 along a 88.76 ft. radius curve to the right through a $42^{\circ}22'32''$ central angle, the chord of which bears N $18^{\circ}35'51''$ E, 64.16 ft. to an un-capped 1/2 in. rebar found, thence;

N 39°35'03" E, 46.25 ft. to an un-capped 1/2 in. rebar found, thence;

An arc distance of 36.27 along a 44.87 ft. radius curve to the left through a 46°18'34" central angle, the chord of which bears N 17°09'41" E, 35.29 ft. to the NW corner, an un-capped 1/2 in. rebar found on the south side of County Road 340, thence along said road;

S 82°17'27" E, 24.39 ft. to an un-capped 1/2 in. rebar found, thence leaving said road;

An arc distance of 49.46 along a 68.84 ft. radius curve to the right through a 41°10'12" central angle, the chord of which bears S 19°00'05" W, 48.41 ft. to a #12178 1/2 in. rebar found, thence;

S 39°39'07" W, 44.27 ft. to a #12178 1/2 in. rebar found, thence;

An arc distance of 50.22 along a 64.75 ft. radius curve to the left through a 44°26'11" central angle, the chord of which bears S 19°23'36" W, 48.97 ft. to an un-capped 1/2 in. rebar found, thence;

S 02°31'03" E, 339.67 ft. to a #12178 1/2 in. rebar found, thence;

An arc distance of 43.87 along a 39.74 ft. radius curve to the left through a 63°15'21" central angle, the chord of which bears S 31°59'33" E, 41.68 ft. to a #12178 1/2 in. rebar found, thence;

S 63°05'30" E, 133.12 ft. to a #12178 1/2 in. rebar found, thence;

An arc distance of 53.13 along a 184.96 ft. radius curve to the left through a 16°27'25" central angle, the chord of which bears S 71°42'19" E, 52.94 ft. to an un-capped 1/2 in. rebar found, thence;

S 80°08'10" E, 110.33 ft. to a #7241 1/2 in. rebar found, thence;

S 80°10'21" E, 197.27 ft. to a #7241 1/2 in. rebar found, thence;

S 80°37'32" E, 12.76 ft. to a #7241 1/2 in. rebar found, thence;

An arc distance of 58.56 along a 519.69 ft. radius curve to the left through a $6^{\circ}27'21''$ central angle, the chord of which bears S $83^{\circ}12'27''$ E, 58.52 ft. to a #7241 1/2 in. rebar found, thence;

S $86^{\circ}43'16''$ E, 81.72 ft. to a #7241 1/2 in. rebar found, thence;

S $86^{\circ}59'24''$ E, 95.11 ft. to an un-capped 3/4 in. rebar found, thence;

An arc distance of 55.18 along a 152.10 ft. radius curve to the left through a $20^{\circ}47'13''$ central angle, the chord of which bears N $83^{\circ}03'48''$ E, 54.88 ft. to an un-capped 1/2 in. rebar found, thence;

N $72^{\circ}43'54''$ E, 150.48 ft. to an un-capped 1/2 in. rebar found, thence;

An arc distance of 64.11 along a 166.64 ft. radius curve to the right through a $22^{\circ}02'37''$ central angle, the chord of which bears N $83^{\circ}27'11''$ E, 63.72 ft. to an un-capped 1/2 in. rebar found, thence;

S $85^{\circ}27'16''$ E, 52.28 ft. to an un-capped disturbed 1/2 in. rebar found, thence;

S $85^{\circ}14'33''$ E, 86.03 ft. to a #7241 1/2 in. rebar found, thence;

An arc distance of 57.01 along a 186.07 ft. radius curve to the left through a $17^{\circ}33'21''$ central angle, the chord of which bears N $86^{\circ}25'42''$ E, 56.79 ft. to a #12178 1/2 in. rebar found, thence;

N $77^{\circ}06'44''$ E, 63.34 ft. to a #7241 1/2 in. rebar found, thence;

N $48^{\circ}24'23''$ W, 81.79 ft. to an un-capped 1/2 in. rebar found, thence;

N $34^{\circ}02'10''$ E, 70.00 ft. to an un-capped 1/2 in. rebar found, thence;

S $55^{\circ}54'18''$ E, 147.36 ft. to an un-capped 1/2 in. rebar found, thence;

S $32^{\circ}16'53''$ E, 26.68 ft. to a 3/4 iron pipe found with #7241 tag, thence;

N 68°05'34" E, 846.05 ft. to a 3/8 in. square iron rod found, thence;

N 27°40'12" E, 418.45 ft. to a 3/4 in. iron pipe found, thence;

N 66°09'12" E, 599.88 ft. to the POINT AND PLACE OF BEGINNING.

This tract contains 22.405 acres, more or less, all as shown on a survey plat entitled "New Mexico State Game Commission," RGSS survey no. L5254-1, by Scott B. Crawl, NMLS no. 12441, dated Feb. 2018."; and

BE IT FURTHER RESOLVED that the above-described tract is to become and remain part of the common lands of the Tierra Amarilla land grant-merced, and in the event the described tract ceases to be part of the common lands of the land grant-merced, ownership of the tract shall revert to the state game commission; and

BE IT FURTHER RESOLVED that copies of this resolution be transmitted to the state game commission, the department of game and fish and the board of trustees of the Tierra Amarilla land grant-merced. _____

Senate Joint Resolution 2

LAWS 2019, SENATE JOINT RESOLUTION 3

A JOINT RESOLUTION

GRANTING CONCURRENT LEGISLATIVE JURISDICTION TO THE UNITED STATES OVER CERTAIN UNITS OF THE NATIONAL PARK SYSTEM IN NEW MEXICO.

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

SECTION 1. Pursuant to the provisions of Section 19-2-2 NMSA 1978, concurrent legislative jurisdiction is granted to the United States over lands and waters owned, managed, leased or administered by the United States within the authorized boundaries in effect on January 1 of the year in which this resolution is considered of the following units of the national park system in New Mexico:

- A. Petroglyph national monument; and
- B. Valles Caldera national preserve.

SECTION 2. As used in this resolution, "concurrent legislative jurisdiction" means the vesting in the state and the United States of all the rights accorded a sovereign with the broad qualification that such authority is held concurrently over matters, including criminal laws and police powers, and that it is the parallel right of both the state and the federal government to legislate with respect to such land and persons present or residing on it.

SECTION 3. The granting of concurrent legislative jurisdiction provided in Section 1 of this resolution is subject to compliance by the United States secretary of the interior with the provisions of 54 U.S.C. Section 100754.

SECTION 4. Following approval of this resolution by the legislature and pursuant to Section 19-2-2 NMSA 1978, the governor shall cause a duly authenticated copy of this resolution to be recorded in the office of the county clerk of the county where the land or other area affected by the transfer of jurisdiction is situated, and upon the county recordation of this resolution and adequate legal descriptions of the applicable units of the national park system, the transfer of jurisdiction shall take effect. If the land or other area is situated in more than one county, a duly authenticated copy of this resolution and adequate legal descriptions shall be recorded in the county clerk's office of each county.

SECTION 5. It is recognized that additional tracts of land may be added to Petroglyph national monument, as authorized in Public Law 101-313, or the Valles Caldera national preserve, as authorized in Public Law 113-291, Sec 3043, due to land exchanges, donations or acquisitions. Upon any such modifications to the boundary of Petroglyph national monument or Valles Caldera national preserve, a letter to that effect with adequate legal descriptions shall be provided to the governor to ensure that concurrent legislative jurisdiction is recognized on the additional tracts without any further legislative action required; provided that after providing the letter to the governor, the legal descriptions shall be recorded in the office of the county clerk of the county or counties in which the land is situated, and upon the county recordation, the transfer of jurisdiction shall take effect as to the additional tracts. _____

SRC/Senate Joint Resolution 3

LAWS 2019, HOUSE JOINT RESOLUTION 10

A JOINT RESOLUTION

RATIFYING AND APPROVING THE SALE BY THE GENERAL SERVICES DEPARTMENT OF FIVE EASEMENTS LOCATED WITHIN THE SAN CLEMENTE GRANT WITHIN PROJECTED SECTIONS 31 AND 32, VALENCIA COUNTY, NEW MEXICO.

WHEREAS, Section 13-6-2 NMSA 1978 provides that a state agency may sell or otherwise dispose of real property by competitive sealed bid, public auction or negotiated sale to a private person or to other entities; and

WHEREAS, Section 13-6-3 NMSA 1978 provides in pertinent part that any sale, trade or lease of real property belonging to a state agency for consideration of one hundred thousand dollars (\$100,000) or more shall be subject to the ratification and approval by the state legislature prior to the sale, trade or lease becoming effective; and

WHEREAS, the real property, more particularly described below, located within the central New Mexico correctional facility (the "easement property"), is currently vacant and will be used by the public service company of New Mexico for access to its proposed St. Cecilia one hundred fifteen kilovolt transmission facility for current and future electric transmission needs; and

WHEREAS, the property for each easement is described as follows:

Parcel 1

An easement located within the San Clemente Grant, within projected Section 31, Township 7 North, Range 2 East, New Mexico Principal Meridian, Valencia County, New Mexico, being and comprising a portion of a tract of land east of Interstate 25 and west of the Belen Highline Canal, as shown on Middle Rio Grande Conservancy District (M.R.G.C.D.) Map No. 74, and being more particularly described by New Mexico State Plane Grid Bearings (NAD83 Central Zone) and grid distances as follows:

BEGINNING at the southwest corner of the easement herein described, also being a point on the easterly right-of-way line of Interstate 25, WHENCE a found aluminum cap stamped "PE LS 1967 I-25 STATE TR 2A" bears S19°31'28"W a distance of 1086.79 feet;

THENCE N19°40'09"E along the easterly right-of-way line of Interstate 25, a distance of 48.88 feet;

THENCE N89°24'40"E leaving the easterly right-of-way line of Interstate 25, a distance of 805.96 feet to a point on the westerly right-of-way line of

the Belen Highline Canal, WHENCE a found rebar with plastic cap stamped "HUGG LS 9705" bears N66°46'01"E a distance of 25.97 feet;

THENCE S43°05'04"W along the westerly right-of-way line of the Belen Highline Canal a distance of 61.77 feet;

THENCE S89°19'29"W leaving the westerly right-of-way line of the Belen Highline Canal a distance of 780.23 feet to the POINT OF BEGINNING.

Easement contains 35,882 sq.ft., 0.8237 acre (more or less).

BASIS OF BEARING: The Bearings within this parcel description are based on Grid Bearing (New Mexico State Plane Central Zone, NAD83) between said aluminum cap stamped "PE LS 1967 I-25 STATE TR 2A" and said found rebar with plastic cap stamped "HUGG LS 9705", as bearing N48°00'14"E.

Parcel 2

An easement located within the San Clemente Grant, within projected Sections 31 and 32, Township 7 North, Range 2 East, New Mexico Principal Meridian, Valencia County, New Mexico, being and comprising a portion of Tract 2A and Tract 47A1, as shown on Middle Rio Grande Conservancy District (M.R.G.C.D.) Map No. 74, and being more particularly described by New Mexico State Plane Grid Bearings (NAD83 Central Zone) and grid distances as follows:

BEGINNING at the northwest corner of the easement herein described, also being a point on the easterly right-of-way line of the Belen Highline Canal, WHENCE a found illegible plastic cap bears N81°17'57"E a distance of 68.90 feet;

THENCE leaving said easterly right-of-way line of the Belen Highline Canal the following four (4) courses:

N89°24'40"E a distance of 80.50 feet to a point;

N89°17'59"E a distance of 833.14 feet to a point;

N89°38'34"E a distance of 440.79 feet to a point;

S65°18'40"E a distance of 243.58 feet to a point on the westerly right-of-way line of the New Belen Acequia, WHENCE a found rebar bears N82°35'50"E a distance of 514.64 feet;

THENCE S15°47'47"W along said westerly right-of-way line of the New Belen Acequia a distance of 75.91 feet to a point;

THENCE leaving said westerly right-of-way line of the New Belen Acequia the following five (5) courses:

N65°18'40"W a distance of 268.71 feet to a point;

N43°15'36"W a distance of 64.54 feet to a point;

S89°38'34"W a distance of 154.00 feet to a point;

S42°40'24"W a distance of 39.07 feet to a point;

S89°19'29"W a distance of 1136.02 feet to a point on said easterly right-of-way line of the Belen Highline Canal;

THENCE N47°58'42"E along said easterly right-of-way line of the Belen Highline Canal, a distance of 67.02 feet to the POINT OF BEGINNING.

Easement contains 74,557 sq.ft., 1.7116 acres (more or less).

BASIS OF BEARING: The Bearings within this parcel description are based on Grid Bearing (New Mexico State Plane Central Zone, NAD83) between said illegible plastic cap and said found rebar with plastic cap stamped "RPLS 10024", as bearing N89°20'24"E.

Parcel 3

An easement located within the San Clemente Grant, within projected Section 32, Township 7 North, Range 2 East, New Mexico Principal Meridian, Valencia County, New Mexico, being and comprising a portion of Tract 47A1, as shown on Middle Rio Grande Conservancy District (M.R.G.C.D.) Map No. 75, and being more particularly described by New Mexico State Plane Grid Bearings (NAD83 Central Zone) and grid distances as follows:

BEGINNING at the northwest corner of the easement herein described, also being a point on the easterly line of the New Belen Acequia, WHENCE a found rebar bears N77°05'18"E a distance of 448.11 feet;

THENCE S65°18'40"E leaving the easterly right-of-way line of the New Belen Acequia a distance of 1267.87 feet to a point;

THENCE S83°11'52"E a distance of 7.16 feet to a point on the westerly right-of-way of the Los Lunas Acequia;

THENCE along said westerly right-of-way line of Los Lunas Acequia the arc of non-tangent curve to the right having a central angle of 29°17'26", a radius of 20.00 feet, a chord bearing S07°53'28"W a distance of 10.11 feet and an arc distance of 10.22 feet to a point of tangency;

THENCE S22°32'11"W continuing along said westerly right-of-way line of Los Lunas Acequia a distance of 67.57 feet to a point;

THENCE N65°18'40"W leaving said westerly right-of-way line of Los Lunas Acequia a distance of 1268.42 feet to a point on said easterly right-of-way line of the New Belen Acequia;

THENCE N15°47'47"E along said easterly right-of-way line of the New Belen Acequia a distance of 75.91 feet to the POINT OF BEGINNING.

Easement contains 95,471 sq.ft., 2.1917 acres (more or less).

BASIS OF BEARING: The Bearings within this parcel description are based on Grid Bearing (New Mexico State Plane Central Zone, NAD83) between said found rebar and said found iron pipe as bearing S69°29'13"E.

Parcel 4

An easement located within the San Clemente Grant, within projected Section 32, Township 7 North, Range 2 East, New Mexico Principal Meridian, Valencia County, New Mexico, being and comprising a portion of Tracts 38, 39A1 and 2B1A1, as shown on Middle Rio Grande Conservancy District (M.R.G.C.D.) Map No. 75, and being more particularly described by New Mexico State Plane Grid Bearings (NAD83 Central Zone) and grid distances as follows:

BEGINNING at the northwest corner of the easement herein described, also being a point on the easterly right-of-way line of the Los Lunas Acequia, WHENCE a found iron pipe bears N31°37'53"W a distance of 526.56 feet;

THENCE S83°11'52"E leaving said easterly right-of-way line of the Los Lunas Acequia a distance of 1778.51 feet to a point on the southerly right-of-way line of Morris Road;

THENCE S75°58'28"E along said southerly right-of-way line of Morris Road a distance of 5.75 feet to a point on the westerly right-of-way line of Los Chavez Interior Drain, WHENCE a found rebar with a plastic cap stamped "5975" bears S85°32'32"E a distance of 2260.52 feet;

THENCE S35°25'09"W leaving said southerly right-of-way line of Morris Road along said westerly right-of-way line of Los Chavez Interior Drain a distance of 10.11 feet to a point of curvature;

THENCE along the arc of a tangent curve to the right having a central angle of 08°22'36", a radius of 30.00 feet, a chord bearing S39°36'27"W a distance of 4.38 feet and an arc distance of 4.39 feet to a point of tangency;

THENCE S43°47'45"W along said westerly right-of-way line of Los Chavez Interior Drain a distance of 77.27 feet to a point;

THENCE N83°11'52"W leaving said westerly right-of-way line of Los Chavez Interior Drain a distance of 1747.04 feet to a point on said easterly right-of-way line of Los Lunas Acequia;

THENCE N22°31'48"E along said easterly right-of-way line of Los Lunas Acequia a distance of 50.51 feet to a point of curvature;

THENCE along the arc of a tangent curve to the left having a central angle of 19°05'37", a radius of 80.00 feet, a chord bearing N12°59'23"E a distance of 26.54 feet and an arc distance of 26.66 feet the POINT OF BEGINNING.

Easement contains 132,380 sq.ft., 3.0390 acres (more or less).

BASIS OF BEARING: The Bearings within this parcel description are based on Grid Bearing (New Mexico State Plane Central Zone, NAD83)

between said found Iron Pipe and said found rebar with plastic cap stamped "5975", as bearing S79°00'01"E.

Parcel 5

An easement located within the San Clemente Grant, within projected Sections 32 and 33, Township 7 North, Range 2 East, New Mexico Principal Meridian, Valencia County, New Mexico, being and comprising a portion of Tract 2B1A1, as shown on Middle Rio Grande Conservancy District (M.R.G.C.D.) Map No. 75, and being more particularly described by New Mexico State Plane Grid Bearings (NAD83 Central Zone) and grid distances as follows:

BEGINNING at the northwest corner of the easement herein described, also being a point on the easterly right-of-way line of Los Chavez Interior Drain, as shown on said M.R.G.C.D. Map No. 75, WHENCE a found iron pipe bears N72°48'12"W a distance of 2286.13 feet;

THENCE the following three (3) courses leaving said easterly right-of-way line of the Los Chavez Interior Drain:

S83°11'52"E a distance of 374.95 feet to a point;

S73°43'41"E a distance of 1549.71 feet to a point;

N05°26'05"E a distance of 295.12 feet to a point on the southerly right-of-way line of Morris Road;

THENCE S78°20'36"E along said southerly right-of-way line of Morris Road a distance of 156.19 feet to a point on the westerly right-of-way line of Tafoya Lateral, WHENCE a found plastic cap stamped "5975" bears N63°42'51"E a distance of 114.71 feet;

THENCE S11°07'50"W along said westerly right-of-way line of Tafoya Lateral a distance of 60.09 feet to a point;

THENCE S20°53'08"W leaving said westerly right-of-way line of Tafoya Lateral a distance of 318.62 feet to a point;

THENCE N73°43'41"W a distance of 1623.45 feet to a point;

THENCE N83°11'52"W a distance of 409.98 feet to a point on said easterly right-of-way line of Los Chavez Interior Drain;

THENCE the following two (2) courses along said easterly right-of-way line of Los Chavez Interior Drain:

along the arc of a non-tangent curve to the left having a central angle of 03°30'36", a radius of 150.00 feet, a chord bearing N37°10'27"E a distance of 9.19 feet to and an arc distance of 9.19 feet a point of tangency;

N35°24'58"E a distance of 76.40 feet to the POINT OF BEGINNING.

Easement contains 188,799 sq.ft., 4.3342 acres (more or less).

BASIS OF BEARING: The Bearings within this parcel description are based on Grid Bearing (New Mexico State Plane Central Zone, NAD83) between said found Iron Pipe and said found rebar with plastic cap stamped "5975", as bearing S79°00'01"E; and

WHEREAS, the general services department holds the title to the property, but is not using or planning a use for it; and

WHEREAS, the appraised loss of value of the property following the transfer of the easement to the public service company of New Mexico has been appraised at one hundred nineteen thousand five hundred dollars (\$119,500); and

WHEREAS, on February 7, 2019, the general services department transferred an easement on the property to the public service company of New Mexico for consideration in the amount of one hundred nineteen thousand five hundred dollars (\$119,500);

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the sale of the easement property as described above be hereby ratified and approved by the legislature; and

BE IT FURTHER RESOLVED that a copy of this resolution be transmitted to the general services department. _____

House Joint Resolution 10

**2019 OFFICIAL ROSTER OF THE STATE OF NEW
MEXICO**

**LAWS
of the
State of
New Mexico**

passed by the

FIRST SESSION

of the

FIFTY-FOURTH LEGISLATURE

STATE OF NEW MEXICO

Which convened in the city of Santa Fe, at the Capitol at the Hour of 12:00 Noon on the 15th day of January, 2019, and adjourned on the 16th day of March, 2019.

Prepared for Publication by
Maggie Toulouse Oliver, Secretary of State

**OFFICIAL ROSTER
OF THE
STATE OF NEW MEXICO**

UNITED STATES SENATORS

Martin Heinrich, Democrat, Albuquerque
Tom Udall, Democrat, Santa Fe

UNITED STATES REPRESENTATIVES

Debra A. Haaland, Democrat, 1st Congressional District - Albuquerque
Xochitl Torres Small, Democrat, 2nd Congressional District - Las Cruces
Ben R. Lujan, Democrat, 3rd Congressional District - Santa Fe

STATE OFFICIALS

Michelle Lujan Grisham, Democrat	Governor
Howie C. Morales, Democrat	Lieutenant Governor
Maggie Toulouse Oliver, Democrat	Secretary of State
Brian S. Colón, Democrat	State Auditor
Tim Eichenberg, Democrat	State Treasurer
Hector Balderas, Democrat	Attorney General
Stephanie Garcia Richard, Democrat	Commissioner of Public Lands
Cynthia B. Hall, Democrat	Public Regulation Commissioner, District 1
Jefferson L. Byrd, Republican	Public Regulation Commissioner, District 2
Valerie L. Espinoza, Democrat	Public Regulation Commissioner, District 3
Theresa A. Becenti-Aguilar, Democrat	Public Regulation Commissioner, District 4
Stephen H. Fischmann, Democrat	Public Regulation Commissioner, District 5

JUSTICES OF THE SUPREME COURT

Judith K. Nakamura, Chief Justice
Barbara J. Vigil
Michael E. Vigil
C. Shannon Bacon
David K. Thomson

JUDGES OF THE COURT OF APPEALS

M. Monica Zamora, Chief Judge
Linda M. Vanzi
J. Miles Hanisee
Julie J. Vargas
Jennifer L. Attrep
Kristina Bogardus
Jacqueline R. Medina
Megan P. Duffy
Briana H. Zamora
Zach Ives

**DISTRICT COURTS
DISTRICT JUDGES**

**FIRST JUDICIAL DISTRICT
Santa Fe, Los Alamos & Rio Arriba Counties**

Division	I	Francis J. Mathew	Santa Fe
Division	II	Maria E. Sanchez-Gagne	Santa Fe
Division	III	Raymond Z. Ortiz	Santa Fe
Division	IV	Sylvia F. LaMar	Santa Fe
Division	V	Jason C. Lidyard	Santa Fe
Division	VI	Vacant	Santa Fe
Division	VII	T. Glenn Ellington	Santa Fe
Division	VIII	Mary L. Marlowe Sommer	Santa Fe
Division	IX	Matthew J. Wilson	Santa Fe

**SECOND JUDICIAL DISTRICT
Bernalillo County**

Division	I	William Parnall	Albuquerque
Division	II	Stan Whitaker	Albuquerque
Division	III	Brett Loveless	Albuquerque
Division	IV	Beatrice Brickhouse	Albuquerque
Division	V	Nancy J. Franchini	Albuquerque
Division	VI	Vacant	Albuquerque
Division	VII	John J. Romero	Albuquerque
Division	VIII	Cristina T. Jaramillo	Albuquerque
Division	IX	Cindy Leos	Albuquerque
Division	X	Christina P. Argyres	Albuquerque
Division	XI	Gerard Lavelle	Albuquerque
Division	XII	Clay Campbell	Albuquerque
Division	XIII	Vacant	Albuquerque
Division	XIV	Marie Ward	Albuquerque
Division	XV	Daniel J. Gallegos	Albuquerque
Division	XVI	Carl Butkus	Albuquerque
Division	XVII	Vacant	Albuquerque
Division	XVIII	Denise Barela-Shepherd	Albuquerque
Division	XIX	Benjamin Chavez	Albuquerque
Division	XX	Jacqueline D. Flores	Albuquerque
Division	XXI	Alisa Hart	Albuquerque
Division	XXII	Vacant	Albuquerque
Division	XXIII	Vacant	Albuquerque
Division	XXIV	Debra Ramirez	Albuquerque
Division	XXV	Jane C. Levy	Albuquerque
Division	XXVI	Charles W. Brown	Albuquerque
Division	XXVII	Victor S. Lopez	Albuquerque

THIRD JUDICIAL DISTRICT
Doña Ana County

Division	I	Manuel I. Arrieta	Las Cruces
Division	II	Marci E. Beyer	Las Cruces
Division	III	Conrad Perea	Las Cruces
Division	IV	Mary W. Rosner	Las Cruces
Division	V	Lisa C. Schultz	Las Cruces
Division	VI	James T. Martin	Las Cruces
Division	VII	Douglas R. Driggers	Las Cruces
Division	VIII	Grace B. Duran	Las Cruces

FOURTH JUDICIAL DISTRICT
Guadalupe, Mora & San Miguel Counties

Division	I	Gerald Baca	Las Vegas
Division	II	Abigail P. Aragon	Las Vegas
Division	III	Floripa Gallegos	Las Vegas

FIFTH JUDICIAL DISTRICT
Lea, Eddy & Chaves Counties

Division	I	Raymond L. Romero	Carlsbad
Division	II	Freddie J. Romero	Roswell
Division	III	William G.W. Shoobridge	Lovington
Division	IV	Mark T. Sanchez	Lovington
Division	V	Jane Shuler Gray	Carlsbad
Division	VI	James M. Hudson	Roswell
Division	VII	Michael H. Stone	Lovington
Division	VIII	Kea W. Riggs	Roswell
Division	IX	Lisa Riley	Carlsbad
Division	X	Dustin K. Hunter	Chaves
Division	XI	Lee A. Kirksey	Lea

SIXTH JUDICIAL DISTRICT
Grant, Hidalgo & Luna Counties

Division	I	Thomas F. Stewart	Silver City
Division	II	Jennifer Ellen DeLaney	Deming
Division	III	Jim Foy	Silver City
Division	IV	Jarod K. Hofacket	Deming

SEVENTH JUDICIAL DISTRICT
Catron, Sierra, Socorro & Torrance Counties

Division	I	Mercedes C. Murphy	Socorro
Division	II	Matthew G. Reynolds	Sierra
Division	III	Shannon L. Murdock	Moriarty

EIGHTH JUDICIAL DISTRICT
Colfax, Union & Taos Counties

Division	I	Emilio Chavez	Raton
Division	II	Sarah C. Backus	Taos
Division	III	Jeff F. McElroy	Taos

NINTH JUDICIAL DISTRICT
Curry & Roosevelt Counties

Division	I	Matthew E. Chandler	Clovis
Division	II	Drew D. Tatum	Clovis
Division	III	Fred Van Soelen	Clovis
Division	IV	Donna J. Mowrer	Portales
Division	V	David P. Reeb	Clovis

TENTH JUDICIAL DISTRICT
Quay, DeBaca, & Harding Counties

Division	I	Albert J. Mitchell, Jr.	Tucumcari
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ELEVENTH JUDICIAL DISTRICT
McKinley & San Juan Counties

Division	I	Bradford J. Dalley	Aztec
Division	II	Louis E. DePauli, Jr.	Gallup
Division	III	Sarah V. Weaver	Farmington
Division	IV	John Arthur Dean, Jr.	Aztec
Division	V	Lyndy D. Bennett	Gallup
Division	VI	Daylene A. Marsh	Farmington
Division	VII	Robert A. Aragon	Gallup
Division	VIII	Karen L. Townsend	Aztec

TWELFTH JUDICIAL DISTRICT
Lincoln & Otero Counties

Division	I	Steven Blankinship	Alamogordo
Division	II	James Waylon Counts	Alamogordo
Division	III	Daniel A. Bryant	Carrizozo
Division	IV	Angie K. Schneider	Alamogordo

THIRTEENTH JUDICIAL DISTRICT
Cibola, Sandoval & Valencia Counties

Division	I	James Lawrence Sanchez	Los Lunas
Division	II	George P. Eichwald	Bernalillo
Division	III	Allen R. Smith	Los Lunas
Division	IV	Pedro Rael	Grants
Division	V	Louis P. McDonald	Bernalillo
Division	VI	Cindy M. Mercer	Los Lunas
Division	VII	John F. Davis	Bernalillo
Division	VII	Cheryl H. Johnston	Bernalillo

DISTRICT ATTORNEYS

First Judicial District	Marco P. Serna	Santa Fe, Rio Arriba & Los Alamos
Second Judicial District	Raul Torrez	Bernalillo
Third Judicial District	Mark D'Antonio	Doña Ana
Fourth Judicial District	Richard D. Flores	San Miguel, Guadalupe & Mora
Fifth Judicial District	Dianna Luce	Chaves, Eddy & Lea
Sixth Judicial District	Francesca Martinez-Estevez	Grant, Luna & Hidalgo
Seventh Judicial District	Clint H. Wellborn	Catron, Sierra, Socorro & Torrance
Eighth Judicial District	Donald A. Gallegos	Taos, Colfax & Union
Ninth Judicial District	Andrea R. Reeb	Curry & Roosevelt
Tenth Judicial District	Timothy L. Rose	Quay, Harding & DeBaca
Eleventh Judicial District	Robert "Rick" P. Tedrow	Division 1: San Juan
	Paula E. James-Pakkala	Division 2: McKinley
Twelfth Judicial District	John P. Sugg	Otero & Lincoln
Thirteenth Judicial District	Lemuel L. Martinez	Sandoval, Valencia & Cibola

**STATE SENATORS SERVING IN THE FIFTY-FOURTH LEGISLATURE
STATE OF NEW MEXICO
FIRST SESSION
CONVENED JANUARY 15, 2019**

<u>District</u>	<u>County</u>	<u>Name</u>	<u>City</u>
1	San Juan	William E. Sharer	Farmington
2	San Juan	Steven P. Neville	Aztec
3	McKinley & San Juan	John Pinto	Gallup
4	Cibola, McKinley & San Juan	George K. Muñoz	Gallup
5	Los Alamos, Rio Arriba, Sandoval & Santa Fe	Richard C. Martinez	Española
6	Los Alamos, Rio Arriba, Santa Fe & Taos	Carlos R. Cisneros	Questa
7	Curry, Quay & Union	Pat Woods	Broadview
8	Colfax, Guadalupe, Harding, Mora, Quay, San Miguel & Taos	Pete Campos	Las Vegas
9	Bernalillo & Sandoval	John M. Sapien	Corrales
10	Bernalillo & Sandoval	Candace Gould	Albuquerque
11	Bernalillo	Linda M. Lopez	Albuquerque
12	Bernalillo	Gerald Ortiz y Pino	Albuquerque
13	Bernalillo	Bill B. O'Neill	Albuquerque
14	Bernalillo	Michael Padilla	Albuquerque
15	Bernalillo	Daniel A. Ivey-Soto	Albuquerque
16	Bernalillo	Antoinette Sedillo Lopez	Albuquerque
17	Bernalillo	Mimi Stewart	Albuquerque
18	Bernalillo	Bill G. Tallman	Albuquerque
19	Bernalillo, Sandoval, Santa Fe & Torrance	James P. White	Sandia Park
20	Bernalillo	William H. Payne	Albuquerque
21	Bernalillo	Mark Moores	Albuquerque
22	Bernalillo, McKinley, Rio Arriba, San Juan, & Sandoval	Benny Shendo, Jr.	Jemez Pueblo
23	Bernalillo	Sander Rue	Albuquerque
24	Santa Fe	Nancy Rodriguez	Santa Fe
25	Santa Fe	Peter Wirth	Santa Fe
26	Bernalillo	Jacob R. Candelaria	Albuquerque
27	Chaves, Curry, DeBaca, Lea & Roosevelt	Stuart Ingle	Portales
28	Catron, Grant & Socorro	Gabriel Ramos	Silver City
29	Bernalillo & Valencia	Gregory A. Baca	Belen
30	Cibola, McKinley, Socorro & Valencia	Clemente Sanchez	Grants
31	Doña Ana	Joseph Cervantes	Las Cruces
32	Chaves, Eddy & Otero	Cliff R. Pirtle	Roswell
33	Chaves, Lincoln & Otero	William F. Burt	Alamogordo
34	Doña Ana, Eddy & Otero	Ron Griggs	Alamogordo
35	Doña Ana, Hidalgo, Luna & Sierra	John Arthur Smith	Deming
36	Doña Ana	Jeff Steinborn	Las Cruces
37	Doña Ana	William P. Soules	Las Cruces
38	Doña Ana	Mary Kay Papen	Las Cruces
39	Bernalillo, Lincoln, San Miguel, Santa Fe, Torrance & Valencia	Elizabeth "Liz" Stefanics	Cerrillos
40	Sandoval	Craig W. Brandt	Rio Rancho
41	Eddy & Lea	Gregg Fulfer	Jal
42	Chaves, Eddy & Lea	Gay G. Kernan	Hobbs

**STATE REPRESENTATIVES SERVING IN THE FIFTY-FOURTH LEGISLATURE
STATE OF NEW MEXICO
FIRST SESSION
CONVENED JANUARY 15, 2019**

<u>District</u>	<u>County</u>	<u>Name</u>	<u>City</u>
1	San Juan	Rodney D. Montoya	Farmington
2	San Juan	James R.J. Strickler	Farmington
3	San Juan	Paul C. Bandy	Aztec
4	San Juan	Anthony Allison	Bloomfield
5	McKinley & San Juan	D. Wonda Johnson	Church Rock
6	Cibola & McKinley	Eliseo Lee Alcon	Milan
7	Valencia	Kelly K. Fajardo	Los Lunas
8	Valencia	Alonzo Baldonado	Los Lunas
9	McKinley & San Juan	Patricia A. Lundstrom	Gallup
10	Bernalillo	G. Andres Romero	Albuquerque
11	Bernalillo	Javier. I. Martinez	Albuquerque
12	Bernalillo	Patricio R. Ruiloba	Albuquerque
13	Bernalillo	Patricia A. Roybal Caballero	Albuquerque
14	Bernalillo	Miguel P. Garcia	Albuquerque
15	Bernalillo	Dayan Hochman-Vigil	Albuquerque
16	Bernalillo	Antonio "Moe" Maestas	Albuquerque
17	Bernalillo	Deborah A. Armstrong	Albuquerque
18	Bernalillo	Gail Chasey	Albuquerque
19	Bernalillo	Sheryl Williams Stapleton	Albuquerque
20	Bernalillo	Abbas A. Akhil	Albuquerque
21	Bernalillo	Debra M. Sariñana	Albuquerque
22	Bernalillo, Sandoval & Santa Fe	Gregg William Schmedes	Tijeras
23	Bernalillo & Sandoval	Daymon Ely	Corrales
24	Bernalillo	Elizabeth "Liz" Thomson	Albuquerque
25	Bernalillo	Christine Trujillo	Albuquerque
26	Bernalillo	Georgene Louis	Albuquerque
27	Bernalillo	William B. Pratt	Albuquerque
28	Bernalillo	Melanie Ann Stansbury	Albuquerque
29	Bernalillo	Joy I. Garratt	Albuquerque
30	Bernalillo	Natalie R. Figueroa	Albuquerque
31	Bernalillo	William "Bill" R. Rehm	Albuquerque
32	Grant, Hildago & Luna	Candie G. Sweetser	Deming
33	Doña Ana	Micaela Lara Cadena	Mesilla Park
34	Doña Ana	Raymundo Lara	Anthony
35	Doña Ana	Angelica Rubio	Las Cruces
36	Doña Ana	Nathan P. Small	Las Cruces
37	Doña Ana	Joanne J. Ferrary	Las Cruces
38	Grant, Hidalgo & Sierra	Rebecca Dow	Truth or Consequences
39	Doña Ana, Grant & Sierra	Rudolpho S. Martinez	Bayard
40	Colfax, Mora, Rio Arriba & San Miguel	Joseph L. Sanchez	Alcalde
41	Rio Arriba, Santa Fe & Taos	Susan K. Herrera	Embudo
42	Taos	Roberto "Bobby" J. Gonzales	Rancho de Taos
43	Los Alamos, Rio Arriba, Sandoval & Santa Fe	Christine Chandler	Los Alamos
44	Sandoval	Jane E. Powdrell-Culbert	Corrales
45	Santa Fe	Jim R. Trujillo	Santa Fe
46	Santa Fe	Andrea D. Romero	Santa Fe
47	Santa Fe	Brian F. Egolf, Jr.	Santa Fe

STATE REPRESENTATIVES (continued)

<u>District</u>	<u>County</u>	<u>Name</u>	<u>City</u>
48	Santa Fe	Linda M. Trujillo	Santa Fe
49	Catron, Socorro & Valencia	Gail Armstrong	Magdalena
50	Bernalillo, Santa Fe, Torrance & Valencia	Matthew McQueen	Santa Fe
51	Otero	Rachel A. Black	Alamogordo
52	Doña Ana	Doreen Y. Gallegos	Las Cruces
53	Doña Ana & Otero	Willie Madrid	Chaparral
54	Chaves, Eddy & Otero	James G. Townsend	Artesia
55	Eddy	Cathryn N. Brown	Carlsbad
56	Lincoln & Otero	Zachary J. Cook	Ruidoso
57	Sandoval	Jason C. Harper	Rio Rancho
58	Chaves	Candy Spence Ezzell	Roswell
59	Chaves & Lincoln	Greg Nibert	Roswell
60	Sandoval	Tim D. Lewis	Rio Rancho
61	Lea	David M. Gallegos	Eunice
62	Lea	Larry R. Scott	Hobbs
63	Curry, DeBaca, Guadalupe, Roosevelt & San Miguel	Martin R. Zamora	Clovis
64	Curry	Randal S. Crowder	Clovis
65	Rio Arriba, San Juan & Sandoval	Derrick J. Lente	Sandia Pueblo
66	Chaves, Lea & Roosevelt	Phelps Anderson	Roswell
67	Colfax, Curry, Harding, Quay, Roosevelt, San Miguel & Union	Jack Chatfield	Mosquero
68	Bernalillo	Karen C. Bash	Albuquerque
69	Bernalillo, Cibola, McKinley, San Juan Socorro & Valencia	Harry Garcia	Grants
70	San Miguel, Santa Fe & Torrance	Tomás E. Salazar	Las Vegas