

**Laws 2023**

**First Session, Fifty-Sixth Legislature**

**Certificate of Authentication**



# **LAWS 2023, CONSTITUTIONAL AMENDMENT 1**

## **House Joint Resolution 5**

### **A JOINT RESOLUTION**

PROPOSING AN AMENDMENT TO ARTICLE 8, SECTION 15 OF THE CONSTITUTION OF NEW MEXICO TO EXTEND A PROPERTY TAX EXEMPTION, CURRENTLY ONLY ALLOWED FOR ONE HUNDRED PERCENT DISABLED VETERANS AND THEIR WIDOWS AND WIDOWERS, TO VETERANS WITH LESS THAN A ONE HUNDRED PERCENT DISABILITY AND THEIR WIDOWS AND WIDOWERS AND BASING THE AMOUNT OF THE EXEMPTION ON A VETERAN'S FEDERAL DISABILITY RATING.

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

### **Constitutional Amendment 1 Section 1 Laws 2023**

SECTION 1. It is proposed to amend Article 8, Section 15 of the constitution of New Mexico to read:

"A. The legislature shall exempt from taxation the property, including the community or joint property of married individuals, of every veteran of the armed forces of the United States who has been determined pursuant to federal law to have a permanent service-connected disability, if the veteran occupies the property as the veteran's principal place of residence. The amount of the exemption shall be in a percentage equal to the percentage of the veteran's disability rating determined pursuant to federal law.

B. The legislature shall provide the same amount of exemption from taxation for property owned by the widow or widower of a veteran who was eligible for the exemption provided in this section, if the widow or widower continues to occupy the property as the widow's or widower's principal place of residence.

C. The burden of proving eligibility for the exemptions provided in this section is on the person claiming the exemption."

### **Constitutional Amendment 1 Section 2 Laws 2023**

SECTION 2. 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.

# LAWS 2023, CONSTITUTIONAL AMENDMENT 2

## House Joint Resolution 6

### A JOINT RESOLUTION

PROPOSING AN AMENDMENT TO ARTICLE 8, SECTION 5 OF THE CONSTITUTION OF NEW MEXICO TO INCREASE A PROPERTY TAX EXEMPTION FOR HONORABLY DISCHARGED MEMBERS OF THE ARMED FORCES AND THEIR WIDOWS AND WIDOWERS.

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

### **Constitutional Amendment 2 Section 1 Laws 2023**

SECTION 1. It is proposed to amend Article 8, Section 5 of the constitution of New Mexico to read:

"A. The legislature shall exempt from taxation the property of each head of the family in the amount of two thousand dollars (\$2,000).

B. The legislature shall exempt from taxation the property, including the community or joint property of married individuals, of every honorably discharged member of the armed forces of the United States and the widow or widower of every such honorably discharged member of the armed forces of the United States, in the sum of:

(1) in 2006 and in each year through 2023, four thousand dollars (\$4,000);

(2) in 2024, ten thousand dollars (\$10,000); and

(3) in 2025 and each subsequent year, the amount provided in Paragraph (2) of this subsection, adjusted for inflation.

C. In every case where exemption is claimed on the ground of the claimant's having served with the armed forces of the United States pursuant to Subsection B of this section, the burden of proving actual and bona fide ownership of such property upon which exemption is claimed shall be upon the claimant."

### **Constitutional Amendment 2 Section 2 Laws 2023**

SECTION 2. 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.

# LAWS 2023, CHAPTER 1

House Bill 1, w/ec

Approved January 20, 2023

## AN ACT

RELATING TO THE LEGISLATIVE BRANCH OF GOVERNMENT; MAKING APPROPRIATIONS FOR THE EXPENSE OF THE FIFTY-SIXTH LEGISLATURE, FIRST SESSION, 2023, 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 2023

#### 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-sixth legislature for per diem and mileage of its members, for salaries of employees and for other expenses of the legislature, eleven million seven hundred forty-seven thousand one hundred dollars (\$11,747,100) 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	\$ 448,600;
(2) per diem for members of the house of representatives	\$ 788,000;
(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	\$ 7,300;
(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	\$ 10,900;
(5) salaries and employee benefits of senate employees	\$ 4,765,400;
(6) salaries and employee benefits of house of representatives employees	\$ 2,927,600;

(7) for expense of the senate not itemized above, seven hundred forty-two thousand five hundred dollars (\$742,500). No part of this item may be transferred to salaries or employee benefits;

(8) for expense of the house of representatives not itemized above, five hundred one thousand four hundred dollars (\$501,400). 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 five hundred fifty-five thousand four hundred dollars (\$1,555,400) 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-sixth 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 2023**

SECTION 2. BILLS AND OTHER PRINTED MATERIALS.--For the first session of the fifty-sixth 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:

A. upon request, one copy to each member of the house of representatives and the senate;

B. 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

C. 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.

### **Chapter 1 Section 3 Laws 2023**

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

A. for fiscal year 2024, the following:	
Personal Services & Employee Benefits	\$6,652,100
Contractual Services	820,000
Other Costs	1,076,700
Total	\$8,548,800;

and

B. for expenditure in fiscal years 2023 and 2024, seven hundred twenty thousand dollars (\$720,000) for additional interim committee staff or contractors to support interim committees and to provide legal and policy research or other services necessary to support the legislature.

### **Chapter 1 Section 4 Laws 2023**

SECTION 4. LEGISLATURE.--There is appropriated from the general fund, unless otherwise indicated, for the expense of the legislative department, not provided for in Section 1 of this act, for fiscal year 2024, 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, for fiscal years 2023 and 2024, four million dollars (\$4,000,000); provided that the New Mexico legislative council may transfer amounts from the appropriation in this subsection, during the fiscal years 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, five hundred ten thousand dollars (\$510,000);

- C. for a statewide legislative intern program, fifty-five thousand dollars (\$55,000);
- D. for expenditure in fiscal years 2023 and 2024, for dues and fees of national organizations of which the legislature is a member, four hundred thirty-five thousand three hundred dollars (\$435,300);
- E. for the legislative information system, for fiscal years 2023 and 2024, two million one hundred forty-three thousand nine hundred dollars (\$2,143,900);
- F. for the interim duties of the senate rules committee, thirty-five thousand dollars (\$35,000);
- G. for expenditure in fiscal years 2023 through 2026, for the ongoing planning, output development and design of a legislative processing system, nine million five hundred thousand dollars (\$9,500,000);
- H. for expenditure in fiscal years 2023 and 2024, for audiovisual upgrades to committee rooms for virtual, hybrid and webcasting hardware, software and installation, one million five hundred thousand dollars (\$1,500,000);
- I. for the contractual services of the capitol buildings planning commission, one hundred fifty thousand dollars (\$150,000);
- J. for expenditure in fiscal years 2023 through 2026, the purchase and installation of a constituent services platform, including applicable licenses and subscriptions, five hundred thousand dollars (\$500,000);
- K. for expenditure in fiscal years 2023 and 2024, for upgrades to the house and senate chamber display boards, one million three hundred thousand dollars (\$1,300,000); and
- L. for expenditure in fiscal years 2023 and 2024, to hire a consulting entity to consider the feasibility of and make recommendations to the New Mexico legislative council on the logistics and resources needed for district staff offices and operations for the legislature, two million five hundred thousand dollars (\$2,500,000).

**Chapter 1 Section 5 Laws 2023**

SECTION 5. LEGISLATIVE FINANCE COMMITTEE.--There is appropriated from the general fund to the legislative finance committee, to be disbursed upon vouchers signed by the chair of the committee or the chair's designated representative for fiscal year 2024, the following:

Personal Services & Employee Benefits	\$4,875,000
Contractual Services	325,300

Other Costs	473,000
Total	\$5,673,300.

### **Chapter 1 Section 6 Laws 2023**

SECTION 6. LEGISLATIVE EDUCATION STUDY COMMITTEE.--There is appropriated from the general fund to the legislative education study committee for fiscal year 2024, to be disbursed on vouchers signed by the chair of the committee or the chair's designated representative, the following:

Personal Services & Employee Benefits	\$1,478,000
Contractual Services	50,000
Other Costs	170,000
Total	\$1,698,000.

### **Chapter 1 Section 7 Laws 2023**

SECTION 7. HOUSE CHIEF CLERK.--There is appropriated from the general fund to the legislative council service for expenditure in fiscal year 2024 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	\$2,228,300
Contractual Services	721,000
Other Costs	56,700
Total	\$3,006,000.

### **Chapter 1 Section 8 Laws 2023**

SECTION 8. SENATE CHIEF CLERK.--There is appropriated from the general fund to the legislative council service for expenditure in fiscal year 2024 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	\$2,190,600
Contractual Services	728,000
Other Costs	92,800
Total	\$3,011,400.

### **Chapter 1 Section 9 Laws 2023**

SECTION 9. OFFICIAL MASTER DATABASE OF LAWS--SELF-PUBLICATION--FREE ACCESS TECHNOLOGY--HARD-COPY PUBLICATION.--There is appropriated from the legislative cash balances for the legislative department's share of the continued development required for the master database of official annotated laws of the state,

markup language and tagging and its use for legislative document systems and a 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 technology for freely accessible laws and hard-copy publication, four hundred thousand dollars (\$400,000) for expenditure during fiscal years 2023 and 2024.

## **Chapter 1 Section 10 Laws 2023**

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 2023**

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 2023**

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

# **LAWS 2023, CHAPTER 2**

**SFC/Senate Bill 6, w/ec**  
**Approved February 20, 2023**

AN ACT

FIRST SESSION, 2023 RELATING TO PUBLIC FINANCE; REQUIRING THE LOCAL GOVERNMENT DIVISION OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO PROVIDE ZERO-INTEREST LOANS TO POLITICAL SUBDIVISIONS OF THE STATE FOR PROJECTS TO REPLACE OR REPAIR PUBLIC INFRASTRUCTURE DAMAGED BY FIRE, FLOODING OR DEBRIS FLOWS CAUSED BY OR STEMMING FROM THE HERMITS PEAK-CALF CANYON FIRE; REQUIRING APPROVAL FOR FEDERAL ASSISTANCE FUNDING; REQUIRING REIMBURSEMENT CONTRACTS; PROVIDING FOR ENFORCEMENT; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

## Chapter 2 Section 1 Laws 2023

### SECTION 1. TEMPORARY PROVISION--LOANS TO POLITICAL SUBDIVISIONS--REPLACEMENT OR REPAIR OF PUBLIC INFRASTRUCTURE DAMAGED BY FIRE, FLOODING OR DEBRIS FLOWS--REQUIREMENT FOR PUBLIC ASSISTANCE GRANTS--REPORTS.--

A. The local government division of the department of finance and administration, in consultation with the homeland security and emergency management department, shall provide zero-interest reimbursable loans to political subdivisions of the state that have been approved for federal public assistance funding for projects to replace or repair public infrastructure damaged by fire, flooding or debris flows caused by or stemming from the Hermits Peak-Calf Canyon fire. The local government division shall require a contract for reimbursement from a political subdivision of the state receiving a loan pursuant to this section. The contract shall specify:

(1) that the political subdivision shall pay the loan using first dollars received from the approved federal public assistance funding that serves as the basis for the loan;

(2) the political subdivision shall repay the loan within thirty days of having received the approved federal public assistance funding;

(3) such notice or reporting requirements that the local government division deems necessary to be sufficiently informed regarding compliance with Paragraphs (1) and (2) this subsection; and

(4) that upon failure to meet a requirement of this subsection, the loan shall be repaid at current market interest rates.

B. All loan repayments made pursuant to this section shall be deposited into the general fund.

C. The secretary of finance and administration shall take any and all legal actions necessary to enforce the terms of contracts entered into pursuant to this section.

D. On or before April 1, 2023, and every three months thereafter, the local government division shall provide a report to the legislative finance committee and the governor regarding the loans made pursuant to this section, including: the projects for which loan contracts have been made, the dollar amounts of those contracts, the repayments made pursuant to contracts, any breaches of contract and subsequent enforcement actions pursuant to this section. Reports pursuant to this subsection shall cease upon the final repayment on a contract pursuant to this section.

## **Chapter 2 Section 2 Laws 2023**

### SECTION 2. APPROPRIATION.--

A. One hundred million dollars (\$100,000,000) is appropriated from the general fund to the local government division of the department of finance and administration for expenditure in fiscal years 2023 and 2024 for the following purposes: (1) two hundred fifty thousand dollars (\$250,000) shall be used for issuance of loans and administration and enforcement of loan contracts entered into pursuant to Section 1 of this act; and (2) ninety-nine million seven hundred fifty thousand dollars (\$99,750,000) shall be used to provide loans pursuant to Section 1 of this act.

B. Any unexpended or unencumbered balance remaining at the end of fiscal year 2024 shall revert to the general fund.

## **Chapter 2 Section 3 Laws 2023**

SECTION 3. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

# **LAWS 2023, CHAPTER 3**

**Senate Bill 364, aa, w/ec**  
**Approved February 20, 2023**

### AN ACT

RELATING TO GOVERNMENTAL CONDUCT; CLARIFYING THAT PROHIBITIONS AGAINST REFERENCES TO A LEGISLATOR'S LEGISLATIVE CAPACITY OR AGAINST USE OF LEGISLATIVE STATIONERY DO NOT APPLY WHEN A LEGISLATOR APPEARS FOR, REPRESENTS OR ASSISTS ANOTHER PERSON BEFORE A STATE AGENCY IN CERTAIN MATTERS WITHOUT COMPENSATION; DECLARING AN EMERGENCY.

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

## **Chapter 3 Section 1 Laws 2023**

SECTION 1. Section 10-16-9 NMSA 1978 (being Laws 1967, Chapter 306, Section 9, as amended) is amended to read:

"10-16-9. CONTRACTS INVOLVING LEGISLATORS--REPRESENTATION BEFORE STATE AGENCIES.--

A. A state agency shall not enter into a contract for services, construction or items of tangible personal property with a legislator, the legislator's family or with a business in which the legislator or the legislator's family has a substantial interest unless the legislator has disclosed the legislator's substantial interest and unless the contract is awarded in accordance with the provisions of the Procurement Code, except the potential contractor shall not be eligible for a sole source or small purchase contract. A person negotiating or executing a contract on behalf of a state agency shall exercise due diligence to ensure compliance with the provisions of this subsection.

B. Except as provided in Subsection C of this section, a legislator shall not appear for, represent or assist another person in a matter before a state agency, unless that appearance, representation or assistance is provided without compensation.

C. A legislator may appear for, represent or assist another person in a matter before a state agency when the legislator is an attorney or other professional who is making that appearance or providing that representation or assistance while engaged in the conduct of that legislator's profession. That legislator shall not:

(1) make references to the legislator's legislative capacity except as to matters of scheduling; or

(2) use legislative stationery, legislative email or any other indicia of the legislator's legislative capacity.

D. A legislator shall not make direct or indirect threats related to legislative actions in any instance in which the legislator appears for, represents or assists another person in a matter before a state agency."

## **Chapter 3 Section 2 Laws 2023**

SECTION 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

# **LAWS 2023, CHAPTER 4**

**SJC/Senate Bill 1, aa**  
**Approved March 13, 2023**

AN ACT

RELATING TO WATER; ENACTING THE REGIONAL WATER SYSTEM RESILIENCY ACT; AUTHORIZING THE CREATION OF REGIONAL UTILITY AUTHORITIES; PROVIDING THE POWERS AND DUTIES OF AUTHORITIES; PROVIDING THE POWERS AND DUTIES OF BOARDS OF DIRECTORS; AUTHORIZING THE

ISSUANCE OF BONDS; PROVIDING FOR THE TRANSFER OF ASSETS, LIABILITIES AND WATER RIGHTS.

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

### **Chapter 4 Section 1 Laws 2023**

SECTION 1. SHORT TITLE.--This act may be cited as the "Regional Water System Resiliency Act".

### **Chapter 4 Section 2 Laws 2023**

SECTION 2. DEFINITIONS.--As used in the Regional Water System Resiliency Act:

- A. "authority" means a regional utility authority established pursuant to the Regional Water System Resiliency Act;
- B. "board" means the board of directors of an authority;
- C. "director" means a director of a board;
- D. "dissolved entity" means an entity that transfers its assets and liabilities to an authority and subsequently goes through a legal dissolution;
- E. "entity" means a public utility providing water or wastewater services;
- F. "founding entity" means one of the original entities that established the authority;
- G. "joining entity" means an entity that joins an authority after the authority is established;
- H. "member" means a property owner receiving services from an authority;  
and
- I. "service area" means the area to be served within the legal boundaries of an authority.

### **Chapter 4 Section 3 Laws 2023**

SECTION 3. CREATION OF AUTHORITY--MERGER WITH AUTHORITY--SERVICE AREA.--

- A. An authority is a political subdivision of the state.

B. Two or more entities may create an authority.

C. Each founding or joining entity shall adopt a resolution signifying its intention to establish or join an authority. A founding or joining entity shall not adopt a resolution until notice of a public hearing has been given and a minimum of two public hearings have been held, in which proposed articles of incorporation and bylaws were available for public viewing and comment. Public notice shall adhere to the requirements of the Open Meetings Act.

D. The resolution shall state:

(1) the proposed name and purpose of the authority;

(2) the proposed service area of the authority; and

(3) the lead founding entity of the authority that shall act as the interim registered agent until the authority is established.

E. Upon adoption of the resolutions in accordance with Subsection C of this section, the founding entities shall execute the articles of incorporation and bylaws. The founding entities shall file the articles of incorporation and bylaws with the secretary of state. The articles of incorporation and bylaws are effective upon filing unless a different date is provided in the articles of incorporation. Amendments to the articles of incorporation or bylaws shall not become effective unless filed with the secretary of state. No corporate report shall be required of an incorporated authority.

F. The issuance of a certificate of incorporation by the secretary of state shall establish the authority.

G. A founding, joining or dissolved entity shall transfer to the authority all assets and liabilities pertaining to or owned by the entity. Prior to transferring any compliance liability, a compliance schedule that addresses the liability shall be developed and approved by the authority and relevant state or federal agencies.

H. An authority's initial service area shall consist of the founding entities' existing place of use on file with and approved by the state engineer, but shall not encroach upon the service area of an existing non-joining entity.

I. When an entity joins an authority, the joining entity's place of use on file with and approved by the state engineer shall become part of the authority's service area, but shall not encroach upon the service area of an existing non-joining entity.

J. An authority shall file a plat with the state engineer and in the property records of the county or counties where the service area is located that designates the authority's initial service area and any subsequent amendments.

K. When a founding or joining entity transfers a water right to an authority, the authority shall file a change of ownership form with the state engineer and shall apply to the state engineer to change the place of use or point of diversion of the transferred right.

## **Chapter 4 Section 4 Laws 2023**

SECTION 4. ARTICLES OF INCORPORATION.--The articles of incorporation of an authority shall recite in the caption that they are executed pursuant to the Regional Water System Resiliency Act, shall be signed and acknowledged by each of the founding entities and shall state:

- A. the name of the authority;
- B. the address of the authority's principal office;
- C. the names and addresses of the founding entities;
- D. the names and addresses of the persons who constitute the first board;
- E. a plat or legal description of the boundaries of the authority's service area with such certainty as to enable a property owner to determine whether the owner's property is within the authority's service area; and
- F. any provisions not inconsistent with the Regional Water System Resiliency Act deemed necessary or advisable for the conduct of the authority's business and affairs.

## **Chapter 4 Section 5 Laws 2023**

SECTION 5. AUTHORITY POWERS AND DUTIES.--

A. An authority may provide for water and wastewater services, road improvements for the protection of the authority's infrastructure, renewable energy projects or other projects that are integral to the operation and maintenance of the authority's facilities.

- B. An authority may:
- (1) own, regulate, supervise and operate the authority's facilities;
  - (2) assess a one-time fee for the privilege of connecting a property to the authority's service at a future date if the property line is within three hundred feet of the authority's service lines and that property line is located within the boundaries of the authority;

(3) establish rates and impose assessments, fees and charges and take action necessary for the enforcement thereof;

(4) acquire, from a willing seller, hold and use water rights in an amount necessary to meet the authority's reasonable needs not to exceed forty years pursuant to Section 72-1-9 NMSA 1978;

(5) shut off, after notice, unauthorized connections, illegal connections or a connection for which charges are delinquent in payment;

(6) enter into contracts for services with governmental entities, including local, state and federal entities, Indian nations, tribes or pueblos or private entities, to carry out the purposes of the Regional Water System Resiliency Act;

(7) enter into joint powers agreements with other governmental entities;

(8) acquire and dispose of real property, personal property or rights of way;

(9) hire and retain agents, employees and consultants;

(10) adopt and use a governmental seal;

(11) sue, be sued and be a party to suits, actions and proceedings;

(12) receive grants, secure debt and issue revenue bonds for the development and improvement of infrastructure projects;

(13) subsume powers held by an entity forming or joining the authority;  
and

(14) have and exercise all rights and powers necessary, incidental to or implied from the specific powers granted in this section.

C. An agency or department that has promulgated rules that are applicable to an authority may, in its discretion or upon a petition of twenty-five percent of the members of the authority, investigate as the agency or department deems necessary to ensure the authority's compliance with all applicable statutes, rules, regulations and reporting requirements.

D. An authority is not subject to the jurisdiction of the public regulation commission or the provisions of the Public Utility Act.

## **Chapter 4 Section 6 Laws 2023**

### **SECTION 6. BOARD--CREATION--POWERS--DUTIES.--**

A. An authority shall be governed by a board of directors. The board shall conduct elections pursuant to the Local Election Act and in accordance with the Election Code. The initial board shall establish the boundaries and the number of electoral districts within two years of the creation of the authority. The board may provide for redistricting in its governance document upon any change in the authority's boundary. The terms of office for directors shall be four years.

B. The initial board shall have representation from each of the founding and joining entities. Each director shall reside within the electoral district of the authority from which that director is elected. The elected board shall serve staggered terms to be established in the governance document developed by the initial board. The directors of the initial board shall serve until their successors are elected and qualified. The board shall choose among its directors a chair, secretary and treasurer.

C. All powers, privileges and duties vested in or imposed upon an authority shall be exercised and performed by the board; provided that the board may delegate its powers by resolution to an officer or agent of the board, with the exception of the following:

- (1) adoption of board policies and procedures;
- (2) ratification of acquisition of property;
- (3) initiation or continuation of legal action, except that initiation and filing of liens for unpaid rates and charges and suits for payment thereof and discontinuance of service for failure to pay such rates and charges may be delegated;
- (4) establishment of fees, tolls, rates or charges; and
- (5) issuance of revenue bonds.

D. Meetings of the board shall be held at least quarterly or at the call of the chair. A majority of the directors of the board constitutes a quorum for the transaction of any business. Except as provided in Subsection E of this section, the board shall only take action upon the affirmative vote of at least a majority of the board present. A vacancy in the membership of the board shall not impair the right of a quorum to exercise all rights and perform all duties of the board.

E. The non-delegable powers and duties provided in Subsection C of this section are only effective upon resolution passed by two-thirds of the directors of the board.

F. The board shall promulgate and adhere to policies and procedures for its conduct.

G. The board may disqualify a director of the board from voting on an issue when that director of the board has a financial interest or possible interest in the outcome of any policy, decision or determination before the board. A director of the board's status as a member of the authority does not, by itself, constitute a financial interest or possible interest for the purposes of this section.

H. The board may:

- (1) adopt, amend and repeal bylaws;
- (2) maintain offices at a place designated by the board; and
- (3) employ an executive director who may employ staff.

I. The board shall:

- (1) fix the time and place of meetings and the method of providing notice of the meetings in accordance with the Open Meetings Act;
- (2) promulgate orders, resolutions, policies and procedures necessary for the governance and management of the affairs of the authority and the execution of the powers vested in the authority;
- (3) establish usage classifications;
- (4) fix and from time to time uniformly increase or decrease utility rates, fees or other charges for services delivered or facilities operated or made available by the authority, subject to the following conditions:
  - (a) until paid, all rates, fees or charges constitute a lien subservient to a primary mortgage lien on and against the property served, and the lien may be enforced as provided by law;
  - (b) the board shall prescribe and enforce policies and procedures by which properties shall be connected with and disconnected from the facilities of the authority, including the amount of notice required before disconnection and payment plans to avoid discontinuing service to delinquent accounts; and
  - (c) after giving notice in accordance with an authority's policies and procedures, the board shall shut off or discontinue service for unauthorized connections, illegal connections or connections for which rates, tolls or other charges are delinquent in payment. The board may file suit in a court of competent jurisdiction to recover costs associated with an unauthorized, illegal or delinquent connection, including the cost of water delivered, charges for connection and disconnection and damages. Attorney fees shall be awarded to the prevailing party; and

(5) adopt an operating budget that supports the full cost of operation, maintenance and replacement as established by an asset management plan and a rate-setting analysis. The operating budget shall be subject to the approval of the department of finance and administration.

## **Chapter 4 Section 7 Laws 2023**

SECTION 7. ACCEPTANCE OF ASSETS AND LIABILITIES OF DISSOLVED ENTITIES--ACQUISITION OF WATER RIGHTS.--Subject to any other statutory requirements for dissolution and transfer, an authority may accept a transfer of assets and liabilities upon the request, and the legal dissolution, of an entity that provides water or sewer services and is:

- A. a political subdivision of the state;
- B. a water and sanitation district established pursuant to the Water and Sanitation District Act;
- C. a water and natural gas association established pursuant to Chapter 3, Article 28 NMSA 1978;
- D. a water users' association established pursuant to Chapter 73, Article 5 NMSA 1978;
- E. a corporation organized pursuant to the Nonprofit Corporation Act or Business Corporation Act;
- F. a public improvement district established pursuant to the Public Improvement District Act;
- G. a municipal or county utility;
- H. a company established pursuant to Chapter 62, Article 2 NMSA 1978;
- I. an association established pursuant to the Cooperative Association Act that has reorganized as a public entity;
- J. an association or mutual domestic water consumers association organized under Laws 1947, Chapter 206, Laws 1949, Chapter 79 or Laws 1951, Chapter 52 or pursuant to the Sanitary Projects Act; or
- K. an authority created pursuant to the Regional Water System Resiliency Act.

## **Chapter 4 Section 8 Laws 2023**

SECTION 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

## **LAWS 2023, CHAPTER 5**

**House Bill 9, aa**  
**Approved March 14, 2023**

AN ACT

RELATING TO CRIME; CREATING THE CRIMES OF NEGLIGENTLY MAKING A FIREARM ACCESSIBLE TO A MINOR AND NEGLIGENTLY MAKING A FIREARM ACCESSIBLE TO A MINOR RESULTING IN GREAT BODILY HARM OR DEATH; PROVIDING PENALTIES; PROVIDING EXCEPTIONS.

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

## **Chapter 5 Section 1 Laws 2023**

SECTION 1. A new section of the Criminal Code is enacted to read:

"NEGLIGENTLY MAKING A FIREARM ACCESSIBLE TO A MINOR--  
NEGLIGENTLY MAKING A FIREARM ACCESSIBLE TO A MINOR RESULTING IN  
GREAT BODILY HARM OR DEATH--PENALTIES.--

A. A person commits the crime of negligently making a firearm accessible to a minor if:

- (1) the person keeps or stores a firearm in a manner that negligently disregards a minor's ability to access the firearm; and
- (2) a minor accesses the firearm and displays or brandishes the firearm in a threatening manner or causes injury to the minor or another person not resulting in great bodily harm or death.

Whoever commits negligently making a firearm accessible to a minor is guilty of a misdemeanor.

B. A person commits the crime of negligently making a firearm accessible to a minor resulting in great bodily harm or death if:

- (1) the person keeps or stores a firearm in a manner that negligently disregards a minor's ability to access the firearm; and

(2) a minor accesses the firearm and uses it in a manner that causes great bodily harm to or death of the minor or another person.

Whoever commits negligently making a firearm accessible to a minor resulting in great bodily harm or death is guilty of a fourth degree felony.

C. A person does not violate Subsection A or B of this section if a minor obtains a firearm:

(1) that was either kept in a locked container and was securely stored or kept in a location that a reasonable person would believe to be secure when obtained by a minor;

(2) that was carried on the person or within the person's immediate control;

(3) that was locked with a firearm safety device that rendered the firearm inoperable;

(4) in the course of self-defense or defense of another person;

(5) by illegal entry to the person's property; or

(6) with the authorization of the minor's parent or guardian for lawful hunting, lawful recreational use or any other lawful purpose.

D. As used in this section:

(1) "brandish" means to display or make a firearm known to another person while the firearm is present on the person of the minor with intent to intimidate or injure a person;

(2) "firearm" means a weapon that will or is designed to or may readily be converted to expel a projectile by the action of an explosion;

(3) "firearm safety device" means a gun safe or a device that prevents a firearm from being discharged or from being used to expel a projectile by the action of an explosion or a device other than a gun safe that locks a firearm and is designed to prevent children and unauthorized users from firing a firearm, which device may be installed on a firearm, be incorporated into the design of the firearm or prevent access to the firearm; and

(4) "minor" means a person under eighteen years of age."

## **LAWS 2023, CHAPTER 6**

**House Bill 274, aa**  
**Approved March 15, 2023**

AN ACT

RELATING TO PUBLIC HOLIDAYS; DESIGNATING THE FIRST TUESDAY OF FEBRUARY OF EACH ODD-NUMBERED YEAR AS "ASIAN AMERICAN, PACIFIC ISLANDER AND NATIVE HAWAIIAN DAY".

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

### **Chapter 6 Section 1 Laws 2023**

SECTION 1. A new section of Chapter 12, Article 5 NMSA 1978 is enacted to read:

"ASIAN AMERICAN, PACIFIC ISLANDER AND NATIVE HAWAIIAN DAY.--The first Tuesday of February of each odd-numbered year shall be known and celebrated as "Asian American, Pacific Islander and Native Hawaiian Day" in recognition of the many cultural, economic and historic contributions and sacrifices Asian Americans, Pacific Islanders, Native Hawaiians, East Asians, Southeast Asians, South Asians and all other groups who have migrated from, have historical ties to or identify themselves as from Asia have made to New Mexico. This day shall be observed by the people of New Mexico in efforts and undertakings that celebrate the diversity of cultural and linguistic heritage in New Mexico; honor all past, present and future leaders in New Mexico who are Asian American, Pacific Islander, Native Hawaiian, East Asian, Southeast Asian and South Asian and all other groups who have migrated from, have historical ties to or identify themselves as from Asia; and are in harmony with the general character of the day so established."

## **LAWS 2023, CHAPTER 7**

**House Bill 370**  
**Approved March 15, 2023**

AN ACT

RELATING TO INSURANCE; EXTENDING THE SUNSET DATE FOR THE REIMBURSEMENT REQUIREMENTS IN THE SURPRISE BILLING PROTECTION ACT.

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

## **Chapter 7 Section 1 Laws 2023**

SECTION 1. Laws 2019, Chapter 227, Section 15 is amended to read:

"SECTION 15. DELAYED REPEAL.--Laws 2019, Chapter 227, Section 13 is repealed effective July 1, 2028."

## **LAWS 2023, CHAPTER 8**

**Senate Bill 47, aa**

**Approved March 15, 2023**

AN ACT

RELATING TO DRIVER'S LICENSES; CHANGING THE PENALTIES FOR THE SUSPENSION OF A DRIVER'S LICENSE.

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

## **Chapter 8 Section 1 Laws 2023**

SECTION 1. Section 66-5-26 NMSA 1978 (being Laws 1978, Chapter 35, Section 248, as amended) is amended to read:

"66-5-26. SUSPENDING RESIDENT'S LICENSE--AUTOMATIC REINSTATEMENT WITHOUT FEE.--

A. The division is authorized to suspend or revoke the license of a resident of this state or the privilege of a nonresident to drive a motor vehicle in this state upon receiving notice of the conviction of such person in another state or by a tribe of an offense that if committed within the jurisdiction of this state, would be grounds for the suspension or revocation of the license of a driver.

B. A person whose driver's license was suspended solely for nonpayment or failure to appear and who is otherwise eligible to drive shall have the person's driver's license reinstated and shall not be required to pay a reinstatement fee. No later than September 1, 2023, the division shall, without requiring a reinstatement fee, reinstate the driver's license or nonresident operating privilege of every person whose license or nonresident operating privilege is suspended solely for nonpayment or failure to appear and who is otherwise eligible to drive."

## **Chapter 8 Section 2 Laws 2023**

SECTION 2. 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 at least 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 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 may 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 not later 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 8 Section 3 Laws 2023**

SECTION 3. Section 66-5-32 NMSA 1978 (being Laws 1978, Chapter 35, Section 254, as amended) is amended to read:

"66-5-32. PERIOD OF SUSPENSION OR REVOCATION.--

A. The division shall not suspend a driver's license or privilege to drive a motor vehicle on the public highways for a period of more than one year except as permitted under Sections 60-7B-1, 66-5-5, 66-5-39 and 66-5-39.1 NMSA 1978.

B. Except as provided in the Ignition Interlock Licensing Act, a person whose license or privilege to drive a motor vehicle on the public highways has been revoked shall not be entitled to have the license or privilege renewed or restored unless the revocation was for a cause that has been removed, except that after the expiration of the periods specified in Subsections B and C of Section 66-5-29 NMSA 1978 from the date on which the revoked license was surrendered to and received by the division, the person may make application for a new license as provided by law."

## **LAWS 2023, CHAPTER 9**

**Senate Bill 381, w/ec**  
**Approved March 15, 2023**

AN ACT

RELATING TO SEVERANCE TAX BONDS; CHANGING THE APPLICABILITY DATE OF SECTION 7-27-49 NMSA 1978 (BEING LAWS 2022, CHAPTER 38, SECTION 1) PERTAINING TO THE BONDING CAPACITY ALLOCATION FOR THE NEW MEXICO HOUSING TRUST FUND; DECLARING AN EMERGENCY.

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

### **Chapter 9 Section 1 Laws 2023**

SECTION 1. Laws 2022, Chapter 38, Section 3 is amended to read:

"APPLICABILITY.--The allocation of severance tax bonding capacity and the authorization of severance tax bonds for the New Mexico housing trust fund pursuant to Section 7-27-49 NMSA 1978 shall commence with the severance tax bonding capacity estimated in January 2023."

### **Chapter 9 Section 2 Laws 2023**

SECTION 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

## **LAWS 2023, CHAPTER 10**

**Senate Bill 68, aa**  
**Approved March 16, 2023**

AN ACT

RELATING TO MOTOR VEHICLES; PROVIDING FOR DOCUMENTS FOR TOTAL LOSS SETTLEMENTS TO BE SIGNED ELECTRONICALLY AND WITHOUT NOTARIZATION.

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

### **Chapter 10 Section 1 Laws 2023**

SECTION 1. Section 66-3-4 NMSA 1978 (being Laws 1978, Chapter 35, Section 24, as amended) is amended to read:

"66-3-4. APPLICATION FOR REGISTRATION AND CERTIFICATE OF TITLE--NONREPAIRABLE VEHICLE CERTIFICATE.--

A. Except for a vehicle owned by a carrier that is from a jurisdiction that is not a participant in the International Fuel Tax Agreement, that is authorized by the United

States government or an agency of the United States government to conduct cross-border operations beyond the commercial border zone pursuant to the provisions of the United States-Mexico-Canada Agreement and that identifies New Mexico as the carrier's base jurisdiction, every owner of a vehicle of a type required to be registered in this state shall make application to the division for the registration and issuance of a certificate of title for the vehicle. Applications shall be upon the appropriate forms furnished by the division and shall bear the signature of the owner; provided that the signature may either be made using an electronic signature in conformance with the Electronic Authentication of Documents Act and the Uniform Electronic Transactions Act or written with pen and ink. All applications presented to the division shall contain:

(1) for a vehicle other than a recreational vehicle, the name, bona fide New Mexico residence address and mail address of the owner or, if the owner is a firm, association or corporation, the name, bona fide New Mexico business address and mail address of the firm, association or corporation and for a recreational vehicle, the name, bona fide residence address and mail address of the owner and proof of delivery in New Mexico;

(2) a description of the vehicle including, to the extent that the following specified data may exist with respect to a given vehicle, the make, model, type of body, number of cylinders, type of fuel used, serial number of the vehicle, odometer reading, engine or other identification number provided by the manufacturer of the vehicle, whether new or used and, if a vehicle not previously registered, date of sale by the manufacturer or dealer to the person intending to operate the vehicle. In the event a vehicle is designed, constructed, converted or rebuilt for the transportation of property, the application shall include a statement of its rated capacity as established by the manufacturer of the chassis or the complete vehicle;

(3) a statement of the applicant's title and of all liens or encumbrances upon the vehicle and the names and addresses of all persons having an interest in the vehicle, the nature of each interest and the name and address of the person to whom the certificate of title shall be delivered by the division;

(4) if the vehicle required to be registered is a house trailer, as defined in the Motor Vehicle Code, a certificate from the treasurer or assessor of the county in which the house trailer is located showing that either:

(a) all property taxes due or to become due on the house trailer for the current tax year or any past tax years have been paid; or

(b) no liability for property taxes on the house trailer exists for the current year or any past tax years; and

(5) further information as may reasonably be required by the division to enable it to determine whether the vehicle is lawfully entitled to registration and the owner entitled to a certificate of title.

B. The owner of a vehicle subject to registration that has never been registered in this state and that has been registered in another state, except manufactured homes, shall have the vehicle examined and inspected for its identification number or engine number by the division or an officer or a designated agent of the division incident to securing registration, reregistration or a certificate of title from the division.

C. When an application refers to a vehicle not previously registered and the vehicle is purchased from a dealer licensed in this state or a dealer licensed or recognized as such in any other state, territory or possession of the United States, the application shall be accompanied by a manufacturer's certificate of origin duly assigned by the dealer to the purchaser. In the event that a vehicle not previously registered is sold by the manufacturer to a dealer in a state not requiring a manufacturer's certificate of origin and in the event that the vehicle is subsequently purchased by a dealer or any person in this state, the application for title shall be accompanied by the evidence of title accepted by the state in which the vehicle was sold by the manufacturer to a dealer in that state together with evidence of subsequent transfers.

D. Prior to the sale or disposal of a nonrepairable vehicle, the owner, owner's agent or salvage pool shall obtain a properly endorsed nonrepairable vehicle certificate from the department and deliver it to the purchaser within twenty days after payment in full for the nonrepairable vehicle and shall also comply with Section 66-3-10.1 NMSA 1978. The department shall accept the endorsed nonrepairable vehicle certificate in lieu of the certificate of ownership or other evidence of ownership when accompanied by an application and other documents and fees as may be required by the department. A vehicle for which a nonrepairable vehicle certificate has been issued shall not be titled or registered for use on the highways of this state.

E. If an insurance company makes a total loss settlement on a nonrepairable vehicle and takes possession of that vehicle, either itself or through an agent or salvage pool, the insurance company or an authorized agent of the insurance company shall:

(1) stamp the face of the title or manufacturer's certificate of origin with the word "NONREPAIRABLE", in letters no less than one-half inch high, at an angle of approximately forty-five degrees to the text of the title or manufacturer's certificate of origin; and

(2) within twenty days after receipt of title by the insurer, free and clear of all liens, submit a copy of the branded title or manufacturer's certificate of title to the department together with documents explaining the reason for branding, and shall forward a properly endorsed certificate of title or manufacturer's certificate of origin or other evidence of ownership acceptable to the department together with the proper fee to the department. The department, upon receipt of the title or manufacturer's certificate of origin or other evidence of ownership, shall issue a nonrepairable vehicle certificate for the vehicle.

F. Any documents used for conveyance of ownership of a motor vehicle to an insurance company as a result of a total loss insurance settlement shall not require a notarized signature and may be signed electronically.

G. If an owner of a nonrepairable vehicle elects to retain possession of the vehicle, the insurance company shall notify the department of the retention on a form prescribed by the department. The insurance company shall also notify the insured or owner of the insured's or owner's responsibility to comply with this section. The owner shall, within twenty days from the date of settlement of the loss, forward a properly endorsed certificate of title or manufacturer's certificate of origin or other evidence of ownership acceptable to the department together with the proper fee to the department. The department, upon receipt of the title or manufacturer's certificate of origin or other evidence of ownership, shall issue a nonrepairable vehicle certificate for the vehicle.

H. If a nonrepairable vehicle is not the subject of an insurance settlement, the owner shall, within twenty days from the date of the loss, forward a properly endorsed certificate of title or manufacturer's certificate of origin or other evidence of ownership acceptable to the department together with the proper fee to the department. The department, upon receipt of the title or manufacturer's certificate of origin or other evidence of ownership, shall issue a nonrepairable vehicle certificate for the vehicle.

I. The department shall not issue a new registration card and certificate of ownership pursuant to Subsection A, B or C of this section on a vehicle that has been issued a nonrepairable vehicle certificate pursuant to Subsections E, G and H of this section."

## **LAWS 2023, CHAPTER 11**

**House Bill 7, aa**

**Approved March 16, 2023**

AN ACT

RELATING TO HEALTH; PROTECTING ACCESS TO REPRODUCTIVE AND GENDER-AFFIRMING HEALTH CARE; PROVIDING FOR ENFORCEMENT; IMPOSING PENALTIES; PRESCRIBING RELIEF.

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

### **Chapter 11 Section 1 Laws 2023**

SECTION 1. A new section of Chapter 24 NMSA 1978 is enacted to read:

"SHORT TITLE.--This act may be cited as the "Reproductive and Gender-Affirming Health Care Freedom Act"."

## **Chapter 11 Section 2 Laws 2023**

SECTION 2. A new section of Chapter 24 NMSA 1978 is enacted to read:

"DEFINITIONS.--As used in the Reproductive and Gender-Affirming Health Care Freedom Act:

A. "gender-affirming health care" means psychological, behavioral, surgical, pharmaceutical and medical care, services and supplies provided to support a person's gender identity;

B. "public body" means a state or local government, an advisory board, a commission, an agency or an entity created by the constitution of New Mexico or any branch of government that receives public funding, including political subdivisions, special tax districts, school districts and institutions of higher education; and

C. "reproductive health care" means psychological, behavioral, surgical, pharmaceutical and medical care, services and supplies that relate to the human reproductive system, including services related to:

- (1) preventing a pregnancy;
- (2) abortion;
- (3) managing a pregnancy loss;
- (4) prenatal, birth, perinatal and postpartum health;
- (5) managing perimenopause and menopause;
- (6) managing fertility;
- (7) treating cancers of the reproductive system; or
- (8) preventing or treating sexually transmitted infections."

## **Chapter 11 Section 3 Laws 2023**

SECTION 3. A new section of Chapter 24 NMSA 1978 is enacted to read:

"PUBLIC BODY PROHIBITED ACTION.--

A. A public body or an entity or individual acting on behalf of or within the scope of the authority of a public body shall not discriminate against a person based on that person's use of or refusal to use reproductive health care or gender-affirming health care services.

B. A public body or an entity or individual acting on behalf of or within the scope of the authority of a public body shall not deny, restrict or interfere with a person's ability to access or provide reproductive health care or gender-affirming health care within the medical standard of care.

C. A public body or an entity or individual acting on behalf of or within the scope of the authority of a public body shall not deprive, through prosecution, punishment or other means, a person's ability to act or refrain from acting during the person's pregnancy based on the potential, actual or perceived effect on the pregnancy.

D. A public body or an entity or individual acting on behalf of or within the scope of the authority of a public body shall not impose or continue in effect any law, ordinance, policy or regulation that violates or conflicts with the provisions of the Reproductive and Gender-Affirming Health Care Freedom Act.

E. Nothing in the Reproductive and Gender-Affirming Health Care Freedom Act shall be construed to require a health care provider or entity to provide care:

(1) that the health care provider or entity does not otherwise provide or have a duty to provide under state or federal law;

(2) when the provision of service is against the medical judgment of the treating health care provider while acting within the standard of care; or

(3) when an individual does not provide payment or a source of payment for the service when it is required in the ordinary course of business, unless the health care provider has a duty to provide services under state or federal law, regardless of the ability to pay.

F. Nothing in the Reproductive and Gender-Affirming Health Care Freedom Act shall be construed to require a managed care organization or health insurance company to cover claims that are not otherwise required to be covered by the terms and conditions of an insurance contract, managed care contract or state or federal law."

## **Chapter 11 Section 4 Laws 2023**

SECTION 4. A new section of Chapter 24 NMSA 1978 is enacted to read:

"ENFORCEMENT--PENALTIES.--

A. The attorney general or a district attorney may institute a civil action in district court if the attorney general or district attorney has reasonable cause to believe that a violation has occurred or to prevent a violation of the Reproductive and Gender-Affirming Health Care Freedom Act from occurring.

B. In any action brought under Subsection A of this section, the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief. The court may assess a civil penalty for a violation of the Reproductive and Gender-Affirming Health Care Freedom Act in the amount of five thousand dollars (\$5,000) or actual damages resulting from each violation, whichever is greater.

C. Claims pursuant to the Reproductive and Gender- Affirming Health Care Freedom Act may be brought against public bodies and entities acting in the course and scope of authority of a public body, but not against an individual."

## **Chapter 11 Section 5 Laws 2023**

SECTION 5. A new section of Chapter 24 NMSA 1978 is enacted to read:

"PRIVATE RIGHT OF ACTION.--

A. A person claiming to be aggrieved by a violation of the Reproductive and Gender-Affirming Health Care Freedom Act may maintain an action in district court for appropriate relief, including temporary, preliminary or permanent injunctive relief, compensatory damages or punitive damages, or the sum of five thousand dollars (\$5,000) for each violation of the Reproductive and Gender-Affirming Health Care Freedom Act, whichever is greater.

B. In any action brought pursuant to Subsection A of this section, the court shall award a prevailing plaintiff reasonable attorney fees and costs to be paid by the defendant.

C. Claims pursuant to the Reproductive and Gender-Affirming Health Care Freedom Act may be brought against public bodies and entities acting in the course and scope of authority of a public body, but not against an individual."

## **LAWS 2023, CHAPTER 12**

**HJC/House Bill 27, aa**  
**Approved March 16, 2023**

AN ACT

RELATING TO HEALTH INSURANCE COVERAGE; AMENDING AND 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 ELIMINATE COST SHARING FOR INSURERS THAT PROVIDE COVERAGE OF DIAGNOSTIC AND SUPPLEMENTAL BREAST EXAMINATIONS.

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

## Chapter 12 Section 1 Laws 2023

SECTION 1. A new section of the Health Care Purchasing Act is enacted to read:

"DIAGNOSTIC AND SUPPLEMENTAL BREAST EXAMINATIONS.--

A. Group health coverage, including self-insurance, offered, issued, amended, delivered or renewed under the Health Care Purchasing Act that provides coverage for diagnostic and supplemental breast examinations shall not impose cost sharing for diagnostic and supplemental breast examinations.

B. The provisions of this section do not apply to excepted benefit plans as provided pursuant to the Short-Term Health Plan and Excepted Benefit Act, catastrophic plans as defined pursuant to 42 USCA Section 18022(e) or high deductible health plans with health savings accounts until an eligible insured's deductible has been met, unless otherwise allowed pursuant to federal law.

C. As used in this section:

(1) "cost sharing" means a deductible, coinsurance, copayment and any maximum limitation on the application of such a deductible, coinsurance, copayment or similar out-of-pocket expense;

(2) "diagnostic breast examination" means a medically necessary and clinically appropriate examination of the breast using diagnostic mammography, breast magnetic resonance imaging or breast ultrasound that evaluates an abnormality:

(a) seen or suspected from a screening examination for breast cancer; or

(b) detected by another means of examination; and

(3) "supplemental breast examination" means a medically necessary and clinically appropriate examination of the breast using breast magnetic resonance imaging or breast ultrasound that is:

(a) used to screen for breast cancer when there is no abnormality seen or suspected; and

(b) based on personal or family medical history or additional factors that may increase the individual's risk of breast cancer."

## Chapter 12 Section 2 Laws 2023

SECTION 2. A new section of Chapter 59A, Article 22 NMSA 1978 is enacted to read:

### "DIAGNOSTIC AND SUPPLEMENTAL BREAST EXAMINATIONS.--

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 that provides coverage for diagnostic and supplemental breast examinations shall not impose cost sharing for diagnostic and supplemental breast examinations.

B. The provisions of this section do not apply to excepted benefit plans as provided pursuant to the Short-Term Health Plan and Excepted Benefit Act, catastrophic plans as defined pursuant to 42 USCA Section 18022(e) or high deductible health plans with health savings accounts until an eligible insured's deductible has been met, unless otherwise allowed pursuant to federal law.

C. As used in this section:

(1) "cost sharing" means a deductible, coinsurance, copayment and any maximum limitation on the application of such a deductible, coinsurance, copayment or similar out-of-pocket expense;

(2) "diagnostic breast examination" means a medically necessary and clinically appropriate examination of the breast using diagnostic mammography, breast magnetic resonance imaging or breast ultrasound that evaluates an abnormality:

(a) seen or suspected from a screening examination for breast cancer; or

(b) detected by another means of examination; and

(3) "supplemental breast examination" means a medically necessary and clinically appropriate examination of the breast using breast magnetic resonance imaging or breast ultrasound that is:

(a) used to screen for breast cancer when there is no abnormality seen or suspected; and

(b) based on personal or family medical history or additional factors that may increase the individual's risk of breast cancer."

## Chapter 12 Section 3 Laws 2023

SECTION 3. A new section of Chapter 59A, Article 23 NMSA 1978 is enacted to read:

### "DIAGNOSTIC AND SUPPLEMENTAL BREAST EXAMINATIONS.--

A. A blanket or group health insurance policy, health care plan or certificate of health insurance that is delivered, issued for delivery or renewed in this state that provides coverage for diagnostic and supplemental breast examinations shall not impose cost sharing for diagnostic and supplemental breast examinations.

B. The provisions of this section do not apply to excepted benefit plans as provided pursuant to the Short-Term Health Plan and Excepted Benefit Act, catastrophic plans as defined pursuant to 42 USCA Section 18022(e) or high deductible health plans with health savings accounts until an eligible insured's deductible has been met, unless otherwise allowed pursuant to federal law.

C. As used in this section:

(1) "cost sharing" means a deductible, coinsurance, copayment and any maximum limitation on the application of such a deductible, coinsurance, copayment or similar out-of-pocket expense;

(2) "diagnostic breast examination" means a medically necessary and clinically appropriate examination of the breast using diagnostic mammography, breast magnetic resonance imaging or breast ultrasound that evaluates an abnormality:

(a) seen or suspected from a screening examination for breast cancer; or

(b) detected by another means of examination; and

(3) "supplemental breast examination" means a medically necessary and clinically appropriate examination of the breast using breast magnetic resonance imaging or breast ultrasound that is:

(a) used to screen for breast cancer when there is no abnormality seen or suspected; and

(b) based on personal or family medical history or additional factors that may increase the individual's risk of breast cancer."

## Chapter 12 Section 4 Laws 2023

SECTION 4. A new section of the Health Maintenance Organization Law is enacted to read:

### "DIAGNOSTIC AND SUPPLEMENTAL BREAST EXAMINATIONS.--

A. An individual or group health maintenance organization contract that is delivered, issued for delivery or renewed in this state that provides coverage for diagnostic and supplemental breast examinations shall not impose cost sharing for diagnostic and supplemental breast examinations.

B. The provisions of this section do not apply to excepted benefit plans as provided pursuant to the Short-Term Health Plan and Excepted Benefit Act, catastrophic plans as defined pursuant to 42 USCA Section 18022(e) or high deductible health plans with health savings accounts until an eligible insured's deductible has been met, unless otherwise allowed pursuant to federal law.

C. As used in this section:

(1) "cost sharing" means a deductible, coinsurance, copayment and any maximum limitation on the application of such a deductible, coinsurance, copayment or similar out-of-pocket expense;

(2) "diagnostic breast examination" means a medically necessary and clinically appropriate examination of the breast using diagnostic mammography, breast magnetic resonance imaging or breast ultrasound that evaluates an abnormality:

(a) seen or suspected from a screening examination for breast cancer; or

(b) detected by another means of examination; and

(3) "supplemental breast examination" means a medically necessary and clinically appropriate examination of the breast using breast magnetic resonance imaging or breast ultrasound that is:

(a) used to screen for breast cancer when there is no abnormality seen or suspected; and

(b) based on personal or family medical history or additional factors that may increase the individual's risk of breast cancer."

## Chapter 12 Section 5 Laws 2023

SECTION 5. A new section of the Nonprofit Health Care Plan Law is enacted to read:

### "DIAGNOSTIC AND SUPPLEMENTAL BREAST EXAMINATIONS.--

A. An individual or group health care plan that is delivered, issued for delivery or renewed in this state that provides coverage for diagnostic and supplemental breast examinations shall not impose cost sharing for diagnostic and supplemental breast examinations.

B. The provisions of this section do not apply to excepted benefit plans as provided pursuant to the Short-Term Health Plan and Excepted Benefit Act, catastrophic plans as defined pursuant to 42 USCA Section 18022(e) or high deductible health plans with health savings accounts until an eligible insured's deductible has been met, unless otherwise allowed pursuant to federal law.

C. As used in this section:

(1) "cost sharing" means a deductible, coinsurance, copayment and any maximum limitation on the application of such a deductible, coinsurance, copayment or similar out-of-pocket expense;

(2) "diagnostic breast examination" means a medically necessary and clinically appropriate examination of the breast using diagnostic mammography, breast magnetic resonance imaging or breast ultrasound that evaluates an abnormality:

(a) seen or suspected from a screening examination for breast cancer; or

(b) detected by another means of examination; and

(3) "supplemental breast examination" means a medically necessary and clinically appropriate examination of the breast using breast magnetic resonance imaging or breast ultrasound that is:

(a) used to screen for breast cancer when there is no abnormality seen or suspected; and

(b) based on personal or family medical history or additional factors that may increase the individual's risk of breast cancer."

## **Chapter 12 Section 6 Laws 2023**

SECTION 6. Section 59A-22-39 NMSA 1978 (being Laws 1990, Chapter 5, Section 2) is amended to read:

"59A-22-39. COVERAGE FOR MAMMOGRAMS.--Each individual and group health insurance policy, health care plan and certificate of health insurance delivered or issued for delivery in this state shall provide coverage for low-dose screening mammograms for determining the presence of breast cancer. Such coverage shall make available one baseline mammogram to persons age thirty-five through thirty-nine, one mammogram biennially to persons age forty through forty-nine and one mammogram annually to persons age fifty and over. After July 1, 1992, coverage shall be available only for screening mammograms obtained on equipment designed specifically to perform low-dose mammography in imaging facilities that have met American college of radiology accreditation standards for mammography. The provisions of this section do not apply to excepted benefit plans as provided pursuant to the Short-Term Health Plan and Excepted Benefit Act, catastrophic plans as defined pursuant to 42 USCA Section 18022(e) or tax-favored plans as defined pursuant to 26 USC Section 223(c)(2)."

## **Chapter 12 Section 7 Laws 2023**

SECTION 7. Section 59A-46-41 NMSA 1978 (being Laws 1990, Chapter 5, Section 1) is amended to read:

"59A-46-41. COVERAGE FOR MAMMOGRAMS.--Each individual and group health maintenance organization contract delivered or issued for delivery in this state shall provide coverage for low-dose screening mammograms for determining the presence of breast cancer. Such coverage shall make available one baseline mammogram to persons age thirty-five through thirty-nine, one mammogram biennially to persons age forty through forty-nine and one mammogram annually to persons age fifty and over. After July 1, 1992, coverage shall be available only for screening mammograms obtained on equipment designed specifically to perform low-dose mammography in imaging facilities that have met American college of radiology accreditation standards for mammography."

## **Chapter 12 Section 8 Laws 2023**

SECTION 8. APPLICABILITY.--The provisions of this act apply to health insurance policies, health care plans, certificates of health insurance and health maintenance organization contracts that are delivered, issued for delivery or renewed in this state on or after January 1, 2024.

# **LAWS 2023, CHAPTER 13**

**HENRC/House Bill 95**

**Approved March 16, 2023**

AN ACT

RELATING TO PUBLIC LAND; DIRECTING THE COMMISSIONER OF PUBLIC LANDS TO ESTABLISH AND MAINTAIN A RENEWABLE ENERGY OFFICE.

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

## **Chapter 13 Section 1 Laws 2023**

SECTION 1. A new section of Chapter 19, Article 1 NMSA 1978 is enacted to read:

"RENEWABLE ENERGY OFFICE ESTABLISHED.--The commissioner shall establish and maintain a renewable energy office to advance the production and development of renewable energy."

# **LAWS 2023, CHAPTER 14**

**House Bill 127**

**Approved March 16, 2023**

AN ACT

RELATING TO SCHOOL PERSONNEL; INCREASING THE MINIMUM SALARY FOR EDUCATIONAL ASSISTANTS.

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

## **Chapter 14 Section 1 Laws 2023**

SECTION 1. Section 22-10A-17.1 NMSA 1978 (being Laws 2004, Chapter 30, Section 1, as amended) is amended to read:

"22-10A-17.1. EDUCATIONAL ASSISTANTS--LICENSING FRAMEWORK--QUALIFICATIONS--MINIMUM SALARIES.--

A. All persons who perform services as educational assistants in public schools or in those special state-supported schools within state agencies shall hold valid educational assistant licensure issued by the department. Educational assistants shall be assigned, and serve as assistants, to school staff licensed by the department.

While there may be brief periods when educational assistants are alone with and in control of a classroom of students, their primary use shall be to work alongside or under the direct supervision of licensed staff.

B. The department shall, through appropriate rules, institute a licensure system for educational assistants. The highest level of license shall ensure that educational assistants who hold that level of licensure meet the standard for paraprofessionals established in federal statute and regulation for employment in a Title 1 program.

C. A licensed educational assistant who is a resident of New Mexico, who is authorized to work in the United States, who has been employed by a public school in a position that works directly with students 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 shall be granted professional leave by that public school to attend a teacher preparation program in New Mexico; provided that the public school may require that the professional leave minimizes disruption to the school day and may require an educational assistant to make up hours in exchange for hours missed from the school day.

D. The minimum annual salary for licensed educational assistants shall be twenty-five thousand dollars (\$25,000) effective in the 2023-2024 school year.

E. The minimum salaries specified in Subsection D of this section may be adjusted in accordance with appropriations for that purpose in each school year as established by the secretary.

F. School districts shall initiate the implementation of a career salary framework that supports the licensure system in department rules in fiscal year 2005.

G. As used in this section, "teacher preparation program" means a program that has been formally approved as meeting the requirements of the 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."

## **LAWS 2023, CHAPTER 15**

**House Bill 201, aa**  
**Approved March 16, 2023**

AN ACT

RELATING TO PROFESSIONAL LICENSURE BOARDS; EXTENDING THE  
TERMINATION DATE OF THE LICENSURE BOARDS FOR VETERINARY MEDICINE,

ARCHITECTS, PROFESSIONAL ENGINEERS AND PROFESSIONAL SURVEYORS, PRIVATE INVESTIGATORS, PUBLIC ACCOUNTANCY, REAL ESTATE APPRAISERS AND FUNERAL SERVICES; ELIMINATING THE TERMINATION DATE OF THE LICENSURE BOARDS FOR DENTAL HEALTH CARE, OPTOMETRY, PODIATRY, PHARMACY AND ACUPUNCTURE AND ORIENTAL MEDICINE; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

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

### **Chapter 15 Section 1 Laws 2023**

SECTION 1. Section 61-14-20 NMSA 1978 (being Laws 1979, Chapter 76, Section 2, as amended) is amended to read:

"61-14-20. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The board of veterinary medicine is terminated on July 1, 2029 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of Chapter 61, Article 14 and Chapter 77, Article 1B NMSA 1978 until July 1, 2030. Effective July 1, 2030, Chapter 61, Article 14 and Chapter 77, Article 1B NMSA 1978 are repealed."

### **Chapter 15 Section 2 Laws 2023**

SECTION 2. Section 61-15-13 NMSA 1978 (being Laws 1979, Chapter 362, Section 10, as amended by Laws 2017, Chapter 52, Section 6 and by Laws 2017, Chapter 107, Section 8) is amended to read:

"61-15-13. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The board of examiners for architects is terminated on July 1, 2029 pursuant to the provisions of the Sunset Act. The board shall continue to operate according to the provisions of the Architectural Act until July 1, 2030. Effective July 1, 2030, the Architectural Act is repealed."

### **Chapter 15 Section 3 Laws 2023**

SECTION 3. Section 61-23-32 NMSA 1978 (being Laws 1987, Chapter 336, Section 32, as amended by Laws 2017, Chapter 42, Section 19 and by Laws 2017, Chapter 52, Section 7) is amended to read:

"61-23-32. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The state board of licensure for professional engineers and professional surveyors is terminated on July 1, 2029 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Engineering and Surveying Practice Act until July 1, 2030. Effective July 1, 2030, the Engineering and Surveying Practice Act is repealed."

## **Chapter 15 Section 4 Laws 2023**

SECTION 4. Section 61-27B-36 NMSA 1978 (being Laws 2007, Chapter 115, Section 35, as amended) is amended to read:

"61-27B-36. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The private investigations advisory board is terminated on July 1, 2029 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Private Investigations Act until July 1, 2030. Effective July 1, 2030, Chapter 61, Article 27B NMSA 1978 is repealed."

## **Chapter 15 Section 5 Laws 2023**

SECTION 5. Section 61-28B-29 NMSA 1978 (being Laws 1999, Chapter 179, Section 29, as amended) is amended to read:

"61-28B-29. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The New Mexico public accountancy board is terminated on July 1, 2029 pursuant to the provisions of the Sunset Act. The board shall continue to operate according to the provisions of the 1999 Public Accountancy Act until July 1, 2030. Effective July 1, 2030, the 1999 Public Accountancy Act is repealed."

## **Chapter 15 Section 6 Laws 2023**

SECTION 6. Section 61-30-24 NMSA 1978 (being Laws 1993, Chapter 269, Section 21, as amended) is amended to read:

"61-30-24. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The real estate appraisers board is terminated effective July 1, 2029. The Real Estate Appraisers Act shall continue in effect until July 1, 2030. Chapter 61, Article 30 NMSA 1978 is repealed effective July 1, 2030."

## **Chapter 15 Section 7 Laws 2023**

SECTION 7. Section 61-32-31 NMSA 1978 (being Laws 1993, Chapter 204, Section 31, as amended) is amended to read:

"61-32-31. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The board of funeral services is terminated on July 1, 2029 pursuant to the provisions of the Sunset Act. The board shall continue to operate according to the provisions of Section 12-9-18 NMSA 1978 until July 1, 2030. Effective July 1, 2030, the Funeral Services Act is repealed."

## **Chapter 15 Section 8 Laws 2023**

SECTION 8. REPEAL.--Sections 61-2-18, 61-5A-30, 61-8-17, 61-11-29 and 61-14A-22 NMSA 1978 (being Laws 1979, Chapter 12, Section 3, Laws 1994, Chapter 55, Section 42, Laws 1979, Chapter 385, Section 2, Laws 1979, Chapter 266, Section 2 and Laws 1993, Chapter 158, Section 30, as amended) are repealed.

## **LAWS 2023, CHAPTER 16**

**House Bill 298, aa**  
**Approved March 16, 2023**

### **AN ACT**

MAKING APPROPRIATIONS FROM THE PUBLIC PROJECT REVOLVING FUND TO THE DRINKING WATER STATE REVOLVING LOAN FUND, THE WASTEWATER FACILITY CONSTRUCTION LOAN FUND, THE CULTURAL AFFAIRS FACILITIES INFRASTRUCTURE FUND AND THE LOCAL GOVERNMENT PLANNING FUND.

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

## **Chapter 16 Section 1 Laws 2023**

### **SECTION 1. APPROPRIATIONS.--**

A. The following amounts are appropriated from the public project revolving fund to the following funds:

(1) three million five hundred thousand dollars (\$3,500,000) to the drinking water state revolving loan fund for expenditure in fiscal year 2024 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;

(2) three million seven hundred thousand dollars (\$3,700,000) to the wastewater facility construction loan fund for expenditure in fiscal year 2024 and subsequent fiscal years to provide matching funds for clean water state revolving fund projects that meet the eligibility requirements of the Federal Water Pollution Control Act;

(3) five million dollars (\$5,000,000) to the cultural affairs facilities infrastructure fund for expenditure in fiscal year 2024 and subsequent fiscal years to carry out the purposes of the fund; and

(4) two million dollars (\$2,000,000) to the local government planning fund for expenditure in fiscal year 2024 and subsequent fiscal years to carry out the purposes of the fund.

B. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the public project revolving fund.

## **LAWS 2023, CHAPTER 17**

**House Bill 342, aa**  
**Approved March 16, 2023**

### **AN ACT**

RELATING TO EDUCATION; ALIGNING THE USES OF EDUCATION SAVINGS PLANS PROVIDED FOR IN THE EDUCATION TRUST ACT TO COMPLY WITH FEDERALLY ALLOWABLE USES OF THE SAVINGS.

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

### **Chapter 17 Section 1 Laws 2023**

SECTION 1. Section 7-2-2 NMSA 1978 (being Laws 1986, Chapter 20, Section 26, as amended) is amended to read:

"7-2-2. DEFINITIONS.--For the purpose of the Income Tax Act and unless the context requires otherwise:

A. "adjusted gross income" means adjusted gross income as defined in Section 62 of the Internal Revenue Code, as that section may be amended or renumbered;

B. "base income":

(1) means, for estates and trusts, that part of the estate's or trust's income defined as taxable income and upon which the federal income tax is calculated in the Internal Revenue Code for income tax purposes plus, for taxable years beginning on or after January 1, 1991, the amount of the net operating loss deduction allowed by Section 172(a) of the Internal Revenue Code, as that section may be amended or renumbered, and taken by the taxpayer for that year;

(2) means, for taxpayers other than estates or trusts, that part of the taxpayer's income defined as adjusted gross income plus, for taxable years beginning on or after January 1, 1991, the amount of the net operating loss deduction allowed by

Section 172(a) of the Internal Revenue Code, as that section may be amended or renumbered, and taken by the taxpayer for that year;

(3) includes, for all taxpayers, any other income of the taxpayer not included in adjusted gross income but upon which a federal tax is calculated pursuant to the Internal Revenue Code for income tax purposes, except amounts for which a calculation of tax is made pursuant to Section 55 of the Internal Revenue Code, as that section may be amended or renumbered; "base income" also includes interest received on a state or local bond;

(4) includes, for all taxpayers, an amount deducted pursuant to Section 7-2-32 NMSA 1978 in a prior taxable year if:

(a) such amount is transferred to another qualified tuition program, as defined in Section 529 of the Internal Revenue Code, not authorized in the Education Trust Act; or

(b) a distribution or refund is made for any reason other than: 1) to pay for federally allowable qualified higher education expenses, set out in Section 529 of the Internal Revenue Code, including other expenses allowed pursuant to that section as qualified expenses; or 2) upon the beneficiary's death, disability or receipt of a scholarship; and

(5) excludes, for a taxpayer who conducts a lawful business pursuant to the laws of the state, an amount equal to any expenditure that is eligible to be claimed as a federal income tax deduction but is disallowed by Section 280E of the Internal Revenue Code, as that section may be amended or renumbered;

C. "compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services;

D. "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;

E. "fiduciary" means a guardian, trustee, executor, administrator, committee, conservator, receiver, individual or corporation acting in any fiduciary capacity;

F. "filing status" means "married filing joint returns", "married filing separate returns", "head of household", "surviving spouse" and "single", as those terms are generally defined for federal tax purposes;

G. "fiscal year" means any accounting period of twelve months ending on the last day of any month other than December;

H. "head of household" means "head of household" as generally defined for federal income tax purposes;

I. "individual" means a natural person, an estate, a trust or a fiduciary acting for a natural person, trust or estate;

J. "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended;

K. "lump-sum amount" means, for the purpose of determining liability for federal income tax, an amount that was not included in adjusted gross income but upon which the five-year-averaging or the ten-year-averaging method of tax computation provided in Section 402 of the Internal Revenue Code, as that section may be amended or renumbered, was applied;

L. "modified gross income" means all income of the taxpayer and, if any, the taxpayer's spouse and dependents, undiminished by losses and from whatever source, including:

- (1) compensation;
- (2) net profit from business;
- (3) gains from dealings in property;
- (4) interest;
- (5) net rents;
- (6) royalties;
- (7) dividends;
- (8) alimony and separate maintenance payments;
- (9) annuities;
- (10) income from life insurance and endowment contracts;
- (11) pensions;
- (12) discharge of indebtedness;
- (13) distributive share of partnership income;
- (14) income in respect of a decedent;

- (15) income from an interest in an estate or a trust;
- (16) social security benefits;
- (17) unemployment compensation benefits;
- (18) workers' compensation benefits;
- (19) public assistance and welfare benefits;
- (20) cost-of-living allowances; and
- (21) gifts;

M. "modified gross income" excludes:

- (1) payments for hospital, dental, medical or drug expenses to or on behalf of the taxpayer;
- (2) the value of room and board provided by federal, state or local governments or by private individuals or agencies based upon financial need and not as a form of compensation;
- (3) payments pursuant to a federal, state or local government program directly or indirectly to a third party on behalf of the taxpayer when identified to a particular use or invoice by the payer; or
- (4) payments for credits and rebates pursuant to the Income Tax Act and made for a credit pursuant to Section 7-3-9 NMSA 1978;

N. "net income" means, for estates and trusts, base income adjusted to exclude amounts that the state is prohibited from taxing because of the laws or constitution of this state or the United States and means, for taxpayers other than estates or trusts, base income adjusted to exclude:

- (1) an amount equal to the standard deduction allowed the taxpayer for the taxpayer's taxable year by Section 63 of the Internal Revenue Code, as that section may be amended or renumbered;
- (2) an amount equal to the itemized deductions defined in Section 63 of the Internal Revenue Code, as that section may be amended or renumbered, allowed the taxpayer for the taxpayer's taxable year less the amount excluded pursuant to Paragraph (1) of this subsection and less the amount of state and local income and sales taxes included in the taxpayer's itemized deductions;

(3) an amount equal to the product of the exemption amount allowed for the taxpayer's taxable year by Section 151 of the Internal Revenue Code, as that section may be amended or renumbered, multiplied by the number of personal exemptions allowed for federal income tax purposes;

(4) income from obligations of the United States of America less expenses incurred to earn that income;

(5) other amounts that the state is prohibited from taxing because of the laws or constitution of this state or the United States;

(6) for taxable years that began prior to January 1, 1991, an amount equal to the sum of:

(a) net operating loss carryback deductions to that year from taxable years beginning prior to January 1, 1991 claimed and allowed, as provided by the Internal Revenue Code; and

(b) net operating loss carryover deductions to that year claimed and allowed;

(7) for taxable years beginning on or after January 1, 1991 and prior to January 1, 2013, an amount equal to the sum of any net operating loss carryover deductions to that year claimed and allowed; provided that the amount of any net operating loss carryover from a taxable year beginning on or after January 1, 1991 and prior to January 1, 2013 may be excluded only as follows:

(a) in the case of a timely filed return, in the taxable year immediately following the taxable year for which the return is filed; or

(b) in the case of amended returns or original returns not timely filed, in the first taxable year beginning after the date on which the return or amended return establishing the net operating loss is filed; and

(c) in either case, if the net operating loss carryover exceeds the amount of net income exclusive of the net operating loss carryover for the taxable year to which the exclusion first applies, in the next four succeeding taxable years in turn until the net operating loss carryover is exhausted for any net operating loss carryover from a taxable year prior to January 1, 2013; in no event shall a net operating loss carryover from a taxable year beginning prior to January 1, 2013 be excluded in any taxable year after the fourth taxable year beginning after the taxable year to which the exclusion first applies;

(8) for taxable years beginning on or after January 1, 2013, an amount equal to the sum of any net operating loss carryover deductions to that year claimed

and allowed; provided that the amount of any net operating loss carryover may be excluded only as follows:

(a) in the case of a timely filed return, in the taxable year immediately following the taxable year for which the return is filed; or

(b) in the case of amended returns or original returns not timely filed, in the first taxable year beginning after the date on which the return or amended return establishing the net operating loss is filed; and

(c) in either case, if the net operating loss carryover exceeds the amount of net income exclusive of the net operating loss carryover for the taxable year to which the exclusion first applies, in the next nineteen succeeding taxable years in turn until the net operating loss carryover is exhausted for any net operating loss carryover from a taxable year beginning on or after January 1, 2013; in no event shall a net operating loss carryover from a taxable year beginning: 1) prior to January 1, 2013 be excluded in any taxable year after the fourth taxable year beginning after the taxable year to which the exclusion first applies; and 2) on or after January 1, 2013 be excluded in any taxable year after the nineteenth taxable year beginning after the taxable year to which the exclusion first applies; and

(9) for taxable years beginning on or after January 1, 2011, an amount equal to the amount included in adjusted gross income that represents a refund of state and local income and sales taxes that were deducted for federal tax purposes in taxable years beginning on or after January 1, 2010;

O. "net operating loss" means any net operating loss, as defined by Section 172(c) of the Internal Revenue Code, as that section may be amended or renumbered, for a taxable year as further increased by the income, if any, from obligations of the United States for that year less related expenses;

P. "net operating loss carryover" means the amount, or any portion of the amount, of a net operating loss for any taxable year that, pursuant to Paragraph (6), (7) or (8) of Subsection N of this section, may be excluded from base income;

Q. "nonresident" means every individual not a resident of this state;

R. "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;

S. "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, 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 Income Tax Act for periods after that change of abode;

T. "secretary" means the secretary of taxation and revenue or the secretary's delegate;

U. "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 any political subdivision of a foreign country;

V. "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;

W. "surviving spouse" means "surviving spouse" as generally defined for federal income tax purposes;

X. "taxable income" means net income less any lump-sum amount;

Y. "taxable year" means the calendar year or fiscal year upon the basis of which the net income is computed under the Income Tax Act and includes, in the case of the return made for a fractional part of a year under the provisions of the Income Tax Act, the period for which the return is made; and

Z. "taxpayer" means any individual subject to the tax imposed by the Income Tax Act."

## **Chapter 17 Section 2 Laws 2023**

SECTION 2. Section 7-2-32 NMSA 1978 (being Laws 1997, Chapter 259, Section 8) is amended to read:

"7-2-32. DEDUCTION--PAYMENTS INTO EDUCATION TRUST FUND.--A taxpayer may claim a deduction from net income in an amount equal to the payments made by the taxpayer into the education trust fund pursuant to an education investment agreement or prepaid tuition contract under the Education Trust Act in the taxable year for which the deduction is being claimed. The amount of payments made on behalf of any one beneficiary that may be deducted shall not exceed in the aggregate the cost of attendance at the applicable institution of higher education, as determined by the education trust board. Married individuals who file separate returns for the taxable year in which they could have filed a joint return may each claim only one-half of the

deduction that would have been allowed on the joint return. Individuals having income both within and without this state shall apportion this deduction in accordance with regulations of the secretary."

## **Chapter 17 Section 3 Laws 2023**

SECTION 3. Section 21-21K-2 NMSA 1978 (being Laws 2014, Chapter 76, Section 2) is amended to read:

"21-21K-2. DEFINITIONS.--As used in the Education Trust Act:

A. "account" means an individual trust account pursuant to an education investment agreement entered into pursuant to the education savings program;

B. "account owner" means the person who has entered into an education investment agreement with the board and is designated as having the right to withdraw money from the account before the account is disbursed to or for the benefit of the beneficiary;

C. "beneficiary" means the person who is designated at the time the account is opened, or the person who replaces a designated beneficiary, as the person whose qualified higher education expenses are expected to be paid from the account;

D. "board" means the education trust board;

E. "education investment agreement" means an agreement entered into by the board and an account owner to participate in the education savings program and establish an account to be used for the qualified higher education expenses of a beneficiary;

F. "department" means the higher education department;

G. "eligible educational institution" means any college, university, vocational school or other post-secondary institution recognized by the United States department of education;

H. "financial institution" means a bank, broker-dealer, insurance company, mutual fund, savings and loan association or other financial entity;

I. "Internal Revenue Code" means the federal Internal Revenue Code of 1986, as amended;

J. "manager" means a financial institution under contract with the board to serve as manager of an education savings plan in the education savings program and receive contributions on behalf of the program; and

K. "qualified higher education expenses" means federally allowable qualified expenses set out in the Internal Revenue Code Section 529 and includes other expenses allowed under that section as qualified education expenses."

## **Chapter 17 Section 4 Laws 2023**

SECTION 4. Section 21-21K-3 NMSA 1978 (being Laws 2014, Chapter 76, Section 3) is amended to read:

"21-21K-3. EDUCATION SAVINGS PROGRAM CREATED--EDUCATION TRUST FUND CREATED--PURPOSE--INVESTMENT OF ACCOUNTS BY THIRD PARTIES--BOARD REVIEW--PROGRAM ADMINISTRATION FUND CREATED--PURPOSE.--

A. The "education savings program" is created to allow interested persons to enter into education investment agreements with the board as a means to save money to pay a beneficiary's eligible expenses for an education. The education savings program may consist of one or more education savings plans. The board shall administer the education savings program through accounts established in the education trust fund pursuant to education investment agreements. Money in an account may be used by the beneficiary for qualified higher education expenses.

B. The board shall develop and administer the education savings program in a manner that allows account owners and beneficiaries to obtain and maintain federal income tax benefits or treatment provided by the Internal Revenue Code for qualified tuition programs and exemptions under the federal securities laws.

C. The "education trust fund" is created as a nonreverting fund in the state treasury. The fund shall be administered by the board to carry out the education savings program. The fund consists of separate trust accounts held in the name of account owners. Income from investment of the fund shall be credited to the separate accounts.

D. The board may contract with one or more managers to invest the contributions deposited to the education trust fund. The board and the managers shall account for each contribution by an account owner.

E. Amounts may be withdrawn or transferred from trust accounts in the education trust fund only as provided in the related education investment agreements. All money contributed to accounts established in the fund are held in trust by the board and the respective managers for the sole benefit of the respective account owners and beneficiaries.

F. The "program administration fund" is created as a nonreverting fund in the state treasury. The fund consists of all administrative and other fees received by the board pursuant to education investment agreements and contracts with managers and any other money credited to the fund. The state treasurer shall invest the fund, and the

investment income shall be credited to the fund. Money in the fund may be used to pay costs of establishing, marketing and otherwise administering the education savings program in accordance with the Education Trust Act. Disbursements from the fund shall be by warrants of the secretary of finance and administration on vouchers signed by the director of the board or the director's authorized representative."

## **Chapter 17 Section 5 Laws 2023**

SECTION 5. Section 21-21K-4.1 NMSA 1978 (being Laws 2014, Chapter 76, Section 5) is amended to read:

"21-21K-4.1. BOARD--POWERS AND DUTIES.--

A. The board may:

- (1) adopt, amend or repeal and promulgate rules necessary to carry out the provisions of the Education Trust Act;
- (2) sue and be sued;
- (3) enter into contracts;
- (4) employ or contract for professional, technical and clerical staff and independent counsel;
- (5) contract with one or more financial institutions to manage the education trust fund and the separate trust accounts;
- (6) enter into education investment agreements with interested persons to participate in the education savings program;
- (7) charge, impose and collect administrative fees as provided in an education investment agreement or other contract relating to the education savings program in amounts not exceeding the reasonable costs of establishing, marketing and otherwise administering the program; and
- (8) do those things necessary or convenient in accordance with the Education Trust Act to carry out the provisions of that act.

B. The board shall adopt and promulgate education trust fund investment guidelines and otherwise administer the education savings program in compliance with the Uniform Prudent Investor Act."

## **Chapter 17 Section 6 Laws 2023**

SECTION 6. Section 21-21K-5 NMSA 1978 (being Laws 2014, Chapter 76, Section 6) is amended to read:

"21-21K-5. EDUCATION INVESTMENT AGREEMENTS--ACCOUNTS.--

A. An account owner may enter into an education investment agreement with the board under which an account in the education trust fund is established and contributions may be made to the account from time to time, consistent with the terms of the agreement, to defray the cost of qualified higher education expenses. Each account shall be accounted for separately from all other accounts in the education trust fund. An account owner may enter into an education investment agreement on behalf of any beneficiary.

B. Gifts and bequests by persons other than the account owner may be made to an account in the education trust fund for the benefit of the beneficiary in accordance with the terms of the education investment agreement.

C. The board shall set forth procedures relating to the withdrawal of money from an account established in the education trust fund pursuant to an education investment agreement.

D. An education investment agreement may be terminated by the account owner at any time. The board shall specify by rule appropriate provisions for the term and termination of education investment agreements.

E. Contributions made to an account in the education trust fund, together with accrued investment earnings and capital appreciation in such account, shall be excluded from any calculation of the respective beneficiary's student financial aid eligibility in New Mexico.

F. The board shall notify each account owner annually about the status of the account owner's account in the education trust fund."

## **Chapter 17 Section 7 Laws 2023**

SECTION 7. Section 21-21K-6 NMSA 1978 (being Laws 2014, Chapter 76, Section 7) is amended to read:

"21-21K-6. CLAIMS OF CREDITORS--EXEMPTION--LIABILITY IMMUNITY--STATE NOT LIABLE.--

A. Money credited to or expended from any account in the education trust fund by or on behalf of an account owner or beneficiary is exempt from all claims of creditors of the account owner, the beneficiary or the board.

B. If the board carries out its review responsibility of the manager's investment decisions consistent with the Uniform Prudent Investor Act, the board or an employee shall not be liable to anyone for any losses sustained as a result of investment decisions. A member of the board, while acting within the scope of the member's authority or while acting as a trustee of the education trust fund or any separate trust fund or account of the board, shall not be subject to any personal liability for any action taken or omitted within that scope of authority.

C. In no event shall any liability of or contractual obligation incurred by the education savings program obligate or encumber any of the state's funds or treasury, including but not limited to the state's general fund, land grant permanent funds, the severance tax permanent fund or any other permanent fund or any money that is a part of a state-funded financial aid program. Nothing in the Education Trust Act creates any obligation, legal, moral or otherwise, to fulfill the terms of any education investment agreement or any other obligation or liability out of any source other than the education trust fund or the program administration fund."

## **LAWS 2023, CHAPTER 18**

**House Bill 377, aa**  
**Approved March 16, 2023**

AN ACT

RELATING TO MARKETING; CREATING THE MARKETING EXCELLENCE BUREAU IN THE MARKETING DIVISION OF THE TOURISM DEPARTMENT; SPECIFYING DUTIES; AMENDING A SECTION OF THE ECONOMIC DEVELOPMENT CORPORATION ACT.

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

### **Chapter 18 Section 1 Laws 2023**

SECTION 1. A new section of the Tourism Department Act is enacted to read:

"MARKETING EXCELLENCE BUREAU--CREATED--DUTIES.--

A. The "marketing excellence bureau" is created in the marketing division of the department.

B. The marketing excellence bureau shall:

(1) serve as a centralized collection of marketing-focused expertise, knowledge and resources to support the program goals of executive branch agencies;

(2) provide guidance, information, support and training related to marketing efforts;

(3) support strategy alignment and develop efficiencies for marketing efforts for all executive branch agencies;

(4) assist executive branch agencies in identifying and developing new market strategies and technology solutions to enhance the agencies' marketing efforts; and

(5) lead the marketing strategy, asset creation and advertising placements for the economic development corporation and for all executive branch agencies and marketing and public education programs, as requested."

## **Chapter 18 Section 2 Laws 2023**

SECTION 2. Section 53-7A-6 NMSA 1978 (being Laws 2003, Chapter 183, Section 6) is amended to read:

"53-7A-6. APPLICATION OF OTHER LAWS.--

A. The corporation formed pursuant to the Economic Development Corporation Act is separate and apart from the state and shall not be deemed an agency, public body or other political subdivision of New Mexico for purposes of applying laws relating to personnel, procurement of goods and services, gross receipts tax, disposition or acquisition of property, capital outlays and per diem and mileage; provided that the corporation shall be deemed an executive branch agency for purposes of receiving marketing services from the tourism department.

B. Notwithstanding the provisions of the Open Meetings Act, meetings of the corporation shall be closed to the public when proprietary technical or business information or any information regarding location or expansion of a business is discussed.

C. Information obtained by the corporation that is proprietary technical or business information or related to the possible relocation or expansion of a business shall be confidential and not subject to inspection pursuant to the Inspection of Public Records Act.

D. The corporation, its officers, directors and employees shall be granted immunity from liability for any tort as provided in the Tort Claims Act and may enter into agreements with insurance carriers to insure against a loss in connection with its operations even though the loss may be included among losses covered by the risk management fund of New Mexico."

## **Chapter 18 Section 3 Laws 2023**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2024.

# **LAWS 2023, CHAPTER 19**

**House Bill 130, aa**  
**Approved March 16, 2023**

### AN ACT

RELATING TO PUBLIC SCHOOL FINANCE; CREATING THE K-12 PLUS PROGRAM; PROVIDING ADDITIONAL PROGRAM UNITS FOR PUBLIC SCHOOLS THAT INCREASE THE NUMBER OF INSTRUCTIONAL DAYS BEYOND ONE HUNDRED EIGHTY DAYS FOR A FIVE-DAY SCHOOL WEEK AND MORE THAN ONE HUNDRED FIFTY-FIVE DAYS FOR A FOUR-DAY SCHOOL WEEK; DEFINING INSTRUCTIONAL HOURS AND PROFESSIONAL HOURS; REPEALING THE K-5 PLUS ACT AND EXTENDED LEARNING TIME PROGRAM UNITS.

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

## **Chapter 19 Section 1 Laws 2023**

SECTION 1. Section 22-2-8.1 NMSA 1978 (being Laws 1986, Chapter 33, Section 2, as amended by Laws 2011, Chapter 35, Section 1 and by Laws 2011, Chapter 154, Section 1) is amended to read:

"22-2-8.1. SCHOOL YEAR--LENGTH OF SCHOOL DAY--MINIMUM.--

A. Except as otherwise provided in this section, students shall be in school programs, exclusive of lunch, for a minimum of one thousand one hundred forty instructional hours per year, except half-day kindergarten, which shall have five hundred fifty instructional hours per year.

B. An instructional hour is a period at school during which students receive instruction aligned to academic content and performance standards and includes:

(1) a school program set forth in Sections 22-13-1 and 22-13-1.1 NMSA 1978;

(2) enrichment programs that focus on problem solving and cognitive skills development;

(3) content that provides technical knowledge, skills and competency-based applied learning;

(4) research- or evidence-based social, emotional or academic interventions; and

(5) instruction that occurs at the same time breakfast is served or consumed in accordance with the breakfast after the bell program or federal requirements.

C. Up to sixty instructional hours per school year for elementary grades and thirty instructional hours for middle and high school grades may be used for professional work hours, which may be embedded during the course of a normal school day. A "professional work hour" means time during which a teacher participates in professional work aligned to challenging academic content and performance standards, including:

(1) home visiting or parent-teacher conferences;

(2) educator training or professional development; and

(3) mentorship, coaching and collaboration between school employees.

D. Nothing in this section precludes a local school board from setting a school year or the length of school days in excess of the minimum requirements established by Subsection A of this section.

E. The secretary may waive the minimum length of school days in those school districts where such minimums would create undue hardships as defined by the department as long as the school year is adjusted to ensure that students in those school districts receive the same total instructional time as other students in the state.

F. Notwithstanding any other provision of this section, provided that instruction occurs simultaneously, time when breakfast is served or consumed pursuant to a state or federal program shall be deemed to be time in a school-directed program and is part of the instructional day."

## **Chapter 19 Section 2 Laws 2023**

SECTION 2. Section 22-8-9 NMSA 1978 (being Laws 1967, Chapter 16, Section 63, as amended by Laws 2019, Chapter 206, Section 10 and by Laws 2019, Chapter 207, Section 10) 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 that includes instructional hours and professional work hours 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 19 Section 3 Laws 2023**

SECTION 3. A new section of the Public School Finance Act is enacted to read:

"K-12 PLUS PROGRAM UNITS--ADDITIONAL PROGRAM UNITS.--

A. A public school operating on a five-day calendar that provides more than one hundred eighty days of instruction, and a public school operating on a four-day calendar that provides more than one hundred fifty-five days of instruction, shall be considered a "K-12 plus school". Each school district or charter school with a K-12 plus school shall be eligible to receive program units for students in that public school.

B. The number of K-12 plus program units is determined by multiplying the MEM in department-approved K-12 plus schools by the cost differential factor of twelve thousandths and the number of instructional days provided between:

(1) one hundred eighty-one and one hundred ninety instructional days for a public school with a five-day school week; and

(2) one hundred fifty-six and one hundred sixty-five instructional days for a public school with a four-day school week.

C. The number of K-12 plus program units is determined by multiplying the MEM in department-approved K-12 plus schools by the cost differential factor of sixteen thousandths and the number of instructional days provided between:

(1) one hundred ninety-one and two hundred five instructional days for a public school with a five-day school week; and

(2) one hundred sixty-six and one hundred seventy-five instructional days for a public school with a four-day school week.

D. A school district is eligible for the total number of program units calculated in this manner for every K-12 plus school in that school district.

E. No later than October 15 of each year, a school district or charter school that wishes to establish a new K-12 plus school for the next fiscal year shall submit to the department the actual number of students participating in each of its K-12 plus schools in the current year and an estimate of the number of students that the school district or charter school expects will participate in each K-12 plus school in the next year.

F. No later than November 15 of each year, the department shall notify the legislature of the number of students participating in K-12 plus schools in the current school year and the number of students projected to participate in K-12 plus schools in the next school year."

## **Chapter 19 Section 4 Laws 2023**

SECTION 4. Section 22-8-18 NMSA 1978 (being Laws 1974, Chapter 8, Section 8, as amended by Laws 2019, Chapter 206, Section 13 and by Laws 2019, Chapter 207, Section 13) 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 (15) 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; and

(15) K-12 plus.

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 19 Section 5 Laws 2023**

SECTION 5. REPEAL.--Sections 22-8-23.10, 22-8-23.11 and 22-13D-1 through 22-13D-4 NMSA 1978 (being Laws 2019, Chapter 206, Section 16 and Laws 2019, Chapter 207, Section 16; Laws 2019, Chapter 206, Section 17 and Laws 2019, Chapter 207, Section 17; Laws 2019, Chapter 206, Section 2 and Laws 2019, Chapter 207, Section 2; Laws 2019, Chapter 206, Section 3 and Laws 2019, Chapter 207, Section 3; Laws 2019, Chapter 206, Section 4 and Laws 2019, Chapter 207, Section 4; and Laws 2019, Chapter 206, Section 5 and Laws 2019, Chapter 207, Section 5, as amended) are repealed.

## **Chapter 19 Section 6 Laws 2023**

SECTION 6. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# **LAWS 2023, CHAPTER 20**

**House Bill 148**

**Approved March 16, 2023**

AN ACT

RELATING TO EARLY CHILDHOOD; AUTHORIZING THE EARLY CHILDHOOD EDUCATION AND CARE DEPARTMENT TO ENTER INTO INTERGOVERNMENTAL AGREEMENTS WITH TRIBAL GOVERNMENTS.

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

**Chapter 20 Section 1 Laws 2023**

SECTION 1. Section 9-29-8 NMSA 1978 (being Laws 2019, Chapter 48, Section 8, as amended) is amended to read:

"9-29-8. 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 the family, infant, toddler program, 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 early childhood care and education services;
- C. administer the child care assistance, child care facility 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 facilities 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 Laws 2019, Chapter 48, Section 34, 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;

O. promote culturally and linguistically appropriate programming and provide equal education and care opportunities to non-English speaking families; and

P. upon a request from an Indian nation, tribe or pueblo located in whole or in part in New Mexico, enter into an intergovernmental agreement with the Indian nation, tribe or pueblo, or a tribal organization authorized by the Indian nation, tribe or pueblo by tribal resolution, to plan, conduct, disburse funding to and administer one or more early childhood education and care programs, including the programs listed in Paragraph (1) of Subsection B of this section, with the Indian nation, tribe or pueblo, or authorized tribal organization, using its own culturally and linguistically relevant standards, assessments and evaluations."

## **Chapter 20 Section 2 Laws 2023**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# **LAWS 2023, CHAPTER 21**

**HJC/House Bill 268, aa**  
**Approved March 17, 2023**

AN ACT

RELATING TO LAND GRANTS; APPLYING THE GENERAL PROVISIONS OF CHAPTER 49, ARTICLE 1 NMSA 1978 TO THE ARROYO HONDO ARRIBA LAND GRANT AND THE LOS VIGILES, LOWER GALLINAS AND SAN AUGUSTIN PARTITIONS OF THE LAS VEGAS GRANT; INCLUDING THE CRISTOBAL DE LA SERNA LAND GRANT-MERCED AS A LAND GRANT-MERCED GOVERNED BY THE PROVISIONS OF CHAPTER 49, ARTICLE 1 NMSA 1978; SPECIFYING THE APPLICATION OF CHAPTER 49, ARTICLE 1 NMSA 1978 TO CERTAIN LAND GRANTS-MERCEDES; PROVIDING REQUIREMENTS FOR DESIGNATION OF LAND GRANTS-MERCEDES IN STATE LAW; AMENDING A SECTION OF THE NMSA 1978.

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

### **Chapter 21 Section 1 Laws 2023**

SECTION 1. Section 49-1-2 NMSA 1978 (being Laws 1907, Chapter 42, Section 2, as amended) is amended to read:

"49-1-2. APPLICATION.--

A. Chapter 49, Article 1 NMSA 1978 shall apply to all land grants-mercedes within the geographic boundaries of lands confirmed by the congress of the United States or by the court of private land claims or designated in any report or list of land grants prepared by the surveyor general in furtherance of meeting the obligations of the Treaty of Guadalupe Hidalgo and designated in this section but shall not apply to any land grant that is now managed or controlled pursuant to another section of Chapter 49 NMSA 1978.

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 Chapter 49, Article 1 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 Chapter 49, Article 1 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 Chapter 49, Article 1 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 Chapter 49, Article 1 NMSA 1978.

F. 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 Chapter 49, Article 1 NMSA 1978.

G. The Manzano land grant-merced, also known as la merced del Manzano land grant-merced, situated in Torrance 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.

H. The Arroyo Hondo Arriba community land grant-merced, also known as the community of San Antonio and as the community of Valdez, situated in Taos county, which was established in 1823 and whose heirs were recognized as the fee simple owners of the grant's common lands by the eighth judicial district court of New Mexico in 1914, shall be governed by the provisions of Chapter 49, Article 1 NMSA 1978.

I. The Anton Chico land grant-merced, also known as the town of Anton Chico land grant, situated in Guadalupe and San Miguel counties, confirmed by congress in 1860 and patented by the United States to the town of Anton Chico in 1883, shall be governed by the provisions of Chapter 49, Article 1 NMSA 1978.

J. The Abiquiu land grant-merced, also known as the merced del Pueblo Abiquiu and town of Abiquiu land grant, situated in Rio Arriba county, confirmed by the court of private land claims in 1894 and patented by the United States to the board of grant commissioners of the Abiquiu grant in 1909, shall be governed by the provisions of Chapter 49, Article 1 NMSA 1978.

K. The Canon de Carnue 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 confirmees of the Canon de Carnue grant in 1903, shall be governed by the provisions of Chapter 49, Article 1 NMSA 1978.

L. The Cebolleta land grant-merced, also known as the town of Cebolleta land grant, situated in Cibola county, confirmed by congress in 1869 and patented by the United States to the town of Cebolleta land grant in 1882, shall be governed by the provisions of Chapter 49, Article 1 NMSA 1978.

M. The Cristobal de la Serna land grant-merced, situated in Taos county, confirmed by the court of private land claims in 1892 and patented by the United States

to the Cristobal de la Serna grant in 1903, shall be governed by the provisions of Chapter 49, Article 1 NMSA 1978.

N. The Cubero land grant-merced, also known as the town of Cubero land grant, situated in Cibola county, confirmed by the court of private land claims in 1892 and patented by the United States to the confirmees of the town of Cubero grant in 1900, shall be governed by the provisions of Chapter 49, Article 1 NMSA 1978.

O. The Don Fernando de Taos land grant-merced, situated in Taos county, confirmed by the court of private land claims in 1897 and patented by the United States to the confirmees of the Don Fernando de Taos grant in 1907, shall be governed by the provisions of Chapter 49, Article 1 NMSA 1978.

P. The Santo Tomas Apostol del Rio de Las Trampas land grant-merced, situated in Taos county, also known as the town of Las Trampas land grant, confirmed by congress in 1860 and patented by the United States to the town of Las Trampas grant in 1903, shall be governed by the provisions of Chapter 49, Article 1 NMSA 1978.

Q. The Santa Barbara land grant-merced, also known as la merced de Santa Barbara, situated in Taos county, confirmed by the court of private land claims in 1894 and patented by the United States to the heirs of the Santa Barbara grant in 1905, shall be governed by the provisions of Chapter 49, Article 1 NMSA 1978.

R. The Juan Bautista Baldes land grant-merced, also known as the merced comunitara de Juan Bautista Baldes, situated in Rio Arriba county, confirmed by the court of private land claims in 1898 and patented by the United States to the heirs of Juan Bautista Baldes in 1913, shall be governed by the provisions of Chapter 49, Article 1 NMSA 1978.

S. The San Joaquin del Rio de Chama land grant-merced, also known as the merced de San Joaquin del Rio de Chama and the Canon de Chama land grant-merced, situated in Rio Arriba and Sandoval counties, confirmed by the court of private land claims in 1894 and patented by the United States to the heirs of the Canon de Chama grant in 1905, shall be governed by the provisions of Chapter 49, Article 1 NMSA 1978.

T. The San Miguel del Bado land grant-merced, also known as the merced de San Miguel del Bado, situated in San Miguel county, confirmed by the court of private land claims in 1894 and patented by the United States to the board of the San Miguel del Bado grant in 1910, shall be governed by the provisions of Chapter 49, Article 1 NMSA 1978.

U. The Santo Domingo de Cundiyo land grant-merced, situated in Santa Fe county, confirmed by the court of private land claims in 1900 and patented by the United States to the confirmees of the Santo Domingo de Cundiyo grant in 1903, shall be governed by the provisions of Chapter 49, Article 1 NMSA 1978.

V. The Tierra Amarilla land grant-merced, also known as the merced de los Pueblos de Tierra Amarilla, situated in Rio Arriba county, confirmed by congress in 1860 and patented by the United States to Francisco Martinez in 1881, shall be governed by the provisions of Chapter 49, Article 1 NMSA 1978.

W. The San Antonio de las Huertas land grant-merced, also known as the merced de San Antonio de las Huertas, situated in Sandoval county, confirmed by the court of private land claims in 1897 and patented by the United States to the San Antonio de las Huertas grant claimants in 1907, shall be governed by the provisions of Chapter 49, Article 1 NMSA 1978.

X. The Tajique land grant-merced, also known as the town of Tajique land grant, situated in Tarrant county, confirmed by congress in 1860 and patented by the United States to the confirmees of the town of Tajique land grant in 1912, shall be governed by the provisions of Chapter 49, Article 1 NMSA 1978.

Y. The Torreon land grant-merced, also known as the town of Torreon, situated in Tarrant county, confirmed by congress in 1860 and patented by the United States to the confirmees of the town of Torreon grant in 1909, shall be governed by the provisions of Chapter 49, Article 1 NMSA 1978.

Z. The Los Vigiles land grant-merced situated in San Miguel county, which was partitioned from the town of Las Vegas grant through a deed of indenture issued by the board of trustees for the Las Vegas grant and approved by the fourth judicial district of New Mexico in 1951, shall be governed by the provisions of Chapter 49, Article 1 NMSA 1978.

AA. The Lower Gallinas land grant-merced, situated in San Miguel county, which was partitioned from the town of Las Vegas grant through a deed of indenture issued by the board of trustees for the Las Vegas grant in 1951 and approved by the fourth judicial district of New Mexico, the approval of which was reaffirmed by the court in 1997, shall be governed by the provisions of Chapter 49, Article 1 NMSA 1978.

BB. The San Augustin land grant-merced, situated in San Miguel county, which was partitioned from the town of Las Vegas grant through a deed of indenture issued by the board of trustees for the Las Vegas grant and approved by the fourth judicial district of New Mexico in 1929, shall be governed by the provisions of Chapter 49, Article 1 NMSA 1978."

## **LAWS 2023, CHAPTER 22**

**Senate Bill 26, aa**  
**Approved March 17, 2023**

AN ACT

RELATING TO FINANCE; PROVIDING FOR THE DISTRIBUTION OF CERTAIN EXCESS OIL AND GAS TAX REVENUES AND FEDERAL MINERAL LEASING ACT PAYMENTS TO THE SEVERANCE TAX PERMANENT FUND.

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

## **Chapter 22 Section 1 Laws 2023**

SECTION 1. Section 6-4-27 NMSA 1978 (being Laws 2020, Chapter 3, Section 4) is amended to read:

"6-4-27. EXCESS EXTRACTION TAXES SUSPENSE FUND--TRANSFER OF EXCESS OIL AND GAS EMERGENCY SCHOOL TAX REVENUE--TAX STABILIZATION RESERVE--EARLY CHILDHOOD EDUCATION AND CARE FUND--SEVERANCE TAX PERMANENT FUND.--

A. The "excess extraction taxes suspense fund" is created as a nonreverting fund in the state treasury. Money in the fund shall only be used to make transfers by the department of finance and administration as required by this section.

B. At the end of each fiscal year, the department of finance and administration shall calculate and transfer the balance of the fund attributable to that fiscal year as follows:

(1) if in the current fiscal year the total net receipts attributable to the tax imposed pursuant to Section 7-31-4 NMSA 1978 and distributed pursuant to Section 7-1-6.20 NMSA 1978 exceed the annual average amount, the department shall distribute the excess amount above the annual average amount as follows:

(a) to the tax stabilization reserve, the amount necessary to bring the balance of state reserves to a level equal to twenty-five percent of the aggregate recurring appropriations for that fiscal year from the general fund, as determined by the department; provided that, if the balance in the excess extraction taxes suspense fund is not sufficient to meet that level, the entire balance shall be transferred to the tax stabilization reserve; and

(b) to the early childhood education and care fund, the balance of the excess amount above the annual average amount, if any, after the transfer is made pursuant to Subparagraph (a) of this paragraph; and

(2) the remaining balance of the fund, if any, shall be distributed to the severance tax permanent fund.

C. As used in this section:

(1) "annual average amount" means the total net receipts attributable to the tax imposed pursuant to Section 7-31-4 NMSA 1978 and distributed pursuant to Section 7-1-6.20 NMSA 1978 in the immediately preceding five fiscal years, divided by five; and

(2) "state reserves" means the general fund balances, as determined by the department of finance and administration, including all authorized revenues and transfers to the general fund and balances in the appropriation contingency fund, the general fund operating reserve, the state-support reserve fund and the tax stabilization reserve."

## **Chapter 22 Section 2 Laws 2023**

SECTION 2. Section 7-1-6.61 NMSA 1978 (being Laws 2017 (1st S.S.), Chapter 3, Section 3, as amended) is amended to read:

"7-1-6.61. DISTRIBUTION--OIL AND GAS EMERGENCY SCHOOL TAX--EXCESS EXTRACTION TAXES SUSPENSE FUND.--

A. A distribution pursuant to Section 7-1-6.20 NMSA 1978 shall be made to the excess extraction taxes suspense fund in an amount as calculated pursuant to Subsection B of this section.

B. If the year-to-date amount plus the current net receipts exceeds the threshold amount, the excess shall be distributed by the taxation and revenue department to the excess extraction taxes suspense fund. Each month the department of finance and administration shall make the calculation to determine the excess amount to be distributed. If there is not an excess amount, no distribution shall be made.

C. As used in this section:

(1) "threshold amount" means the total net receipts attributable to the tax imposed pursuant to Section 7-31-4 NMSA 1978 and distributed to the general fund in fiscal year 2024; and

(2) "year-to-date amount" means the cumulative year-to-date net receipts attributable to the tax imposed pursuant to Section 7-31-4 NMSA 1978 and distributed to the general fund in the prior months of the current fiscal year."

## **Chapter 22 Section 3 Laws 2023**

SECTION 3. Section 9-29A-3 NMSA 1978 (being Laws 2020, Chapter 3, Section 3) is amended to read:

"9-29A-3. DISTRIBUTION--EARLY CHILDHOOD EDUCATION AND CARE FUND--SEVERANCE TAX PERMANENT FUND--PAYMENTS PURSUANT TO FEDERAL MINERAL LEASING ACT.--

A. If, by June 30 of each fiscal year, the net receipts for that fiscal year of the money received by the state pursuant to the federal Mineral Leasing Act exceed the annual average amount, the excess amount above the annual average amount shall be distributed to the early childhood education and care fund and attributed to that fiscal year.

B. If, by June 30, 2025, and by June 30 of each fiscal year thereafter, the remaining amount of the net receipts for that fiscal year of the money received by the state pursuant to the federal Mineral Leasing Act after the distribution pursuant to Subsection A of this section exceeds the threshold amount, the excess shall be distributed to the severance tax permanent fund.

C. The department of finance and administration shall make the calculations to determine if excess amounts shall be distributed pursuant to this section. If there is an excess amount, the distribution shall be made as soon as practicable. If there is not an excess amount, no distribution shall be made.

D. As used in this section:

(1) "annual average amount" means the total net receipts attributable to money received by the state pursuant to the federal Mineral Leasing Act in the immediately preceding five fiscal years, divided by five; and

(2) "threshold amount" means the net receipts of the money received by the state pursuant to the federal Mineral Leasing Act distributed in fiscal year 2024 pursuant to Subsection B of Section 22-8-34 NMSA 1978."

## **Chapter 22 Section 4 Laws 2023**

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2024.

# **LAWS 2023, CHAPTER 23**

**Senate Bill 3, aa**  
**Approved March 17, 2023**

AN ACT

RELATING TO PUBLIC SCHOOL FINANCE; PROVIDING MORE FLEXIBILITY FOR USES OF FAMILY INCOME INDEX DISTRIBUTIONS.

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

## **Chapter 23 Section 1 Laws 2023**

SECTION 1. Section 22-8F-5 NMSA 1978 (being Laws 2021, Chapter 18, Section 5) is amended to read:

"22-8F-5. USES OF FAMILY INCOME INDEX ALLOCATIONS.--

A. Except as provided in Subsection B of this section, a public school shall use its family income index allocation on any of the following:

- (1) evidence-based, structured literacy interventions that have been shown to improve reading and writing achievement of students;
- (2) evidence-based mathematics instruction and interventions, including educational programming intended to improve career and college readiness of at-risk students, dual or concurrent enrollment and career and technical education;
- (3) case management, tutoring and after-school and summer enrichment programs that are delivered by social workers, counselors, teachers or other professional staff;
- (4) culturally relevant professional and curriculum development, including those necessary to support language acquisition and bilingual and multicultural education;
- (5) whole school interventions, including social and emotional learning programs, multilayered systems of support, student nutrition programs, school-based health centers and community schools;
- (6) evidence-based, high-quality instructional resources and materials;
- (7) services to engage and support parents and families in the education of students; and
- (8) services to engage and support tribal communities in the education of Native American students.

B. A school district shall use distributions received for allowable uses specified in Subsection A of this section to expand or improve services provided as part of a public school's existing academic program, but not to replace existing services."

# LAWS 2023, CHAPTER 24

**Senate Bill 64, aa**  
**Approved March 17, 2023**

AN ACT

RELATING TO JUVENILE JUSTICE REFORM; PROHIBITING THE IMPOSITION OF A SENTENCE OF LIFE WITHOUT PAROLE ON A CHILD; PROVIDING PAROLE PROCEDURES.

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

## **Chapter 24 Section 1 Laws 2023**

SECTION 1. Section 31-18-15.3 NMSA 1978 (being Laws 1993, Chapter 77, Section 3) is amended to read:

"31-18-15.3. SERIOUS YOUTHFUL OFFENDER--DISPOSITION.--

A. An alleged serious youthful offender may be detained in any of the following places, prior to arraignment in metropolitan, magistrate or district court:

(1) a detention facility for delinquent children, licensed by the children, youth and families department;

(2) any other suitable place, other than a facility for the care and rehabilitation of delinquent children, that meets standards for detention facilities, as set forth in the Children's Code and federal law; or

(3) a county jail, if a facility described in Paragraph (1) or (2) of this subsection is not appropriate.

B. When an alleged serious youthful offender is detained in a juvenile detention facility prior to trial, the time spent in the juvenile detention facility shall count toward completion of any sentence imposed.

C. At arraignment, when a metropolitan or district court judge or a magistrate determines that an alleged serious youthful offender should remain in custody, the alleged serious youthful offender may be detained in an adult or juvenile detention facility, subject to the facility's accreditation and the provisions of applicable federal law.

D. When an alleged serious youthful offender is found guilty of first degree murder, the court shall sentence the offender pursuant to the provisions of the Criminal Sentencing Act; provided that a serious youthful offender given an adult sentence shall

not be sentenced to life imprisonment without the possibility of release or parole. The court may sentence the offender to less than, but not exceeding, the mandatory term for an adult. The determination of guilt becomes a conviction for purposes of the Criminal Sentencing Act.

E. Prior to the sentencing of an alleged serious youthful offender who is convicted of first degree murder, adult probation services shall prepare a presentence report and submit the report to the court and the parties five days prior to the sentencing hearing.

F. When the alleged serious youthful offender is convicted of a lesser offense than first degree murder, the court shall provide for disposition of the offender pursuant to the provisions of Section 32A-2-19 or 32A-2-20 NMSA 1978. When an offender is adjudicated as a delinquent child, the conviction shall not be used as a conviction for purposes of the Criminal Sentencing Act."

## **Chapter 24 Section 2 Laws 2023**

SECTION 2. Section 31-21-10 NMSA 1978 (being Laws 1980, Chapter 28, Section 1, as amended) is amended to read:

"31-21-10. PAROLE AUTHORITY AND PROCEDURE.--

A. Except as provided in Section 31-21-10.2 NMSA 1978, an inmate of an institution who was sentenced to life imprisonment becomes eligible for a parole hearing after the inmate has served thirty years of the sentence. Before ordering the parole of an inmate sentenced to life imprisonment, the board shall:

- (1) interview the inmate at the institution where the inmate is committed;
- (2) consider all pertinent information concerning the inmate, including:
  - (a) the circumstances of the offense;
  - (b) mitigating and aggravating circumstances;
  - (c) whether a deadly weapon was used in the commission of the offense;
  - (d) whether the inmate is a habitual offender;
  - (e) the reports filed under Section 31-21-9 NMSA 1978; and
  - (f) the reports of such physical and mental examinations as have been made while in an institution;

(3) make a finding that a parole is in the best interest of society and the inmate; and

(4) make a finding that the inmate is able and willing to fulfill the obligations of a law-abiding citizen.

If parole is denied, the inmate sentenced to life imprisonment shall again become entitled to a parole hearing at two-year intervals. The board may, on its own motion, reopen any case in which a hearing has already been granted and parole denied.

B. Unless the board finds that it is in the best interest of society and the parolee to reduce the period of parole, a person who was sentenced to life imprisonment shall be required to undergo a minimum period of parole of five years. During the period of parole, the person shall be under the guidance and supervision of the board.

C. An inmate of an institution who was sentenced to life imprisonment without possibility of release or parole is not eligible for parole and shall remain incarcerated for the entirety of the inmate's natural life.

D. Except for certain sex offenders as provided in Section 31-21-10.1 NMSA 1978, an inmate who was convicted of a first, second or third degree felony and who has served the sentence of imprisonment imposed by the court in an institution designated by the corrections department shall be required to undergo a two-year period of parole. An inmate who was convicted of a fourth degree felony and who has served the sentence of imprisonment imposed by the court in an institution designated by the corrections department shall be required to undergo a one-year period of parole. During the period of parole, the person shall be under the guidance and supervision of the board.

E. Every person while on parole shall remain in the legal custody of the institution from which the person was released, but shall be subject to the orders of the board. The board shall furnish to each inmate as a prerequisite to release under its supervision a written statement of the conditions of parole that shall be accepted and agreed to by the inmate as evidenced by the inmate's signature affixed to a duplicate copy to be retained in the files of the board. The board shall also require as a prerequisite to release the submission and approval of a parole plan. If an inmate refuses to affix the inmate's signature to the written statement of the conditions of parole or does not have an approved parole plan, the inmate shall not be released and shall remain in the custody of the institution in which the inmate has served the inmate's sentence, excepting parole, until such time as the period of parole the inmate was required to serve, less meritorious deductions, if any, expires, at which time the inmate shall be released from that institution without parole, or until such time that the inmate evidences acceptance and agreement to the conditions of parole as required or receives approval for the inmate's parole plan or both. Time served from the date that an inmate refuses to accept and agree to the conditions of parole or fails to receive

approval for the inmate's parole plan shall reduce the period, if any, to be served under parole at a later date. If the district court has ordered that the inmate make restitution to a victim as provided in Section 31-17-1 NMSA 1978, the board shall include restitution as a condition of parole. The board shall also personally apprise the inmate of the conditions of parole and the inmate's duties relating to those conditions of parole.

F. When a person on parole has performed the obligations of the person's release for the period of parole provided in this section, the board shall make a final order of discharge and issue the person a certificate of discharge.

G. Pursuant to the provisions of Section 31-18-15 NMSA 1978, the board shall require the inmate as a condition of parole:

(1) to pay the actual costs of parole services to the adult probation and parole division of the corrections department for deposit to the corrections department intensive supervision fund not exceeding one thousand eight hundred dollars (\$1,800) annually to be paid in monthly installments of not less than twenty-five dollars (\$25.00) and not more than one hundred fifty dollars (\$150), as set by the appropriate district supervisor of the adult probation and parole division, based upon the financial circumstances of the inmate. The inmate's payment of the supervised parole costs shall not be waived unless the board holds an evidentiary hearing and finds that the inmate is unable to pay the costs. If the board waives the inmate's payment of the supervised parole costs and the inmate's financial circumstances subsequently change so that the inmate is able to pay the costs, the appropriate district supervisor of the adult probation and parole division shall advise the board and the board shall hold an evidentiary hearing to determine whether the waiver should be rescinded; and

(2) to reimburse a law enforcement agency or local crime stopper program for the amount of any reward paid by the agency or program for information leading to the inmate's arrest, prosecution or conviction.

H. The provisions of this section shall apply to all inmates except geriatric, permanently incapacitated and terminally ill inmates eligible for the medical and geriatric parole program as provided by the Parole Board Act."

## **Chapter 24 Section 3 Laws 2023**

SECTION 3. A new section of the Probation and Parole Act, Section 31-21-10.2 NMSA 1978, is enacted to read:

"31-21-10.2. PAROLE FOR CHILDREN SENTENCED AS ADULTS.--

A. Unless subject to earlier eligibility for parole pursuant to another provision of law, a serious youthful offender sentenced pursuant to Section 31-18-15.3 NMSA 1978 or a youthful offender sentenced as an adult pursuant to Section 32A-2-20 NMSA

1978 shall be eligible for parole and entitled to a parole hearing after the offender has served:

(1) twenty-five years of the sentence if the sentence is for two or more convictions of first degree murder pursuant to Section 30-2-1 NMSA 1978;

(2) twenty years of the sentence if the sentence is for one conviction of either first degree willful and deliberate murder pursuant to Paragraph (1) of Subsection A of Section 30-2-1 NMSA 1978 or first degree depraved-mind murder pursuant to Paragraph (3) of Subsection A of Section 30-2-1 NMSA 1978; or

(3) fifteen years of the sentence if the sentence is for a conviction pursuant to any other qualifying provision of law.

Parole eligibility and a parole hearing shall occur whether the offender is serving concurrent or consecutive sentences for multiple convictions arising from the same case. If the offender is serving sentences for convictions arising from multiple cases, the time counted toward parole eligibility for a particular case does not begin to accrue until that sentence for the case is being served.

B. If parole is denied, the offender shall be eligible for parole and entitled to a parole hearing every five years thereafter, unless the offender is subject to earlier eligibility for parole pursuant to any other provision of law.

C. During a parole eligibility hearing involving an offender subject to a parole hearing pursuant to this section, the board shall take into consideration, in addition to other factors the board is required by law to consider:

(1) where available, a statement by a victim or a relative of a victim of the offense for which the offender is imprisoned;

(2) the offender's age at the time of committing the offense;

(3) the nature of the offense and the history and characteristics of the offender;

(4) whether the offender has substantially complied with the rules of the institution to which the offender has been confined, including whether the offender has completed an educational, vocational or other program, where available, while confined;

(5) whether the offender has demonstrated maturity, rehabilitation and a fitness to reenter society;

(6) physical, mental or psychiatric reports or examinations of the offender conducted by licensed health care professionals;

(7) the offender's family and community circumstances at the time of committing the offense, including the offender's history of abuse, trauma or involvement in the child welfare system;

(8) the extent of the offender's role in the offense and whether an adult or peer was involved in the offense;

(9) the diminished culpability of juveniles as compared to that of adults and the hallmark features of youth, including immaturity, impetuosity and failure to appreciate risks and consequences; and

(10) other information that the board deems relevant to its decision.

D. An offender eligible for parole pursuant to this section shall be entitled to representation by counsel at all parole eligibility hearings.

E. An offender eligible for or granted parole pursuant to this section shall be subject to those provisions of the Probation and Parole Act not in conflict with this section.

F. The board shall annually conduct a review of all offenders currently serving an adult sentence for an offense committed as a child to ensure that parole eligibility hearings required pursuant to this section are timely conducted."

## **Chapter 24 Section 4 Laws 2023**

SECTION 4. Section 32A-2-20 NMSA 1978 (being Laws 1993, Chapter 77, Section 49, as amended) is amended to read:

"32A-2-20. DISPOSITION OF A YOUTHFUL OFFENDER.--

A. The court has the discretion to invoke either an adult sentence or juvenile sanctions on a youthful offender. The children's court attorney shall file a notice of intent to invoke an adult sentence within ten working days of the filing of the petition; provided that the court may extend the time for filing of the notice of intent to invoke an adult sentence, for good cause shown, prior to the adjudicatory hearing. A preliminary hearing by the court or a hearing before a grand jury shall be held, within ten days after the filing of the intent to invoke an adult sentence, to determine whether probable cause exists to support the allegations contained in the petition.

B. If the children's court attorney has filed a notice of intent to invoke an adult sentence and the child is adjudicated as a youthful offender, the court shall make the following findings in order to invoke an adult sentence:

(1) the child is not amenable to treatment or rehabilitation as a child in available facilities; and

(2) the child is not eligible for commitment to an institution for children with developmental disabilities or mental disorders.

C. In making the findings set forth in Subsection B of this section, the judge shall consider the following factors:

- (1) the seriousness of the alleged offense;
- (2) whether the alleged offense was committed in an aggressive, violent, premeditated or willful manner;
- (3) whether a firearm was used to commit the alleged offense;
- (4) whether the alleged offense was against persons or against property, greater weight being given to offenses against persons, especially if personal injury resulted;
- (5) the maturity of the child as determined by consideration of the child's home, environmental situation, social and emotional health, pattern of living, brain development, trauma history and disability;
- (6) the record and previous history of the child;
- (7) the prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the child by the use of procedures, services and facilities currently available; and
- (8) any other relevant factor, provided that factor is stated on the record.

D. If a child has previously been sentenced as an adult pursuant to the provisions of this section, there shall be a rebuttable presumption that the child is not amenable to treatment or rehabilitation as a child in available facilities.

E. If the court invokes an adult sentence, the court may sentence the child to less than, but shall not exceed, the mandatory adult sentence. A youthful offender given an adult sentence shall be treated as an adult offender and shall be transferred to the legal custody of an agency responsible for incarceration of persons sentenced to adult sentences. This transfer terminates the jurisdiction of the court over the child with respect to the delinquent acts alleged in the petition. A child given an adult sentence shall not be sentenced to life imprisonment without the possibility of release or parole.

F. If a juvenile disposition is appropriate, the court shall follow the provisions set forth in Section 32A-2-19 NMSA 1978. A youthful offender may be subject to extended commitment in the care of the department until the age of twenty-one, pursuant to the provisions of Section 32A-2-23 NMSA 1978.

G. A child fourteen years of age or older, charged with first degree murder, but not convicted of first degree murder and found to have committed a youthful offender offense as set forth in Subsection J of Section 32A-2-3 NMSA 1978, is subject to the dispositions set forth in this section.

H. A child fourteen years of age or older charged with first degree murder, but found to have committed a delinquent act that is neither first degree murder nor a youthful offender offense as set forth in Subsection J of Section 32A-2-3 NMSA 1978, shall be adjudicated as a delinquent subject to the dispositions set forth in Section 32A-2-19 NMSA 1978."

## **Chapter 24 Section 5 Laws 2023**

SECTION 5. APPLICABILITY.--The provisions of this act apply retroactively to all offenders currently serving an adult sentence for an offense committed as a child.

## **LAWS 2023, CHAPTER 25**

**SCONC/Senate Bill 53, aa, w/ec**  
**Approved March 17, 2023**

AN ACT

RELATING TO RADIOACTIVE WASTE; AMENDING THE RADIOACTIVE AND HAZARDOUS MATERIALS ACT; PROHIBITING THE STORAGE AND DISPOSAL OF RADIOACTIVE MATERIALS, TRANSURANIC CONTAMINATED WASTE OR LOW-LEVEL WASTE IN A DISPOSAL FACILITY UNTIL THE STATE HAS CONSENTED TO THE CREATION OF THE DISPOSAL FACILITY; PROHIBITING THE ISSUANCE OR CERTIFICATION OF A PERMIT FOR THE CONSTRUCTION OR OPERATION OF A DISPOSAL FACILITY FOR SPENT FUEL OR HIGH-LEVEL WASTE UNLESS THE STATE HAS CONSENTED TO THE CREATION OF THE DISPOSAL FACILITY AND A PERMANENT REPOSITORY IS IN OPERATION; AMENDING THE DEFINITION OF "DISPOSAL FACILITY"; AMENDING THE DUTIES AND COMPOSITION OF THE RADIOACTIVE WASTE CONSULTATION TASK FORCE; DECLARING AN EMERGENCY.

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

## **Chapter 25 Section 1 Laws 2023**

SECTION 1. Section 74-4A-6 NMSA 1978 (being Laws 1979, Chapter 380, Section 5, as amended by Laws 2001, Chapter 12, Section 1 and by Laws 2001, Chapter 103, Section 1) is amended to read:

"74-4A-6. TASK FORCE.--There is created the "radioactive waste consultation task force". The task force shall consist of the secretaries of energy, minerals and natural resources; health; environment; public safety; transportation; homeland security and emergency management; and Indian affairs or their designees and the commissioner of public lands or the commissioner's designee. The chair and vice chair of the committee, or their designees from the committee, shall be advisory members of the task force. The state fire marshal or the state fire marshal's designee shall serve as a nonvoting member of the task force."

## **Chapter 25 Section 2 Laws 2023**

SECTION 2. Section 74-4A-7 NMSA 1978 (being Laws 1979, Chapter 380, Section 6, as amended) is amended to read:

"74-4A-7. DUTIES OF THE TASK FORCE.--

A. The task force shall negotiate for the state with the federal government in all areas relating to siting, licensing and operation of new federal disposal facilities, including research, development and demonstration, for high-level radioactive wastes, transuranic radioactive wastes and low-level radioactive waste. This subsection shall not be construed to limit the powers of any agency otherwise authorized to negotiate with the federal government, and if such negotiation should also come within the authority of the task force, the task force shall provide assistance to that agency but shall not limit the agency's exercise of authority. Any action taken pursuant to this subsection may be disapproved by joint resolution of the legislature.

B. The task force may recommend legislation to implement the state's policies with respect to new federal disposal facilities.

C. The task force shall identify impacts of new federal and private disposal facilities within the state and shall disseminate that information.

D. The task force shall coordinate the investigations and studies undertaken by all state agencies and shall forward an executive summary of ongoing and recently completed investigations and studies, including information from federal or other studies, to the legislature and the governor as the studies are completed or information released.

E. The task force shall meet at least annually with the committee and keep the committee apprised of all actions taken by the task force.

F. The authority of the task force and its actions and those of state agencies with respect to federal or privately operated disposal or storage facilities are subject to the limitations contained in federal law and shall be consistent with federal law."

## **Chapter 25 Section 3 Laws 2023**

SECTION 3. Section 74-4A-11.1 NMSA 1978 (being Laws 1981, Chapter 374, Section 6, as amended) is amended to read:

"74-4A-11.1. CONDITION.--

A. A person shall not store or dispose of radioactive materials, transuranic contaminated waste or low-level waste in a disposal facility until the state has consented to or concurred in the creation of the disposal facility.

B. A person shall not store or dispose of spent fuel or high-level waste in a disposal facility until:

(1) the state has consented to or concurred in the creation of the disposal facility; and

(2) a repository, as defined in 42 U.S.C. Section 10101(18), is in operation.

C. The state, a political subdivision of the state or an entity or authority created by a joint powers agreement shall not issue, approve or certify a permit, contract, lease or license necessary for the construction or operation of a disposal facility for spent fuel or high-level waste until the conditions of Paragraphs (1) and (2) of Subsection B of this section are met.

D. As used in this section, "disposal facility" means an engineered surface, subsurface or underground facility designed primarily for the temporary, interim or permanent isolation of radioactive materials, radioactive waste or spent fuel other than tailings or other waste from the extraction, beneficiation or processing of ores and minerals."

## **Chapter 25 Section 4 Laws 2023**

SECTION 4. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

# **LAWS 2023, CHAPTER 26**

**SFC/Senate Bill 9, w/cc**  
**Approved March 23, 2023**

AN ACT

RELATING TO CONSERVATION; CREATING THE CONSERVATION LEGACY PERMANENT FUND; CREATING THE LAND OF ENCHANTMENT LEGACY FUND; INCLUDING THE CONSERVATION LEGACY PERMANENT FUND IN THE PERMANENT FUNDS INVESTED BY THE STATE INVESTMENT COUNCIL.

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

## **Chapter 26 Section 1 Laws 2023**

SECTION 1. 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, conservation legacy 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 26 Section 2 Laws 2023**

SECTION 2. A new section of Chapter 75 NMSA 1978 is enacted to read:

"CONSERVATION LEGACY PERMANENT FUND--CREATED--INVESTMENT--  
DISTRIBUTION.--

A. The "conservation legacy permanent fund" is created as a nonreverting fund in the state treasury. The fund consists of distributions, appropriations, gifts, grants, donations and income from investment of the fund. Money in the fund shall be invested by the state investment officer with the same risk and return profile as land grant permanent funds are invested pursuant to Chapter 6, Article 8 NMSA 1978. Earnings from investment of the fund shall be credited to the fund. Money in the fund shall be expended only as provided by this section.

B. If, on July 1 of each year, the conservation legacy permanent fund exceeds one hundred fifty million dollars (\$150,000,000) and the investment income to the fund for the previous fiscal year exceeded five million dollars (\$5,000,000), any investment income to the fund from the previous fiscal year in excess of five million dollars (\$5,000,000) shall be distributed to the land of enchantment legacy fund."

### **Chapter 26 Section 3 Laws 2023**

SECTION 3. A new section of Chapter 75 NMSA 1978 is enacted to read:

"LAND OF ENCHANTMENT LEGACY FUND--CREATED-- DISTRIBUTION.--

A. The "land of enchantment legacy fund" is created as a nonreverting fund in the state treasury. The fund consists of distributions, appropriations, gifts, grants, donations and bequests made to the fund. The department of finance and administration shall administer the fund. Any interest earned by the land of enchantment legacy fund shall be credited to the fund. Money in the fund shall be distributed and expended only as provided in this section.

B. On July 1, 2024 and on July 1 of each year thereafter, the department of finance and administration shall make an annual distribution from the land of enchantment legacy fund in an amount that is the greater of twelve million five hundred thousand dollars (\$12,500,000) or twenty-five percent of the total balance of the land of enchantment legacy fund; provided that, if the total balance in the fund is less than twelve million five hundred thousand dollars (\$12,500,000), the annual distribution shall be the total fund balance. The annual distribution shall be distributed as follows:

(1) twenty-two and one-half percent shall be distributed to the energy, minerals and natural resources department, of which:

(a) fifty percent shall be allocated to the forestry division of the energy, minerals and natural resources department to carry out: 1) projects and programs pursuant to the Forest Conservation Act; 2) forest and watershed management projects; 3) approved projects pursuant to the Forest and Watershed

Restoration Act; and 4) projects and programs pursuant to the Prescribed Burning Act; and

(b) fifty percent shall be allocated for projects pursuant to the Natural Heritage Conservation Act;

(2) twenty-two and one-half percent shall be distributed to the board of regents of New Mexico state university for the New Mexico department of agriculture to carry out programs and projects pursuant to the Noxious Weed Management Act, the Healthy Soil Act and the Soil and Water Conservation District Act;

(3) ten percent shall be distributed to the department of environment to plan, design and construct projects to improve surface water quality and river habitat statewide;

(4) fifteen percent shall be distributed to the economic development department, of which:

(a) twenty-five percent shall be allocated to the New Mexico outdoor recreation division of the economic development department to carry out projects under the outdoor equity grant program; and

(b) seventy-five percent shall be allocated to the New Mexico outdoor recreation division for special projects and outdoor recreation infrastructure;

(5) eight percent shall be distributed to the cultural affairs department to carry out projects and programs pursuant to the Cultural Properties Protection Act; and

(6) twenty-two percent shall be distributed to the department of game and fish to carry out projects and programs for the protection and propagation of game and fish.

C. Any unencumbered balances from distributions made pursuant to Subsection B of this section shall revert to the land of enchantment legacy fund at the end of the fiscal year following the fiscal year in which the funds were distributed.

D. Distributions made pursuant to this section shall not be used for the purposes of eminent domain."

## **LAWS 2023, CHAPTER 27**

**Senate Bill 72, aa**  
**Approved March 23, 2023**

AN ACT

RELATING TO WILDLIFE; AMENDING THE WILDLIFE CORRIDORS ACT TO CREATE THE WILDLIFE CORRIDORS FUND; REQUIRING ANNUAL REPORTING.

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

### **Chapter 27 Section 1 Laws 2023**

SECTION 1. Section 17-9-1 NMSA 1978 (being Laws 2019, Chapter 97, Section 1) is amended to read:

"17-9-1. SHORT TITLE.-- Chapter 17, Article 9 NMSA 1978 may be cited as the "Wildlife Corridors Act"."

### **Chapter 27 Section 2 Laws 2023**

SECTION 2. A new section of the Wildlife Corridors Act is enacted to read:

"WILDLIFE CORRIDORS FUND--CREATED--PURPOSE.--

A. The "wildlife corridors fund" is created as a nonreverting fund in the state treasury. The fund consists of appropriations, gifts, grants, donations, income from investment of the fund and any other money distributed or otherwise allocated to the fund. The department of transportation shall administer the fund, and money in the fund is appropriated to the department of transportation for the purposes set forth in Subsection B of 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 authorized representative.

B. Money in the wildlife corridors fund shall be used:

(1) to provide safe road crossings for wildlife and reduce wildlife-vehicle collisions, including the projects contained in the wildlife corridors project list prepared as a part of the wildlife corridors action plan pursuant to Section 17-9-3 NMSA 1978;

(2) for costs related to:

- (a) project feasibility studies;
- (b) planning, construction, retrofitting and maintenance of wildlife road crossing infrastructure;
- (c) roadkill tracking and studies;
- (d) animal detection systems;
- (e) signage;

- (f) exclusionary fencing;
- (g) wildlife jump outs; and
- (h) private land conservation efforts;

(3) to provide matching money as required by federal grant programs relating to wildlife corridor projects; and

(4) for administrative and personnel expenses related to the purposes of the fund as set forth in this subsection.

C. The department of transportation shall:

(1) consult with the department of game and fish concerning the distribution of money from the wildlife corridors fund for the purposes set forth in Subsection B of this section and, if the money is distributed to a project on or adjacent to lands owned by Indian nations, tribes or pueblos, consult with the appropriate tribal government; and

(2) consider distributing money from the fund to projects to fill funding gaps for wildlife road crossings and connectivity that are not otherwise budgeted or required for projects under other federal or state obligation.

D. By October 1, 2024, and by October 1 of each year thereafter, the department of transportation shall provide a report to the governor and the legislative finance committee regarding:

(1) an aggregate accounting of all money expended from the wildlife corridors fund during the prior fiscal year; and

(2) a listing of all projects receiving funding from the fund and the amount of funding for each project during the prior fiscal year."

## **Chapter 27 Section 3 Laws 2023**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# **LAWS 2023, CHAPTER 28**

**House Bill 31, aa**  
**Approved March 24, 2023**

AN ACT

RELATING TO DOMESTIC AFFAIRS; ELIMINATING THE REQUIREMENT TO FILE NOTICE WITH PROOF OF PUBLICATION; REPEALING SECTION 40-8-2 NMSA 1978 (BEING LAWS 1889, CHAPTER 3, SECTION 2, AS AMENDED).

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

### **Chapter 28 Section 1 Laws 2023**

SECTION 1. Section 40-8-1 NMSA 1978 (being Laws 1889, Chapter 3, Section 1, as amended) is amended to read:

"40-8-1. CHANGE OF NAME--PETITION AND ORDER.--

A. Any resident of this state fourteen years of age or older may, upon petition to the district court of the district in which the petitioner resides, if no sufficient cause is shown to the contrary, have the petitioner's name changed or established by order of the court. The legal parents or legal guardians of any resident of this state under the age of fourteen years may, upon petition to the district court of the district in which the petitioner resides, if no sufficient cause is shown to the contrary, have the name of the petitioner's child or ward changed or established by order of the court. When residents under the age of fourteen years petition the district court for a name change, notice shall be given to all legal parents or legal guardians. The order shall be entered at length upon the record of the court, and a copy of the order, duly certified, shall be filed in the office of the county clerk of the county in which the person resides. The county clerk shall record the same in a record book to be kept by the county clerk for that purpose.

B. If the court finds that notice to one or more legal parents or legal guardians of a child who is under fourteen years of age will jeopardize the child's or the applicant's personal safety, the court shall not require notice. The court shall order all records regarding the petition to be sealed. The records shall only be opened by court order based upon a showing of good cause or at the applicant's request."

### **Chapter 28 Section 2 Laws 2023**

SECTION 2. REPEAL.--Section 40-8-2 NMSA 1978 (being Laws 1889, Chapter 3, Section 2, as amended) is repealed.

## **LAWS 2023, CHAPTER 29**

**House Bill 207, aa**  
**Approved March 24, 2023**

AN ACT

RELATING TO HUMAN RIGHTS; EXTENDING THE SCOPE OF THE HUMAN RIGHTS ACT TO APPLY TO CERTAIN ACTIONS OF THE STATE AND ITS POLITICAL SUBDIVISIONS AND PUBLIC CONTRACTORS; EXPANDING THE LIST OF PROTECTED CLASSES TO INCLUDE GENDER; MAKING TECHNICAL CORRECTIONS.

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

## **Chapter 29 Section 1 Laws 2023**

SECTION 1. Section 28-1-2 NMSA 1978 (being Laws 1969, Chapter 196, Section 2, as amended by Laws 2021, Chapter 19, Section 3 and by Laws 2021, Chapter 37, Section 3) is amended to read:

"28-1-2. DEFINITIONS.--As used in the Human Rights Act:

- A. "person" means one or more individuals, a partnership, association, organization, corporation, joint venture, legal representative, trustees, receivers, or the state and all of its political subdivisions;
- B. "employer" means any person employing four or more persons and any person acting for an employer;
- C. "commission" means the human rights commission;
- D. "director" or "bureau" means the human rights bureau of the labor relations division of the workforce solutions department;
- E. "employee" means any person in the employ of an employer or an applicant for employment;
- F. "labor organization" means any organization that exists for the purpose in whole or in part of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment or of other mutual aid or protection in connection with employment;
- G. "employment agency" means any person regularly undertaking with or without compensation to procure opportunities to work or to procure, recruit or refer employees;
- H. "public accommodation" means any governmental entity or 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;

I. "public contractor" means a person who receives public funds as a result of contracting with a governmental entity;

J. "political subdivision" means any:

- (1) county;
- (2) incorporated city, town or village;
- (3) drainage, conservancy, irrigation, water and sanitation or other district;
- (4) mutual domestic association;
- (5) public water cooperative association; or
- (6) community ditch association;

K. "housing accommodation" means any building or portion of a building that is constructed or to be constructed, which is used or intended for use as the residence or sleeping place of any individual;

L. "real property" means lands, leaseholds or commercial or industrial buildings, whether constructed or to be constructed, offered for sale or rent, and any land rented or leased for the use, parking or storage of house trailers;

M. "secretary" means the secretary of workforce solutions;

N. "unlawful discriminatory practices" means those unlawful practices and acts specified in Section 28-1-7 NMSA 1978;

O. "physical or mental disability" means a physical or mental impairment that substantially limits one or more of a person's major life activities. A person is also considered to have a mental or physical disability if the person has a record of a physical or mental disability or is regarded as having a physical or mental disability;

P. "major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working;

Q. "applicant for employment" means a person applying for a position as an employee;

R. "sex" means a person's categorization as male, female or intersex based on biology, physiology and physical characteristics;

S. "sexual orientation" means a person's physical, romantic or emotional attraction to persons of the same or a different gender or the absence of any such attraction;

T. "gender identity" means a person's self-perception, based on the person's appearance, behavior or physical characteristics, that the person exhibits more masculinity or femininity or the absence of masculinity or femininity whether or not it matches the person's gender or sex assigned at birth;

U. "gender" means an individual or societal expectation or perception of a person as masculine or feminine based on appearance, behavior or physical characteristics;

V. "reasonable accommodation" means modification or adaptation of the work environment, work schedule, work rules or job responsibilities, and reached through good faith efforts to explore less restrictive or less expensive alternatives to enable an employee to perform the essential functions of the job and that does not impose an undue hardship on the employer;

W. "undue hardship" means an accommodation requiring significant difficulty or expense when considered in light of the following factors:

- (1) the nature and cost of the accommodation;
- (2) the financial resources of the employer involved in the provision of the reasonable accommodation;
- (3) the number of persons the employer employs;
- (4) the effect of the accommodation on expenses and resources;
- (5) the impact of the accommodation otherwise upon the employer's business;
- (6) the overall financial resources of the employer;
- (7) the overall size of the business of an employer with respect to the number, type and location of its facilities;
- (8) the type of operation of the employer, including the composition, structure and functions of the workforce of the employer; or
- (9) the geographic separateness or administrative or fiscal relationship to the employer of the employer's facilities;

X. "cultural or religious headdresses" includes hijabs, head wraps or other headdresses used as part of an individual's personal cultural or religious beliefs;

Y. "protective hairstyles" includes such hairstyles as braids, locs, twists, tight coils or curls, cornrows, bantu knots, afros, weaves, wigs or head wraps;

Z. "race" includes traits historically associated with race, including hair texture, length of hair, protective hairstyles or cultural or religious headdresses;

AA. "state" means the state of New Mexico or any of its agencies, departments, boards, instrumentalities or institutions;

BB. "governmental entity" means the state or any public body;

CC. "public body" means a state or local government, an advisory board, a commission, an agency or an entity created by the constitution of New Mexico or any branch of government that receives public funding, including political subdivisions, special tax districts, school districts and institutions of higher education; and

DD. "services" means any function, program, activity or benefit."

## **Chapter 29 Section 2 Laws 2023**

SECTION 2. 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, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, physical or mental disability 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, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, spousal affiliation, physical or mental disability 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, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, physical or mental disability 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, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, physical or mental disability 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, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, spousal affiliation, physical or mental disability 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, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, spousal affiliation, physical or mental disability 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, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, spousal affiliation or physical or mental disability; provided that the physical or mental disability 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, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, spousal affiliation or

physical or mental disability; provided that the physical or mental disability 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, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, spousal affiliation or physical or mental disability; provided that the physical or mental disability 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, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, spousal affiliation or physical or mental disability; provided that the physical or mental disability 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, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, spousal affiliation or physical or mental disability 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, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, spousal affiliation or physical or mental disability;

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;

J. any employer to refuse or fail to accommodate a person's physical or mental disability or serious medical condition, unless such accommodation is unreasonable or an undue hardship;

K. any employer to refuse or fail to make reasonable accommodation for an employee or job applicant with a need arising from pregnancy, childbirth or condition related to pregnancy or childbirth;

L. any employer to require an employee with a need arising from pregnancy, childbirth or condition related to pregnancy or childbirth to take paid or unpaid leave if another reasonable accommodation can be provided unless the employee voluntarily requests to be placed on leave or the employee is placed on leave pursuant to federal law; or

M. a governmental entity or a public contractor to refuse or otherwise limit or put conditions on services to a person because of race, age, religion, color, national origin, ancestry, sex, sexual orientation, gender, gender identity, pregnancy, childbirth or condition related to pregnancy or childbirth, physical or mental disability, serious medical condition or spousal affiliation; provided that nothing in this subsection shall be construed to require a governmental entity or a public contractor to provide services or programs beyond services or programs to the specific populations that the governmental entity or public contractor is tasked with serving."

## **LAWS 2023, CHAPTER 30**

**SEC/Senate Bill 4, aa**

**Approved March 27, 2023**

AN ACT

RELATING TO PUBLIC SCHOOLS; CHANGING THE NAME OF THE HUNGER-FREE STUDENTS' BILL OF RIGHTS ACT TO THE HEALTHY HUNGER-FREE STUDENTS' BILL OF RIGHTS ACT; AMENDING AND ENACTING SECTIONS OF THE HEALTHY

HUNGER-FREE STUDENTS' BILL OF RIGHTS ACT; ENSURING FREE, HEALTHY SCHOOL MEALS FOR ALL STUDENTS; PRESCRIBING DUTIES OF THE PUBLIC EDUCATION DEPARTMENT.

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

### **Chapter 30 Section 1 Laws 2023**

SECTION 1. Section 22-13C-1 NMSA 1978 (being Laws 2017, Chapter 117, Section 1) is amended to read:

"22-13C-1. SHORT TITLE.--Chapter 22, Article 13C NMSA 1978 may be cited as the "Healthy Hunger-Free Students' Bill of Rights Act"."

### **Chapter 30 Section 2 Laws 2023**

SECTION 2. Section 22-13C-2 NMSA 1978 (being Laws 2017, Chapter 117, Section 2) is amended to read:

"22-13C-2. DEFINITIONS.--As used in the Healthy Hunger-Free Students' Bill of Rights Act:

A. "community eligibility provision" means the federal provision created pursuant to Subparagraph (F) of Paragraph (1) of Subsection (a) of 42 U.S.C. Section 1759a that allows school districts to choose to receive federal special assistance payments for school meals in exchange for providing free school meals to all students enrolled in all or selected schools of the school district;

B. "direct certification" means the process by which eligible children are certified for free meals without the need for a household application based on household participation in one or more means-tested federal assistance programs;

C. "eligible meals" means meals served to full price, paid students that qualify for reimbursement under the national school lunch program and the school breakfast program;

D. "federal free meal reimbursement" means the free meal reimbursement paid by the United States department of agriculture under 42 U.S.C. 1759a for meals that qualify for reimbursement pursuant to the national school lunch program and the school breakfast program;

E. "federal paid meal reimbursement rate" means the paid reimbursement rate as set annually by the United States department of agriculture under 42 U.S.C. 1759a for meals that qualify for reimbursement under the national school lunch program and the school breakfast program;

F. "identified student percentage" means the percentage of a school food authority's student enrollment that is certified as eligible for free meals based on a documentation of benefit of receipt or categorical eligibility as described in 7 C.F.R. Section 245.6;

G. "meal application" means an application for free or reduced-price meals pursuant to the national school lunch program and the school breakfast program;

H. "paid meal rate" means the paid student rate reported by the department to the United States department of agriculture based on the average paid meal rate charged by school food authorities in the prior school year;

I. "participating school food authority" means a school food authority that chooses to participate in the New Mexico grown grant program;

J. "program" means the healthy universal school meals program created pursuant to the Healthy Hunger-Free Students' Bill of Rights Act;

K. "school food authority" means school districts, charter schools, the United States department of the interior's bureau of Indian education schools, tribally controlled schools and private schools that operate the national school lunch program and the school breakfast program;

L. "unprocessed and minimally processed products" means raw or frozen products, products that retain their inherent character, such as shredded carrots or ground beef, and dried products, such as beans, but does not include any products that are heated, cooked or canned; and

M. "value-added processed products" means products that are altered from their unprocessed or minimally processed state through preservation techniques, including cooking, baking or canning."

## **Chapter 30 Section 3 Laws 2023**

SECTION 3. Section 22-13C-4 NMSA 1978 (being Laws 2017, Chapter 117, Section 4) is amended to read:

"22-13C-4. UNIVERSAL SCHOOL MEALS FOR CHILDREN.--

A. Public school districts and charter schools operating the national school lunch program and the school breakfast program shall establish a program to offer high-quality meals at no charge to all students. Bureau of Indian education schools, tribally controlled schools and private schools operating the national school lunch and the school breakfast program may establish a program to offer high-quality meals at no charge to students. All participating school food authorities shall offer one breakfast and one lunch at no cost to students during each school day to any student who requests a

meal without consideration of the student's eligibility for a federally funded free or reduced-price meal, with a maximum of one free meal for each meal service period.

B. The department shall award funding to each school food authority that establishes a program pursuant to the provisions of Subsection E of this section as follows:

(1) for school food authorities that meet the meal quality improvement requirements established pursuant to Subsection E of this section, the department shall distribute to each such school food authority an amount that is equal to the federal free meal reimbursement rate multiplied by the total number of eligible meals served during the applicable budget year, minus an amount equal to the federal paid meal reimbursement for eligible meals served during the applicable budget year; or

(2) for school food authorities that do not meet by July 1, 2025 the meal quality improvement requirements established pursuant to Subsection E of this section, the department shall distribute to each such school food authority an amount that is equal to the paid meal rate multiplied by the total number of eligible meals served during the applicable budget year.

C. School food authorities shall use the money received pursuant to this section to purchase commodities necessary to improve meal quality, including food and other consumables, equipment, staffing, labor needs or training and technical assistance.

D. By August 1 of each year, the department shall inform eligible school food authorities of the amount of program funding they will receive during the upcoming school year. When calculating the amount of program funding that is due to a school food authority, the department shall assume that student participation will remain at the same level as the previous school year.

E. The department shall promulgate rules necessary for implementation of this section, including rules providing for:

(1) meal quality improvement requirements for the program, which may include purchasing New Mexico-produced food, freshly preparing scratch-cooked foods, providing culturally relevant meals and engaging student and family voices and choices in menu development; and

(2) procedures for annual certification.

F. School food authorities shall maximize access to federal funds for the cost of school breakfast and lunch programs by adopting the United States department of agriculture's community eligibility provision or any other federal provision that, in the opinion of the department, results in the most possible federal funding for meals served in that program. Each school food authority that has a school or site with an identified

student percentage of at least forty percent, or an identified student percentage of less than forty percent if authorized by federal law, as determined annually by the deadline set by the United States department of agriculture, shall participate in the federal community eligibility provision in the subsequent school year and throughout the duration of the community eligibility provision's four-year cycle. School food authorities, to the extent practicable, shall group public schools for purposes of maximizing the number of schools eligible to participate in the community eligibility provision.

G. If a school food authority does not elect the community eligibility provision or any other federal provision that, in the opinion of the department, results in the most possible federal funding for meals served in that program, school meal applications shall be collected and direct certification shall be used to identify students receiving free, reduced-price and paid meals based on United States department of agriculture guidance.

H. School food authorities shall take steps to maximize federal revenues and minimize debt on families by, at least monthly, taking steps to directly certify students for free school meal status pursuant to protocol determined by the department."

## **Chapter 30 Section 4 Laws 2023**

SECTION 4. A new section of the Healthy Hunger-Free Students' Bill of Rights Act is enacted to read:

### "INCENTIVIZE NEW MEXICO-GROWN FOODS.--

A. School food authorities are eligible to receive an incentive grant pursuant to this section to purchase New Mexico-grown, -raised or -processed products. A participating school food authority may use the amount received pursuant to this section to support implementation of program requirements described in Subsection E of Section 3 of the Healthy Hunger-Free Students' Bill of Rights Act.

B. School food authorities shall use the money received pursuant to this section to purchase New Mexico-grown, -raised or -processed products. A minimum of seventy-five percent of funds shall be used to purchase unprocessed and minimally processed products. Up to twenty-five percent of funds may be used for value-added processed products.

C. By August 1 of each year, subject to available appropriations, the department shall distribute to each participating school food authority the greater of one thousand dollars (\$1,000) or an amount equal to ten cents (\$.10) multiplied by the number of lunches that qualified for federal free meal reimbursement that the participating school food authority served to students in the preceding school year. When calculating the amount of program funding that is due to a school food authority, the department shall assume that student participation will remain at the same level as the previous year."

## **Chapter 30 Section 5 Laws 2023**

SECTION 5. A new section of the Healthy Hunger-Free Students' Bill of Rights Act is enacted to read:

"ADDRESSING FOOD WASTE.--By no later than July 1, 2025, a school food authority shall seek to achieve the lowest level of food waste, which shall include all of the following:

A. students in grades kindergarten through five shall be allowed to have up to twenty minutes of seated lunch time each school day to provide sufficient lunch periods that are long enough to give all students adequate time to eat; and

B. share tables shall be provided where food service staff, students and parents may return allowable food. Allowable food placed on the share tables that is not taken by a student during the course of a regular school meal period shall be donated to students, food banks or other nonprofit charitable organizations."

## **Chapter 30 Section 6 Laws 2023**

SECTION 6. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# **LAWS 2023, CHAPTER 31**

**Senate Bill 188, aa**  
**Approved March 28, 2023**

AN ACT

RELATING TO STATE SYMBOLS; DECLARING A STATE AROMA.

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

## **Chapter 31 Section 1 Laws 2023**

SECTION 1. Section 12-3-4 NMSA 1978 (being Laws 1927, Chapter 102, Section 1, as amended) is amended to read:

"12-3-4. STATE FLOWER--STATE BIRD--STATE TREE--STATE FISH--STATE ANIMAL--STATE VEGETABLES--STATE GEM--STATE GRASS-- STATE FOSSIL-- STATE COOKIE--STATE INSECT--STATE QUESTION--STATE ANSWER--STATE NICKNAME--STATE BUTTERFLY--STATE REPTILE--STATE AMPHIBIAN--STATE AIRCRAFT--STATE HISTORIC RAILROAD--STATE TIE--STATE NECKLACE--STATE AROMA.--

- A. The yucca flower is adopted as the official flower of New Mexico.
- B. The chaparral bird, commonly called roadrunner, is adopted as the official bird of New Mexico.
- C. The nut pine or pinon tree, scientifically known as *Pinus edulis*, is adopted as the official tree of New Mexico.
- D. The native New Mexico cutthroat trout is adopted as the official fish of New Mexico.
- E. The native New Mexico black bear is adopted as the official animal of New Mexico.
- F. The chile, the Spanish adaptation of the chilli, and the pinto bean, commonly known as the frijol, are adopted as the official vegetables of New Mexico.
- G. The turquoise is adopted as the official gem of New Mexico.
- H. The blue grama grass, scientifically known as *Bouteloua gracillis*, is adopted as the official grass of New Mexico.
- I. The *Coelophysis* is adopted as the official fossil of New Mexico.
- J. The bizcochito is adopted as the official cookie of New Mexico.
- K. The tarantula hawk wasp, scientifically known as *Pepsis formosa*, is adopted as the official insect of New Mexico.
- L. "Red or green?" is adopted as the official question of New Mexico.
- M. "Red and green or Christmas" is adopted as the official answer of New Mexico.
- N. "The Land of Enchantment" is adopted as the official nickname of New Mexico.
- O. The Sandia hairstreak is adopted as the official butterfly of New Mexico.
- P. The New Mexico whiptail lizard, scientifically known as *Cnemidophorus neomexicanus*, is adopted as the official reptile of New Mexico.
- Q. The New Mexico spadefoot toad, scientifically known as *Spea multiplicata*, is adopted as the official amphibian of New Mexico.
- R. The hot air balloon is adopted as the official aircraft of New Mexico.

S. The Cumbres and Toltec scenic railroad is adopted as the official historic railroad of New Mexico.

T. The bolo tie is adopted as the official tie of New Mexico.

U. The Native American squash blossom necklace is adopted as the official necklace of New Mexico.

V. The aroma of green chile roasting is adopted as the official aroma of New Mexico."

## **LAWS 2023, CHAPTER 32**

### **Senate Bill 43**

**Approved March 30, 2023**

#### AN ACT

RELATING TO ELECTIONS; AMENDING THE CRIME OF INTIMIDATION TO INCLUDE ACTS AGAINST ELECTION OFFICIALS AND EMPLOYEES AND AGENTS OF THE SECRETARY OF STATE, COUNTY CLERKS AND MUNICIPAL CLERKS.

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

### **Chapter 32 Section 1 Laws 2023**

SECTION 1. Section 1-20-14 NMSA 1978 (being Laws 1969, Chapter 240, Section 438) is amended to read:

"1-20-14. INTIMIDATION.--Intimidation consists of inducing or attempting to induce fear in the secretary of state, a county clerk, a municipal clerk or any employee or agent of the secretary of state, employee or agent of a county clerk, employee or agent of a municipal clerk, member of an election board, voter, challenger or watcher by use of or threatened use of force, violence, infliction of damage, harm or loss, or any form of economic retaliation upon the secretary of state, a county clerk, a municipal clerk or any employee or agent of the secretary of state, employee or agent of a county clerk, employee or agent of a municipal clerk, member of an election board, voter, challenger or watcher for the purpose of impeding or preventing the free exercise of the elective franchise or the impartial administration of the election or Election Code.

Whoever commits intimidation is guilty of a fourth degree felony."

# LAWS 2023, CHAPTER 33

Senate Bill 120, aa  
Approved March 30, 2023

AN ACT

RELATING TO PUBLIC EDUCATION; ALLOWING FOR OPEN ENROLLMENT FLEXIBILITY FOR CHILDREN OF MILITARY FAMILIES.

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

## Chapter 33 Section 1 Laws 2023

SECTION 1. Section 22-1-4 NMSA 1978 (being Laws 1975, Chapter 338, Section 1, as amended) is amended to read:

"22-1-4. FREE PUBLIC SCHOOLS--EXCEPTIONS--WITHDRAWING AND ENROLLING--OPEN ENROLLMENT.--

A. Except as provided by Section 24-5-2 NMSA 1978, and except as provided in Subsection H of this section, a free public school education shall be available to any school-age person who is a resident of this state and has not received a high school diploma or its equivalent.

B. A free public school education in those courses already offered to persons pursuant to the provisions of Subsection A of this section shall be available to any person who is a resident of this state and has received a high school diploma or its equivalent if there is available space in such courses.

C. A person entitled to a free public school education pursuant to the provisions of this section may enroll or re-enroll in a public school at any time and, unless required to attend school pursuant to the Attendance for Success Act, may withdraw from a public school at any time.

D. In adopting and promulgating rules concerning the enrollment of students transferring from a home school or private school to the public schools, the local school board shall provide that the grade level at which the transferring student is placed is appropriate to the age of the student or to the student's score on a student achievement test administered according to the statewide assessment and accountability system.

E. A local school board shall adopt and promulgate rules governing enrollment and re-enrollment at public schools other than charter schools within the school district. These rules shall include:

(1) definition of the school district boundary and the boundaries of attendance areas for each public school;

(2) for each public school, definition of the boundaries of areas outside the school district boundary or within the school district but outside the public school's attendance area and within a distance of the public school that would not be served by a school bus route as determined pursuant to Section 22-16-4 NMSA 1978 if enrolled, which areas shall be designated as "walk zones";

(3) priorities for enrollment of students as follows:

(a) first, students residing within the school district, or who will be residing within the school district if the student is a child in a military family who will be attending public school in the school district during the upcoming school year as provided in Subsection H of this section, and within the attendance area of a public school and students who had resided in the attendance area prior to a parent who is an active duty member of the armed forces of the United States or member of the national guard being deployed and whose deployment has required the student to relocate outside the attendance area for custodial care;

(b) second, students who previously attended the public school or are the children of a military family living in temporary housing and are assigned, awaiting placement or pending a move to permanent housing in a different attendance area where the students' family seeks enrollment of the students in either their current school attendance area or the school attendance area of the permanent housing; and

(c) third, all other applicants;

(4) establishment of maximum allowable class size if smaller than that permitted by law; and

(5) rules pertaining to grounds for denial of enrollment or re-enrollment at schools within the school district and the school district's hearing and appeals process for such a denial. Grounds for denial of enrollment or re-enrollment shall be limited to:

(a) a student's expulsion from any school district or private school in this state or any other state during the preceding twelve months; or

(b) a student's behavior in another school district or private school in this state or any other state during the preceding twelve months that is detrimental to the welfare or safety of other students or school employees.

F. In adopting and promulgating rules governing enrollment and re-enrollment at public schools other than charter schools within the school district, a local school board may establish additional enrollment preferences for rules admitting

students in accordance with the second and third priorities of enrollment set forth in Subparagraphs (b) and (c) of Paragraph (3) of Subsection E of this section. The additional enrollment preferences may include:

- (1) after-school child care for students;
- (2) child care for siblings of students attending the public school;
- (3) children of employees employed at the public school;
- (4) extreme hardship;
- (5) location of a student's previous school;
- (6) siblings of students already attending the public school; and
- (7) student safety.

G. As long as the maximum allowable class size established by law or by rule of a local school board, whichever is lower, is not met or exceeded in a public school by enrollment of first- and second-priority persons, the public school shall enroll other persons applying in the priorities stated in the school district rules adopted pursuant to Subsections E and F of this section. If the maximum would be exceeded by enrollment of an applicant in the second and third priorities, the public school shall establish a waiting list. As classroom space becomes available, persons highest on the waiting list within the highest priority on the list shall be notified and given the opportunity to enroll.

H. Every school district and charter school shall allow military families that will be relocating to a military installation in New Mexico pursuant to an official military order to enroll their children in public school prior to their actual physical presence in the school district. A parent may submit the student's name for any lottery-selected charter school, magnet school or other public school program for which the student qualifies. The school district or charter school shall accept electronic applications for enrollment, including enrollment in a specific school or program with the school district or charter school. The school district or charter school shall provide the applicant with materials regarding academic courses, electives, sports and other relevant information regarding the public school in which the student wants to be enrolled. The public school shall preregister the student in anticipation of the student's enrollment. A student's parent:

- (1) shall provide proof of residence in the school district within forty-five days after the published arrival date provided on official military documentation; and
- (2) may use any of the following addresses related to the family's military move:
  - (a) a temporary on-base billeting facility;

- (b) off-base military housing; or
- (c) a purchased or leased residence."

## **Chapter 33 Section 2 Laws 2023**

SECTION 2. Section 22-8B-4.1 NMSA 1978 (being Laws 2000, Chapter 82, Section 3, as amended) is amended to read:

"22-8B-4.1. CHARTER SCHOOLS' ENROLLMENT PROCEDURES.--

A. Start-up schools and conversion schools are subject to the following enrollment procedures:

(1) a start-up school may either enroll students on a first-come, first-served basis or through a lottery selection process if the total number of applicants exceeds the number of spaces available at the start-up school; and

(2) a conversion school shall give enrollment preference to students who are enrolled in the public school at the time it is converted into a charter school and to siblings of students admitted to or attending the charter school. The conversion school may either enroll all other students on a first-come, first-served basis or through a lottery selection process if the total number of applicants exceeds the number of spaces available at the conversion school.

B. In subsequent years of its operation, a charter school shall give enrollment preference to:

(1) students who have been admitted to the charter school through an appropriate admission process and remain in attendance through subsequent grades;

(2) children of employees employed by the charter school; and

(3) siblings of students already admitted to or attending the same charter school."

## **LAWS 2023, CHAPTER 34**

**Senate Bill 144, aa**  
**Approved March 30, 2023**

AN ACT

RELATING TO PUBLIC PROPERTY; AUTHORIZING THE FACILITIES MANAGEMENT DIVISION OF THE GENERAL SERVICES DEPARTMENT TO ACQUIRE PROPERTY

AND TO MAKE IMPROVEMENTS IN SANTA FE COUNTY FOR USE AS A STATE OFFICE BUILDING.

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

### **Chapter 34 Section 1 Laws 2023**

#### SECTION 1. AUTHORIZATION TO ACQUIRE PROPERTY.--

A. In order to acquire the following property in Santa Fe county for use as state agency offices, the facilities management division of the general services department may purchase and renovate, equip and furnish the educational retirement board building on camino de los Marquez in Santa Fe for use by the public regulation commission.

B. The acquisition of property pursuant to Subsection A of this section shall be made at a price not to exceed the value of the property established by the taxation and revenue department using generally accepted appraisal techniques for the type of property purchased.

## **LAWS 2023, CHAPTER 35**

**Senate Bill 145**

**Approved March 30, 2023**

AN ACT

RELATING TO PUBLIC EMPLOYEE PENSIONS; ENSURING PARITY FOR CREDITED SERVICE ACCRUED BY CERTAIN STATE POLICE MEMBERS PURSUANT TO THE PUBLIC EMPLOYEES RETIREMENT ACT.

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

### **Chapter 35 Section 1 Laws 2023**

SECTION 1. Section 10-11-27 NMSA 1978 (being Laws 1987, Chapter 253, Section 27, as amended) is amended to read:

"10-11-27. STATE POLICE MEMBER, CORRECTIONAL OFFICER MEMBER AND PROBATION AND PAROLE OFFICER MEMBER COVERAGE PLAN 1-- APPLICABILITY--CREDITED SERVICE.--

A. State police member, correctional officer member and probation and parole officer member coverage plan 1 is applicable to:

- (1) state police members who are not specifically covered by another coverage plan;
- (2) adult correctional officer members;
- (3) juvenile correctional officer members;
- (4) adult probation and parole officer members; and
- (5) juvenile probation and parole officer members.

B. The credited service of a state police member who was a retired member or a member on or before June 30, 2013 or of an adult correctional officer member shall have actual credited service increased by twenty percent for the purposes of state police member, correctional officer member and probation and parole officer member coverage plan 1.

C. The credited service, accrued after July 1, 2021, of a juvenile correctional officer member, an adult probation and parole officer or a juvenile probation and parole officer shall be increased by twenty percent for the purposes of state police member, correctional officer member and probation and parole officer member coverage plan 1.

D. Except as provided in Subsection B of this section, the credited service of a member covered under state police member, correctional officer member and probation and parole officer member coverage plan 1 shall be credited as provided in Section 10-11-4 NMSA 1978.

E. State police member, correctional officer member and probation and parole officer member coverage plan 1 is applicable to juvenile correctional officer members, adult probation and parole officer members and juvenile probation and parole officer members in the first full pay period after July 1, 2021 if the retirement board certifies to the secretary of state that, of those juvenile correctional officer members, adult probation and parole officer members and juvenile probation and parole officer members to be covered under state police member, correctional officer member and probation and parole officer member coverage plan 1, a majority of the respective members voting have voted to approve adoption of that plan at an election conducted pursuant to Laws 2020, Chapter 11, Sections 63 through 66."

## **Chapter 35 Section 2 Laws 2023**

SECTION 2. APPLICABILITY.--The provisions of this act apply to credited service accrued:

- A. on and after the effective date of this act; and

B. prior to the effective date of this act; provided that the credited service was accrued by a state police member who is subject to the provisions of Subsection B of Section 1 of this act and that state police member has not previously retired.

## **LAWS 2023, CHAPTER 36**

**Senate Bill 146, aa**  
**Approved March 30, 2023**

### **AN ACT**

RELATING TO TAXATION; AMENDING THE AMOUNT OF TAX LIABILITY REQUIRING ASSESSMENT BY THE SECRETARY OF TAXATION AND REVENUE OR ALLOWED TO BE DISPUTED BY A TAXPAYER; AMENDING PROVISIONS FOR SUBMITTING AN APPLICATION FOR A TAX CREDIT; PROVIDING THAT EVADING OR DEFEATING A TAX WITH SALES SUPPRESSION SOFTWARE CONSTITUTES TAX FRAUD; CLARIFYING PROCESSES FOR PROTESTING THE VALUE OR CLASSIFICATION OF PROPERTY BY A COUNTY ASSESSOR AND THE STATE AND APPEALS OF ORDERS BY A COUNTY VALUATION PROTESTS BOARD.

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

### **Chapter 36 Section 1 Laws 2023**

SECTION 1. Section 7-1-17 NMSA 1978 (being Laws 1965, Chapter 248, Section 20, as amended) is amended to read:

"7-1-17. ASSESSMENT OF TAX--PRESUMPTION OF CORRECTNESS.--

A. If the secretary or the secretary's delegate determines that a taxpayer is liable for taxes in excess of fifty dollars (\$50.00) that are due and that have not been previously assessed to the taxpayer, the secretary or the secretary's delegate shall promptly assess the amount thereof to the taxpayer.

B. Assessments of tax are effective:

(1) when a return of a taxpayer is received by the department showing a liability for taxes;

(2) when a document denominated "notice of assessment of taxes", issued in the name of the secretary, is mailed or delivered in person to the taxpayer against whom the liability for tax is asserted, stating the nature and amount of the taxes assertedly owed by the taxpayer to the state, demanding of the taxpayer the immediate payment of the taxes and briefly informing the taxpayer of the remedies available to the taxpayer; or

(3) when an effective jeopardy assessment is made as provided in the Tax Administration Act.

C. Any assessment of taxes or demand for payment made by the department is presumed to be correct.

D. When taxes have been assessed to any taxpayer and remain unpaid, the secretary or the secretary's delegate may demand payment at any time except as provided otherwise by Section 7-1-19 NMSA 1978."

## **Chapter 36 Section 2 Laws 2023**

SECTION 2. 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 over fifty dollars (\$50.00);

(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 36 Section 3 Laws 2023**

SECTION 3. Section 7-1-29.2 NMSA 1978 (being Laws 2003, Chapter 398, Section 10) is amended to read:

### "7-1-29.2. CREDIT CLAIMS.--

A. A taxpayer who submits a complete application for a tax credit is deemed to have received approval of the application if the application has not been granted or denied within one hundred twenty days of the date it was filed. Nothing in this section shall be construed to prevent the department from auditing taxes paid or from assessing taxes owed, including any tax resulting from tax credits found not to be valid.

B. A taxpayer who believes that the taxpayer is eligible to receive a tax credit may apply for approval of the credit by directing to the secretary a complete application on the form and in the manner prescribed by the department.

C. An application for a tax credit that has all fields completed, includes all attachments required by the application instructions and is submitted in accordance with the application instructions is deemed to be properly before the department for consideration, regardless of whether the department requests additional documentation after receipt of the application for credit.

D. If the department requests additional relevant documentation from a taxpayer who has submitted an incomplete application for a tax credit, the application shall be considered complete on the date that the taxpayer mails or delivers sufficient information for the department to consider the application.

E. The secretary or the secretary's delegate may approve or deny an application for a tax credit in whole or in part. An approval or denial by the secretary or the secretary's delegate shall be in writing. If the application is denied in whole or in part, the taxpayer shall not refile the denied application, but the taxpayer, within one hundred twenty days after the mailing or delivery of the denial of all or any part of the application, may elect to pursue only one of the remedies provided in this subsection. A taxpayer who timely pursues more than one remedy is deemed to have elected the first remedy requested. The taxpayer 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 the denied application for a tax credit;
- (b) an allegation that, because of the denial, the state is indebted to the taxpayer for a specified amount, including any allowed interest;
- (c) a demand for the approval of the application for the tax credit of the specified amount; and
- (d) a recitation of the facts supporting the application for the tax credit; or

(2) commence a civil action in the district court for Santa Fe county by filing a complaint setting forth the circumstance of the denied application for the tax credit; alleging that on account of the denial, the state is indebted to the taxpayer for a specified amount, together with any interest allowable; demanding approval of the application for the tax credit of that amount; and reciting the facts of the application for the tax credit. The taxpayer or the secretary may appeal from any final decision or order of the district court to the court of appeals."

## **Chapter 36 Section 4 Laws 2023**

SECTION 4. Section 7-1-73 NMSA 1978 (being Laws 1965, Chapter 248, Section 74, as amended) is amended to read:

"7-1-73. TAX FRAUD.--

A. A person is guilty of tax fraud if the person:

(1) willfully makes and subscribes any return, statement or other document that contains or is verified by a written declaration that it is true and correct as to every material matter and that the person does not believe it to be true and correct as to every material matter;

(2) willfully assists in, willfully procures, willfully advises or willfully provides counsel regarding the preparation or presentation of a return, affidavit, claim or other document pursuant to or in connection with any matter arising under the Tax Administration Act or a tax administered by the department, knowing that it is fraudulent or knowing that it is false as to a material matter, whether or not that fraud or falsity is with knowledge or consent of:

(a) the taxpayer or other person liable for taxes owed on the return; or

(b) a person who signs a document stating that the return, affidavit, claim or other document is true, correct and complete to the best of that person's knowledge;

(3) files any return electronically, knowing the information in the return is not true and correct as to every material matter;

(4) with intent to evade or defeat the payment or collection of any tax, or, knowing that the probable consequences of the person's act will be to evade or defeat the payment or collection of any tax, removes, conceals or releases any property on which levy is authorized or that is liable for payment of tax under the provisions of Section 7-1-61 NMSA 1978, or aids in accomplishing or causes the accomplishment of any of the foregoing;

(5) with intent to evade or defeat the payment or collection of any tax, or, knowing that the probable consequences of the person's act will be to evade or defeat the payment or collection of any tax, purchases, installs or uses any sales suppression software; or

(6) with the intent to evade or defeat the payment or collection of any tax, or, knowing that the probable consequences of the person's act will be to evade or defeat the payment or collection of any tax, sells, licenses, purchases, installs, transfers, sells as a service, manufactures, develops or possesses any sales suppression software with the purpose to defeat or evade the payment or collection of any tax.

B. Whoever commits tax fraud when the amount of the tax owed is two hundred fifty dollars (\$250) or less is guilty of a petty misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

C. Whoever commits tax fraud when the amount of the tax owed is over two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500) is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

D. Whoever commits tax fraud when the amount of the tax owed is over five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500) is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

E. Whoever commits tax fraud when the amount of the tax owed is over two thousand five hundred dollars (\$2,500) but not more than twenty thousand dollars (\$20,000) is guilty of a third degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

F. Whoever commits tax fraud when the amount of the tax owed is over twenty thousand dollars (\$20,000) is guilty of a second degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978.

G. In addition to the fines imposed pursuant to this section, a person who commits tax fraud shall pay the costs of the prosecution of the person's case.

H. As used in this section:

(1) "sales suppression software" means hidden or concealed computer software, also known as phantomware, for a point-of-sale system that can create a second set of records or eliminate or manipulate transaction records that may or may not be preserved in digital formats in order to misrepresent the existence or the true record of a transaction in the point-of-sale system. "Sales suppression software" includes an electronic device that carries or contains sales suppression software;

(2) "tax" does not include civil penalties or interest; and

(3) "willfully" means intentionally, deliberately or purposely, but not necessarily maliciously."

## **Chapter 36 Section 5 Laws 2023**

SECTION 5. Section 7-38-21 NMSA 1978 (being Laws 1973, Chapter 258, Section 61, as amended) is amended to read:

"7-38-21. PROTESTS--COUNTY-ASSESSED PROPERTY--ELECTION OF REMEDIES.--

A. A property owner may protest the value or classification determined by the county assessor for the property owner's property for property taxation purposes, the allocation of value of the property to a particular governmental unit or a denial of a claim for an exemption or for a limitation on increase in value either by:

(1) filing a petition with the county assessor as provided in the Property Tax Code; or

(2) filing a claim for refund after paying the property owner's taxes as provided in the Property Tax Code.

B. The initiation of a protest under Paragraph (1) of Subsection A of this section is an election to pursue that remedy and is an unconditional and irrevocable waiver of the right to pursue the remedy provided in Paragraph (2) of Subsection A of this section.

C. A property owner may also protest the application to the property owner's property of any administrative fee adopted pursuant to Section 7-38-36.1 NMSA 1978 by filing a claim for refund after paying the property owner's taxes as provided in the Property Tax Code."

## **Chapter 36 Section 6 Laws 2023**

SECTION 6. A new Section 7-38-21.1 NMSA 1978 is enacted to read:

"7-38-21.1. PROTESTS--STATE-ASSESSED PROPERTY--ELECTION OF REMEDIES.--

A. A property owner may protest the value or classification determined by the department for the property owner's property for property taxation purposes, the allocation of value of the property to a particular governmental unit or a denial of a claim for an exemption by:

(1) filing a petition of protest with the administrative hearings office, as provided in the Property Tax Code; or

(2) filing a claim for refund with a district court after paying the property owner's taxes as provided in the Property Tax Code.

B. The initiation of a protest under Paragraph (1) of Subsection A of this section is an election to pursue that remedy and is an unconditional and irrevocable waiver of the right to pursue the alternative remedy provided in Paragraph (2) of Subsection A of this section."

## **Chapter 36 Section 7 Laws 2023**

SECTION 7. Section 7-38-22 NMSA 1978 (being Laws 1973, Chapter 258, Section 62, as amended) is amended to read:

"7-38-22. PROTESTING VALUES, CLASSIFICATION, ALLOCATION OF VALUES AND DENIAL OF EXEMPTION DETERMINED BY THE DEPARTMENT.--

A. A property owner may protest the value or classification determined by the department for the property owner's property for property taxation purposes or the department's allocation of value of the property owner's property to a particular governmental unit or the denial of a claim for an exemption by filing a petition with the administrative hearings office. Filing a petition in accordance with this section entitles a property owner to a hearing on the property owner's protest.

B. Petitions shall:

(1) be filed no later than thirty days after:

- (a) the mailing by the department of the notice of valuation; or
  - (b) the mailing of a property tax bill on omitted property pursuant to Section 7-38-76 NMSA 1978;
- (2) state the property owner's name and address and the description of the property;
  - (3) state why the property owner believes the value, classification, allocation of value or denial of an exemption is incorrect and what the property owner believes the correct value, classification, allocation of value or exemption to be;
  - (4) state the value, classification, allocation of value or exemption that is not in controversy; and
  - (5) contain such other information as the administrative hearings office may by rule require.

C. The administrative hearings office shall notify the secretary and the property owner by certified mail of the date, time and place that the parties may appear before the administrative hearings office to present evidence related to the petition; provided that the parties may request, consent or agree to an alternative service method for the notice of hearing. The notice shall be sent at least fifteen days prior to the hearing date.

D. The secretary may provide for an informal conference on the protest before the hearing."

## **Chapter 36 Section 8 Laws 2023**

SECTION 8. Section 7-38-28 NMSA 1978 (being Laws 1973, Chapter 258, Section 68, as amended) is amended to read:

"7-38-28. APPEALS FROM ORDERS OF THE COUNTY VALUATION PROTESTS BOARDS.--A property owner may appeal an order made by a county valuation protests board by filing an appeal pursuant to the provisions of Section 39-3-1.1 NMSA 1978."

## **Chapter 36 Section 9 Laws 2023**

SECTION 9. A new section of Chapter 7, Article 38 NMSA 1978 is enacted to read:

"APPEALS FROM DECISIONS AND ORDERS OF THE HEARING OFFICER OF THE ADMINISTRATIVE HEARINGS OFFICE.--

A. A property owner or the secretary may appeal a decision and order of a hearing officer of the administrative hearings office to the court of appeals for further relief, but only to the same extent and on the same theory as was asserted in the hearing before the hearing officer. All such appeals shall be on the record made at the hearing and shall not be de novo. All such appeals shall be taken within thirty days of the date of mailing or delivery of the written decision and order of the hearing officer to the property owner, and, if not so taken, the decision and order are conclusive.

B. The procedure for perfecting an appeal pursuant to this section shall be as provided by the Rules of Appellate Procedure.

C. On appeal, the court shall set aside a decision and order of the hearing officer only if the decision and order is found to be:

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

D. If the secretary appeals a decision and order of the hearing officer and the court's decision, from which either no appeal is taken or no appeal may be taken, upholds the decision of the hearing officer, the court shall award reasonable attorney fees to the property owner. If the court's decision upholds the hearing officer's decision only in part, the award shall be limited to reasonable attorney fees associated with the portion upheld.

E. The secretary shall notify the appropriate county assessor of any decision and order or appellate court opinion and shall direct the assessor to take appropriate action to comply with the decision and order."

## **Chapter 36 Section 10 Laws 2023**

SECTION 10. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# **LAWS 2023, CHAPTER 37**

**STBTC/Senate Bill 155**  
**Approved March 30, 2023**

AN ACT

RELATING TO TELECOMMUNICATIONS; AMENDING THE RURAL TELECOMMUNICATIONS ACT OF NEW MEXICO; PROVIDING FOR THE USE OF THE STATE RURAL UNIVERSAL SERVICE FUND FOR CONSUMER BROADBAND.

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

## **Chapter 37 Section 1 Laws 2023**

SECTION 1. Section 63-9H-6 NMSA 1978 (being Laws 1999, Chapter 295, Section 6, as amended by Laws 2021, Chapter 118, Section 2 and by Laws 2021, Chapter 120, Section 9) is amended to read:

### **"63-9H-6. STATE RURAL UNIVERSAL SERVICE FUND--ESTABLISHMENT.--**

A. The commission shall implement and maintain a "state rural universal service fund" to maintain and support universal service that is provided by eligible telecommunications carriers, including commercial mobile radio services carriers, as are determined by the commission. As used in this section, "universal service" means basic local exchange service, comparable retail alternative services at affordable rates, service pursuant to a low-income telephone assistance plan and broadband internet access service to unserved and underserved areas as determined by the commission.

B. The fund shall be financed by a surcharge on intrastate retail public telecommunications services to be determined by the commission, excluding services provided pursuant to a low-income telephone assistance plan billed to end-user customers by a telecommunications carrier, and excluding all amounts from surcharges, gross receipts taxes, excise taxes, franchise fees and similar charges. For the purpose of funding the fund, the commission has the authority to apply the surcharge on intrastate retail public telecommunications services provided by telecommunications carriers, including commercial mobile radio services and voice over internet protocol services, at a competitively and technologically neutral rate or rates to be determined by the commission. The commission may establish the surcharge as a percentage of intrastate retail public telecommunications services revenue or as a fixed amount applicable to each communication connection. For purposes of this section, a "communication connection" means a voice-enabled telephone access line, wireless voice connection, unique voice over internet protocol service connection or other uniquely identifiable functional equivalent as determined by the commission. Such surcharges shall be competitively and technologically neutral. Money deposited in the fund is not public money, and the administration of the fund is not subject to the provisions of law regulating public funds. The commission shall not apply this surcharge to a private telecommunications network; to the state, a county, a municipality or other governmental entity; to a public school district; to a public institution of higher education; to an Indian nation, tribe or pueblo; or to Native American customers who reside on tribal or pueblo land.

C. The fund shall be competitively and technologically neutral, equitable and nondiscriminatory in its collection and distribution of funds, portable between eligible telecommunications carriers and additionally shall provide a specific, predictable and sufficient support mechanism as determined by the commission that ensures universal service in the state.

D. The commission shall:

(1) establish eligibility criteria for participation in the fund consistent with federal law that ensure the availability of universal service at affordable rates. The eligibility criteria shall not restrict or limit an eligible telecommunications carrier from receiving federal universal service support;

(2) provide for the collection of the surcharge on a competitively neutral basis and for the administration and disbursement of money from the fund;

(3) determine those services and areas requiring support from the fund;

(4) provide for the separate administration and disbursement of federal universal service funds consistent with federal law; and

(5) establish affordability benchmark rates for local residential and business services that shall be utilized in determining the level of support from the fund. The process for determining subsequent adjustments to the benchmark shall be established through a rulemaking.

E. All incumbent telecommunications carriers and competitive carriers already designated as eligible telecommunications carriers for the fund shall be eligible for participation in the fund. All other carriers that choose to become eligible to receive support from the fund may petition the commission to be designated as an eligible telecommunications carrier for the fund. The commission may grant eligible carrier status to a competitive carrier in a rural area upon a finding that granting the application is in the public interest. In making a public interest finding, the commission may consider at least the following items:

(1) the impact of designation of an additional eligible carrier on the size of the fund;

(2) the unique advantages and disadvantages of the competitor's service offering; and

(3) any commitments made regarding the quality of telephone service.

F. The commission shall adopt rules, including a provision for variances, for the implementation and administration of the fund in accordance with the provisions of this section. The rules shall enumerate the appropriate uses of fund support and any

restrictions on the use of fund support by eligible telecommunications carriers. The rules shall require that an eligible telecommunications carrier receiving support from the fund pursuant to Subsection K, L, M or N of this section must expend no less than sixty percent of the support it receives to deploy and maintain broadband internet access services in rural areas of the state. The rules also shall provide for annual reporting by eligible telecommunications carriers verifying that the reporting carrier continues to meet the requirements for designation as an eligible telecommunications carrier for purposes of the fund and is in compliance with the commission's rules, including the provisions regarding use of support from the fund.

G. The commission shall, upon implementation of the fund, select a neutral third-party administrator to collect, administer and disburse money from the fund under the supervision and control of the commission pursuant to established criteria and rules promulgated by the commission. The administrator may be reasonably compensated for the specified services from the surcharge proceeds to be received by the fund pursuant to Subsection B of this section. For purposes of this subsection, the commission shall not be a neutral third-party administrator.

H. The fund established by the commission shall ensure the availability of universal service as determined by the commission at affordable rates in rural areas of the state; provided, however, that nothing in this section shall be construed as granting any authority to the commission to impose the surcharge on or otherwise regulate broadband internet access services.

I. The commission shall ensure that intrastate switched access charges are equal to interstate switched access charges established by the federal communications commission as of January 1, 2006. Nothing in this section shall preclude the commission from considering further adjustments to intrastate switched access charges based on changes to interstate switched access charges.

J. To ensure that providers of intrastate retail communications service contribute to the fund and to further ensure that the surcharge determined pursuant to Subsection B of this section to be paid by the end-user customer will be held to a minimum, the commission shall adopt rules, or take other appropriate action, to require all such providers to participate in a plan to ensure accurate reporting.

K. The commission shall authorize payments from the fund to incumbent local exchange carriers, in combination with revenue-neutral rate rebalancing up to the affordability benchmark rates. Beginning in 2018, the commission shall make access reduction support payments in the amount made from the fund in base year 2014, adjusted each year thereafter by:

(1) the annual percentage change in the number of access lines served by the incumbent local exchange carriers receiving such support for the prior calendar year, as compared to base year 2014; and

(2) changes in the affordability benchmark rates that have occurred since 2014.

L. Notwithstanding the provisions of Subsection K of this section, the annual amount of access reduction support payments for an eligible incumbent local exchange carrier in 2024, 2025 and 2026 shall be equal to the annual access reduction support payments for that eligible incumbent local exchange carrier for the year 2023. Access reduction support payments shall be terminated after December 31, 2026.

M. The commission shall determine the methodology to be used to authorize payments to all other carriers that apply for and receive eligible carrier status; provided that:

(1) an eligible incumbent telecommunications carrier that is not eligible for funding pursuant to rate rebalancing in Subsection K of this section and that has been previously authorized pursuant to Subsection N of this section for need-based support may apply for ongoing fund support;

(2) the commission shall award an applicant ongoing fund support at no less than the average access line amount of funding support for comparable carriers; provided that an eligible telecommunications carrier receiving fund support pursuant to this subsection shall not offer basic local exchange residential and business services at rate levels lower than the rates for such services charged by any of the comparable carriers used for the determination of the level of support;

(3) the commission shall act upon a request for ongoing fund support within one hundred twenty days of the filing of the request; and

(4) nothing in this section shall limit the commission's authority to adopt rules pursuant to Subsection F of this section regarding appropriate uses of fund support and any restrictions on the use of the fund support by eligible telecommunications carriers.

N. The commission may also authorize payments from the fund to incumbent rural telecommunications carriers or to telecommunications carriers providing comparable retail alternative services that have been designated as eligible telecommunications carriers serving in rural areas of the state upon a finding, based on factors that may include a carrier's regulated revenues, expenses or investment, by the commission that such payments are needed to ensure the widespread availability and affordability of universal service. The commission shall decide cases filed pursuant to this subsection with reasonable promptness, with or without a hearing, but no later than six months following the filing of an application seeking payments from the fund, unless the commission finds that a longer time will be required, in which case the commission may extend the period for an additional three months.

O. The commission shall adopt rules that establish and implement a broadband program to provide funding to eligible telecommunications carriers for the construction and maintenance of broadband infrastructure. Each year, an amount equal to thirty million dollars (\$30,000,000) less the amounts expended pursuant to Subsections K, L, M and N of this section shall be dedicated to the broadband program.

P. Rules adopted pursuant to Subsection O of this section shall require that the commission:

- (1) consider applications for funding on a technology-neutral basis;
- (2) submit applications for funding to the connect New Mexico council for prioritization and alignment with the statewide broadband plan to ensure digital equity and digital inclusion; and
- (3) require that the awards of support be consistent with federal universal service support programs.

Q. The total obligations of the fund determined by the commission pursuant to this section, plus administrative expenses and a prudent fund balance, shall not exceed a cap of thirty million dollars (\$30,000,000) per year. The commission shall evaluate the amount of the cap in an appropriate proceeding to be completed by June 30, 2019 and consider whether, based on the then-current status of the fund, the cap should be modified, maintained or eliminated.

R. By October 1 of each year, the commission shall make a report to the legislature regarding the status of the fund, including:

- (1) relevant data relating to implementation of the broadband program and the progress toward digital equity and digital inclusion in rural areas of the state;
- (2) recommendations for changes to the structure, size and purposes of the fund and whether the cap on the fund provided for in Subsection Q of this section should be modified, maintained or eliminated; and
- (3) the service areas that received funding awards from the broadband program and the amounts of those awards.

S. The 2025 annual report made pursuant to Subsection R of this section shall include an assessment of the state rural universal service fund that addresses:

- (1) whether to repurpose the access reduction support funds into the commission's broadband support program;
- (2) a methodology for determining broadband support levels that is consistent with the requirements of Subsection C of this section and accounts, at a

minimum, for broadband costs, potential revenues from deployed infrastructure and existing federal support mechanisms;

(3) the appropriate size of the fund;

(4) criteria for awarding funding;

(5) the impact of proposed changes on per-connection assessments;  
and

(6) whether all sellers of prepaid telecommunications services should be required to collect state rural universal service fund assessments at the point of sale, similar to the methodology for collecting 911 emergency surcharges pursuant to Section 63-9D-5 NMSA 1978."

## **Chapter 37 Section 2 Laws 2023**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

## **LAWS 2023, CHAPTER 38**

**Senate Bill 176, aa**  
**Approved March 30, 2023**

AN ACT

RELATING TO WATER; AMENDING THE ACEQUIA AND COMMUNITY DITCH INFRASTRUCTURE FUND TO ALLOW FUNDING FOR DISASTER RESPONSE, RECOVERY AND HAZARD MITIGATION AND COST SHARE REQUIREMENTS OF STATE AND FEDERAL FUNDING PROGRAMS.

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

## **Chapter 38 Section 1 Laws 2023**

SECTION 1. Section 72-14-24.1 NMSA 1978 (being Laws 2019, Chapter 169, Section 1) is amended to read:

"72-14-24.1. 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:

(1) provide funding to acequias or community ditches for planning, engineering design or construction of irrigation works, and infrastructure projects, including dams, reservoirs, diversions, ditches, flumes or other appurtenances for the purposes of restoration, repair, disaster response recovery and hazard mitigation, improvement of irrigation efficiency and protection from floods; and

(2) match or meet cost share requirements of other state and federal funding programs.

C. The interstate stream commission shall:

(1) consult with the acequia commission and the New Mexico acequia association to develop:

(a) guidelines and criteria for funding eligibility; provided that no local cost share shall be required;

(b) applications; and

(c) selection requirements with a prioritization on project readiness and need;

(2) review acequia or community ditch plans and specifications;

(3) 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 38 Section 2 Laws 2023**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# **LAWS 2023, CHAPTER 39**

**Senate Bill 180, aa, w/cc**  
**Approved March 30, 2023**

## **AN ACT**

RELATING TO ELECTIONS; AMENDING THE ELECTION CODE; DIRECTING RULEMAKING TO DESIGNATE A PUBLIC OFFICIAL'S HOME ADDRESS IN PUBLIC FILINGS AS CONFIDENTIAL; SPECIFYING WHEN THE INSPECTION OF PUBLIC RECORDS ACT APPLIES TO DISCLOSURES PURSUANT TO THE ELECTION CODE; AMENDING AND ENACTING DEFINITIONS; ALLOWING ELECTRONIC NOMINATING PETITION SIGNATURES; CREATING AN ELECTIONS SECURITY PROGRAM; REQUIRING THE USE OF FORMS APPROVED BY THE SECRETARY OF STATE; REQUIRING SERVICE OF PROCESS ON THE SECRETARY OF STATE FOR ELECTION-RELATED LITIGATION; ADDRESSING QUALIFICATIONS OF ELECTION BOARD MEMBERS; REVISING ELECTION BOARD AND MESSENGER COMPENSATION; REQUIRING TRAINING FOR CHALLENGERS AND WATCHERS; REQUIRING VOTER CONVENIENCE CENTERS; PROVIDING FOR A PROGRAM TO RECONCILE VOTER REGISTRATION LISTS; ALLOWING FOR AN ELECTRONIC POLL BOOK ALTERNATIVE; ADJUSTING VOTER REGISTRATION PROCESSING PROCEDURES; AMENDING REQUIREMENTS FOR REGISTRATION AT VOTING LOCATIONS PRIOR TO VOTING; REVISING PROCEDURES AND REQUIREMENTS FOR MAILED BALLOTS, ABSENTEE BALLOTS AND MILITARY OVERSEAS BALLOTS; AMENDING THE INTIMATE PARTNER VIOLENCE SURVIVOR SUFFRAGE ACT; ADJUSTING TIME FRAMES TO FILL A VACANCY ON THE GENERAL ELECTION BALLOT; AMENDING THE PRIMARY ELECTION LAW; REVISING REQUIREMENTS FOR NOMINATIONS AND CANDIDATES; AMENDING VOTING SYSTEMS REQUIREMENTS; ADDRESSING BALLOT PREPARATION; ADDRESSING MAINTENANCE OF BALLOT BOXES AND MONITORED SECURED CONTAINERS; CORRECTING AND PRESCRIBING THE ORDER OF OFFICES ON BALLOTS; REQUIRING THE SENDING OF A NOTICE OF ELECTION; AMENDING PROVISIONS RELATED TO THE CERTIFICATION OF VOTING MACHINES; ADDRESSING PROVISIONAL BALLOTS; ADDRESSING THE COUNTING AND DISPOSITION OF PAPER BALLOTS; ADDRESSING POST-ELECTION DUTIES; REVISING REQUIREMENTS FOR THE IMPOUNDMENT OF BALLOTS, AUDITS, VOTING MACHINE RECHECKS AND RECOUNTS; REVISING TIME FRAMES FOR REFERENDUM PETITIONS; RECOMPILING A SECTION AUTHORIZING LEGISLATIVE CAUCUS COMMITTEES INTO THE CAMPAIGN REPORTING ACT; REVISING ELECTION-RELATED CRIMES; AMENDING THE LOCAL ELECTION ACT; AMENDING THE LOBBYIST REGULATION ACT; AUTHORIZING TAXPAYER

INFORMATION TO BE REVEALED TO THE SECRETARY OF STATE FOR PURPOSES OF MAINTAINING VOTER REGISTRATION RECORDS; AMENDING THE CONFIDENTIAL SUBSTITUTE ADDRESS ACT; MAKING TECHNICAL AND CONFORMING CHANGES; AMENDING, REPEALING, ENACTING AND RECOMPILING SECTIONS OF THE NMSA 1978.

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

### **Chapter 39 Section 1 Laws 2023**

SECTION 1. A new section of the Election Code is enacted to read:

"PUBLIC OFFICIAL HOME ADDRESS CONFIDENTIALITY-- RULEMAKING.-- The secretary of state shall promulgate rules to allow an elected or appointed public official to designate as confidential the public official's home address as stated in election- and financial-related disclosures filed with the secretary of state or county clerks. A home address designated as confidential pursuant to this section is exempt from disclosure pursuant to an Inspection of Public Records Act request and shall not be published on a governmental website. Nothing in this section or the secretary of state's rule shall prohibit the disclosure of the public official's home address if relevant to a judicial proceeding."

### **Chapter 39 Section 2 Laws 2023**

SECTION 2. A new section of Chapter 1, Article 1 NMSA 1978 is enacted to read:

"REAL-TIME SYNCHRONIZATION.--As used in the Election Code, "real-time synchronization" means that the internet connection at a voting location is able to synchronize voting data with the office of the county clerk in real time."

### **Chapter 39 Section 3 Laws 2023**

SECTION 3. 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 candidate contest or ballot question 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 candidate contest or ballot question 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 candidate contest in which there is a declared write-in candidate and a write-in vote is cast, 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 39 Section 4 Laws 2023**

SECTION 4. Section 1-1-7.2 NMSA 1978 (being Laws 1973, Chapter 228, Section 5, as amended) is amended to read:

"1-1-7.2. 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.

E. No later than January 1, 2024, the secretary of state shall implement a secure internet application, in addition to the paper circulation process, to gather electronic signatures in accordance with rules developed by the secretary of state. The secure internet application shall provide for the ability to verify that a person signing the petition is a registered voter and is eligible to sign the petition for a particular candidate."

## **Chapter 39 Section 5 Laws 2023**

SECTION 5. Section 1-1-16 NMSA 1978 (being Laws 1969, Chapter 240, Section 16, as amended) is amended to read:

"1-1-16. REGISTRATION OFFICER.--As used in the Election Code, "registration officer" means the secretary of state, a county clerk, a clerk's authorized deputy, a clerk-authorized member of an election board or a state employee performing registration duties in accordance with the federal National Voter Registration Act of 1993 or Section 1-4-5.2 NMSA 1978."

## **Chapter 39 Section 6 Laws 2023**

SECTION 6. A new Section 1-1-27 NMSA 1978 is enacted to read:

"1-1-27. PUBLIC RECORDS--DISCLOSURE--PROCEDURE.--

A. Where the Election Code provides for disclosure or nondisclosure of public records relating to elections, the provisions of the Election Code shall apply, and the provisions of the Inspection of Public Records Act shall not be applicable to the disclosure or nondisclosure.

B. For any public records relating to elections where the Election Code does not provide for disclosure or nondisclosure of the public records, the provisions of the Inspection of Public Records Act shall apply."

## **Chapter 39 Section 7 Laws 2023**

SECTION 7. A new section of Chapter 1, Article 2 NMSA 1978 is enacted to read:

"ELECTION-RELATED ORGANIZATION--REGISTRATION REQUIRED.--An election-related organization shall register with the secretary of state at least seventy days before a regularly scheduled statewide election or forty-two days before a special election or an election to fill a vacancy in the United States house of representatives."

## **Chapter 39 Section 8 Laws 2023**

SECTION 8. A new section of Chapter 1, Article 2 NMSA 1978 is enacted to read:

"ELECTIONS SECURITY PROGRAM--GENERAL RESPONSIBILITIES.--

A. The secretary of state shall maintain an elections security program within the bureau of elections. The program shall have the general responsibility of advising

the secretary of state, county clerks and the voting system certification committee regarding voting system and cybersecurity requirements and ensuring their implementation and shall be the primary liaison working with federal oversight and intelligence agencies regarding elections-critical infrastructure.

B. The elections security program may conduct assessments, inspections and incident response in relation to networks and equipment deemed to be elections-critical infrastructure, both at the state and county levels.

C. The elections security program shall monitor the functionality of voting systems certified for use in the state to ensure compliance with the security requirements provided for in Chapter 1, Article 9 NMSA 1978 and administrative rules adopted pursuant to that article.

D. Documents and communications related to election security or that could put elections-critical infrastructure at risk are exempt from disclosure.

E. As used in this section, "elections-critical infrastructure" means those assets, systems and networks, whether physical or virtual, that are considered so vital to elections in this state that their infiltration, incapacitation or destruction would have a debilitating effect on the administration of elections, the secrecy of the ballot and the efficient reporting of accurate results for any election conducted pursuant to the Election Code."

## **Chapter 39 Section 9 Laws 2023**

SECTION 9. Section 1-2-1 NMSA 1978 (being Laws 1969, Chapter 240, Section 22, as amended) is amended to read:

### **"1-2-1. SECRETARY OF STATE--CHIEF ELECTION OFFICER--RULES.--**

A. The secretary of state is the chief election officer of the state.

B. The secretary of state shall:

(1) obtain and maintain uniformity in the application, operation and interpretation of the Election Code; and

(2) subject to the State Rules Act, make rules pursuant to the provisions of, and necessary to carry out the purposes of, the Election Code and shall furnish to the county clerks copies of such rules; provided that no rule is adopted or amended within the sixty-three days before a primary or a general election.

C. No forms or procedures shall be used in any election held pursuant to the Election Code without prior approval of the secretary of state. If a form is authorized or

required by the Election Code and issued or approved by the secretary of state, only the form issued or approved by the secretary may be used."

## **Chapter 39 Section 10 Laws 2023**

SECTION 10. A new Section 1-2-1.2 NMSA 1978 is enacted to read:

"1-2-1.2. SECRETARY OF STATE--SERVICE OF PROCESS--ACTIONS RELATED TO ELECTIONS.--For the purposes of any action filed in court challenging a procedure or provision of the Election Code, a petition or a candidacy or a post-election action initiated by any person, the secretary of state shall receive service of process, regardless of whether the secretary of state is a party to the action."

## **Chapter 39 Section 11 Laws 2023**

SECTION 11. 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 QUALIFIED RESIDENTS.--

A. In order to qualify for appointment by the county clerk 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 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, domestic partner, 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 or domestic partner 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 qualified residents to serve on an election board under the direct supervision of the presiding judge. A qualified resident appointed by the county clerk shall:

(1) meet the qualifications set forth in Paragraphs (2) through (4) of Subsection A of this section; and

(2) be sixteen or seventeen years of age at the time of the election in which the qualified resident is serving as a member of an election board.

E. A qualified resident appointed to an election board shall not serve as the presiding judge or as an election judge."

## **Chapter 39 Section 12 Laws 2023**

SECTION 12. 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 election judges under the supervision of one or more presiding judges for absent voter precincts, recounts and special elections; provided that each team shall consist of two election judges and that each election judge on a team shall not belong to the same political party as any other election judge on the team at the time of the appointment; and provided further that an election judge shall not have changed party registration in the two years next preceding the judge's appointment in such manner that the judge's prior party registration would make the judge ineligible to serve on the assigned team.

D. The county clerk may appoint election clerks to an 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 39 Section 13 Laws 2023**

SECTION 13. Section 1-2-16 NMSA 1978 (being Laws 1969, Chapter 240, Section 36, as amended) is amended to read:

### **"1-2-16. ELECTION BOARD--MESSENGERS--COMPENSATION.--**

A. Members of an election board and messengers shall be compensated for their services at an hourly rate set by the secretary of state; provided that the rate in each county shall not be less than the federal minimum hourly wage rate nor more than four hundred dollars (\$400) for an election day; and provided further that the rate may differentiate among the presiding judge, election judges, election clerks and messengers. Election board members and messengers shall be paid for training and may additionally be paid mileage as provided in the Per Diem and Mileage Act each way over the usually traveled route when an election board member or messenger travels by private vehicle.

B. Members of an election board and messengers 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 and messengers are designated as seasonal employees."

## **Chapter 39 Section 14 Laws 2023**

SECTION 14. Section 1-2-20 NMSA 1978 (being Laws 1969, Chapter 240, Section 39, as amended) is amended to read:

"1-2-20. MESSENGERS--APPOINTMENT.--

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 mailed ballots from polling places or monitored secured containers and removable media storage devices from polling places and deliver each to locations designated by the county clerk.

B. Messengers shall take an oath of office before entering into service as a messenger. No person shall serve as a messenger unless the person would also meet the requirements to be a challenger, watcher or election observer pursuant to Paragraphs (1) through (4) and (6) of Subsection C of Section 1-2-22 NMSA 1978. 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 39 Section 15 Laws 2023**

SECTION 15. Section 1-2-22 NMSA 1978 (being Laws 1969, Chapter 240, Section 41, as amended) is amended to read:

"1-2-22. CHALLENGERS, WATCHERS AND ELECTION OBSERVERS--  
TRAINING--QUALIFICATIONS--RESTRICTIONS.--

A. Before accepting an appointment or entering into service as a challenger or watcher for an election, a person shall attend a training session in advance of that election. The training shall be provided by the county clerk based on a uniform curriculum provided by the secretary of state. The county clerk shall offer the training between thirty-six and twenty-nine days before the election and at least once per week prior to the election through the Thursday before election day. At the end of the training session, each person in attendance shall sign a form provided by the secretary of state indicating an understanding of the permitted and prohibited activities by challengers and watchers. The county clerk shall provide a certificate to each person who completes the training in advance of an election and shall keep and maintain in the office of the county clerk a list of those voters who have completed the training in advance of each election. The list shall be available to be viewed in the office of the county clerk at any time during the regular hours and days of business beginning with the first day following the first training for an election and concluding with the adjournment of the state or county canvass board for that election, whichever is later. The training shall be open to any

interested person, and the county clerk shall post notice of each training at least four days before the training is to be held.

B. Challengers shall be voters of a precinct located in the county to which the challenger is appointed. Watchers shall be voters of a precinct in this state.

C. A person shall not be qualified for appointment or service as a challenger, watcher or election observer if the person:

(1) is a candidate for any office to be voted for at the election;

(2) is a spouse, domestic partner, parent, child, brother or sister of any candidate to be voted for at the election;

(3) is married to a parent, child, brother or sister of any candidate to be voted for at the election or is the parent of the spouse or domestic partner of any candidate to be voted for at the election;

(4) is a sheriff, deputy sheriff, marshal, deputy marshal or state or municipal police officer;

(5) has accepted an appointment to serve as an election board member in the same election;

(6) has been removed from service as a challenger, watcher, election observer or county canvass observer in the current or immediately preceding election cycle by unanimous vote of the presiding judge and election judges of an election board for violating the permitted or prohibited activities of challengers, watchers, election observers or county canvass observers; provided that the election board detailed with reasonable specificity the conduct that led to the violation on a form prescribed by the secretary of state and the form is retained by the county clerk; or

(7) for challengers and watchers, has not completed the training and received a certificate from the county clerk pursuant to Subsection A of this section."

## **Chapter 39 Section 16 Laws 2023**

SECTION 16. 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 shall establish voter convenience centers through the use of consolidated precincts for voting in a statewide election.

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 synchronization to access 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 if the precinct is designated as a mail ballot election precinct pursuant to Section 1-6-22.1 NMSA 1978.

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;

(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.”

## **Chapter 39 Section 17 Laws 2023**

SECTION 17. Section 1-4-1.1 NMSA 1978 (being Laws 2015, Chapter 145, Section 19, as amended) 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 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 not disclose information received from the secretary of state pursuant to this subsection except as necessary to complete an investigation pursuant to this section. The county clerk shall investigate or reconcile the information received from the secretary of state.

E. The secretary of state shall develop a general program that is uniform and nondiscriminatory for county clerks to investigate and reconcile the information received from the secretary of state and to identify voters who may be eligible for cancellation from the statewide voter registration list. The general program shall describe the best practices and requirements for 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, and provide a procedure to cancel certificates of registration for voters:

(1) confirmed to have voted in another state requiring residence in that state if previous to the out-of-state vote, the voter was registered to vote in this state; or

(2) confirmed to be on the social security master death index file."

## **Chapter 39 Section 18 Laws 2023**

SECTION 18. 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.-- Except for qualified electors who register to vote or update a certificate of registration at a voting location prior to voting pursuant to Section 1-4-5.7 NMSA 1978, 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 may be processed beginning the Monday following an election and shall be processed beginning no later than the first business day after the approval of the county canvass report for that 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 39 Section 19 Laws 2023**

SECTION 19. 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 full 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 is required to provide the full social security number prior to receiving a ballot and, until it is provided, may only vote on a provisional ballot. The provisional ballot shall be counted if the required information is provided or the voter's full social security number is ascertained during the period for counting provisional ballots, including any appeals provided for in the Election Code.

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 39 Section 20 Laws 2023**

SECTION 20. 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, in June or July of each odd-numbered year, appoint five voters who shall constitute the board of registration for the county; provided that a county with fewer than five thousand residents as of the last federal decennial census may 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 39 Section 21 Laws 2023**

SECTION 21. Section 1-4-47 NMSA 1978 (being Laws 1991, Chapter 80, Section 4, as amended) is amended to read:

"1-4-47. DRIVER'S LICENSE VOTER REGISTRATION.--

A. Every person who is a qualified elector and is applying for a driver's license, to renew a driver's license or for an identification card shall, if qualified to register to vote, with the consent of the applicant be simultaneously registered to vote.

B. The secretary of taxation and revenue shall select certain employees of the motor vehicle division of the taxation and revenue department or employees of entities on contract to provide field services to the motor vehicle division to provide assistance to any applicant requesting voter registration assistance.

C. Every motor vehicle division office, field office or contract field office of the division shall display within the offices clearly visible signs stating "voter registration assistance available" and:

(1) personnel in each office shall advise each person who is a qualified elector and an applicant for licensure or renewal or for an identification card that initial voter registration or a change of address for voter registration may be made simultaneously with the motor vehicle application;

(2) voter registration shall be conducted in a manner such that the applicant completes the full certificate of registration electronically;

(3) the applicant's digital signature shall be affixed to the certificate of registration using an electronic signature in conformance with the Electronic

Authentication of Documents Act and the Uniform Electronic Transactions Act, and the form and signature shall be transmitted to the secretary of state; and

(4) every certificate of registration completed electronically shall include the applicant's full social security number and shall be transmitted by means of a secured electronic transmission to the secretary of state for delivery to the appropriate county clerk.

D. A motor vehicle division employee or contractor shall not intentionally influence the prospective registrant in the selection of political party, or independent status, by word or act. A motor vehicle division employee or contractor shall not reveal the existence of or the nature of the voter registration to anyone other than a registration officer.

E. Any certificate of voter registration completed on a paper form and made or accepted at a motor vehicle division office, field office or contract field office shall be transmitted to the secretary of state or the county clerk of the county in which the office is located within seven days.

F. The secretary of state shall work with the motor vehicle division to:

(1) ensure compliance in the application of the provisions of this section with the federal National Voter Registration Act of 1993;

(2) ensure consistent implementation in the various counties, based on county classification and developing technology; and

(3) develop procedures to ensure that, once voter registration information is transmitted to the appropriate registration officer, the voter's certificate of registration is printed and placed in the county's register of voters."

## **Chapter 39 Section 22 Laws 2023**

SECTION 22. Section 1-5-6 NMSA 1978 (being Laws 1969, Chapter 240, Section 108, as amended) is amended to read:

"1-5-6. PRECINCT VOTER LISTS--SIGNATURE ROSTER PREPARATION--  
ELECTRONIC POLL BOOK ALTERNATIVE.--

A. The county clerk shall provide for preparation of precinct voter lists and signature rosters generated from the official state voter file for any precincts or an electronic poll book alternative approved by the voting system certification committee and certified by the secretary of state.

B. The precinct voter lists and signature rosters or an electronic poll book alternative shall be used at any election for which registration of voters is required in lieu of bound original certificates of registration and poll books."

## **Chapter 39 Section 23 Laws 2023**

SECTION 23. 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 the official form approved by the secretary of state or its online equivalent accessed through a website authorized by the secretary of state. 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.

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. 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 and notified that if the registrant votes for the first time in New Mexico by mail and does not follow the instructions for returning the required documentary identification, the registrant waives the right to secrecy in that mailed 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 39 Section 24 Laws 2023**

SECTION 24. 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. An application for a mailed ballot from a voter who is not a federal qualified elector is timely if received by the county clerk no later than fourteen days prior to election day.

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" and file the application in a separate file from those accepted.

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 in the absentee ballot register.

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.

G. If the application for a mailed ballot from a voter who is not a federal qualified elector indicates that the mailed ballot is to be delivered to an address other than an address listed on the voter's certificate of registration, the county clerk shall prepare a notice of requested mailed ballot. The notice of requested mailed ballot shall inform the voter of the address to which the ballot was mailed along with the phone number of the county clerk's office and the internet address of the voter web portal provided by the secretary of state. The notice of requested mailed ballot shall be sent to the address provided on the voter's certificate of registration on the same day the county clerk sends the mailed ballot to the address requested by the voter.

H. When an application for a mailed ballot is rejected pursuant to this section, the county clerk shall send a notice of rejection to the mailing address on the voter's certificate of registration and the address listed on the voter's application for mailed ballot, if different. The notice of rejection shall indicate the reason for the rejection and, if applicable, information on how to correct the deficiency that is the reason for the rejection. If an application is rejected because it was not timely received, the county clerk shall, within twenty-four hours of receipt of the application, send a rejection notice to the voter that shall include a list of the early voting locations and election day polling places in the county.

I. The county clerk shall only accept applications for a mailed ballot made through the official web portal operated by the secretary of state or submitted on the official form. If a voter submits more than one application for a mailed ballot containing

the same information, subsequent applications containing the same information shall not be processed."

## **Chapter 39 Section 25 Laws 2023**

SECTION 25. 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 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;

(3) in addition to the regular business hours and days of business of the county clerk's office and on the Saturday immediately prior to the date of the election, early voting may be conducted in each office of the county clerk no earlier than 7:00 a.m. and shall close no later than 9:00 p.m. and shall be available for at least eight consecutive hours each day; and not later than ninety days before each statewide election, the county clerk shall post the location and hours of operation at the county clerk's office and shall not modify the location or hours of operation of early voting at the county clerk's office except with the written approval of the secretary of state and upon posting the approved changes; and

(4) 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 shall 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 39 Section 26 Laws 2023**

SECTION 26. 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 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 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 by a candidate, a political committee or the state or county chair of a political party represented on the ballot in an election, the secretary of state or county clerk shall transmit without charge to an electronic address provided in the request a complete copy of entries made in the absentee ballot register statewide or in the county. Such transmissions shall be made daily beginning four weeks immediately prior to the election through the Saturday immediately following the election."

## **Chapter 39 Section 27 Laws 2023**

SECTION 27. 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 under penalty of perjury by the voter completing the mailed ballot. The form shall identify the voter and shall contain the pre-printed name of the voter to whom the ballot was sent and the following statement to be affirmed by the voter: "I attest under penalty of perjury that I am the voter identified on this official mailing envelope and that 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 signature and the last four digits of the voter's social security number, which shall constitute the required voter identification. Under the space for the voter's signature shall be the following statement: "NOTICE: The only people who may lawfully mail or deliver this ballot to the county clerk are the voter, a member of the voter's immediate family or household, the voter's caregiver or a person with whom the voter has a continuing personal relationship.". The envelope shall have a security flap to cover this information."

## **Chapter 39 Section 28 Laws 2023**

SECTION 28. A new Section 1-6-8.1 NMSA 1978 is enacted to read:

### **"1-6-8.1. MAILED BALLOTS--NOTICE TO VOTERS.--**

A. In a statewide election, each mailed ballot sent to a voter in the election shall contain the following notice: "This ballot may be returned to the office of the county clerk or any open voting location or monitored secured container in the county where you are registered to vote at any time up to 7:00 p.m. on the day of the election. If this ballot is returned by mail, to ensure timely postal delivery to the county clerk, the ballot should be mailed no later than \_\_\_\_\_."

B. In a special election, each mailed ballot sent to a voter in the election shall contain the following notice: "This ballot may be returned to the office of the county clerk or a monitored secured container in the county where you are registered to vote at any time up to 7:00 p.m. on the day of the election. If this ballot is returned by mail, to ensure timely postal delivery to the county clerk, the ballot should be mailed no later than \_\_\_\_\_."

C. The date used in the notice shall be seven days prior to the election day."

## **Chapter 39 Section 29 Laws 2023**

SECTION 29. 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 under the privacy flap. 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, in a statewide election, to an alternate voting location, mobile alternate voting location, election day voting location or other location where the receipt and storage of the official mailing envelope containing a voted ballot is under the supervision of an election official or county clerk's agent.

E. The official mailing envelope may be returned by depositing the official mailing envelope in a monitored secured container made available by the county clerk

to receive an official mailing envelope containing a voted ballot 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 forty-two days before an election;

(2) the location of a monitored 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 monitored 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, which includes a voter's spouse, child, parent, domestic partner, grandchild, grandparent, sibling or person with whom the voter has a continuing personal relationship, to collect and deliver a ballot for another person except as authorized by the Election Code;

(b) that electioneering is prohibited within one hundred feet of the monitored secured container; and

(c) of the range of dates and approximate time the ballots will be collected for that election; and

(5) at least every three days and on election day after the polls close, the county clerk, deputy county clerk, election board member or messenger shall collect the ballots from the monitored secured containers and register the date and container location on each official mailing envelope.

F. It is a violation of Section 1-20-6 NMSA 1978 for any person to possess a key to a monitored secured container without authorization from the county clerk. It is a violation of Section 1-20-7 NMSA 1978 for any person other than the secretary of state or the county clerk to provide or operate a monitored secured container or other receptacle to receive voted ballots."

## **Chapter 39 Section 30 Laws 2023**

SECTION 30. 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. Completed official mailing envelopes that are received at the county clerk's office or a polling place or that are retrieved from the post office or a monitored secured container shall be accepted until 7:00 p.m. on election day. A 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 mailed 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.

B. On the day a returned mailed ballot is received by the county clerk, the county clerk shall mark the date of receipt on the outside of the official mailing envelope. Within one business day of receiving a returned official mailing envelope, the county clerk shall remove the privacy flap to verify that the voter signed the official mailing envelope and to confirm that the last four digits of the social security number provided by the voter match the information available to the county clerk; provided that no county clerk or deputy county clerk shall perform the verification process pursuant to this subsection unless the county clerk or deputy county clerk would also meet the requirements to be a challenger, watcher or election observer pursuant to Paragraphs (1) through (4) of Subsection C of Section 1-2-22 NMSA 1978.

C. If the voter's signature is present and the last four digits of the voter's social security number match, the county clerk shall note in the absentee ballot register that the information required to be provided by the voter under the privacy flap has been verified and shall safely keep the official mailing envelope unopened in a locked and number-sealed ballot box until it is delivered to the absent voter election board.

D. If either the voter's signature is missing or the last four digits of the voter's social security number are not provided or do not match, the county clerk shall make the appropriate notation in the absentee ballot register and shall safely keep the official mailing envelope unopened in a secured ballot box designated for those official mailing envelopes received that are missing the voter's signature or the last four digits of the voter's social security number or where the last four digits of the social security number do not match the information available to the county clerk. The county clerk shall immediately send the voter a notice to cure containing information regarding how the voter may provide documentation to cure the missing or incorrect information.

E. If, pursuant to Subsection F of Section 1-6-4 NMSA 1978, the voter was notified of the need to comply with federal identification requirements when returning the requested ballot and failed to comply, the county clerk shall preserve the inner envelope with the official mailing envelope and write "Rejected" on the front of the official mailing envelope, and the county clerk shall update the ballot register accordingly and immediately send the voter a notice to cure containing information regarding how the

voter may provide the missing or incorrect information. The county clerk shall place the official mailing envelope with the attached inner envelope in a container provided for rejected ballots; provided that if the county clerk was required to open the inner envelope to determine that the required documentary identification was not included, the untallied ballot shall be returned to the inner envelope and preserved along with the official mailing envelope in a container for this purpose.

F. The voter may provide the missing or corrected information at any time up to the conclusion of the appeal process for rejected ballots. If a voter provides the missing or corrected information:

(1) before the absent voter election board has been convened, the county clerk shall attach the documentation to the unopened official mailing envelope, update the ballot register accordingly and transfer the ballot to the locked and number-sealed ballot box until it is delivered to the absent voter election board;

(2) after the absent voter election board has been convened, the county clerk shall attach the documentation to the unopened official mailing envelope, update the ballot register accordingly and transfer the ballot to the absent voter election board;

(3) after the adjournment of the absent voter election board but before the conclusion of the county canvass process, the county clerk shall attach the documentation to the unopened official mailing envelope, update the ballot register accordingly and transfer the ballot to an election board convened to assist in preparation of the county canvass report; and

(4) after approval of the county canvass report, the voter may appeal in accordance with appeal procedures for provisional ballots established by rule of the secretary of state pursuant to Section 1-12-25.2 NMSA 1978.

G. 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 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 transmitted to an election board convened to assist in preparation of the county canvass report to be tallied and included in the canvass report of that county for the appropriate precinct."

## **Chapter 39 Section 31 Laws 2023**

SECTION 31. 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 or household 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, domestic partner, grandchildren, grandparents or siblings of a voter or a person with whom the voter has a continuing personal relationship."

### **Chapter 39 Section 32 Laws 2023**

SECTION 32. 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. An absent voter election board may convene as provided in this section to process the official mailing envelopes that have been returned. Before opening an official mailing envelope, the presiding judge and the election judges shall determine that the county clerk has verified the required information on the reverse side of the official mailing envelope.

B. No sooner than the Monday before the election and before the absent voter election board adjourns, the board shall review each uncured returned official mailing envelope that the county clerk determined was missing a signature or the last four digits of the voter's social security number or for which the social security number did not match the information available to the county clerk and determine if the official mailing envelope should be qualified or rejected. An official mailing envelope rejected by the absent voter election board may be qualified if the reason for the rejection is cured at any time before the approval of the county canvass report or prior to the conclusion of an appeal by the voter.

C. Subject to the limitations in Subsection A of Section 1-2-25 NMSA 1978, 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 form on the reverse of the official mailing envelope has been completed by the voter with the voter's correct information, as verified by the county clerk, and the ballot has not been successfully challenged, the judges or election clerks shall make the appropriate notation in the ballot 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 by generating the report of the ballot results beginning no sooner than 9:00 a.m. on election day.

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 by generating the report of the ballot results beginning no sooner than 9:00 a.m. on election day.

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 and not cured by the Friday following election day, it shall be handled by the county clerk in the same manner as a disqualified provisional paper ballot in accordance with the Election Code.

K. On election night, the absent voter election board shall recess upon the earlier of completion of its work or 11:00 p.m. An absent voter election board that recesses at 11:00 p.m. shall continue its work only between the hours of 9:30 a.m. and 9:30 p.m. on each subsequent day until the board has completed its work. If the absent voter election board does not complete its work by 11:00 p.m. on election night, the county clerk shall notify the county sheriff's office that a deputy is required to be present to secure the room or facility where uncounted ballots are locked overnight. If the sheriff indicates that a sheriff's deputy is unavailable, the county clerk shall notify the secretary of state, who shall request state police to assign a state police officer or other certified law enforcement officer to secure the ballots. The county clerk shall provide as much notice as is practicable in order to secure law enforcement personnel to secure the uncounted ballots overnight. Beginning at 11:00 p.m. on election night, a sheriff's deputy, state police officer or other certified law enforcement officer is required for overnight watch any time the absent voter election board is not present until the return of the absent voter election board. If a sheriff's deputy, a state police officer or other certified law enforcement officer is not available, the county clerk or county clerk's agent shall remain on-site with or near the uncounted ballots until the return of the absent voter election board and shall allow any watcher or observer to remain present as well. A class A county shall also have video surveillance in the area containing uncounted ballots, which shall be considered a record related to voting pursuant to Section 1-12-69 NMSA 1978."

## **Chapter 39 Section 33 Laws 2023**

SECTION 33. Section 1-6-16 NMSA 1978 (being Laws 2019, Chapter 212, Section 74) is amended 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 replacement ballot shall not be mailed to a voter less than seven days before election day, unless the voter is enrolled in the confidential substitute address program pursuant to the Confidential Substitute Address Act.

D. 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.

E. 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.

F. 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.

G. 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 39 Section 34 Laws 2023**

SECTION 34. 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 or who was sent a mailed ballot pursuant to Section 1-6-22.1 NMSA 1978 but whose voted ballot has not been received by the county clerk as of the date of the election may go to a voter convenience center and, after executing an affidavit stating that the person wishes to void any previous mailed ballot that was issued, shall be permitted to vote.

B. If the county clerk has real-time synchronization between the voter convenience centers 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. If the county clerk does not have real-time synchronization between the voter convenience centers and the qualification of ballots received by mail, the voter shall be issued a provisional paper ballot, which shall be counted if no challenge is interposed and once the county clerk has verified that no other ballot from the same voter has been processed in that election."

### **Chapter 39 Section 35 Laws 2023**

SECTION 35. Section 1-6-22.1 NMSA 1978 (being Laws 2009, Chapter 251, Section 1 and Laws 2009, Chapter 274, Section 1, as amended) is amended to read:

"1-6-22.1. MAIL BALLOT ELECTION PRECINCT--ABSENTEE VOTING IN LIEU  
OF POLLING PLACE.--

A. Notwithstanding the provisions of Sections 1-1-11 and 1-1-12 NMSA 1978, not later than the first Monday in November of each odd-numbered year, a board of county commissioners may designate a precinct as a mail ballot election precinct if, upon a written request of the county clerk, it finds that the precinct has fewer than one hundred voters and the nearest polling place for an adjoining precinct is more than twenty miles driving distance from the boundary for the precinct in question.

B. If a precinct is designated a mail ballot election precinct, in addition to the notice required pursuant to Section 1-3-8 NMSA 1978, the county clerk shall notify by mail with delivery confirmation all voters in that precinct at least forty-two days before an election that each voter will be sent an absentee ballot twenty-eight days before the election and that there will be no polling place for the precinct on election day. The county clerk shall include in the notice a card informing the voter that if the voter does not want to receive an absentee ballot for that election, the voter should return the card before the date the county clerk is scheduled to mail out absentee ballots. The notice shall also inform the voter that a voting system equipped for persons with disabilities will be available at all early voting locations before election day and in the office of the county clerk on election day in case the voter prefers to vote in person and not by mail. In addition, the notice shall inform the voter of the ability of the voter to cast a ballot at any voter convenience center on election day if the voter chooses not to receive an

absentee ballot, or to cast a replacement ballot at any early voting location or voter convenience center if the voter does not receive an absentee ballot, which will be counted upon confirmation that the voter has not returned the absentee ballot. The notice shall also contain the information required in the voter notification sent by the secretary of state on behalf of each county clerk in advance of a statewide election pursuant to Section 1-11-4.1 NMSA 1978.

C. The county clerk shall mail each voter in the mail ballot election precinct an absentee ballot on the twenty-eighth day before an election, unless the voter has requested otherwise, along with a notice that there will be no polling place in that precinct on election day.”

## **Chapter 39 Section 36 Laws 2023**

SECTION 36. Section 1-6B-5 NMSA 1978 (being Laws 2015, Chapter 145, Section 29, as amended) 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.

D. A federal qualified elector who registered for the first time in this state by mail is exempt pursuant to federal law from the requirement to provide documentary identification as otherwise required by Subsection F of Section 1-6-4 NMSA 1978."

## **Chapter 39 Section 37 Laws 2023**

SECTION 37. 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 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 any election conducted pursuant to the Election Code, whether or not timely, is effective as an automatic application for a military-overseas ballot for all subsequent elections the voter is eligible to participate in through the conclusion of the election cycle.

D. An application from a federal qualified elector who provides information permitting secured electronic delivery of the ballot is timely if received by the county clerk no later than three days prior to election day. An application from a federal qualified elector who does not provide information permitting secured electronic delivery of the ballot is timely if received by the county clerk by the deadline specified in the Absent Voter Act for receipt of mailed ballot applications."

## **Chapter 39 Section 38 Laws 2023**

SECTION 38. Section 1-6B-10 NMSA 1978 (being Laws 2015, Chapter 145, Section 34, as amended) 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 during the county canvass 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 39 Section 39 Laws 2023**

SECTION 39. Section 1-6C-2 NMSA 1978 (being Laws 2019, Chapter 226, Section 2) is amended to read:

"1-6C-2. 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 or a participant who is also a qualified resident who may be considered a voter pursuant to Section 1-4-2 NMSA 1978."

## **Chapter 39 Section 40 Laws 2023**

SECTION 40. Section 1-6C-6 NMSA 1978 (being Laws 2019, Chapter 226, Section 6) is amended to read:

### "1-6C-6. 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.

G. A voter-participant needing a replacement ballot may appear in person only at the office of the county clerk and execute an affidavit stating that the voter participant wishes to void any previous mailed ballot that was mailed in that election. When completing the affidavit, the voter-participant shall use the random identifier in place of the voter-participant's name and the verification code in place of the voter-participant's signature. Upon receipt of the sworn affidavit, if the ballot register does not show that a ballot from the voter-participant has been received in that election, the county clerk shall void the ballot that was previously issued and issue to the voter-participant a replacement ballot and ballot materials, which shall include the voter-participant's random identifier, but the county clerk shall not provide to the voter-participant the verification code when issuing a replacement ballot pursuant to this subsection."

## **Chapter 39 Section 41 Laws 2023**

SECTION 41. Section 1-6C-7 NMSA 1978 (being Laws 2019, Chapter 226, Section 7) is amended to read:

### **"1-6C-7. 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."

## **Chapter 39 Section 42 Laws 2023**

SECTION 42. Section 1-8-2 NMSA 1978 (being Laws 1969, Chapter 240, Section 152, as amended) 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, 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 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 state for statewide offices; provided that if there are fewer members of the minor party registered to vote in the state for statewide offices or registered to vote in the district for offices other than statewide offices than the number of signatures required for that office, a nominating petition shall contain the signatures of voters totaling not less than the required number of signatures of voters for independent candidates for the same office; and provided further that for the public education commission, a nominating petition shall be signed by at least two-thirds of the number of signatures that would otherwise be required, and for a judicial office, a nominating petition shall be signed by two-thirds of the number of signatures that would otherwise be required; 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; provided that if there are fewer members of the minor party registered to vote in the county for countywide offices or registered to vote in the district for offices other than countywide offices than the number of signatures required for that office, a nominating petition shall contain the signatures of voters totaling not less than the required number of signatures of voters for independent candidates for the same office; and provided further that for a judicial office, a nominating petition shall be signed by two-thirds of the number of signatures that would otherwise be required.

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 39 Section 43 Laws 2023**

SECTION 43. 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. Appointments to fill vacancies in the list of a party's nominees for the general election ballot shall be made and filed with the proper filing officer on the twenty-third day after the primary election using the form prescribed by the secretary of state, along with the 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 39 Section 44 Laws 2023**

SECTION 44. 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 ninety 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 on or before the seventieth day prior to a general election using the form prescribed by the secretary of state, along with the declaration of candidacy form subscribed and sworn by the selected nominee and the 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 39 Section 45 Laws 2023**

SECTION 45. A new Section 1-8-10.1 NMSA 1978 is enacted to read:

"1-8-10.1. SHORT TITLE.--Sections 1-8-10.1 through 1-8-52 NMSA 1978 may be cited as the "Primary Election Law"."

### **Chapter 39 Section 46 Laws 2023**

SECTION 46. Section 1-8-13 NMSA 1978 (being Laws 1969, Chapter 240, Section 162, as amended) is amended to read:

"1-8-13. PRIMARY AND GENERAL ELECTION--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 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 nominating petition;

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 39 Section 47 Laws 2023**

SECTION 47. Section 1-8-16 NMSA 1978 (being Laws 1969, Chapter 240, Section 165, as amended) is amended to read:

"1-8-16. PRIMARY AND GENERAL ELECTIONS--PROCLAMATION--AMENDMENT.--The secretary of state may amend the proclamation between the time of its issuance and the first Tuesday in March to include a newly created public office that is capable by law of being filled at the next succeeding general election, or any existing office becoming vacant by removal, resignation or death when such vacancy occurs no later than the last Friday before the first Tuesday in March, or to provide for any corrections or omissions."

## **Chapter 39 Section 48 Laws 2023**

SECTION 48. Section 1-8-21 NMSA 1978 (being Laws 1996, Chapter 20, Section 3, as amended) is amended to read:

"1-8-21. PRIMARY ELECTION--METHODS OF PLACING NAMES ON  
PRIMARY BALLOT.--

A. All candidates seeking primary election nomination to a statewide office or the office of United States representative shall file declarations of candidacy with the proper filing officer. Candidates shall file nominating petitions at the time of filing their declarations of candidacy. Candidates who seek, but do not obtain, preprimary convention designation by a major political party may file new declarations of candidacy and nominating petitions pursuant to Section 1-8-33 NMSA 1978.

B. Except as provided in Subsection C of this section, candidates for any other state or federal office listed in the proclamation issued pursuant to Section 1-8-13 NMSA 1978 shall have their names placed on the primary election ballot by filing declarations of candidacy and nominating petitions with the proper filing officer.

C. Candidates for any county office listed in the proclamation issued pursuant to Section 1-8-13 NMSA 1978 shall have their names placed on the primary election ballot by filing declarations of candidacy and paying a fifty-dollar (\$50.00) filing fee or filing a nominating petition containing no fewer than ten signatures for offices elected by district or twenty signatures for offices elected countywide at the time of filing declarations of candidacy with the proper filing officer."

## **Chapter 39 Section 49 Laws 2023**

SECTION 49. Section 1-8-29 NMSA 1978 (being Laws 1973, Chapter 228, Section 3, as amended) 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 as approved by the secretary of state for that election:

"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 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 39 Section 50 Laws 2023**

SECTION 50. Section 1-8-33 NMSA 1978 (being Laws 1973, Chapter 228, Section 7, as amended) is amended to read:

"1-8-33. PRIMARY ELECTION LAW--NOMINATING PETITION--NUMBER OF SIGNATURES REQUIRED.--

A. As used in this section, "total vote" means the sum of all votes cast for all of the party's candidates for governor at the last preceding primary election at which the party's candidate for governor was nominated.

B. Candidates who seek preprimary convention designation shall file nominating petitions at the time of filing declarations of candidacy. Nominating petitions for those candidates shall be signed by a number of voters equal to at least two percent

of the total vote of the candidate's party in the state or congressional district, or the following number of voters, whichever is greater: for statewide offices, two hundred thirty voters; and for congressional candidates, seventy-seven voters.

C. Nominating petitions for candidates for any other office to be voted on at the primary election for which nominating petitions are required shall be signed by a number of voters equal to at least the greater of:

(1) for the public education commission, two percent of the total vote of the candidate's party in the district; for judicial candidates, two percent of the total vote of the candidate's party in the district or division; and for all other candidates, three percent of the total vote of the candidate's party in the district; or

(2) for metropolitan court and magistrate courts, ten voters; for the public education commission, twenty-five voters; for state representative, ten voters; for state senator, seventeen voters; and for district attorney and district judge, fifteen voters.

D. A candidate who fails to receive the preprimary convention designation that the candidate sought may collect additional signatures to total at least four percent of the total vote of the candidate's party in the state or congressional district, whichever applies to the office the candidate seeks, and file a new declaration of candidacy and nominating petitions for the office for which the candidate failed to receive a preprimary designation. The declaration of candidacy and nominating petitions shall be filed with the secretary of state either ten days following the date of the preprimary convention at which the candidate failed to receive the designation or on the date all declarations of candidacy and nominating petitions are due pursuant to the provisions of the Primary Election Law, whichever is later."

## **Chapter 39 Section 51 Laws 2023**

SECTION 51. 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 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 same 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, accompanied by a nominating petition containing the same number of signatures required of other candidates for major party nomination for the same office. Such declaration of intent shall be filed between 9:00 a.m. and 5:00 p.m. on the third Tuesday in March.

D. A person shall not be a declared write-in candidate 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 nominating 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 by the Friday following the filing date. The determination by the proper filing officer that a person is a declared write-in candidate is subject to the provisions of Section 1-8-18 NMSA 1978.

E. If a person is notified by the proper filing officer that the person is not qualified to be a write-in 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.

F. A 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 39 Section 52 Laws 2023**

SECTION 52. 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, district judge, district attorney 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; provided that for the public education commission, nominating petitions shall be signed by at least two-thirds of the number of signatures that would otherwise be required, and for a judicial office, nominating petitions shall be signed by at least two-thirds of the number of signatures that would otherwise be required.

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 39 Section 53 Laws 2023**

SECTION 53. Section 1-8-66 NMSA 1978 (being Laws 1981, Chapter 156, Section 2, as amended) is 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, accompanied by a petition signed by a number of voters equal to at least one percent of the total number of votes cast in the area sought to be represented as were cast for governor at the last preceding general election at which a governor was elected.

B. A person shall not be a declared write-in candidate 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 nominating 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 on the Friday following the filing date. The determination by the proper filing officer that a person is a declared write-in candidate is subject to the provisions of Section 1-8-18 NMSA 1978.

C. If a person is notified by the proper filing officer that the person is not qualified to be a write-in 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.

D. A 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.

E. 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.

F. 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 39 Section 54 Laws 2023**

SECTION 54. Section 1-9-1 NMSA 1978 (being Laws 1969, Chapter 240, Section 184, as amended) is amended to read:

"1-9-1. SECRETARY OF STATE--DUTIES--VOTING SYSTEM DEFINED.--

A. The secretary of state shall study, examine and certify all voting systems used in elections for public office in New Mexico. The secretary of state shall maintain a current list of certified voting systems and copies of filed testing and evaluation reports accessible by the public on the secretary of state's website. Only certified voting systems that are also approved for use by the secretary of state and acquired pursuant to a competitive bid process in accordance with the provisions of the Procurement Code shall be used in any election for public office in New Mexico.

B. As used in Chapter 1, Article 9 NMSA 1978, "voting system" means a combination of mechanical, electromechanical or electronic equipment, including the software and firmware required to program and control the equipment, that is used to cast and count votes, and also including any type of system that is designed to print or to mark ballots at a polling location; equipment that is not an integral part of a voting system but that can be used as an adjunct to it is considered to be a component of the system."

### **Chapter 39 Section 55 Laws 2023**

SECTION 55. Section 1-9-7.4 NMSA 1978 (being Laws 2010, Chapter 28, Section 2) is amended to read:

"1-9-7.4. VOTING SYSTEMS--AUTHORITY OF THE SECRETARY OF STATE TO RECERTIFY AND DECERTIFY.--

A. Each voting system certified for use in the state shall be reviewed for recertification by the secretary of state during the year following a presidential election. Tests and inspections conducted pursuant to this section shall begin no later than June 1 and shall follow the procedures in Section 1-9-14 NMSA 1978.

B. If at any time the secretary of state becomes aware that a voting system certified for use in this state does not comply with all requirements in the Election Code or meet federal election standards, the secretary of state shall undertake an investigation to determine if the voting system should continue to be certified for use in the state. Tests and inspections conducted pursuant to this section shall commence upon the order of the secretary of state and shall follow the procedures in Section 1-9-14 NMSA 1978. A voting system that does not comply with all requirements in the Election Code and the most recent voluntary voting system guidelines adopted and implemented by the United States election assistance commission shall be decertified for use in this state."

### **Chapter 39 Section 56 Laws 2023**

SECTION 56. Section 1-9-7.10 NMSA 1978 (being Laws 2010, Chapter 28, Section 8) is amended to read:

"1-9-7.10. VOTING SYSTEMS--BALLOT HANDLING AND PROCESSING REQUIREMENTS.--Voting systems certified for use in state elections shall:

- A. accept a ballot that is a minimum of six inches wide and a maximum of twenty-two inches long, in dual columns and printed on both sides;
- B. accept a ballot in any orientation when inserted by a voter;
- C. have the capability to reject a ballot on which a voter has made more than the allowable number of selections in any contest;
- D. be designed to accommodate the maximum number of ballot styles or ballot variations encountered in the largest New Mexico election jurisdiction;
- E. be able to read a single ballot with at least four hundred twenty voting positions; and
- F. tabulate as a vote only the human-readable marks in the voter response area of a ballot."

### **Chapter 39 Section 57 Laws 2023**

SECTION 57. Section 1-9-14 NMSA 1978 (being Laws 1983, Chapter 226, Section 1, as amended) is amended to read:

"1-9-14. VOTING SYSTEMS--AUTHORITY OF THE SECRETARY OF STATE TO TEST--CERTIFICATION.--

A. The secretary of state shall provide for the testing and evaluation of voting systems designed for the purpose of recording and tabulating votes within polling places in New Mexico. All voting systems certified for use in the state shall be tested by an independent authority and shall comply with all requirements in the Election Code and the most recent voluntary voting system guidelines adopted and implemented by the United States election assistance commission.

B. Any person who has a voting system that is designed for the purpose of recording and tabulating votes within a polling place may apply on or before June 1 of any odd-numbered year to the secretary of state to have the equipment examined and tested for certification. At the time application is made for initial certification, the applicant shall pay for testing each system in an amount that reflects the actual cost of such test. Upon receipt of the application, the secretary of state shall examine and study the voting system to ensure that it complies with all requirements in the Election Code and the most recent voluntary voting system guidelines adopted and implemented by the United States election assistance commission. As part of the examination, the secretary of state shall require the system to be independently inspected by persons or testing laboratories technically qualified to evaluate and test the operation and

component parts of voting systems and shall require a written report on the results of such testing. The secretary of state may authorize field testing of the equipment in one or more polling places in any state or local government election; provided that such field tests shall be conducted at no cost to the state or any local government.

C. Upon completion of all tests and examination of all written test reports, the secretary of state shall make a written report of the result of the findings and shall file that report, together with the written test reports, in the office of the secretary of state and post them on the secretary of state's website. The secretary of state shall accept public comment during the twenty-one days following the filing of the written report.

D. Following the period of public comment, the secretary of state shall submit the filed reports and any public comments for consideration by the voting system certification committee. The voting system certification committee shall make recommendations regarding the suitability and reliability of the use of such equipment in the conduct of elections under the Election Code.

E. The voting system certification committee shall recommend that a voting system be certified for use in the state only if it complies with all requirements in the Election Code and the most recent voluntary voting system guidelines adopted and implemented by the United States election assistance commission.

F. If the voting system certification committee report finds that the voting system does not comply with all requirements in the Election Code or does not meet federal election standards, the secretary of state shall allow thirty days for an appeal of the findings to be filed or for the deficiencies to be corrected, following which the secretary of state shall report back to the voting system certification committee with a written final report.

G. The voting system certification committee shall reconvene to consider the final report of the secretary of state and shall make final recommendations regarding the suitability and reliability of the use of such equipment in the conduct of elections under the Election Code.

H. If the voting system certification committee recommends that the voting system is suitable for use in elections in New Mexico, within thirty days of receiving the recommendation, the secretary of state shall certify or recertify the equipment for use in elections in this state.

I. If the voting system certification committee does not recommend that the voting system for recording and tabulating votes is suitable for use in elections in New Mexico, within thirty days of receiving the recommendation, the secretary of state shall deny the application or decertify the equipment for use in elections in this state."

## Chapter 39 Section 58 Laws 2023

SECTION 58. 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 fifty-six 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 39 Section 59 Laws 2023**

SECTION 59. Section 1-10-6 NMSA 1978 (being Laws 1977, Chapter 222, Section 29, as amended) is amended to read:

"1-10-6. BALLOTS--NAME TO BE PRINTED--ORDER OF NAMES--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. The order of candidates for the same office in a statewide election shall be determined using a randomization method provided by rule.

C. 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 candidates shall be differentiated on the ballot in accordance with rules adopted by the secretary of state.

D. 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 39 Section 60 Laws 2023**

SECTION 60. Section 1-10-8 NMSA 1978 (being Laws 2019, Chapter 212, Section 103, as amended) is amended 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 education commission;

- (10) district attorney;
- (11) district court;
- (12) metropolitan court;
- (13) county clerk;
- (14) county treasurer;
- (15) county commission; and
- (16) when applicable:
  - (a) county sheriff;
  - (b) county assessor; and
  - (c) probate judge.

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 education commission;
- (15) district court;
- (16) metropolitan court;
- (17) magistrate court;
- (18) county sheriff;
- (19) county assessor;
- (20) county commission;
- (21) probate judge; and
- (22) when applicable:
  - (a) county clerk; and
  - (b) county treasurer.

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 nondistricted, nonjudicial office are to be elected on the same ballot and the qualifications for each position are the same, the nondistricted, nonjudicial district shall be elected at large in a single contest on the ballot in which voters shall be given the instruction to "vote for no more than X". If two or more positions for the same office are to be elected to represent the same area but with terms of different lengths of time, the candidate receiving the highest number of votes shall be elected to the position with the longest term length, and the candidate receiving the next highest number of votes shall be elected to the position with the next longest term length, with additional candidates elected to positions accordingly.

F. When multiple positions for the same districted, nonjudicial office are listed on the same ballot or the qualifications for one or more at-large positions are distinct from the qualifications of the rest:

- (1) offices designated by district number shall appear on the ballot in ascending numerical order of the districts; and

- (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.

G. When multiple positions for the same judicial office are listed on the same ballot, each position is to be elected or voted on individually as follows:

- (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 39 Section 61 Laws 2023**

SECTION 61. A new Section 1-11-4.1 NMSA 1978 is enacted to read:

"1-11-4.1. VOTER NOTIFICATION.--

A. At least forty-two days prior to each statewide election, the secretary of state, on behalf of each county clerk, shall mail a voter notification of the election. The voter notification shall include:

- (1) the date and purpose of the election;
- (2) an internet address where a voter may apply for a mailed ballot;
- (3) a telephone number where a voter may call to request the paper form of the mailed ballot application;
- (4) a list of the days and times and addresses of early voting locations and voter convenience centers where a voter may vote in person; and
- (5) a list of the locations of monitored secured containers where a voter may return a mailed ballot.

B. At least forty-nine days prior to each special election, the county clerk shall mail a voter notification of the election. The voter notification shall include:

- (1) the date and purpose of the election;
- (2) notification that the election will be conducted by mail and that no polling places will be available for the special election;
- (3) the deadline for voted mailed ballots to be received by the county clerk and the recommended deadline to deposit the voted mailed ballot with the United States postal service for return by mail, which shall be seven days before the election;
- (4) the address and the telephone number of the county clerk's office for a voter requiring a replacement ballot or returning a mailed ballot; and
- (5) a list of the monitored secured containers where a voter may return a mailed ballot.

C. The voter notification shall be sent to each voter, except the voter notification shall not be sent to a voter whose:

(1) election mail has been returned as undeliverable and who has not updated the voter's certificate of registration with a new address;

(2) ballot is delivered pursuant to the provisions of the Uniform Military and Overseas Voters Act;

(3) ballot is delivered pursuant to the provisions of the Intimate Partner Violence Survivor Suffrage Act; or

(4) ballot, in a statewide election, is delivered pursuant to the provisions of Section 1-6-22.1 NMSA 1978."

### **Chapter 39 Section 62 Laws 2023**

SECTION 62. Section 1-11-5 NMSA 1978 (being Laws 1969, Chapter 240, Section 215, as amended) is amended to read:

"1-11-5. VOTING DEVICE--PREPARATION--CERTIFICATION.--

A. Forty-two days before the election, the county clerk may begin to prepare, inspect, certify and seal electronic voting machines that are to be used in the election, and such preparation, inspection, certification and sealing shall continue until all machines are prepared, inspected, certified and sealed. The process of preparing, inspecting, certifying and sealing electronic voting machines shall be open to observation by the public.

B. The county clerk shall certify to the secretary of state and the county chair of each political party represented on the ballot the type and serial number of each voting machine to be used."

### **Chapter 39 Section 63 Laws 2023**

SECTION 63. Section 1-11-19 NMSA 1978 (being Laws 2018, Chapter 79, Section 33, as amended) is amended to read:

"1-11-19. COSTS OF ELECTIONS--ELECTION FUND.--

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;

(3) federal funds received by the state that are designated by the federal government or the state executive for elections or that have been appropriated by the legislature for election purposes;

(4) grants or capital outlay funds received by a county clerk for which the secretary of state has agreed to serve as the fiscal agent; and

(5) grants or capital outlay funds received by the secretary of state for the purposes of Subsection A of this section and not designated for any other fund.

D. The secretary of state may submit a budget adjustment request to use money in the election fund for the purposes authorized in Subsection A of this section beyond a five percent variance from the approved elections budget for the current fiscal year.

E. If the 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 39 Section 64 Laws 2023**

SECTION 64. Section 1-12-25.2 NMSA 1978 (being Laws 2003, Chapter 356, Section 3, as amended) is amended to read:

"1-12-25.2. CONDUCT OF ELECTION--PROVISIONAL VOTING--  
INFORMATION TO VOTER--STATUS OF VOTER'S BALLOT.--

A. If a voter is required to vote on a provisional paper ballot, the presiding judge or election judge shall give the voter written instructions on how the voter may determine whether the vote was counted and, if the vote was not counted, the reason it was not counted.

B. The secretary of state shall provide a free access system, such as a toll-free telephone number or internet website, that a voter who casts a provisional paper ballot may access to ascertain whether the voter's ballot was counted and, if the vote was not counted, the reason it was not counted and how to appeal the decision pursuant to rules issued by the secretary of state. Access to information about an individual voter's provisional paper ballot through the free access system is restricted to the voter who cast the ballot.

C. Beginning with the closing of the polls on election day through the tenth day following the election, the county clerk shall notify by mail each person whose provisional paper ballot was not counted of the reason the ballot was not counted. The voter shall have until the Friday prior to the meeting of the state canvassing board to appeal to the county clerk a decision to reject the voter's ballot. At any time up to and including the appeal, the voter may provide information or documentation to satisfy the reason the ballot was rejected."

## **Chapter 39 Section 65 Laws 2023**

SECTION 65. Section 1-12-65 NMSA 1978 (being Laws 1977, Chapter 222, Section 68, as amended) is amended to read:

"1-12-65. 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 sealed with either a numbered seal or a locking device and 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 sealed with either a numbered seal or a locking device and 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.

D. If the county clerk receives a sealed envelope pursuant to Subsection A or B of this section and the absent voter election board has not adjourned, the sealed envelope shall be logged and transmitted to the absent voter election board to be opened and tallied immediately. If the sealed envelope is received by the county clerk after the absent voter election board has adjourned, the sealed envelope shall be logged and transmitted to be opened and tallied by an election board appointed to assist in the preparation of the county canvass report."

## **Chapter 39 Section 66 Laws 2023**

SECTION 66. Section 1-12-69 NMSA 1978 (being Laws 1977, Chapter 222, Section 72, as amended) is repealed and a new Section 1-12-69 NMSA 1978 is enacted to read:

"1-12-69. DISPOSITION OF PAPER BALLOTS AND RECORDS REQUISITE TO VOTING.--

A. Paper ballots marked by voters and records requisite to voting in any election shall be retained and preserved for the greater of:

- (1) twenty-two months from the date of the election for any election in which a federal office appears on the ballot;
- (2) ten months from the date of the election for all other elections; or
- (3) four months following resolution of a contest or other judicial inquiry, including all appeals, for any election, precinct or polling place that is the subject of the contest or other judicial inquiry.

B. Following the retention period, paper ballots marked by voters and records requisite to voting retained and preserved in the county may be destroyed at a time and in a manner as determined by the county clerk; provided that the county clerk shall use one of the destruction methods approved by the state records administrator for destruction of public records. Any interested person shall be permitted to be present

during the destruction of paper ballots marked by a voter and records requisite to voting by the county clerk. At least seven days prior to a destruction, the clerk shall post on the county website a notice of destruction of paper ballots and records requisite to voting and shall provide notice to the county chair of each political party participating in that election. The notice shall include information regarding the election that is the subject of the records destruction and the date, time and place where marked ballots and records requisite to voting will be destroyed.

C. During the retention period, the county clerk may determine that paper ballots marked by voters and physical records requisite to voting from an election should be retained and preserved by the state records administrator. The state records administrator shall receive for storage paper ballots marked by voters and physical records requisite to voting and, following the retention periods required by this section, may destroy the ballots and physical records pursuant to the procedures used by the state records administrator for destruction of public records following a retention period. The state records administrator may enter into a memorandum of understanding with the secretary of state to cover the costs of storage through the election fund. The county clerk shall post on the county website a notice at least seven days prior to sending ballots and physical records requisite to voting to the state records administrator.

D. Paper ballots marked by voters, their digitized equivalents and records requisite to voting are exempt from third-party inspection except as otherwise provided in the Election Code until the later of sixty days following adjournment of the state or county canvassing board for that election or sixty days following any recount, contest or other judicial inquiry for any election, precinct or polling place that is the subject of the recount, contest or judicial inquiry. Thereafter, during the retention period and prior to destruction of the ballots or records, a third-party inspection not otherwise provided for in the Election Code shall be conducted for good cause shown and upon order of the district court. When a third-party inspection is ordered, a county clerk, the clerk's agent, the state records administrator or the state records administrator's agent shall be present during the inspection to ensure that all ballots and records are properly catalogued and returned in proper order. An inspection of paper ballots marked by voters, their digitized equivalents or records requisite to voting shall be conducted in such a manner as to secure the secrecy of the ballot."

## **Chapter 39 Section 67 Laws 2023**

SECTION 67. Section 1-13-1 NMSA 1978 (being Laws 1969, Chapter 240, Section 303, as amended) 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.

C. The county canvass report prepared by the county clerk and approved by the county canvassing board shall consist of:

(1) the certificate of canvass to be signed by the county clerk and the county canvassing board members;

(2) a report of the final vote counts for each candidate contest and ballot question voted on by voters of the county separated by mailed ballots, early voting and election day voting;

(3) a report of the total ballots requested, returned, accepted and rejected from uniformed-service voters or overseas voters; and

(4) a report of all provisional ballots accepted and rejected.

D. Immediately after the meeting of the county canvassing board, the county clerk shall transmit a copy of the county canvass report, along with any hand tally sheets, to the secretary of state."

## **Chapter 39 Section 68 Laws 2023**

SECTION 68. 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. appoint an election board to conduct a machine-tabulation or hand-tally if the county clerk has received and logged any:

(1) paper ballots not previously tabulated;

(2) absentee ballots delivered to an election board not previously tabulated;

(3) provisional paper ballots that have been qualified and contain votes that are to be counted; or

(4) ballots with write-in votes not previously counted;

B. 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;

C. present the report of the canvass to the county canvassing board for the board's consideration and approval; and

D. provide the county canvassing board a summary report of the ballots tallied by the election board pursuant to Subsection A of this section and deliver directly to the secretary of state a cumulative report to be used in the event of a recount."

### **Chapter 39 Section 69 Laws 2023**

SECTION 69. Section 1-13-8 NMSA 1978 (being Laws 1969, Chapter 240, Section 310, as amended) is amended to read:

"1-13-8. POST-ELECTION DUTIES--COUNTY CANVASS--SEARCH FOR MISSING RETURNS.--If it is necessary to open a ballot box on election night through the adjournment of the state canvass to ascertain if missing election returns are enclosed in the ballot box, the ballot box shall be opened in the presence of the presiding judge and two election judges of an election board that meets the requirements of Subsection B of Section 1-2-12 NMSA 1978 by the county clerk or a deputy clerk designated by the county clerk. The county clerk or deputy clerk may remove the missing returns necessary to canvass the election. The presiding judge and election judges shall document the search for missing returns using a form prescribed by the secretary of state."

### **Chapter 39 Section 70 Laws 2023**

SECTION 70. Section 1-13-10 NMSA 1978 (being Laws 1969, Chapter 240, Section 313, as amended) is amended to read:

"1-13-10. POST-ELECTION DUTIES--VOTING MACHINE RECHECK--COST.--

A. Before any recheck and comparison of returns and voting machines is made pursuant to Section 1-13-9 NMSA 1978, the candidate making the request, or the petitioners, shall deposit a sum of money or a surety bond made in favor of the county to defray the cost of the recheck. The state canvassing board shall determine the estimated actual cost of a recheck per voting machine no later than March 15 of even-numbered years.

B. If the recheck alters the winner of the election, the deposit or surety bond shall be returned and the cost of the recheck shall be paid by the county. If the recheck does not alter the winner of the election, the deposit or surety bond shall be forfeited and the money from the deposit or bond shall be placed in the county general fund."

## **Chapter 39 Section 71 Laws 2023**

SECTION 71. Section 1-14-9 NMSA 1978 (being Laws 1971, Chapter 249, Section 2) is amended to read:

"1-14-9. IMPOUNDING BALLOTS--APPLICATION FOR COURT ORDER--DEPOSIT REQUIRED.--

A. Upon an order of the district court, ballots may be impounded during the period of time between the completion of the county canvass and the last day to file a candidate contest in that election.

B. Any candidate in an election may petition the district court for an order impounding ballots in one or more precincts or polling places within which the candidate's name appeared on the ballot. The action shall be brought in the district court for the county in which the precincts or polling places are located. The petition shall state what specific items of ballots are requested to be impounded. Upon receipt of the petition, along with a sufficient cash deposit or a sufficient surety bond to cover the costs of each precinct or polling place for which impoundment is demanded, the court shall issue an order of impoundment.

C. Ballots shall be impounded in the county courthouse or secured in the county clerk's office. When impounded ballots are being handled, a county clerk or the clerk's agent shall be present to ensure that all documents are properly catalogued and returned in proper order.

D. The state canvassing board shall determine the estimated actual cost of impoundment per polling place and for mailed ballots no later than March 15 of even-numbered years. The secretary of state shall post the impoundment cost determinations on the secretary of state's website when the state canvassing board issues its cost determinations."

## **Chapter 39 Section 72 Laws 2023**

SECTION 72. Section 1-14-13.2 NMSA 1978 (being Laws 2009, Chapter 233, Section 1, as amended) is amended to read:

"1-14-13.2. POST-ELECTION DUTIES--VOTING SYSTEM CHECK.--

A. At least ninety days prior to each statewide election or as soon as practicable prior to an election to fill a vacancy in the office of United States representative, the secretary of state shall contract with an auditor qualified by the state auditor to audit state agencies to oversee a check on the accuracy of precinct electronic vote tabulators, alternate voting location electronic vote tabulators and absent voter precinct electronic vote tabulators. The voting system check shall be conducted for all federal offices, for governor, for contests in the regular local election and for the

statewide elective office, other than the office of the governor, for which the winning candidate won by the smallest percentage margin of all candidates for statewide office in New Mexico. The voting system check is waived for any office for which an automatic recount is conducted.

B. For each selected office, the auditor shall publicly select a random sample of precincts from a pool of all precincts in the state no later than twelve days after the election. The random sample shall be chosen in a process that will ensure, with at least ninety percent probability for the selected offices, that faulty tabulators would be detected if they would change the outcome of the election for a selected office. The auditor shall select precincts starting with the statewide office with the largest winning margin and ending with the precincts for the statewide office with the smallest winning margin and then, in the same manner, select precincts from each congressional district. The size of the random sample for each office shall be determined as provided in Table 1 of this subsection. When a precinct is selected for one office, it shall be used in lieu of selecting a different precinct when selecting precincts for another office in the same congressional district, or for any statewide office. If the winning margin in none of the offices for which a voting system check is required is less than fifteen percent, a voting system check for that general election shall not be required.

Table 1

Winning margin between top two candidates for the office according to the county canvasses	Number of precincts in the state to be tested for that office
Percent	
greater than 15	no precincts for that office
greater than 14 but less than or equal to 15	4
greater than 13 but less than or equal to 14	4
greater than 12 but less than or equal to 13	5
greater than 11 but less than or equal to 12	5
greater than 10 but less than or equal to 11	6
greater than 9.0 but less than or equal to 10	6
greater than 8.0 but less than or equal to 9.0	7
greater than 7.0 but less than or equal to 8.0	9
greater than 6.0 but less than or equal to 7.0	10
greater than 5.5	

but less than or equal to 6.0 greater than 5.0	11
but less than or equal to 5.5 greater than 4.5	13
but less than or equal to 5.0 greater than 4.0	14
but less than or equal to 4.5 greater than 3.5	16
but less than or equal to 4.0 greater than 3.0	18
but less than or equal to 3.5 greater than 2.5	22
but less than or equal to 3.0 greater than 2.0	26
but less than or equal to 2.5 greater than 1.8	32
but less than or equal to 2.0 greater than 1.6	37
but less than or equal to 1.8 greater than 1.4	42
but less than or equal to 1.6 greater than 1.2	47
but less than or equal to 1.4 greater than 1.1	54
but less than or equal to 1.2 greater than 1.0	59
but less than or equal to 1.1 greater than 0.9	65
but less than or equal to 1.0 greater than 0.8	73
but less than or equal to 0.9 greater than 0.7	82
but less than or equal to 0.8 greater than 0.6	93
but less than or equal to 0.7 greater than 0.5	109
but less than or equal to 0.6 0.5 or less	130 165.

C. After selecting the random sample of precincts pursuant to Subsection B of this section or as required for a regular local election, the auditor shall also randomly select one precinct from each county where a precinct was not selected in the random sample.

D. The auditor shall notify the appropriate county clerks of the precincts that are to be included in the voting system check upon their selection. The auditor shall

direct the appropriate county clerks to open the locked ballot boxes and remove ballots from the selected precincts and:

(1) in a primary or general election, the auditor shall direct the appropriate county clerks to compare the original machine count precinct vote totals for candidates for offices subject to the voting system check from the selected precincts for each office with the respective vote totals of a hand recount of the paper ballots from those precincts;

(2) in a regular local election, the size of the random sample shall be the largest number of precincts that were used for the random sample in the previous general election. The auditor shall direct the appropriate county clerks to compare the original machine count precinct vote totals for the three contests with the closest margin between the two candidates receiving the greatest number of votes affecting the final outcome for an office from each of the selected precincts with the respective vote totals of a hand recount of the paper ballots from those precincts; provided that if there are fewer than three contested contests in a precinct, the auditor shall randomly select one or more contests so that three contests are included in the sample from that precinct; and

(3) in an election called to fill a vacancy in United States representative, the auditor shall direct the appropriate county clerks to compare the original machine count precinct vote totals for candidates for United States representative from the selected precincts with the respective vote totals of a hand recount of the paper ballots from those precincts.

E. The county clerks shall report their results to the auditor within fourteen days of the notice to conduct the voting system check unless a county clerk is aware of a recount in any office that includes one or more precincts in the county, in which case the county clerk shall report the results of the post-election audit to the auditor within fourteen days following the conclusion of the recount.

F. Based on the results of the voting system check and any other auditing results, the auditor shall determine the error rate in the sample for each office. If the winning margin decreases and the error rate based on the difference between the vote totals of hand recounts of the paper ballots and the original precinct vote totals exceeds ninety percent of the winning margin for an office, another sample equal in size to the original sample shall be selected and the original precinct vote totals compared to the vote totals of hand recounts. The error rate based on the first and second sample shall be reported, and if it exceeds ninety percent of the winning margin for the office, the state canvassing board shall order that a full hand recount of the ballots for that office be conducted.

G. The auditor shall report the results of the voting system check to the secretary of state upon completion of the voting system check and release the results to the public.

H. Persons designated as county canvass observers may observe the hand recount described in Subsection D of this section. Observers shall comply with the procedures governing county canvass observers as provided in Section 1-2-31 NMSA 1978.

I. If a recount for an office selected for a voting system check is conducted pursuant to the provisions of Chapter 1, Article 14 NMSA 1978, the vote totals from the hand count of ballots for that office in precincts selected for the voting system check may be used in lieu of recounting the same ballots for the recount.

J. All costs of a voting system check or required hand recount shall be paid in the same manner as automatic recounts.

K. The secretary of state may issue rules to implement voting system checks."

### **Chapter 39 Section 73 Laws 2023**

SECTION 73. Section 1-14-14 NMSA 1978 (being Laws 1969, Chapter 240, Section 343, as amended) is amended to read:

"1-14-14. RECOUNTS--RECHECKS--APPLICATION.--

A. Whenever any candidate believes that any error or fraud has been committed by any precinct board in counting or tallying the ballots, in the verification of the votes cast on the voting machines or in the certifying of the results of any election whereby the results of the election in the precinct have not been correctly determined, declared or certified, the candidate, within six days after completion of the canvass by the proper canvassing board, may have a recount of the ballots, or a recheck of the votes shown on the voting machines, that were cast in the precinct.

B. All applications for recount or recheck shall be filed with the secretary of state."

### **Chapter 39 Section 74 Laws 2023**

SECTION 74. Section 1-14-15 NMSA 1978 (being Laws 1978, Chapter 48, Section 1, as amended) is amended to read:

"1-14-15. RECOUNTS--RECHECKS--COST OF PROCEEDINGS.--

A. An applicant for a recount shall deposit with the proper canvassing board or, in the case of an office for which the state canvassing board issues a certificate of nomination or election, with the secretary of state sufficient cash, or a sufficient surety bond, to cover the cost of a recount for each precinct for which a recount is demanded. An applicant for a recheck shall deposit with the proper canvassing board or, in the case

of an office for which the state canvassing board issues a certificate of nomination or election, with the secretary of state sufficient cash, or a sufficient surety bond, to cover the cost of the recheck for each voting machine to be rechecked. The state canvassing board shall determine the estimated actual cost of a recount per polling place and for mailed ballots and a recheck per voting machine no later than March 15 of even-numbered years. The secretary of state shall post the recount and recheck cost determinations on the secretary of state's website when the state canvassing board issues its cost determinations.

B. The deposit or surety bond shall be security for the payment of the costs and expenses of the recount or recheck in case the results of the recount or recheck are not sufficient to change the results of the election.

C. If it appears that error or fraud sufficient to change the winner of the election has been committed, the costs and expenses of the recount or recheck shall be paid by the state upon warrant issued by the secretary of finance and administration supported by a voucher of the secretary of state, or shall be paid by the county upon warrant of the county clerk from the general fund of the county, as the case may be.

D. If no error or fraud appears to be sufficient to change the winner, the costs and expenses for the recount or recheck shall be paid by the applicant. Costs shall consist of any docket fees, mileage of the sheriff in serving summons and fees and mileage of election board members, at the same rates allowed witnesses in civil actions. If error or fraud has been committed by an election board, the board members shall not be entitled to such mileage or fees."

## **Chapter 39 Section 75 Laws 2023**

SECTION 75. Section 1-14-24 NMSA 1978 (being Laws 2008, Chapter 41, Section 1, as amended) is amended to read:

### **"1-14-24. AUTOMATIC RECOUNTS--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 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 or five or fewer votes between the two candidates receiving the greatest number of votes 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 39 Section 76 Laws 2023**

SECTION 76. Section 1-16-4 NMSA 1978 (being Laws 1969, Chapter 240, Section 377, as amended) is amended to read:

"1-16-4. BALLOT QUESTIONS--STATE CONSTITUTIONAL AMENDMENTS--PUBLICATION.--

A. The secretary of state shall cause the ballot question for 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 39 Section 77 Laws 2023**

SECTION 77. Section 1-17-8 NMSA 1978 (being Laws 1969, Chapter 240, Section 393) is amended to read:

"1-17-8. REFERENDUM PETITIONS--APPROVAL BEFORE CIRCULATION.--

A. Before any referendum petition is circulated for signatures, the sponsors shall submit the original draft thereof to the secretary of state to determine whether or not it meets the requirements of law for referendum petitions. At the same time the original draft is submitted to the secretary of state, the sponsors shall also submit a suggested popular name for the law that is the object of the petition.

B. Within thirty days after submission of the original draft and suggested popular name, the secretary of state shall:

(1) approve and certify the original draft of the petition and approve and certify the suggested popular name or a more suitable and correct popular name; or

(2) disapprove the original draft and specify each deficiency not in compliance with the law."

### **Chapter 39 Section 78 Laws 2023**

SECTION 78. Section 1-17-10 NMSA 1978 (being Laws 1969, Chapter 240, Section 395) is amended to read:

"1-17-10. REFERENDUM PETITIONS--SUFFICIENCY OR INSUFFICIENCY.--  
The secretary of state shall ascertain and declare the sufficiency or insufficiency of each complete referendum petition within thirty days after it is filed in the secretary's office."

### **Chapter 39 Section 79 Laws 2023**

SECTION 79. 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, domestic partner, 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 1-19A-4.1 NMSA 1978. 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 1-19A-4.1 NMSA 1978.

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 1-19A-4.1 NMSA 1978 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 1-19A-4.1 NMSA 1978 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 1-19A-4.1 NMSA 1978 that remains unspent or unencumbered by the date the candidate ceases to be a certified candidate."

### **Chapter 39 Section 80 Laws 2023**

SECTION 80. Section 1-20-6 NMSA 1978 (being Laws 1969, Chapter 240, Section 431) is amended to read:

"1-20-6. UNLAWFUL POSSESSION OF KEYS.--Unlawful possession of keys consists of the possession at any time of any key to a voting machine, ballot box or monitored secured container, or possession of an imitation or duplicate thereof, or making or causing to be made any imitation or duplicate thereof, unless authorized by the Election Code. Whoever commits unlawful possession of keys is guilty of a fourth degree felony."

### **Chapter 39 Section 81 Laws 2023**

SECTION 81. Section 1-20-7 NMSA 1978 (being Laws 1971, Chapter 111, Section 1, as amended) is amended to read:

"1-20-7. UNLAWFUL POSSESSION OF ABSENTEE BALLOT.--Unlawful possession of absentee ballot consists of the possession at any time of absentee ballot materials when not authorized by the Election Code to be in possession of such materials, or when such materials were obtained in an unlawful manner, and includes the establishment, designation or operation of any container or receptacle to receive voted ballots by a person who is not authorized by the Election Code and entering information into or altering the absentee ballot register. As used in this section, "absentee ballot materials" means an absentee ballot, absentee ballot envelopes, the absentee ballot register or an absentee ballot return. Whoever commits unlawful possession of absentee ballot is guilty of a fourth degree felony."

### **Chapter 39 Section 82 Laws 2023**

SECTION 82. Section 1-20-17 NMSA 1978 (being Laws 1969, Chapter 240, Section 441, as amended) is amended to read:

"1-20-17. OBSTRUCTING THE POLLING PLACE.--

A. Obstructing the polling place consists of a person other than an authorized individual approaching nearer than fifty feet from the door through which voters may enter to vote at a polling place or a person who willfully blocks access to a monitored

secured container or the entrance to a polling place so as to prevent free ingress and egress.

B. A person conducting lawful, non-election-related business nearer than fifty feet from the door through which voters may enter to vote is not guilty of obstructing a polling place, provided the person does not willfully block access to a monitored secured container or the entrance to the polling place.

C. As used in this section, "authorized individual" means an individual who is not electioneering and who is:

- (1) a voter offering to vote;
- (2) a member of the election board;
- (3) a lawfully appointed watcher, challenger or election observer;
- (4) an individual giving assistance to a specific person offering to vote;
- (5) an election official or contractor having business in the polling place;
- (6) an attorney representing the county or state, a political party or a candidate having business in the polling place; or
- (7) a language translator where required by federal law.

D. Whoever obstructs the polling place is guilty of a petty misdemeanor."

## **Chapter 39 Section 83 Laws 2023**

SECTION 83. Section 1-20-21 NMSA 1978 (being Laws 1969, Chapter 240, Section 445) is amended to read:

"1-20-21. UNLAWFUL POSSESSION OF ALCOHOLIC LIQUORS.--Unlawful possession of alcoholic liquors consists of the use or possession of any alcoholic liquor by any member of the election board while performing official duties on election day.

Whoever commits unlawful possession of alcoholic liquors is guilty of a petty misdemeanor."

## **Chapter 39 Section 84 Laws 2023**

SECTION 84. Section 1-22-4 NMSA 1978 (being Laws 2018, Chapter 79, Section 19, as amended) 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. The proclamation may be amended no later than eleven days before the filing date for the regular local election.

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."

### **Chapter 39 Section 85 Laws 2023**

SECTION 85. Section 1-22-7 NMSA 1978 (being Laws 2018, Chapter 79, Section 20, as amended) 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 accompanied by a nominating petition containing at least the number of signatures as required by law for the specific office.

E. 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.

F. 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 39 Section 86 Laws 2023**

SECTION 86. Section 1-22-8.1 NMSA 1978 (being Laws 2018, Chapter 79, Section 22, as amended) 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 intent to be a write-in candidate. 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.
- D. The declaration of intent to be a write-in candidate shall be accompanied by a nominating petition containing the same number of signatures or the filing fee required of other candidates for the same office.
- E. A 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 39 Section 87 Laws 2023**

SECTION 87. Section 1-22-10 NMSA 1978 (being Laws 2018, Chapter 79, Section 24, as amended) 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 the sixty-seventh 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 39 Section 88 Laws 2023**

SECTION 88. Section 1-24-3 NMSA 1978 (being Laws 2019, Chapter 212, Section 156) is amended 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;

(2) whose voter notification pursuant to Section 1-11-4.1 NMSA 1978 or 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 voter notification or election-related mail was returned as undeliverable in error or filed a certificate of registration with a new address; or

(3) whose ballot is delivered pursuant to the provisions of the Intimate Partner Violence Survivor Suffrage Act.

C. Forty-two days before the election or in the case of a voter notification returned to the county clerk, as soon thereafter as practicable, 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 recommended deadline to deposit the voted mailed ballot with the United States postal service for return by mail, the deadline for the ballot to be received by the county clerk and a list of the times and locations of monitored secured containers available in the county.

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 documentary 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 documentary identification."

## **Chapter 39 Section 89 Laws 2023**

SECTION 89. Section 2-11-8.1 NMSA 1978 (being Laws 1993, Chapter 46, Section 23, as amended) is amended to read:

### **"2-11-8.1. RESTRICTIONS ON CAMPAIGN ACTIVITIES AND CONTRIBUTIONS.--**

A. A lobbyist shall not serve as a campaign chair, treasurer or fundraising chair for a candidate for the legislature or other state office.

B. It is unlawful during the prohibited period, as that term is defined in Section 1-19-34.1 NMSA 1978, for any lobbyist or lobbyist's employer to contribute to or act as an agent or intermediary for political contributions to or arrange for the making of

political contributions to the campaign funds of any statewide elected official or legislator or any candidate for those offices.”

## **Chapter 39 Section 90 Laws 2023**

SECTION 90. Section 7-1-8.8 NMSA 1978 (being Laws 2019, Chapter 87, Section 2, as amended) is amended to read:

"7-1-8.8. INFORMATION THAT MAY BE REVEALED TO OTHER STATE AND LEGISLATIVE AGENCIES.--An employee of the department may reveal confidential return information to the following agencies; provided that a person who receives the information on behalf of the agency shall be subject to the penalties in Section 7-1-76 NMSA 1978 if the person fails to maintain the confidentiality required:

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:

(1) 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;

(2) return information needed for reports required to be made to the federal government concerning the use of federal funds for low-income working families;

(3) return information 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;

(4) return information required to administer the Health Care Quality Surcharge Act; and

(5) return information in accordance with the provisions of the Easy Enrollment Act;

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 superintendent of insurance, return information with respect to the premium tax and the health insurance premium surtax;

O. the secretary of finance and administration or the secretary's designee, return information concerning a credit pursuant to the Film Production Tax Credit Act;

P. the secretary of economic development or the secretary's designee, return information concerning a credit pursuant to the Film Production Tax Credit Act;

Q. the secretary of public safety or the secretary's designee, return information concerning the Weight Distance Tax Act;

R. the secretary of transportation or the secretary's designee, return information concerning the Weight Distance Tax Act;

S. the secretary of energy, minerals and natural resources or the secretary's designee, return information concerning tax credits or deductions for which eligibility is certified or otherwise determined by the secretary or the secretary's designee;

T. the secretary of environment or the secretary's designee, return information concerning tax credits for which eligibility is certified or otherwise determined by the secretary or the secretary's designee; and

U. the secretary of state or the secretary's designee, taxpayer information required to maintain voter registration records and as otherwise provided in the Election Code."

## **Chapter 39 Section 91 Laws 2023**

SECTION 91. Section 8-4-4 NMSA 1978 (being Laws 1969, Chapter 272, Section 1, as amended) is amended to read:

### "8-4-4. FEES OF SECRETARY OF STATE.--

A. The secretary of state shall collect the following fees to be deposited with the state treasurer for credit to the general fund:

(1) photocopies of records, per page -----  
twenty-five cents (\$.25);

(2) each certification -----  
three dollars (\$3.00);

(3) search of records where another fee is not prescribed, per hour of search -----ten dollars (\$10.00);

(4) duplicate commission of office or certificate-----  
three dollars(\$3.00);

- (5) service of process where another fee is not prescribed -----  
----- twenty-five dollars (\$25.00);
- (6) computer printout of Uniform Commercial Code records, per page --  
----- one dollar (\$1.00); and
- (7) computer generated records other than voter registration records,  
per record -----ten cents (\$.10).

B. The secretary of state shall not collect a fee for the following documents when filed in the office of the secretary of state:

- (1) oath of office; and
- (2) notice of appointment to a vacancy in office."

### **Chapter 39 Section 92 Laws 2023**

SECTION 92. Section 40-13B-1 NMSA 1978 (being Laws 2018, Chapter 40, Section 1) is amended to read:

"40-13B-1. SHORT TITLE.--Chapter 40, Article 13B NMSA 1978 may be cited as the "Confidential Substitute Address Act"."

### **Chapter 39 Section 93 Laws 2023**

SECTION 93. Section 40-13B-3 NMSA 1978 (being Laws 2018, Chapter 40, Section 3) is amended to read:

"40-13B-3. CONFIDENTIAL SUBSTITUTE ADDRESS PROGRAM--  
APPLICATION.--

A. The "confidential substitute address program" is created in the office of the secretary of state to provide a process by which a victim of domestic violence may protect the confidentiality of the victim's residential and delivery addresses in public records.

B. An applicant, with the assistance of an application assistant, shall submit an application to the secretary of state on a form prescribed by the secretary of state. The application assistant's signature shall serve as recommendation that the applicant participate in the confidential substitute address program.

C. An application shall be signed and dated by the applicant and the application assistant and shall include:

- (1) the applicant's name;

(2) the applicant's statement that the applicant fears for the safety of the applicant, the applicant's child or another person in the applicant's household because of a threat of immediate or future harm;

(3) the applicant's statement that the disclosure of the applicant's residential or delivery address would endanger the applicant, the applicant's child or another person in the applicant's household;

(4) the applicant's statement that the applicant has confidentially relocated in the past ninety days or will relocate within the state in the next ninety days;

(5) a designation of the secretary of state as the applicant's agent for the purpose of receiving mail, deliveries and service of process, notice or demand;

(6) the names and ages of those persons in the applicant's household who will also be participants in the program if the applicant is admitted into the program. Each person in an applicant's household listed in the application shall be considered a separate participant in the program;

(7) the applicant's residential and delivery addresses, if different, the confidentiality of which the applicant seeks to protect;

(8) the applicant's telephone number and email address; and

(9) the applicant's statement under penalty of perjury that the information contained in the application is true."

## **Chapter 39 Section 94 Laws 2023**

SECTION 94. Section 40-13B-6 NMSA 1978 (being Laws 2018, Chapter 40, Section 6) is amended to read:

"40-13B-6. CHANGE OF PARTICIPANT NAME, ADDRESS OR TELEPHONE NUMBER--REQUIREMENTS.--

A. A participant shall notify the secretary of state within ten days of legally changing the participant's name and shall provide the secretary of state with a certified copy of documentation of the legal name change.

B. A participant shall notify the secretary of state within ten days of a change to the participant's residential address, delivery address, telephone number or email address.

C. A participant shall notify the secretary of state within ten days if a new person in the participant's household needs to become a participant in the program."

## **Chapter 39 Section 95 Laws 2023**

SECTION 95. Section 40-13B-7 NMSA 1978 (being Laws 2018, Chapter 40, Section 7) is amended to read:

### **"40-13B-7. PARTICIPANT DECERTIFICATION.--**

A. A participant shall be decertified from the confidential substitute address program if:

(1) the participant submits a request to withdraw from the confidential substitute address program to the secretary of state;

(2) the participant fails to notify the secretary of state of a legal name change or a change to the participant's residential address, delivery address, telephone number or email address;

(3) mail that is forwarded by the secretary of state to the participant's delivery address is returned as undeliverable; or

(4) the participant does not comply with the provisions of the Intimate Partner Violence Survivor Suffrage Act.

B. If the secretary of state determines that one or more of the causes for decertification provided in Subsection A of this section exist, the secretary of state shall send notice of the participant's decertification to the participant's delivery and residential addresses and shall attempt to notify the participant by telephone and email. The participant shall be given ten days from the date of decertification to appeal the decertification.

C. A person who is decertified from the confidential substitute address program shall not continue to use the person's confidential substitute address.

D. For six months after a participant has been decertified, the secretary of state shall forward mail and deliveries to an address provided by the former participant. Upon receipt of mail and deliveries pursuant to this subsection, a former participant shall provide an updated address to the sender."

## **Chapter 39 Section 96 Laws 2023**

SECTION 96. Section 40-13B-8 NMSA 1978 (being Laws 2018, Chapter 40, Section 8, as amended) 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 who was a participant 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 39 Section 97 Laws 2023**

SECTION 97. TEMPORARY PROVISION--2021 POLLING PLACE RESOLUTION--VOTER CONVENIENCE CENTER FOR ALL STATEWIDE ELECTIONS IN CALENDAR YEAR 2023.--Each election day polling place established in the 2021 polling place resolution for each county or any election day polling place established by any subsequent amendment to such a resolution shall operate as a voter convenience center for all statewide elections in calendar year 2023.

## **Chapter 39 Section 98 Laws 2023**

SECTION 98. TEMPORARY PROVISION--RECOMPILATION.-- Section 2-21-1 NMSA 1978 (being Laws 2019, Chapter 262, Section 15) is recompiled as a section of the Campaign Reporting Act.

## **Chapter 39 Section 99 Laws 2023**

SECTION 99. REPEAL.--Sections 1-6-9.2, 1-8-41, 1-10-8.1, 1-15A-8, 1-15A-10 and 1-15A-11 NMSA 1978 (being Laws 1999, Chapter 267, Section 1; Laws 1973, Chapter 228, Section 11; Laws 1981, Chapter 166, Section 1; Laws 1977, Chapter 230, Section 7; Laws 1977, Chapter 230, Section 9 and Laws 1977, Chapter 230, Section 11; as amended) are repealed.

# **LAWS 2023, CHAPTER 40**

**Senate Bill 200, aa**  
**Approved March 30, 2023**

AN ACT

RELATING TO PROCUREMENT; PROVIDING AN EXCEPTION FROM THE PROCUREMENT CODE FOR MULTI-TERM CONTRACTS FOR PROFESSIONAL SERVICES THAT INVOLVE A REGIONAL WATER PROJECT WITH AN ESTIMATED COST OF MORE THAN FIVE HUNDRED MILLION DOLLARS (\$500,000,000).

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

## **Chapter 40 Section 1 Laws 2023**

SECTION 1. Section 13-1-150 NMSA 1978 (being Laws 1984, Chapter 65, Section 123, as amended) is amended to read:

"13-1-150. MULTI-TERM CONTRACTS--SPECIFIED PERIOD.--

A. A multi-term contract for items of tangible personal property, construction or services except for professional services, in an amount under twenty-five thousand dollars (\$25,000), may be entered into for any period of time deemed to be in the best interests of the state agency or a local public body not to exceed four years; provided that the term of the contract and conditions of renewal or extension, if any, are included in the specifications and funds are available for the first fiscal period at the time of contracting. If the amount of the contract is twenty-five thousand dollars (\$25,000) or more, the term shall not exceed ten years, including all extensions and renewals, except that for a contract entered into pursuant to the Public Facility Energy Efficiency and Water Conservation Act, the term shall not exceed twenty-five years, including all extensions and renewals. Payment and performance obligations for succeeding fiscal periods shall be subject to the availability and appropriation of funds therefor.

B. A contract for professional services may not exceed four years, including all extensions and renewals, except for the following:

(1) services required to support or operate federally certified medicaid, financial assistance and child support enforcement management information or payment systems;

(2) services to design, develop or implement the taxation and revenue information management systems project authorized by Laws 1997, Chapter 125;

(3) a multi-term contract for the services of trustees, escrow agents, registrars, paying agents, letter of credit issuers and other forms of credit enhancement and other similar services, excluding bond attorneys, underwriters and financial advisors with regard to the issuance, sale and delivery of public securities, may be for the life of the securities or as long as the securities remain outstanding;

(4) services relating to the implementation, operation and administration of the Education Trust Act;

(5) services relating to measurement and verification of conservation-related cost savings and utility cost savings pursuant to the Public Facility Energy Efficiency and Water Conservation Act;

(6) services relating to the design and engineering of a state public works project:

(a) for a period not to exceed the requisite time for project completion and a subsequent warranty period; and

(b) upon approval of the secretary of finance and administration;

and

(7) services relating to the design and engineering of a regional water project with an estimated cost of more than five hundred million dollars (\$500,000,000):

(a) for a period not to exceed the requisite time for project completion and a subsequent warranty period; and

(b) upon approval of the secretary of finance and administration."

## **LAWS 2023, CHAPTER 41**

**Senate Bill 210, aa, w/ec**  
**Approved March 30, 2023**

### **AN ACT**

RELATING TO MILITARY AFFAIRS; ENACTING THE NATIONAL GUARD DEATH BENEFIT ACT; CREATING THE NATIONAL GUARD DEATH BENEFIT FUND; DECLARING AN EMERGENCY.

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

### **Chapter 41 Section 1 Laws 2023**

SECTION 1. SHORT TITLE.--This act may be cited as the "National Guard Death Benefit Act".

### **Chapter 41 Section 2 Laws 2023**

SECTION 2. FUND CREATED.--The "national guard death benefit fund" is created in the state treasury and shall be administered by the department of military affairs. The fund shall consist of all gifts, donations and bequests of money to the fund as well as any appropriations made to the fund. Earnings from investment of the fund shall be credited to the fund. Money in the fund is appropriated to the department of military affairs for the purpose of paying death benefits pursuant to the National Guard Death Benefit Act and shall be paid out only upon warrants issued by the secretary of finance and administration pursuant to vouchers signed by the adjutant general. Any unexpended or unencumbered balance remaining in the fund at the end of any fiscal year shall not revert.

### **Chapter 41 Section 3 Laws 2023**

SECTION 3. NATIONAL GUARD DEATH BENEFITS--DETERMINATION--PAYMENT.--

A. The adjutant general shall determine whether a member of the national guard or a member of the state defense force division of the department of military affairs has been killed while on state active duty. In addition to any other death benefits provided by law, the beneficiary or beneficiaries designated by the service member on a form provided by the department of military affairs shall be paid five hundred thousand dollars (\$500,000) as supplemental death benefits whenever a member of the national guard or a member of the state defense force division is killed while on state active duty. The benefits shall be paid from the national guard death benefit fund.

B. The benefits shall be paid to a beneficiary or beneficiaries designated by the service member on a form provided by the department of military affairs.

### **Chapter 41 Section 4 Laws 2023**

SECTION 4. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

## **LAWS 2023, CHAPTER 42**

**SJC/Senate Bill 215, aa**  
**Approved March 30, 2023**

AN ACT

RELATING TO CRIMES; CREATING THE CRIMES OF BESTIALITY, PROMOTING BESTIALITY AND AGGRAVATED BESTIALITY; PRESCRIBING PENALTIES.

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

### **Chapter 42 Section 1 Laws 2023**

SECTION 1. A new section of the Criminal Code, Section 30-9A-1 NMSA 1978, is enacted to read:

"30-9A-1. SHORT TITLE.--Chapter 30, Article 9A NMSA 1978 may be cited as the "Animal Sexual Abuse Act"."

### **Chapter 42 Section 2 Laws 2023**

SECTION 2. A new section of the Criminal Code, Section 30-9A-2 NMSA 1978, is enacted to read:

"30-9A-2. DEFINITIONS.--As used in the Animal Sexual Abuse Act:

A. "animal" means any wild or domestic fauna, including livestock, alive or dead, in any setting, that is not a human being;

B. "coerce" means the use of threat, physical force or violence against another person to commit an act of bestiality;

C. "manipulate" means the use of persuasion, extortion, retaliation, deceit or other acts not involving force or coercion to cause another person to commit an act of bestiality;

D. "orifice" means the mouth, vulva or anus;

E. "sexual contact with an animal" means:

(1) the intentional insertion of the genitals or mouth of an animal into an orifice of a human's body;

(2) the intentional insertion of the genitals or mouth of a human into an orifice of an animal's body;

(3) the intentional insertion of an object into the genitals or anus of an animal; and

(4) contact, handling or stimulation of the genitals or anus of an animal by a human.

"Sexual contact with an animal" does not include accepted veterinary medical practices; accepted animal husbandry, care and grooming practices in the caretaking of animals; accepted practices related to the insemination of animals for the purpose of procreation; or accepted practices related to conformation judging; and

F. "solicit" means to entice, induce, encourage or attempt to persuade another person to commit an act of bestiality."

## **Chapter 42 Section 3 Laws 2023**

SECTION 3. A new section of the Criminal Code, Section 30-9A-3 NMSA 1978, is enacted to read:

"30-9A-3. BESTIALITY--AGGRAVATED BESTIALITY--PENALTIES.--

A. Bestiality consists of a person engaging in sexual contact with an animal. A person who commits bestiality is guilty of a fourth degree felony.

B. Promoting bestiality consists of a person:

(1) coercing, soliciting or manipulating a human to commit bestiality; or

(2) selling or transferring, offering to sell or transfer, advertising for sale or transfer, purchasing or offering to purchase, possessing or otherwise obtaining an animal with the intent that the animal be used for bestiality.

A person who commits promoting bestiality is guilty of a fourth degree felony.

C. Aggravated bestiality consists of a person:

(1) committing bestiality or promoting bestiality in the presence of a minor; or

(2) committing bestiality or promoting bestiality in which a minor is a participant.

A person who commits aggravated bestiality is guilty of a third degree felony.

D. Emission by a human or animal is not required to prove sexual contact with an animal.

E. If a person has been convicted of a crime pursuant to this section, in addition to any other penalties, the sentencing court shall include in the judgment and sentence all of the following:

(1) that all animals under the direct care and control of the convicted person be seized and turned over to an agent of the New Mexico livestock board or to an animal control agency operated by the state or a local government or an animal shelter or other animal welfare organization designated by the animal control agency. The receiver of seized animals has the authority to determine the disposition of seized animals, but shall not return the animals to the convicted person; and

(2) that the convicted person shall not be allowed to own, possess, reside with or exercise control over any animal or engage in any occupation or profession, whether paid or unpaid, at any place where animals are kept or cared for, for a definite period not less than three years and not more than fifteen years; provided that the time the person spent in actual confinement serving a criminal sentence shall be excluded from the calculation of the definite period.

F. If a person has been convicted of a crime pursuant to this section, in addition to criminal penalties and other penalties specified in Subsection E of this section, the sentencing court may order:

(1) that the convicted person submit to a psychological assessment and participate in appropriate counseling; and

(2) that the convicted person pay restitution for incurred costs of veterinary care, boarding, food and other reasonable costs of care for an animal as a result of the crime.

G. A person shall not be convicted of a crime specified in this section if the person's sexual contact with an animal was coerced or manipulated."

## **LAWS 2023, CHAPTER 43**

### **Senate Bill 240**

**Approved March 30, 2023**

#### **AN ACT**

RELATING TO TAX-EXEMPT ORGANIZATIONS; REVISING REQUIREMENTS FOR AUDITS.

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

### **Chapter 43 Section 1 Laws 2023**

SECTION 1. Section 6-5A-1 NMSA 1978 (being Laws 1992, Chapter 27, Section 1, as amended) is amended to read:

"6-5A-1. DEFINITIONS--REQUIREMENTS FOR GOVERNMENTAL ENTITIES THAT RECEIVE FUNDS OR PROPERTY FROM CERTAIN ORGANIZATIONS.--

A. As used in this section:

(1) "agency" means any state agency, department or board, any public institution of higher education or public post-secondary educational institution and any county, municipality or public school district;

(2) "organization" means an organization that 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) of the Internal Revenue Code of 1986, as amended or renumbered, and whose principal and authorized purpose is to complement, contribute to and support or aid the function of or forward the purposes of a single agency through financial support or contribution of services, goods, data or information that help or aid the agency in carrying out its statutory purpose and goals, including, but not limited to, the provision of scholarships to students of educational institutions and the provision of grants to supplement ongoing research or to provide funds for research and programs being carried out by an agency;

(3) "post-secondary educational institution" means an educational institution designated in Article 12, Section 11 of the constitution of New Mexico and

includes an academic, vocational, technical, business, professional or other school, college or university or other organization or person offering or purporting to offer courses, instruction, training or education through correspondence or in person to any individual within this state over the compulsory school attendance age, if that post-secondary educational institution is directly supported in whole or in part by state or local taxation; and

(4) "transferred" means given or otherwise transferred, with or without consideration.

B. Prior to an agency accepting property or funds that have been transferred to an agency by an organization, the agency and the organization shall enter into a written agreement that includes at least the following:

(1) a concise statement of the organization's purpose and of how that purpose is supportive of the agency's statutory responsibilities and authority;

(2) provisions explicitly describing the relationship of the agency to the organization in connection with such issues as authority, autonomy and information sharing and reporting;

(3) provisions defining the extent to which the organization may complement and support functions that are the statutory responsibility of the agency;

(4) requirements that the organization:

(a) if its total annual expenses exceed seven hundred fifty thousand dollars (\$750,000), have a financial accounting system considered adequate under customarily and currently accepted accounting standards and that the financial affairs of the organization be audited annually in accordance with generally accepted governmental auditing standards by an independent professional auditor who would be required to furnish to the agency copies of the annual audit, which, exclusive of any lists of donors or donations, shall be a public record, and to make the associated working papers available to the agency for review upon its written request for a period of three years after the audit report date; or

(b) if its total annual expenses are seven hundred fifty thousand dollars (\$750,000) or less, file a statement with the agency in the form of a balance sheet showing the assets of the organization, its liabilities, its income, classified by general source, and its expenditures, classified by object;

(5) a provision requiring that any funds or property transferred to the agency by the organization be considered subject to all state laws and regulations governing the disbursement and administration of public funds and public property, except to the extent of any specific conditions of the transfer that are acceptable to the agency and do not require actions that are punishable as crimes under state law;

(6) a provision stating that the agency has reviewed the bylaws of the organization and found them acceptable and a provision requiring that the organization furnish copies of the bylaws to the agency;

(7) a provision requiring specification of the consideration that the agency received from the organization for any agency services provided in support of the organization; and

(8) a provision requiring the application by the organization of the standard described in Section 6-8-10 NMSA 1978 as the standard for evaluating investments of the organization.

C. The written agreement required by Subsection B of this section is not required for each transfer but is a precondition of an agency's acceptance of any transfers. The agreement may be amended by mutual written agreement of the agency and the organization.

D. Nothing in this section subjects an organization to the provisions of the Open Meetings Act or makes its records, other than the annual audit required under this section, public records within the purview of Section 14-2-1 NMSA 1978."

## **Chapter 43 Section 2 Laws 2023**

SECTION 2. Section 57-22-6 NMSA 1978 (being Laws 1983, Chapter 140, Section 6, as amended) is amended to read:

"57-22-6. FILING OF REQUIRED DOCUMENTS.--

A. A charitable organization existing, operating or soliciting in the state, unless exempted by Section 57-22-4 NMSA 1978, shall register with the attorney general on a form provided by the attorney general; correct any deficiencies in its registration upon notice of deficiencies provided by the attorney general; and provide a copy of its IRS Form 1023 or IRS Form 1024 application for exempt status with its registration.

B. The attorney general shall notify each charitable organization required to register within ten business days of receipt of the registration form of any deficiencies in the registration and may make rules in accordance with the State Rules Act, as are necessary for the proper administration of this section, including:

(1) requirements for filing additional information, including disclosure of professional fundraising counsel retained by the charitable organization; and

(2) provisions for suspending the filing of reports or granting an exemption from the registration and reporting requirements of this section for a charitable organization subject to audit, registration, charter or other requirements of a

statewide, regional or national association and if it is determined that such reports or registration is not necessary for the protection of the public interest.

C. In addition to any other reporting requirements pursuant to the Charitable Solicitations Act, every charitable organization that has received tax-exempt status pursuant to Section 501(c)(3) of the federal Internal Revenue Code of 1986, as amended, and that is required to file a Form 990, 990EZ or 990PF pursuant to the Internal Revenue Code of 1986, as amended, shall file that form and the accompanying schedule A annually with the office of the attorney general up to six months following the close of the charitable organization's fiscal year. Extensions of time for filing may be allowed at the discretion of the attorney general for good cause shown. Such forms shall be public records and available for public inspection. Organizations that do not file a Form 990, 990EZ or 990PF pursuant to the Internal Revenue Code of 1986, as amended, shall file an annual report, under oath, on the form provided by the attorney general for that purpose. A charitable organization with total expenses in excess of seven hundred fifty thousand dollars (\$750,000) shall be audited by an independent certified public accountant. Audits shall be performed in accordance with generally accepted accounting principles. If the attorney general has reason to believe it is in the public interest, the attorney general may, prior to the institution of a civil proceeding, require a charitable organization to submit an audit in accordance with generally accepted accounting principles. A charitable organization shall correct any deficiencies in an annual report upon notice of deficiencies provided by the attorney general.

D. A charitable organization that fails to register before a solicitation is made or fails to timely file its tax filings with the attorney general pursuant to Subsection C of this section may be assessed a late filing fee of one hundred dollars (\$100).

E. The attorney general may accept information filed by a charitable organization with another state or the federal government in lieu of the registration and reporting requirements of the Charitable Solicitations Act if such information is determined by the attorney general to be in substantial compliance with the registration and reporting requirements of that act."

## **Chapter 43 Section 3 Laws 2023**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2024.

# **LAWS 2023, CHAPTER 44**

**Senate Bill 248, aa**  
**Approved March 30, 2023**

AN ACT

RELATING TO COURTS; CLARIFYING PROBATE COURT ADMINISTRATION AND JURISDICTION; PROVIDING PROCEDURES FOR DESIGNATING A DISTRICT JUDGE OR OTHER PROBATE JUDGE WHEN A PROBATE JUDGE HAS RECUSED OR BEEN DISQUALIFIED; PROVIDING FOR CLERKS OF THE PROBATE COURT AND THEIR DUTIES; SPECIFYING EACH COUNTY'S FINANCIAL OBLIGATION FOR SUPPORT OF THE PROBATE COURT; SPECIFYING RECORDS RETENTION; PROVIDING A FILING FEE; PROVIDING WHEN CERTAIN CASES ARE TRANSFERRED TO DISTRICT COURT; ALIGNING THE TERMS OF PROBATE JUDGES STATEWIDE; REPEALING OUT-OF-DATE PROBATE COURT STATUTES.

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

### **Chapter 44 Section 1 Laws 2023**

SECTION 1. Section 34-7-1 NMSA 1978 (being Laws 1865, Chapter 21, Section 1, as amended) is amended to read:

"34-7-1. PROBATE COURT--PROBATE JUDGE.--

A. There shall be a probate judge in each county of this state, and each county is a probate court district.

B. The position of probate judge is a part-time position."

### **Chapter 44 Section 2 Laws 2023**

SECTION 2. Section 34-7-2 NMSA 1978 (being Laws 1851-1852, p.198, as amended) is amended to read:

"34-7-2. PROBATE JUDGE--ELECTION.--A probate judge shall be elected at each general election at which the governor is elected."

### **Chapter 44 Section 3 Laws 2023**

SECTION 3. Section 34-7-3 NMSA 1978 (being Laws 1865, Chapter 93, Section 1, as amended) is amended to read:

"34-7-3. PROBATE COURTS--SEAL.--The probate courts shall procure and keep a seal with emblems and devices as the supreme court determines."

## **Chapter 44 Section 4 Laws 2023**

SECTION 4. Section 34-7-4 NMSA 1978 (being Laws 1869-1870, Chapter 51, Section 1, as amended) is repealed and a new Section 34-7-4 NMSA 1978 is enacted to read:

"34-7-4. PLACE OF HOLDING COURT--QUARTERS--SALARY.--

- A. The probate court shall be located at the county seat unless another location is designated by ordinance of the board of county commissioners.
- B. The board of county commissioners shall provide adequate quarters for the probate court, including necessary furnishings, equipment, books, supplies, utilities, upkeep and maintenance.
- C. Except as otherwise specifically provided by law, all expenses of the probate court, including salary and benefits of the judge, shall be paid from the county general fund in accordance with the court budget approved by the board of county commissioners."

## **Chapter 44 Section 5 Laws 2023**

SECTION 5. Section 34-7-7 NMSA 1978 (being Laws 1865-1866, Chapter 41, Section 2, as amended) is repealed and a new Section 34-7-7 NMSA 1978 is enacted to read:

"34-7-7. CUSTODY OF RECORDS.--The records, archives, documents and books of the probate court shall be under the charge of the clerk of the probate court in accordance with standards established by the supreme court. The records, archives and documents shall be kept in a separate book maintained for that purpose and may be kept in physical or electronic form."

## **Chapter 44 Section 6 Laws 2023**

SECTION 6. Section 34-7-8 NMSA 1978 (being Laws 1935, Chapter 63, Section 1, as amended) is amended to read:

"34-7-8. PROBATE COURT--HOURS OF BUSINESS.--

- A. The probate court shall be open at such times as determined by the clerk of the probate court and published on the county's website.
- B. The probate judge in each county shall conduct business during those times as necessary for the proper discharge of duties and may set regular hours."

## **Chapter 44 Section 7 Laws 2023**

SECTION 7. Section 34-7-9 NMSA 1978 (being Laws 1889, Chapter 132, Section 1, as amended) is amended to read:

"34-7-9. PROBATE JUDGE DISQUALIFICATION--TRANSFER.--

A. Whenever a probate judge shall, for any reason, be interested or disqualified from acting in any proceeding coming within the jurisdiction of the probate court, the judge shall, upon the judge's own motion or that of any interested party, immediately enter an order transferring the proceeding and file the order with the clerk of the probate court.

B. Upon receipt of an order of recusal or disqualification, the clerk of the probate court shall give written notice to the district court of the county in which the probate court is situate, and the district court shall transfer the case to the district court or designate another probate judge to conduct further proceedings. If designating another probate judge, the district court shall give preference to probate judges serving within the same judicial district. Upon receipt by the clerk of the probate court of a district court designation, the clerk of the probate court shall send a copy of the designation to the parties or their counsel, to the designated district or probate judge and to the recused or disqualified judge.

C. A probate judge who has accepted a designation by the district court has jurisdiction to sit in any action arising in any other probate district when designated for a specific case or for a specific period of time. A probate judge acting in another probate district by designation shall include the cases heard by designation in the probate judge's own reports to the district court, indicating on the reports that the probate court's jurisdiction is by designation.

D. The board of county commissioners of the county of the recused or disqualified probate judge shall reimburse the district judge or probate judge sitting by designation for expenses incurred pursuant to the Per Diem and Mileage Act."

## **Chapter 44 Section 8 Laws 2023**

SECTION 8. Section 34-7-10 NMSA 1978 (being Laws 1933, Chapter 102, Section 2) is amended to read:

"34-7-10. PROCEEDINGS IN DISTRICT COURT.--

A. All proceedings transferred from the probate court to the district court shall be docketed as other causes in that court, which court shall exercise the same authority and take the same steps and proceedings as would have otherwise been taken in the probate court.

B. If a case was properly filed within the jurisdiction of the probate court and later transferred to the district court, no filing fee shall be charged in the district court."

## **Chapter 44 Section 9 Laws 2023**

SECTION 9. Section 34-7-11 NMSA 1978 (being Laws 1933, Chapter 101, Section 1, as amended) is amended to read:

"34-7-11. PROBATE JUDGE ABSENT OR UNABLE TO ATTEND TO DUTIES.--

A. Whenever a probate judge is absent, incapacitated or unable to attend to the probate judge's duties from any cause whatsoever, the probate judge shall enter a notice of unavailability and file the order with the clerk of the probate court; provided that if the judge is unable to prepare the notice due to incapacity, the clerk of the probate court shall prepare and file a notice of incapacitation.

B. Upon receipt of a notice of unavailability or after preparing a notice of incapacitation, the clerk of the probate court shall give written notice to the district court of the county in which the probate court is situate and the district court shall designate a district judge or another probate judge to hold court in the county and do all things that could otherwise be done by the probate judge of that county, without the necessity of having the matters or proceedings transferred from the docket of the probate court to the docket of the district court or the other probate court. If designating another probate judge, the district court shall give preference to probate judges serving within the same judicial district. Upon receipt by the clerk of the probate court of the designation by the district court, the clerk of the probate court shall send a copy of the designation to the parties or their counsel, to the designated district or probate judge and to the unavailable or incapacitated probate judge.

C. A probate judge acting in another probate district by designation as provided in this section shall include the cases heard by designation in the probate judge's own reports to the district court, indicating on the reports that the probate court's jurisdiction is by designation.

D. The board of county commissioners of the county of the unavailable or incapacitated probate judge shall reimburse the district judge or probate judge sitting by designation for expenses incurred pursuant to the Per Diem and Mileage Act."

## **Chapter 44 Section 10 Laws 2023**

SECTION 10. Section 34-7-13 NMSA 1978 (being Laws 1887, Chapter 66, Section 1, as amended) is repealed and a new Section 34-7-13 NMSA 1978 is enacted to read:

"34-7-13. ADMINISTRATION--SUPREME COURT RULES.--

A. The supreme court shall promulgate rules to regulate pleading, practice and procedure in the probate courts to simplify and promote the speedy determination of probate. The rules shall not abridge, enlarge or modify the substantive rights of any party.

B. The supreme court shall cause all rules to be printed and distributed to all probate judges and to all members of the bar, and no rule shall become effective until thirty days after the rule has been printed and distributed."

## **Chapter 44 Section 11 Laws 2023**

SECTION 11. Section 34-7-14 NMSA 1978 (being Laws 1923, Chapter 29, Section 1, as amended) is repealed and a new Section 34-7-14 NMSA 1978 is enacted to read:

"34-7-14. FEES OF PROBATE COURT.--Clerks of the probate courts shall receive a filing fee of thirty dollars (\$30.00) for each probate case."

## **Chapter 44 Section 12 Laws 2023**

SECTION 12. Section 34-7-17 NMSA 1978 (being Laws 1860-1861, p. 80, as amended) is amended to read:

"34-7-17. PROBATE COURT TO KEEP ACCOUNTS.--The clerk of each probate court shall keep the accounts of the probate court and a record of all warrants issued against the county treasury and for what purpose."

## **Chapter 44 Section 13 Laws 2023**

SECTION 13. Section 34-7-18 NMSA 1978 (being Laws 1860-1861, p. 80, as amended) is repealed and a new Section 34-7-18 NMSA 1978 is enacted to read:

"34-7-18. PUBLIC MONEY--WHEN CASES TRANSFERRED TO DISTRICT COURT.--

A. All money collected by a probate court in connection with any probate case is public money of the county held in trust until disbursed in accordance with law.

B. If a party informs the probate court that distribution to a decedent's estate is required by federal law or other regulatory provision and there is no other account of the estate established to receive the money, the probate judge shall transfer the case to the district court.

C. If a will requires a bond to be deposited with the court, the probate judge shall transfer the case to the district court."

## **Chapter 44 Section 14 Laws 2023**

SECTION 14. Section 34-7-22 NMSA 1978 (being Laws 1866-1867, Chapter 24, Section 1, as amended) is repealed and a new Section 34-7-22 NMSA 1978 is enacted to read:

"34-7-22. CLERK OF THE PROBATE COURT--DEPUTY CLERKS--POWERS.--

A. Unless otherwise provided by law, the county clerk of each county is designated as the clerk of the probate court in that county and shall have power to appoint deputy clerks of the probate court who shall have full power to perform all the duties of the clerk of the probate court. The fees received by the probate court shall be deposited in the county clerk recording and filing fund.

B. The board of county commissioners of a county may by ordinance provide for a separate clerk of the probate court who shall have the power to appoint deputy clerks, and the fees received by that probate court shall be deposited in the county general fund."

## **Chapter 44 Section 15 Laws 2023**

SECTION 15. TEMPORARY PROVISION--ADJUSTMENT OF TERMS OF OFFICE.--

A. Pursuant to Article 20, Section 3 of the constitution of New Mexico, the legislature finds that the probate judge term adjustments provided for in Section 34-7-2 NMSA 1978 as amended by this act are necessary to:

- (1) align the election of all thirty-three probate judges throughout the state; and
- (2) enable more effective training for new judges.

B. The term of a probate court judge that was set to expire on December 31, 2024 shall expire on December 31, 2026.

## **Chapter 44 Section 16 Laws 2023**

SECTION 16. REPEAL.--Sections 34-7-5, 34-7-6, 34-7-15, 34-7-16, 34-7-19 through 34-7-21, 34-7-23 through 34-7-25 and 45-1-307 NMSA 1978 (being Laws 1869-1870, Chapter 51, Section 2, Laws 1887, Chapter 66, Section 3, Laws 1923, Chapter 29, Sections 2 and 4, Laws 1860-1861, page 80, Laws 1889, Chapter 90, Sections 42 and 43, Laws 1866-1867, Chapter 24, Sections 2 through 4 and Laws 1975, Chapter 257, Section 1-307, as amended) are repealed.

## **Chapter 44 Section 17 Laws 2023**

SECTION 17. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

## **LAWS 2023, CHAPTER 45**

**Senate Bill 271, aa**  
**Approved March 30, 2023**

AN ACT

RELATING TO LIVESTOCK; DEFINING "EQUINE" AND SUBSTITUTING THAT TERM FOR "HORSE"; REVISING PROCEDURES FOR EQUINE ESTRAYS; AMENDING THE LIVESTOCK CODE AND OTHER SECTIONS OF THE NMSA 1978.

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

## **Chapter 45 Section 1 Laws 2023**

SECTION 1. Section 7-2-30.7 NMSA 1978 (being Laws 2013, Chapter 49, Section 2) is amended to read:

"7-2-30.7. OPTIONAL DESIGNATION OF TAX REFUND CONTRIBUTION--  
EQUINE SHELTER RESCUE FUND.--

A. Any individual whose state income tax liability after application of allowable credits and tax rebates in any year is lower than the amount of money held by the department to the credit of such individual for that tax year may designate any portion of the income tax refund due to the individual to be paid to the equine shelter rescue fund. In the case of a joint return, both individuals must make such a designation.

B. The department shall revise the state income tax form to allow the designation of such contributions in the following form:

"Equine Shelter Rescue Fund - Check [ ] if you wish to contribute a part or all of your tax refund to the equine shelter rescue fund. Enter here \$ \_\_\_\_\_ the amount of your contribution."

C. The provisions of this section do not apply to income tax refunds subject to interception under the provisions of the Tax Refund Intercept Program Act, and any designation made under the provisions of this section to such refunds is void."

## Chapter 45 Section 2 Laws 2023

SECTION 2. Section 30-18-1.2 NMSA 1978 (being Laws 1999, Chapter 107, Section 3, as amended) is amended to read:

### "30-18-1.2. DISPOSITION OF SEIZED ANIMALS.--

A. If the court finds that a seized animal is not being cruelly treated and that the animal's owner is able to provide for the animal adequately, the court shall return the animal to its owner.

B. If the court finds that a seized animal is being cruelly treated or that the animal's owner is unable to provide for the animal adequately, the court shall hold a hearing to determine the disposition of the animal.

C. An agent of the New Mexico livestock board, an animal control agency operated by the state, a county or a municipality, or an animal shelter or other animal welfare organization designated by an animal control agency or an animal shelter, in the custody of which an animal that has been cruelly treated has been placed may petition the court to request that the animal's owner may be ordered to post security with the court to indemnify the costs incurred to care and provide for the seized animal pending the disposition of any criminal charges of committing cruelty to animals pending against the animal's owner.

D. The court shall determine the amount of security while taking into consideration all of the circumstances of the case including the owner's ability to pay, and may conduct periodic reviews of its order. If the posting of security is ordered, the New Mexico livestock board, animal control agency, animal shelter or animal welfare organization may, with permission of the court, draw from the security to indemnify the costs incurred to care and provide for the seized animal pending disposition of the criminal charges.

E. If the owner of the animal does not post security within fifteen days after the issuance of the order, or if, after reasonable and diligent attempts the owner cannot be located, the animal may be deemed abandoned and relinquished to the New Mexico livestock board, animal control agency, animal shelter or animal welfare organization for adoption or humane destruction; provided that if the animal is livestock other than poultry associated with cockfighting, the animal may be sold pursuant to the procedures set forth in Section 77-18-2 NMSA 1978.

F. Nothing in this section shall prohibit an owner from voluntarily relinquishing an animal to an animal control agency or shelter in lieu of posting security. A voluntary relinquishment shall not preclude further prosecution of any criminal charges alleging that the owner has committed felony cruelty to animals.

G. Upon conviction, the court shall place the animal with an animal shelter or animal welfare organization for placement or for humane destruction.

H. As used in this section, "livestock" means all domestic or domesticated animals that are used or raised on a farm or ranch and exotic animals in captivity and includes equines as defined in Section 77-2-1.1 NMSA 1978, cattle, sheep, goats, swine, bison, poultry, ostriches, emus, rheas, camelids and farmed cervidae but does not include canine or feline animals."

## **Chapter 45 Section 3 Laws 2023**

SECTION 3. Section 77-2-1.1 NMSA 1978 (being Laws 1993, Chapter 248, Section 2, as amended) is amended to read:

"77-2-1.1. DEFINITIONS.--As used in The Livestock Code:

A. "animals" or "livestock" means all domestic or domesticated animals that are used or raised on a farm or ranch, including the carcasses thereof, and exotic animals in captivity and includes equines, cattle, sheep, goats, swine, bison, poultry, ostriches, emus, rheas, camelids and farmed cervidae upon any land in New Mexico. "Animals" or "livestock" does not include canine or feline animals;

B. "bill of sale" means an instrument in substantially the form specified in The Livestock Code by which the owner or the owner's authorized agent transfers to the buyer the title to animals described in the bill of sale;

C. "bison" or "buffalo" means a bovine animal of the species bison;

D. "board" means the New Mexico livestock board;

E. "bond" means cash or an insurance agreement from a New Mexico licensed surety or insurance corporation pledging surety for financial loss caused to another, including certificate of deposit, letter of credit or other surety as may be approved by the grain inspection, packers and stockyards administration of the United States department of agriculture or the board;

F. "brand" means a symbol or device in a form approved by and recorded with the board as may be sufficient to readily distinguish livestock should they become intermixed with other livestock;

G. "brand inspector" means an inspector who is not certified as a peace officer;

H. "carcasses" means dead or dressed bodies of livestock or parts thereof;

I. "cattle" means animals of the genus bos, including dairy cattle, and does not include any other kind of livestock;

J. "dairy cattle" means animals of the genus bos raised not for consumption but for dairy products and distinguished from meat breed cattle;

K. "director" means the executive director of the board;

L. "disease" means a communicable, infectious or contagious disease;

M. "district" means a livestock inspection district;

N. "equine" means a horse, pony, mule, donkey or hinny;

O. "estrays" means livestock found running at large upon public or private lands, either fenced or unfenced, whose owner is unknown, or that is branded with a brand that is not on record in the office of the board or is a freshly branded or marked offspring not with its branded or marked mother, unless other proof of ownership is produced;

P. "inspector" means a livestock or brand inspector;

Q. "livestock inspector" means a certified inspector who is granted full law enforcement powers for enforcement of The Livestock Code and other criminal laws relating to livestock;

R. "mark" means an ear tag or ownership mark that is not a brand;

S. "meat" means the edible flesh of poultry, birds or animals sold for human consumption and includes livestock, poultry and livestock and poultry products;

T. "mule" means a hybrid resulting from the cross of a horse and an ass; and

U. "person" means an individual, firm, partnership, association, corporation or similar legal entity."

## **Chapter 45 Section 4 Laws 2023**

SECTION 4. Section 77-2-30 NMSA 1978 (being Laws 2005, Chapter 236, Section 1) is amended to read:

"77-2-30. EQUINE RESCUE OR RETIREMENT FACILITY--REGISTRATION--BOARD POWERS AND DUTIES--FEES.--

A. As used in this section, "facility" means an equine rescue or retirement facility, including a private reserve or private preserve, that advertises or solicits for

equines and provides lifelong care or finds new owners for equines that are unwanted or have been neglected or abused or captured wild equines that cannot be returned to their range.

B. A facility shall not operate in New Mexico unless registered by the board.

C. The board shall:

(1) register facilities that meet the requirements of this section;

(2) annually consult with representatives from the equine industry, equine rescue organizations and veterinarians on facility standards; and

(3) after consideration of recommendations by national organizations for the care of unwanted equines and equine rescue and retirement facilities, promulgate rules for facilities, including:

(a) health and sanitary requirements;

(b) standards for barns, paddocks, pastures and ranges;

(c) qualifications of the facility staff;

(d) provision of veterinary care;

(e) feeding and watering requirements;

(f) transportation;

(g) a process to issue a temporary capacity waiver to a facility for the purpose of transferring equines in the custody of the board to a facility; and

(h) other requirements necessary to ensure the humane care of equines.

D. The board may charge the following fees:

(1) an initial inspection and registration fee of not more than two hundred fifty dollars (\$250);

(2) an annual inspection and registration fee of not more than one hundred dollars (\$100); and

(3) reinspection fees of not more than one hundred dollars (\$100).

E. Fees collected pursuant to this section shall be deposited in the New Mexico livestock board general fund and may be used to carry out the provisions of this section and Section 77-2-31 NMSA 1978."

## **Chapter 45 Section 5 Laws 2023**

SECTION 5. Section 77-2-31 NMSA 1978 (being Laws 2005, Chapter 236, Section 2) is amended to read:

"77-2-31. EQUINE RESCUE OR RETIREMENT FACILITIES--INSPECTIONS--REINSPECTION.--

A. Prior to annual registration, each facility shall be inspected in accordance with board rules.

B. The board or its agents may enter the premises of a facility to conduct unannounced inspections.

C. If, following an inspection, the board determines that the facility does not meet the board's minimum facility requirements, it shall give the registrant written notice of the deficiencies and schedule a reinspection, allowing a reasonable time for the registrant to correct the deficiencies.

D. The registrant shall remedy the deficiencies and submit evidence to the board demonstrating compliance with board rules for the facility.

E. If on reinspection the board determines that the facility is still deficient in those areas for which it has been given written notice, the equines may be impounded in accordance with the provisions of Section 77-18-2 NMSA 1978 and the board shall hold a hearing as provided in the Uniform Licensing Act to determine if the registration should be suspended or revoked.

F. If a facility's registration is suspended or revoked, the board shall place the equines in another facility."

## **Chapter 45 Section 6 Laws 2023**

SECTION 6. Section 77-2-32 NMSA 1978 (being Laws 2013, Chapter 49, Section 1) is amended to read:

"77-2-32. EQUINE SHELTER RESCUE FUND--CREATED.--

A. The "equine shelter rescue fund" is created as a nonreverting fund in the state treasury. The fund consists of appropriations, gifts, grants, donations and amounts designated pursuant to Section 7-2-30.7 NMSA 1978. The board shall administer the

fund, and money in the fund is appropriated to the board to carry out the intent of aiding equine rescues and homeless equines in the state.

B. The board shall establish by rule the distribution of funds from the equine shelter rescue fund to equine rescue and retirement facilities registered by the board pursuant to Section 77-2-30 NMSA 1978, taking into consideration the number of equines being cared for in each facility and the need of each facility."

## **Chapter 45 Section 7 Laws 2023**

SECTION 7. Section 77-13-4 NMSA 1978 (being Laws 1907, Chapter 80, Section 4, as amended) is amended to read:

"77-13-4. OWNER UNKNOWN--PUBLICATION AND POSTING OF NOTICE.--

A. If the director is unable to determine from the records and description who is the owner or probable owner of an estray, the director shall publish at least once in some publication in general circulation in the county in which the estray animal was picked up, the publication to be designated by the board, a notice of the estray.

B. For an estray that is not an equine, the notice shall give a description of the animal, shall state when and where the animal was impounded and shall give notice that unless the animal is claimed by the legal owner within five days after the publication of the notice, the animal shall be sold by the board for the benefit of the owner when found.

C. For an estray that is an equine, the notice shall give a description of the equine and shall:

(1) state when and where the equine was impounded and shall give notice that, unless the equine is claimed by the legal owner within five days after publication of the notice, a registered equine rescue or retirement facility shall be given the right of first refusal to purchase the equine for an ownership transfer fee equal to all actual costs incurred by the impounding agency in caring for the equine while the equine was impounded; and

(2) give notice that if a registered equine rescue or retirement facility is unable or unwilling to purchase the equine, the board shall auction the equine through a sealed-bid process administered by the board and established in rule and that if the equine is not purchased through the sealed-bid process, the board may pursue an alternative placement for care with a last resort option to humanely euthanize the equine by a licensed veterinarian."

## Chapter 45 Section 8 Laws 2023

SECTION 8. Section 77-13-5 NMSA 1978 (being Laws 1907, Chapter 80, Section 5, as amended) is amended to read:

"77-13-5. DISPOSITION OF UNCLAIMED ESTRAYS--BILL OF SALE--EFFECT--SALE WITHOUT ADVERTISEMENT--CONDITIONS.--

A. If an estray that is not an equine is not claimed within five days after publication of notice, it may be sold by the board through an inspector in such manner as the board may direct. The inspector making the sale shall give a bill of sale to the purchaser from the board, signed by the inspector. The bill of sale shall be legal evidence of the ownership of the livestock by the purchaser and shall be a legal title to the livestock. Where the director determines that it is impractical to publish notice, the estray may be sold immediately without notice. In such case, the board shall publish notice of the proceeds from the sale of the estray in the same manner and for the same length of time as provided for the notice of the sale and shall hold and distribute the proceeds from the sale in the same manner as if the sale were made after notice.

B. If the estray is an equine and the equine is not claimed within five days after publication of notice:

(1) the board shall give a registered equine rescue or retirement facility the right of first refusal to purchase the equine for an ownership transfer fee;

(2) the ownership transfer fee shall be equal to all actual costs incurred by the impounding agency in caring for the equine while the equine was impounded;

(3) the board shall provide a bill of sale to the registered equine rescue or retirement facility that purchases the equine;

(4) the bill of sale shall be legal evidence of the ownership of the equine by the registered equine rescue or retirement facility and shall be legal title to the equine;

(5) if a registered equine rescue or retirement facility is unable or unwilling to purchase the equine, the board shall auction the equine through a sealed-bid process administered by the board and established in rule; and

(6) if the equine is not purchased through the sealed-bid process, the board may pursue an alternative placement for care with a last resort option to humanely euthanize the equine by a licensed veterinarian."

## Chapter 45 Section 9 Laws 2023

SECTION 9. Section 77-14-7 NMSA 1978 (being Laws 1909, Chapter 146, Section 4, as amended) is amended to read:

"77-14-7. LIVESTOCK RUNNING AT LARGE--WHEN UNLAWFUL--  
IMPOUNDING--DISPOSITION--SUIT FOR DAMAGES.--

A. It is unlawful for the owners of livestock to willfully allow the livestock to run at large within the town, conservancy district, irrigation district or military reservation or enclave. An owner who willfully allows livestock to run at large is guilty of a misdemeanor and upon conviction shall be punished in accordance with the provisions of Section 31-19-1 NMSA 1978 for each offense.

B. For livestock that is not an equine, the sheriff or other peace officer or proper military authority or the board shall impound livestock found running at large and sell the livestock at public auction to the highest bidder for cash after giving notice of the time and place of sale in some newspaper published in the county where the violation occurred three days prior to the day of sale; provided that in the case of a military reservation or enclave, the sale shall be conducted by the board pursuant to the procedure set forth in Section 77-14-36 NMSA 1978. The proceeds up to ten dollars (\$10.00) per day for each animal shall be retained by the impounding authority to cover its expense and fees. The balance, if any, shall be paid to the general fund.

C. For livestock that is an equine, the sheriff, other peace officer, proper military authority or the board shall impound the equine running at large and give notice in some newspaper published in the county where the violation occurred of three days prior to the day of disposition. The notice shall include a description of the equine and state when and where the equine was impounded and that:

(1) unless the equine is redeemed by the legal owner within three days after publication of the notice, a registered equine rescue or retirement facility shall be given the right of first refusal to purchase the equine for an ownership transfer fee equal to all actual costs incurred by the impounding agency in caring for the equine while the equine was impounded;

(2) if a registered equine rescue or retirement facility is unable or unwilling to purchase the equine, the board shall auction the equine through a sealed-bid process administered by the board and established in rule;

(3) if the equine is not purchased through the sealed-bid process, the board may pursue an alternative placement for care with a last resort option to humanely euthanize the equine by a licensed veterinarian; and

(4) any proceeds from the sale of an equine pursuant to this subsection shall be retained by the impounding authority to cover its expenses and costs, and the balance, if any, shall be paid to the general fund.

D. The owner of livestock impounded may redeem the livestock at any time prior to disposition by paying the impound fees and costs incurred for each day or portion of a day that the livestock has been in custody; provided that in the case of a military reservation or enclave, redemption shall be allowed pursuant to Section 77-14-36 NMSA 1978.

E. A person claiming damages for violation of the provisions of Subsection A of this section may file suit to recover damages as in other civil cases; provided that such damages, in the case of a violation involving a military reservation or enclave, shall include direct, indirect, incidental and consequential damages."

## **Chapter 45 Section 10 Laws 2023**

SECTION 10. Section 77-14-36 NMSA 1978 (being Laws 1975, Chapter 329, Section 1, as amended) is amended to read:

"77-14-36. IMPOUNDMENT OF TRESPASS LIVESTOCK.--

A. Any livestock found to be in trespass upon the lands of another or running at large upon any public highway that is fenced on both sides or running at large within the limits of any municipality, town or village, whether incorporated or not, or within a military reservation or enclave is subject to impoundment by an agent of the board. The place of impoundment shall be at the nearest or most convenient location from where the trespass occurred.

B. Any livestock impounded under the provisions of this section shall be released to the owner or the owner's representative upon the payment by the owner of a fee set by regulation of the board not to exceed amounts prescribed by law for impounding.

C. The board shall designate a custodian and a place of impoundment and allow a reasonable fee to be charged by the custodian of the impounded livestock; provided that in case of a controversy as to what constitutes a reasonable charge, the board shall set the amount of the charge.

D. This section shall not be construed to affect the obligation of a property owner of meeting the requirements of Section 77-16-1 NMSA 1978 for fencing against such trespasses.

E. Any cost charged against trespass livestock will be a lien on the livestock. If the owner does not pay the charges and reclaim possession of the livestock within five days after receipt of notification by the owner, the livestock shall be considered

unclaimed estrays and may be disposed of in accordance with the provisions of Section 77-13-5 NMSA 1978."

## **Chapter 45 Section 11 Laws 2023**

SECTION 11. Section 77-18-2 NMSA 1978 (being Laws 1987, Chapter 151, Section 1, as amended) is amended to read:

"77-18-2. SEIZURE AND DISPOSITION OF CRUELLY TREATED LIVESTOCK.-

A. If a livestock inspector or other peace officer has reason to believe that livestock are being cruelly treated, the inspector or peace officer may apply to a court in the county where the livestock are located for a warrant to seize the allegedly cruelly treated livestock.

B. On a showing of probable cause to believe that the livestock are being cruelly treated, the court shall issue a warrant for the seizure of the livestock and set the matter for hearing as expeditiously as possible within thirty days unless good cause for a later time is demonstrated by the state. Seizure as authorized by this section shall be restricted to only those livestock allegedly being cruelly treated. The board by rule shall establish procedures for preserving evidence of alleged cruel treatment of livestock.

C. If criminal charges are filed against the owner, the court shall, upon proper petition, proceed to determine if security is required to be posted pursuant to Section 30-18-1.2 NMSA 1978. Otherwise, the judge or magistrate executing the warrant shall notify the board, have the livestock impounded and give written notice to the owner of the livestock of the time and place of a hearing to determine disposition of the livestock. All interested parties, including the district attorney, shall be given an opportunity to present evidence at the hearing.

D. For livestock that is not an equine:

(1) if the court finds that the owner has cruelly treated the livestock, the court shall order the sale of the livestock at fair market value or order humane destruction; provided that if the livestock are ordered sold, the sale shall occur within ten days of the order; and further provided that if the court does not find that the owner has cruelly treated the livestock, the court shall order the livestock returned to the owner;

(2) if the court orders the sale of the livestock, the board shall take proper action to ensure that the livestock are sold at fair market value, including acceptance of reasonable bids or sale at auction; provided that a bid by the owner of the livestock or the owner's representative shall not be accepted; and

(3) proceeds from the sale of the livestock shall be forwarded to the court ordering the sale; provided that from these proceeds, the court shall pay all

expenses incurred in caring for the livestock while they were impounded and any expenses involved in their sale; and further provided that any excess proceeds of the sale shall be forwarded to the former owner; and further provided that if the expenses incurred in caring for and selling the livestock exceed the amount received from the sale, the court shall order the former owner to pay the additional cost.

E. For livestock that is an equine:

(1) if the court finds that the owner has cruelly treated the equine, the court shall give a registered equine rescue or retirement facility the right of first refusal to purchase the equine for an ownership transfer fee equal to all actual costs incurred by the impounding agency in caring for the equine while the equine was impounded; provided that:

(a) the board shall provide a bill of sale to the registered equine rescue or retirement facility that purchases the equine; and

(b) the bill of sale shall be legal evidence of the ownership of the equine by the registered equine rescue or retirement facility and shall be legal title to the equine;

(2) if the court finds that the owner has cruelly treated the equine and a registered equine rescue or retirement facility has been given the right of first refusal but the registered equine rescue or retirement facility is unable or unwilling to purchase the equine:

(a) the board shall auction the equine through a sealed-bid process administered by the board and established by rule;

(b) any proceeds from the sale less expenses incurred in caring for the equine while the equine was impounded shall be forwarded to the former owner;

(c) if the expenses incurred in caring for the equine exceed the proceeds from the sale, the court shall order the former owner to pay the additional costs; and

(d) if the equine is not purchased through the sealed-bid process, the board may pursue an alternative placement for care with a last resort option to humanely euthanize the equine by a licensed veterinarian; and

(3) if the court does not find that the owner cruelly treated the equine, the court shall order the equine returned to the owner."

## **Chapter 45 Section 12 Laws 2023**

SECTION 12. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

## **LAWS 2023, CHAPTER 46**

**Senate Bill 335, w/ec**  
**Approved March 30, 2023**

AN ACT

RELATING TO ELECTIONS; DELAYING UNTIL 2025 THE IMPLEMENTATION OF THE LOCAL ELECTION ACT AS APPLIED TO DISTRICTS CREATED PURSUANT TO THE CONSERVANCY ACT OF NEW MEXICO; PROVIDING REQUIREMENTS FOR THE CONDUCT OF DISTRICT ELECTIONS IN 2023; DECLARING AN EMERGENCY.

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

## **Chapter 46 Section 1 Laws 2023**

SECTION 1. TEMPORARY PROVISION--DISTRICTS CREATED PURSUANT TO THE CONSERVANCY ACT OF NEW MEXICO--CONDUCT OF 2023 ELECTION.--

A. Notwithstanding the provisions of The Conservancy Act of New Mexico that provide for district elections to be conducted pursuant to the Local Election Act, a district organized pursuant to that act shall conduct its 2023 election in accordance with the provisions of this section and election procedures adopted by the district's board of directors. In 2025, a district shall conduct its election pursuant to the Local Election Act. The secretary of state shall work with the districts to identify barriers, provide recommendations and coordinate efforts to ensure each district's participation in the regular local election of 2025.

B. A district's board of directors shall select an election director to provide election services. The election director shall operate pursuant to a contract, which may be approved by the secretary of state upon request of the board of directors.

C. The 2023 election may be conducted by emergency paper ballot, electronic voting machine or any other state-certified tabulating voting machine.

D. For the middle Rio Grande conservancy district, the 2023 election shall be held on October 3, 2023. For any other district, the 2023 election shall be held on a date determined by the district's board of directors that is:

- (1) before the first Tuesday in October 2023; or

(2) the later of:

(a) forty-five days after the adjournment of the state or county canvassing board for the 2023 regular local election; or

(b) forty-five days after any recount, contest or other judicial inquiry regarding the 2023 regular local election.

E. As used in this section, "district" means a district organized pursuant to The Conservancy Act of New Mexico.

## **Chapter 46 Section 2 Laws 2023**

SECTION 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

## **LAWS 2023, CHAPTER 47**

**SJC/Senate Bill 368**

**Approved March 30, 2023**

AN ACT

RELATING TO LAW ENFORCEMENT; PROVIDING EXCEPTIONS IN CERTAIN SITUATIONS TO THE REQUIREMENT THAT LAW ENFORCEMENT USE BODY-WORN CAMERAS.

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

## **Chapter 47 Section 1 Laws 2023**

SECTION 1. Section 29-1-18 NMSA 1978 (being Laws 2020 (1st S.S.), Chapter 7, Section 1) is amended to read:

"29-1-18. REQUIRING CERTAIN LAW ENFORCEMENT AGENCIES TO USE BODY-WORN CAMERAS WHILE ON DUTY--EXCEPTIONS--ADOPTION OF POLICIES AND PROCEDURES GOVERNING USE.--

A. A law enforcement agency shall require peace officers the agency employs and who routinely interact with the public to wear a body-worn camera while on duty, except as provided in Subsection B of this section. Each law enforcement agency subject to the provisions of this section shall adopt policies and procedures governing the use of body-worn cameras, including:

(1) requiring activation of a body-worn camera whenever a peace officer is responding to a call for service or at the initiation of any other law enforcement or investigative encounter between a peace officer and a member of the public;

(2) prohibiting deactivation of a body-worn camera until the conclusion of a law enforcement or investigative encounter;

(3) requiring that any video recorded by a body-worn camera shall be retained by the law enforcement agency for not less than one hundred twenty days; and

(4) establishing disciplinary rules for peace officers who:

(a) fail to operate a body-worn camera in accordance with law enforcement agency policies;

(b) intentionally manipulate a body-worn camera recording; or

(c) prematurely erase a body-worn camera recording in violation of law enforcement agency policies.

B. The provisions of Subsection A of this section shall not apply when a peace officer:

(1) conducts an undercover operation sanctioned by a law enforcement agency; or

(2) conducts an explosive recovery and disposal operation to render safe or disassemble an explosive or incendiary device and materials.

C. Peace officers who fail to comply with the policies and procedures required to be adopted pursuant to Subsection A of this section may be presumed to have acted in bad faith and may be deemed liable for the independent tort of negligent spoliation of evidence or the independent tort of intentional spoliation of evidence.

D. As used in this section:

(1) "body-worn camera" means an electronic device worn on a person's body that records both audio and video data;

(2) "law enforcement agency" means the police department of a municipality, the sheriff's office of a county, the New Mexico state police or the department of public safety;

(3) "peace officer" means any full-time salaried or certified part-time salaried officer who by virtue of office or public employment is vested by law with the duty to maintain the public peace; and

(4) "undercover operation" means an operation that:

(a) is conducted by one or more law enforcement agencies that is focused on a suspect or suspects who are the target of an ongoing criminal investigation;

(b) involves one or more covert operatives whose identities are concealed and kept confidential; and

(c) is designed to either obtain information about criminal activity of individuals or organizations through the development of ongoing relationships with individuals or organizations or to effect an arrest."

## **LAWS 2023, CHAPTER 48**

**Senate Bill 397, aa**  
**Approved March 30, 2023**

AN ACT

RELATING TO HEALTH; ENACTING A NEW SECTION OF THE PUBLIC HEALTH ACT TO CREATE AND OPERATE SCHOOL-BASED HEALTH CENTERS.

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

### **Chapter 48 Section 1 Laws 2023**

SECTION 1. A new section of the Public Health Act is enacted to read:

"SCHOOL-BASED HEALTH CENTERS--CREATION AND OPERATION.--

A. The department shall provide funding, technical assistance, clinical oversight and other necessary support for the creation and operation of school-based health centers.

B. School-based health centers receiving funding from the department shall be regulated by the department to provide services pursuant to Subsection E of this section.

C. School-based health centers shall be established in schools, within the boundaries of school campuses or within safe walking distances from school campuses as determined by the school and the school-based health center operator, in communities based on:

(1) need for services;

- (2) operator availability; and
- (3) support from local educational authorities.

D. School-based health centers shall work in cooperation with schools and school districts and be operated by licensed health care providers, including hospitals, federally qualified health centers, the department's public health nurses and other qualified health care providers.

E. School-based health centers shall provide services through licensed providers, including:

- (1) primary health care;
- (2) preventive health care, including comprehensive health assessments and diagnosis;
- (3) treatment of minor, acute and chronic conditions;
- (4) mental health care;
- (5) substance use disorder assessments, treatment and referral;
- (6) crisis intervention; or
- (7) referrals as necessary for additional treatment, including inpatient care, specialty care, emergency psychiatric care, oral health care and vision health care services.

F. The department shall adopt and promulgate rules for the regulation, operation and oversight of school-based health centers receiving funding from the department.

G. For purposes of this section:

- (1) "department" means the department of health;
- (2) "mental health care" means services related to emotional, psychological and social well-being;
- (3) "preventive health care" means services that include screenings, checkups and patient counseling to stop or slow the progression of illness, diseases and other health problems; and
- (4) "primary health care" means health care services that include providing preventive care, promoting wellness and treating common illnesses."

# LAWS 2023, CHAPTER 49

**SFC/SHPAC/Senate Bill 425, aa**  
**Approved March 30, 2023**

AN ACT

RELATING TO HEALTH; EXPANDING MEDICATION-ASSISTED TREATMENT PROGRAMS IN STATE CORRECTIONS FACILITIES; CREATING A FUND; MAKING AN APPROPRIATION.

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

## **Chapter 49 Section 1 Laws 2023**

SECTION 1. MEDICATION-ASSISTED TREATMENT FOR THE INCARCERATED PROGRAM FUND--CREATED.--

A. The "medication-assisted treatment for the incarcerated program fund" is created as a nonreverting fund in the state treasury. The fund consists of appropriations, gifts, grants and donations. The human services department shall administer the fund, and money in the fund is appropriated to the human services department to assist all counties that operate correctional facilities to establish and operate medication-assisted treatment programs for people who are incarcerated in county correctional facilities. Disbursements from the fund shall be made by warrants of the secretary of finance and administration pursuant to vouchers signed by the secretary of human services.

B. No later than December 1, 2023, the human services department shall promulgate rules for the operation of medication-assisted treatment programs in correctional facilities in consultation with the corrections department, county corrections administrators and providers who specialize in substance use disorder treatment and have experience working in corrections settings.

C. Beginning October 1, 2023 and annually thereafter, the human services department and the corrections department shall report to the interim legislative health and human services committee and the legislative finance committee on the establishment and operation of medication-assisted treatment programs in correctional facilities.

D. The corrections department shall:

(1) expand and continue to operate currently existing medication-assisted treatment programs for people who are incarcerated in a state correctional facility;

(2) by December 31, 2025, establish and operate a medication-assisted treatment program to continue medication-assisted treatment for incarcerated people with a prescription who are booked into a state correctional facility; and

(3) by the end of fiscal year 2026, offer medication-assisted treatment to all people who are incarcerated in state correctional facilities and in need of medication-assisted treatment.

E. As used in this section:

(1) "correctional facility" means a prison or other detention facility, whether operated by a government or private contractor, that is used for confinement of adult persons who are charged with or convicted of a violation of a law or an ordinance; and

(2) "medication-assisted treatment" means the use of federal food and drug administration-approved prescription drugs for the treatment of substance use disorder.

## **LAWS 2023, CHAPTER 50**

**HHHC/House Bill 53, aa**  
**Approved March 30, 2023**

AN ACT

RELATING TO HEALTH INSURANCE; UPDATING COVERAGE FOR INDIVIDUALS WITH DIABETES; REQUIRING CONSISTENT AND TIMELY DELIVERY OF MEDICALLY NECESSARY DIABETIC RESOURCES.

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

### **Chapter 50 Section 1 Laws 2023**

SECTION 1. Section 13-7-25 NMSA 1978 (being Laws 2020, Chapter 36, Section 1) is amended to read:

"13-7-25. COVERAGE FOR INDIVIDUALS WITH DIABETES--INSULIN FOR DIABETES--COST-SHARING CAP.--

A. Group health care coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act shall cap the amount an insured is required to pay for a preferred formulary prescription insulin drug or a medically necessary alternative at an amount not to exceed a total of twenty-five dollars

(\$25.00) per thirty-day supply and shall provide coverage for individuals with diabetes as required by law for each health care insurer, including:

- (1) group health insurance policies, health care plans, certificates of health insurance and managed health care plans delivered or issued for delivery in New Mexico;
- (2) group health plans provided through a cooperative;
- (3) group health maintenance organization contracts delivered or issued for delivery in New Mexico; and
- (4) health benefit plans.

B. As used in this section, "health care insurer" means a person who provides health insurance in this state, including a licensed insurance company, a licensed fraternal benefit society, a prepaid hospital or medical service plan, a health maintenance organization, a managed care organization, a nonprofit health care organization, a multiple-employer welfare arrangement or any other person providing a plan of health insurance subject to state regulation."

## **Chapter 50 Section 2 Laws 2023**

SECTION 2. Section 59A-22-41 NMSA 1978 (being Laws 1997, Chapter 7, Section 1 and Laws 1997, Chapter 255, Section 1, as amended) is amended to read:

"59A-22-41. COVERAGE FOR INDIVIDUALS WITH DIABETES.--

A. Each individual and group health insurance policy, health care plan, certificate of health insurance and managed health care plan delivered or issued for delivery in this state shall provide coverage for individuals with insulin-using diabetes, with non-insulin-using diabetes and with elevated blood glucose levels induced by pregnancy. This coverage shall be a basic health care benefit and shall entitle each individual to the medically accepted standard of medical care for diabetes and benefits for diabetes treatment as well as diabetes supplies, and this coverage shall not be reduced or eliminated.

B. Except as otherwise provided in this subsection, coverage for individuals with diabetes may be subject to deductibles and coinsurance consistent with those imposed on other benefits under the same policy, plan or certificate, as long as the annual deductibles or coinsurance for benefits are no greater than the annual deductibles or coinsurance established for similar benefits within a given policy. The amount an individual with diabetes is required to pay for a preferred formulary prescription insulin drug or a medically necessary alternative is an amount not to exceed a total of twenty-five dollars (\$25.00) per thirty-day supply.

C. When prescribed or diagnosed by a health care practitioner with prescribing authority, all individuals with diabetes as described in Subsection A of this section enrolled in health policies described in that subsection shall be entitled to the following equipment, supplies and appliances to treat diabetes:

- (1) blood glucose monitors, including those for individuals with disabilities, including the legally blind;
- (2) test strips for blood glucose monitors;
- (3) visual reading urine and ketone strips;
- (4) lancets and lancet devices;
- (5) insulin;
- (6) injection aids, including those adaptable to meet the needs of individuals with disabilities, including the legally blind;
- (7) syringes;
- (8) prescriptive oral agents for controlling blood sugar levels;
- (9) medically necessary podiatric appliances for prevention of feet complications associated with diabetes, including therapeutic molded or depth-inlay shoes, functional orthotics, custom molded inserts, replacement inserts, preventive devices and shoe modifications for prevention and treatment; and
- (10) glucagon emergency kits.

D. When prescribed or diagnosed by a health care practitioner with prescribing authority, all individuals with diabetes as described in Subsection A of this section enrolled in health policies described in that subsection shall be entitled to the following basic health care benefits:

- (1) diabetes self-management training that shall be provided by a certified, registered or licensed health care professional with recent education in diabetes management, which shall be limited to:
  - (a) medically necessary visits upon the diagnosis of diabetes;
  - (b) visits following a diagnosis from a health care practitioner that represents a significant change in the patient's symptoms or condition that warrants changes in the patient's self-management; and

(c) visits when re-education or refresher training is prescribed by a health care practitioner with prescribing authority; and

(2) medical nutrition therapy related to diabetes management.

E. When new or improved equipment, appliances, prescription drugs for the treatment of diabetes, insulin or supplies for the treatment of diabetes are approved by the federal food and drug administration, all individual or group health insurance policies as described in Subsection A of this section shall:

(1) maintain an adequate formulary to provide those resources to individuals with diabetes; and

(2) guarantee reimbursement or coverage for the equipment, appliances, prescription drug, insulin or supplies described in this subsection within the limits of the health care plan, policy or certificate.

F. An insurer that requires a covered person to use a specific network provider or to purchase equipment, appliances, supplies or insulin or prescription drugs for the treatment or management of diabetes from a specific durable medical equipment supplier or other supplier as a condition of coverage, payment or reimbursement shall:

(1) maintain an adequate network of durable medical equipment suppliers and other suppliers to provide covered persons with medically necessary diabetes resources, whether covered under the health policy's prescription drug or medical benefit;

(2) have network contracts in place for the entire policy or plan period and shall not allow contracts with network providers, durable medical equipment suppliers and other suppliers to lapse or terminate without ensuring the availability of a replacement and continuity of care; provided that single-case agreements do not satisfy the requirements of Paragraph (1) of this subsection or this paragraph;

(3) monitor network providers, durable medical equipment suppliers and other network suppliers to ensure that medically necessary equipment, appliances, supplies and insulin or other prescription drugs are being delivered to a covered person in a timely manner and when needed by the covered person;

(4) guarantee reimbursement to a covered person within thirty days following receipt of a written demand from the covered person who pays out of pocket for necessary equipment, appliances, supplies and insulin or other prescription drugs described in this section that are not delivered timely to the covered person, and the portion of payment for which the patient is responsible shall not exceed the amount for the same covered benefit obtained from a contracted supplier;

(5) pay interest at the rate of eighteen percent per year on the amount of reimbursement due to a covered person if not paid within thirty days as required by Paragraph (4) of this subsection;

(6) beginning on April 1, 2024, submit a written report each quarter to the superintendent for the previous quarter on the following metrics:

(a) the number of written demands for reimbursement of out-of-pocket expenses from covered persons received by the health care insurer;

(b) the number of out-of-pocket claims for reimbursement paid and the aggregate amount of claims reimbursed by the health care insurer within the time required by Paragraph (4) of this subsection;

(c) the number of out-of-pocket claims for reimbursement paid more than thirty days following receipt of a written demand and the aggregate amount of these payments, excluding interest; and

(d) the aggregate amount of interest paid by the health care insurer pursuant to Paragraph (5) of this subsection; and

(7) beginning on April 1, 2024, submit a written report each quarter for the previous quarter to the superintendent with the following information for each durable medical equipment supplier or other supplier that was under contract with the health care insurer or its agent during the previous quarter:

(a) the name, address and telephone number of each supplier and, if applicable, the corresponding date upon which the respective supplier's contract expired, lapsed or was terminated during the previous quarter;

(b) the percentage of total deliveries, by description of item, that did not meet the delivery requirements specified in Paragraph (3) of this subsection; and

(c) the number of complaints received by the health care insurer or its agent during the previous quarter related to late deliveries, incomplete orders or incorrect orders, respectively.

G. The superintendent shall annually audit all health insurers offering policies, plans or certificates as described in Subsection A of this section for compliance with the requirements of this section. If the superintendent determines that a health care insurer has not complied with the requirements of this section, the superintendent shall impose corrective action or use any other enforcement mechanism available to the superintendent to obtain the health care insurer's compliance with this section.

H. Absent a change in diagnosis or in a covered person's management or treatment of diabetes or its complications, a health care insurer shall not require more

than one prior authorization per policy period for any single drug or category of item enumerated in this section if prescribed as medically necessary by the covered person's health care practitioner. Changes in the prescribed dose of a drug; quantities of supplies needed to administer a prescribed drug; quantities of blood glucose self-testing equipment and supplies; or quantities of supplies needed to use or operate devices for which a covered person has received prior authorization during the policy year shall not be subject to additional prior authorization requirements in the same policy year if prescribed as medically necessary by the covered person's health care practitioner. Nothing in this subsection shall be construed to require payment for diabetes resources that are not covered benefits.

I. The provisions of this section do not apply to short-term travel, accident-only or limited or specified disease policies.

J. For purposes of this section:

(1) "basic health care benefits":

(a) means benefits for medically necessary services consisting of preventive care, emergency care, inpatient and outpatient hospital and physician care, diagnostic laboratory and diagnostic and therapeutic radiological services; and

(b) does not include services for alcohol or drug abuse, dental or long-term rehabilitation treatment; and

(2) "managed health care plan" means a health benefit plan offered by a health care insurer that provides for the delivery of comprehensive basic health care services and medically necessary services to individuals enrolled in the plan through its own employed health care providers or by contracting with selected or participating health care providers. A managed health care plan includes only those plans that provide comprehensive basic health care services to enrollees on a prepaid, capitated basis, including the following:

(a) health maintenance organizations;

(b) preferred provider organizations;

(c) individual practice associations;

(d) competitive medical plans;

(e) exclusive provider organizations;

(f) integrated delivery systems;

(g) independent physician-provider organizations;

- (h) physician hospital-provider organizations; and
- (i) managed care services organizations."

## **Chapter 50 Section 3 Laws 2023**

SECTION 3. A new section of Chapter 59A, Article 23 NMSA 1978 is enacted to read:

### **"COVERAGE FOR INDIVIDUALS WITH DIABETES.--**

A. Each group health insurance contract and blanket health insurance contract delivered or issued for delivery in this state shall provide coverage for individuals with diabetes who use insulin, individuals with diabetes who do not use insulin and with elevated blood glucose levels induced by pregnancy. This coverage shall be a basic health care benefit and shall entitle each individual to the medically accepted standard of medical care for diabetes and benefits for diabetes treatment as well as diabetes supplies, and this coverage shall not be reduced or eliminated.

B. Except as otherwise provided in this subsection, coverage for individuals with diabetes may be subject to deductibles and coinsurance consistent with those imposed on other benefits under the same policy, as long as the annual deductibles or coinsurance for benefits are no greater than the annual deductibles or coinsurance established for similar benefits within a given policy. The amount an individual with diabetes is required to pay for a preferred formulary prescription insulin drug or a medically necessary alternative is an amount not to exceed a total of twenty-five dollars (\$25.00) per thirty-day supply.

C. When prescribed or diagnosed by a health care practitioner with prescribing authority, all individuals with diabetes as described in Subsection A of this section enrolled in health policies described in that subsection shall be entitled to the following equipment, supplies and appliances to treat diabetes:

- (1) blood glucose monitors, including those for persons with disabilities, including the legally blind;
- (2) test strips for blood glucose monitors;
- (3) visual reading urine and ketone strips;
- (4) lancets and lancet devices;
- (5) insulin;
- (6) injection aids, including those adaptable to meet the needs of persons with disabilities, including the legally blind;

(7) syringes;

(8) prescriptive oral agents for controlling blood sugar levels;

(9) medically necessary podiatric appliances for prevention of feet complications associated with diabetes, including therapeutic molded or depth-inlay shoes, functional orthotics, custom molded inserts, replacement inserts, preventive devices and shoe modifications for prevention and treatment; and

(10) glucagon emergency kits.

D. When prescribed or diagnosed by a health care practitioner with prescribing authority, all individuals with diabetes as described in Subsection A of this section enrolled in health policies described in that subsection shall be entitled to the following basic health care benefits:

(1) diabetes self-management training that shall be provided by a certified, registered or licensed health care professional with recent education in diabetes management, which shall be limited to:

(a) medically necessary visits upon the diagnosis of diabetes;

(b) visits following a diagnosis from a health care practitioner that represents a significant change in the patient's symptoms or condition that warrants changes in the patient's self-management; and

(c) visits when re-education or refresher training is prescribed by a health care practitioner with prescribing authority; and

(2) medical nutrition therapy related to diabetes management.

E. When new or improved equipment, appliances, prescription drugs for the treatment of diabetes, insulin or supplies for the treatment of diabetes are approved by the federal food and drug administration, all individual or group health insurance policies as described in Subsection A of this section shall:

(1) maintain an adequate formulary to provide those resources to individuals with diabetes; and

(2) guarantee reimbursement or coverage for the equipment, appliances, prescription drugs, insulin or supplies described in this subsection within the limits of the health care plan, policy or certificate.

F. An insurer that requires a covered person to use a specific network provider or to purchase equipment, appliances, supplies or insulin or prescription drugs

for the treatment or management of diabetes from a specific durable medical equipment supplier or other supplier as a condition of coverage, payment or reimbursement shall:

(1) maintain an adequate network of durable medical equipment suppliers and other suppliers to provide covered persons with medically necessary diabetes resources whether covered under the health policy's prescription drug or medical benefit;

(2) have network contracts in place for the entire policy or plan period and shall not allow contracts with network providers, durable medical equipment suppliers and other suppliers to lapse or terminate without ensuring the availability of a replacement and continuity of care; provided that single-case agreements do not satisfy the requirements of Paragraph (1) of this subsection or this paragraph;

(3) monitor network providers, durable medical equipment suppliers and other network suppliers to ensure that medically necessary equipment, appliances, supplies and insulin or other prescription drugs are being delivered to a covered person in a timely manner and when needed by the covered person;

(4) guarantee reimbursement to a covered person within thirty days following receipt of a written demand from the covered person who pays out of pocket for necessary equipment, appliances, supplies and insulin or other prescription drugs described in this section that are not delivered in a timely manner to the covered person and the portion of payment for which the patient is responsible shall not exceed the amount for the same covered benefit obtained from a contracted supplier;

(5) pay interest at the rate of eighteen percent per year on the amount of reimbursement due to a covered person if not paid within thirty days as required by Paragraph (4) of this subsection;

(6) beginning on April 1, 2024, submit a written report each quarter to the superintendent for the previous quarter on the following metrics:

(a) the number of written demands for reimbursement of out-of-pocket expenses from covered persons received by the health care insurer;

(b) the number of out-of-pocket claims for reimbursement paid and the aggregate amount of claims reimbursed by the health care insurer within the time required by Paragraph (4) of this subsection;

(c) the number of out-of-pocket claims for reimbursement paid more than thirty days following receipt of a written demand and the aggregate amount of these payments, excluding interest; and

(d) the aggregate amount of interest paid by the health care insurer pursuant to Paragraph (5) of this subsection; and

(7) beginning on April 1, 2024, submit a written report each quarter for the previous quarter to the superintendent with the following information for each durable medical equipment supplier or other supplier that was under contract with the health care insurer or its agent during the previous quarter:

(a) the name, address and telephone number of each supplier and, if applicable, the corresponding date upon which the respective supplier's contract expired, lapsed or was terminated during the previous quarter;

(b) the percentage of total deliveries, by description of item, that did not meet the delivery requirements specified in Paragraph (3) of this subsection; and

(c) the number of complaints received by the health care insurer or its agent during the previous quarter related to late deliveries, incomplete orders or incorrect orders, respectively.

G. The superintendent shall annually audit all health insurers offering policies, plans or certificates as described in Subsection A of this section for compliance with the requirements of this section. If the superintendent determines that a health care insurer has not complied with the requirements of this section, the superintendent shall impose corrective action or use any other enforcement mechanism available to the superintendent to obtain the health care insurer's compliance with this section.

H. Absent a change in diagnosis or in a covered person's management or treatment of diabetes or its complications, a health care insurer shall not require more than one prior authorization per policy period for any single drug or category of item enumerated in this section if prescribed as medically necessary by the covered person's health care practitioner. Changes in the prescribed dose of a drug; quantities of supplies needed to administer a prescribed drug; quantities of blood glucose self-testing equipment and supplies; or quantities of supplies needed to use or operate devices for which a covered person has received prior authorization during the policy year shall not be subject to additional prior authorization requirements in the same policy year if prescribed as medically necessary by the covered person's health care practitioner. Nothing in this subsection shall be construed to require payment for diabetes resources that are not covered benefits.

I. The provisions of this section do not apply to short-term travel, accident-only or limited or specified disease policies.

J. For purposes of this section, "basic health care benefits":

(1) means benefits for medically necessary services consisting of preventive care, emergency care, inpatient and outpatient hospital and physician care, diagnostic laboratory and diagnostic and therapeutic radiological services; and

(2) does not include services for alcohol or drug abuse, dental or long-term rehabilitation treatment."

## **Chapter 50 Section 4 Laws 2023**

SECTION 4. Section 59A-46-43 NMSA 1978 (being Laws 1997, Chapter 7, Section 3 and Laws 1997, Chapter 255, Section 3, as amended) is amended to read:

"59A-46-43. COVERAGE FOR INDIVIDUALS WITH DIABETES.--

A. Each individual and group health maintenance organization contract delivered or issued for delivery in this state shall provide coverage for individuals with insulin-using diabetes, with non-insulin-using diabetes and with elevated blood glucose levels induced by pregnancy. This coverage shall be a basic health care service and shall entitle each individual to the medically accepted standard of medical care for diabetes and benefits for diabetes treatment as well as diabetes supplies, and this coverage shall not be reduced or eliminated.

B. Except as provided in this subsection, coverage for individuals with diabetes may be subject to deductibles and coinsurance consistent with those imposed on other benefits under the same contract, as long as the annual deductibles or coinsurance for benefits are no greater than the annual deductibles or coinsurance established for similar benefits within a given contract. The amount an individual with diabetes is required to pay for a preferred formulary prescription insulin drug or a medically necessary alternative is an amount not to exceed a total of twenty-five dollars (\$25.00) per thirty-day supply.

C. When prescribed or diagnosed by a health care practitioner with prescribing authority, all individuals with diabetes as described in Subsection A of this section enrolled under an individual or group health maintenance organization contract shall be entitled to the following equipment, supplies and appliances to treat diabetes:

- (1) blood glucose monitors, including those for individuals with disabilities, including the legally blind;
- (2) test strips for blood glucose monitors;
- (3) visual reading urine and ketone strips;
- (4) lancets and lancet devices;
- (5) insulin;
- (6) injection aids, including those adaptable to meet the needs of individuals with disabilities, including the legally blind;

(7) syringes;

(8) prescriptive oral agents for controlling blood sugar levels;

(9) medically necessary podiatric appliances for prevention of feet complications associated with diabetes, including therapeutic molded or depth-inlay shoes, functional orthotics, custom molded inserts, replacement inserts, preventive devices and shoe modifications for prevention and treatment; and

(10) glucagon emergency kits.

D. When prescribed or diagnosed by a health care practitioner with prescribing authority, all individuals with diabetes as described in Subsection A of this section enrolled under an individual or group health maintenance contract shall be entitled to the following basic health care services:

(1) diabetes self-management training that shall be provided by a certified, registered or licensed health care professional with recent education in diabetes management, which shall be limited to:

(a) medically necessary visits upon the diagnosis of diabetes;

(b) visits following a diagnosis from a health care practitioner that represents a significant change in the patient's symptoms or condition that warrants changes in the patient's self-management; and

(c) visits when re-education or refresher training is prescribed by a health care practitioner with prescribing authority; and

(2) medical nutrition therapy related to diabetes management.

E. When new or improved equipment, appliances, prescription drugs for the treatment of diabetes, insulin or supplies for the treatment of diabetes are approved by the federal food and drug administration, each individual or group health maintenance organization contract shall:

(1) maintain an adequate formulary to provide these resources to individuals with diabetes; and

(2) guarantee reimbursement or coverage for the equipment, appliances, prescription drug, insulin or supplies described in this subsection within the limits of the health care plan, policy or certificate.

F. A health maintenance organization that requires an enrollee to use a specific network provider or to purchase equipment, appliances, supplies or insulin or prescription drugs for the treatment or management of diabetes from a specific durable

medical equipment supplier or other supplier as a condition of coverage, payment or reimbursement shall:

(1) maintain an adequate network of durable medical equipment suppliers and other suppliers to provide covered persons with medically necessary diabetes resources whether covered under the health maintenance organization contract's prescription drug or medical benefit;

(2) have network contracts in place for the entire contract period and shall not allow contracts with network providers, durable medical equipment suppliers and other suppliers to lapse or terminate without ensuring the availability of a replacement and continuity of care; provided that single-case agreements do not satisfy the requirements of Paragraph (1) of this subsection or this paragraph;

(3) monitor network providers, durable medical equipment suppliers and other network suppliers to ensure that medically necessary equipment, appliances, supplies and insulin or other prescription drugs are being delivered to an enrollee in a timely manner and when needed by the enrollee;

(4) guarantee reimbursement to an enrollee within thirty days following receipt of a written demand from the enrollee who pays out of pocket for necessary equipment, appliances, supplies and insulin or other prescription drugs described in this section that are not delivered timely to the enrollee and the portion of payment for which the patient is responsible shall not exceed the amount for the same covered benefit obtained from a contracted supplier;

(5) pay interest at the rate of eighteen percent per year on the amount of reimbursement due to an enrollee if not paid within thirty days as required by Paragraph (4) of this subsection;

(6) beginning on April 1, 2024, submit a written report each quarter to the superintendent for the previous quarter on the following metrics:

(a) the number of written demands for reimbursement of out-of-pocket expenses from enrollees received by the health maintenance organization;

(b) the number of out-of-pocket claims for reimbursement paid and the aggregate amount of claims reimbursed by the health maintenance organization within the time required by Paragraph (4) of this subsection;

(c) the number of out-of-pocket claims for reimbursement paid more than thirty days following receipt of a written demand and the aggregate amount of these payments, excluding interest; and

(d) the aggregate amount of interest paid by the health maintenance organization pursuant to Paragraph (5) of this subsection; and

(7) beginning on April 1, 2024, submit a written report each quarter for the previous quarter to the superintendent with the following information for each durable medical equipment supplier or other supplier that was under contract with the health maintenance organization or its agent during the previous quarter:

(a) the name, address and telephone number of each supplier and, if applicable, the corresponding date upon which the respective supplier's contract expired, lapsed or was terminated during the previous quarter;

(b) the percentage of total deliveries, by description of item, that did not meet the delivery requirements specified in Paragraph (3) of this subsection; and

(c) the number of complaints received by the health maintenance organization or its agent during the previous quarter related to late deliveries, incomplete orders or incorrect orders, respectively.

G. The superintendent shall annually audit all health maintenance organizations offering contracts as described in Subsection A of this section for compliance with the requirements of this section. If the superintendent determines that a health maintenance organization has not complied with the requirements of this section, the superintendent shall impose corrective action or use any other enforcement mechanism available to the superintendent to obtain the health maintenance organization's compliance with this section.

H. Absent a change in diagnosis or in an enrollee's management or treatment of diabetes or its complications, a health maintenance organization shall not require more than one prior authorization per policy period for any single drug or category of item enumerated in this section if prescribed as medically necessary by the enrollee's health care practitioner. Changes in the prescribed dose of a drug; quantities of supplies needed to administer a prescribed drug; quantities of blood glucose self-testing equipment and supplies; or quantities of supplies needed to use or operate devices for which an enrollee has received prior authorization during the policy year shall not be subject to additional prior authorization requirements in the same policy year if prescribed as medically necessary by the enrollee's health care practitioner. Nothing in this subsection shall be construed to require payment for diabetes resources that are not a covered benefit.

I. The provisions of this section do not apply to short-term travel, accident-only or limited or specified disease policies.

J. For purposes of this section, "basic health care benefits":

(1) means benefits for medically necessary services consisting of preventive care, emergency care, inpatient and outpatient hospital and physician care, diagnostic laboratory and diagnostic and therapeutic radiological services; and

(2) does not include services for alcohol or drug abuse, dental or long-term rehabilitation treatment."

## **Chapter 50 Section 5 Laws 2023**

SECTION 5. A new section of the Nonprofit Health Care Plan Law is enacted to read:

### "COVERAGE FOR INDIVIDUALS WITH DIABETES.--

A. Each health care plan delivered or issued for delivery in this state shall provide coverage for individuals with diabetes who use insulin, individuals with diabetes who do not use insulin and with elevated blood glucose levels induced by pregnancy. This coverage shall be a basic health care benefit and shall entitle each individual to the medically accepted standard of medical care for diabetes and benefits for diabetes treatment as well as diabetes supplies, and this coverage shall not be reduced or eliminated.

B. Except as otherwise provided in this subsection, coverage for individuals with diabetes may be subject to deductibles and coinsurance consistent with those imposed on other benefits under the same plan as long as the annual deductibles or coinsurance for benefits are no greater than the annual deductibles or coinsurance established for similar benefits within a given plan. The amount an individual with diabetes is required to pay for a preferred formulary prescription insulin drug or a medically necessary alternative is an amount not to exceed a total of twenty-five dollars (\$25.00) per thirty-day supply.

C. When prescribed or diagnosed by a health care practitioner with prescribing authority, all individuals with diabetes as described in Subsection A of this section enrolled in health care plans described in that subsection shall be entitled to the following equipment, supplies and appliances to treat diabetes:

- (1) blood glucose monitors, including those for persons with disabilities, including the legally blind;
- (2) test strips for blood glucose monitors;
- (3) visual reading urine and ketone strips;
- (4) lancets and lancet devices;
- (5) insulin;
- (6) injection aids, including those adaptable to meet the needs of persons with disabilities, including the legally blind;

(7) syringes;

(8) prescriptive oral agents for controlling blood sugar levels;

(9) medically necessary podiatric appliances for prevention of feet complications associated with diabetes, including therapeutic molded or depth-inlay shoes, functional orthotics, custom molded inserts, replacement inserts, preventive devices and shoe modifications for prevention and treatment; and

(10) glucagon emergency kits.

D. When prescribed or diagnosed by a health care practitioner with prescribing authority, all individuals with diabetes as described in Subsection A of this section enrolled in health care plans described in that subsection shall be entitled to the following basic health care benefits:

(1) diabetes self-management training that shall be provided by a certified, registered or licensed health care professional with recent education in diabetes management, which shall be limited to:

(a) medically necessary visits upon the diagnosis of diabetes;

(b) visits following a diagnosis from a health care practitioner that represents a significant change in the patient's symptoms or condition that warrants changes in the patient's self-management; and

(c) visits when re-education or refresher training is prescribed by a health care practitioner with prescribing authority; and

(2) medical nutrition therapy related to diabetes management.

E. When new or improved equipment, appliances, prescription drugs for the treatment of diabetes, insulin or supplies for the treatment of diabetes are approved by the federal food and drug administration, all health care plans as described in Subsection A of this section shall:

(1) maintain an adequate formulary to provide those resources to individuals with diabetes; and

(2) guarantee reimbursement or coverage for the equipment, appliances, prescription drugs, insulin or supplies described in this subsection within the limits of the health care plan.

F. A health care plan that requires a subscriber to use a specific network provider or to purchase equipment, appliances, supplies or insulin or prescription drugs

for the treatment or management of diabetes from a specific durable medical equipment supplier or other supplier as a condition of coverage, payment or reimbursement shall:

(1) maintain an adequate network of durable medical equipment suppliers and other suppliers to provide subscribers with medically necessary diabetes resources whether covered under the health care plan's prescription drug or medical benefit;

(2) have network contracts in place for the entire plan period and shall not allow contracts with network providers, durable medical equipment suppliers and other suppliers to lapse or terminate without ensuring the availability of a replacement and continuity of care; provided that single-case agreements do not satisfy the requirements of Paragraph (1) of this subsection or this paragraph;

(3) monitor network providers, durable medical equipment suppliers and other network suppliers to ensure that medically necessary equipment, appliances, supplies and insulin or other prescription drugs are being delivered to a subscriber in a timely manner and when needed by the subscriber;

(4) guarantee reimbursement to a subscriber within thirty days following receipt of a written demand from the subscriber who pays out of pocket for necessary equipment, appliances, supplies and insulin or other prescription drugs described in this section that are not delivered timely to the subscriber and the portion of payment for which the patient is responsible shall not exceed the amount for the same covered benefit obtained from a contracted supplier;

(5) pay interest at the rate of eighteen percent per year on the amount of reimbursement due to a subscriber if not paid within thirty days as required by Paragraph (4) of this subsection;

(6) beginning on April 1, 2024, submit a written report each quarter to the superintendent for the previous quarter on the following metrics:

(a) the number of written demands for reimbursement of out-of-pocket expenses from subscribers received by the health care plan;

(b) the number of out-of-pocket claims for reimbursement paid and the aggregate amount of claims reimbursed by the health care plan within the time required by Paragraph (4) of this subsection;

(c) the number of out-of-pocket claims for reimbursement paid more than thirty days following receipt of a written demand and the aggregate amount of these payments, excluding interest; and

(d) the aggregate amount of interest paid by the health care plan pursuant to Paragraph (5) of this subsection; and

(7) beginning on April 1, 2024, submit a written report each quarter for the previous quarter to the superintendent with the following information for each durable medical equipment supplier or other supplier that was under contract with the health care plan or its agent during the previous quarter:

(a) the name, address and telephone number of each supplier and, if applicable, the corresponding date upon which the respective supplier's contract expired, lapsed or was terminated during the previous quarter;

(b) the percentage of total deliveries, by description of item, that did not meet the delivery requirements specified in Paragraph (3) of this subsection; and

(c) the number of complaints received by the health care plan or its agent during the previous quarter related to late deliveries, incomplete orders or incorrect orders, respectively.

G. The superintendent shall annually audit all health care plans as described in Subsection A of this section for compliance with the requirements of this section. If the superintendent determines that a health care plan has not complied with the requirements of this section, the superintendent shall impose corrective action or use any other enforcement mechanism available to the superintendent to obtain the health care plan's compliance with this section.

H. Absent a change in diagnosis or in a subscriber's management or treatment of diabetes or its complications, a health care plan shall not require more than one prior authorization per plan period for any single drug or category of item enumerated in this section if prescribed as medically necessary by the subscriber's health care practitioner. Changes in the prescribed dose of a drug; quantities of supplies needed to administer a prescribed drug; quantities of blood glucose self-testing equipment and supplies; or quantities of supplies needed to use or operate devices for which a subscriber has received prior authorization during the plan year shall not be subject to additional prior authorization requirements in the same plan year if prescribed as medically necessary by the subscriber's health care practitioner. Nothing in this subsection shall be construed to require payment for diabetes resources that are not covered benefits.

I. The provisions of this section do not apply to:

(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;

(3) a policy or plan for long-term care or disability income; or

(4) short-term travel policy or plan.

J. For purposes of this section, "basic health care benefits":

(1) means benefits for medically necessary services consisting of preventive care, emergency care, inpatient and outpatient hospital and physician care, diagnostic laboratory and diagnostic and therapeutic radiological services; and

(2) does not include services for alcohol or drug abuse, dental or long-term rehabilitation treatment."

## **Chapter 50 Section 6 Laws 2023**

### **SECTION 6. TEMPORARY PROVISION--DIABETES COVERAGE WORK GROUP.--**

A. By October 1, 2023, the office of superintendent of insurance shall convene a diabetes insurance coverage work group composed of:

(1) a representative of the office who shall serve as the chairperson of the working group;

(2) a representative of the New Mexico health insurance exchange who is not an employee or board member of a health insurance issuer or qualified health plan;

(3) a representative of a qualified health plan that offers a health benefit plan on the New Mexico health insurance exchange;

(4) a representative of a diabetes advisory council that represents individuals and groups across New Mexico that are trying to reduce the burden of diabetes on individuals, families, communities, the health care system and the state;

(5) a representative of a New Mexico podiatric and medical association with expertise in the treatment and management of diabetes and its complications;

(6) a representative of a New Mexico medical society with expertise in the treatment and management of diabetes and its complications;

(7) a physician specializing in the treatment and management of diabetes and its complications who is affiliated with a New Mexico medical school;

(8) a representative of the university of New Mexico health sciences center with expertise in the treatment and management of diabetes and its complications;

(9) a representative of a New Mexico advanced practice nurses' association with expertise in the treatment and management of diabetes and its complications;

(10) a person diagnosed with type 1 diabetes or family member of a person diagnosed with type 1 diabetes;

(11) a person diagnosed with type 2 diabetes or family member of a person diagnosed with type 2 diabetes;

(12) an advocate for populations disproportionately impacted by diabetes; and

(13) a representative of the risk management division of the general services department with expertise in health care insurance and finance.

B. By August 1, 2024, the work group shall report to the interim legislative health and human services committee regarding its findings and recommendations for expanding and updating New Mexico's essential health benefit benchmark plan to better address the needs of New Mexicans for services, equipment, supplies, appliances and drugs to treat and manage diabetes and its complications.

## **Chapter 50 Section 7 Laws 2023**

SECTION 7. APPLICABILITY.--The provisions of this act apply to self-insurance provided pursuant to the Health Care Purchasing Act, individual and group health insurance policies, health care plans, certificates of health insurance, managed health care plans, contracts of health insurance, group health plans provided through a cooperative, individual and group health maintenance organization contracts, health benefit plans and group health coverage that are offered, delivered or issued for delivery, renewed, extended or amended in New Mexico on or after January 1, 2024.

# **LAWS 2023, CHAPTER 51**

**House Bill 75, aa**  
**Approved March 30, 2023**

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 AND COINSURANCE FOR CHIROPRACTIC PHYSICIAN SERVICES.

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

## **Chapter 51 Section 1 Laws 2023**

SECTION 1. A new section of the Health Care Purchasing Act is enacted to read:

"CHIROPRACTIC PHYSICIAN SERVICES--LIMITS ON COST SHARING AND COINSURANCE.--

A. Group health coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act that offers coverage of the services of a chiropractic physician shall not impose a copayment or coinsurance on those chiropractic physician services that exceeds the copayment or coinsurance imposed for primary care services.

B. As used in this section, "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 51 Section 2 Laws 2023**

SECTION 2. A new section of Chapter 59A, Article 22 NMSA 1978 is enacted to read:

"CHIROPRACTIC PHYSICIAN SERVICES--LIMITS ON COST SHARING AND COINSURANCE.--

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 that offers coverage of the services of a chiropractic physician shall not impose a copayment or coinsurance on those chiropractic physician services that exceeds the copayment or coinsurance imposed for primary care services.

B. As used in this section, "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.

C. The provisions of this section do not apply to short-term travel, accident-only or limited or specified-disease policies."

## **Chapter 51 Section 3 Laws 2023**

SECTION 3. A new section of Chapter 59A, Article 23 NMSA 1978 is enacted to read:

"CHIROPRACTIC PHYSICIAN SERVICES--LIMITS ON COST SHARING AND COINSURANCE.--

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 that offers coverage of the services of a chiropractic physician shall not impose a copayment or coinsurance on those chiropractic physician services that exceeds the copayment or coinsurance imposed for primary care services.

B. As used in this section, "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.

C. The provisions of this section do not apply to short-term travel, accident-only or limited or specified-disease policies."

## **Chapter 51 Section 4 Laws 2023**

SECTION 4. A new section of the Health Maintenance Organization Law is enacted to read:

"CHIROPRACTIC PHYSICIAN SERVICES--LIMITS ON COST SHARING AND COINSURANCE.--

A. An individual or group health maintenance contract that is delivered, issued for delivery or renewed in this state that offers coverage of the services of a chiropractic physician shall not impose a copayment or coinsurance on those chiropractic physician services that exceeds the copayment or coinsurance imposed for primary care services.

B. As used in this section, "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.

C. The provisions of this section do not apply to short-term travel, accident-only or limited or specified-disease policies."

## **Chapter 51 Section 5 Laws 2023**

SECTION 5. A new section of the Nonprofit Health Care Plan Law is enacted to read:

"CHIROPRACTIC PHYSICIAN SERVICES--LIMITS ON COST SHARING AND COINSURANCE.--

A. An individual or group health care plan that is delivered, issued for delivery or renewed in this state that offers coverage of the services of a chiropractic physician shall not impose a copayment or coinsurance on those chiropractic physician services that exceeds the copayment or coinsurance imposed for primary care services.

B. As used in this section, "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.

C. The provisions of this section do not apply to short-term travel, accident-only or limited or specified-disease policies."

## **Chapter 51 Section 6 Laws 2023**

SECTION 6. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2024.

# **LAWS 2023, CHAPTER 52**

**House Bill 78, aa**  
**Approved March 30, 2023**

AN ACT

RELATING TO TAXATION; REMOVING THE SUNSET DATE OF A DISTRIBUTION OF THE GROSS RECEIPTS TAX TO THE STATE AVIATION FUND; INCREASING ANOTHER DISTRIBUTION OF THE GROSS RECEIPTS TAX TO THE STATE AVIATION FUND.

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

## **Chapter 52 Section 1 Laws 2023**

SECTION 1. Section 7-1-6.7 NMSA 1978 (being Laws 1994, Chapter 5, Section 2, as amended) is amended to read:

"7-1-6.7. DISTRIBUTIONS--STATE AVIATION FUND.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the state aviation fund in an amount equal to four and seventy-nine hundredths percent of the taxable gross receipts attributable to the sale of fuel specially prepared and sold for use in turboprop or jet-type engines as determined by the department.

B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the state aviation fund in an amount equal to twenty-six hundredths percent of gasoline taxes, exclusive of penalties and interest, collected pursuant to the Gasoline Tax Act.

C. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the state aviation fund in an amount equal to forty-six thousandths percent of the net receipts attributable to the gross receipts tax distributable to the general fund.

D. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the state aviation fund from the net receipts attributable to the gross receipts tax distributable to the general fund in an amount equal to five hundred thousand dollars (\$500,000) monthly."

**Chapter 52 Section 2 Laws 2023**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

**LAWS 2023, CHAPTER 53**

**House Bill 106, aa**  
**Approved March 30, 2023**

AN ACT

RELATING TO PUBLIC PENSIONS; INCREASING THE MAXIMUM AMOUNT OF PENSION THAT A MEMBER IS PERMITTED TO EARN PURSUANT TO THE PUBLIC EMPLOYEES RETIREMENT ACT.

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

**Chapter 53 Section 1 Laws 2023**

SECTION 1. Section 10-11-26.3 NMSA 1978 (being Laws 1994, Chapter 128, Section 4, as amended) is amended to read:

"10-11-26.3. STATE GENERAL MEMBER COVERAGE PLAN 3--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under state general member coverage plan 3:

A. for a member with age and service requirements provided under Paragraph (1) or (3) of Subsection A of Section 10-11-26.2 NMSA 1978, the amount of pension under form of payment A is equal to three percent of final average salary multiplied by service credit. The amount shall not exceed one hundred percent of the final average salary; and

B. for a member with age and service requirements provided under Paragraph (2) of Subsection A of Section 10-11-26.2 NMSA 1978, the amount of pension under form of payment A is equal to two and one-half percent of the final average salary multiplied by service credit. The amount shall not exceed one hundred percent of the final average salary."

### **Chapter 53 Section 2 Laws 2023**

SECTION 2. Section 10-11-29 NMSA 1978 (being Laws 1987, Chapter 253, Section 29, as amended) is amended to read:

"10-11-29. STATE POLICE MEMBER, CORRECTIONAL OFFICER MEMBER AND PROBATION AND PAROLE OFFICER MEMBER COVERAGE PLAN 1--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under state police member, correctional officer member and probation and parole officer member coverage plan 1, the amount of pension under form of payment A is equal to three percent of final average salary multiplied by credited service. The amount shall not exceed one hundred percent of the final average salary."

### **Chapter 53 Section 3 Laws 2023**

SECTION 3. Section 10-11-38.3 NMSA 1978 (being Laws 1994, Chapter 128, Section 11, as amended) is amended to read:

"10-11-38.3. JUVENILE CORRECTIONAL OFFICER MEMBER COVERAGE PLAN 2--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under juvenile correctional officer member coverage plan 2, the amount of pension under form of payment A is equal to three percent of final average salary multiplied by service credit. The amount shall not exceed one hundred percent of the final average salary."

### **Chapter 53 Section 4 Laws 2023**

SECTION 4. Section 10-11-46 NMSA 1978 (being Laws 1987, Chapter 253, Section 46, as amended) is amended to read:

"10-11-46. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 1--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal general member coverage plan 1, the amount of pension under form of payment A is equal to two percent of the final average salary multiplied by credited service. The amount shall not exceed one hundred percent of the final average salary."

## **Chapter 53 Section 5 Laws 2023**

SECTION 5. Section 10-11-52 NMSA 1978 (being Laws 1987, Chapter 253, Section 52, as amended) is amended to read:

"10-11-52. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 2--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal general member coverage plan 2:

A. for a member with age and service requirements provided in Subsection A of Section 10-11-51 NMSA 1978, the amount of pension under form of payment A is equal to two and one-half percent of the final average salary multiplied by credited service. The amount shall not exceed one hundred percent of the final average salary; and

B. for a member with age and service requirements provided in Subsection B of Section 10-11-51 NMSA 1978, the amount of pension under form of payment A is equal to two percent of the final average salary multiplied by service credit. The amount shall not exceed one hundred percent of the final average salary."

## **Chapter 53 Section 6 Laws 2023**

SECTION 6. Section 10-11-55.3 NMSA 1978 (being Laws 1993, Chapter 58, Section 3, as amended) is amended to read:

"10-11-55.3. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 3--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal general member coverage plan 3:

A. for a member with age and service requirements provided under Subsection A of Section 10-11-55.2 NMSA 1978, the amount of pension under form of payment A is equal to three percent of the final average salary multiplied by credited service. The amount shall not exceed one hundred percent of the final average salary; and

B. for a member with age and service requirements provided under Subsection B of Section 10-11-55.2 NMSA 1978, the amount of pension under form of payment A is equal to two and one-half percent of the final average salary multiplied by credited service. The amount shall not exceed one hundred percent of the final average salary."

## **Chapter 53 Section 7 Laws 2023**

SECTION 7. Section 10-11-55.9 NMSA 1978 (being Laws 1998, Chapter 106, Section 3, as amended) is amended to read:

"10-11-55.9. MUNICIPAL GENERAL MEMBER COVERAGE PLAN 4--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal general member coverage plan 4:

A. for a member with age and service requirements provided under Subsection A of Section 10-11-55.8 NMSA 1978, the amount of pension under form of payment A is equal to three percent of the final average salary multiplied by credited service. The amount shall not exceed one hundred percent of the final average salary; and

B. for a member with age and service requirements provided under Subsection B of Section 10-11-55.8 NMSA 1978, the amount of pension under form of payment A is equal to two and one-half percent of the final average salary multiplied by credited service. The amount shall not exceed one hundred percent of the final average salary."

### **Chapter 53 Section 8 Laws 2023**

SECTION 8. Section 10-11-58 NMSA 1978 (being Laws 1987, Chapter 253, Section 58, as amended) is amended to read:

"10-11-58. MUNICIPAL POLICE MEMBER COVERAGE PLAN 1--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal police member coverage plan 1, the amount of pension under form of payment A is equal to two percent of the final average salary multiplied by credited service. The amount shall not exceed one hundred percent of the final average salary."

### **Chapter 53 Section 9 Laws 2023**

SECTION 9. Section 10-11-64 NMSA 1978 (being Laws 1987, Chapter 253, Section 64, as amended) is amended to read:

"10-11-64. MUNICIPAL POLICE MEMBER COVERAGE PLAN 2--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal police member coverage plan 2:

A. for a member with age and service requirements provided under Subsection A of Section 10-11-63 NMSA 1978, the amount of pension under form of payment A is equal to two and one-half percent of the final average salary multiplied by credited service. The amount shall not exceed one hundred percent of the final average salary; and

B. for a member with age and service requirements provided under Subsection B of Section 10-11-63 NMSA 1978, the amount of pension under form of payment A is equal to two percent of the final average salary multiplied by credited service. The amount shall not exceed one hundred percent of the final average salary."

## **Chapter 53 Section 10 Laws 2023**

SECTION 10. Section 10-11-70 NMSA 1978 (being Laws 1987, Chapter 253, Section 70, as amended) is amended to read:

"10-11-70. MUNICIPAL POLICE MEMBER COVERAGE PLAN 3--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal police member coverage plan 3:

A. for a member with age and service requirements provided under Subsection A of Section 10-11-69 NMSA 1978, the amount of pension under form of payment A is equal to two and one-half percent of the final average salary multiplied by credited service. The amount shall not exceed one hundred percent of the final average salary; and

B. for a member with age and service requirements provided under Subsection B of Section 10-11-69 NMSA 1978, the amount of pension under form of payment A is equal to two percent of the final average salary multiplied by credited service. The amount shall not exceed one hundred percent of the final average salary."

## **Chapter 53 Section 11 Laws 2023**

SECTION 11. Section 10-11-76 NMSA 1978 (being Laws 1987, Chapter 253, Section 76, as amended) is amended to read:

"10-11-76. MUNICIPAL POLICE MEMBER COVERAGE PLAN 4--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal police member coverage plan 4:

A. for a member with age and service requirements provided under Subsection A of Section 10-11-75 NMSA 1978, the amount of pension under form of payment A is equal to three percent of the final average salary multiplied by credited service. The amount shall not exceed one hundred percent of the final average salary; and

B. for a member with age and service requirements provided under Subsection B of Section 10-11-75 NMSA 1978, the amount of pension under form of payment A is equal to two and one-half percent of the final average salary multiplied by credited service. The amount shall not exceed one hundred percent of the final average salary."

## **Chapter 53 Section 12 Laws 2023**

SECTION 12. Section 10-11-82 NMSA 1978 (being Laws 1987, Chapter 253, Section 82, as amended) is amended to read:

"10-11-82. MUNICIPAL POLICE MEMBER COVERAGE PLAN 5--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal police member coverage plan 5:

A. for a member with age and service requirements provided under Subsection A of Section 10-11-81 NMSA 1978, the amount of pension under form of payment A is equal to three and one-half percent of the final average salary multiplied by credited service. The amount shall not exceed one hundred percent of the final average salary; and

B. for a member with age and service requirements provided under Subsection B of Section 10-11-81 NMSA 1978, the amount of pension under form of payment A is equal to three percent of the final average salary multiplied by credited service. The amount shall not exceed one hundred percent of the final average salary."

### **Chapter 53 Section 13 Laws 2023**

SECTION 13. Section 10-11-88 NMSA 1978 (being Laws 1987, Chapter 253, Section 88, as amended) is amended to read:

"10-11-88. MUNICIPAL FIRE MEMBER COVERAGE PLAN 1--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal fire member coverage plan 1, the amount of pension under form of payment A is equal to two percent of the final average salary multiplied by credited service. The amount shall not exceed one hundred percent of the final average salary."

### **Chapter 53 Section 14 Laws 2023**

SECTION 14. Section 10-11-94 NMSA 1978 (being Laws 1987, Chapter 253, Section 94, as amended) is amended to read:

"10-11-94. MUNICIPAL FIRE MEMBER COVERAGE PLAN 2--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal fire member coverage plan 2:

A. for a member with age and service requirements provided under Subsection A of Section 10-11-93 NMSA 1978, the amount of pension under form of payment A is equal to two and one-half percent of the final average salary multiplied by credited service. The amount shall not exceed one hundred percent of the final average salary; and

B. for a member with age and service requirements provided under Subsection B of Section 10-11-93 NMSA 1978, the amount of pension under form of payment A is equal to two percent of the final average salary multiplied by credited service. The amount shall not exceed one hundred percent of the final average salary."

### **Chapter 53 Section 15 Laws 2023**

SECTION 15. Section 10-11-100 NMSA 1978 (being Laws 1987, Chapter 253, Section 100, as amended) is amended to read:

"10-11-100. MUNICIPAL FIRE MEMBER COVERAGE PLAN 3--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal fire member coverage plan 3:

A. for a member with age and service requirements provided under Subsection A of Section 10-11-99 NMSA 1978, the amount of pension under form of payment A is equal to two and one-half percent of the final average salary multiplied by credited service. The amount shall not exceed one hundred percent of the final average salary; and

B. for a member with age and service requirements provided under Subsection B of Section 10-11-99 NMSA 1978, the amount of pension under form of payment A is equal to two percent of the final average salary multiplied by credited service. The amount shall not exceed one hundred percent of the final average salary."

### **Chapter 53 Section 16 Laws 2023**

SECTION 16. Section 10-11-106 NMSA 1978 (being Laws 1987, Chapter 253, Section 106, as amended) is amended to read:

"10-11-106. MUNICIPAL FIRE MEMBER COVERAGE PLAN 4--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal fire member coverage plan 4:

A. for a member with age and service requirements provided under Subsection A of Section 10-11-105 NMSA 1978, the amount of pension under form of payment A is equal to three percent of the final average salary multiplied by credited service. The amount shall not exceed one hundred percent of the final average salary; and

B. for a member with age and service requirements provided under Subsection B of Section 10-11-105 NMSA 1978, the amount of pension under form of payment A is equal to two and one-half percent of the final average salary multiplied by credited service. The amount shall not exceed one hundred percent of the final average salary."

### **Chapter 53 Section 17 Laws 2023**

SECTION 17. Section 10-11-112 NMSA 1978 (being Laws 1987, Chapter 253, Section 112, as amended) is amended to read:

"10-11-112. MUNICIPAL FIRE MEMBER COVERAGE PLAN 5--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal fire member coverage plan 5:

A. for a member with age and service requirements provided under Subsection A of Section 10-11-111 NMSA 1978, the amount of pension under form of payment A is equal to three and one-half percent of the final average salary multiplied

by credited service. The amount shall not exceed one hundred percent of the final average salary; and

B. for a member with age and service requirements provided under Subsection B of Section 10-11-111 NMSA 1978, the amount of pension under form of payment A is equal to three percent of the final average salary multiplied by credited service. The amount shall not exceed one hundred percent of the final average salary."

### **Chapter 53 Section 18 Laws 2023**

SECTION 18. Section 10-11-115.3 NMSA 1978 (being Laws 2003, Chapter 268, Section 4, as amended) is amended to read:

"10-11-115.3. MUNICIPAL DETENTION OFFICER MEMBER COVERAGE PLAN 1--AMOUNT OF PENSION--FORM OF PAYMENT A.--Under municipal detention officer member coverage plan 1, the amount of pension under form of payment A is equal to three percent of the final average salary multiplied by credited service. The amount shall not exceed one hundred percent of the final average salary."

### **Chapter 53 Section 19 Laws 2023**

SECTION 19. APPLICABILITY.--The provisions of this act apply to credited service performed after the effective date of this act. Any credited service performed or amount of pension earned prior to the effective date of this act shall not be calculated or adjusted to conform to the provisions of this act.

## **LAWS 2023, CHAPTER 54**

**HCEDC/House Bill 115, aa**  
**Approved March 30, 2023**

AN ACT

RELATING TO LICENSURE; AMENDING APPROVED EXAMINATION  
REQUIREMENTS FOR THE LICENSING OF NEW MEXICO HOME INSPECTORS.

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

### **Chapter 54 Section 1 Laws 2023**

SECTION 1. Section 61-24D-2 NMSA 1978 (being Laws 2019, Chapter 239, Section 2) is amended to read:

"61-24D-2. DEFINITIONS.--As used in the Home Inspector Licensing Act:

A. "approved examination" means a national home inspector licensing examination that has been third-party accredited as complying with the prevailing standards of the *Standards for Educational and Psychological Testing* and assesses an applicant's knowledge of:

- (1) roofing;
- (2) exterior;
- (3) interior;
- (4) structure;
- (5) electrical;
- (6) plumbing;
- (7) heating and cooling;
- (8) insulation;
- (9) fireplace and chimney; and
- (10) ethical business practices, professional standards and reports;

B. "board" means the New Mexico home inspectors board;

C. "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;

D. "compensation" means the payment for home inspection services pursuant to the written pre-inspection agreement;

E. "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;

F. "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;

G. "home inspector" means a person who performs home inspections for compensation;

H. "license" means a home inspector license issued by the board in accordance with the Home Inspector Licensing Act;

I. "licensee" means the holder of a license;

J. "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;

K. "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

L. "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 54 Section 2 Laws 2023**

SECTION 2. Section 61-24D-3 NMSA 1978 (being Laws 2019, Chapter 239, Section 3, as amended) is amended to read:

"61-24D-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 61-24D-6 NMSA 1978. The initial home inspector members appointed shall comply with Paragraph (6) of Subsection A of Section 61-24D-6 NMSA 1978 within six months of the effective date of the licensing examination rule promulgated by the board in accordance with the State Rules Act. 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 promulgate rules in accordance with the State Rules Act to carry out the provisions of the Home Inspector Licensing 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 in accordance with the Uniform 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 an approved examination, which may be administered by a nationally accepted testing service, in compliance with federal Americans with Disabilities Act of 1990 accommodations as required by law;

(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."

## **Chapter 54 Section 3 Laws 2023**

SECTION 3. Section 61-24D-6 NMSA 1978 (being Laws 2019, Chapter 239, Section 6, as amended) is amended to read:

"61-24D-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;

(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 61-24D-12 NMSA 1978;

(5) have completed at least eighty hours of classroom training, the content of which shall be established by rule of the board;

(6) pass an approved examination and any additional New Mexico-specific 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 54 Section 4 Laws 2023**

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# **LAWS 2023, CHAPTER 55**

**House Bill 116**

**Approved March 30, 2023**

AN ACT

RELATING TO MILITARY AFFAIRS; AUTHORIZING THE ADJUTANT GENERAL TO EMPLOY ACTIVE DUTY MEMBERS OF THE NEW MEXICO NATIONAL GUARD AS STATE EMPLOYEES.

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

## Chapter 55 Section 1 Laws 2023

SECTION 1. Section 20-3-2 NMSA 1978 (being Laws 1987, Chapter 318, Section 17, as amended) is amended to read:

"20-3-2. DEPARTMENT STRUCTURE--AUTHORITY OF ADJUTANT GENERAL.--

- A. The department of military affairs consists of:
- (1) the office of the adjutant general;
  - (2) three subordinate military divisions:
    - (a) the army national guard division;
    - (b) the air national guard division; and
    - (c) the state defense force division; and
  - (3) five subordinate civil divisions:
    - (a) the selective service office;
    - (b) the state armory board;
    - (c) the civil air patrol division;
    - (d) the state programs division; and
    - (e) the United States property and fiscal office and such other agencies, administrative staffs and clerical staffs necessary for departmental operation that the adjutant general may by regulation prescribe.
- B. The adjutant general is the military chief of staff to the governor and is the head of the department of military affairs.
- C. The adjutant general shall prescribe policies, rules and procedures for the orderly functioning of the department of military affairs, which may include subordinate organizational structures and lines of authority.
- D. The adjutant general may employ such administrative, technical, clerical and other personnel as the adjutant general deems necessary and may fix the compensation of exempt personnel subject to the concurrence of the department of finance and administration.

E. The adjutant general may employ, within the department of military affairs' appropriated budget, members of the New Mexico national guard on state active duty, on either a full-time or seasonal basis, for the purpose of providing preparedness for, mitigation of or response to any type of disaster.

F. The adjutant general may make expenditures from appropriations or from other funds available to the adjutant general for all purposes within Chapter 20 NMSA 1978.

G. The adjutant general is authorized to accept through the United States property and fiscal officer such equipment, supplies, arms, facilities and personnel support funding as may be authorized and appropriated by federal law.

H. The adjutant general shall be furnished suitable buildings, facilities, supplies and equipment for conducting the business of the department of military affairs to include the proper storage, repair and issuance of military property.

I. The adjutant general may appoint as assistant adjutants general one officer from each of the three military divisions in the department of military affairs. The officers appointed shall hold the rank of brigadier general during such appointment. The qualifications of each person so appointed shall meet the specific standards required for such appointment within Chapter 20 NMSA 1978 and any applicable federal standards or requirements. Once appointed, the assistant adjutants general shall serve at the pleasure of the adjutant general; their performance will be reviewed annually, in January, by the adjutant general; and if relieved, an assistant adjutant general shall revert to the rank previously held or to such higher rank to which promoted and federally recognized while serving as assistant adjutant general. The adjutant general may designate one federally recognized assistant adjutant general as deputy adjutant general. The deputy adjutant general shall serve on full-time active status for the state. In the incapacity or absence from the state of the adjutant general, the deputy adjutant general shall act in the adjutant general's stead. In the incapacity or absence from the state of both the adjutant general and the deputy adjutant general, the governor may call any assistant adjutant general to active service for the state. The assistant adjutants general shall perform all duties that may be required of them by the adjutant general. The adjutant general may delegate in writing to any of the assistant adjutants general such authorities and responsibilities as the adjutant general deems appropriate, consistent with the constitutions, laws and regulations of the state and of the United States. Assistant adjutants general, when on active status for the state, shall receive the same pay and allowances as are prescribed by federal law and regulations for members of the active military in the grade of brigadier general, unless a different rate of pay and allowances are specified in a general appropriation act of the New Mexico legislature.

J. The adjutant general shall appoint individuals to serve as directors of the five subordinate civil divisions, except as stated in Section 20-9-1 NMSA 1978. The qualifications of each person so appointed shall meet the specific standards required for

such appointment within Chapter 20 NMSA 1978 and any applicable federal standards or requirements.

K. There shall be allowed to the adjutant general a contingent and entertainment fund of two thousand five hundred dollars (\$2,500) annually, plus such additional appropriations for carrying out the functions of the office as the legislature shall deem proper."

## **Chapter 55 Section 2 Laws 2023**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# **LAWS 2023, CHAPTER 56**

**House Bill 134, aa**  
**Approved March 30, 2023**

AN ACT

RELATING TO PUBLIC SCHOOLS; REQUIRING THE PUBLIC EDUCATION DEPARTMENT TO PROVIDE MENSTRUAL PRODUCTS IN SCHOOL BATHROOMS.

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

## **Chapter 56 Section 1 Laws 2023**

SECTION 1. A new section of the Public School Code is enacted to read:

"FREE MENSTRUAL PRODUCTS IN PUBLIC SCHOOLS.--

A. Menstrual products shall be provided at no charge to students in:

(1) each women's bathroom and gender-neutral bathroom and at least one men's bathroom in every public middle school, junior high school, secondary school and high school; and

(2) at least one women's bathroom, one men's bathroom and one gender-neutral bathroom in every public elementary school.

B. For the purpose of this section, "menstrual product" means a sanitary pad or tampon."

# LAWS 2023, CHAPTER 57

**HTPWC/House Bill 141**  
**Approved March 30, 2023**

## AN ACT

RELATING TO MOTOR VEHICLES; ENACTING A NEW SECTION OF THE MOTOR VEHICLE CODE TO ESTABLISH A CONCERNS OF POLICE SURVIVORS, C.O.P.S., SPECIAL REGISTRATION PLATE; ALLOWING FOR A CESSATION OF ISSUANCE OF SPECIAL LICENSE PLATES UNDER CERTAIN CIRCUMSTANCES.

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

### **Chapter 57 Section 1 Laws 2023**

SECTION 1. A new section of the Motor Vehicle Code is enacted to read:

"SPECIAL CONCERNS OF POLICE SURVIVORS, C.O.P.S., REGISTRATION PLATE.--

A. The division shall issue a standardized concerns of police survivors, C.O.P.S., special registration plate with a logo designed pursuant to Section 66-3-424 NMSA 1978 to recognize the families and friends of law enforcement officers killed in the line of duty.

B. For an initial fee of forty-five dollars (\$45.00), which shall be in addition to the regular motor vehicle registration fees, the owner of a vehicle may apply for issuance of a concerns of police survivors, C.O.P.S., special registration plate. The vehicle owner shall pay a renewal fee of thirty-five dollars (\$35.00) each year to retain and renew the concerns of police survivors, C.O.P.S., special registration plate.

C. The revenue from the additional fee for a concerns of police survivors, C.O.P.S., special registration plate shall be distributed as follows:

(1) ten dollars (\$10.00) of the initial fee collected shall be retained by and is appropriated to the department to defray the cost of making and issuing the special registration plate with the concerns of police survivors, C.O.P.S., logo; and

(2) thirty-five dollars (\$35.00) of the initial registration fee and the entire thirty-five dollars (\$35.00) of subsequent renewal fees shall be distributed to the law enforcement protection fund.

D. Beginning on July 1, 2026, and on July 1 of each subsequent year, the department shall compare the number of concerns of police survivors, C.O.P.S., special

registration plates issued or registration renewals for those plates in the previous fiscal year with the average of the number of such plates issued in fiscal years 2024 and 2025.

E. By September 1 of a fiscal year in which the department determines that the number of concerns of police survivors, C.O.P.S., special registration plates issued or registration renewals for those plates in the previous fiscal year is less than fifty percent of the average number of such plates issued in fiscal years 2024 and 2025, the department shall stop issuing concerns of police survivors, C.O.P.S., special registration plates."

## **Chapter 57 Section 2 Laws 2023**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# **LAWS 2023, CHAPTER 58**

**House Bill 145**

**Approved March 30, 2023**

AN ACT

RELATING TO EDUCATION; AMENDING THE PROGRAM ADMINISTRATION AND CRITERIA OF THE GENERAL RICHARD T. KNOWLES LEGISLATIVE SCHOLARSHIP PROGRAM AT THE NEW MEXICO MILITARY INSTITUTE.

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

## **Chapter 58 Section 1 Laws 2023**

SECTION 1. Section 21-12-12 NMSA 1978 (being Laws 1989, Chapter 44, Section 2 and Laws 1989, Chapter 45, Section 2, as amended) is amended to read:

"21-12-12. PROGRAM ADMINISTRATION--CRITERIA.--

A. The General Richard T. Knowles legislative scholarship program shall be administered by the board of regents of the New Mexico military institute. The board of regents shall establish one hundred twelve scholarships available to New Mexico residents, one scholarship available for each state legislative district.

B. Annually, each state legislator may nominate four prospective scholarship recipients to the board of regents of the New Mexico military institute. If a legislator has no applicant from the legislator's district, that senator or representative may choose to nominate an applicant from a senate or representative district contiguous to the

legislator's own district, thus maintaining geographical diversity in the corps of cadets while affording a greater opportunity for more New Mexicans to receive a scholarship. In the event no applicant is available from either the legislator's district or a contiguous district, the scholarship may be awarded to any of the qualified nominees from any state legislative district.

C. The board of regents shall establish criteria for the awarding of scholarships. Criteria shall include scholastic ability, faculty recommendations, standardized test scores, letters of recommendation, school honors and extracurricular activities."

## **LAWS 2023, CHAPTER 59**

**House Bill 169**

**Approved March 30, 2023**

AN ACT

RELATING TO THE LEGISLATURE; REMOVING THE REQUIREMENT THAT THE COMPLAINANT NOT PUBLICLY DISCLOSE ANY INFORMATION RELATING TO THE FILING OR INVESTIGATION OF A COMPLAINT MADE TO THE INTERIM LEGISLATIVE ETHICS COMMITTEE ALLEGING MISCONDUCT OF A LEGISLATOR.

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

### **Chapter 59 Section 1 Laws 2023**

SECTION 1. Section 2-15-9 NMSA 1978 (being Laws 1993, Chapter 46, Section 54) is amended to read:

"2-15-9. INTERIM LEGISLATIVE ETHICS COMMITTEE--PROCEDURES--CONFIDENTIALITY.--

A. Except as provided in this section, the New Mexico legislative council shall develop procedures to carry out the provisions of this section, in accordance with the existing procedures in the house and senate rules.

B. A member of the interim legislative ethics committee is ineligible to participate in any matter relating directly to that member's conduct. In any such case, a substitute member to the committee shall be appointed from the same house from the same political party by the appropriate appointing authority. A member may seek to be disqualified from any matter brought before the interim legislative ethics committee on the grounds that the member cannot render a fair and impartial decision. Disqualification must be approved by a majority vote of the remaining members of the

committee. In any such case, a substitute member to the committee shall be appointed from the same political party as provided in this section.

C. The interim legislative ethics committee is authorized to issue advisory opinions on matters relating to ethical conduct during the interim. Any question relating to the interpretation and enforcement of ethical principles as applied to the legislature may be submitted in writing to the New Mexico legislative council by a legislator describing a real or hypothetical situation and requesting an advisory opinion establishing an appropriate standard of ethical conduct for that situation. The question shall be referred to the interim legislative ethics committee.

D. To initiate any action during the interim on alleged misconduct, any legislator or member of the public may file a written, sworn complaint setting forth, with specificity, the facts alleged to constitute unethical conduct. A complaint shall be filed with the New Mexico legislative council. Upon receipt of the complaint, the co-chairs shall convene the interim legislative ethics committee.

E. The interim legislative ethics committee shall maintain rules of confidentiality unless the legislator against whom a complaint is filed waives the rules or any part of them in writing. The confidentiality rules shall include the following provisions:

(1) the committee and its staff shall not publicly disclose any information relating to the filing or investigation of a complaint, including the identity of the complainant or respondent, until after a finding of probable cause has been made that a violation has occurred;

(2) the identity of the complainant shall be released to the respondent immediately upon request; and

(3) no member of the committee or its staff may knowingly disclose any confidential information except as authorized by the committee."

## **LAWS 2023, CHAPTER 60**

**House Bill 175, aa**  
**Approved March 30, 2023**

AN ACT

RELATING TO THE CRIME REDUCTION GRANT ACT; ELIMINATING THE GRANT ADMINISTRATION AGENCY; CREATING THE CRIME REDUCTION GRANT FUND; MAKING AN APPROPRIATION.

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

## **Chapter 60 Section 1 Laws 2023**

SECTION 1. Section 31-28-2 NMSA 1978 (being Laws 2019, Chapter 192, Section 6) is amended to read:

"31-28-2. DEFINITION.--As used in the Crime Reduction Grant Act, "commission" means the New Mexico sentencing commission."

## **Chapter 60 Section 2 Laws 2023**

SECTION 2. Section 31-28-3 NMSA 1978 (being Laws 2019, Chapter 192, Section 7) is amended to read:

"31-28-3. CRIMINAL JUSTICE COORDINATING COUNCILS CREATED--COMPOSITION--DUTIES.--

A. A criminal justice coordinating council is created for each judicial district and shall 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) behavioral health programs; and
- (7) 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. The commission shall assist in the organization of the criminal justice coordinating councils.

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 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) facilitate applications from its members 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 60 Section 3 Laws 2023**

SECTION 3. Section 31-28-4 NMSA 1978 (being Laws 2019, Chapter 192, Section 8, as amended) is amended to read:

"31-28-4. APPLICATIONS FOR GRANTS--PURPOSES--CONDITIONS.--

A. A member of a criminal justice coordinating council with the consent of the council may apply to the commission 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;

- (4) develop or improve coordination of services between law enforcement agencies and treatment programs;
- (5) establish law enforcement crisis intervention teams;
- (6) coordinate access to programs for transitional or reentry homes for individuals recently released from incarceration;
- (7) recruit or retain law enforcement officers, prosecutors, public defenders, corrections officers and mental health workers;
- (8) develop or expand digitized records;
- (9) develop or expand the ability of a criminal justice coordinating council member to share data with, and access data on, the statewide criminal justice data integration platform;
- (10) develop or expand data-driven policing programs and pretrial services;
- (11) staff a criminal justice coordinating council; and
- (12) 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 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 commission 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. The commission 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 60 Section 4 Laws 2023**

SECTION 4. Section 31-28-5 NMSA 1978 (being Laws 2019, Chapter 192, Section 9) is amended to read:

"31-28-5. RULES.--The commission shall promulgate uniform procedural rules necessary to administer the provisions of the Crime Reduction Grant Act."

## **Chapter 60 Section 5 Laws 2023**

SECTION 5. Section 31-28-6 NMSA 1978 (being Laws 2019, Chapter 192, Section 10) is amended to read:

"31-28-6. REPORTS.--The commission shall report to the legislature annually by November 1 of each year regarding the:

A. applications for grants made during the previous fiscal year by each criminal justice coordinating council;

B. purpose and amount of each grant approved by the commission for each member for the previous fiscal year; and

C. processes, outputs and outcomes resulting from the use of the grant."

## **Chapter 60 Section 6 Laws 2023**

SECTION 6. A new section of the Crime Reduction Grant Act is enacted to read:

"CRIME REDUCTION GRANT FUND CREATED--PURPOSE.--The "crime reduction grant fund" is created as a nonreverting fund in the state treasury. The fund consists of appropriations, gifts, grants and donations. The commission shall administer the fund, and money in the fund is subject to appropriation to the commission to administer the provisions of the Crime Reduction Grant Act and award crime reduction grants to members of criminal justice coordinating councils to spur local innovation in criminal justice reform, pursuant to the Crime Reduction Grant Act. Expenditures from the fund shall be made on warrant of the secretary of finance and administration pursuant to vouchers signed by the chair of the commission or the chair's authorized representative. The commission may expend no more than three percent of the balance of the fund each fiscal year for administering the Crime Reduction Grant Act. No money in the fund may be expended in any way except as provided by the Crime Reduction Grant Act."

## **LAWS 2023, CHAPTER 61**

**House Bill 179, aa**  
**Approved March 30, 2023**

AN ACT

RELATING TO PROPERTY; REQUIRING NOTICE OF THE FILING OF LIENS WITH THE PROPERTY OWNER.

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

### **Chapter 61 Section 1 Laws 2023**

SECTION 1. Section 48-2-6 NMSA 1978 (being Laws 1880, Chapter 16, Section 6, as amended) is amended to read:

"48-2-6. TIME FOR FILING LIEN CLAIM--CONTENTS--NOTICE OF LIEN.--

A. Every original contractor, within one hundred twenty days after the completion of a contract, and every person, except the original contractor, desiring to claim a lien pursuant to Sections 48-2-1 through 48-2-17 NMSA 1978 shall, within ninety days after the completion of any building, improvement or structure or after the completion of the alteration or repair of the building, improvement or structure or the performance of any labor in a mining claim, file for record with the county clerk of the county in which the property or some part of it is situated a claim containing a statement of demands, after deducting all just credits and offsets. The claim shall state the name of the owner or reputed owner, if known, and also the name of the person by whom the claimant was employed or to whom the claimant furnished the materials, and shall include a statement of the terms, time given and the conditions of the contract, and also a description of the property to be charged with the lien, sufficient for identification. The claim shall be verified by the oath of the claimant or of some other person.

B. A person filing a claim for a lien with a county clerk pursuant to Subsection A of this section shall mail, email, send by certified mail with return receipt requested or hand deliver a copy of the filed claim for a lien to the owner or reputed owner, if known, stated in the claim within fifteen days of filing the claim with the county clerk. The copy of the filed claim for a lien shall be sent or delivered to the owner or reputed owner at the owner or reputed owner's last known address. If the owner or reputed owner's address is not known, the copy of the filed claim for a lien shall be sent to the address of the owner of the property as listed in the county assessor's files. The failure of the claimant to serve the notice may preclude the recovery of interest, attorney's fees or costs."

## **LAWS 2023, CHAPTER 62**

**House Bill 180**  
**Approved March 30, 2023**

AN ACT

RELATING TO PUBLIC RECORDS; PROVIDING FOR STORING OFFICIAL RECORDS ELECTRONICALLY.

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

### **Chapter 62 Section 1 Laws 2023**

SECTION 1. Section 14-1-5 NMSA 1978 (being Laws 1947, Chapter 185, Section 2) is amended to read:

"14-1-5. AUTHORIZATION.--Any public officer of the state may cause any or all records, papers or documents kept by the officer to be photographed, microfilmed, microphotographed, maintained as an electronic record or reproduced on film. The electronic record, photographic film and the device used to reproduce the records on film shall be one that accurately reproduces the original in all details."

### **Chapter 62 Section 2 Laws 2023**

SECTION 2. Section 14-1-6 NMSA 1978 (being Laws 1947, Chapter 185, Section 3) is amended to read:

"14-1-6. PRESUMPTION OF AUTHENTICITY.--Such photographs, microfilms, electronic records, photographic film or microphotographs shall be deemed to be an original record for all purposes, including introduction in evidence in all courts or administrative agencies. A transcript, exemplification or certified copy of the transcript shall, for all purposes recited in this section, be deemed to be a transcript, exemplification or certified copy of the original."

# LAWS 2023, CHAPTER 63

House Bill 186, aa  
Approved March 30, 2023

AN ACT

RELATING TO PROPERTY TAX; PROVIDING FLEXIBILITY REGARDING THE REQUIREMENT TO PROVIDE PROOF OF ELIGIBILITY FOR A DISABLED VETERAN'S PROPERTY TAX EXEMPTION.

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

## Chapter 63 Section 1 Laws 2023

SECTION 1. Section 7-38-17 NMSA 1978 (being Laws 1973, Chapter 258, Section 57, as amended) is amended to read:

"7-38-17. CLAIMING EXEMPTIONS--REQUIREMENTS--PENALTIES.--

A. Subject to the requirements of Subsection E of this section, head-of-family exemptions, veteran exemptions, disabled veteran exemptions or veterans' organization exemptions claimed and allowed in a tax year need not be claimed for subsequent tax years if there is no change in eligibility for the exemption nor any change in ownership of the property against which the exemption was claimed. Head-of-family, veteran and veterans' organization exemptions allowable under this subsection shall be applied automatically by county assessors in the subsequent tax years.

B. Other exemptions of real property specified under Section 7-36-7 NMSA 1978 for nongovernmental entities shall be claimed in order to be allowed. Once such exemptions are claimed and allowed for a tax year, they need not be claimed for subsequent tax years if there is no change in eligibility. Exemptions allowable under this subsection shall be applied automatically by county assessors in subsequent tax years.

C. Except as set forth in Subsection H of this section, an exemption required to be claimed under this section shall be applied for no later than thirty days after the mailing of the county assessor's notices of valuation pursuant to Section 7-38-20 NMSA 1978 in order for it to be allowed for that tax year.

D. A person who has had an exemption applied to a tax year and subsequently becomes ineligible for the exemption because of a change in the person's status or a change in the ownership of the property against which the exemption was applied shall notify the county assessor of the loss of eligibility for the exemption by the last day of February of the tax year immediately following the year in which loss of eligibility occurs.

E. Exemptions may be claimed by filing proof of eligibility for the exemption with the county assessor. The proof shall be in a form prescribed by regulation of the department. Procedures for determining eligibility of claimants for any exemption shall be prescribed by regulation of the department, and these regulations shall include provisions for requiring the veterans' services department to issue certificates of eligibility for veteran and veterans' organization exemptions in a form and with the information required by the department. The regulations shall also include verification procedures to assure that veteran exemptions in excess of the amount authorized under Section 7-37-5 NMSA 1978 are not allowed as a result of multiple claiming in more than one county or claiming against more than one property in a single tax year.

F. The department shall consult and cooperate with the veterans' services department in the development, adoption and promulgation of regulations under Subsection E of this section. The veterans' services department shall comply with the promulgated regulations. The veterans' services department shall collect a fee of five dollars (\$5.00) for the issuance of a duplicate certificate of eligibility to a veteran or to a veterans' organization.

G. A person who violates the provisions of this section by intentionally claiming and receiving the benefit of an exemption to which the person is not entitled or who fails to comply with the provisions of Subsection D of this section is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000). A county assessor or the assessor's employee who knowingly permits a claimant for an exemption to receive the benefit of an exemption to which the claimant is not entitled is guilty of a misdemeanor and shall be punished by a fine of not more than one thousand dollars (\$1,000) and shall also be automatically removed from office or dismissed from employment upon conviction under this subsection.

H. When a disabled veteran or the disabled veteran's unmarried surviving spouse provides proof of eligibility pursuant to Subsection E of this section, the disabled veteran or the disabled veteran's unmarried surviving spouse shall be allowed the exemption for the current tax year; provided that the exemption shall not be allowed for property tax due for previous tax years."

## **LAWS 2023, CHAPTER 64**

**House Bill 195, aa**  
**Approved March 30, 2023**

AN ACT

RELATING TO FORESTRY; AMENDING THE FOREST CONSERVATION ACT;  
AUTHORIZING THE FORESTRY DIVISION OF THE ENERGY, MINERALS AND  
NATURAL RESOURCES DEPARTMENT TO CONTRACT FOR AND CONDUCT  
FOREST FIRE PREVENTION, SUPPRESSION, CONTROL, SUPPRESSION

REHABILITATION AND REPAIR, POST-FIRE SLOPE STABILIZATION, EROSION CONTROL, RIPARIAN RESTORATION, SEEDING AND REFORESTATION OF BURNED AREAS; REMOVING REFERENCES TO THE REPEALED FOREST CONSERVATION FUND; MAKING TECHNICAL CHANGES; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

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

### **Chapter 64 Section 1 Laws 2023**

SECTION 1. Section 68-2-1 NMSA 1978 (being Laws 1959, Chapter 122, Section 1, as amended) is amended to read:

"68-2-1. SHORT TITLE.--Sections 68-2-1 through 68-2-27 NMSA 1978 may be cited as the "Forest Conservation Act"."

### **Chapter 64 Section 2 Laws 2023**

SECTION 2. Section 68-2-2 NMSA 1978 (being Laws 1959, Chapter 122, Section 2) is amended to read:

"68-2-2. ACCEPTANCE OF FEDERAL LAWS.--The state is authorized to accept the provisions of the act of congress dated June 7, 1924 (43 Stat. 653) commonly known as the Clarke-McNary Act and the act of congress dated July 1, 1978 (92 Stat. 365) commonly known as the Cooperative Forestry Assistance Act of 1978, as amended."

### **Chapter 64 Section 3 Laws 2023**

SECTION 3. Section 68-2-3 NMSA 1978 (being Laws 1959, Chapter 122, Section 3, as amended) is amended to read:

"68-2-3. STATE FORESTER--COMPENSATION--QUALIFICATIONS.--

A. The director of the forestry division of the energy, minerals and natural resources department is the "state forester" and shall be paid a salary, set by the secretary of energy, minerals and natural resources.

B. No individual may be appointed as the state forester unless the individual is, by reason of scientific education and experience, knowledgeable in the principles of forest management."

## **Chapter 64 Section 4 Laws 2023**

SECTION 4. Section 68-2-6 NMSA 1978 (being Laws 1959, Chapter 122, Section 6, as amended) is amended to read:

"68-2-6. DIVISION TO SERVE AS CONTRACTING AGENCY FOR STATE-- CONTRACTING AUTHORITY.--For the purposes of the Forest Conservation Act, the forestry division of the energy, minerals and natural resources department is designated as the agent of the state and is authorized to enter into contracts and cooperative agreements with the secretary of agriculture of the United States of America, private landowners, the commissioner of public lands of the state, individuals, corporations or other local, state, federal and private agencies or organizations to carry out the provisions of the Forest Conservation Act and to do all other acts necessary to take advantage of and carry out the provisions of the acts of congress promulgated for the purposes of the Forest Conservation Act and the federal Cooperative Forestry Assistance Act of 1978, as amended."

## **Chapter 64 Section 5 Laws 2023**

SECTION 5. Section 68-2-7 NMSA 1978 (being Laws 1967, Chapter 208, Section 1) is amended to read:

"68-2-7. FOREST FIRE AND SUPPRESSION DEFINED.--As used in the Forest Conservation Act:

A. "forest fire" means a fire burning uncontrolled on lands covered wholly or in part by timber, brush, grass, grain or other vegetation; and

B. "suppression" means all of the activities to extinguish, limit or contain forest fire spread."

## **Chapter 64 Section 6 Laws 2023**

SECTION 6. Section 68-2-8 NMSA 1978 (being Laws 1967, Chapter 208, Section 2, as amended) is amended to read:

"68-2-8. FORESTRY DIVISION RESPONSIBILITY FOR STATEWIDE FOREST FIRE PROTECTION AND FOREST CONSERVATION--AUTHORITY--POLICE POWER.--

A. The forestry division of the energy, minerals and natural resources department is responsible for the conservation of forests and forest resources and the prevention and suppression of forest fires on all nonfederal, nonmunicipal lands in the state. The division, whether independently or in cooperation with federal, state or local agencies, is authorized to:

- (1) conserve forests and forest resources;
- (2) maintain and improve forest health;
- (3) prevent, control and suppress forest fires;
- (4) conduct forest fire suppression rehabilitation and repair;
- (5) conduct post-fire slope stabilization, erosion control, riparian restoration, seeding and reforestation of burned areas;
- (6) research forestry and forest fires;
- (7) prescribe uses of fires;
- (8) conduct urban and community forestry;
- (9) establish and support nurseries;
- (10) furnish forestry and forest fire-related technical advice to the people of the state, including technical advice and projects related to the mitigation of or adaptation to changing climatic conditions; and
- (11) provide financial, technical and related assistance to local governments to organize, train and equip local firefighters to prevent, control and suppress forest fires threatening the natural resources of rural forest areas or communities.

B. The forestry division and the division's agents:

- (1) shall have unrestricted access to private and state lands, including the use of roads and trails to carry out forest fire suppression work; and
- (2) shall not be liable to civil action for trespass or for damages for acts done in the course of their official duties unless otherwise expressly provided by contract or agreement with the landowner, which contract or agreement is made pursuant to the provisions of the Forest Conservation Act.

C. The police power of the state shall extend to such control of private forest lands as is necessary for the suppression of forest fires.

D. The authorization provided in Subsection A of this section with respect to forest conservation, fire prevention and post-fire forest rehabilitation activities, but not forest fire suppression activities, is to be exercised in cooperation and pursuant to an agreement with the underlying landowner or land manager."

## **Chapter 64 Section 7 Laws 2023**

SECTION 7. Section 68-2-9 NMSA 1978 (being Laws 1967, Chapter 208, Section 3) is amended to read:

"68-2-9. PENALTY FOR OBSTRUCTION.--Any person obstructing the access of the forestry division of the energy, minerals and natural resources department or the division's agents to lands, as provided in Section 68-2-8 NMSA 1978, is guilty of a misdemeanor and upon conviction may be sentenced to not less than thirty days nor more than ninety days in the county jail or fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000), or both such imprisonment and fine."

## **Chapter 64 Section 8 Laws 2023**

SECTION 8. Section 68-2-11 NMSA 1978 (being Laws 1959, Chapter 122, Section 7, as amended) is amended to read:

"68-2-11. CONTRACTS FOR PROTECTION OF FOREST AREAS.--The commissioner of public lands is authorized to enter into contracts and cooperative agreements with the forestry division of the energy, minerals and natural resources department for the protection and conservation of forests and denuded forest areas under the commissioner's jurisdiction and control and is authorized to pay the assessments thereunder from the state land office maintenance fund, provided that such contracts and agreements do not commit the use of the lands in a manner and do not entail expenditures of the maintenance fund contrary to the provisions of the act of congress dated June 20, 1910, entitled Enabling Act for New Mexico."

## **Chapter 64 Section 9 Laws 2023**

SECTION 9. Section 68-2-14 NMSA 1978 (being Laws 1959, Chapter 122, Section 9, as amended) is amended to read:

"68-2-14. ENFORCEMENT OF LAWS--INVESTIGATION OF VIOLATIONS.--

A. The forestry division of the energy, minerals and natural resources department is authorized to enforce all laws and rules relating to all forested, cut-over or brush lands lying within the state under the following circumstances:

- (1) prevention and suppression of forest fires;
- (2) logging and timber operations and practices;
- (3) trespass, waste and littering; and
- (4) conservation of forests and forest resources and products.

B. The state forester, all persons the state forester designates as peace officers and any other peace officers are authorized to go upon forested, cut-over or brush lands lying within the state to investigate violations of the Forest Conservation Act and are given the necessary police powers to apprehend and arrest on warrant issued by any magistrate or judge of the state for violation of the Forest Conservation Act or without warrant for violations thereof committed in their presence and shall not be liable to civil actions in trespass for acts done in discharge of their duties."

## **Chapter 64 Section 10 Laws 2023**

SECTION 10. Section 68-2-16 NMSA 1978 (being Laws 1959, Chapter 122, Section 11, as amended) is amended to read:

"68-2-16. RULES OF DIVISION.--The forestry division of the energy, minerals and natural resources department is authorized to make and enforce rules not in conflict with any law now in force as it deems necessary for the prevention and suppression of forest fires, for the control of forest insects or diseases and for the application of commercial or silvicultural forest practices within the state. The rulemaking power includes the requiring of registration of sawmills, declaring of designated areas to be high hazard fire areas and closing them to entry by the general public for reasonable periods and requiring native forest vegetative types to be harvested or treated in such manner as to support forest practices that maintain and enhance the benefits of forests and forest resources to New Mexico. Rules shall be provided to all interested parties upon request. Nothing in the Forest Conservation Act shall prevent a landowner from converting forest vegetative types to nonforest vegetative types for such purposes as range, wildlife habitat, farming, surface mining or subdivision development; provided, however, any slash resulting from such conversion shall be treated in a manner that will minimize the spread of forest fires and the possibility of insect or disease epidemic."

## **Chapter 64 Section 11 Laws 2023**

SECTION 11. Section 68-2-22 NMSA 1978 (being Laws 1961, Chapter 200, Section 1, as amended) is amended to read:

"68-2-22. CUTTING AND REMOVING WOODY MATERIAL WITHOUT WRITTEN CONSENT.--

A. As used in this section:

(1) "owner" means any public agency, person, partnership, firm, corporation and recognized agents owning or having legal control to the surface rights of the land upon which the woody material is located and having legal authority to issue permits or enter into agreements for the disposal of the woody material; and

(2) "woody material" includes any live or dead evergreen, coniferous or deciduous tree, branch, bough, bush, sapling or shrub in its natural condition, trimmed or untrimmed, and with or without roots.

B. No person shall cut, remove, transport or sell any woody material without written consent of the owner or proof of ownership, whether the land is publicly or privately owned. The written consent shall contain a legal description of the land where the woody material is removed, the name and address of the legal owner, the volume or amount of material to be removed, the date of execution and the expiration date of the consent. In addition, any person purchasing woody material from another for the purpose of resale must possess a valid bill of sale containing the date of sale, the amount of material purchased and the name, address and signature of the seller. The written consent, bill of sale or a true copy shall be carried by every person in charge of cutting, removing, transporting or selling the woody material and shall be exhibited to any peace officer at the officer's request. This provision shall not apply to campers, picnickers, hunters and persons fishing who gather woody material for use in the immediate vicinity of their campsite or private landowners removing woody material from their own land for their personal use."

## **Chapter 64 Section 12 Laws 2023**

SECTION 12. Section 68-2-24 NMSA 1978 (being Laws 1979, Chapter 395, Section 9) is amended to read:

"68-2-24. FOREST LAND POLICY.--Recognizing that the forest makes a vital contribution to New Mexico by providing wood products, jobs, grazing, quality water, wildlife habitat, young trees, taxes and other economic benefits, it is hereby declared to be the public policy of the state to adopt forest practices that maintain and enhance such benefits and such resources and to recognize varying forest resources by employing silvicultural planning, including fire prevention that provides for the removal of trees in a manner that provides reasonable assurance for the natural or artificial regeneration of native tree species; provided, however, nothing in this section shall be in conflict with any law now in force."

## **Chapter 64 Section 13 Laws 2023**

SECTION 13. Section 68-2-25 NMSA 1978 (being Laws 1979, Chapter 395, Section 10) is amended to read:

"68-2-25. FOREST OWNER ASSISTANCE.--Upon the request of any landowner, the state forester shall advise and encourage the use of good management practices through an educational program and by providing technical forestry assistance to any landowner for specific sites prior to and during harvesting or other forestry-related activities."

## **Chapter 64 Section 14 Laws 2023**

SECTION 14. Section 68-2-26 NMSA 1978 (being Laws 1987, Chapter 143, Section 4) is amended to read:

"68-2-26. ENFORCEMENT--FOREST CONSERVATION ACT.--Any peace officer enforcing the provisions of the Forest Conservation Act may:

- A. stop any vehicle or means of conveyance containing any woody material for the purpose of inspection and investigation;
- B. inspect the woody material in any vehicle or other means of conveyance, including common carrier;
- C. seize and hold any woody material cut, removed, piled, transported or offered for sale in violation of this section. Upon determination by the appropriate court that a section of the Forest Conservation Act has been violated and the court's issuance of an order authorizing the sale, the forestry division of the energy, minerals and natural resources department shall sell the woody material and all money collected is to be deposited into the forest land protection revolving fund; and
- D. seize and hold any property used in violation of this section and, upon determination of the appropriate court that a section of the Forest Conservation Act has been violated, keep or dispose of the property upon order of the district court. All money collected, if any, shall be deposited into the forest land protection revolving fund."

## **Chapter 64 Section 15 Laws 2023**

SECTION 15. 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, fees collected pursuant to the Prescribed Burning Act, 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, implementation and enforcement of the Forest Conservation Act;

(2) to administer and fund 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;

(3) to fund approved projects pursuant to the Forest and Watershed Restoration Act; and

(4) to administer the Prescribed Burning Act.

B. Money in the forest land protection revolving fund shall not revert to the general fund."

## **Chapter 64 Section 16 Laws 2023**

SECTION 16. REPEAL.--Sections 68-2-19 and 68-2-23 NMSA 1978 (being Laws 1959, Chapter 122, Section 14 and Laws 1979, Chapter 395, Section 8, as amended) are repealed.

# **LAWS 2023, CHAPTER 65**

## **House Bill 198**

**Approved March 30, 2023**

### **AN ACT**

RELATING TO PUBLIC EDUCATION; AMENDING THE CAREER TECHNICAL EDUCATION PILOT PROJECT AND THE CAREER TECHNICAL EDUCATION FUND TO INCLUDE SECONDARY SCHOOLS FUNDED BY THE FEDERAL BUREAU OF INDIAN EDUCATION.

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

## **Chapter 65 Section 1 Laws 2023**

SECTION 1. Section 22-1-12 NMSA 1978 (being Laws 2019, Chapter 61, Section 1) is amended to read:

"22-1-12. 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, charter schools and secondary schools funded by the federal bureau of Indian education may apply to participate in the pilot project on forms provided by the department. The department may provide grants to school districts, charter schools and secondary schools funded by the federal bureau of Indian education 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, charter school or secondary school funded by the federal bureau of Indian education, post-secondary institutions and local business and industry; and

(8) provide the data necessary to the department and the participating public schools and secondary schools funded by the federal bureau of Indian education 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 and secondary schools funded by the federal bureau of Indian education.

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 65 Section 2 Laws 2023**

SECTION 2. Section 22-1-13 NMSA 1978 (being Laws 2019, Chapter 61, Section 2) is amended to read:

"22-1-13. 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, charter schools and secondary schools funded by the federal bureau of Indian education 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."

## **Chapter 65 Section 3 Laws 2023**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# LAWS 2023, CHAPTER 66

House Bill 209

Approved March 30, 2023

AN ACT

RELATING TO STUDENT LOANS; AMENDING THE HEALTH PROFESSIONAL LOAN REPAYMENT ACT TO UPDATE THE REQUIREMENTS FOR RECEIVING LOAN REPAYMENT.

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

## Chapter 66 Section 1 Laws 2023

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 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 Medical Practice Act with specialty training in family medicine, general internal medicine, obstetrics, gynecology or general pediatrics."

## Chapter 66 Section 2 Laws 2023

SECTION 2. Section 21-22D-6 NMSA 1978 (being Laws 1995, Chapter 144, Section 21, as amended) is amended to read:

"21-22D-6. AWARD CRITERIA--CONTRACT TERMS--PAYMENT.--

A. Prior to receiving an award, the health professional shall file with the higher education department a declaration of intent to practice as a health professional in areas of New Mexico designated as underserved by the department. The department shall consult with the department of health when designating areas as underserved.

B. Award criteria shall provide that:

(1) amounts shall be dependent upon the location of the practice, the applicant's total health professional education indebtedness and characteristics of the practice;

(2) preference in making awards shall be to individuals who have graduated from a New Mexico post-secondary educational institution;

(3) recruitment awards shall be made to eligible participants who agree to relocate to an approved designated area;

(4) highest priority shall be given to participants in practices in which health profession vacancies are difficult to fill, practices that require after hours call at least every other night and practices that have heavy obstetrical responsibilities;

(5) award amounts may be modified based upon available funding or other special circumstances; and

(6) an award shall not exceed the total medical education indebtedness of any participant.

C. The following education debts are not eligible for repayment pursuant to the Health Professional 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) personal loans from friends or relatives; and

(4) loans that exceed individual standard school expense levels.

D. The loan repayment award shall be evidenced by a contract between the health professional and the department acting on behalf of the state. The contract shall provide for the payment by the state of a stated sum to the health professional's debtors and shall state the obligations of the health professional under the program, including a minimum three-year period of service, quarterly reporting requirements and other policies established by the department.

E. Recipients shall serve a complete year in order to receive credit for that year. The minimum credit for a year shall be established by the department.

F. If a health professional does not comply with the terms of the contract, the department shall assess a penalty of up to three times the amount of award disbursed plus eighteen percent interest, unless the department finds acceptable extenuating circumstances for why the health professional cannot serve or comply with the terms of the contract. If the department does not find acceptable extenuating circumstances for the health professional's failure to comply with the contract, the department shall require immediate repayment plus the amount of the penalty.

G. The department shall adopt regulations to implement the provisions of this section. The regulations may provide for the disbursement of loan repayment awards to the lenders of health professionals in annual or other periodic installments."

## **LAWS 2023, CHAPTER 67**

**HJC/House Bill 232, w/ec**  
**Approved March 30, 2023**

### **AN ACT**

RELATING TO PUBLIC RECORDS; AMENDING THE INSPECTION OF PUBLIC RECORDS ACT; ENACTING A NEW SECTION OF THE INSPECTION OF PUBLIC RECORDS ACT REGARDING DISCLOSURE OF LAW ENFORCEMENT RECORDS; EXCEPTING FROM DISCLOSURE CERTAIN INFORMATION CONCERNING INFORMATION TECHNOLOGY SYSTEMS, SUBMISSIONS TO GRANT PROGRAMS, LAND LEASES AND SCHOLARSHIP PROGRAMS AND PROPRIETARY TECHNICAL OR BUSINESS INFORMATION; DECLARING AN EMERGENCY.

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

### **Chapter 67 Section 1 Laws 2023**

SECTION 1. A new section of the Tourism Department Act, Section 9-15A-7.2 NMSA 1978, is enacted to read:

"9-15A-7.2. INFORMATION NOT SUBJECT TO INSPECTION.--The following information created, obtained or maintained by the department is not subject to inspection pursuant to the Inspection of Public Records Act:

- A. proprietary technical or business information related to the development of specific marketing or advertising campaigns for the state; and
- B. a consumer's individually identifiable information provided during an online, tourism-related transaction related to a product or service provided by the department or its contractors."

## **Chapter 67 Section 2 Laws 2023**

SECTION 2. 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 as provided in Section 14-2-1.2 NMSA 1978;
- E. as provided by the Confidential Materials Act;
- F. trade secrets;
- G. attorney-client privileged information;
- H. long-range or strategic business plans of public hospitals discussed in a properly closed meeting;
- I. 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;

J. information concerning information technology systems, the publication of which would reveal specific vulnerabilities that compromise or allow unlawful access to such systems; provided that this subsection shall not be used to restrict requests for:

(1) records stored or transmitted using information technology systems;

(2) internal and external audits of information technology systems, except for those portions that would reveal ongoing vulnerabilities that compromise or allow unlawful access to such systems; or

(3) information to authenticate or validate records received pursuant to a request fulfilled pursuant to the Inspection of Public Records Act;

K. submissions in response to a competitive grant, land lease or scholarship and related scoring materials and evaluation reports until finalists are publicly named or the award is announced; and

L. as otherwise provided by law."

## **Chapter 67 Section 3 Laws 2023**

SECTION 3. A new Section 14-2-1.2 NMSA 1978 is enacted to read:

"14-2-1.2. LAW ENFORCEMENT RECORDS.--

A. Law enforcement records are public records, except as provided by law and this subsection, and provided that the presence of nonpublic information may be redacted from a written record or digitally obscured in a visual or audio record, including:

(1) before charges are filed, names, addresses, contact information or protected personal identifier information of individuals who are victims of or non-law-enforcement witnesses to an alleged crime of:

(a) assault with intent to commit a violent felony pursuant to Section 30-3-3 NMSA 1978 when the violent felony is criminal sexual penetration;

(b) 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;

(c) stalking pursuant to Section 30-3A-3 NMSA 1978;

(d) aggravated stalking pursuant to Section 30-3A-3.1 NMSA 1978;

- NMSA 1978;
- (e) criminal sexual penetration pursuant to Section 30-9-11
- 1978; or
- (f) criminal sexual contact pursuant to Section 30-9-12 NMSA
- NMSA 1978;
- (g) sexual exploitation of children pursuant to Section 30-6A-3

(2) before charges are filed, names, addresses, contact information or protected personal identifier information of individuals who are accused but not charged with a crime;

(3) visual depiction of a dead body, unless a law enforcement officer, acting in that capacity, caused or is reasonably alleged or suspected to have caused the death;

(4) visual depiction of great bodily harm, as defined in Section 30-1-12 NMSA 1978, or acts of severe violence resulting in great bodily harm, unless a law enforcement officer, acting in that capacity, caused or is reasonably alleged or suspected to have caused the great bodily harm or act of severe violence;

(5) visual depiction of an individual's intimate body parts, including the genitals, pubic area, anus or postpubescent female nipple, whether nude or visible through less than opaque clothing;

(6) visual or audio depiction of the notification to a member of the public of a family member's death;

(7) confidential sources, methods or information; or

(8) records pertaining to physical or mental examination and medical treatment of persons unless the information could be relevant to a criminal investigation or an investigation of misfeasance, malfeasance or other suspected violation of law conducted by a person elected to or employed by a public body.

B. A request for release of video or audio shall specify at least one of the following:

- (1) the computer-aided dispatch record number;
- (2) the police report number;
- (3) the date or date range with reasonable specificity and at least one of the following:

- (a) the name of a law enforcement officer or first responder;
- (b) the approximate time; or
- (c) the approximate location; or

(4) other criteria established and published by a law enforcement agency to facilitate access to videos.

C. Except for confidential sources, methods or information, a request to view video or hear audio on-site of a public body is not subject to the restrictions in Subsections A and B of this section. Any recording or copying of video or audio from such viewing or listening is subject to the restrictions in this section.

D. As used in this section, "law enforcement records" includes 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."

## **Chapter 67 Section 4 Laws 2023**

SECTION 4. Section 14-2-6 NMSA 1978 (being Laws 1993, Chapter 258, Section 3, as amended) is amended to read:

"14-2-6. DEFINITIONS.--As used in the Inspection of Public Records Act:

A. "custodian" means any person responsible for the maintenance, care or keeping of a public body's public records, regardless of whether the records are in that person's actual physical custody and control;

B. "file format" means the internal structure of an electronic file that defines the way it is stored and used;

C. "information technology systems" means computer hardware, storage media, networking equipment, physical devices, infrastructure, processes and code, firmware, software and ancillary products and services, including:

- (1) systems design and analysis;
- (2) development or modification of hardware or solutions used to create, process, store, secure or exchange electronic data;
- (3) information storage and retrieval systems;

- (4) voice, radio, video and data communication systems;
- (5) network, hosting and cloud-based systems;
- (6) simulation and testing;
- (7) interactions between a user and an information system; and
- (8) user and system credentials;

D. "inspect" means to review all public records that are not excluded in Section 14-2-1 NMSA 1978;

E. "person" means any individual, corporation, partnership, firm, association or entity;

F. "protected personal identifier information" means:

- (1) all but the last four digits of a:
  - (a) taxpayer identification number;
  - (b) financial account number;
  - (c) credit or debit card number; or
  - (d) driver's license number;
- (2) all but the year of a person's date of birth;
- (3) a social security number; and

(4) with regard to a nonelected employee of a public body in the context of the person's employment, the employee's nonbusiness home street address, but not the city, state or zip code;

G. "public body" means the executive, legislative and judicial branches of state and local governments and all advisory boards, commissions, committees, agencies or entities created by the constitution or any branch of government that receives any public funding, including political subdivisions, special taxing districts, school districts and institutions of higher education;

H. "public records" means all documents, papers, letters, books, maps, tapes, photographs, recordings and other materials, regardless of physical form or characteristics, that are used, created, received, maintained or held by or on behalf of

any public body and relate to public business, whether or not the records are required by law to be created or maintained; and

I. "trade secret" means trade secret as defined in Subsection D of Section 57-3A-2 NMSA 1978."

## **Chapter 67 Section 5 Laws 2023**

SECTION 5. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

## **LAWS 2023, CHAPTER 68**

**HLVMC/House Bill 255, aa**  
**Approved March 30, 2023**

AN ACT

RELATING TO EMPLOYEE LEASING; CODIFYING THE INSURANCE MARKET RULES APPLICABLE TO GROUP HEALTH PLANS SPONSORED BY EMPLOYEE LEASING CONTRACTORS.

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

## **Chapter 68 Section 1 Laws 2023**

SECTION 1. A new section of the New Mexico Insurance Code is enacted to read:

"EMPLOYEE LEASING CONTRACTOR GROUP HEALTH PLAN REQUIREMENTS.--

A. A group health plan sponsored by an employee leasing contractor shall be treated as a multiple employer welfare arrangement for purposes of the Insurance Code.

B. A group health plan sponsored by an employee leasing contractor shall be a fully insured plan.

C. For the purposes of determining whether an employee leasing contractor is a small or large employer, the employee leasing contractor's leased workers shall be counted as employees in addition to the employee leasing contractor's employees, and when an employee leasing contractor has:

(1) at least two but not more than fifty employees, the employee leasing contractor shall be treated as a small employer pursuant to the Health Insurance Portability Act, and the group health plan that it sponsors shall be subject to the rules of the small group market, including rules applicable to the small group market by reason of the federal Patient Protection and Affordable Care Act; and

(2) fifty-one or more employees, the employee leasing contractor shall be treated as a large employer pursuant to the Health Insurance Portability Act, and the group health plan that it sponsors shall be subject to the rules of the large group market, including rules applicable to the large group market by reason of the federal Patient Protection and Affordable Care Act.

D. With respect to a group health plan described in this section that is subject to large group market rules, the rules shall apply to the group health plan as a whole and any rules applicable solely to other markets, such as the small group market or individual market, shall not apply to the group health plan or to any of the coverage provided by the group health plan.

E. For the purposes of this section:

(1) "employee leasing contractor" means any person who is registered as an employee leasing contractor pursuant to the Employee Leasing Act;

(2) "individual market" means the market for health insurance coverage offered to individuals other than in connection with a group health plan;

(3) "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;

(4) "leased worker" means a worker provided by an employee leasing contractor who is treated as a leased worker for the purposes of the Employee Leasing Act;

(5) "multiple employer welfare arrangement" means a plan for providing welfare benefits for employees of more than one employer as defined by 29 U.S.C. Section 1002; and

(6) "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."

## **Chapter 68 Section 2 Laws 2023**

SECTION 2. Section 59A-23-3 NMSA 1978 (being Laws 1984, Chapter 127, Section 462, as amended) is amended to read:

### "59A-23-3. GROUP HEALTH INSURANCE.--

A. Group health insurance is that form of health insurance covering groups of persons, with or without their dependents, and issued upon the following basis:

(1) under a policy issued to an employer, who shall be deemed the policyholder, insuring at least one employee of such employer for the benefit of persons other than the employer. The term "employees", as used in this section, includes the officers, managers and employees of the employer, leased workers if the employer is registered as an employee leasing contractor pursuant to the Employee Leasing Act, the partners, if the employer is a partnership, the officers, managers and employees of subsidiary or affiliated corporations of a corporation employer, and the individual proprietors, partners and employees of individuals and firms the business of which is controlled by the insured employer through stock ownership, contract or otherwise. The term "employer", as used in this section, includes any municipal or governmental corporation, unit, agency or department thereof and the proper officers, as such, or any unincorporated municipality or department thereof, as well as private individuals, partnerships and corporations. A small employer shall also be subject to the Small Group Rate and Renewability Act. A "small employer" means any person, firm, corporation, partnership or association actively engaged in business who, on at least fifty percent of its working days during the preceding year, employed no more than fifty eligible employees. In determining the number of eligible employees, companies that are affiliated companies or that are eligible to file a combined tax return for purposes of state taxation shall be considered one employer;

(2) under a policy issued to an association, including a labor union and an agricultural association, which shall have a constitution and bylaws and which has been organized and is maintained in good faith for purposes other than that of obtaining insurance, insuring at least twenty-five members of the association for the benefit of persons other than the association or its officers or trustees, as such;

(3) under a policy issued to a cooperative; or

(4) under a policy issued to any other substantially similar group that, in the discretion of the superintendent, may be subject to the issuance of a group sickness and accident policy or contract.

B. Each policy, as provided by this section, shall contain in substance the following provisions:

(1) a provision that the policy, the application of the policyholder, if such application or copy thereof is attached to such policy, and the individual applications, if any, submitted in connection with such policy by the employees or members, shall constitute the entire contract between the parties, and that all statements, in the absence of fraud, made by any applicant or applicants shall be deemed representations

and not warranties, and that no such statement shall void the insurance or reduce benefits thereunder unless contained in a written application for such insurance;

(2) a provision that the insurer will furnish to the policyholder, for delivery to each employee or member of the insured group, an individual certificate setting forth in summary form a statement of the essential features of the insurance coverage of such employee or member and to whom benefits thereunder are payable. If dependents are included in the coverage, only one certificate need be issued for each family unit; and

(3) a provision that to the group originally insured may be added from time to time eligible new employees or members or dependents, as the case may be, in accordance with the terms of the policy.

C. For purposes of this section only, the directors of a corporation shall be deemed to be employees of the corporation.

D. For the purposes of this section, "cooperative" means a private health insurance cooperative established pursuant to Section 59A-23-11 NMSA 1978."

## **LAWS 2023, CHAPTER 69**

### **House Bill 267**

**Approved March 30, 2023**

#### **AN ACT**

RELATING TO DRIVER'S LICENSES; PROVIDING FOR REPORTS BY EXPERTS TO BE USED BY THE MOTOR VEHICLE DIVISION OF THE TAXATION AND REVENUE DEPARTMENT IN ADDRESSING RESTRICTED LICENSES; REPEALING A SECTION OF THE NMSA 1978.

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

### **Chapter 69 Section 1 Laws 2023**

SECTION 1. Section 66-5-19 NMSA 1978 (being Laws 1978, Chapter 35, Section 241, as amended) is amended to read:

"66-5-19. RESTRICTED LICENSES.--

A. The division, upon issuing a license, may, whenever good cause appears, impose restrictions, including the shortening of the licensure period suitable to the licensee's driving ability with respect to the type of or special mechanical control devices required on a motor vehicle that the licensee may operate or such other restrictions

applicable to the licensee as the division determines to be appropriate to ensure the safe operation of a motor vehicle by the licensee.

B. At age seventy-nine and thereafter, the applicant shall renew the applicant's license on a yearly basis at no cost to the applicant.

C. The division may either issue a special restricted license or may set forth such restrictions upon the usual license form.

D. The division may issue a restricted license or a restricted provisional license for driving during daylight hours only to some visually impaired persons who fail the usual eyesight test. The division shall evaluate the extent of the visual impairment and the impairment's effect on the driving ability of the applicant and the director may issue a restricted license under the following conditions:

- (1) the applicant has no record of moving violations;
- (2) the necessity of the license is shown to the satisfaction of the director; and
- (3) the applicant satisfies the provisions of Section 66-5-206 NMSA 1978 relating to proof of financial responsibility.

E. The division may seek the advice of experts necessary to advise the division on physical and mental criteria and vision standards relating to the licensing of drivers pursuant to the Motor Vehicle Code.

F. The division, having cause to believe that a licensed driver or applicant may not be physically, visually or mentally qualified to be licensed, may request a written report on a form prescribed by the division from a health care provider of the driver's or applicant's choice for consideration after the licensed driver or applicant has again undergone an on-the-road examination and any physical, visual or mental tests required by the division. These examinations and tests shall not be waived by the division.

G. Reports received by the division for the purpose of assisting the division in determining whether a person is qualified to be licensed are confidential and shall be used only by the division and shall not be divulged to any person or used as evidence in a trial.

H. The division may, upon receiving satisfactory evidence of any violation of the restrictions of the license, suspend the license, but the licensee is entitled to a hearing as upon a suspension under Sections 66-5-1.1 through 66-5-47 NMSA 1978 and as provided in the Administrative Hearings Office Act.

I. It is a misdemeanor for any person to operate a motor vehicle in any manner in violation of the restrictions imposed in a restricted license issued to the person."

## **Chapter 69 Section 2 Laws 2023**

SECTION 2. REPEAL.--Section 66-5-6 NMSA 1978 (being Laws 1978, Chapter 35, Section 228, as amended) is repealed.

# **LAWS 2023, CHAPTER 70**

**House Bill 269, aa**  
**Approved March 30, 2023**

## **AN ACT**

RELATING TO DRIVER'S LICENSES; REQUIRING THE MOTOR VEHICLE DIVISION OF THE TAXATION AND REVENUE DEPARTMENT TO USE REPORTS FROM THE FEDERAL COMMERCIAL DRIVER'S LICENSE DRUG AND ALCOHOL CLEARINGHOUSE IN ISSUING, RENEWING, UPGRADING, DOWNGRADING AND TRANSFERRING COMMERCIAL DRIVER'S LICENSES OR COMMERCIAL LEARNER'S PERMITS; PROVIDING CONTENT TO BE INCLUDED ON COMMERCIAL LEARNER'S PERMITS AND COMMERCIAL DRIVER'S LICENSES.

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

## **Chapter 70 Section 1 Laws 2023**

SECTION 1. A new section of the New Mexico Commercial Driver's License Act is enacted to read:

"COMMERCIAL DRIVER'S LICENSE, COMMERCIAL LEARNER'S PERMIT AND COMMERCIAL DRIVER'S PERMIT ELIGIBILITY--DIVISION TO RECEIVE RECORDS FROM THE FEDERAL COMMERCIAL DRIVER'S LICENSE DRUG AND ALCOHOL CLEARINGHOUSE--COMMERCIAL DRIVER'S LICENSE DOWNGRADE PROCEDURES.--

A. As used in this section:

(1) "commercial driver's license downgrade" means the division's removal of the commercial driver's license or commercial driver's permit privilege from a driver's license;

(2) "commercial driver's license drug and alcohol clearinghouse" means the federal motor carrier safety administration database that requires employers and

service agents to report information to and to query regarding drivers who are subject to United States department of transportation controlled substance and alcohol testing regulations;

- (3) "qualified" means the passage of the drug or alcohol test; and
- (4) "not qualified" means a failure or refusal of the drug or alcohol test.

B. The division shall request all commercial driver's drug test results from the commercial driver's license drug and alcohol clearinghouse that determine whether the commercial driver is qualified or not qualified as required by the federal motor carrier safety administration. Pursuant to this section, if a commercial driver's drug or alcohol test results indicate that the commercial driver is prohibited from operating a commercial motor vehicle, the division shall refuse a request for:

- (1) issuance or renewal of a commercial learner's permit or a commercial driver's license;
- (2) an upgrade of a commercial learner's permit to a commercial driver's license; and
- (3) transfer of an out-of-state commercial driver's license to this state.

C. The division shall request commercial driver's license drug and alcohol clearinghouse records of an applicant for a commercial driver's license at the time of application. Pursuant to this subsection, if the records indicate that the commercial driver's license applicant is prohibited from operating a commercial motor vehicle, the division shall refuse to:

- (1) renew the commercial driver's license or H endorsement;
- (2) advance a commercial driver's permit;
- (3) issue an upgrade of the commercial driver's license to include an H endorsement; and
- (4) issue, renew, transfer or upgrade a non-domiciled commercial driver's permit or commercial driver's license.

D. The division shall downgrade a commercial driver's license or commercial driver's permit to a class D noncommercial license upon receiving a commercial driver's license drug and alcohol clearinghouse record that indicates that a commercial driver's license or commercial driver's permit holder is prohibited from operating a commercial motor vehicle. The division shall complete the downgrade and enter it on the commercial driver's license information system driver record within sixty days of the division's receipt of the drug and alcohol clearinghouse record.

E. The division shall amend a driver's eligibility to operate a commercial motor vehicle if the division finds that a condition resulting in a restriction on a commercial driver's license or a commercial learner's permit no longer exists or was erroneous. Pursuant to this subsection, the division shall:

(1) terminate the commercial driver's license downgrade process without removing the commercial driver's license or commercial learner's permit privilege from the driver's license if the division finds that the commercial driver's license or commercial learner's permit holder is no longer prohibited from operating a commercial motor vehicle;

(2) allow reinstatement of a commercial driver's license or commercial learner's permit privilege to the driver's license of a downgraded driver record upon notification from the federal motor carrier safety administration that the driver is no longer prohibited from operating a commercial motor vehicle; or

(3) reinstate a commercial driver's license or commercial learner's permit privilege to the driver's license, expunge a commercial driver's license downgrade from the commercial driver's license information system driver record and, if applicable, expunge from the motor vehicle record any reference to prohibited status upon notice from the federal motor carrier safety administration that the driver was erroneously identified as prohibited from operating a commercial motor vehicle."

## **Chapter 70 Section 2 Laws 2023**

SECTION 2. Section 65-3-14 NMSA 1978 (being Laws 2007, Chapter 151, Section 1, as amended) is amended to read:

"65-3-14. DRUG AND ALCOHOL TESTING PROGRAM--REPORT OF POSITIVE TEST.--

A. A motor carrier shall have an in-house drug and alcohol testing program that meets the requirements of 49 C.F.R. part 382 or be a member of a consortium, as defined in 49 C.F.R. part 382.107, that provides testing that meets the requirements of 49 C.F.R. part 382.

B. A person or entity specified in 49 C.F.R. part 382.103, who is not explicitly excepted by New Mexico law, is subject to the provisions of this section and shall report positive test results or a refusal to submit to a test pursuant to provisions in this section. A refusal to submit to a pre-employment test shall not be considered a violation of this section.

C. When a person or entity specified in 49 C.F.R. part 382.103 determines that a positive test result is valid, the person or entity shall report the findings to the motor vehicle division of the taxation and revenue department. The motor vehicle division shall enter the report of a positive test result or refusal to submit to a test on the

reported person's motor vehicle record so that it can be contained in the commercial driver's license information system pursuant to the New Mexico Commercial Driver's License Act.

D. The division shall keep the report of a positive test result or the refusal to submit to a test in the motor vehicle record of the driver for five years from the time the report was received by the motor vehicle division.

E. The division shall seek reports from the federal commercial driver's license drug and alcohol clearinghouse for actions relating to commercial driver's licenses or commercial driver's permits."

### **Chapter 70 Section 3 Laws 2023**

SECTION 3. Section 66-5-64 NMSA 1978 (being Laws 1989, Chapter 14, Section 13, as amended) is amended to read:

"66-5-64. COMMERCIAL DRIVER'S LICENSE AND COMMERCIAL LEARNER'S PERMIT--CONTENT.--The commercial driver's license shall be marked "commercial driver's license" or "CDL". The commercial learner's permit shall be marked "commercial learner's permit" or "CLP", and shall state: "This permit is invalid unless accompanied by a New Mexico driver's license.". A commercial driver's license or commercial learner's permit shall include, but not be limited to, the following information:

- A. the person's name and current New Mexico physical address;
- B. the person's full face or front-view color photograph;
- C. a physical description of the person, including sex, height, weight and eye color;
- D. the person's date of birth;
- E. the person's signature;
- F. the class or type of commercial motor vehicle that the person is authorized to drive, together with any endorsements or restrictions;
- G. the name of this state; and
- H. the dates between which the license or permit is valid."

### **Chapter 70 Section 4 Laws 2023**

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2024.

# LAWS 2023, CHAPTER 71

**House Bill 270**

**Approved March 30, 2023**

AN ACT

RELATING TO MOTOR VEHICLES; AMENDING SECTION 66-7-401 NMSA 1978 (BEING LAWS 1978, CHAPTER 35, SECTION 472) TO AUTHORIZE THE SECRETARY OF TRANSPORTATION TO ISSUE ORDERS SUSPENDING OR MODIFYING THE REQUIREMENTS FOR VEHICULAR SIZE, WEIGHT AND LOAD PURSUANT TO CHAPTER 66, ARTICLE 7 NMSA 1978 FOR THE DURATION OF A NATIONAL EMERGENCY DECLARED PURSUANT TO FEDERAL LAW OR AN EMERGENCY DECLARED BY THE GOVERNOR PURSUANT TO THE EMERGENCY POWERS CODE; PROVIDING THAT THE ORDERS ARE REQUIRED TO BE PUBLISHED ON THE DEPARTMENT OF TRANSPORTATION'S WEBSITE.

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

## **Chapter 71 Section 1 Laws 2023**

SECTION 1. Section 66-7-401 NMSA 1978 (being Laws 1978, Chapter 35, Section 472) is amended to read:

"66-7-401. SCOPE AND EFFECT.--

A. It is a misdemeanor for any person to drive or move or for the owner, lessee or other person directing the operation to cause or permit to be driven or moved on any highway any vehicle of a size or weight exceeding the limitations stated in Sections 66-7-401 through 66-7-416 NMSA 1978 or otherwise in violation of those sections, and the maximum size and weight of vehicles herein specified shall be lawful throughout this state, and local authorities shall have no power or authority to alter the limitations except as express authority may be granted in Sections 66-7-401 through 66-7-416 NMSA 1978.

B. The provisions of Sections 66-7-401 through 66-7-416 NMSA 1978 governing size, weight and load shall not apply to fire apparatus, road machinery engaged in highway construction or maintenance or to implements of husbandry, including farm tractors, temporarily moved upon a highway or to a vehicle operated under the terms of a special permit issued as herein provided.

C. Upon the declaration of a national emergency pursuant to federal law or a declaration by the governor of an emergency pursuant to the Emergency Powers Code, the secretary of transportation may issue an order suspending or modifying the requirements for vehicular size, weight and load pursuant to Sections 66-7-401 through

66-7-416 NMSA 1978 for the duration of the emergency; provided that the order shall be published on the department of transportation's website."

## **Chapter 71 Section 2 Laws 2023**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# **LAWS 2023, CHAPTER 72**

**House Bill 280, aa**  
**Approved March 30, 2023**

## **AN ACT**

RELATING TO HIGHER EDUCATION; PROVIDING FOR THE ESTABLISHMENT OF TWO AMERICAN INDIAN EDUCATION TECHNICAL ASSISTANCE CENTERS IN THE STATE; PROVIDING POWERS AND DUTIES; REQUIRING REQUESTS FOR PROPOSALS FOR THE OPERATION OF THE CENTERS.

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

## **Chapter 72 Section 1 Laws 2023**

SECTION 1. A new section of Chapter 21 NMSA 1978 is enacted to read:

"AMERICAN INDIAN EDUCATION TECHNICAL ASSISTANCE CENTERS--  
HIGHER EDUCATION DEPARTMENT TO ESTABLISH--PROCUREMENT FOR  
CENTERS' OPERATIONS--POWERS AND DUTIES.--

A. The higher education department shall establish two American Indian education technical assistance centers to provide technical assistance and support for tribal education departments and tribal communities, with a primary focus on American Indian students' education and success, while also working in partnership with the higher education department, the public education department and the early childhood education and care department to support:

- (1) the development of culturally relevant and linguistically appropriate curriculum and instructional materials;
- (2) career pathways for American Indian educators;
- (3) professional development opportunities for licensed school employees and school administrators in culturally and linguistically relevant pedagogy;

(4) education policy developments and capacity building for tribal communities;

(5) collaboration with state education agencies on tribal-related programs to help agencies with outreach, recommend indigenous educators, scholars and professionals as consultants to tribal programs and participate in funding applications to support the technical assistance centers and other statewide indigenous education efforts;

(6) collaboration with institutions serving American Indian students, including school districts, charter schools, early childhood centers and programs, bureau of Indian education schools and public and tribal higher education institutions; and

(7) additional responsibilities or duties related to American Indian education or vocational support determined by consultation among the various stakeholders.

B. Two American Indian education technical assistance centers in geographically distinct regions of the state shall serve all American Indian students and federally recognized Indian nations, tribes and pueblos located wholly or partially in New Mexico. The higher education department shall seek tribal input and feedback from the public education department and the early childhood education and care department for the preparation of a request for proposals to operate a center and provide the services specified in the request for proposals, including the:

(1) types of technical assistance provided to institutions serving American Indian students, including school districts, charter schools, early childhood centers, homes and programs, bureau of Indian education schools, public and tribal higher education institutions, tribally operated departments and tribal governments; and

(2) partnerships the centers propose to develop, including with state agencies, school districts, charter schools, early education centers, homes and programs, bureau of Indian education schools, federally recognized Indian nations, tribes and pueblos and public and tribal higher education institutions.

C. The higher education department's request for proposals shall prioritize applications from tribal colleges and universities in New Mexico, American Indian programs at New Mexico public higher education institutions and tribally controlled institutions and entities with demonstrated experience and knowledge of working with American Indian students and federally recognized Indian nations, tribes and pueblos located wholly or partially in New Mexico and include how a center is expected to:

(1) set goals, objectives and benchmarks;

(2) provide annual reports on the progress and status of projects undertaken to be made available to the higher education department, which will then distribute the reports to appropriate agencies, the governor's office and the legislature; and

(3) report contracting and financial accounting information to the department in the form required by the higher education department."

## **LAWS 2023, CHAPTER 73**

**HTPWC/House Bill 287, aa**  
**Approved March 30, 2023**

### **AN ACT**

RELATING TO MOTOR VEHICLES; ENACTING NEW SECTIONS OF THE MOTOR VEHICLE CODE TO ESTABLISH A SPECIAL LICENSE PLATE TO SUPPORT DRIVER SAFETY AWARENESS AND REMIND DRIVERS TO LOOK TWICE FOR MOTORCYCLES AND CREATE A NEW MEXICO MINERS SPECIAL LICENSE PLATE; ALLOWING FOR A CESSATION OF ISSUANCE OF SPECIAL LICENSE PLATES UNDER CERTAIN CIRCUMSTANCES.

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

### **Chapter 73 Section 1 Laws 2023**

SECTION 1. A new section of the Motor Vehicle Code is enacted to read:

"SPECIAL LOOK TWICE FOR MOTORCYCLES REGISTRATION PLATE.--

A. The division shall issue a standardized look twice for motorcycles special registration plate with a logo designed pursuant to Section 66-3-424 NMSA 1978 indicating that the recipient supports driver safety awareness for those who share the road and remind drivers to look twice for motorcycles.

B. For an initial fee of forty-five dollars (\$45.00) that shall be in addition to the regular motor vehicle registration fees, the owner of a motor vehicle may apply for issuance of a look twice for motorcycles safety awareness special registration plate. The vehicle owner shall pay a renewal fee of fifteen dollars (\$15.00) each year to retain and renew the look twice for motorcycles special registration plate.

C. The revenue from the additional fee for a look twice for motorcycles safety awareness special registration plate shall be distributed as follows:

(1) twelve dollars (\$12.00) of the initial fee collected shall be retained by and is appropriated to the department to defray the cost of making and issuing the special registration plate with the look twice for motorcycles logo; and

(2) thirty-three dollars (\$33.00) of the initial registration fee and the entire fifteen dollars (\$15.00) of subsequent renewal fees shall be distributed and are appropriated to the motorcycle training fund for the department of transportation to provide driver awareness education and motorcycle training statewide.

D. Beginning on July 1, 2026, and on July 1 of each subsequent year, the department shall compare the number of look twice for motorcycles safety awareness special registration plates issued or registration renewals for those plates in the previous fiscal year with the average of the number of those plates issued in fiscal years 2024 and 2025.

E. By September 1 of a fiscal year in which the department determines that the number of look twice for motorcycles safety awareness special registration plates issued or registration renewals for those plates in the previous fiscal year is less than fifty percent of the average number of those plates issued in fiscal years 2024 and 2025, the department shall stop issuing look twice for motorcycles special registration plates."

## **Chapter 73 Section 2 Laws 2023**

SECTION 2. A new section of the Motor Vehicle Code is enacted to read:

"NEW MEXICO MINERS SPECIAL REGISTRATION PLATE.--

A. The division shall issue a standardized special registration plate with a logo as specified in Section 66-3-424 NMSA 1978 commemorating New Mexico miners.

B. For an initial fee of twenty dollars (\$20.00), which shall be in addition to the regular motor vehicle registration fees, a motor vehicle owner may apply for issuance of a New Mexico miners special registration plate. The owner shall pay a renewal fee of twenty dollars (\$20.00) each year to retain and renew the New Mexico miners special registration plate.

C. Revenue from the fees imposed by Subsection B of this section for a New Mexico miners special registration plate shall be distributed as follows:

(1) twelve dollars (\$12.00) 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 plates; and

(2) eight dollars (\$8.00) of the initial fee and the entire renewal fee collected shall be distributed to the miners' hospital of New Mexico to be used for chronic illness research.

D. Beginning on July 1, 2026, and on July 1 of each subsequent year, the department shall compare the number of New Mexico miners special registration plates issued or registration renewals for those plates in the previous fiscal year with the average of the number of those plates issued in fiscal years 2024 and 2025.

E. By September 1 of a fiscal year in which the department determines that the number of New Mexico miners special registration plates issued or registration renewals for those plates in the previous fiscal year is less than fifty percent of the average number of those plates issued in fiscal years 2024 and 2025, the department shall stop issuing New Mexico miners special registration plates."

### **Chapter 73 Section 3 Laws 2023**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

## **LAWS 2023, CHAPTER 74**

**House Bill 314, aa**  
**Approved March 30, 2023**

AN ACT

RELATING TO CRIMINAL RECORD EXPUNGEMENT; APPLYING AUTOMATIC EXPUNGEMENT TO RECORDS INVOLVING ONLY CANNABIS.

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

### **Chapter 74 Section 1 Laws 2023**

SECTION 1. Section 29-3A-8 NMSA 1978 (being Laws 2021 (1st S.S.), Chapter 3, Section 5) is amended to read:

"29-3A-8. EXPUNGEMENT OF ARREST AND CONVICTION RECORDS--  
PROCEDURE.--

A. If a person was charged with an offense involving cannabis that is no longer a crime on June 29, 2021 or that would have resulted in a lesser offense if the Cannabis Regulation Act had been in effect at the time of the offense, whether or not the person is convicted, all public records held by a court or an agency of the state or a local jurisdiction that relate to the person's arrest or conviction shall be automatically

expunged two years after the date of the person's conviction or the date of the person's arrest if there was no conviction. If the person is or was under eighteen years of age at the time of the arrest or conviction, the public records under this section shall be retained for two years or until the person is eighteen years of age, whichever comes first, and shall then be automatically expunged. Automatic expungement under this section applies to public records involving only cannabis and cannabis paraphernalia charges and requires destruction of the records.

B. The administrative office of the courts shall implement a procedure allowing persons charged with offenses eligible for automatic expungement under this section to verify whether automatic expungement has occurred and request expedited automatic expungement if eligible charges have not yet been expunged.

C. If an arrest or conviction involved cannabis and non-cannabis charges, a person may request expungement of eligible cannabis charges as defined in Subsection A of this section by the administrative office of the courts through the procedure implemented in Subsection B of this section.

D. Requests for expungement to the administrative office of the courts from persons charged with offenses eligible for automatic expungement shall remain confidential and are not subject to disclosure."

## **LAWS 2023, CHAPTER 75**

**HJC/House Bill 337**

**Approved March 30, 2023**

AN ACT

RELATING TO THE EARLY CHILDHOOD EDUCATION AND CARE DEPARTMENT;  
PROVIDING DEFINITIONS; EXPANDING DEPARTMENT DUTIES ON CONDUCTING  
BACKGROUND CHECKS.

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

### **Chapter 75 Section 1 Laws 2023**

SECTION 1. Section 9-29-2 NMSA 1978 (being Laws 2019, Chapter 48, Section 2) is amended to read:

"9-29-2. 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. "child care home program" means the program developed by the department to license or register homes or residences to provide child care services to children, including those defined in Section 32A-23C-2 NMSA 1978. A home may be registered or licensed pursuant to the Early Childhood Education and Care Act and through department rules;

C. "department" means the early childhood education and care department;

D. "department-contracted providers" means individuals or entities that enter into contracts with the department to provide child care services, federal Individuals with Disabilities Education Act, Part C, early intervention services, home visiting services or pre-kindergarten services or those under contract with the department that have access to child and family personal and confidential information;

E. "licensed child care center" means a nonresidential facility that meets the applicable state and local building and safety codes and provides care and services to and supervision of children for less than twenty-four hours of any day;

F. "licensed child care facility" means a licensed child care center, licensed group child care home, licensed family child care home or licensed out-of-school time program;

G. "licensed family child care home" means a private dwelling in which the licensee resides and is the primary educator that provides care and services to and supervision of children as part of the child care home program for a period of less than twenty-four hours of any day for no more than six children;

H. "licensed group child care home" means a home in which the licensee resides and is the primary educator that provides care and services to and supervision of children as part of the child care home program for at least seven but no more than twelve children;

I. "licensed out-of-school time program" means a school-age person program at a specific site, usually a school or community center, offering on a consistent basis a variety of developmentally appropriate activities that are both educational and recreational;

J. "registered child care home" or "registration" means an independent primary caregiver who has registered the independent primary caregiver's home or residence with the department to provide care and services to and supervision of children as part of the child care home program for a period of less than twenty-four hours of any day for no more than four children. A registered child care home may participate in the child and adult care food program or participate in the child care assistance program; and

K. "secretary" means the secretary of early childhood education and care."

## Chapter 75 Section 2 Laws 2023

SECTION 2. Section 9-29-8.1 NMSA 1978 (being Laws 2022, Chapter 30, Section 4) is amended to read:

"9-29-8.1. CRIMINAL HISTORY INVESTIGATIONS--PROCEDURES--CONFIDENTIALITY--VIOLATION--PENALTY.--

A. To investigate the suitability of an applicant for licensure as a licensed child care facility, registration as a child care home program or for employment or volunteering at a licensed child care facility or registered child care home, including any facility or program that has primary custody of infants, toddlers and children for twenty hours or more per week, or for employees and volunteers of department-contracted providers, the department shall have access to criminal history records information furnished by the department of public safety and the federal bureau of investigation, subject to any restrictions imposed by federal law.

B. An applicant for a child care facility license or registration or for employment or volunteering at a licensed child care facility or registered child care home or employees and volunteers of department-contracted providers shall undergo a state and national criminal history records check, and the applicant shall submit an electronic set of fingerprints to the department of public safety for that purpose. The department of public safety shall conduct a check of state criminal history records and forward the fingerprints to the federal bureau of investigation for a national criminal history records check to determine the existence and content of records of convictions and arrests in this state or other law enforcement jurisdictions and to generate a criminal history records check in accordance with rules of the department of public safety and regulations of the federal bureau of investigation. The department of public safety shall review the information obtained from the criminal history records check and shall compile and provide that information to the early childhood education and care department. The early childhood education and care department shall use the information to investigate and determine whether an applicant is qualified to hold a license or an employment or volunteer position. The department shall promulgate rules for the investigation and determination of qualifications.

C. Criminal history information obtained by the department is confidential and shall be used only for the purpose of determining the suitability for licensure, employment or volunteer service and shall not be disclosed to anyone other than public employees directly involved in the decision affecting the applicant.

D. A person who releases or discloses 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 in accordance with the provisions of Section 31-19-1 NMSA 1978."

## **Chapter 75 Section 3 Laws 2023**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# **LAWS 2023, CHAPTER 76**

**House Bill 360, aa**  
**Approved March 30, 2023**

## **AN ACT**

RELATING TO MOTOR VEHICLES; PROVIDING FOR THE ISSUANCE OF A SPECIAL SUPPORT FOR THE NATIONAL FFA ORGANIZATION REGISTRATION PLATE; ALLOWING FOR THE CESSATION OF SPECIAL LICENSE PLATES UNDER CERTAIN CIRCUMSTANCES.

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

## **Chapter 76 Section 1 Laws 2023**

SECTION 1. A new section of the Motor Vehicle Code is enacted to read:

"SPECIAL SUPPORT FOR THE NATIONAL FFA ORGANIZATION REGISTRATION PLATE.--

A. The division shall issue a standardized special registration plate with a logo specified in Section 66-3-424 NMSA 1978 indicating support for the national FFA organization.

B. For a fee of thirty-five dollars (\$35.00), which shall be in addition to the regular motor vehicle registration fees, the owner of a vehicle may apply for issuance of a special support for the national FFA organization registration plate. The owner shall apply and pay a fee of twenty-five dollars (\$25.00) each year to retain and renew the special support for the national FFA organization registration plate.

C. Revenue from the additional fees for a special support for the national FFA organization registration plate shall be distributed as follows:

(1) twelve dollars (\$12.00) of the initial fee collected shall be retained by and is appropriated to the department to defray the cost of making and issuing the special registration plate with the support for the national FFA logo; and

(2) twenty-three dollars (\$23.00) of the initial fee and all of the fee for retention and renewal shall be distributed and is appropriated to the board of regents of

New Mexico state university for the New Mexico department of agriculture to fund statewide programs for active national FFA chapters.

D. Beginning on July 1, 2026, and on July 1 of each subsequent year, the department shall compare the number of the special support for the national FFA organization registration plates issued or renewed in the previous fiscal year with the average of the number of such plates issued in fiscal years 2024 and 2025.

E. By September 1 of a fiscal year in which the department determines that the number of special support for the national FFA organization registration plates issued or renewed in the previous fiscal year is less than fifty percent of the average number of such plates issued in fiscal years 2024 and 2025, the department shall stop issuing special support for the national FFA organization registration plates."

## **Chapter 76 Section 2 Laws 2023**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# **LAWS 2023, CHAPTER 77**

**HCEDC/House Bill 364**  
**Approved March 30, 2023**

AN ACT

RELATING TO ALCOHOLIC BEVERAGES; AMENDING THE REQUIREMENTS FOR AN ALCOHOLIC BEVERAGE DELIVERY PERMIT; MAKING THE REQUIREMENTS GENERALLY APPLICABLE TO LICENSE HOLDERS; PROHIBITING THE ACCEPTANCE OF ADVERTISING MONEY TO PREFERENTIALLY LIST A PRODUCT.

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

## **Chapter 77 Section 1 Laws 2023**

SECTION 1. Section 60-6A-37 NMSA 1978 (being Laws 2021, Chapter 7, Section 4) is amended to read:

"60-6A-37. ALCOHOLIC BEVERAGE DELIVERY PERMIT--THIRD-PARTY DELIVERY LICENSE.--

A. A person otherwise qualified pursuant to the provisions of the Liquor Control Act may apply for and the department may issue an alcoholic beverage delivery permit authorizing the person to deliver alcoholic beverages if:

(1) the applicant holds a valid retailer's, dispenser's, craft distiller's, winegrower's, small brewer's or restaurant license;

(2) the liquor liability endorsement required pursuant to Paragraph (2) of Subsection H of this section is in an amount of not less than five million dollars (\$5,000,000); and

(3) the license holder agrees not to accept advertising money to preferentially list a product in the license holder's delivery ordering system; provided that this paragraph shall not apply to internal promotions sponsored by the license holder.

B. An alcoholic beverage delivery permit issued to a valid restaurant licensee shall only convey the authority to deliver alcoholic beverages concurrently with the delivery of a minimum of ten dollars (\$10.00) worth of food; provided that under no circumstances shall the delivery of alcoholic beverages be more than seven hundred fifty milliliters of wine, six twelve-ounce containers of prepackaged wine, beer, cider or spirituous liquors or one locally produced growler.

C. An alcoholic beverage delivery permit is not transferable from person to person or from one location to another.

D. An alcoholic beverage delivery permit issued pursuant to this section is valid for one year from the date of issuance. An alcoholic beverage delivery permittee may renew an alcoholic beverage delivery permit annually as required by the department.

E. The director shall promulgate rules to implement the provisions of this section, which shall include the following requirements and restrictions:

(1) an alcoholic beverage delivery permittee shall deliver alcoholic beverages only in unbroken packages or growlers;

(2) payment for alcoholic beverages shall be received only at the licensed premises of the selling licensee personally or by other means, including telephonically, electronically, via website, application or internet platform;

(3) a licensee shall not change the price charged for an alcoholic beverage because that beverage is purchased for delivery; provided that a separate fee may be charged for delivery; and further provided that the fee shall be disclosed to the customer at the time of the purchase;

(4) deliveries of alcoholic beverages shall occur only during the hours the selling licensee is authorized to sell alcoholic beverages;

(5) an alcoholic beverage delivery permittee shall not deliver an alcoholic beverage to a business, a commercial establishment, a college or university campus or a school campus that is not a home school;

(6) an alcoholic beverage delivery permittee delivering alcoholic beverages shall use an identification verification system that meets the department's requirements to obtain valid proof of the recipient's identity and age;

(7) deliveries of alcoholic beverages shall not be made to an intoxicated person in violation of Section 60-7A-16 NMSA 1978 or to a minor in violation of Section 60-7B-1 NMSA 1978;

(8) while delivering alcoholic beverages, an alcoholic beverage delivery permittee shall have in the permittee's possession only alcoholic beverages that have been purchased for delivery; and

(9) while delivering alcoholic beverages, an alcoholic beverage delivery permittee shall have in the permittee's possession the original or an electronic or physical copy of the permittee's alcoholic beverage delivery permit.

F. A licensee that holds an alcoholic beverage delivery permit issued pursuant to this section may utilize an employee who is at least twenty-one years of age and who holds a valid server permit to deliver alcoholic beverages.

G. A licensee that holds an alcoholic beverage delivery permit issued pursuant to this section may contract with a third-party alcohol delivery service licensed by the department; provided that the licensee, the third-party alcohol delivery service and the server who delivers alcohol may be separately liable for violations of the Liquor Control Act, including for the delivery of alcohol to an intoxicated person or to a minor.

H. The department, by rule, shall create a third-party alcohol delivery permit and, at a minimum, condition the issuance of a third-party alcohol delivery permit on:

(1) requiring that all delivery employees or independent contractors of the third-party alcohol delivery service hold a valid New Mexico alcohol server permit; and

(2) requiring proof of general liability insurance coverage with a liquor liability endorsement in an amount not less than one million dollars (\$1,000,000) per occurrence, which endorsement shall provide coverage for employees or independent contractors of the third-party alcohol delivery service.

I. A person, company or licensee that wishes to deliver retail sales of alcohol in New Mexico on behalf of valid retailer's, dispenser's, craft distiller's, winegrower's, small brewer's or restaurant licensees that also hold a valid alcoholic beverage delivery permit shall obtain a third-party alcohol delivery license from the department.

J. An applicant for a third-party alcohol delivery license is required to be authorized to do business in this state, may not share in the profits of the sale of alcohol with a licensee and may only charge a delivery fee that is disclosed to the buyer at the time of sale.

K. A third-party alcohol delivery licensee shall not have the ability to buy, hold or deliver alcohol under its own license but to only allow for delivery of alcohol from a licensed premises and from a qualified licensee with a valid alcoholic beverage delivery permit to the buyer.

L. A third-party alcohol delivery licensee shall be independently liable for the delivery of alcoholic beverages to an intoxicated person or to a minor or for any violation of the Liquor Control Act and be subject to suspension, revocation or administrative fine pursuant to Sections 60-6C-1 through 60-6C-6 NMSA 1978.

M. A third-party alcohol delivery license shall be valid for one year and may be renewed."

## **LAWS 2023, CHAPTER 78**

**House Bill 389, aa**  
**Approved March 30, 2023**

### **AN ACT**

**RELATING TO IDENTIFICATION CARDS; REMOVING THE FEE REQUIREMENT FOR ISSUANCE OF AN IDENTIFICATION CARD TO A HOMELESS INDIVIDUAL.**

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

### **Chapter 78 Section 1 Laws 2023**

SECTION 1. Section 66-5-408 NMSA 1978 (being Laws 1978, Chapter 35, Section 335, as amended) is amended to read:

"66-5-408. FEES.--

A. Upon application for an identification card with a four-year term, there shall be paid to the department a fee of five dollars (\$5.00). Upon application for an identification card with an eight-year term, there shall be paid to the department a fee of ten dollars (\$10.00). A fee shall not be charged to an applicant for an identification card if the applicant is at least seventy-five years of age or a homeless individual.

B. The department with the approval of the governor may increase the amount of the identification card fee by an amount not to exceed three dollars (\$3.00) for the purpose of implementing an enhanced licensing system; provided that for an

identification card issued for an eight-year period, the amount of the fee shall be twice the amount charged for other identification cards. The additional amounts collected pursuant to this subsection are appropriated to the department to defray the expense of the new system of licensing and for use as set forth in the provisions of Subsection F of Section 66-6-13 NMSA 1978. Unexpended and unencumbered balances from fees collected pursuant to the provisions of this subsection at the end of any fiscal year shall not revert to the general fund but shall be expended by the department in fiscal year 2010 and subsequent fiscal years.

C. As used in this section, "homeless individual" means an individual:

(1) who lacks a fixed, regular and adequate nighttime residence, including an individual who:

(a) lives in the housing of another person due to that individual's loss of housing, economic hardship or other reason related to that individual's lack of a fixed residence;

(b) lives in a motel, hotel, trailer park or camping ground due to the lack of alternative adequate accommodations;

(c) lives in an emergency or transitional shelter;

(d) sleeps in a public or private place not designed for or ordinarily used as a regular sleeping accommodation for human beings; or

(e) lives in an automobile, a park, a public space, an abandoned building, substandard housing, a bus station, a train station or a similar setting; and

(2) whose homelessness can be verified through an attestation, which shall not be required to be notarized, by one of the following:

(a) a public or private governmental or nonprofit agency that provides services to homeless individuals;

(b) a local education agency homeless liaison, school counselor or school nurse;

(c) a social worker licensed in the state; or

(d) the homeless individual."

## **LAWS 2023, CHAPTER 79**

**House Bill 411, aa**  
**Approved March 30, 2023**

## AN ACT

RELATING TO PROFESSIONAL LICENSURE; AMENDING THE ENGINEERING AND SURVEYING PRACTICE ACT; REVISING REQUIREMENTS FOR CERTIFICATION AS AN ENGINEER INTERN; REVISING LICENSURE REQUIREMENTS FOR PROFESSIONAL ENGINEERS AND PROFESSIONAL SURVEYORS; PROVIDING FOR APPLICATION DENIAL; ALLOWING FOR NOTIFICATION OF ENGINEERING AND SURVEYING LICENSURE AND RENEWAL FEES BY MAIL OR OTHER MEANS; REVISING THE EXEMPTIONS FOR THE INCIDENTAL PRACTICE OF ENGINEERING AND SURVEYING; EXTENDING THE TERMINATION DATE OF THE STATE BOARD OF LICENSURE FOR PROFESSIONAL ENGINEERS AND PROFESSIONAL SURVEYORS; RAISING THE ANNUAL FUNDING AMOUNT FOR THE ENGINEERING AND SURVEYING SUPPORT PROGRAM.

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

### **Chapter 79 Section 1 Laws 2023**

SECTION 1. Section 61-23-3 NMSA 1978 (being Laws 1987, Chapter 336, Section 3, as amended) is amended to read:

"61-23-3. DEFINITIONS.--As used in the Engineering and Surveying Practice Act:

- A. "approved" means acceptable to the board;
- B. "authorized company officer" means an employee of a business entity duly authorized by the business entity to contractually obligate the business entity;
- C. "board" means the state board of licensure for professional engineers and professional surveyors;
- D. "business entity" means a corporation, professional corporation, limited liability corporation, professional limited liability corporation, general partnership, limited partnership, limited liability partnership, professional limited liability partnership, a joint stock association or any other form of business, whether or not for profit;
- E. "conviction" means a final adjudication of guilt, whether pursuant to a plea of nolo contendere or otherwise and whether or not the sentence is deferred or suspended;
- F. "engineer" means a person who has completed engineering education and has training and experience in the application of engineering principles and the interpretation of engineering data;

G. "engineering accreditation commission" means the engineering accreditation commission of the accreditation board for engineering and technology, incorporated, or any successor commission or organization;

H. "engineering" or "practice of engineering" means any creative or engineering work that requires engineering education, training and experience in the application of engineering principles and the interpretation of engineering data to such creative work as consultation, investigation, forensic investigation, evaluation, planning and design of engineering works and systems, expert technical testimony, engineering studies and the review of construction for the purpose of ensuring substantial compliance with drawings and specifications; any of which embrace such creative work, either public or private, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects and industrial or consumer products or equipment of a mechanical, electrical, hydraulic, chemical, pneumatic, environmental or thermal nature, insofar as they involve safeguarding life, health or property, and including such other professional services as may be necessary to the planning, progress and completion of engineering work. The "practice of engineering" may include the use of photogrammetric methods to derive topographical and other data. The "practice of engineering" does not include responsibility for the supervision of construction, site conditions, operations, equipment, personnel or the maintenance of safety in the workplace;

I. "engineering committee" means a committee of the board entrusted to implement all business of the Engineering and Surveying Practice Act as it pertains to the practice of engineering, including the promulgation and adoption of rules of professional responsibility for professional engineers exclusive to the practice of engineering;

J. "engineer intern" means a person who has qualified for, taken and passed an examination in fundamental engineering subjects;

K. "fund" means the professional engineers' and surveyors' fund;

L. "incidental practice" means the performance of other professional services that are related to a licensee's work as an engineer;

M. "person" means an individual or business entity;

N. "professional development" means education by a licensee in order to maintain, improve or expand skills and knowledge obtained prior to initial licensure or to develop new and relevant skills and knowledge to maintain licensure;

O. "professional engineer", "consulting engineer", "licensed engineer" or "registered engineer" means a person who has been licensed as a professional engineer by the board;

P. "responsible charge" means responsibility for the direction, control and supervision of engineering or surveying work, as the case may be, to ensure that the work product has been critically examined and evaluated for compliance with appropriate professional standards by a licensee in that profession, and by sealing or signing the documents, the professional engineer or professional surveyor accepts responsibility for the engineering or surveying work, respectively, represented by the documents and that applicable engineering or surveying standards have been met;

Q. "surveying" or "practice of surveying" means any service or work, the substantial performance of which involves the application of the principles of mathematics and the related physical and applied sciences for:

(1) the measuring and locating of lines, angles, elevations and natural and man-made features in the air, on the surface of the earth, within underground workings and on the beds or bodies of water for the purpose of defining location, areas and volumes;

(2) the monumenting of property boundaries and for the platting and layout of lands and subdivisions;

(3) the application of photogrammetric methods used to derive topographic and other data;

(4) the establishment of horizontal and vertical controls that will be the basis for all geospatial data used for future design surveys, including construction staking surveys, surveys to lay out horizontal and vertical alignments, topographic surveys, control surveys for aerial photography for the collection of topographic and planimetric data using photogrammetric methods and construction surveys of engineering and architectural public works projects;

(5) the preparation and perpetuation of maps, records, plats, field notes, easements and property descriptions; and

(6) the depiction and transmittal by paper or digital means of any digital geospatial data for use in geographic information systems or land information systems that purports to be the authoritative location of points or features of a survey regulated by the Engineering and Surveying Practice Act, but excludes data used solely for a cadastre, such as assessment and tax mapping purposes, or general representations of surveyed or historic data used for mapping purposes, such as land parcels and built infrastructure;

R. "surveying committee" means a committee of the board entrusted to implement all business of the Engineering and Surveying Practice Act as it pertains to the practice of surveying, including the promulgation and adoption of rules of professional responsibility for professional surveyors exclusive to the practice of surveying;

S. "surveyor", "professional surveyor", "licensed surveyor" or "registered surveyor" means a person who is licensed as a professional surveyor by the board and who is a professional specialist qualified to practice surveying by reason of the person's education in the principles of mathematics and the related physical and applied sciences requisite to surveying of real property;

T. "surveyor intern" means a person who is certified as a surveyor intern by the board and who has qualified for, taken and passed an examination in the fundamentals of surveying subjects;

U. "surveying work" means the work performed in the practice of surveying; and

V. "supplemental surveying work" means surveying work performed in order to densify, augment and enhance previously performed survey work or site information but excludes the surveying of real property for the establishment of land boundaries, rights of way and easements and the dependent or independent surveys or resurveys of the public land system."

## **Chapter 79 Section 2 Laws 2023**

SECTION 2. Section 61-23-14 NMSA 1978 (being Laws 1993, Chapter 218, Section 11, as amended) is amended to read:

"61-23-14. CERTIFICATION AS AN ENGINEER INTERN--REQUIREMENTS.--

A. An applicant for certification as an engineer intern shall file the appropriate application that demonstrates that the applicant:

(1) is of good moral character and reputation as determined by board rules;

(2) has obtained at least a senior status in a board-approved, four-year curriculum in engineering or in a board-approved, four-year curriculum in engineering technology that is accredited by the engineering technology accreditation commission of the accreditation board for engineering and technology; and

(3) has three references, one of whom shall be a licensed professional engineer.

B. After acceptance of the application by the board, the applicant shall be allowed to take the appropriate examination for certification as an engineer intern.

C. An applicant may be certified as an engineer intern upon successfully completing the examination; provided that the applicant has:

(1) graduated from a board-approved engineering curriculum of four years or more or graduated from an engineering master's program that is 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; or

(2) graduated from a board-approved, four-year engineering technology program accredited by the engineering technology accreditation commission of the accreditation board for engineering and technology and augmented by at least two years of board-approved, post-graduate engineering experience.

D. The certification as engineer intern does not permit the intern to practice as a professional engineer. Certification as an engineer intern is intended to demonstrate that the intern has obtained certain skills in engineering fundamentals and is pursuing a career in engineering."

## **Chapter 79 Section 3 Laws 2023**

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 as determined by board rules; 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 if 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 combinations of education and experience; provided that experience shall only be considered after receiving the first qualifying engineering degree:

(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;

(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;

(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;

(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;

(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; 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 engineering 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 another state, the District of Columbia or a territory 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 not applying for licensure in the structural discipline but is currently licensed as an engineer in another state, the District of Columbia or a territory of the United States; provided that the applicant:

(a) has been actively licensed for the continuous 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;

(c) has not had the applicant's professional license suspended or revoked at any time from any jurisdiction; and

(d) has passed the principles and practice of engineering examination administered by the national council of examiners for engineering and surveying relevant to the discipline in which the applicant is seeking licensure."

## **Chapter 79 Section 4 Laws 2023**

SECTION 4. Section 61-23-17 NMSA 1978 (being Laws 1987, Chapter 336, Section 17, as amended) is amended to read:

"61-23-17. APPLICATION AND EXAMINATION FEES.--

A. All applicants for licensure pursuant to the Engineering and Surveying Practice Act shall apply for examination, licensure or certification on forms prescribed and furnished by the board. Except as provided in Section 61-1-34 NMSA 1978, applications shall be accompanied by the appropriate fee, any sworn statements the board may require to show the applicant's citizenship and education, a detailed summary of the applicant's technical work and appropriate references.

B. All application, reapplication, examination and reexamination fees shall be set by the board and shall not exceed the actual cost of carrying out the provisions of the Engineering and Surveying Practice Act. No fees shall be refundable.

C. Any application may be denied for fraud, deceit, conviction of a felony or any crime that may impede the ability of the applicant to perform professionally as determined by board rules."

## **Chapter 79 Section 5 Laws 2023**

SECTION 5. Section 61-23-20 NMSA 1978 (being Laws 1987, Chapter 336, Section 20, as amended) is amended to read:

"61-23-20. ENGINEERING--LICENSURE AND RENEWAL FEES--EXPIRATIONS.--

A. Licensure shall be for a period of two years as prescribed in the rules of procedure. Initial licenses shall be issued in accordance with the board's rules.

B. The board shall establish by rule a biennial fee for professional engineers. Except as provided in Section 61-1-34 NMSA 1978, licensure renewal is accomplished upon payment of the required fee and satisfactory completion of the requirements of professional development.

C. The executive director of the board shall send a renewal notice to each licensee's last known address. Notice shall be sent at least one month in advance of the date of expiration of the license.

D. Each licensee shall have the responsibility to notify the board of any change of address within thirty days of the change.

E. Upon receipt of a renewal fee and fulfillment of other requirements, the board shall issue a licensure renewal card that shall show the name and license number of the licensee and shall state that the person named has been granted licensure to practice as a professional engineer for the biennial period.

F. Every license shall automatically expire if not renewed on or before December 31 of the applicable biennial period. A delinquent licensee may renew a license by the payment of twice the biennial renewal fee at any time before March 1, but the delinquent licensee shall not practice during this period. Should the licensee apply to renew an expired license after the March 1 deadline has elapsed, the licensee shall submit a formal application and fee as provided in Section 61-23-17 NMSA 1978. The board, in considering the reapplication, may consider the applicant's qualifications for licensure if the requirements for licensure have changed since the applicant was first licensed. The board may adopt rules for inactive and retired status."

## **Chapter 79 Section 6 Laws 2023**

SECTION 6. Section 61-23-22 NMSA 1978 (being Laws 1993, Chapter 218, Section 17, as amended) is amended to read:

"61-23-22. ENGINEERING--EXEMPTIONS.--

A. A New Mexico licensed architect who has complied with all of the laws of New Mexico relating to the practice of architecture has the right to engage in the incidental practice, as defined by regulation, of activities properly classified as engineering; provided that the architect shall not make any representation as being a professional engineer or as performing engineering services; and further provided that the architect shall perform only that part of the work for which the architect is professionally qualified and shall use qualified professional engineers or others for those portions of the work in which the contracting architect is not qualified. Furthermore, the architect shall assume all responsibility for compliance with all laws, codes, regulations and ordinances of the state or its political subdivisions pertaining to all documents bearing the architect's professional seal.

B. An engineer employed by a business entity who performs only the engineering services involved in the operation of the business entity's or an affiliated business entity's business shall be exempt from the provisions of the Engineering and Surveying Practice Act; provided that neither the employee nor the employer offers engineering services to the public; and provided further that any such engineering services are limited to the legal boundaries of the property owned, leased or lawfully operated by the business entity or an affiliated business entity that employs the engineer. Performance of engineering on public works projects pursuant to Section 61-23-26 NMSA 1978 or within off-premises easements constitutes engineering services to the public and is subject to the Engineering and Surveying Practice Act."

## **Chapter 79 Section 7 Laws 2023**

SECTION 7. 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 as determined by board rules;

(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 79 Section 8 Laws 2023**

SECTION 8. Section 61-23-27.4 NMSA 1978 (being Laws 1993, Chapter 218, Section 25, as amended) is amended to read:

"61-23-27.4. LICENSURE AS A PROFESSIONAL SURVEYOR--GENERAL REQUIREMENTS.--

A. Licensure as a professional surveyor may be either through examination or through endorsement or comity. In either case, an applicant shall file the appropriate application to demonstrate that the applicant:

(1) is of good moral character and reputation as determined by board rules;

(2) is certified as a surveyor intern;

(3) has at least four years of board-approved surveying experience if graduated from a four-year, board-approved surveying curriculum as defined by board rule;

(4) has five references, three of which shall be from licensed professional surveyors having personal knowledge of the applicant's surveying experience; and

(5) if graduated from a board-approved, four-year related science curriculum as specifically defined by board rules, has a minimum of four years of board-approved surveying experience subsequent to certification as a surveyor intern.

B. The applicant's experience pursuant to Paragraphs (3) and (5) of Subsection A of this section shall, at a minimum, include three years of increasingly responsible experience in boundary surveying and four years of increasingly responsible experience under the direct supervision of a licensed professional surveyor.

C. After acceptance of the application by the board, the applicant shall be allowed to take the appropriate examination for licensure as a professional surveyor.

D. Upon successfully completing the examination, the applicant shall be eligible to be licensed as a professional surveyor upon action of the board.

E. If otherwise qualified, an applicant may be licensed if the applicant is currently licensed as a professional surveyor in:

(1) another state, the District of Columbia or a territory of the United States; provided that:

(a) licensure does not conflict with the provisions of the Engineering and Surveying Practice Act and that the standards required for licensure and the applicant's qualifications equaled or exceeded the licensure standards in New Mexico at the time the applicant was initially licensed; and

(b) the applicant has passed examinations the board deems necessary to determine the applicant's qualifications, including a written examination

that includes questions on laws, procedures and practices pertaining to surveying in this state;

(2) another state, the District of Columbia or a territory of the United States; and provided further that the applicant:

(a) has been actively licensed for the continuous fifteen years immediately preceding application to New Mexico;

(b) has not received any form of disciplinary action related to the practice of surveying or professional conduct from any jurisdiction within the five years preceding application to New Mexico;

(c) has not had the applicant's professional license suspended or revoked at any time from any jurisdiction; and

(d) has passed examinations the board deems necessary to determine the applicant's qualifications, including a written examination that includes questions on laws, procedures and practices pertaining to surveying in New Mexico; or

(3) a foreign country and can demonstrate to the board's satisfaction:

(a) 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

(b) competence in current surveying standards and procedures by passing examinations the board deems necessary to determine the applicant's qualification, including a written examination that includes questions on laws, procedures and practices pertaining to surveying in New Mexico."

## **Chapter 79 Section 9 Laws 2023**

SECTION 9. Section 61-23-27.5 NMSA 1978 (being Laws 1993, Chapter 218, Section 26, as amended) is amended to read:

"61-23-27.5. SURVEYING--APPLICATION AND EXAMINATION FEES.--

A. All applicants for licensure pursuant to the Engineering and Surveying Practice Act shall apply for examination, licensure or certification on forms prescribed and furnished by the board. Except as provided in Section 61-1-34 NMSA 1978, applications shall be accompanied by the appropriate fee, any sworn statements the board may require to show the applicant's citizenship and education, a detailed summary of the applicant's technical work and appropriate references.

B. All application, reapplication, examination and reexamination fees shall be set by the board and shall not exceed the actual cost of carrying out the provisions of the Engineering and Surveying Practice Act. Fees shall not be refundable.

C. Any application may be denied for fraud, deceit, conviction of a felony or for any crime that may impede the ability of the applicant to perform professionally as determined by board rules."

## **Chapter 79 Section 10 Laws 2023**

SECTION 10. Section 61-23-27.7 NMSA 1978 (being Laws 1993, Chapter 218, Section 28, as amended) is amended to read:

"61-23-27.7. SURVEYING--LICENSURE AND RENEWAL FEES--EXPIRATIONS.--

A. Licensure for surveyors shall be for a period of two years as prescribed in the rules of procedure. Initial certificates of licensure shall be issued to coincide with the biennial period. Initial licenses shall be issued in accordance with the board's rules.

B. The board shall establish by rule a biennial fee for professional surveyors. Except as provided in Section 61-1-34 NMSA 1978, renewal shall be granted upon payment of the required fee and satisfactory completion of the requirements of professional development.

C. The executive director of the board shall send a renewal notice to each licensee's last known address. Notice shall be sent at least one month in advance of the date of expiration of the license.

D. It shall be the responsibility of the licensee to notify the board of any change of address and to keep the license current.

E. Upon receipt of a renewal fee and fulfillment of other requirements, the board shall issue a licensure renewal card that shall show the name and license number of the licensee and shall state that the person named has been granted licensure to practice as a professional surveyor for the biennial period.

F. Every license shall automatically expire if not renewed on or before December 31 of the applicable biennial period. A delinquent licensee may renew a license by the payment of twice the biennial renewal fee at any time before March 1, but the delinquent licensee shall not practice during this period. Should the licensee wish to renew an expired license after the March 1 deadline has elapsed, the licensee shall submit a formal application as provided in Section 61-23-27.4 NMSA 1978. The board, in considering the reapplication, need not question the applicant's qualifications for licensure unless the qualifications have changed since the license expired."

## **Chapter 79 Section 11 Laws 2023**

SECTION 11. Section 61-23-27.10 NMSA 1978 (being Laws 1993, Chapter 218, Section 31, as amended) is amended to read:

"61-23-27.10. SURVEYING EXEMPTIONS.--A surveyor employed by a business entity who performs only the surveying services involved in the operation of the business entity's or an affiliated business entity's business shall be exempt from the provisions of the Engineering and Surveying Practice Act; provided that neither the employee nor the employer offers surveying services to the public; and provided further that any such surveying services are limited to the legal boundaries of the property owned, leased or lawfully operated by the business entity or an affiliated business entity that employs the surveyor; and provided further that the surveying services performed do not include any determination, description, portraying, measuring or monumentation of the boundaries of a tract of land. Performance of surveying on public works projects pursuant to Section 61-23-27.13 NMSA 1978 or within off-premises easements constitutes work within a public space and is subject to the Engineering and Surveying Practice Act."

## **Chapter 79 Section 12 Laws 2023**

SECTION 12. Section 61-23-32 NMSA 1978 (being Laws 1987, Chapter 336, Section 32, as amended by Laws 2017, Chapter 42, Section 19 and by Laws 2017, Chapter 52, Section 7) is amended to read:

"61-23-32. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The state board of licensure for professional engineers and professional surveyors is terminated on July 1, 2029 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Engineering and Surveying Practice Act until July 1, 2030. Effective July 1, 2030, the Engineering and Surveying Practice Act is repealed."

## **Chapter 79 Section 13 Laws 2023**

SECTION 13. Section 61-23-35 NMSA 1978 (being Laws 2019, Chapter 220, Section 1) is amended to read:

"61-23-35. ENGINEERING AND SURVEYING UNIVERSITY SUPPORT PROGRAM.--

A. The board may establish an "engineering and surveying university support 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. The program may also provide funding for equipment and related materials at qualified New Mexico educational institutions to support the education of engineering and surveying students. The amount of funding provided pursuant to the program shall not exceed annually two hundred fifty thousand dollars (\$250,000) in the aggregate.

B. The board may request and use appropriations to establish, implement and maintain the engineering and surveying university support program. Any appropriation shall be deposited in the engineering and surveying university support fund."

## **Chapter 79 Section 14 Laws 2023**

SECTION 14. Section 61-23-36 NMSA 1978 (being Laws 2019, Chapter 220, Section 2) is amended to read:

"61-23-36. ENGINEERING AND SURVEYING UNIVERSITY SUPPORT FUND CREATED.--The "engineering and surveying university support fund" is created in the state treasury to support the engineering and surveying university support 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 university support 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."

## **LAWS 2023, CHAPTER 80**

**House Bill 424**

**Approved March 30, 2023**

AN ACT

RELATING TO LABOR; CLARIFYING THE APPOINTIVE AUTHORITY FOR THE APPRENTICESHIP COUNCIL; UPDATING PERSONNEL REFERENCES.

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

## **Chapter 80 Section 1 Laws 2023**

SECTION 1. Section 50-7-3 NMSA 1978 (being Laws 1957, Chapter 219, Section 3, as amended) is amended to read:

"50-7-3. APPRENTICESHIP COUNCIL.--An "apprenticeship council", hereinafter referred to as the council, shall be appointed by the secretary of workforce solutions without regard to any other provisions of law regarding the appointment and compensation of employees of the state. It shall consist of three persons known to represent employers, three persons known to represent labor organizations and three public representatives and shall include, as ex-officio members without vote, the secretary of workforce solutions and the secretary of public education or the secretary's designee. Persons appointed to the council shall be familiar with apprenticeable occupations. The terms of office of the members of the council first appointed shall expire as designated by the secretary of workforce solutions at the time of making the appointment: one representative each of employers, labor organizations and the public being appointed for one year; one representative each of employers, labor organizations and the public being appointed for two years; and one representative each of employers, labor organizations and the public being appointed for three years. Thereafter, each member shall be appointed for a term of three years. Any member appointed to fill a vacancy occurring prior to the expiration of the term of the member's predecessor shall be appointed for the remainder of that term. Members of the council not otherwise compensated by public money shall be reimbursed for their official duties in accordance with the Per Diem and Mileage Act for attendance at not in excess of twelve meetings per year."

## **Chapter 80 Section 2 Laws 2023**

SECTION 2. Section 50-7-4.1 NMSA 1978 (being Laws 1979, Chapter 204, Section 12, as amended) is amended to read:

### "50-7-4.1. ADMINISTRATION.--

A. The secretary of workforce solutions shall appoint a director of apprenticeship to be responsible for effectuating the policies set forth in Section 50-7-1 NMSA 1978, to carry out the policies approved by the apprenticeship council and otherwise to execute the provisions of Chapter 50, Article 7 NMSA 1978. Such appointment shall be subject to confirmation by a majority vote of the council. The secretary of workforce solutions shall appoint such additional personnel as may be necessary, subject to such laws and practices as are applicable to appointment, service and compensation of employees of the state.

B. Under the general direction of the secretary of workforce solutions, the director of apprenticeship in furtherance of the duties specified shall:

- (1) encourage the voluntary participation of employers and employees in the furtherance of the objectives of Chapter 50, Article 7 NMSA 1978;
- (2) devise necessary procedures and records;
- (3) prepare statistical reports regarding apprenticeship;

(4) issue information related to apprenticeship; and

(5) perform such other duties as are necessary to carry out the intent of Chapter 50, Article 7 NMSA 1978."

### **Chapter 80 Section 3 Laws 2023**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

## **LAWS 2023, CHAPTER 81**

**House Bill 449, w/ec**

**Approved March 30, 2023**

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; REVISING ELIGIBILITY FOR ASSISTANCE TO DISPLACED WORKERS; DECLARING AN EMERGENCY.

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

### **Chapter 81 Section 1 Laws 2023**

SECTION 1. Section 62-18-16 NMSA 1978 (being Laws 2019, Chapter 65, Section 16) is amended to read:

"62-18-16. 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) was terminated from employment, or whose contract was terminated, due to the abandonment of a New Mexico facility producing electricity that resulted in the displacement of at least forty workers; and

(b) meets any other eligibility criteria established by the workforce solutions department."

## **Chapter 81 Section 2 Laws 2023**

SECTION 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

## **LAWS 2023, CHAPTER 82**

**HAAWC/House Bill 525, w/ec**  
**Approved March 30, 2023**

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;  
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 82 Section 1 Laws 2023**

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 city of Carlsbad in Eddy county for a water conservation, treatment, recycling or reuse project;
2. to the city of Santa Fe in Santa Fe county for a water conservation, treatment, recycling or reuse project;
3. to the city of Clovis in Curry county for a water conservation, treatment, recycling or reuse project;
4. to El Salto mutual domestic water consumers association and mutual sewage works association in Taos county for a water conservation, treatment, recycling or reuse project;
5. to La Luz mutual domestic water consumers association and mutual sewage works association in Otero county for a water conservation, treatment, recycling or reuse project;

6. to the upper Rio Grande watershed district in Rio Arriba county for a flood prevention project;
7. to the city of Anthony in Dona Ana county for a flood prevention project;
8. to the city of Anthony in Dona Ana county for an additional flood prevention project;
9. to Luna county for a flood prevention project;
10. to the city of Roswell in Chaves county for a flood prevention project;
11. to El Prado water and sanitation district in Taos county for a water storage, conveyance and delivery project;
12. to the White Cliffs mutual domestic water users association in McKinley county for a water storage, conveyance and delivery project;
13. to the Chapelle mutual domestic water consumers association in San Miguel county for a water storage, conveyance and delivery project;
14. to the city of Gallup in McKinley county for a water storage, conveyance and delivery project;
15. to Los Alamos county for a water storage, conveyance and delivery project;
16. to the lower Arroyo Hondo mutual domestic water consumer's and mutual sewage works association in Taos county for a water storage, conveyance and delivery project;
17. to the village of Angel Fire in Colfax county for a water storage, conveyance and delivery project;
18. to the Catalpa water association in McKinley county for a water storage, conveyance and delivery project;
19. to the village of Cuba in Sandoval county for a water storage, conveyance and delivery project;
20. to the village of Ruidoso in Lincoln county for a water storage, conveyance and delivery project;
21. to the town of Red River in Taos county for a water storage, conveyance and delivery project;

22. to the Sierra Vista mutual domestic association in Bernalillo county for a water storage, conveyance and delivery project;
23. to the Union del Llano mutual domestic water consumers association in Taos county for a water storage, conveyance and delivery project;
24. to El Valle water alliance in San Miguel county for a water storage, conveyance and delivery project;
25. to the Storrie Project water users association in San Miguel county for a water storage, conveyance and delivery project;
26. to the Rio Lucio domestic water consumers association in Taos county for a water storage, conveyance and delivery project;
27. to the Ramah water and sanitation district in McKinley county for a water storage, conveyance and delivery project;
28. to the Chippeway Park water association in Otero county for a water storage, conveyance and delivery project;
29. to the eastern New Mexico water utility authority in Curry county for a water storage, conveyance and delivery project;
30. to the Buena Vista mutual domestic water consumers and sewage works association in Mora county for a water storage, conveyance and delivery project;
31. to the Canon mutual domestic water consumers association in Sandoval county for a water storage, conveyance and delivery project;
32. to the city of Tucumcari in Quay county for a water storage, conveyance and delivery project;
33. to the lower Rio Grande public water works authority in Dona Ana county for a water storage, conveyance and delivery project;
34. to the Abiquiu mutual domestic water consumers and mutual sewage works association in Rio Arriba county for a water storage, conveyance and delivery project;
35. to the city of Santa Fe in Santa Fe county for a water storage, conveyance and delivery project;
36. to the Pendaries Village mutual domestic water consumers association in San Miguel county for a water storage, conveyance and delivery project;

37. to the greater Chimayo mutual domestic water consumers association in Rio Arriba county for a water storage, conveyance and delivery project;
38. to the Enchanted Forest mutual domestic water consumers association in Lincoln county for a water storage, conveyance and delivery project;
39. to the Ojo Caliente mutual domestic water consumers association in Rio Arriba county for a water storage, conveyance and delivery project;
40. to the village of Pecos in San Miguel county for a water storage, conveyance and delivery project;
41. to the Penasco mutual domestic water consumers and mutual sewage works association in Taos county for a water storage, conveyance and delivery project;
42. to the city of Deming in Luna county for a water storage, conveyance and delivery project;
43. to the Watrous mutual domestic water consumers association in Mora county for a water storage, conveyance and delivery project;
44. to the Eldorado area water and sanitation district in Santa Fe county for a water storage, conveyance and delivery project;
45. to the Fambrough mutual domestic water consumers association in Chaves county for a water storage, conveyance and delivery project;
46. to the Cedar Creek mutual domestic water consumers association in Lincoln county for a water storage, conveyance and delivery project;
47. 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;
48. to the city of Roswell in Chaves county for a water storage, conveyance and delivery project;
49. to the Garfield mutual domestic water consumers and mutual sewage works association in Dona Ana county for a water storage, conveyance and delivery project;
50. to the city of Jal in Lea county for a water storage, conveyance and delivery project;
51. to the middle Rio Grande conservancy district in Bernalillo county for a water storage, conveyance and delivery project;

52. to the Claunch-Pinto soil and water conservation district in Torrance county for a watershed restoration and management project;

53. to the Claunch-Pinto soil and water conservation district in Torrance county for an additional watershed restoration and management project;

54. to the Guadalupe soil and water conservation district in Guadalupe county for a watershed restoration and management project;

55. to the Guadalupe soil and water conservation district in Guadalupe county for an additional watershed restoration and management project;

56. to the San Juan soil and water conservation district in San Juan county for a watershed restoration and management project;

57. to the Albuquerque-Bernalillo county water utility authority in Bernalillo county for a watershed restoration and management project;

58. to the east Rio Arriba soil and water conservation district in Rio Arriba county for a watershed restoration and management project; and

59. to the upper Chama soil and water conservation district in Rio Arriba county for a watershed restoration and management project.

## **Chapter 82 Section 2 Laws 2023**

SECTION 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

## **LAWS 2023, CHAPTER 83**

**H AFC/House Bill 533**

**Approved March 30, 2023**

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE; AMENDING THE GROUP INSURANCE CONTRIBUTIONS FOR SCHOOL DISTRICTS, CHARTER SCHOOLS AND PARTICIPATING ENTITIES IN THE PUBLIC SCHOOL INSURANCE AUTHORITY.

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

## Chapter 83 Section 1 Laws 2023

SECTION 1. Section 10-7-4 NMSA 1978 (being Laws 1941, Chapter 188, Section 1, as amended) is amended to read:

"10-7-4. GROUP INSURANCE--CAFETERIA PLAN--CONTRIBUTIONS FROM PUBLIC FUNDS.--

A. All state departments and institutions and all political subdivisions of the state, excluding municipalities, counties and political subdivisions of the state with twenty-five employees or fewer, shall cooperate in providing group term life, medical or disability income insurance for the benefit of eligible employees or salaried officers of the respective departments, institutions and political subdivisions.

B. The group insurance contributions of the state or any of its departments or institutions, including institutions of higher education, shall be made as follows:

(1) at least seventy-five percent of the cost of the insurance of an employee whose annual salary is less than fifteen thousand dollars (\$15,000);

(2) at least seventy percent of the cost of the insurance of an employee whose annual salary is fifteen thousand dollars (\$15,000) or more but less than twenty thousand dollars (\$20,000);

(3) at least sixty-five percent of the cost of the insurance of an employee whose annual salary is twenty thousand dollars (\$20,000) or more but less than twenty-five thousand dollars (\$25,000); and

(4) at least sixty percent of the cost of the insurance of an employee whose annual salary is twenty-five thousand dollars (\$25,000) or more.

C. The group insurance contributions of school districts and charter schools shall be made as follows:

(1) at least eighty percent of the cost of the insurance of an employee whose annual salary is less than fifty thousand dollars (\$50,000);

(2) at least seventy percent of the cost of the insurance of an employee whose annual salary is fifty thousand dollars (\$50,000) or more but less than sixty thousand dollars (\$60,000); and

(3) at least sixty percent of the cost of the insurance of an employee whose annual salary is sixty thousand dollars (\$60,000) or more.

D. Effective July 1, 2004, the group insurance contributions of the state or any of its executive, judicial or legislative departments, including agencies, boards or

commissions, shall be made as follows; provided that the contribution percentage shall be the same for all affected public employees in a given salary bracket:

(1) up to eighty percent of the cost of the insurance of an employee whose annual salary is less than thirty thousand dollars (\$30,000);

(2) up to seventy percent of the cost of the insurance of an employee whose annual salary is thirty thousand dollars (\$30,000) or more but less than forty thousand dollars (\$40,000); and

(3) up to sixty percent of the cost of the insurance of an employee whose annual salary is forty thousand dollars (\$40,000) or more.

E. Except as provided in Subsection H of this section, effective July 1, 2005, the group insurance contributions of the state or any of its executive, judicial or legislative departments, including agencies, boards or commissions, shall be made as follows; provided that the contribution percentage shall be the same for all affected public employees in a given salary bracket:

(1) up to eighty percent of the cost of the insurance of an employee whose annual salary is less than fifty thousand dollars (\$50,000);

(2) up to seventy percent of the cost of the insurance of an employee whose annual salary is fifty thousand dollars (\$50,000) or more but less than sixty thousand dollars (\$60,000); and

(3) up to sixty percent of the cost of the insurance of an employee whose annual salary is sixty thousand dollars (\$60,000) or more.

F. Effective July 1, 2013, the employer shall pay one hundred percent of basic life insurance premiums for employees, and employees who choose to carry disability insurance shall pay one hundred percent of the premium.

G. The state shall not make any group insurance contributions for legislators. A legislator shall be eligible for group benefits only if the legislator contributes one hundred percent of the cost of the insurance.

H. An employer shall pay one hundred percent of the employee group insurance contributions due and payable on or after July 1, 2016 for an employee who is injured while performing a public safety function or duty and, as a result of the injury, is placed on approved workers' compensation leave.

I. As used in this section, "cost of the insurance" means the premium required to be paid to provide coverages. Any contributions of the political subdivisions of the state, except the public schools and political subdivisions of the state with twenty-five employees or fewer, shall not exceed sixty percent of the cost of the insurance.

J. When a public employee elects to participate in a cafeteria plan as authorized by the Cafeteria Plan Act and enters into a salary reduction agreement with the governmental employer, the provisions of Subsections B through G of this section with respect to the maximum contributions that can be made by the employer are not violated and will still apply. The employer percentage or dollar contributions as provided in Subsections B through E of this section shall be determined by the employee's gross salary prior to any salary reduction agreement.

K. Any group medical insurance plan offered pursuant to this section shall include effective cost-containment measures to control the growth of health care costs. The responsible public body that administers a plan offered pursuant to this section shall report annually by September 1 to appropriate interim legislative committees on the effectiveness of the cost-containment measures required by this subsection.

L. Within available revenue, school districts, charter schools and participating entities pursuant to the Public School Insurance Authority Act may contribute up to one hundred percent of the cost of the insurance of all employees and institutions of higher education may contribute up to eighty percent of the cost of the insurance of all employees."

## **Chapter 83 Section 2 Laws 2023**

SECTION 2. Section 22-29-10 NMSA 1978 (being Laws 1989, Chapter 373, Section 5, as amended) is amended to read:

### "22-29-10. GROUP INSURANCE CONTRIBUTIONS.--

A. Group insurance contributions for school districts, charter schools and participating entities in the authority shall be made as follows:

(1) at least eighty percent of the cost of the insurance of an employee whose annual salary is less than fifty thousand dollars (\$50,000);

(2) at least seventy percent of the cost of the insurance of an employee whose annual salary is fifty thousand dollars (\$50,000) or more but less than sixty thousand dollars (\$60,000); and

(3) at least sixty percent of the cost of the insurance of an employee whose annual salary is sixty thousand dollars (\$60,000) or more.

B. Within available revenue, school districts, charter schools and participating entities in the authority may contribute up to one hundred percent of the cost of the insurance of all employees.

C. Whenever a school district, charter school or participating entity in the authority offers to its employees alternative health plan benefit options, including health

maintenance organizations, preferred provider organizations or panel doctor plans, the school district, charter school or participating entity may pay an amount on behalf of the employee and family member for the indemnity health insurance plan sufficient to result in equal employee monthly costs to the cost of the health maintenance organization plans, preferred provider organization plans or panel doctor plans, regardless of the percentage limitations in the Public School Insurance Authority Act. School districts, charter schools and participating entities in the authority may pay up to one hundred percent of the first fifty thousand dollars (\$50,000) of term life insurance."

## **Chapter 83 Section 3 Laws 2023**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

## **LAWS 2023, CHAPTER 84**

**House Bill 4, aa, w/cc**  
**Approved March 30, 2023**

### **AN ACT**

RELATING TO ELECTIONS; AMENDING AND ENACTING AUTOMATIC VOTER REGISTRATION AND UPDATES TO REGISTRATION PROVISIONS; REPEALING AND REPLACING THE DRIVER'S LICENSE VOTER REGISTRATION PROVISIONS; REPEALING AND REPLACING THE REGISTRATION AT VOTING LOCATION PRIOR TO VOTING PROVISIONS; DEFINING THE UNLAWFUL USE OR DISPOSITION OF VOTER DATA, MAILING LABELS OR SPECIAL VOTER LISTS; PROVIDING THAT INMATES ARE ELIGIBLE TO VOTE AND REGISTER TO VOTE UPON RELEASE; ELIMINATING A REQUIREMENT THAT A VOTER'S REGISTRATION BE CANCELED UPON FELONY CONVICTION AND CONFORMING THE RESTORATION OF CITIZENSHIP PROVISION ACCORDINGLY; CREATING A VOLUNTARY PERMANENT ABSENTEE VOTER LIST; PROVIDING REQUIREMENTS FOR THE PROVISION OF MONITORED SECURED CONTAINERS; ENACTING THE NATIVE AMERICAN VOTING RIGHTS ACT TO PROTECT POLLING PLACE ACCESS AND ADDRESS OTHER ELECTION ISSUES INVOLVING VOTERS ON INDIAN NATION, TRIBAL AND PUEBLO LAND; DECLARING THE DAY OF A GENERAL ELECTION AND A REGULAR LOCAL ELECTION A SCHOOL HOLIDAY; MAKING CONFORMING AND TECHNICAL CHANGES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

## **Chapter 84 Section 1 Laws 2023**

SECTION 1. Section 1-3-8 NMSA 1978 (being Laws 1969, Chapter 240, Section 58, as amended) is amended to read:

"1-3-8. PRECINCT CHANGES--NOTICE AND PUBLICATION.-- Upon the adoption of any resolution, or upon the final action of any district court upon a petition creating, abolishing, dividing or consolidating any precinct, or changing any precinct boundary, or changing any designated polling place, the board of county commissioners shall:

- A. send a certified copy of the resolution or court order to the secretary of state and to the county chair of each of the major political parties; and
- B. publish once the resolution in a newspaper as provided in the Election Code."

## **Chapter 84 Section 2 Laws 2023**

SECTION 2. Section 1-4-5.2 NMSA 1978 (being Laws 1995, Chapter 198, Section 3) is amended to read:

"1-4-5.2. AGENCY REGISTRATION--FORM.--

- A. A qualified elector may register to vote at certain state government offices.
- B. Pursuant to Section 1-4-47 NMSA 1978, a qualified elector who applies for a driver's license, license renewal or motor vehicle identification card who is not registered to vote in this state and who is not automatically registered to vote pursuant to the automatic voter registration provisions of Section 1-4-47 NMSA 1978 may simultaneously register to vote or file a change of address for voter registration purposes.
- C. Pursuant to Section 1-4-48 NMSA 1978, a qualified elector may register to vote in any state agency that provides public assistance or services to persons with disabilities. The secretary of state may designate other state or local public offices with the agreement of those offices.
- D. Pursuant to Sections 1-4-47 and 1-4-47.1 NMSA 1978, a qualified elector may become registered to vote by automatic voter registration at the motor vehicle division of the taxation and revenue department or other state or local public offices designated by the secretary of state."

## **Chapter 84 Section 3 Laws 2023**

SECTION 3. Section 1-4-5.6 NMSA 1978 (being Laws 1975, Chapter 255, Section 79, as amended) is amended to read:

"1-4-5.6. UNLAWFUL USE OR DISPOSITION OF VOTER DATA, MAILING LABELS OR SPECIAL VOTER LISTS--PENALTIES.--

A. Unlawful use of voter data, mailing labels or special voter lists consists of:

(1) the knowing and willful selling, loaning, providing access to or otherwise surrendering of voter data, mailing labels or special voter lists by a person for purposes prohibited by the Election Code; or

(2) causing voter data, mailing labels or special voter lists or any part of the voter data, mailing label or special voter lists that identifies, or that could be used to identify, a specific voter or the voter's name, mailing or residence address to be made publicly available on the internet or through other means.

B. Any person, organization or corporation or agent, officer, representative or employee thereof who commits unlawful use of voter data, mailing labels or special voter lists is guilty of a fourth degree felony and upon conviction shall be fined one hundred dollars (\$100) for each line of voter information that was unlawfully used.

C. Each unlawful use of voter data, mailing labels or special voter lists constitutes a separate offense."

## **Chapter 84 Section 4 Laws 2023**

SECTION 4. Section 1-4-5.7 NMSA 1978 (being Laws 2019, Chapter 67, Section 1, as amended) is repealed and a new Section 1-4-5.7 NMSA 1978 is enacted to read:

"1-4-5.7. REGISTRATION AT VOTING LOCATION PRIOR TO VOTING.--

A. Notwithstanding the provisions of 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 or any early or 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.

C. A voter whose political party affiliation on the voter's certificate of registration is with a major political party shall not be allowed to change party affiliation when updating an existing certificate of registration or registering to vote at a voting location immediately before voting in a primary election.

D. 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 7:00 p.m. on election day; provided that the county clerk shall provide the voter with a ballot and balloting materials immediately after the qualified elector registers to vote or updates the existing certificate of registration.

E. A qualified elector seeking to register to vote or update an existing certificate of registration pursuant to this section shall provide a physical form of identification that is issued by the federal government, a state government, a federally recognized Indian nation, tribe or pueblo or an educational institution and that:

(1) contains the name of the qualified elector, which shall reasonably match the name provided on the certificate of registration;

(2) contains a photograph of the qualified elector, which shall resemble the qualified elector;

(3) need not contain an expiration date, and if it does, the expiration date is not required to be a date on or after the date of the election; and

(4) shall either:

(a) contain an address that matches the address provided for the certificate of registration; or

(b) be accompanied by an original or copy of a utility bill, bank statement, government check, paycheck or other document issued by an educational institution or government, including a document issued by a federally recognized Indian nation, tribe or pueblo, dated within the ninety days prior to the qualified elector registering to vote or updating an existing certificate of registration and that contains the name of the qualified elector, which shall reasonably match the name provided on the certificate of registration, and an address that matches the address provided for the certificate of registration.

F. If a voting location does not have real-time synchronization with the voting data at the office of the county clerk, a voter desiring to update an existing certificate of registration or to register to vote shall be issued a provisional paper ballot. 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."

## **Chapter 84 Section 5 Laws 2023**

SECTION 5. 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. at the request of the voter; or
- C. at the direction of the board of registration."

## **Chapter 84 Section 6 Laws 2023**

SECTION 6. Section 1-4-27.1 NMSA 1978 (being Laws 2001, Chapter 46, Section 1, as amended) is amended to read:

"1-4-27.1. ELIGIBILITY TO VOTE AND REGISTER TO VOTE UPON  
RELEASE.--

A. A voter is ineligible to vote while imprisoned in a correctional facility as part of a sentence for a felony conviction. Except as provided in this section, an otherwise qualified elector is ineligible to register to vote while imprisoned in a correctional facility as part of a sentence for a felony conviction.

B. During the reentry phase of an inmate's sentence, if the inmate is a voter or otherwise a qualified elector, the inmate shall be given an opportunity to register to vote or update an existing registration by means of a transaction with the motor vehicle division of the taxation and revenue department prior to the inmate's release from custody. If the inmate does not conduct a transaction with the motor vehicle division of the taxation and revenue department prior to the inmate's release from custody, the corrections department shall provide the inmate an opportunity to register to vote or update an existing registration by means of an online portal provided by the secretary of state or, if such a portal is not available, by means of a paper registration form.

C. The corrections department shall deliver to the secretary of state information and data necessary to carry out the provisions of this section. The secretary of state shall maintain current information in the statewide voter registration electronic management system on the ineligibility status of an inmate to vote or register to vote

pursuant to this section, as well as an inmate's eligibility status to vote upon release and to register to vote or update an existing voter registration while preparing for release.

D. Notwithstanding a person's status in the statewide voter registration electronic management system, a voter or a qualified elector who appears personally before a county clerk, the clerk's authorized representative or a precinct board member, at an office of the motor vehicle division of the taxation and revenue department or at a state agency that provides public assistance or services to persons with disabilities is presumed to meet the eligibility requirement of non-imprisonment for voting and registering to vote pursuant to the provisions of this section.

E. For the purposes of this section, "correctional facility" means a jail, prison or other detention facility that is used for the confinement of an adult, 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."

## **Chapter 84 Section 7 Laws 2023**

SECTION 7. Section 1-4-47 NMSA 1978 (being Laws 1991, Chapter 80, Section 4, as amended) is repealed and a new Section 1-4-47 NMSA 1978 is enacted to read:

"1-4-47. DRIVER'S LICENSE VOTER REGISTRATION--AUTOMATIC VOTER REGISTRATION AND UPDATES.--

A. Unless a person is automatically registered to vote pursuant to the automatic voter registration provisions of Subsections B through D of this section, when a person who is a qualified elector or qualified resident but not registered to vote in the state conducts a transaction to apply for or renew a driver's license, state-issued identification card, learner's permit or provisional license, the person shall be offered the opportunity to simultaneously register to vote. A person registering to vote pursuant to this subsection shall not be required to provide a second time any information that duplicates information required in the driver's license, state-issued identification card, learner's permit or provisional license portion of the transaction.

B. A qualified elector or qualified resident who provides a document demonstrating United States citizenship in the course of conducting an in-person transaction to apply for or renew a driver's license, state-issued identification card, learner's permit or provisional license shall be confirmed in a database maintained by the motor vehicle division of the taxation and revenue department as satisfying the citizenship requirement for eligibility to vote. If the person is not already registered to vote based on an automated database check, the person shall be registered to vote and shall be informed that the person is being registered to vote and that the person will receive a notice from the county clerk providing additional information, including how to decline to be registered, and the person shall be offered the opportunity to designate affiliation with a qualified political party during the in-person transaction. Within seven days, the motor vehicle division of the taxation and revenue department shall

electronically transmit to the secretary of state an electronic record containing the person's full name, full social security number, date of birth, driver's license or state-issued identification card number, residence address, mailing address if different from residence address, county of residence, citizenship status, an electronic image of the person's signature, any affiliation with a qualified political party and any other available information requested by the secretary of state.

C. Upon receiving an electronic record pursuant to Subsection B of this section, the secretary of state shall forward the person's electronic record to the county clerk of the county in which the person resides. The county clerk shall accept and process the electronic record received as a certificate of registration pursuant to the provisions of Section 1-4-11 NMSA 1978.

D. Upon receiving an electronic record pursuant to Subsection C of this section, the county clerk shall send to the person's mailing address, by nonforwardable mail, a notice that the person has been registered to vote. The notice shall include a postage prepaid and pre-addressed return card by which the person may decline to be registered to vote. The notice shall be prescribed by the secretary of state with conforming language depending on whether the person is a qualified elector or a qualified resident, and may be combined with a voter information document and shall include:

(1) an explanation of the voter eligibility requirements, a statement of the penalties for registering to vote when a person is not eligible and a statement that if the person is not eligible to vote that the person should decline to register by returning the card;

(2) a statement that:

(a) if the person declines to register to vote, the fact that the person has declined registration will remain confidential and will be used only to process the declination and for reporting election administration statistics; and

(b) if the person does not decline the registration, the office from which the person's electronic record was received will remain confidential and will be used only for reporting election administration statistics;

(3) information on how a person may become a participant in the confidential substitute address program;

(4) an opportunity for the person to designate affiliation with a qualified political party by returning the card; and

(5) an opportunity for the person to request a mailed ballot for the next statewide election, on a form prescribed by the secretary of state, which shall serve as an application for a mailed ballot pursuant to Section 1-6-4 NMSA 1978.

E. After a person returns the card described in Subsection D of this section:

(1) if the person declines to be registered to vote by returning the card, the person's registration shall be canceled and the person shall be deemed to have not registered to vote. Information relating to a person declining to be registered to vote pursuant to this section shall not be used for any purpose other than to process the declination and for reporting election administration statistics;

(2) if the person votes in an election after registration under this section and subsequently returns the card to decline the registration, the declination shall not be effective until after the election in which the person voted; and

(3) if the person returns the card to designate affiliation with a qualified political party, the person's political party affiliation shall be effective pursuant to Section 1-4-8 NMSA 1978.

F. If a person who is registered to vote in the state conducts a transaction to apply for or renew, update, correct or replace the person's driver's license, state-issued identification card, learner's permit or provisional license or files a notice of change of address and the information provided to the motor vehicle division of the taxation and revenue department indicates a different address or name from the person's existing certificate of registration, the motor vehicle division of the taxation and revenue department shall electronically transmit to the secretary of state an electronic record containing the person's full name, date of birth, driver's license or state-issued identification card number, residence address, mailing address if different from residence address, county of residence, an electronic image of the person's signature and any other available information requested by the secretary of state. The secretary of state shall issue standards for what is considered a different address. If the new address is in:

(1) the same county, or the person's name has changed, the secretary of state shall send the information to the county clerk of the county where the person is registered and the county clerk shall process the change to the official list of eligible voters in accordance with the change of residence information provided; or

(2) a different county, the secretary of state shall send the information to the county clerk of the county where the person's new address is located and the county clerk shall process the change of residence as a transferred registration into the county.

G. Immediately at the conclusion of each in-person transaction to apply for or renew a driver's license or state-issued identification card, a 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

secretary of state by the motor vehicle division as a result of the application for or renewal of a driver's license or state-issued identification card.

H. In carrying out the provisions of this section, a motor vehicle division employee or contractor shall not intentionally influence a registrant in the selection of political party, or independent status, by word or act. A motor vehicle division employee or contractor shall not reveal the existence of or the nature of a voter registration pursuant to this section to anyone other than a registration officer.

I. Unless a person who is not a qualified elector or is ineligible to register to vote knowingly and willfully takes voluntary action to register to vote knowing that the person is not a qualified elector or is ineligible to register to vote, the transfer of an electronic record or the failure of a person to decline voter registration pursuant to this section shall not be considered a violation of Section 1-20-3 NMSA 1978.

J. A person who is not a qualified elector or who is ineligible to vote but who becomes registered to vote under this section and votes or attempts to vote in an election held after the effective date of the person's registration commits false voting under Section 1-20-8 NMSA 1978 only if the person knowingly and willfully took voluntary action to register to vote with knowledge that the person is not a qualified elector or is ineligible to register or knowingly and willfully voted with knowledge that the person is not a qualified elector or is ineligible to vote.

K. By January 1 following each general election, the secretary of state shall submit to the legislature and make publicly available a report on the implementation of this section. Excluding any personal identifying information, the report shall include:

(1) the number of electronic records transmitted to the secretary of state by the motor vehicle division of the taxation and revenue department pursuant to this section;

(2) the number of new voters statewide as a result of the automatic voter registration system;

(3) the number of voters whose information was updated because of the automatic voter registration system, reported by the type of information updated; and

(4) the number of people who declined to be registered to vote through the automatic voter registration system.

L. The secretary of state shall adopt rules and coordinate as necessary with the motor vehicle division of the taxation and revenue department and other state agencies and Indian nations, tribes and pueblos designated pursuant to Section 1-4-47.1 NMSA 1978."

## **Chapter 84 Section 8 Laws 2023**

SECTION 8. A new Section 1-4-47.1 NMSA 1978 is enacted to read:

"1-4-47.1. STATE AGENCY--INDIAN NATION, TRIBE OR PUEBLO--  
AUTOMATIC VOTER REGISTRATION REQUIREMENTS.--

A. Upon a determination by the secretary of state that a state agency, including an agency that participates in the state-agency-based voter registration program pursuant to Section 1-4-48 NMSA 1978, collects sufficient information consistent with Section 1-4-47 NMSA 1978 to transmit electronic records for automatic voter registration in accordance with the provisions of that section, including verification of United States citizenship by document or database verification for any agency clients not already registered to vote, the secretary of state shall enter into a memorandum of understanding with the agency requiring the agency to comply with the provisions of Section 1-4-47 NMSA 1978. The secretary of state and county clerks shall process the electronic records according to the provisions of Section 1-4-47 NMSA 1978, subject to any modifications necessary to comply with federal law.

B. An Indian nation, tribe or pueblo that collects sufficient information consistent with Section 1-4-47 NMSA 1978 to transmit electronic records for automatic voter registration in accordance with the provisions of that section, including verification of United States citizenship by document or database verification for any persons not already registered to vote, may in its discretion transmit the records to the secretary of state. The secretary of state shall enter into a memorandum of understanding with the Indian nation, tribe or pueblo detailing compliance with the provisions of Section 1-4-47 NMSA 1978. The secretary of state and county clerks shall process the electronic records according to the provisions of Section 1-4-47 NMSA 1978, subject to any modifications necessary to comply with federal law.

C. If a state agency or an Indian nation, tribe or pueblo is able to transmit electronic records that are complete for automatic voter registration except for an electronic signature image, the records shall be processed as complete records for automatic voter registration. The secretary of state shall adopt rules to obtain a signature from the qualified elector or qualified resident, including through a mailing requesting a signature, uploading a signature through an electronic system, providing a signature on a mailed ballot envelope or providing a signature at an early voting location or polling place."

## **Chapter 84 Section 9 Laws 2023**

SECTION 9. Section 1-4-48 NMSA 1978 (being Laws 1995, Chapter 198, Section 13, as amended) is amended to read:

"1-4-48. STATE-AGENCY-BASED VOTER REGISTRATION PROGRAM--  
ESTABLISHED--HUMAN SERVICES DEPARTMENT.--

A. The secretary of state shall adopt and publish in accordance with the State Rules Act rules for the administration of a state-agency-based voter registration program. The rules shall provide for distribution of voter registration forms, provisions for the acceptance of voter registration forms and procedures for reporting voter registration activity in accordance with the federal National Voter Registration Act of 1993.

B. Voter registration shall be made available at all state agencies providing public assistance or services to people with disabilities. The secretary of state may designate other state and local public offices to provide voter registration services with the agreement of those offices.

C. Each state agency participating in the voter registration program shall maintain sufficient records for the secretary of state to comply with federal voter registration reporting requirements and the federal Help America Vote Act of 2002. Any records maintained by a state agency regarding voter registration activities in that agency are confidential and shall not be released as public records.

D. Any voter registration made or accepted at a state agency pursuant to this section shall be transmitted to the appropriate registration officer within ten calendar days.

E. A state agency employee or agency contractor who participates in the voter registration process may not intentionally influence the prospective registrant in the selection of political party, or independent status, by word or act. A state agency employee or agency contractor who participates in the voter registration process may not reveal the existence of or the nature of the voter registration to anyone other than a registration officer.

F. 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 subsection. The report shall be sent to the legislative council service, the secretary of state and each county clerk.

G. If a person who is not a qualified elector becomes registered to vote pursuant to this section, the person's registration shall be canceled and the person shall be deemed to have never registered."

## **Chapter 84 Section 10 Laws 2023**

SECTION 10. A new section of the Absent Voter Act is enacted to read:

"VOLUNTARY PERMANENT ABSENTEE VOTER LIST--PROCEDURES.--

A. A voter, except a federal qualified elector who is subject to the provisions of the Uniform Military and Overseas Voters Act or the Intimate Partner Violence Survivor Suffrage Act, may apply to be added to the voluntary permanent absentee voter list for the county in which the voter is registered by completing a paper or online application that conforms to the mailed ballot application requirements of Section 1-6-4 NMSA 1978, except that the voluntary permanent absentee voter application shall provide an additional checkbox for the voter to affirm that reads:

"[ ] I am requesting to be added to the voluntary permanent absentee voter list in my county. This means that the county clerk shall automatically send a mailed ballot to the mailing address listed on my certificate of voter registration each time there is a statewide election that includes my precinct."

B. Upon receipt of an application from a voter requesting to be added to the voluntary permanent absentee voter list, the county clerk shall process the application in the same manner as an application for a mailed ballot, except that the county clerk shall not accept an application to be added to the voluntary permanent absentee voter list if the voter's mailing address on the certificate of registration is outside of New Mexico.

C. Upon acceptance of the application to be added to the voluntary permanent absentee voter list, the county clerk shall add the voter's name to the voluntary permanent absentee voter list in the county. The voluntary permanent absentee voter list shall contain the voter's name, year of birth, address and precinct in the county.

D. A voter whose name appears on the voluntary permanent absentee voter list shall remain on the list, except as provided in Subsection F of this section, and shall be sent a mailed ballot by the county clerk for each statewide election conducted that includes the precinct in which the voter is eligible to vote. The mailed ballot shall be sent in the first batch of mailed ballots delivered to voters in that election.

E. At least forty-nine days before each statewide election, the county clerk shall send to each voter on the voluntary permanent absentee voter list a notice reminding the voter that the voter will be receiving a mailed ballot for that election. The notice shall also inform the voter of how to remove the voter's name from the voluntary permanent absentee voter list if the voter would like to do so. The notice shall be sent using non-forwardable mail with return postage prepaid.

F. A voter shall be removed from the voluntary permanent absentee voter list by the county clerk for the following reasons:

(1) the voter fails to return a mailed ballot in two consecutive elections, including at least one general election;

(2) the county clerk has sent a mailed ballot or other piece of election mail to the voter's mailing address that was subsequently returned as undeliverable;

(3) the voter's certificate of registration is canceled pursuant to the provisions of Chapter 1, Article 4 NMSA 1978;

(4) the voter updates the voter's certificate of registration indicating an address that is outside of the county for which the voter is listed on the voluntary permanent absentee voter list; or

(5) the voter submits a written request to the county clerk requesting to be removed from the voluntary permanent absentee voter list.

G. A county clerk shall take the necessary steps to attempt to contact and notify a voter who is removed from the voluntary permanent absentee voter list. If a voter is removed from the voluntary permanent absentee voter list, the voter shall only be added again if the voter submits a new voluntary permanent absentee voter application.

H. A county clerk shall maintain the voluntary permanent absentee voter list for the county and shall make the voluntary permanent absentee voter list available on request pursuant to the provisions of Section 1-4-5.5 NMSA 1978."

## **Chapter 84 Section 11 Laws 2023**

SECTION 11. A new Section 1-11-12.2 NMSA 1978 is enacted to read:

"1-11-12.2. MONITORED SECURED CONTAINERS--DISTRIBUTION TO COUNTIES.--

A. Each county shall have at least two monitored secured containers; provided that, in consideration of geographic or security constraints existent in a county, a county clerk may request from the secretary of state a waiver from this requirement. The secretary of state may approve a request by a county clerk for additional monitored secured containers in a county.

B. In addition to the monitored secured containers provided pursuant to Subsection A of this section, a political subdivision of the state, including a municipality, school district or community college, may make a written request to the county clerk for one or more monitored secured containers on or near the boundaries of the political subdivision. A county clerk who receives a written request for monitored secured containers from a political subdivision shall evaluate the population in and near the area of the request, the distance voters have to travel to get to the nearest monitored secured container and the number of monitored secured containers and early voting locations on or near the area of the request. The county clerk shall respond in writing to the requesting political subdivision within thirty days of receiving the written request. A

written request for monitored secured containers for future statewide elections may be made between the second Tuesday in March and the second Tuesday in April of any year.

C. A political subdivision whose written request to a county clerk for monitored secured containers is denied may appeal that decision by submitting the written request along with the denial letter from the county clerk to the secretary of state, along with any response to the denial letter from the requesting political subdivision. The secretary of state may place a monitored secured container on or near an area that is the subject of the request in response to an appeal submitted pursuant to this subsection.

D. A monitored secured container located on or near the boundaries of a political subdivision shall comply with all requirements for monitored secured containers provided in the Election Code. If a monitored secured container is provided pursuant to this section, the requesting political subdivision shall provide the facility and services necessary for the monitored secured container."

## **Chapter 84 Section 12 Laws 2023**

SECTION 12. A new Section 1-21A-1 NMSA 1978 is enacted to read:

"1-21A-1. SHORT TITLE.--Chapter 1, Article 21A NMSA 1978 may be cited as the "Native American Voting Rights Act"."

## **Chapter 84 Section 13 Laws 2023**

SECTION 13. A new Section 1-21A-2 NMSA 1978 is enacted to read:

"1-21A-2. DEFINITIONS.--As used in the Native American Voting Rights Act:

A. "early voting location" means an alternate voting location and a mobile alternate voting location;

B. "Indian nation, tribe or pueblo" means a federally recognized Indian nation, tribe or pueblo located wholly or partially in New Mexico;

C. "polling place" means an early voting location and an election day polling place; and

D. "written request" means a request sent in writing by the president, governor or governing body of an Indian nation, tribe or pueblo, including a request sent by a person designated by the president, governor or governing body of an Indian nation, tribe or pueblo to submit written requests pursuant to the Native American Voting Rights Act; provided that the designation has been communicated in writing to

the secretary of state and county clerk by the president, governor or governing body of the Indian nation, tribe or pueblo."

## **Chapter 84 Section 14 Laws 2023**

SECTION 14. A new Section 1-21A-3 NMSA 1978 is enacted to read:

"1-21A-3. PRECINCT BOUNDARIES.--

A. When adjusting precinct boundaries for any group of census blocks that are on Indian nation, tribal or pueblo lands, the board of county commissioners shall inquire of each Indian nation, tribe or pueblo in the county to provide internal and external political boundaries for the Indian nation, tribe or pueblo that the Indian nation, tribe or pueblo has provided to the United States census bureau.

B. The board of county commissioners shall adjust precinct boundaries to correspond to the internal and external political boundaries that each Indian nation, tribe or pueblo in the county has provided to the United States census bureau.

C. The secretary of state shall reject any precinct boundary maps that do not comply with the provisions of this section."

## **Chapter 84 Section 15 Laws 2023**

SECTION 15. A new Section 1-21A-4 NMSA 1978 is enacted to read:

"1-21A-4. REQUESTS FOR POLLING PLACES AND MONITORED SECURED CONTAINERS.--

A. An Indian nation, tribe or pueblo may submit a written request to a county clerk for locating early voting locations, election day polling places or monitored secured containers on or near the Indian nation's, tribe's or pueblo's lands.

B. A written request for election day polling places for all statewide elections in the next election cycle shall be made between the second Tuesday in March and the second Tuesday in April of each even-numbered year.

C. A written request for early voting locations for all statewide elections in the current election cycle shall be made between the second Tuesday in March and the second Tuesday in April of each odd-numbered year.

D. A written request for early voting locations for the general election in that year by an Indian nation, tribe or pueblo that has not already done so shall be made between the first business day in January and the day the secretary of state issues the proclamation for the general election.

E. A written request for monitored secured containers for future statewide elections may be made by July 15, 2023 for the 2023 regular local election and between the second Tuesday in March and the second Tuesday in April of any year for all subsequent elections."

## **Chapter 84 Section 16 Laws 2023**

SECTION 16. A new Section 1-21A-5 NMSA 1978 is enacted to read:

"1-21A-5. ELECTION DAY POLLING PLACES--REQUIREMENTS.--

A. A county clerk who has received a written request from an Indian nation, tribe or pueblo for one or more election day polling places on or near Indian nation, tribal or pueblo land shall consider the request when submitting recommendations to the board of county commissioners for the biennial election day polling place resolution establishing voter convenience centers for the subsequent election cycle pursuant to Section 1-3-4 NMSA 1978; provided that:

(1) any voter of the county shall have access to and be permitted to vote at the election day polling place;

(2) the location of the election day polling place conforms to the requirements for election day polling places, except as specified in this section;

(3) the county clerk provides federally mandated language translators at the election day polling places; and

(4) if the election day polling place is located on Indian nation, tribal or pueblo land, the Indian nation, tribe or pueblo provides the facility and services for the election day polling place.

B. In considering the written request, the county clerk shall evaluate the distance voters have to travel to get to the nearest election day polling place and the number of monitored secured containers and early voting locations on or near the Indian nation, tribal or pueblo lands.

C. At the time of submitting the election day polling place resolution to the board of county commissioners, the county clerk shall inform the board of county commissioners of any written requests received by an Indian nation, tribe or pueblo for an election day polling place.

D. Once the election day polling place resolution is adopted, an election day polling place located on Indian nation, tribal or pueblo lands shall not be eliminated or consolidated with other election day polling places in that election cycle without the written agreement of the Indian nation, tribe or pueblo on whose lands the election day polling place is located."

## **Chapter 84 Section 17 Laws 2023**

SECTION 17. A new Section 1-21A-6 NMSA 1978 is enacted to read:

"1-21A-6. EARLY VOTING LOCATIONS--REQUIREMENTS.--

A. A county clerk who has received a written request from an Indian nation, tribe or pueblo for one or more early voting locations shall provide at least one alternate voting or mobile alternate voting location on or near the Indian nation, tribal or pueblo land; provided that:

(1) any voter of the county shall have access to and be permitted to vote at the early voting location;

(2) the location of the early voting location on Indian nation, tribal or pueblo land conforms to the requirements for alternate voting locations, except as specified in this section;

(3) the county clerk provides federally mandated language translators at the early voting locations;

(4) the Indian nation, tribe or pueblo provides the facility and services for the early voting location; and

(5) the early 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.

B. When responding to a written request, the county clerk shall evaluate the population on the Indian nation, tribal or pueblo land, the distance voters have to travel and the number of monitored secured containers and early voting locations on or near the Indian nation, tribal or pueblo land."

## **Chapter 84 Section 18 Laws 2023**

SECTION 18. A new Section 1-21A-7 NMSA 1978 is enacted to read:

"1-21A-7. MONITORED SECURED CONTAINERS--REQUIREMENTS.--

A. A county clerk who has received a written request from an Indian nation, tribe or pueblo for one or more monitored secured containers on or near Indian nation, tribal or pueblo land shall evaluate the population on the Indian nation, tribal or pueblo land, the distance voters have to travel and the number of monitored secured containers and early voting locations on or near the Indian nation, tribal or pueblo land. The county clerk shall respond in writing to the Indian nation, tribe or pueblo regarding the provision

of monitored secured containers on or near Indian nation, tribal or pueblo land within thirty days of receiving the written request.

B. An Indian nation, tribe or pueblo whose written request to a county clerk for monitored secured containers is denied may appeal that decision by submitting the written request along with the denial letter from the county clerk to the secretary of state, along with any response to the denial letter from the Indian nation, tribe or pueblo. The secretary of state may place a monitored secured container on or near Indian nation, tribal or pueblo land in response to an appeal submitted by an Indian nation, tribe or pueblo.

C. A monitored secured container located on or near Indian nation, tribal or pueblo land shall comply with all requirements for monitored secured containers provided in the Election Code. If a monitored secured container is located on Indian nation, tribal or pueblo land, the Indian nation, tribe or pueblo shall provide the facility and services necessary for the monitored secured container."

## **Chapter 84 Section 19 Laws 2023**

SECTION 19. A new Section 1-21A-8 NMSA 1978 is enacted to read:

"1-21A-8. USE OF GOVERNMENTAL AND OFFICIAL BUILDINGS AS MAILING ADDRESSES ON VOTER REGISTRATION CERTIFICATES AND MAILED BALLOT APPLICATIONS.--

A. The secretary of state shall maintain a list of government and official buildings on Indian nation, tribal and pueblo land where members of the Indian nation, tribe or pueblo may request delivery of mailed ballots. The list shall include the common name for each building and the mailing address for the building. The list shall be provided by county to each county clerk with an Indian nation, tribe or pueblo in the county.

B. If a county clerk receives a voter registration certificate or an application for a mailed ballot that lists a government or official building on Indian nation, tribal or pueblo land by name only, the county clerk shall not reject the certificate or application for lack of a mailing address and, if the certificate or application is otherwise in the proper form, shall mail the ballot and balloting materials to the voter using the address for the government or official building."

## **Chapter 84 Section 20 Laws 2023**

SECTION 20. A new Section 1-21A-9 NMSA 1978 is enacted to read:

"1-21A-9. EMERGENCY SITUATIONS.--If the president, governor or governing body of an Indian nation, tribe or pueblo has declared a state of emergency or has invoked emergency powers pursuant to other laws:

A. a polling place located on the Indian nation, tribal or pueblo land shall not be eliminated or consolidated with other polling places, nor shall the days and times of voting be modified, without the written agreement of the Indian nation, tribe or pueblo;

B. no later than ninety-eight days before a statewide election by means of a written request or no later than forty-nine days before a statewide election with a court order, the county clerk shall provide to an Indian nation, tribe or pueblo that has not previously requested for that election cycle at least one alternate voting or mobile alternate voting location for that election; provided that the alternate voting or mobile alternate voting location shall otherwise comply with the requirements of Section 1-21A-6 NMSA 1978;

C. no later than eighty-four days before a statewide election by means of a written request or no later than thirty-five days before a statewide election with a court order, the county clerk shall provide an election day polling place to an Indian nation, tribe or pueblo that does not already have an election day polling place within its boundaries if voters registered within the Indian nation, tribe or pueblo are unable to leave the Indian nation, tribe or pueblo during the time when voting occurs for a statewide election; and

D. the requirement that a polling place be available to all voters in the county shall be waived if an Indian nation, tribe or pueblo is inaccessible or the borders are closed."

## **Chapter 84 Section 21 Laws 2023**

SECTION 21. A new Section 1-21A-11 NMSA 1978 is enacted to read:

"1-21A-11. EXPENSES.--

A. All necessary and reasonable expenses incurred by a county clerk for compliance with the Native American Voting Rights Act, including the costs of voting equipment and personnel for polling places and monitored secured containers on Indian nation, tribal or pueblo land, shall be paid for by the secretary of state or shall be reimbursed to the county by the secretary of state.

B. The secretary of state shall distribute from the election fund sufficient funds to each county for the costs related to compliance with the Native American Voting Rights Act, either as grants or reimbursement."

## **Chapter 84 Section 22 Laws 2023**

SECTION 22. Section 22-2-8.1 NMSA 1978 (being Laws 1986, Chapter 33, Section 2, as amended by Laws 2011, Chapter 35, Section 1 and by Laws 2011, Chapter 154, Section 1) is amended to read:

"22-2-8.1. SCHOOL YEAR--LENGTH OF SCHOOL DAY--MINIMUM.--

A. Except as otherwise provided in this section, regular students shall be in school-directed programs, exclusive of lunch, for a minimum of the following:

(1) kindergarten, for half-day programs, two and one-half hours per day or four hundred fifty hours per year or, for full-day programs, five and one-half hours per day or nine hundred ninety hours per year;

(2) grades one through six, five and one-half hours per day or nine hundred ninety hours per year; and

(3) grades seven through twelve, six hours per day or one thousand eighty hours per year.

B. Up to thirty-three hours of the full-day kindergarten program may be used for home visits by the teacher or for parent-teacher conferences. Up to twenty-two hours of grades one through six programs may be used for home visits by the teacher or for parent-teacher conferences. Up to twelve hours of grades seven through twelve programs may be used to consult with parents to develop next step plans for students and for parent-teacher conferences.

C. Nothing in this section precludes a local school board from setting a school year or the length of school days in excess of the minimum requirements established by Subsection A of this section.

D. The secretary may waive the minimum length of school days in those school districts where such minimums would create undue hardships as defined by the department as long as the school year is adjusted to ensure that students in those school districts receive the same total instructional time as other students in the state.

E. Notwithstanding any other provision of this section, provided that instruction occurs simultaneously, time when breakfast is served or consumed pursuant to a state or federal program shall be deemed to be time in a school-directed program and is part of the instructional day.

F. Every general election and regular local election shall be a school holiday for students and staff at each public school in this state."

## **Chapter 84 Section 23 Laws 2023**

SECTION 23. Section 31-13-1 NMSA 1978 (being Laws 1963, Chapter 303, Section 29-14, as amended) is amended to read:

"31-13-1. FELONY CONVICTION--RESTORATION OF RIGHT TO HOLD OFFICE OF PUBLIC TRUST.--A person who has been convicted of a felony shall not

be permitted to hold an office of public trust for the state, a county, a municipality or a district, unless the person has presented the governor with a certificate verifying the completion of the sentence and was granted a pardon or a certificate by the governor restoring the person's full rights of citizenship."

## **Chapter 84 Section 24 Laws 2023**

### SECTION 24. REPEAL.--

A. Sections 1-3-7.2 and 1-6-5.8 NMSA 1978 (being Laws 2021, Chapter 107, Section 1 and Laws 2009, Chapter 251, Section 2, as amended) are repealed effective July 1, 2023.

B. Section 1-4-5.8 NMSA 1978 (being Laws 2019, Chapter 67, Section 2) is repealed effective July 1, 2025.

## **Chapter 84 Section 25 Laws 2023**

### SECTION 25. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1, 3 through 6, 11 through 21 and 23 of this act is July 1, 2023.

B. The effective date of the provisions of Sections 10 and 22 of this act is January 1, 2024.

C. The effective date of the provisions of Sections 2 and 7 through 9 of this act is July 1, 2025.

# **LAWS 2023, CHAPTER 85**

**SFC/STBTC/Senate Bill 147, aa, w/ec**  
**Approved March 30, 2023**

## AN ACT

RELATING TO TAXATION; PROVIDING FOR A TAX EXPENDITURE BUDGET; PROVIDING FOR DESTINATION-BASED SOURCING FOR THE CANNABIS EXCISE TAX; REQUIRING THE TAXATION AND REVENUE DEPARTMENT TO MAKE PUBLICLY AVAILABLE CERTAIN REPORTS ON SPECIAL FUEL FOR WHICH THE SPECIAL FUELS EXCISE TAX IS IMPOSED; CLARIFYING REPORTING LOCATION INSTRUCTIONS FOR CERTAIN PROPERTY; PROVIDING THAT CERTAIN LICENSES SHALL NOT BE ISSUED OR RENEWED IF THE LICENSEE IS A DELINQUENT TAXPAYER FOR CERTAIN TAXES; AMENDING CERTAIN PROVISIONS FOR A

CLAIM FOR REFUND; AMENDING DEFINITIONS IN THE CORPORATE INCOME AND FRANCHISE TAX ACT AND THE GROSS RECEIPTS AND COMPENSATING TAX ACT; INCLUDING THE USE OF SERVICES BY GOVERNMENTAL AGENCIES IN A COMPENSATING TAX DEDUCTION; INCLUDING PAYMENTS FROM THE FEDERAL AMERICAN RESCUE PLAN ACT OF 2021 IN A GROSS RECEIPTS TAX EXEMPTION FOR CERTAIN HEALTH CARE PROVIDERS; INCLUDING THE SALE TO GOVERNMENTAL AGENCIES OF LICENSES TO USE CERTAIN DIGITAL GOODS IN CERTAIN GROSS RECEIPTS TAX AND GOVERNMENTAL GROSS RECEIPTS TAX DEDUCTIONS; REMOVING A REQUIREMENT THAT A GROSS RECEIPTS OR SIMILAR TAX LEVIED BY A TRIBE BE AT A RATE NOT GREATER THAN THE TOTAL OF THE GROSS RECEIPTS AND LOCAL OPTION GROSS RECEIPTS TAXES; DELETING AN EXPIRED EXEMPTION FROM THE MOTOR VEHICLE EXCISE TAX; CLARIFYING THE IMPOSITION OF THE TRIP TAX; CLARIFYING WHEN THE PREMIUM TAX IS IMPOSED ON CERTAIN TAXPAYERS AND WHEN CERTAIN CREDITS WILL BE APPLIED; ADJUSTING THE LENGTH OF TIME AN APPLICANT FOR A CERTIFICATE AS A CERTIFIED PUBLIC ACCOUNTANT HAS TO PASS ALL PARTS OF THE CERTIFICATION EXAMINATION; RECONCILING CONFLICTING AMENDMENTS TO THE SAME SECTION OF LAW BY REPEALING LAWS 2021, CHAPTER 65, SECTION 13; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

## **Chapter 85 Section 1 Laws 2023**

SECTION 1. A new section of the Tax Administration Act is enacted to read:

"TAX EXPENDITURE BUDGET.--

A. No later than November 15 of each year, the secretary shall compile and present a tax expenditure budget to the governor, the revenue stabilization and tax policy committee and the legislative finance committee and post the tax expenditure budget to the department's website.

B. A tax expenditure budget shall include the following information for each tax expenditure of a tax administered by the department:

- (1) the statutory basis;
- (2) the year of enactment, amendment or repeal, if any;
- (3) a brief description;

- (4) the intended purpose, if specified in the law providing for the tax expenditure;
- (5) an estimate of the amount of foregone revenue by fiscal year for the three fiscal years preceding the current fiscal year, including the general fund, other state funds and local government revenues;
- (6) the number of taxpayers that claimed a tax expenditure for each fiscal year reported, unless reporting of such data is in a form that can be associated with or otherwise identify, directly or indirectly, a particular taxpayer;
- (7) the data source used for the estimate;
- (8) a description of the reliability of the estimate;
- (9) an evaluation of the tax expenditure, if required in statute for the specific expenditure; and
- (10) a description of the tax expenditure's effect on tax administration, if any.

C. The department may request from an executive agency or a local government agency or official the information necessary to complete a tax expenditure budget required by this section. The agency or official shall comply with a request made pursuant to this section by the department as permitted by law.

D. As used in this section, "tax expenditure" means a provision of law administered by the department to reflect state tax policy, as determined by the secretary, including promoting the general welfare of citizens, giving preferential tax treatment to a specific industry or reflecting a specific purpose, including incentivizing consumer behavior, economic development or job creation. A tax expenditure does not include provisions of laws enacted to prevent violation of state or federal law, prevent federal preemption, ensure comity between governments, avoid multiple taxation or define a tax base."

## **Chapter 85 Section 2 Laws 2023**

SECTION 2. Section 7-1-6.68 NMSA 1978 (being Laws 2021 (1st S.S.), Chapter 4, Section 50) is amended to read:

"7-1-6.68. DISTRIBUTION--CANNABIS EXCISE TAX--MUNICIPALITIES AND COUNTIES.--

A. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to each municipality, subject to any increase or decrease made pursuant to Section 7-1-6.15 NMSA 1978, in an amount equal to thirty-three and thirty-three hundredths percent

of the net receipts attributable to the cannabis excise tax from business locations within the municipality as reported pursuant to Section 7-42-4 NMSA 1978.

B. A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to each county in an amount equal to thirty-three and thirty-three hundredths percent of the net receipts attributable to the cannabis excise tax from business locations within the county area of the county as reported pursuant to Section 7-42-4 NMSA 1978.

C. The department may deduct an amount not to exceed three percent of the distributions made pursuant to this section for the reasonable costs for administering the distributions.

D. As used in this section, "county area" means that portion of a county located outside the boundaries of any municipality."

## **Chapter 85 Section 3 Laws 2023**

SECTION 3. Section 7-1-8.2 NMSA 1978 (being Laws 2009, Chapter 243, Section 4) is amended to read:

"7-1-8.2. INFORMATION REQUIRED TO BE REVEALED.--

A. The department shall:

(1) furnish returns and return information required by a provision of the Tax Administration Act to be made available to the public by the department;

(2) answer all inquiries concerning whether a person is or is not a registered taxpayer for tax programs that require registration, but nothing in this subsection shall be construed to allow the department to answer inquiries concerning whether a person has filed a tax return;

(3) furnish, upon request for inspection by a member of the public pursuant to:

(a) Section 7-1-28 or Section 7-1-29 NMSA 1978, the taxpayer name, abatement, refund or credit amount, tax program or business tax credit and the date the abatement, refund or credit was issued; and

(b) Section 7-1-21 NMSA 1978, the installment agreement; and

(4) with respect to the taxes on gasoline and special fuel imposed by the Gasoline Tax Act and the Special Fuels Supplier Tax Act, make available for public inspection at monthly intervals a report covering the number of gallons of gasoline, ethanol blended fuels and special fuel received and deducted and the amount of tax

paid by each person required to file a gasoline tax return or special fuel tax return or pay gasoline tax or special fuel excise tax in the state of New Mexico.

B. Nothing in this section shall be construed to require the release of information that would violate an agreement between the state and the federal internal revenue service for sharing of information or any provision or rule of the federal Internal Revenue Code to which a state is subject."

## **Chapter 85 Section 4 Laws 2023**

SECTION 4. Section 7-1-14 NMSA 1978 (being Laws 2020, Chapter 80, Section 1) is amended to read:

"7-1-14. REPORTING LOCATION INSTRUCTIONS FOR PURPOSES OF REPORTING GROSS RECEIPTS AND USE--LOCATION-CODE DATABASE AND LOCATION-RATE DATABASE.--

A. For purposes of the Gross Receipts and Compensating Tax Act, Interstate Telecommunications Gross Receipts Tax Act, Leased Vehicle Gross Receipts Tax Act and any act authorizing the imposition of a local option gross receipts or compensating tax, a taxpayer that has gross receipts and a taxpayer using property or services in New Mexico in a taxable manner shall report the gross receipts and use to the proper reporting location as provided in this section.

B. The reporting location for gross receipts from the sale, lease or granting of a license to use real property located in New Mexico, and any related deductions, shall be the location of the property.

C. The reporting location for gross receipts from the sale or license of property, other than real property, and any related deductions, shall be at the following locations:

(1) if the property is received by the purchaser at the New Mexico location of the seller, the location of the seller;

(2) if the property is not received by the purchaser at the location of the seller, the location indicated by instructions for delivery to the purchaser, or the purchaser's donee, when known to the seller;

(3) if Paragraphs (1) and (2) of this subsection do not apply, the location indicated by an address for the purchaser available from the business records of the seller that are maintained in the ordinary course of business; provided that use of the address does not constitute bad faith;

(4) if Paragraphs (1) through (3) of this subsection do not apply, the location for the purchaser obtained during consummation of the sale, including the

address of a purchaser's payment instrument, if no other address is available; provided that use of this address does not constitute bad faith; or

(5) if Paragraphs (1) through (4) of this subsection do not apply, including a circumstance in which the seller is without sufficient information to apply those standards, the location from which the property was shipped or transmitted.

D. The reporting location for gross receipts from the lease of tangible personal property, including vehicles, other transportation equipment and other mobile tangible personal property, and any related deductions, shall be the location of primary use of the property, as indicated by the address for the property provided by the lessee that is available to the lessor from the lessor's records maintained in the ordinary course of business; provided that use of this address does not constitute bad faith. The location of primary use shall not be altered by intermittent use at different locations, such as use of business property that accompanies employees on business trips and service calls.

E. The reporting location for gross receipts from the sale, lease or license of franchises, and any related deductions, shall be where the franchise is used.

F. The reporting location for gross receipts from the performance or sale of the following services, and any related deductions, shall be at the following locations:

(1) for professional services performed in New Mexico, other than construction-related services, or performed outside New Mexico when the product of the service is initially used in New Mexico, the location of the performer of the service or seller of the product of the service, as appropriate;

(2) for construction services and construction-related services performed for a construction project in New Mexico, the location of the construction site;

(3) for services with respect to the selling of real estate located in New Mexico, the location of the real estate;

(4) for transportation of persons or property in, into or from New Mexico, the location where the person or property enters the vehicle; and

(5) for services other than those described in Paragraphs (1) through (4) of this subsection, the location where the product of the service is delivered.

G. Except as provided in Subsection H of this section, the reporting location for uses of property or services subject to the compensating tax shall be the location at which gross receipts would have been required to be reported had the transaction been subject to the gross receipts tax.

H. If a taxpayer subject to the compensating tax can demonstrate that the first use upon which compensating tax is imposed occurred at a time and place different

from the time and place of the purchase, then the reporting location for the compensating tax shall be the location of the first use.

I. The secretary shall develop a location-code database that provides the reporting location codes designated by the secretary. The secretary shall also develop and provide to taxpayers a location-rate database that sets out the tax rates applicable to reporting 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.

J. As used in this section:

(1) "gross receipts" means, as applicable, "gross receipts" as used in the Gross Receipts and Compensating Tax Act and the Leased Vehicle Gross Receipts Tax Act and "interstate telecommunications gross receipts" in the Interstate Telecommunications Gross Receipts Tax Act;

(2) "in-person service" means a service physically provided in person by the service provider, where the customer or the customer's real or tangible personal property upon which the service is performed is in the same location as the service provider at the time the service is performed; and

(3) "professional service" means a service, other than an in-person service, that requires either an advanced degree from an accredited post-secondary educational institution or a license from the state to perform."

## **Chapter 85 Section 5 Laws 2023**

SECTION 5. 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 pursuant to the 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 of overpaid tax, penalty or interest may be allowed or made to a person if a claim is properly filed:

(1) only within three years after the end of the calendar year in which the applicable event occurs:

(a) in the case of tax paid with an original or amended state return, the date the related tax was originally due;

(b) in the case of tax paid in response to an assessment by the department pursuant to Section 7-1-17 NMSA 1978, the date the tax was paid;

(c) in the case of tax with respect to which a net-negative federal adjustment, as that term is used in Section 7-1-13 NMSA 1978, relates, the final determination date of that federal adjustment, as provided in Section 7-1-13 NMSA 1978;

(d) 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 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 or the Natural Gas Processors Tax Act; or

(e) in the case of a claim related to property taken by levy, the date the property was levied upon as provided in the Tax Administration Act;

(2) in the case of a denial of a claim for credit pursuant to 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 pursuant to 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 pursuant to 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 pursuant to 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 pursuant to 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, special fuel excise tax return or annual insurance premium 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, an amended oil and gas tax return or an amended insurance premium 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.

L. In no case may a credit or refund be claimed if the related federal adjustment is taken into account by a partnership in the partnership's tax return for the adjustment year and allocated to the partners in a manner similar to other partnership tax items."

## **Chapter 85 Section 6 Laws 2023**

SECTION 6. Section 7-1-82 NMSA 1978 (being Laws 1973, Chapter 179, Section 1, as amended) is amended to read:

"7-1-82. TRANSFER, ASSIGNMENT, SALE, LEASE OR RENEWAL OF LIQUOR LICENSE.--

A. The director of the alcoholic beverage control division of the regulation and licensing department shall not allow the transfer, assignment, lease or sale of any liquor license pursuant to the provisions of the Liquor Control Act until the director receives written notification from the secretary or secretary's delegate that:

(1) the licensee or any person authorized to use the license is not a delinquent taxpayer as provided in Section 7-1-16 NMSA 1978 only with respect to the liquor excise tax or the gross receipts tax; or

(2) the transferee, assignee, buyer or lessee has entered into a written agreement with the secretary or secretary's delegate in which the transferee, assignee,

buyer or lessee has assumed full liability for payment of all taxes due or that may become due from the licensee with respect to the liquor excise tax or the gross receipts tax.

B. The director of the alcoholic beverage control division of the regulation and licensing department shall not allow the renewal of any liquor license pursuant to the provisions of the Liquor Control Act until the director receives notification from the secretary or secretary's delegate that on a certain date:

(1) the licensee is not a delinquent taxpayer as provided in Section 7-1-16 NMSA 1978 only with respect to the liquor excise tax or the gross receipts tax; and

(2) there are no unfiled tax returns due from the licensee with respect to the liquor excise tax or the gross receipts tax."

## **Chapter 85 Section 7 Laws 2023**

SECTION 7. Section 7-2-5.5 NMSA 1978 (being Laws 1995, Chapter 42, Section 1) is amended to read:

"7-2-5.5. EXEMPTION--EARNINGS BY INDIANS, THEIR INDIAN SPOUSES AND INDIAN DEPENDENTS ON INDIAN LANDS.--Income earned by a member of a New Mexico federally recognized Indian nation, tribe, band or pueblo, the member's spouse or dependent, who is a member of a New Mexico federally recognized Indian nation, tribe, band or pueblo, is exempt from state income tax if the income is earned from work performed within and the member, spouse or dependent is domiciled within the boundaries of the Indian member's or the spouse's reservation or pueblo grant or within the boundaries of land defined as "Indian country" pursuant to 18 U.S.C. Section 1151, as that section may be amended or renumbered, for that nation, tribe, band or pueblo."

## **Chapter 85 Section 8 Laws 2023**

SECTION 8. 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;

(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; and

(d) for taxable years beginning on or after January 1, 2023, an amount equal to the amount of credit claimed and allowed for that year pursuant to Section 7-3A-10 NMSA 1978 with respect to the distributed net income of a pass-through entity;

(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;

(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; and

(4) for a taxpayer that conducts a lawful business pursuant to the laws of this state, excludes an amount equal to any expenditure that is eligible to be claimed as a federal income tax deduction but is disallowed pursuant to Section 280E of the Internal Revenue Code, as that section may be amended or renumbered;

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-subsidary 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 as of January 1, 2018 for the taxable year in which the deduction is taken, including the eighty percent limitation of Section 172(a) of the Internal Revenue Code as of January 1, 2018 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 85 Section 9 Laws 2023**

SECTION 9. 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. "disclosed agency" means a person receiving money from a third party on behalf of another if the person receiving the money, or the person on whose behalf the money is received, disclosed the relationship to the third party from whom the person

receives money, or if the third party otherwise has actual knowledge that the person to whom the money is paid receives the money on behalf of another;

E. "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;

F. "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 services;
- (4) inspection of preliminary prototypes developed by the performer of services; or
- (5) similar activities;

G. "lease" or "leasing" means an arrangement whereby, for a consideration, the owner of property grants another person the exclusive right to possess and use the property for a definite term;

H. "licensing" or "license" means an arrangement whereby, for a consideration, the owner of property grants another person a revocable, non-exclusive right to use the property;

I. "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;

J. "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;

K. "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 services; farming; electric power generation; processing of natural resources, including hydrocarbons; or the processing or preparation of meals for immediate consumption;

L. "manufacturing service" means the service of combining or processing components or materials owned by another, but does not include construction services; farming; electric power generation; processing of natural resources, including hydrocarbons; or the processing or preparation of meals for immediate consumption;

M. "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;

N. "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;

O. "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;

P. "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;

Q. "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;

R. "secretary" means the secretary of taxation and revenue or the secretary's delegate;

S. "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

T. "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 85 Section 10 Laws 2023

SECTION 10. 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, leased vehicle gross receipts tax, and cannabis excise 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 85 Section 11 Laws 2023**

SECTION 11. Section 7-9-14 NMSA 1978 (being Laws 1969, Chapter 144, Section 7, as amended) is amended to read:

"7-9-14. EXEMPTION--COMPENSATING TAX--GOVERNMENTAL AGENCIES--INDIANS.--

A. Except as otherwise provided in this subsection, there is exempted from the compensating tax the use of property and services by the United States or the state of New Mexico or any governmental unit or subdivision, agency, department or instrumentality thereof. The exemption provided by this subsection does not apply to:

(1) the use of property that is or will be incorporated into a metropolitan redevelopment project under the Metropolitan Redevelopment Code; or

(2) the use of construction material.

B. Exempted from the compensating tax is the use of property by any Indian nation, tribe or pueblo or any governmental unit, subdivision, agency, department or instrumentality thereof on Indian reservations or pueblo grants."

## **Chapter 85 Section 12 Laws 2023**

SECTION 12. Section 7-9-26 NMSA 1978 (being Laws 1969, Chapter 144, Section 19, as amended) is amended to read:

"7-9-26. EXEMPTION--GROSS RECEIPTS AND COMPENSATING TAX--FUEL.--Exempted from the gross receipts and compensating tax are the receipts from selling and the use of gasoline, special fuel or alternative fuel on which the tax imposed by Section 7-13-3, 7-16A-3 or 7-16B-4 NMSA 1978 has been paid and not refunded."

## **Chapter 85 Section 13 Laws 2023**

SECTION 13. Section 7-9-41.6 NMSA 1978 (being Laws 2020 (1st S.S.), Chapter 4, Section 3) is amended to read:

"7-9-41.6. EXEMPTION--GROSS RECEIPTS--CERTAIN HEALTH CARE PROVIDERS FROM CERTAIN FEDERAL PAYMENTS.--Exempted from the gross receipts tax are receipts of health care providers, other than hospitals licensed by the department of health, from payments by:

A. the United States department of health and human services from the federal public health and social services emergency fund to providers eligible to receive the payments pursuant to the federal Coronavirus Aid, Relief, and Economic Security Act; and

B. the medical assistance division of the human services department from funds appropriated to New Mexico pursuant to the federal American Rescue Plan Act of 2021 for the state medicaid program to provide additional support for home and community-based services."

## **Chapter 85 Section 14 Laws 2023**

SECTION 14. Section 7-9-46 NMSA 1978 (being Laws 1969, Chapter 144, Section 36, as amended by Laws 2021, Chapter 65, Section 13 and by Laws 2021, Chapter 66, Section 2) is amended to read:

"7-9-46. DEDUCTION--GROSS RECEIPTS--GOVERNMENTAL GROSS RECEIPTS--SALES TO MANUFACTURERS AND MANUFACTURING SERVICE PROVIDERS.--

A. Receipts from selling tangible personal property may be deducted from gross receipts or from governmental gross receipts if the sale is made to a person engaged in the business of manufacturing who delivers a nontaxable transaction certificate to the seller or provides alternative evidence pursuant to Section 7-9-43 NMSA 1978. The buyer must incorporate the tangible personal property as an ingredient or component part of the product that the buyer is in the business of manufacturing.

B. Receipts from selling a manufacturing consumable to a manufacturer or a manufacturing service provider may be deducted from gross receipts or from governmental gross receipts if the buyer delivers a nontaxable transaction certificate to the seller or provides alternative evidence pursuant to Section 7-9-43 NMSA 1978; provided that if the seller is a utility company, an agreement with the department pursuant to Section 7-1-21.1 NMSA 1978 and a nontaxable transaction certificate shall be required.

C. Receipts from selling or leasing qualified equipment may be deducted from gross receipts if the sale is made to, or the lease is entered into with, a person engaged in the business of manufacturing or a manufacturing service provider who delivers a nontaxable transaction certificate to the seller or provides alternative evidence pursuant to Section 7-9-43 NMSA 1978; provided that a manufacturer or manufacturing service provider delivering a nontaxable transaction certificate or alternative evidence with respect to the qualified equipment shall not claim an investment credit pursuant to the Investment Credit Act for that same equipment.

D. The purpose of the deductions provided in this section is to encourage manufacturing businesses to locate in New Mexico and to reduce the tax burden, including reducing pyramiding, on the tangible personal property that is consumed in the manufacturing process and that is purchased by manufacturing businesses in New Mexico.

E. The department shall annually report to the revenue stabilization and tax policy committee the aggregate amount of deductions taken pursuant to this section, the number of taxpayers claiming each of the deductions and any other information that is necessary to determine that the deductions are performing the purposes for which they are enacted.

F. A taxpayer deducting gross receipts pursuant to this section shall report the amount deducted separately for each deduction provided in this section and attribute the amount of the deduction to the appropriate authorization provided in this section in a manner required by the department that facilitates the evaluation by the legislature of the benefit to the state of these deductions.

G. As used in this section:

(1) "manufacturing consumable" means tangible personal property, other than qualified equipment or an ingredient or component part of a manufactured product, that is incorporated into, destroyed, depleted or transformed in the process of manufacturing a product, including electricity, fuels, water, manufacturing aids and supplies, chemicals, gases and other tangibles used to manufacture a product;

(2) "manufacturing operation" means a plant operated by a manufacturer or manufacturing service provider that employs personnel to perform production tasks to produce goods, in conjunction with machinery and equipment; and

(3) "qualified equipment" means machinery, equipment and tools, including component, repair, replacement and spare parts thereof, that are used directly in the manufacturing process of a manufacturing operation. "Qualified equipment" includes computer hardware and software used directly in the manufacturing process of a manufacturing operation but excludes any motor vehicle that is required to be registered in this state pursuant to the Motor Vehicle Code."

## **Chapter 85 Section 15 Laws 2023**

SECTION 15. Section 7-9-54 NMSA 1978 (being Laws 1969, Chapter 144, Section 44, as amended) is amended to read:

"7-9-54. DEDUCTION--GROSS RECEIPTS TAX--GOVERNMENTAL GROSS RECEIPTS TAX--SALES TO GOVERNMENTAL AGENCIES.--

A. Receipts from selling tangible personal property, or from selling licenses to use digital goods for the purpose of loaning those digital goods to the public, to the United States or to New Mexico or a governmental unit, subdivision, agency, department or instrumentality thereof may be deducted from gross receipts or from governmental gross receipts. Unless contrary to federal law, the deduction provided by this subsection does not apply to:

- (1) receipts from selling metalliferous mineral ore;
- (2) receipts from selling tangible personal property that is or will be incorporated into a metropolitan redevelopment project created under the Metropolitan Redevelopment Code;
- (3) receipts from selling construction material, excluding tangible personal property, whether removable or non-removable, that is or would be classified for depreciation purposes as three-year property, five-year property, seven-year property or ten-year property, including indirect costs related to the asset basis, by Section 168 of the Internal Revenue Code of 1986, as that section may be amended or renumbered; or
- (4) that portion of the receipts from performing a "service" that reflects the value of tangible personal property utilized or produced in performance of such service.

B. Receipts from selling tangible personal property, or from selling licenses to use digital goods for the purpose of loaning those digital goods to the public, for any purpose to an Indian tribe, nation or pueblo or a governmental unit, subdivision, agency, department or instrumentality thereof for use on Indian reservations or pueblo grants may be deducted from gross receipts or from governmental gross receipts.

C. When a seller, in good faith, deducts receipts for tangible personal property or licenses to use digital goods for the purpose of loaning those digital goods to the public sold to the state or a governmental unit, subdivision, agency, department or instrumentality thereof, after receiving written assurances from the buyer's representative that the property sold is not construction material, the department shall not assert in a later assessment or audit of the seller that the receipts are not deductible pursuant to Paragraph (3) of Subsection A of this section."

## **Chapter 85 Section 16 Laws 2023**

SECTION 16. Section 7-9-88.1 NMSA 1978 (being Laws 1999, Chapter 223, Section 2, as amended) is amended to read:

"7-9-88.1. CREDIT--GROSS RECEIPTS TAX--TAX PAID TO CERTAIN TRIBES.--

A. If on a taxable transaction taking place on tribal land a qualifying gross receipts, sales or similar tax has been levied by the tribe, the amount of the tribe's tax may be credited against gross receipts tax due this state or its political subdivisions pursuant to the Gross Receipts and Compensating Tax Act and a local option gross receipts tax on the same transaction. The amount of the credit shall be equal to the lesser of seventy-five percent of the tax imposed by the tribe on the receipts from the transaction or seventy-five percent of the revenue produced by the sum of the rate of

tax imposed pursuant to the Gross Receipts and Compensating Tax Act and the total of the rates of local option gross receipts taxes imposed on the receipts from the same transaction. Notwithstanding any other provision of law to the contrary, the amount of credit taken and allowed shall be applied proportionately against the amount of the gross receipts tax and local option gross receipts taxes and against the amount of distribution of those taxes pursuant to Section 7-1-6.1 NMSA 1978.

B. A qualifying gross receipts, sales or similar tax levied by the tribe shall be limited to a tax that:

(1) is substantially similar to the gross receipts tax imposed by the Gross Receipts and Compensating Tax Act;

(2) does not unlawfully discriminate among persons or transactions based on membership in the tribe;

(3) provides a credit against the tribe's tax equal to the lesser of twenty-five percent of the tax imposed by the tribe on the receipts from the transactions or twenty-five percent of the tax revenue produced by the sum of the rate of tax imposed pursuant to the Gross Receipts and Compensating Tax Act and the total of the rates of the local option gross receipts taxes imposed on the receipts from the same transactions; and

(4) is subject to a cooperative agreement between the tribe and the secretary entered into pursuant to Section 9-11-12.1 NMSA 1978 and in effect at the time of the taxable transaction.

C. For purposes of the tax credit allowed by this section:

(1) "pueblo" means the Pueblo of Acoma, Cochiti, Isleta, Jemez, Laguna, Nambe, Picuris, Pojoaque, Sandia, San Felipe, San Ildefonso, San Juan, Santa Ana, Santa Clara, Santo Domingo, Taos, Tesuque, Zia or Zuni or the nineteen New Mexico pueblos acting collectively;

(2) "tribal land" means all land that is owned by a tribe located within the exterior boundaries of a tribe's reservation or grant and all land held by the United States in trust for that tribe; and

(3) "tribe" means a pueblo, the Jicarilla Apache Nation or the Mescalero Apache Tribe."

## **Chapter 85 Section 17 Laws 2023**

SECTION 17. Section 7-12-9.1 NMSA 1978 (being Laws 2006, Chapter 91, Section 7, as amended) is amended to read:

"7-12-9.1. LICENSING--GENERAL LICENSING PROVISIONS.--

A. A person shall not engage in the manufacture or distribution of cigarettes in New Mexico without a license issued by the department.

B. The department shall issue or renew a license for a term not to exceed one year.

C. The department may charge a license fee of up to one hundred dollars (\$100) for each manufacturer's or distributor's license issued or renewed.

D. An application for a license or renewal of a license shall be submitted on a form determined by the department and shall include:

(1) the name and address of the applicant and:

(a) if the applicant is a firm, partnership or association, the name and address of each of its members; or

(b) if the applicant is a corporation, the name and address of each of its officers;

(2) the address of the applicant's principal place of business and every location where the applicant's business is conducted; and

(3) any other information the department may require.

E. The department may issue a distributor's license and a manufacturer's license to the same person.

F. Persons licensed as manufacturers or distributors may sell stamped cigarettes at retail.

G. A license may not be granted, maintained or renewed if one or more of the following conditions applies to an applicant:

(1) the applicant is a delinquent taxpayer pursuant to Section 7-1-16 NMSA 1978 only with respect to the cigarette tax or the gross receipts tax or has unfiled tax returns due with respect to the cigarette tax or the gross receipts tax;

(2) the applicant has had a manufacturer's or distributor's license revoked by the department or any other state within the past two years;

(3) the applicant is convicted of a crime related to contraband cigarettes, stolen cigarettes or counterfeit stamps;

(4) the applicant is a manufacturer but not a participating manufacturer as defined in Section II(jj) of the master settlement agreement and the applicant is not in compliance with the provisions of Section 6-4-13 NMSA 1978 or the Tobacco Escrow Fund Act; or

(5) the applicant is a manufacturer and imports cigarettes into the United States that are in violation of 19 U.S.C. 1681a or manufactures cigarettes that do not comply with the Federal Cigarette Labeling and Advertising Act.

H. In addition to a civil or criminal penalty provided by law, upon a finding that a licensee has violated a provision of the Cigarette Tax Act or the Tobacco Escrow Fund Act or a rule adopted pursuant to either act, the department may revoke or suspend the license or licenses of the licensee.

I. As used in this section, "applicant" includes a person or persons owning, directly or indirectly, in the aggregate, more than ten percent of the ownership interest in the business holding or applying for a license pursuant to the Cigarette Tax Act."

## **Chapter 85 Section 18 Laws 2023**

SECTION 18. Section 7-14-6 NMSA 1978 (being Laws 1988, Chapter 73, Section 16, as amended) is amended to read:

"7-14-6. EXEMPTIONS FROM TAX.--

A. A person who acquires a vehicle out of state thirty or more days before establishing a domicile in this state is exempt from the tax if the vehicle was acquired for personal use.

B. A person applying for a certificate of title for a vehicle registered in another state is exempt from the tax if the person has previously registered and titled the vehicle in New Mexico and has owned the vehicle continuously since that time.

C. A vehicle with a certificate of title owned by this state or any political subdivision is exempt from the tax.

D. A person is exempt from the tax if the person has a disability at the time the person purchases a vehicle and can prove to the motor vehicle division of the department or its agent that modifications have been made to the vehicle that are:

(1) due to that person's disability; and

(2) necessary to enable that person to drive that vehicle or be transported in that vehicle.

E. A person is exempt from the tax if the person is a bona fide resident of New Mexico who served in the armed forces of the United States and who suffered, while serving in the armed forces or from a service-connected cause, the loss or complete and total loss of use of:

- (1) one or both legs at or above the ankle; or
- (2) one or both arms at or above the wrist.

F. A person who acquires a vehicle for subsequent lease shall be exempt from the tax if:

- (1) the person does not use the vehicle in any manner other than holding it for lease or sale or leasing or selling it in the ordinary course of business;
- (2) the lease is for a term of more than six months;
- (3) the receipts from the subsequent lease are subject to the gross receipts tax; and
- (4) the vehicle does not have a gross vehicle weight of over twenty-six thousand pounds."

## **Chapter 85 Section 19 Laws 2023**

SECTION 19. Section 7-15-3.1 NMSA 1978 (being Laws 1943, Chapter 125, Section 12, as amended) is amended to read:

### **"7-15-3.1. TRIP TAX--COMPUTATION.--**

A. For the purpose of providing funds for the construction, maintenance, repair and reconstruction of this state's public highways, a use fee, to be known as the "trip tax", is imposed on each trip made in this state by the registrant, owner or operator of a foreign-based commercial motor carrier vehicle and is in lieu of registration fees and the weight distance tax that would otherwise be imposed on the trip on a registrant, owner or operator of any foreign-based commercial motor carrier vehicle that is:

- (1) not registered in this state under interstate registration;
- (2) not registered in this state under proportional registration;
- (3) not subject to a valid reciprocity agreement;
- (4) not registered as a foreign commercial motor carrier vehicle under short-term registration;

(5) not registered under an allocation of one-way rental fleet vehicles;  
and

(6) not exempted from registration and the payment of any registration fees and not exempted from the payment of the trip tax under Section 65-5-3 NMSA 1978.

B. Except as provided otherwise in Subsections C and D of this section, the trip tax shall be computed as follows:

(1) when the gross vehicle weight or combination gross vehicle weight exceeds twelve thousand pounds but does not exceed twenty-six thousand pounds, seven cents (\$.07) a mile for mileage to be traveled on the public highways within New Mexico, measured from the point of entering the state to the point of destination or place of leaving the state;

(2) when the gross vehicle weight or combination gross vehicle weight exceeds twenty-six thousand pounds and does not exceed fifty-four thousand pounds, twelve cents (\$.12) a mile for mileage to be traveled on the public highways within New Mexico, measured from the point of entering the state to the point of destination or place of leaving the state;

(3) when the gross vehicle weight or combination gross vehicle weight exceeds fifty-four thousand pounds and does not exceed seventy-two thousand pounds, fifteen cents (\$.15) a mile for mileage to be traveled on the public highways within New Mexico, measured from the point of entering the state to the point of destination or place of leaving the state; and

(4) when the gross vehicle weight or combination gross vehicle weight exceeds seventy-two thousand pounds, sixteen cents (\$.16) a mile for mileage to be traveled on the public highways within New Mexico, measured from the point of entering the state to the point of destination or place of leaving the state.

C. The department, by regulation, shall establish a procedure for the issuance of prepaid trip permits for:

(1) trips by a single vehicle or a fleet of vehicles for the purpose of:

(a) custom harvesting operations; or

(b) the transportation of goods or passengers between the state and Mexico; or

(2) any vehicle that is unable to declare at the time of entering the state the point of destination or place of leaving the state.

D. Prepaid trip permits established pursuant to Subsection C of this section shall be sold in increments of no less than fifty dollars (\$50.00). Any portion not used prior to one year from the date of issuance shall not be refundable. Prepaid trip permits shall not be transferable between a registrant, owner or operator and another registrant, owner or operator. Charges against the prepaid trip permit shall be based on the computations specified in Subsection B of this section."

## **Chapter 85 Section 20 Laws 2023**

SECTION 20. Section 7-15A-12 NMSA 1978 (being Laws 2003 (1st S.S.), Chapter 3, Section 6, as amended) is amended to read:

"7-15A-12. WEIGHT DISTANCE TAX IDENTIFICATION PERMITS--  
SUSPENSION AND RENEWAL.--

A. An operator of a motor vehicle registered in this state and subject to the weight distance tax shall display a weight distance tax identification permit issued for that vehicle to an enforcement officer of the department of public safety upon demand of that employee and when the vehicle passes through a port of entry.

B. The department may suspend or decline to renew a weight distance tax identification permit for a motor vehicle if the owner or operator of the vehicle does not comply with the provisions of the Weight Distance Tax Act or if the owner or operator is a delinquent taxpayer as provided in Section 7-1-16 NMSA 1978 only with respect to the weight distance tax or the gross receipts tax or if there are unfiled tax returns due with respect to the weight distance tax or the gross receipts tax.

C. The department of transportation may collect delinquent weight distance tax on behalf of the taxation and revenue department at ports of entry operated by the department of transportation."

## **Chapter 85 Section 21 Laws 2023**

SECTION 21. Section 7-40-3 NMSA 1978 (being Laws 2018, Chapter 57, Section 3, as amended by Laws 2021, Chapter 65, Section 35 and by Laws 2021, Chapter 136, Section 2) is amended to read:

"7-40-3. IMPOSITION AND RATE OF TAX--DENOMINATION OF "PREMIUM TAX", "HEALTH INSURANCE PREMIUM SURTAX" AND "SELF-INSURED GROUP TAX".--

A. The tax imposed pursuant to this subsection may be referred to as the "premium tax". The premium tax is imposed at a rate of three and three-thousandths percent of the gross premiums and membership and policy fees received or written by a taxpayer or, with respect to a taxpayer that is an insured that procures, continues or renews insurance with a nonadmitted insurer, paid by the taxpayer, on insurance or

contracts covering risks within the state during the preceding calendar year. The premium tax shall not be imposed on self-insured groups or on return premiums, dividends paid or credited to policyholders or contract holders and premiums received for reinsurance on New Mexico risks.

B. For a taxpayer that is an insurer lawfully organized pursuant to the laws of the Republic of Mexico, the premium tax shall apply solely to the taxpayer's gross premium receipts from insurance policies issued by the taxpayer in New Mexico that cover residents of New Mexico or property or risks principally domiciled or located in New Mexico.

C. With respect to a taxpayer that is a property bondsman, "gross premiums" shall be considered any consideration received as security or surety for a bail bond in connection with a judicial proceeding.

D. The premium tax provided in Subsection A of this section is imposed on the gross premiums received of a surplus lines broker, less return premiums, on surplus lines insurance where New Mexico is the home state of the insured transacted under the surplus lines broker's license, as reported by the surplus lines broker to the department on forms and in the manner prescribed by the department. For purposes of this subsection, "gross premiums" shall include any additional amount charged the insured, including policy fees, risk purchasing group fees and inspection fees; but "premiums" shall not include any additional amount charged the insured for local, state or federal taxes; regulatory authority fees; or examination fees, if any. For a surplus lines policy issued to an insured whose home state is New Mexico and where only a portion of the risk is located in New Mexico, the entire premium tax shall be paid in accordance with this section.

E. In addition to the premium tax, except as provided in Subsection F of this section, a health insurance premium surtax is imposed at a rate of three and seventy-five hundredths percent of the gross health insurance premiums and membership and policy fees received by the taxpayer on hospital and medical expense incurred insurance or contracts; nonprofit health care plan contracts, excluding dental or vision only contracts; and health maintenance organization subscriber contracts covering health risks within this state during the preceding calendar year. The surtax shall not apply to return health insurance premiums, dividends paid or credited to policyholders or contract holders and health insurance premiums received for reinsurance on New Mexico risks. The surtax imposed pursuant to this subsection may be referred to as the "health insurance premium surtax".

F. If an act of the United States congress is signed into law that imposes the annual fee on health insurance providers pursuant to Section 9010 of the federal Patient Protection and Affordable Care Act, or that imposes a substantially similar fee on the same class of taxpayers, the rate of the health insurance premium surtax shall be decreased at a rate equal to the rate of the annual fee imposed; provided that the rate of the health insurance premium surtax shall not be less than one percent. A reduction

in the health insurance premium surtax pursuant to this subsection shall go into effect on the later of the effective date of the imposition of the federal annual fee or ninety days after the congressional act imposing the federal annual fee is signed into law.

G. A tax is imposed at a rate of nine-tenths percent on the net premiums, as defined in the Group Self-Insurance Act, received or written by a self-insured group within the state during the preceding calendar year. The tax imposed pursuant to this subsection may be referred to as the "self-insured group tax".

## **Chapter 85 Section 22 Laws 2023**

SECTION 22. Section 7-40-6 NMSA 1978 (being Laws 2018, Chapter 57, Section 6) is amended to read:

"7-40-6. CREDIT--MEDICAL INSURANCE POOL ASSESSMENTS.-- The assessment for any New Mexico medical insurance pool member pursuant to Section 59A-54-10 NMSA 1978 shall be allowed as a fifty percent credit on the tax return for that member and a seventy-five percent credit on the tax return for that member for the assessments attributable to pool policyholders that receive premiums, in whole or in part, through the federal Ryan White Comprehensive AIDS Resources Emergency Act of 1990, the Ted R. Montoya hemophilia program at the university of New Mexico health sciences center, the children's medical services bureau of the public health division of the department of health or other program receiving state funding or assistance. That portion of credit that exceeds a member's premium tax liability in the taxable period in which the credit is claimed shall not be refunded and shall not be carried forward to subsequent taxable periods."

## **Chapter 85 Section 23 Laws 2023**

SECTION 23. Section 7-42-4 NMSA 1978 (being Laws 2021 (1st S.S.), Chapter 4, Section 46) is amended to read:

"7-42-4. DATE PAYMENT DUE--REPORTING LOCATION INSTRUCTIONS.--

A. The cannabis excise tax is to be paid on or before the twenty-fifth day of the month following the month in which the taxable sale occurs.

B. The reporting location for reporting the sale of cannabis products shall be at the following locations:

(1) if the cannabis product is received by the purchaser at the New Mexico location of the cannabis retailer, the location of the cannabis retailer;

(2) if the cannabis product is not received by the purchaser at a location of the cannabis retailer, the location indicated by instructions for delivery to the purchaser, or the purchaser's donee, when known to the cannabis retailer;

(3) if Paragraphs (1) and (2) of this subsection do not apply, the location indicated by an address for the purchaser available from the business records of the cannabis retailer that are maintained in the ordinary course of business; provided that use of the address does not constitute bad faith;

(4) if Paragraphs (1) through (3) of this subsection do not apply, the location for the purchaser obtained during consummation of the sale, including the address of a purchaser's payment instrument if no other address is available; provided that use of this address does not constitute bad faith; or

(5) if Paragraphs (1) through (4) of this subsection do not apply, including a circumstance in which the cannabis retailer is without sufficient information to apply those standards, the location from which the cannabis product is shipped or transmitted."

## **Chapter 85 Section 24 Laws 2023**

SECTION 24. Section 26-2C-6 NMSA 1978 (being Laws 2021 (1st S.S.), Chapter 4, Section 6) is amended to read:

"26-2C-6. LICENSING CANNABIS ACTIVITIES--LIMITATIONS--MEDICAL CANNABIS LEGACY LICENSING--CANNABIS SHORTAGE FOR MEDICAL PROGRAM.--

A. The division shall regulate and administer and may collect fees in connection with the administration of:

- (1) commercial cannabis activity and licensing related to commercial cannabis activity;
- (2) the medical cannabis program, except for the medical cannabis registry; and
- (3) all aspects of cannabis relating to cannabis training and education programs.

B. The division shall follow the provisions of the Uniform Licensing Act when licensing or permitting the following:

- (1) cannabis consumption areas;
- (2) cannabis couriers;
- (3) cannabis manufacturers;
- (4) cannabis producer microbusinesses;

- (5) cannabis producers;
- (6) cannabis research laboratories;
- (7) cannabis retailers;
- (8) cannabis servers;
- (9) cannabis testing laboratories;
- (10) cannabis training and education programs;
- (11) integrated cannabis microbusinesses; and
- (12) vertically integrated cannabis establishments.

C. The division shall include a clear designation on all licenses and permits that indicates whether the license or permit is for medical cannabis activity, commercial cannabis activity or both or for cannabis training and education programs.

D. The division shall issue a license to a cannabis retailer applicant at a discount if the applicant provides documentation of an agreement to accept cannabis products on consignment from a cannabis producer microbusiness or an integrated cannabis microbusiness licensed pursuant the Cannabis Regulation Act.

E. A license is valid for twelve months from the date the license is issued and may be renewed annually, except that a license issued for a cannabis training and education program is valid until terminated by the licensee or suspended or revoked by the division.

F. The director shall not renew a license issued pursuant to the provisions of the Cannabis Regulation Act until the director receives notification from the secretary of taxation and revenue or the secretary's designee that on a certain date:

- (1) the licensee is not a delinquent taxpayer pursuant to Section 7-1-16 NMSA 1978 only with respect to the cannabis excise tax or the gross receipts tax; and
- (2) there are no unfiled tax returns due with respect to the cannabis excise tax or the gross receipts tax.

G. No license shall be transferable or assignable from a licensee to another person. The division shall not allow a person that is licensed as any type of cannabis establishment other than a cannabis research laboratory to hold, directly or indirectly, a cannabis testing laboratory license.

H. Except for verification of age, the division shall not require licensees to request information from consumers or impose any residency requirement upon consumers for the purchase of cannabis products pursuant to the commercial cannabis activity authorized by the Cannabis Regulation Act. The division may require licensees to request information from consumers for the purchase of cannabis products pursuant to the medical cannabis program, which may include the presentation of legal identification issued by an authorized governmental entity or other documents as required by the medical cannabis program.

I. Except as otherwise provided in the Cannabis Regulation Act, the division shall not limit the number of licensed premises a licensee may occupy or operate under a license. Multiple licensees may occupy a single licensed premises, and the division shall not place any restriction or prohibition on the number of licensees occupying a single licensed premises or on the number of licensed premises of a cannabis establishment except as otherwise specifically provided for by the Cannabis Regulation Act. A licensee may conduct any lawful activity or any combination of lawful activities at a licensed premises; provided that the licensee is not a licensee pursuant to the Liquor Control Act. Smoking in a cannabis consumption area on a licensed premises shall be allowed only if the cannabis consumption area is in a designated smoking area or in a standalone building from which smoke does not infiltrate other indoor workplaces or other indoor public places where smoking is otherwise prohibited pursuant to the Dee Johnson Clean Indoor Air Act.

J. Licensees are specifically allowed to conduct other licensed activities, including activities pursuant to the Hemp Manufacturing Act, except for sales of alcoholic beverages.

K. A person properly licensed and in good standing pursuant to the Lynn and Erin Compassionate Use Act on the effective date of the Cannabis Regulation Act may continue to operate under that license for medical cannabis until comparable licenses for commercial cannabis activity are available. The division shall determine when retail sales of commercial cannabis products begin, but no later than April 1, 2022. A facility of such a licensee, upon issuance of the applicable cannabis establishment license, shall constitute licensed premises of the licensee and the licensee shall be entitled to continued and uninterrupted operations of the licensed premises. As to activity under the medical cannabis program, the licensee shall continue to operate under rules promulgated for the medical cannabis program until the division promulgates rules for medical cannabis activity, except that a qualified patient, a primary caregiver and a reciprocal participant shall not be prohibited from purchasing and obtaining cannabis products pursuant to the medical cannabis program.

L. To address a shortage of cannabis supply in the medical cannabis program, the division may:

(1) require all cannabis establishment licensees to ensure that at least ten percent of their cannabis in stock on a monthly basis is designated for sale to qualified patients, primary caregivers and reciprocal participants;

(2) initially take reasonable measures to expeditiously incentivize increased production of cannabis plants to remedy a shortage of cannabis supply in the medical cannabis program;

(3) after having first exhausted measures to increase production of cannabis plants to address the shortage of cannabis supply in the medical cannabis program, exclude commercial cannabis activity from the scope of new licenses issued to initial applicants for a vertically integrated cannabis establishment, cannabis producer, integrated cannabis microbusiness, cannabis producer microbusiness or cannabis manufacturer license, which limitation shall be in force for a period of at least six months; and

(4) require licensees who are licensed to produce cannabis to produce a specified quota of mature cannabis plants to be designated for use in the medical cannabis program; provided that:

(a) the division may require a licensee to devote no more than twenty-five percent of the licensee's cultivated cannabis plants on a monthly basis for use in the medical cannabis program; and

(b) the division may require specific tracking of cannabis plants.

M. As used in this section, "shortage of cannabis supply in the medical cannabis program" means that the average number of cannabis plants in production in the medical cannabis program per qualified patient after the effective date of the Cannabis Regulation Act is substantially less than the average number of cannabis plants in production in the medical cannabis program per qualified patient as of the effective date of the Cannabis Regulation Act, where:

(1) the average number of cannabis plants in production after the effective date of the Cannabis Regulation Act is measured over a period of three consecutive months; and

(2) the average number of cannabis plants in production as of the effective date of the Cannabis Regulation Act is measured over a period of three consecutive months immediately preceding the effective date of the Cannabis Regulation Act.

N. A person who is a member of the New Mexico senate or the New Mexico house of representatives on the effective date of the Cannabis Regulation Act shall not apply for or be granted a license to engage in any commercial cannabis activity prior to July 1, 2026."

## **Chapter 85 Section 25 Laws 2023**

SECTION 25. Section 59A-15-4 NMSA 1978 (being Laws 1984, Chapter 127, Section 259.1, as amended) is amended to read:

"59A-15-4. INSURANCE INDEPENDENTLY PROCURED--DUTY TO FILE RETURNS.--

A. Each insured who in this state procures or continues or renews insurance with a nonadmitted insurer on a risk located or to be performed in whole or in part in this state, other than insurance procured through a surplus lines licensee pursuant to Chapter 59A, Article 14 NMSA 1978 shall file returns pursuant to the Insurance Premium Tax Act.

B. If an independently procured policy covers risks or exposures only partially located or to be performed in this state, the taxes, fees and penalties imposed pursuant to the Insurance Code and the Insurance Premium Tax Act shall be computed on the portion of the premium properly attributable to the risks or exposures located or to be performed in this state and reported to the secretary of taxation and revenue. In no event, however, shall a tax be payable solely because the risk in question, or any portion thereof, is located or to be performed in this state.

C. This section does not abrogate or modify, and shall not be construed or deemed to abrogate or modify, any provision of the Insurance Code.

D. This section does not apply to life insurance, health insurance or annuities."

## **Chapter 85 Section 26 Laws 2023**

SECTION 26. Section 61-28B-8 NMSA 1978 (being Laws 1999, Chapter 179, Section 8, as amended) is amended to read:

"61-28B-8. QUALIFICATIONS FOR A CERTIFICATE AS A CERTIFIED PUBLIC ACCOUNTANT.--

A. An applicant for a certificate shall complete the application form provided by the board and demonstrate to the board's satisfaction that the applicant:

(1) is of good moral character and lacks a history of dishonest or felonious acts; and

(2) meets the education, experience and examination requirements of the board.

B. The board may refuse to grant a certificate on the ground that the applicant failed to satisfy the requirement of good moral character.

C. The education requirement for examination shall be a baccalaureate degree or its equivalent conferred by a college or university acceptable to the board, with thirty semester hours in accounting or the equivalent as determined by the board. An applicant for a certificate shall have at least one hundred fifty semester hours of college education or its equivalent earned at a college or university acceptable to the board.

D. The examination for certification shall be offered continuously via a computer-based testing system at a designated testing center and shall test an applicant's knowledge of the subjects of accounting and auditing and other related subjects as prescribed by the board. The board shall prescribe the method of applying for the examination and the dissemination of scores, and it shall rely on the American institute of certified public accountants for the grading of the examination. The board may use all or any part of the uniform certified public accountant examination services of the national association of state boards of accountancy to perform administrative services with respect to the examination. The board or its designee shall report all eligibility and score data to the national candidate database, and it shall, to the extent possible, provide that the passing scores are uniform with passing scores of other states.

E. An applicant must pass all sections of the examination to qualify for a certificate. A passing scaled score for each section shall be seventy-five. Sections may be taken individually and in any order. Credit for any section passed shall be valid for eighteen months from the date the passing score is released to the applicant, without having to attain a minimum score on any failed test section and without regard to whether the applicant has taken other test sections. An applicant must pass all four test sections within a continuous eighteen-month period, which begins on the date that the first passing scores are released to the applicant. If all four test sections are not passed within the continuous eighteen-month period, credit for any test section passed outside the eighteen-month period will expire, and that test section must be retaken.

F. An applicant shall be given credit for examination sections passed in another state if such credit would have been given in New Mexico.

G. The board may waive or defer requirements of this section regarding the circumstances in which sections of the examination must be passed, upon a showing that, by reason of circumstances beyond the applicant's control, the applicant was unable to meet the requirement.

H. An applicant for initial issuance of a certified public accountant certificate shall show that the applicant has had at least one year of experience. This experience shall include providing service or advice involving the use of accounting, attest, management advisory, financial advisory, tax or consulting skills as verified by a

certified public accountant who meets requirements prescribed by the board. The experience is acceptable if it was gained through employment in government, industry, academia or public practice."

### **Chapter 85 Section 27 Laws 2023**

SECTION 27. REPEAL CONFLICTING SECTION OF LAW.--Laws 2021, Chapter 65, Section 13 is repealed.

### **Chapter 85 Section 28 Laws 2023**

SECTION 28. REPEAL.--Sections 7-2-18.4, 7-2-18.5, 7-2-18.8, 7-2-18.21, 7-2-18.25, 7-2-18.27, 7-2-18.28, 7-2A-8.8, 7-2A-15, 7-2A-18, 7-2A-23, 7-2A-25, 7-2A-27, 7-2D-8.1, 7-9-16, 7-9-86, 7-9-105, 7-9-106, 7-9-114, 7-9G-2 and 7-14A-9 NMSA 1978 (being Laws 1994, Chapter 115, Section 1; Laws 1998, Chapter 97, Section 2; Laws 2001, Chapter 73, Section 1; Laws 2007, Chapter 204, Section 7; Laws 2009, Chapter 279, Section 1; Laws 2011, Chapter 89, Section 1; Laws 2012, Chapter 55, Section 1; Laws 1998, Chapter 97, Section 3; Laws 1994, Chapter 115, Section 2; Laws 2001, Chapter 73, Section 2; Laws 2007, Chapter 204, Section 8; Laws 2009, Chapter 279, Section 2; Laws 2012, Chapter 55, Section 2; Laws 1995, Chapter 89, Section 8; Laws 1969, Chapter 144, Section 9; Laws 1995, Chapter 80, Section 1; Laws 2007, Chapter 45, Section 6; Laws 2018, Chapter 62, Section 1; Laws 2010, Chapter 77, Section 1 and Laws 2010, Chapter 78, Section 1; Laws 2007, Chapter 229, Section 1; and Laws 1991, Chapter 197, Section 13, as amended) are repealed.

### **Chapter 85 Section 29 Laws 2023**

SECTION 29. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1 through 12 and 14 through 28 of this act is July 1, 2023.

B. The effective date of the provisions of Section 13 of this act is the first day of the month following the date this act takes effect.

### **Chapter 85 Section 30 Laws 2023**

SECTION 30. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

## **LAWS 2023, CHAPTER 86**

**SJC/Senate Bills 19 and 252, aa**  
**Approved April 4, 2023**

## AN ACT

RELATING TO LAW ENFORCEMENT; ALLOWING THE LAW ENFORCEMENT CERTIFICATION BOARD TO SUMMARILY SUSPEND LAW ENFORCEMENT OFFICERS WHO FAIL TO SUBMIT PROOF OF REQUIRED IN-SERVICE LAW ENFORCEMENT TRAINING PRIOR TO BEGINNING A REVOCATION PROCESS; PROVIDING MECHANISMS TO STRENGTHEN THE LAW ENFORCEMENT AND PUBLIC SAFETY TELECOMMUNICATOR PROFESSIONS; CREATING A POLICE OFFICER DATABASE; ENACTING THE USE OF FORCE PROCEDURES ACT; REGULATING THE USE OF PHYSICAL FORCE BY LAW ENFORCEMENT OFFICERS; ESTABLISHING A DUTY FOR OFFICERS TO INTERVENE.

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

### **Chapter 86 Section 1 Laws 2023**

SECTION 1. That version of Section 9-19-8 NMSA 1978 (being Laws 1987, Chapter 254, Section 8, as amended) that is to become effective July 1, 2023 is amended to read:

"9-19-8. ADMINISTRATIVELY ATTACHED AGENCIES.--The governor's organized crime prevention commission and the law enforcement certification board are administratively attached to the department, and the New Mexico law enforcement standards and training council is administratively attached to the New Mexico law enforcement academy in accordance with the Executive Reorganization Act."

### **Chapter 86 Section 2 Laws 2023**

SECTION 2. That version of Section 29-7-3 NMSA 1978 (being Laws 1979, Chapter 202, Section 42, as amended) that is to become effective July 1, 2023 is amended to read:

"29-7-3. NEW MEXICO LAW ENFORCEMENT STANDARDS AND TRAINING COUNCIL.--

A. The "New Mexico law enforcement standards and training council" is created and is administratively attached to the New Mexico law enforcement academy of the department of public safety, which shall provide staff support for the council.

B. The council shall develop and promulgate training requirements, curricula and methods; professional development programs; and performance standards for law enforcement officers and public safety telecommunicators at all levels, including basic, field training officer programs, advanced, specialized and instructor training to be consistent throughout New Mexico.

C. The council consists of:

(1) the director of the academy and the directors of the accredited regional law enforcement training facilities, who serve ex officio; and

(2) eleven members appointed by the governor and confirmed by the senate, consisting of:

(a) one attorney employed in a district attorney's office;

(b) one attorney employed by the public defender department;

(c) one certified police chief of a New Mexico Indian nation, tribe or pueblo;

(d) two New Mexico state-certified public safety telecommunicators, one of whom shall be from an agency that offers fire and medical telecommunications services and one of whom shall be from a public safety agency serving a rural part of the state;

(e) two members who have experience and specialize in providing adult education;

(f) two citizen-at-large members, one of whom has behavioral health expertise and neither of whom is an active or retired law enforcement officer or public safety telecommunicator or has a familial or financial connection to an active or retired law enforcement officer or public safety telecommunicator or any agency or department for which a law enforcement officer or public safety telecommunicator works;

(g) a sheriff who is a New Mexico state-certified law enforcement officer; and

(h) a municipal law enforcement manager who is a New Mexico-state certified law enforcement officer in a command position.

D. An appointed council member shall serve and have all the duties, responsibilities and authority of that office during the period prior to the final action by the senate in confirming or rejecting the appointments. Vacancies on the council shall be filled by appointment by the governor with the consent of the senate for the remainder of the unexpired term.

E. Appointments to the council shall be for staggered terms of four years or less made in such manner that the terms of not more than four members expire on July 1 of each year.

F. Members of the council are entitled to receive, for their service as members of the council, per diem and mileage as provided in the Per Diem and Mileage Act."

## **Chapter 86 Section 3 Laws 2023**

SECTION 3. Section 29-7-4.3 NMSA 1978 (being Laws 2022, Chapter 56, Section 13) is amended to read:

"29-7-4.3. LAW ENFORCEMENT CERTIFICATION BOARD--APPOINTMENT--POWERS AND DUTIES--REFUSAL TO ISSUE OR DENIAL, SUSPENSION OR REVOCATION OF CERTIFICATION--SUSPENSION OF CERTIFICATION FOR FAILURE TO MEET REQUIRED IN-SERVICE TRAINING--CONFIDENTIALITY OF INVESTIGATIONS--LAW ENFORCEMENT CERTIFICATION OFFICE CREATED.--

A. The "law enforcement certification board" is established and administratively attached to the department of public safety, and the department shall provide administrative services for the board and the law enforcement certification office.

B. The board consists of eleven members appointed by the governor with the advice and consent of the senate. No more than six members shall be members of the same political party. Members shall be appointed so as to represent different geographic areas of the state and the ethnic and cultural diversity of the state's population. The members shall be appointed for staggered five-year terms, except that for the initial board, two members shall be appointed for one-year terms, two members shall be appointed for two-year terms, two members shall be appointed for three-year terms, two members shall be appointed for four-year terms and three members shall be appointed for five-year terms.

C. The board shall include the following members:

- (1) a retired district judge, who serves as chair of the board;
- (2) a current or retired New Mexico state-certified municipal law enforcement manager in a command position;
- (3) a retired sheriff who was certified or a current sheriff who is certified as a law enforcement officer;
- (4) a current or retired state or local New Mexico state-certified law enforcement officer who has law enforcement management command experience;
- (5) a current or retired tribal law law enforcement officer;
- (6) a certified public safety telecommunicator;

(7) an attorney in private practice who practices as a plaintiff's attorney in the area of civil rights or who represents criminal defendants;

(8) an attorney in private practice who represents public entities in civil rights claims;

(9) an attorney who is employed by the public defender department;

(10) a professor of criminal justice at a public post-secondary educational institution in New Mexico; and

(11) a citizen-at-large who has knowledge and interest in law enforcement training.

D. An appointed member shall serve and have all of the duties, responsibilities and authority of that office during the period prior to the final action by the senate in confirming or rejecting the appointment. Vacancies shall be filled by appointment by the governor with the consent of the senate for the unexpired term of the member. Members are entitled to receive per diem and mileage as provided in the Per Diem and Mileage Act.

E. The board shall:

(1) deny, suspend or revoke:

(a) a peace officer's certification for just cause as provided in the Law Enforcement Training Act; and

(b) a telecommunicator's certification for just cause as provided in the Public Safety Telecommunicator Training Act; and

(2) conduct investigations, administer oaths and subpoena persons as necessary to make determination regarding fitness of a law enforcement officer to execute a law enforcement officer's duties.

F. The board may require by subpoena the attendance of witnesses or the production of records and other evidence relevant to an investigation and shall have such other powers and duties and administer or enforce such other acts as further provided by law.

G. The board shall appoint a chief executive officer to assist the board in carrying out its functions. The chief executive officer shall employ persons as necessary to assist the board in carrying out its functions.

H. The board shall adopt, publish and file, in accordance with the provisions of the State Rules Act, all rules concerning the implementation and enforcement of the

Law Enforcement Training Act and Public Safety Telecommunicator Training Act except those sections enumerated in Subsection E of Section 29-7-4 NMSA 1978 for which rules shall be adopted, published and filed by the council.

I. The board shall issue or renew a certification to:

(1) graduates from an approved basic law enforcement training program who satisfy the qualifications for certification as set forth in Section 29-7-6 NMSA 1978; or

(2) graduates from an approved basic telecommunicator training program who satisfy the qualifications for certification as set forth in the Public Safety Telecommunicator Training Act.

J. Members of the board shall receive, for their service as members of the board, per diem and mileage as provided in the Per Diem and Mileage Act.

K. Internal affairs and other investigation documents provided to or developed by the board for use in a certification case shall remain confidential. A decision of the board is a final agency decision and may be appealed as provided in Section 39-3-1.1 NMSA 1978."

## **Chapter 86 Section 4 Laws 2023**

SECTION 4. Section 29-7-6.1 NMSA 1978 (being Laws 1993, Chapter 255, Section 7, as amended) is amended to read:

"29-7-6.1. COUNTY SHERIFFS--TRAINING REQUIREMENT.--

A. Sheriffs are eligible to attend the academy and are eligible to receive certification as provided in the Law Enforcement Training Act.

B. Every county sheriff, except sheriffs who have previously been awarded a certificate attesting to completion of a basic law enforcement training program, shall participate in and complete an administrative law enforcement training program no later than twelve months after the date the sheriff assumes office as a county sheriff.

C. The director shall establish the administrative law enforcement training program for county sheriffs, subject to review and approval by the executive committee of the sheriff's affiliate of the New Mexico association of counties.

D. A county sheriff's per diem, mileage and tuition expenses attributed to attendance at the administrative law enforcement training shall be paid for by the governing body of the county served by that sheriff."

## **Chapter 86 Section 5 Laws 2023**

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

"29-7-7.1. IN-SERVICE LAW ENFORCEMENT TRAINING--REQUIREMENTS--ELIGIBILITY--PENALTIES FOR FAILURE TO COMPLETE OR REPORT REQUIREMENTS.--

A. To maintain certification as a police officer, in-service law enforcement training is required. In-service law enforcement training consists of a minimum of forty hours of academic instruction approved by the council for each certified police officer during each twenty-four month period of employment or service with a state or local law enforcement agency. The first required in-service law enforcement training period shall commence no later than twelve months after graduation from an approved basic law enforcement training program.

B. Each certified police officer shall provide proof of completing in-service law enforcement training requirements to the officer's law enforcement agency and the executive director no later than March 1 of the year in which the requirements must be met. The executive director shall provide annual notice to all certified police officers regarding in-service law enforcement training requirements. Failure to complete in-service law enforcement training requirements or failure to report completion to the board may be grounds for suspension of a police officer's certification and may result in the state withholding the law enforcement agency's law enforcement protection fund distribution. A police officer's certification may be reinstated by the board when the police officer presents the board with evidence of satisfying in-service law enforcement training requirements.

C. The board shall audit in-service law enforcement training compliance."

## **Chapter 86 Section 6 Laws 2023**

SECTION 6. A new section of the Law Enforcement Training Act, Section 29-7-16 NMSA 1978, is enacted to read:

"29-7-16. POLICE OFFICER DATABASE.--By July 1, 2024, the board shall employ a web-based technology solution that will enable any member of the public to search for outcomes of misconduct investigations that result in dismissal, denial, suspension or revocation of a police officer's or public safety telecommunicator's certification. The database shall show the officer's or telecommunicator's name, the action taken by the board and the date of the action."

## **Chapter 86 Section 7 Laws 2023**

SECTION 7. That version of Section 29-7C-4 NMSA 1978 (being Laws 2003, Chapter 320, Section 6, as amended) that is to become effective July 1, 2023 is amended to read:

"29-7C-4. TELECOMMUNICATOR TRAINING PROGRAM.--

A. The council shall:

(1) after consultation with the board, adopt by rule professional standards that describe the skills, knowledge and behaviors that characterize exemplary practice and professional growth of telecommunicators in New Mexico and training standards that implement the professional standards; and

(2) develop and adopt a telecommunicator training program for telecommunicator certification. The program shall be evidence- and performance-based and shall meet best practices and evolving national standards and the needs of telecommunicators at each level of certification.

B. Until new evidence- and standards-based training programs are adopted and promulgated, the board shall certify telecommunicators after successful completion of the training programs then in effect. During the process of updating the telecommunicator training system, the council and the New Mexico law enforcement academy shall provide periodic reports to the legislature and shall make a final report, including recommendations for funding and statutory changes, to the governor and the legislature."

## **Chapter 86 Section 8 Laws 2023**

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

"29-7C-7. IN-SERVICE TELECOMMUNICATOR TRAINING.--

A. In-service telecommunicator training consists of at least twenty hours of board-approved advanced training, including one hour of crisis management, including crisis intervention, confrontation de-escalation practicum and proper interaction with persons with mental impairments training, for each certified telecommunicator during each two-year period. The first training course shall commence no later than twelve months after graduation from a board-approved basic telecommunicator training program.

B. A certified telecommunicator shall provide proof of completion of in-service training requirements to the director no later than March 1 of the year subsequent to the year in which the requirements are met. The director shall provide annual notice to all

certified telecommunicators regarding in-service training requirements. Failure to complete in-service training requirements may be grounds for suspension of a telecommunicator's certification at the board's discretion as provided in Section 29-7-4.3 NMSA 1978. A telecommunicator may be reinstated by the board when the telecommunicator presents to the board evidence the telecommunicator has satisfied the in-service training requirements.

C. As used in this section, "mental impairment" includes a mental illness, developmental disability, posttraumatic stress disorder, dual diagnosis, autism, youth in crisis and traumatic brain injury."

## **Chapter 86 Section 9 Laws 2023**

SECTION 9. Section 29-13-6 NMSA 1978 (being Laws 1983, Chapter 289, Section 6, as amended) is amended to read:

"29-13-6. DISTRIBUTION OF LAW ENFORCEMENT PROTECTION FUND.--

A. Based on a periodic allotment approved by the division for the current fiscal year, the state treasurer shall distribute from the fund the amounts certified by the division to be distributed to governmental entities and the peace officers', New Mexico mounted patrol members' and reserve police officers' survivors fund as required in Section 29-13-4 NMSA 1978. Payments shall be made by the treasurer to the appropriate governmental entity or fund unless otherwise specified in Subsection C of this section.

B. The state treasurer is authorized to redirect a distribution to the New Mexico finance authority in an amount certified by the division, pursuant to an ordinance or a resolution passed by the municipality or county and a written agreement of the municipality or county and the New Mexico finance authority.

C. Based on a periodic allotment approved by the division for the current fiscal year, the state treasurer shall distribute from the money in the fund money certified by the division to be distributed to tribes. Payment shall be made to the chief financial officer of the tribe. If necessary, the fund may be decreased below the level of one hundred thousand dollars (\$100,000) to enable payment to the tribes. If insufficient money remains in the fund to fully compensate the tribes, a report shall be made to the Indian affairs department and to an appropriate interim committee of the legislature that reviews issues having impact on tribes by September 1 of the year of the shortfall.

D. The New Mexico law enforcement standards and training council may notify the division and the state treasurer to withhold the distribution to any governmental entity that has failed to submit required reports to the council as provided in Section 29-7-7.2 NMSA 1978 or that employs law enforcement officers who have failed to submit proof of completion of required in-service law enforcement training as required in Section 29-7-7.1 NMSA 1978."

## **Chapter 86 Section 10 Laws 2023**

SECTION 10. SHORT TITLE.--Sections 10 through 14 of this act may be cited as the "Use of Force Procedures Act".

## **Chapter 86 Section 11 Laws 2023**

SECTION 11. USE OF FORCE STATEWIDE POLICY.--Each law enforcement agency shall develop and maintain policies regarding use of force by law enforcement officers in its employ. At a minimum, such use-of-force policies shall incorporate:

A. a discussion of considerations that law enforcement officers must make prior to the application of physical force, including an explanation of reasonable force necessary to accomplish a lawful objective; and

B. ethical considerations law enforcement officers shall make during the application of physical force, including provisions pursuant to Section 14 of this 2023 act.

## **Chapter 86 Section 12 Laws 2023**

SECTION 12. UNLAWFUL USE OF FORCE.--A law enforcement officer shall not:

A. discharge a firearm into a fleeing motor vehicle unless such discharge is necessary to prevent an imminent threat of death or serious bodily injury to an officer or another person and the officer has no reasonable alternative course of action to prevent death or serious bodily injury; provided that when possible, an officer threatened by an oncoming motor vehicle shall move out of its path instead of discharging a firearm at it or any of its occupants; or

B. use a vascular neck restraint, unless a person's attack poses a threat of imminent harm to the officer or another person; provided that an officer shall cease the use of a vascular neck restraint as soon as the person no longer poses a threat of imminent harm to the officer or another person.

## **Chapter 86 Section 13 Laws 2023**

SECTION 13. UNLAWFUL USE OF FORCE--PRESCRIBING PENALTIES.--If a law enforcement officer is found to have used unlawful physical force, the officer shall be disciplined and, depending on the seriousness of the unlawful physical force, may be decommissioned and terminated from the officer's position or have any officer certification revoked or suspended.

## **Chapter 86 Section 14 Laws 2023**

### SECTION 14. INTERVENTION.--

A. A law enforcement officer present and observing another officer using physical force, including deadly physical force, that the law enforcement officer has probable cause to believe is excessive based on the totality of the circumstances shall intervene to prevent the use of excessive force, unless intervening would result in imminent harm to the officer or another identifiable individual.

B. A law enforcement officer who observes another officer using physical force, including deadly physical force, that the law enforcement officer has probable cause to believe is excessive based on the totality of the circumstances shall report the incident to the officer's direct supervisor as soon as reasonably possible but no later than the end of the officer's shift.

C. A law enforcement officer who had a duty to intervene and failed to do so shall be disciplined and, depending on the seriousness of the violation, may be suspended, decertified, decommissioned or terminated from the officer's position.

## **Chapter 86 Section 15 Laws 2023**

SECTION 15. TEMPORARY PROVISION--RULES OF NEW MEXICO LAW ENFORCEMENT ACADEMY BOARD--RULES OF NEW MEXICO LAW ENFORCEMENT STANDARDS AND TRAINING COUNCIL OR LAW ENFORCEMENT CERTIFICATION BOARD.--The rules of the New Mexico law enforcement academy board shall continue in effect until amended or repealed by the New Mexico law enforcement standards and training council or the law enforcement certification board, as applicable.

## **Chapter 86 Section 16 Laws 2023**

SECTION 16. EFFECTIVE DATE.--The effective date of the provisions of Sections 1 through 3 and 7 of this act is July 1, 2023.

# **LAWS 2023, CHAPTER 87**

**Senate Bill 20, aa**  
**Approved April 4, 2023**

AN ACT

RELATING TO EDUCATIONAL RETIREMENT; ALLOWING ELIGIBLE EMPLOYEES OF SOUTHEAST NEW MEXICO COLLEGE TO PARTICIPATE IN THE ALTERNATIVE

RETIREMENT PLAN; CONFORMING THE REQUIRED MINIMUM DISTRIBUTION AGE TO THE FEDERAL INTERNAL REVENUE CODE OF 1986.

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

## **Chapter 87 Section 1 Laws 2023**

SECTION 1. Section 22-11-2 NMSA 1978 (being Laws 1967, Chapter 16, Section 126, as amended) is amended to read:

"22-11-2. DEFINITIONS.--As used in the Educational Retirement Act:

A. "member" means an employee, except for a participant or a retired member, coming within the provisions of the Educational Retirement Act;

B. "regular member" means:

(1) a person regularly employed by a state educational institution, except for:

(a) a participant; or

(b) all employees of a general hospital or outpatient clinics thereof operated by a state educational institution named in Article 12, Section 11 of the constitution of New Mexico;

(2) a person regularly employed by a junior college or community college created pursuant to Chapter 21, Article 13 NMSA 1978, except for a participant;

(3) a person regularly employed by a technical and vocational institute created pursuant to the Technical and Vocational Institute Act, except for a participant;

(4) a person regularly employed by the New Mexico boys' school, the girls' welfare home, the Los Lunas medical center or a school district or as a licensed school employee of a state institution or agency providing an educational program and holding a license issued by the department, except for a participant;

(5) a person regularly employed by the department holding a license issued by the department at the time of commencement of such employment;

(6) a member classified as a regular member in accordance with the rules of the board;

(7) a person regularly employed by the New Mexico activities association holding a license issued by the department at the time of commencement of such employment; or

(8) a person regularly employed by a regional education cooperative holding a license issued by the department at the time of commencement of such employment;

C. "provisional member" means a person described in Section 22-11-17 NMSA 1978;

D. "local administrative unit" means an employing agency however constituted that is directly responsible for the payment of compensation for the employment of members or participants;

E. "beneficiary" means a person having an insurable interest in the life of a member or a participant designated by written instrument duly executed by the member or participant and filed with the director to receive a benefit pursuant to the Educational Retirement Act that may be received by someone other than the member or participant;

F. "employment" means employment by a local administrative unit that qualifies a person to be a member or participant;

G. "service employment" means employment that qualifies a person to be a regular member;

H. "provisional service employment" means employment that qualifies a person to be a provisional member;

I. "prior employment" means employment performed prior to the effective date of the Educational Retirement Act that would be service employment or provisional service employment if performed thereafter;

J. "service credit" means that period of time with which a member is accredited for the purpose of determining the member's eligibility for and computation of retirement or disability benefits;

K. "earned service credit" means that period of time during which a member was engaged in employment or prior employment with which the member is accredited for the purpose of determining the member's eligibility for retirement or disability benefits;

L. "allowed service credit" means that period of time during which a member has performed certain nonservice employment with which the member may be accredited, as provided in the Educational Retirement Act, for the purpose of computing retirement or disability benefits;

M. "retirement benefit" means an annuity paid monthly to members whose employment has been terminated by reason of their age;

N. "disability benefit" means an annuity paid monthly to members whose employment has been terminated by reason of a disability;

O. "board" means the educational retirement board;

P. "fund" means the educational retirement fund;

Q. "director" means the educational retirement director;

R. "medical authority" means a medical doctor or medical review panel designated or employed by the board to examine medical records and report on the medical condition of applicants for or recipients of disability benefits;

S. "actuary" means a person trained and regularly engaged in the occupation of calculating present and projected monetary assets and liabilities under annuity or insurance programs;

T. "actuarial equivalent" means a sum paid as a current or deferred benefit that is equal in value to a regular benefit, computed upon the basis of interest rates and mortality tables;

U. "contributory employment" means employment for which contributions have been made by both a member and a local administrative unit pursuant to the Educational Retirement Act;

V. "qualifying state educational institution" means the university of New Mexico, New Mexico state university, New Mexico institute of mining and technology, New Mexico highlands university, eastern New Mexico university, western New Mexico university, central New Mexico community college, Clovis community college, Luna community college, Mesalands community college, New Mexico junior college, northern New Mexico college, San Juan college, Santa Fe community college and southeast New Mexico college;

W. "participant" means:

(1) a person regularly employed as a faculty or professional employee of the university of New Mexico, New Mexico state university, New Mexico institute of mining and technology, New Mexico highlands university, eastern New Mexico university or western New Mexico university who first becomes employed with such an educational institution on or after July 1, 1991, or a person regularly employed as a faculty or professional employee of the central New Mexico community college, Clovis community college, Luna community college, Mesalands community college, New Mexico junior college, northern New Mexico college, San Juan college or Santa Fe community college who is first employed by the institution on or after July 1, 1999, or a person regularly employed as a faculty or professional employee of southeast New Mexico college who is first employed by the institution on or after July 1, 2023, and who

elects, pursuant to Section 22-11-47 NMSA 1978, to participate in the alternative retirement plan; and

(2) a person regularly employed who performs research or other services pursuant to a contract between a qualifying state educational institution and the United States government or any of its agencies who elects, pursuant to Section 22-11-47 NMSA 1978, to participate in the alternative retirement plan; provided that the research or other services are performed outside the state;

X. "salary" means the compensation or wages paid to a member or participant by any local administrative unit for services rendered. "Salary" includes payments made for annual or sick leave and payments for additional service provided to related activities, but does not include payments for sick leave not taken unless the payment for the unused sick leave is made through continuation of the member on the regular payroll for the period represented by that payment and does not include allowances or reimbursements for travel, housing, food, equipment or similar items;

Y. "alternative retirement plan" means the retirement plan provided for in Sections 22-11-47 through 22-11-52 NMSA 1978; and

Z. "retired member" means a person whose employment has been terminated by reason of age and who is receiving or is eligible to receive retirement benefits."

## **Chapter 87 Section 2 Laws 2023**

SECTION 2. 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. Notwithstanding any provision of the Educational Retirement Act, retirement benefits shall be distributed in accordance with Section 401(a)(9) of the federal Internal Revenue Code of 1986, as amended, and the regulations thereunder, including the minimum incidental death benefit restrictions of Section 401(a)(9)(G) of the Internal Revenue Code of 1986, as amended."

## **Chapter 87 Section 3 Laws 2023**

SECTION 3. Section 22-11-47 NMSA 1978 (being Laws 1991, Chapter 118, Section 5, as amended) is amended to read:

"22-11-47. ALTERNATIVE RETIREMENT PLAN--ELECTION OF COVERAGE.--

A. Beginning October 1, 1991, any employee of the university of New Mexico, New Mexico state university, New Mexico institute of mining and technology, New Mexico highlands university, eastern New Mexico university or western New Mexico university who is eligible to become a participant may make within ninety days of that date an election to participate in the alternative retirement plan. Beginning October 1, 1999, an employee of central New Mexico community college, Clovis community college, Luna community college, Mesalands community college, New Mexico junior college, northern New Mexico college, San Juan college or Santa Fe community college who is eligible to become a participant may make an election to participate in the alternative retirement plan within ninety days of the initial date. Beginning October 1, 2023, an employee of southeast New Mexico college who is eligible to become a participant may make an election to participate in the alternative retirement plan within ninety days of the initial date. Thereafter, any employee who is eligible to become a participant may make within the first ninety days of employment with a qualifying state educational institution an election to participate in the alternative retirement plan. Any employee who makes the election shall become a participant the first day of the first pay period following the election. Any employee who fails to make the election within ninety days of October 1, 1991, October 1, 1999 or October 1, 2023, whichever is applicable, or within the first ninety days of employment with a qualifying state educational institution shall become or remain a regular member if that employee is eligible to be a regular member and shall not later be eligible to elect to be a participant, regardless of whether the employee subsequently is employed in another position that is eligible for

participation in the alternative retirement plan. Except as provided in Subsection D of this section, an election to become a participant is irrevocable.

B. Until the time an employee who is eligible to become a participant elects to participate in the alternative retirement plan, that employee shall be a regular member.

C. When an employee elects to become a participant, any employer and employee contributions made as a regular member shall be withdrawn from the fund and applied instead toward the alternative retirement plan as if the participant had been participating in the alternative retirement plan from the commencement of employment with the qualifying state educational institution.

D. On July 1, 2009, any participant who has made contributions to the alternative retirement plan for a cumulative total of seven years or more shall have a one-time option of electing to become a regular member. Thereafter, once a participant has made contributions to the alternative retirement plan for a cumulative total of seven years, a participant shall have a one-time option of electing to become a regular member. Participants electing to become regular members shall exercise that option within one hundred twenty days of the date of becoming eligible to elect to become a regular member. Any amounts on deposit in an employee's alternative retirement plan account when a participant becomes a regular member shall remain on deposit with the contractor or carrier subject to that plan's provisions, unless otherwise provided by law. An employee who elects to become a regular member under this subsection shall use the date on which the employee was first employed with a qualifying state educational institution for purposes of determining any retirement eligibility requirement, provided that the employee:

(1) may not purchase service credit for periods of employment during which the employee participated in the alternative retirement plan; and

(2) shall acquire not less than five years of contributory employment as a regular member as provided for in Section 22-11-24 NMSA 1978 to be eligible for retirement benefits pursuant to the Educational Retirement Act.

E. The board shall approve the positions at each qualifying state educational institution that are eligible for participation in the alternative retirement plan."

## **LAWS 2023, CHAPTER 88**

**SCONC/Senate Bill 21, aa, w/ec**  
**Approved April 4, 2023**

AN ACT

RELATING TO PRESCRIBED BURNING; PROHIBITING THE USE OF PRESCRIBED BURNING DURING A RED FLAG WARNING; DECLARING AN EMERGENCY.

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

## **Chapter 88 Section 1 Laws 2023**

SECTION 1. Section 68-5-3 NMSA 1978 (being Laws 2021, Chapter 13, Section 3) is amended to read:

"68-5-3. PRESCRIBED BURN USE.--

A. Prescribed burning is considered in the public interest and not a public or private nuisance.

B. Except as limited in Subsection C of this section, a private landowner or a private landowner's agent, contractor or legally authorized designee shall have a right to conduct a prescribed burn on the landowner's property, except when the state forester or a county or municipality issues restrictions prohibiting a prescribed burn because of drought or wind conditions; provided that the prescribed burn is conducted with appropriate precautionary measures, including: the use of sufficient personnel and equipment; the prior notification of local fire officials; burn and contingency planning; and the use of appropriate prescribed burn techniques that cause the fire to be confined to a predetermined area.

C. A prescribed burn shall not be started when the national weather service has issued a red flag warning for the area where the prescribed burn is planned to take place."

## **Chapter 88 Section 2 Laws 2023**

SECTION 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

# **LAWS 2023, CHAPTER 89**

**Senate Bill 29**

**Approved April 4, 2023**

AN ACT

RELATING TO CRIMINAL JUSTICE REFORM; CREATING MEDICAL AND GERIATRIC PAROLE PROCEDURES; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

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

## Chapter 89 Section 1 Laws 2023

SECTION 1. Section 31-21-5 NMSA 1978 (being Laws 1978, Chapter 41, Section 1, as amended) is amended to read:

"31-21-5. DEFINITIONS.--As used in the Probation and Parole Act:

A. "probation" means the procedure under which an adult defendant, found guilty of a crime upon verdict or plea, is released by the court without imprisonment under a suspended or deferred sentence and subject to conditions;

B. "parole" means the release to the community of an inmate of an institution by decision of the board or by operation of law, subject to conditions imposed by the board and to its supervision;

C. "institution" means the state penitentiary and any other similar state institution hereinafter created;

D. "board" means the parole board;

E. "director" means the director of the adult probation and parole division of the corrections department or any employee designated by the director;

F. "adult" means any person convicted of a crime by a district court;

G. "geriatric inmate" means a person who:

(1) is serving a sentence and is confined in a prison or other correctional institution under the control of the corrections department;

(2) is fifty-five years of age or older;

(3) suffers from a debilitating and chronic infirmity, illness or disease related to aging; and

(4) does not constitute a danger to the person's own self or to society at the time of review;

H. "permanently incapacitated inmate" means a person who:

(1) is serving a sentence and is confined in a prison or other correctional institution under the control of the corrections department;

(2) by reason of an existing medical condition is permanently and irreversibly physically incapacitated; and

(3) does not constitute a danger to the person's own self or to society at the time of review; and

I. "terminally ill inmate" means a person who:

(1) is serving a sentence and is confined in a prison or other correctional institution under the control of the corrections department;

(2) has an incurable condition caused by illness or disease that will, within reasonable medical judgment, produce death within six months; and

(3) does not constitute a danger to the person's own self or to society at the time of review."

## **Chapter 89 Section 2 Laws 2023**

SECTION 2. Section 31-21-17.1 NMSA 1978 (being Laws 1994, Chapter 21, Section 2) is amended to read:

"31-21-17.1. MEDICAL OR GERIATRIC PAROLE--PROCEDURES--DUTIES OF THE CORRECTIONS DEPARTMENT--DUTIES OF THE BOARD.--

A. The corrections department shall promulgate rules and implement a medical and geriatric parole program, including the application form for medical or geriatric parole.

B. An inmate who is geriatric, permanently incapacitated or terminally ill may seek parole consideration upon written application to the board or consent to submission of an application by and through a family member, attorney or corrections department care provider. When an inmate is physically or mentally incapable of knowingly and voluntarily consenting to submission of an application due to mental or physical infirmity, a family member, attorney, corrections department care provider or other individual with a power of attorney may submit the application on the inmate's behalf.

C. The corrections department shall identify geriatric, permanently incapacitated and terminally ill inmates, notify those inmates of the opportunity to apply for medical or geriatric parole and recommend the release of those inmates who are eligible for medical or geriatric parole.

D. A classification officer shall provide an inmate over the age of fifty-five with a copy of the medical and geriatric parole policy and any other applicable forms at least once a year. An inmate arriving at a long-term care or geriatric unit managed by the corrections department or placed by the corrections department into long-term care or a facility not managed by the department shall be provided with a copy of the medical and geriatric parole policy, written in the inmate's preferred language, during orientation. A

copy of the medical and geriatric parole policy shall be placed and maintained in the law library at each institution of the corrections department.

E. An application for medical or geriatric parole shall be submitted to the inmate's classification officer. A classification officer who receives an application shall review the application, make a recommendation, attach any relevant documentation and forward the application package to the appropriate authority as defined by corrections department rule.

F. The corrections department shall determine whether to recommend an inmate for medical or geriatric parole and make any recommendations to the board no later than thirty days after receipt of the application by the classification officer. All applications received by the department shall be processed and forwarded to the board. The recommendation shall include the inmate's age, medical history and prognosis and, if applicable, institutional behavior, adjustment and any evidence suggesting rehabilitation during incarceration. When the department recommends an inmate for medical or geriatric parole, the director shall submit a statement to the board that the inmate's release is not incompatible with the welfare of society. In the event that the department is unable to make a determination of recommendation for medical or geriatric parole within thirty days, the department shall document in writing any justification for the delay.

G. When considering an inmate for medical or geriatric parole, the director may request that reasonable medical and mental health examinations be conducted; provided that the examinations do not cause delay in the processing time of applications required by this section.

H. When determining an inmate's eligibility for medical or geriatric parole, the director shall consider the totality of the circumstances, including:

- (1) the inmate's age;
- (2) the severity of the inmate's illness, disease or infirmity;
- (3) a comprehensive health evaluation of the inmate;
- (4) the inmate's institutional behavior, including evidence indicating rehabilitation;
- (5) the inmate's current level of risk for violence; and
- (6) any alternative to maintaining the geriatric, permanently incapacitated or terminally ill inmate in a traditional setting.

I. Upon receipt of an application and recommendation and supporting documentation from the corrections department for medical or geriatric parole, the

board shall review the documentation, schedule a hearing and issue a decision within fifteen days. In the event that a hearing cannot be scheduled and a decision issued within fifteen days, the board shall document in writing any justification for the delay. If an inmate is denied medical or geriatric parole, the board shall notify the inmate and provide service of the copy of the written decision. A copy of the decision shall be sent to the secretary of corrections and the warden of the facility in which the inmate resides.

J. The board shall release an inmate on medical or geriatric parole upon recommendation from the director unless the board finds by clear and convincing evidence that the inmate's release is incompatible with the welfare of society and states in writing its reason for the finding. The board may consider the totality of the circumstances, including an inmate's criminal history, but shall not deny medical or geriatric parole solely because of the nature of the charge resulting in the inmate's conviction or the inmate's criminal history.

K. A rebuttable presumption that an inmate does not constitute a danger to the inmate's self or to society and is therefore eligible for medical or geriatric parole is established if the inmate:

(1) is fifty-five years of age or older and suffers from a debilitating or chronic infirmity, illness or disease related to aging;

(2) by reason of an existing medical condition, is permanently and irreversibly physically incapacitated; or

(3) has an incurable condition caused by illness or disease that would, within reasonable medical judgment, produce death within six months.

L. Pursuant to Section 39-3-1.1 NMSA 1978, an inmate whose decision is denied by the board pursuant to the provisions of this section may appeal the board's decision in the district court in the jurisdiction where the sentence was imposed. When an inmate is physically or mentally incapable of knowingly and voluntarily consenting to submission of an appeal because of a mental or physical infirmity, a family member, attorney, corrections department health care provider or other individual with a power of attorney may submit an appeal on the inmate's behalf. The notice of appeal shall include a statement of any applicable appellate issues. No later than forty-eight hours after the filing of the notice of appeal with the board, the board shall file the record on appeal with the district court, including any applicable appellee response. The district court shall rule on the appeal no later than seventy-two hours after the record on appeal is filed.

M. An inmate who has not served the inmate's minimum sentence may be considered eligible for parole under the medical and geriatric parole program. Medical and geriatric parole shall be in addition to any other parole for which a geriatric, permanently incapacitated or terminally ill inmate may be eligible.

N. The parole term of a geriatric, permanently incapacitated or terminally ill inmate on medical or geriatric parole shall be for the remainder of the inmate's basic sentence and parole without diminution of sentence for good behavior.

O. In the event that the inmate is a terminally ill inmate, the corrections department shall determine whether to recommend an inmate for medical or geriatric parole within fifteen days of the receipt of the inmate's application by the classification officer, and the board shall issue a decision within seven days. In the event that the department is unable to determine whether to recommend an inmate for medical or geriatric parole within fifteen days pursuant to this subsection, the department or the board shall document any justification for the delay in writing.

P. An inmate who has been denied parole pursuant to the provisions of this section may reapply if additional information is received or if the inmate's condition so warrants.

Q. An inmate convicted of first degree murder shall not be considered eligible for medical or geriatric parole."

### **Chapter 89 Section 3 Laws 2023**

SECTION 3. REPEAL.--Section 31-21-25.1 NMSA 1978 (being Laws 1994, Chapter 21, Section 3) is repealed.

### **Chapter 89 Section 4 Laws 2023**

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

## **LAWS 2023, CHAPTER 90**

**SJC/Senate Bill 31, aa**  
**Approved April 4, 2023**

AN ACT

RELATING TO GUARDIANSHIPS; PROVIDING RULEMAKING AUTHORITY TO THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT; AMENDING AND CHANGING THE NAME OF THE FAMILY SERVICES ACT; AMENDING THE KINSHIP GUARDIANSHIP ACT; PROVIDING FOR VOLUNTARY PLACEMENT OF CHILDREN; PROVIDING FOR FINANCIAL SUBSIDIES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

## Chapter 90 Section 1 Laws 2023

SECTION 1. Section 22-12A-14 NMSA 1978 (being Laws 2019, Chapter 223, Section 14, as amended) is amended to read:

"22-12A-14. 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 Voluntary Placement and 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.

E. A student who has experienced a disruption in the student's education and has transferred 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. The department shall promulgate and adopt a rule to determine how credit shall be awarded for courses that are partially completed, and school districts shall follow the department rule."

## **Chapter 90 Section 2 Laws 2023**

SECTION 2. 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. "active efforts" means efforts that are affirmative, active, thorough and timely and that represent a higher standard of conduct than reasonable efforts;

B. "adult" means a person who is eighteen years of age or older;

C. "child" means a person who is less than eighteen years old;

D. "council" means the substitute care advisory council established pursuant to Section 32A-8-4 NMSA 1978;

E. "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;

F. "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;

G. "custodian" means an adult with whom the child lives who is not a parent or guardian of the child;

H. "department" means the children, youth and families department, unless otherwise specified;

I. "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;

J. "federal Indian Child Welfare Act of 1978" means the federal Indian Child Welfare Act of 1978, as that act may be amended or its sections renumbered;

K. "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;

L. "guardian" means a person appointed as a guardian by a court or Indian tribal authority;

M. "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;

N. "Indian" means, whether an adult or child, a person who is:

- (1) a member of an Indian tribe; or
- (2) eligible for membership in an Indian tribe;

O. "Indian child" means an Indian person, or a person whom there is reason to know is an Indian person, under eighteen years of age, who is neither:

- (1) married; or
- (2) emancipated;

P. "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;

Q. "Indian custodian" means an Indian who, pursuant to tribal law or custom or pursuant to state law:

(1) is an adult with legal custody of an Indian child; or

(2) has been transferred temporary physical care, custody and control by the parent of the Indian child;

R. "Indian tribe" means an Indian nation, tribe, pueblo or other band, organized group or community of Indians recognized as eligible for the services provided to Indians by the secretary because of their status as Indians, including an Alaska native village as defined in 43 U.S.C. Section 1602(c) or a regional corporation as defined in 43 U.S.C. Section 1606. For the purposes of notification to and communication with a tribe as required in the Indian Family Protection Act, "Indian tribe" also includes those tribal officials and staff who are responsible for child welfare and social services matters;

S. "judge", when used without further qualification, means the judge of the court;

T. "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;

U. "member" or "membership" means a determination made by an Indian tribe that a person is a member of or eligible for membership in that Indian tribe;

V. "parent" or "parents" means 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 or a person who has lawfully adopted an Indian child pursuant to state law or tribal law or tribal custom;

W. "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;

X. "person" means an individual or any other form of entity recognized by law;

Y. "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;

Z. "preadoptive parent" means a person with whom a child has been placed for adoption;

AA. "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;

BB. "relative" means a person related to another person:

- (1) by blood within the fifth degree of consanguinity or through marriage by the fifth degree of affinity; or
- (2) with respect to an Indian child, as established or defined by the Indian child's tribe's custom or law;

CC. "reservation" means:

- (1) "Indian country" as defined in 18 U.S.C. Section 1151;

(2) any lands to which the title is held by the United States in trust for the benefit of an Indian tribe or individual; or

(3) any lands held by an Indian tribe or individual subject to a restriction by the United States against alienation;

DD. "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;

EE. "secretary" means the United States secretary of the interior;

FF. "tribal court" means a court with jurisdiction over child custody proceedings that is either a court of Indian offenses, a court established and operated under the law or custom of an Indian tribe or any other administrative body that is vested by an Indian tribe with authority over child custody proceedings;

GG. "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

HH. "tribunal" means any judicial forum other than the court."

## **Chapter 90 Section 3 Laws 2023**

SECTION 3. Section 32A-3A-15 NMSA 1978 (being Laws 2019, Chapter 247, Section 14) is recompiled as Section 32A-1-22 NMSA 1978 and is amended to read:

"32A-1-22. 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 Voluntary Placement and 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 90 Section 4 Laws 2023**

SECTION 4. Section 32A-3A-1 NMSA 1978 (being Laws 1993, Chapter 77, Section 63, as amended) is amended to read:

"32A-3A-1. SHORT TITLE.--Chapter 32A, Article 3A NMSA 1978 may be cited as the "Voluntary Placement and Family Services Act"."

## **Chapter 90 Section 5 Laws 2023**

SECTION 5. 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 Voluntary Placement and 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;
- B. "family services" means services that address specific needs of the child or family;

C. "guardian" means a person appointed as a guardian by a court or Indian tribal authority;

D. "guardianship assistance agreement" means a written agreement entered into by the prospective guardian and the department or Indian tribe prior to the establishment of the guardianship by a court;

E. "guardianship assistance payments" means payments made by the department to a kinship guardian or successor guardian on behalf of a child pursuant to the terms of a guardianship assistance agreement;

F. "guardianship assistance program" means the financial subsidy program provided for in the Voluntary Placement and Family Services Act;

G. "kinship" means the relationship that exists between a child and a relative of the child, a godparent, a member of the child's tribe or clan or an adult with whom the child has a significant bond;

H. "subsidized guardianship" means a guardianship that meets subsidy eligibility criteria pursuant to the Voluntary Placement and Family Services Act; and

I. "voluntary placement agreement" means a written agreement between the department and the parent or guardian of a child."

## **Chapter 90 Section 6 Laws 2023**

SECTION 6. Section 32A-3A-6 NMSA 1978 (being Laws 1993, Chapter 77, Section 68) is amended to read:

"32A-3A-6. VOLUNTARY PLACEMENT OUTSIDE HOME--VOLUNTARY PLACEMENT AGREEMENT.--

A. The department may accept legal custody of a minor child from a parent or guardian for temporary voluntary placement outside the home through a voluntary placement agreement.

B. When a parent is considering a voluntary placement agreement, the department shall notify the office of family representation and advocacy. The office of family representation and advocacy shall assign the parent or guardian legal counsel prior to the signing and for the duration of the voluntary placement agreement. Prior to the signing of the voluntary placement agreement, counsel shall explain to the parent or guardian:

(1) the terms and consequences of the consent to the voluntary placement agreement, in detail;

(2) that the parent or guardian can withdraw consent at any time and the child shall be returned within forty-eight hours of when the written or verbal demand was made; and

(3) that before the expiration of the forty-eight hours, the department may prevent the immediate return of the child by filing a petition alleging neglect or abuse and by obtaining a court order granting the department temporary custody of the child.

C. The department shall notify the office of family representation and advocacy when the voluntary placement agreement is terminated or expires.

D. The parent or guardian may request a collaborative meeting with the department prior to signing or at any point throughout the duration of the voluntary placement agreement. The department shall schedule the collaborative meeting in a timely manner.

E. Upon the signing of a voluntary placement agreement, the department shall notify the office of family representation and advocacy. The office of family representation and advocacy shall assign the child a guardian ad litem. Only an attorney with appropriate experience shall be appointed as guardian ad litem of the child. When a voluntary placement agreement is subject to court review, the guardian ad litem shall inform the court as to the child's wishes.

F. The parent or guardian, child or department may file a petition for court review of the voluntary placement agreement prior to the signing or at any point throughout the duration of the voluntary placement agreement.

G. If court review is requested prior to signing the voluntary placement agreement, before approving the voluntary placement agreement, the court shall ensure that the voluntary placement agreement is executed in writing. The court shall certify on the record that:

(1) the terms and consequences of the consent were fully explained in detail and in a manner that is understandable to the parent or guardian;

(2) the child's parent or guardian fully understands the English language or that the voluntary placement agreement was interpreted into the primary language of the child's parent or guardian;

(3) the child's parent or guardian is voluntarily entering into the voluntary placement agreement;

(4) confidentiality has been requested or indicated and execution of consent was made in a closed court proceeding not open to the public; and

(5) the child's parent or guardian is of sound mind and judgment."

## **Chapter 90 Section 7 Laws 2023**

SECTION 7. Section 32A-3A-7 NMSA 1978 (being Laws 1993, Chapter 77, Section 69, as amended) is amended to read:

"32A-3A-7. VOLUNTARY PLACEMENT--TIME LIMITATION.--

A. A child may remain in voluntary placement for up to one hundred eighty consecutive days.

B. Prior to the expiration of the voluntary placement agreement, if the parent or guardian agrees in writing that the child is to remain in voluntary placement for up to an additional one hundred eighty days, the department shall file a petition to extend the voluntary placement. The department shall provide notice of the hearing on the petition for extension to the parent or guardian.

C. The court shall hold a hearing and enter a written final order within thirty days of the filing of the petition. If the court grants an extension of up to one hundred eighty days, the order shall contain findings that proper notice was given, the parent or guardian consents to the extension of the voluntary placement and the voluntary placement agreement is in the child's best interest. If an extension is denied, the court shall enter a written order denying the extension and directing the department to immediately return the child to the parent or guardian.

D. In no event shall a child remain in voluntary placement for a period in excess of three hundred sixty-five days in any two-year period.

E. Any placement described in this section shall not be considered abandonment by a parent, guardian or custodian or other family member."

## **Chapter 90 Section 8 Laws 2023**

SECTION 8. Section 32A-3A-8 NMSA 1978 (being Laws 1993, Chapter 77, Section 70, as amended) is amended to read:

"32A-3A-8. VOLUNTARY PLACEMENT--RETURN OF CHILD TO PARENT--DEPARTMENT DUTY UPON PARENT REFUSAL TO REGAIN CUSTODY.--

A. At any time, a parent or guardian may demand and obtain the return of a child voluntarily placed outside the home without seeking or obtaining court approval. The child shall be returned within forty-eight hours of when the written or verbal demand was made. However, before the expiration of the forty-eight-hour period, the department may prevent the immediate return of the child by filing a petition pursuant to the Family

in Need of Court-Ordered Services Act or the Abuse and Neglect Act and proceeding under the applicable act.

B. If the parent or guardian of the child refuses to or cannot accept the child back into the parent's or guardian's custody, before the department files a petition alleging that the child is a neglected child or that the child's family needs court-ordered family services, the department shall:

(1) make reasonable efforts to place the child back in the custody of the parent or guardian and tailor the reasonable efforts to the facts and circumstances of the case and shall:

(a) document in writing the details demonstrating the quality and quantity of services and assistance provided to alleviate the causes and conditions leading to the parent or guardian's refusal or inability to accept the child back into the parent or guardian's custody, on the court record;

(b) assist the child's parent or guardian through the steps of a department case plan and with accessing or developing the resources necessary to satisfy the department case plan; and

(c) conduct a comprehensive assessment of the circumstances of the child's family with a goal of reunification;

(2) make reasonable efforts to maintain or reunite a child with the child's family by:

(a) identifying and establishing appropriate services and assisting the child's parent or guardian to overcome barriers to reunification, including assisting the parent or guardian in obtaining those services;

(b) conducting or causing to be conducted a diligent search for the child's extended family members and contacting and consulting with the child's extended family members and adult relatives to provide family structure and support for the child and the child's parent or guardian;

(c) offering and employing culturally appropriate family preservation strategies;

(d) taking steps to keep the child and the child's siblings together whenever possible; and

(e) identifying community resources, including housing, financial assistance, transportation, mental health services, health care, substance use prevention and treatment and peer support services, and assisting the child's parent or guardian; and

(3) record all efforts made toward reasonable efforts and report them to the court."

## **Chapter 90 Section 9 Laws 2023**

SECTION 9. Section 32A-3A-10 NMSA 1978 (being Laws 1993, Chapter 77, Section 72) is amended to read:

"32A-3A-10. VOLUNTARY PLACEMENT--RIGHTS OF PARENT.-- The parent or guardian whose child is in voluntary placement shall have the following rights to:

- A. have visitation with the child;
- B. be informed of changes in the child's school or of changes in the child's placement by the department;
- C. authorize decisions regarding medical and dental care and behavioral health services, including decisions that affect the daily care, support, safety and well-being of the child;
- D. permit the department to consent to emergency services to ensure the safety and well-being of the child, including medical, dental or behavioral health treatment, if the department is unable to make immediate prior contact with the parent or guardian. The department shall notify the parent or guardian within two hours of making emergency decisions due to inability to make prior contact;
- E. consent to all nonemergency and nonroutine medical care provided for the child;
- F. make decisions regarding participation and attendance in cultural and religious events;
- G. make decisions of substantial legal significance; and
- H. serve as the educational decision maker unless the department determines that doing so would be contrary to the best interests of the child, in which case the foster parent or other substitute care provider will serve as the educational decision maker."

## **Chapter 90 Section 10 Laws 2023**

SECTION 10. A new section of the Voluntary Placement and Family Services Act is enacted to read:

"CONFIDENTIALITY.--

A. All records or information, whether on file with the court, an agency, the department, an attorney or other provider of professional services, concerning a party to a voluntary placement proceeding shall be confidential and closed to the public.

B. The disclosure of all mental health and developmental disability records shall be made pursuant to the Children's Mental Health and Developmental Disabilities Act.

C. The records described in Subsection A of this section, other than mental health and developmental disability records, shall be disclosed only to the parties and:

(1) court personnel and persons or entities authorized by contract with the court to review, inspect or otherwise have access to records or information in the court's possession;

(2) the attorney, including a public defender, representing the child in any child proceeding pursuant to the Children's Code;

(3) department personnel and persons or entities authorized by contract with the department to review, inspect or otherwise have access to records or information in the department's possession;

(4) law enforcement officials, except when use immunity is granted pursuant to Section 32A-4-11 NMSA 1978;

(5) district attorneys, except when use immunity is granted pursuant to Section 32A-4-11 NMSA 1978;

(6) any state government social services agency in any state or, when in the opinion of the department it is in the best interest of the child, a governmental social services agency of another country;

(7) a foster parent, if the records are those of a child currently placed with that foster parent or of a child being considered for placement with that foster parent and the records concern the cultural, social, medical, psychological or educational needs of the child;

(8) school personnel involved with the child if the records concern the child's cultural, social or educational needs;

(9) a grandparent, parent of a sibling, relative or fictive kin, if the records or information pertain to a child being considered for placement with that grandparent, parent of a sibling, relative or fictive kin and the records or information concern the cultural, social, medical, psychological or educational needs of the child;

(10) health care or mental health professionals involved in the evaluation or treatment of the child or of the child's parents, guardian, custodian or other family members;

(11) protection and advocacy representatives pursuant to the federal Developmental Disabilities Assistance and Bill of Rights Act and the federal Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1991;

(12) children's safehouse organizations conducting investigatory interviews of children on behalf of a law enforcement agency or the department;

(13) representatives of the federal government or their contractors authorized by federal statute or regulation to review, inspect, audit or otherwise have access to records and information pertaining to neglect or abuse proceedings;

(14) any person or entity attending a meeting arranged by the department to discuss the safety, well-being and permanency of a child when the parent, guardian or child over the age of fourteen years has consented to the disclosures occurring during the meeting; and

(15) any other person or entity, by order of the court, having a legitimate interest in the case or the work of the court.

D. Whoever intentionally and unlawfully releases any information or records closed to the public pursuant to the Voluntary Placement and Family Services Act or releases or makes other unlawful use of records in violation of that act is guilty of a petty misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

E. The department shall promulgate rules for implementing disclosure of records pursuant to this section and in compliance with state and federal law and the Children's Court Rules."

## **Chapter 90 Section 11 Laws 2023**

SECTION 11. A new section of the Voluntary Placement and Family Services Act is enacted to read:

### **"CONDUCT OF HEARINGS.--**

A. All hearings held pursuant to the Voluntary Placement and Family Services Act shall be closed to the general public.

B. Only the parties to a proceeding, their counsel and other persons approved by the court may be present at a closed hearing. Other persons the court finds to have a proper interest in the case or in the work of the court may be admitted by

the court to closed hearings on the condition they refrain from divulging any information that would identify the child or family involved in the proceedings."

## **Chapter 90 Section 12 Laws 2023**

SECTION 12. A new section of the Voluntary Placement and Family Services Act is enacted to read:

### "VOLUNTARY PLACEMENT--PLACEMENT.--

A. If the department accepts legal custody of a child, the child shall be placed in the least restrictive setting that most closely approximates a family in which the child's special needs, if any, may be met. The child shall be placed within reasonable proximity to the child's home, taking into account any special needs of the child. Preference shall be given to placement with:

- (1) a relative of the child;
- (2) a licensed foster home or any home authorized by law for the provision of foster care or group care or use as a protective residence;
- (3) a facility operated by a licensed child welfare services agency; or
- (4) a facility provided for in the Children's Shelter Care Act.

B. The department shall provide the child with shelter in an appropriate facility, pursuant to the provisions of Section 32A-3B-6 NMSA 1978, that is located as close as possible to the child's residence. The child shall not be held in a jail or other facility intended or used for the incarceration of adults charged or convicted of criminal offenses or a facility for the detention of children alleged to be or adjudicated as delinquent children.

C. If the child is placed in an evaluation facility or out-of-home treatment or rehabilitation program, the child shall be admitted pursuant to the provisions of Sections 32A-6A-19 through 32A-6A-22 NMSA 1978.

D. The department shall make reasonable efforts to place siblings in custody by court order or voluntary placement agreement together, unless such joint placement would be contrary to the safety or well-being of any of the siblings in custody, and whether any siblings not jointly placed have been provided reasonable visitation or other ongoing interaction, unless visitation or other ongoing interaction would be contrary to the safety or well-being of any of the siblings."

## Chapter 90 Section 13 Laws 2023

SECTION 13. A new section of the Voluntary Placement and Family Services Act is enacted to read:

### "FINANCIAL SUBSIDIES--ELIGIBILITY.--

A. Prior to a guardianship being granted pursuant to the Kinship Guardianship Act or the Abuse and Neglect Act and in order to be eligible for guardianship assistance payments, the following conditions shall be satisfied:

(1) the child shall be in the custody of the department and have been removed from the child's home:

(a) pursuant to a voluntary placement agreement; or

(b) as a result of a judicial determination that the placement and care of the child should be vested in the department;

(2) the child shall be eligible for foster care maintenance payments while in the home of the prospective guardian;

(3) the child shall have been placed by the department and shall have lived with the prospective guardian for at least six consecutive months following the prospective guardian's licensure as a foster parent;

(4) the child has a strong attachment to the prospective guardian and the prospective guardian is a relative or fictive kin of the child;

(5) the prospective guardian has a strong commitment to caring permanently for the child, documented via a meeting held prior to the proposed guardianship between the prospective guardian and the department discussing the prospective guardian's long-term commitment;

(6) if the child is fourteen years of age or older, the child has been consulted by the department and consents to the guardianship arrangement; and

(7) a fully executed guardianship assistance agreement is approved by the department; or

(8) the child is a sibling of a child who meets the eligibility criteria set forth in this subsection.

B. The department shall promulgate rules for guardianship assistance payments and payment of nonrecurring expenses."

## **Chapter 90 Section 14 Laws 2023**

SECTION 14. A new section of the Voluntary Placement and Family Services Act is enacted to read:

"FINANCIAL SUBSIDIES--NONRECURRING EXPENSES.--Nonrecurring expenses incurred by a prospective guardian associated with establishing a subsidized guardianship may be reimbursed for each eligible child, up to an amount established by the department, and also for any of an eligible child's siblings."

## **Chapter 90 Section 15 Laws 2023**

SECTION 15. A new section of the Voluntary Placement and Family Services Act is enacted to read:

"FINANCIAL SUBSIDIES--GUARDIANSHIP ASSISTANCE AGREEMENT.--

A. In order for a prospective guardian to receive guardianship assistance payments, the department shall negotiate and enter into a written guardianship assistance agreement before the guardianship is finalized with the prospective guardian of an eligible child. The agreement shall specify the following:

- (1) the amount of and manner in which guardianship assistance payments will be provided;
- (2) additional services and assistance for which the child and the prospective guardian will be eligible;
- (3) a procedure by which the prospective guardian may apply for additional services;
- (4) the responsibility of the prospective guardian to report changes in the needs of the child or the circumstances of the prospective guardian that affect guardianship assistance payments;
- (5) reasonable and verified nonrecurring expenses associated with establishing a subsidized guardianship pursuant to the provisions of Section 14 of this 2023 act; and
- (6) terms by which the guardianship assistance agreement may be terminated and the ability of the department to recoup funds received due to improper payment.

B. A copy of the fully executed guardianship assistance agreement shall be given to the prospective guardian and to the department."

## **Chapter 90 Section 16 Laws 2023**

SECTION 16. A new section of the Voluntary Placement and Family Services Act is enacted to read:

"FINANCIAL SUBSIDIES--SUCCESSOR GUARDIANS.--

A. In order for a successor guardian to be eligible for guardianship assistance payments if the successor guardian serves as guardian in the event the guardian dies or is incapacitated, the successor guardian shall be named in the guardianship assistance agreement and any amendments thereto.

B. The department may pay the cost of nonrecurring expenses associated with the successor guardian obtaining a subsidized guardianship of the child, up to an amount established by the department.

C. The successor guardian does not need to be a relative and does not need to be licensed as a foster parent to receive guardianship assistance payments."

## **Chapter 90 Section 17 Laws 2023**

SECTION 17. A new section of the Voluntary Placement and Family Services Act is enacted to read:

"FINANCIAL SUBSIDIES--DISCONTINUANCE OF GUARDIANSHIP ASSISTANCE PAYMENTS.--

A. The department shall immediately discontinue guardianship assistance payments when the department is advised or determines a child or guardian no longer meets the criteria to be eligible for guardianship assistance payments.

B. The department shall notify the guardian in writing of a discontinuation of guardianship assistance payments and the reasons for discontinuation.

C. The discontinuance of guardianship assistance payments does not terminate a guardianship or a guardian's legal responsibility that has been established by a court."

## **Chapter 90 Section 18 Laws 2023**

SECTION 18. A new section of the Voluntary Placement and Family Services Act is enacted to read:

"FINANCIAL SUBSIDIES--ADMINISTRATIVE APPEAL OF DECISIONS.--A child or prospective guardian may appeal a decision by the department to establish, deny,

reduce or discontinue guardianship assistance payments within thirty days of the department's decision."

## **Chapter 90 Section 19 Laws 2023**

SECTION 19. A new section of the Voluntary Placement and Family Services Act is enacted to read:

"DEPARTMENT DUTIES--RULEMAKING.--The department shall promulgate rules as necessary to implement the provisions of the Voluntary Placement and Family Services Act."

## **Chapter 90 Section 20 Laws 2023**

SECTION 20. Section 32A-4-2 NMSA 1978 (being Laws 1993, Chapter 77, Section 96, as amended) is amended to read:

"32A-4-2. DEFINITIONS.--As used in the Abuse and Neglect Act:

A. "abandonment" includes instances when the parent, without justifiable cause:

(1) left the child without provision for the child's identification for a period of fourteen days; or

(2) left the child with others, including the other parent or an agency, without provision for support and without communication for a period of:

(a) three months if the child was under six years of age at the commencement of the three-month period; or

(b) six months if the child was over six years of age at the commencement of the six-month period;

B. "abused child" means a child:

(1) who has suffered or who is at risk of suffering serious harm because of the action or inaction of the child's parent, guardian or custodian;

(2) who has suffered physical abuse, emotional abuse or psychological abuse inflicted or caused by the child's parent, guardian or custodian;

(3) who has suffered sexual abuse or sexual exploitation inflicted by the child's parent, guardian or custodian;

(4) whose parent, guardian or custodian has knowingly, intentionally or negligently placed the child in a situation that may endanger the child's life or health; or

(5) whose parent, guardian or custodian has knowingly or intentionally tortured, cruelly confined or cruelly punished the child;

C. "aggravated circumstances" includes those circumstances in which the parent, guardian or custodian has:

(1) attempted, conspired to cause or caused great bodily harm to the child or great bodily harm or death to the child's sibling;

(2) attempted, conspired to cause or caused great bodily harm or death to another parent, guardian or custodian of the child;

(3) attempted, conspired to subject or has subjected the child to torture, chronic abuse or sexual abuse; or

(4) had parental rights over a sibling of the child terminated involuntarily;

D. "educational decision maker" means an individual appointed by the children's court to attend school meetings and to make decisions about the child's education that a parent could make under law, including decisions about the child's educational setting, and the development and implementation of an individual education plan for the child;

E. "fictive kin" means a person not related by birth, adoption or marriage with whom a child has an emotionally significant relationship;

F. "great bodily harm" means an injury to a person that creates a high probability of death, that causes serious disfigurement or that results in permanent or protracted loss or impairment of the function of a member or organ of the body;

G. "neglected child" means a child:

(1) who has been abandoned by the child's parent, guardian or custodian;

(2) who is without proper parental care and control or subsistence, education, medical or other care or control necessary for the child's well-being because of the faults or habits of the child's parent, guardian or custodian or the failure or refusal of the parent, guardian or custodian, when able to do so, to provide them;

(3) who has been physically or sexually abused, when the child's parent, guardian or custodian knew or should have known of the abuse and failed to take reasonable steps to protect the child from further harm;

(4) whose parent, guardian or custodian is unable to discharge that person's responsibilities to and for the child because of incarceration, hospitalization or physical or mental disorder or incapacity; or

(5) who has been placed for care or adoption in violation of the law; provided that nothing in the Children's Code shall be construed to imply that a child who is being provided with treatment by spiritual means alone through prayer, in accordance with the tenets and practices of a recognized church or religious denomination, by a duly accredited practitioner thereof is for that reason alone a neglected child within the meaning of the Children's Code; and further provided that no child shall be denied the protection afforded to all children under the Children's Code;

H. "physical abuse" includes any case in which the child suffers strangulation or suffocation and any case in which the child exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling or death and:

(1) there is not a justifiable explanation for the condition or death;

(2) the explanation given for the condition is at variance with the degree or nature of the condition;

(3) the explanation given for the death is at variance with the nature of the death; or

(4) circumstances indicate that the condition or death may not be the product of an accidental occurrence;

I. "relative" means a person related to another person by birth, adoption or marriage within the fifth degree of consanguinity;

J. "sexual abuse" includes criminal sexual contact, incest or criminal sexual penetration, as those acts are defined by state law;

K. "sexual exploitation" includes:

(1) allowing, permitting or encouraging a child to engage in prostitution;

(2) allowing, permitting, encouraging or engaging a child in obscene or pornographic photographing; or

(3) filming or depicting a child for obscene or pornographic commercial purposes, as those acts are defined by state law;

L. "sibling" means a brother or sister having one or both parents in common by birth or adoption;

M. "strangulation" has the same meaning as set forth in Section 30-3-11 NMSA 1978;

N. "suffocation" has the same meaning as set forth in Section 30-3-11 NMSA 1978; and

O. "transition plan" means an individualized written plan for a child, based on the unique needs of the child, that outlines all appropriate services to be provided to the child to increase independent living skills. The plan shall also include responsibilities of the child, and any other party as appropriate, to enable the child to be self-sufficient upon emancipation."

## **Chapter 90 Section 21 Laws 2023**

SECTION 21. Section 32A-28-2 NMSA 1978 (being Laws 2022, Chapter 41, Section 2) is amended to read:

"32A-28-2. DEFINITIONS.--As used in the Indian Family Protection Act:

A. "active efforts" means efforts that are affirmative, active, thorough and timely and that represent a higher standard of conduct than reasonable efforts;

B. "adoptive placement" means a permanent placement of an Indian child for adoption, including an action resulting in a final decree of adoption;

C. "child custody proceeding" means an action for foster care placement, termination of parental rights, permanent guardianship or adoptive placement or an action pursuant to Section 32A-3A-8 NMSA 1978 or the Family in Need of Court-Ordered Services Act and includes investigations and other preliminary activities preceding the formal initiation of an action, but does not include:

(1) delinquency proceedings; and

(2) custodial proceedings or kinship guardianships pursuant to Chapter 40 NMSA 1978;

D. "cultural compact" means an agreement that documents how an Indian child placed in an adoptive or guardianship home will continue to actively participate in the child's cultural learning and activities and that is entered into among:

(1) the adoptive parents or guardians of the Indian child, which parents or guardians are not members of the Indian child's tribe; and

(2) the Indian child's tribe;

E. "discussion with an Indian tribe" means documented good faith efforts to actively communicate and work with an Indian tribe;

F. "extended family member" means a person who is defined to be an extended family member by law or custom of an Indian child's tribe or, in the absence of such law or custom, means a person who is eighteen years of age or older and who is an Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, stepparent or godparent;

G. "fictive kin" means a person:

(1) who is not a relative or an extended family member of an Indian child and who has a significant, family-like relationship with the child or the child's family, which relationship existed prior to the child's entry into foster care;

(2) who meets the definition of "fictive kin" as established by an Indian child's tribe's law, custom or tradition; or

(3) chosen by an Indian child who is fourteen years of age or older, regardless of when the relationship between the person and the Indian child was established, when it is in the best interest of the child to identify that person as fictive kin; and

H. "foster care placement" means:

(1) an action pursuant to the Abuse and Neglect Act removing an Indian child from the child's parent, guardian or Indian custodian for temporary placement in a foster home or institution or the home of a guardian where the parent or Indian custodian cannot have the child returned upon demand, but in which parental rights have not been terminated; or

(2) the temporary placement of an Indian child in foster care pursuant to a voluntary agreement entered into between a parent, guardian or Indian custodian and the department pursuant to the Voluntary Placement and Family Services Act."

## **Chapter 90 Section 22 Laws 2023**

SECTION 22. Section 40-10B-3 NMSA 1978 (being Laws 2001, Chapter 167, Section 3, as amended) is amended to read:

"40-10B-3. DEFINITIONS.--As used in the Kinship Guardianship Act:

A. "caregiver" means an adult, who is not a parent of a child, with whom a child resides and who provides that child with the care, maintenance and supervision consistent with the duties and responsibilities of a parent of the child;

B. "child" means an individual who is a minor;

C. "department" means the children, youth and families department;

D. "guardian" means a person appointed as a guardian by a court or Indian tribal authority;

E. "Indian" means, whether an adult or child, a person who is:

(1) a member of an Indian tribe; or

(2) eligible for membership in an Indian tribe;

F. "Indian child" means an Indian person, or a person whom there is reason to know is an Indian person, under eighteen years of age, who is neither:

(1) married; or

(2) emancipated;

G. "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;

H. "Indian custodian" means an Indian who, pursuant to tribal law or custom or pursuant to state law:

(1) is an adult with legal custody of an Indian child; or

(2) has been transferred temporary physical care, custody and control by the parent of the Indian child;

I. "Indian tribe" means an Indian nation, tribe, pueblo or other band, organized group or community of Indians recognized as eligible for the services provided to Indians by the secretary of the interior because of their status as Indians, including an Alaska native village as defined in 43 U.S.C. Section 1602(c) or a regional corporation as defined in 43 U.S.C. Section 1606. For the purposes of notification to

and communication with a tribe as required in the Indian Family Protection Act, "Indian tribe" also includes those tribal officials and staff who are responsible for child welfare and social services matters;

J. "kinship" means the relationship that exists between a child and a relative of the child, a godparent, a member of the child's tribe or clan or an adult with whom the child has a significant bond;

K. "parent" means a biological or adoptive parent of a child whose parental rights have not been terminated and includes an individual identified as a parent under the New Mexico Uniform Parentage Act; and

L. "relative" means an individual related to a child as a spouse, parent, stepparent, brother, sister, stepbrother, stepsister, half-brother, half-sister, uncle, aunt, niece, nephew, first cousin or any person denoted by the prefix "grand" or "great", or the spouse or former spouse of the persons specified."

## **Chapter 90 Section 23 Laws 2023**

SECTION 23. Section 40-10B-5 NMSA 1978 (being Laws 2001, Chapter 167, Section 5, as amended) is amended to read:

"40-10B-5. PETITION--WHO MAY FILE--CONTENTS.--

A. A petition seeking the appointment of a guardian pursuant to the Kinship Guardianship Act may be filed only by:

- (1) a kinship caregiver;
- (2) a caregiver, who has reached the age of twenty-one, with whom no kinship with the child exists who has been nominated to be guardian of the child by the child, and the child has reached the age of fourteen;
- (3) a caregiver designated formally or informally by a parent in writing if the designation indicates on its face that the parent signing understands:
  - (a) the purpose and effect of the guardianship;
  - (b) that the parent has the right to be served with the petition and notices of hearings in the action; and
  - (c) that the parent may appear in court to contest the guardianship; or
- (4) a caregiver with whom the department has placed the child pursuant to the Children's Code.

B. A petition seeking the appointment of a guardian shall be verified by the petitioner and allege the following with respect to the child:

(1) facts that, if proved, will meet the requirements of Subsection B of Section 40-10B-8 NMSA 1978;

(2) the date and place of birth of the child, if known, and if not known, the reason for the lack of knowledge;

(3) the legal residence of the child and the place where the child resides, if different from the legal residence;

(4) the name and address of the petitioner;

(5) the kinship, if any, between the petitioner and the child;

(6) the names and addresses of the parents of the child;

(7) the names and addresses of persons having legal custody of the child;

(8) the existence of any matters pending involving the custody of the child;

(9) a statement that the petitioner agrees to accept the duties and responsibilities of guardianship;

(10) the existence of any matters pending pursuant to the provisions of Chapter 32A, Article 4 NMSA 1978 and, if so, a statement that the department consents to the relief requested in the petition;

(11) whether the child is an Indian child or there is reason to know that the child is an Indian child, and subject to provisions of the Indian Family Protection Act and, if so:

(a) the Indian child's tribe;

(b) the tribal affiliations of the Indian child's parents; and

(c) active efforts made to comply with the notice requirements pursuant to the Indian Family Protection Act, including results of the contact and the names, addresses, titles and telephone numbers of the persons contacted. Copies of any correspondence with the Indian child's tribe shall be attached as exhibits to the petition; and

(12) other facts in support of the guardianship sought."

## **Chapter 90 Section 24 Laws 2023**

SECTION 24. Section 40-10B-6 NMSA 1978 (being Laws 2001, Chapter 167, Section 6, as amended) is amended to read:

"40-10B-6. SERVICE OF PETITION--NOTICE--PARTIES.--

A. The court shall set a date for hearing on the petition, which date shall be no less than thirty and no more than ninety days from the date of filing the petition.

B. The petition and a notice of the hearing shall be served upon:

(1) the department if there is any pending matter relating to the child pursuant to the provisions of the Children's Code;

(2) the child if the child has reached the age of fourteen;

(3) the parents of the child;

(4) a person having custody of the child or visitation rights pursuant to a court order; and

(5) if the child is an Indian child or there is reason to know the child is an Indian child subject to the provisions of the Indian Family Protection Act, the appropriate Indian tribe and any "Indian custodian", together with a notice of pendency of the guardianship proceedings, pursuant to the provisions of the Indian Family Protection Act.

C. Service of process required by Subsection A of this section shall be made in accordance with the requirements for giving notice of a hearing pursuant to Subsection A of Section 45-1-401 NMSA 1978.

D. The persons required to be served pursuant to Subsection B of this section have a right to file a response as parties to this action. Other persons may intervene pursuant to Rule 1-024 NMRA."

## **Chapter 90 Section 25 Laws 2023**

SECTION 25. Section 40-10B-7 NMSA 1978 (being Laws 2001, Chapter 167, Section 7) is amended to read:

"40-10B-7. TEMPORARY GUARDIANSHIP PENDING HEARING.--

A. After the filing of the petition, upon motion of the petitioner or a person required to be served pursuant to Subsection B of Section 40-10B-6 NMSA 1978, or upon its own motion, the court may appoint a temporary guardian to serve for not more

than one hundred eighty days or until the case is decided on the merits, whichever occurs first.

B. A motion for temporary guardianship shall be heard within twenty days of the date the motion is filed. The motion and notice of hearing shall be served on all persons required to be served pursuant to Subsection B of Section 40-10B-6 NMSA 1978.

C. An order pursuant to Subsection A of this section may be entered ex parte upon good cause shown. If the order is entered ex parte, a copy of the order shall be served on the persons required to be served pursuant to Subsection B of Section 40-10B-6 NMSA 1978. If a person files an objection to the order, the court immediately shall schedule a hearing to be held within ten days of the date the objection is filed. Notice of the hearing shall be given to the petitioner and all persons required to be served pursuant to Subsection B of Section 40-10B-6 NMSA 1978."

## **Chapter 90 Section 26 Laws 2023**

SECTION 26. Section 40-10B-8 NMSA 1978 (being Laws 2001, Chapter 167, Section 8, as amended) is amended to read:

"40-10B-8. HEARING--ELEMENTS OF PROOF--BURDEN OF PROOF--JUDGMENT--CHILD SUPPORT.--

A. Upon hearing, if the court finds that a qualified person seeks appointment, the venue is proper, the required notices have been given, the requirements of Subsection B of this section have been proved and the best interests of the minor will be served by the requested appointment, it shall make the appointment. In other cases, the court may dismiss the proceedings or make any other disposition of the matter that will serve the best interests of the minor.

B. A guardian may be appointed pursuant to the Kinship Guardianship Act only if:

(1) a parent of the child is living and has consented in writing to the appointment of a guardian and the consent has not been withdrawn;

(2) a parent of the child is living but all parental rights in regard to the child have been terminated or suspended by prior court order; or

(3) the child has resided with the petitioner without the parent for a period of ninety days or more immediately preceding the date the petition is filed and a parent having legal custody of the child is currently unwilling or unable to provide adequate care, maintenance and supervision for the child or there are extraordinary circumstances; and

(4) no guardian of the child is currently appointed pursuant to a provision of the Uniform Probate Code.

C. The burden of proof shall be by clear and convincing evidence.

D. As part of a judgment entered pursuant to the Kinship Guardianship Act, the court may order a parent to pay the reasonable costs of support and maintenance of the child that the parent is financially able to pay. The court may use the child support guidelines set forth in Section 40-4-11.1 NMSA 1978 to calculate a reasonable payment.

E. The court may order visitation between a parent and child to maintain or rebuild a parent-child relationship if the visitation is in the best interests of the child."

## **Chapter 90 Section 27 Laws 2023**

SECTION 27. Section 40-10B-11 NMSA 1978 (being Laws 2001, Chapter 167, Section 11) is amended to read:

"40-10B-11. NOMINATION OBJECTION BY CHILD.--In a proceeding for appointment of a guardian pursuant to the Kinship Guardianship Act:

A. the court shall appoint a person nominated by a child who has reached the age of fourteen unless the court finds the nomination contrary to the best interests of the child; and

B. the court shall not appoint a person as guardian if a child who has reached the age of fourteen files a written objection in the proceeding before the person accepts appointment as guardian unless the court makes a specific finding that it is in the best interest of the child."

## **Chapter 90 Section 28 Laws 2023**

SECTION 28. Section 40-10B-12 NMSA 1978 (being Laws 2001, Chapter 167, Section 12) is amended to read:

"40-10B-12. REVOCATION OF GUARDIANSHIP.--

A. Any person, including a child who has reached the age of fourteen, may move for revocation of a guardianship created pursuant to the Kinship Guardianship Act. The person requesting revocation shall attach to the motion a transition plan proposed to facilitate the reintegration of the child into the home of a parent or a new guardian. A transition plan shall take into consideration the child's age, development and any bond with the guardian.

B. If the court finds that a preponderance of the evidence proves a change in circumstances and the revocation is in the best interests of the child, it shall grant the motion and:

- (1) adopt a transition plan proposed by a party or the guardian ad litem;
- (2) propose and adopt its own transition plan; or
- (3) order the parties to develop a transition plan by consensus if they will agree to do so."

### **Chapter 90 Section 29 Laws 2023**

SECTION 29. REPEAL.--Sections 32A-3A-9 and 40-10B-16 through 40-10B-21 NMSA 1978 (being Laws 1993, Chapter 77, Section 71 and Laws 2020, Chapter 51, Sections 4 through 9) are repealed.

### **Chapter 90 Section 30 Laws 2023**

SECTION 30. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

## **LAWS 2023, CHAPTER 91**

**SJC/Senate Bill 35**  
**Approved April 4, 2023**

AN ACT

RELATING TO ANESTHESIOLOGIST ASSISTANTS; REVISING PRACTICE REQUIREMENTS AND EMPLOYMENT CONDITIONS; INCREASING THE NUMBER OF ANESTHESIOLOGIST ASSISTANTS THAT AN ANESTHESIOLOGIST MAY SUPERVISE; REQUIRING IN-PERSON SUPERVISION; REPEALING LAWS 2015, CHAPTER 52, SECTION 5.

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

### **Chapter 91 Section 1 Laws 2023**

SECTION 1. That version of Section 61-6D-2 NMSA 1978 (being Laws 2015, Chapter 52, Section 4, as amended) that is to become effective July 1, 2025 is amended to read:

"61-6D-2. DEFINITIONS.--As used in the Anesthesiologist Assistants Act:

A. "anesthesiologist" means a physician licensed to practice medicine in New Mexico who has successfully completed an accredited anesthesiology graduate medical education program, who is board certified by the American board of anesthesiology, the American osteopathic board of anesthesiology or is board eligible, who has completed a residency in anesthesiology within the last three years or who has foreign certification determined by the board to be the substantial equivalent and who is an employee of the department of anesthesiology of a medical school in New Mexico;

B. "anesthesiologist assistant" means a skilled person licensed by the board as being qualified by academic and practical training to assist an anesthesiologist in developing and implementing anesthesia care plans for patients under the supervision and direction of the anesthesiologist who is responsible for the performance of that anesthesiologist assistant;

C. "applicant" means a person who is applying to the board for a license as an anesthesiologist assistant;

D. "board" means the New Mexico medical board; and

E. "license" means an authorization to practice as an anesthesiologist assistant."

## **Chapter 91 Section 2 Laws 2023**

SECTION 2. Section 61-6D-8 NMSA 1978 (being Laws 2001, Chapter 311, Section 9, as amended) is amended to read:

"61-6D-8. RULES.--

A. The board may adopt in accordance with the State Rules Act and enforce in accordance with the Uniform Licensing Act reasonable rules:

(1) for setting qualifications of education, skill and experience for licensure of a person as an anesthesiologist assistant;

(2) for providing procedures and forms for licensure and annual registration;

(3) for examining and evaluating applicants for licensure as an anesthesiologist assistant regarding the required skill, knowledge and experience in developing and implementing anesthesia care plans under supervision;

(4) for allowing a supervising anesthesiologist to temporarily delegate supervisory responsibilities for an anesthesiologist assistant to another anesthesiologist;

(5) for allowing an anesthesiologist assistant to temporarily serve under the supervision of an anesthesiologist other than the supervising anesthesiologist with whom the anesthesiologist assistant is registered; and

(6) to carry out the provisions of the Anesthesiologist Assistants Act.

B. The board shall not adopt a rule allowing an anesthesiologist assistant to perform procedures outside the anesthesiologist assistant's scope of practice.

C. The board shall adopt rules:

(1) establishing requirements for anesthesiologist assistant licensing, including:

(a) completion of a graduate level training program accredited by the commission on accreditation of allied health education programs;

(b) successful completion of a certifying examination for anesthesiologist assistants administered by the national commission for the certification of anesthesiologist assistants; and

(c) current certification by the American heart association in advanced cardiac life-support techniques;

(2) establishing minimum requirements for continuing education of not less than forty hours every two years;

(3) requiring adequate identification of the anesthesiologist assistant to patients and others;

(4) requiring the presence, except in cases of emergency, and the documentation of the presence, of the supervising anesthesiologist in the operating room during induction of a general anesthetic and during emergence from a general anesthetic, the presence of the supervising anesthesiologist within the operating suite and immediate availability to the operating room at other times when the anesthetic procedure is being performed and requiring that the anesthesiologist assistant comply with the above restrictions;

(5) requiring the supervising anesthesiologist to ensure that all activities, functions, services and treatment measures are properly documented in written form by the anesthesiologist assistant. The anesthesia record shall be reviewed, countersigned and dated by the supervising anesthesiologist;

(6) requiring the anesthesiologist assistant to inform the supervising anesthesiologist of serious adverse events;

(7) establishing that the number of anesthesiologist assistants a supervising anesthesiologist may supervise at one time, except in emergency cases, shall not exceed four anesthesiologist assistants; and

(8) within twelve months of the date on which the Anesthesiologist Assistants Act becomes effective, providing for enhanced supervision at the commencement of an anesthesiologist assistant's practice."

## **Chapter 91 Section 3 Laws 2023**

SECTION 3. Section 61-6D-10 NMSA 1978 (being Laws 2015, Chapter 52, Section 3, as amended) is amended to read:

"61-6D-10. ANESTHESIOLOGIST ASSISTANTS--EMPLOYMENT CONDITIONS.--An anesthesiologist assistant shall:

A. be a current or future employee of a university in New Mexico with a medical school; or

B. in a practice other than one at a university in New Mexico with a medical school:

(1) be certified as an anesthesiologist assistant by the national commission for certification of anesthesiologist assistants;

(2) practice only in a health facility licensed by the department of health where anesthesiologists who are licensed physicians and who are board-certified as anesthesiologists by the American board of anesthesiology are on staff as employees or contractors;

(3) practice only in a class A county; and

(4) be supervised by a licensed anesthesiologist who is physically present at all times in the health facility while supervising an anesthesiologist assistant."

## **Chapter 91 Section 4 Laws 2023**

SECTION 4. REPEAL.--Laws 2015, Chapter 52, Section 5 is repealed.

# **LAWS 2023, CHAPTER 92**

**SJC/Senate Bill 41**

**Approved April 4, 2023**

AN ACT

RELATING TO TELECOMMUNICATIONS; AMENDING SECTIONS OF THE NEW MEXICO TELECOMMUNICATIONS ACT; REQUIRING THAT INCUMBENT LOCAL EXCHANGE CARRIERS THAT SERVE FIFTY THOUSAND OR MORE ACCESS LINES BE REGULATED IN THE SAME MANNER AS INCUMBENT RURAL TELECOMMUNICATIONS CARRIERS IN MOST CASES; ESTABLISHING THAT EFFECTIVE COMPETITION EXISTS IN A WIRE CENTER SERVING AREA WHEN VOICE SERVICES ARE PROVIDED TO THE AREA BY TWO OR MORE ALTERNATE PROVIDERS; PROVIDING DEFINITIONS; REQUIRING THE PUBLIC REGULATION COMMISSION TO REPORT THE STEPS TAKEN TO ACHIEVE REGULATORY PARITY AMONG CARRIERS; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978.

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

### **Chapter 92 Section 1 Laws 2023**

SECTION 1. Section 63-9A-3 NMSA 1978 (being Laws 1985, Chapter 242, Section 3, as amended) is amended to read:

"63-9A-3. DEFINITIONS.--As used in the New Mexico Telecommunications Act:

A. "affordable rates" means local exchange service rates that promote universal service within a local exchange area, giving consideration to the economic conditions and costs to provide service in such area;

B. "alternate provider" means a person that provides voice services, regardless of the technology used. Such providers are not limited to telecommunications companies and include cellular service companies, satellite companies and companies that provide service using an interconnected voice-over-internet protocol;

C. "cable television service" means the one-way transmission to subscribers of video programming or other programming service and subscriber interaction, if any, that is required for the selection of such video programming or other programming service;

D. "commission" means the public regulation commission;

E. "competitive telecommunications service" means a service that has been determined to be subject to effective competition pursuant to Section 63-9A-8 NMSA 1978;

F. "competitive telecommunications service provider" includes competitive carriers holding certificates of public convenience and necessity issued by the

commission pursuant to laws and regulations, including, without limitation, Section 63-9A-6 NMSA 1978;

G. "effective competition" means the competition that results from the customers of the service having reasonably available and comparable alternatives to the service, consistent with the standards set forth in Section 63-9A-8 NMSA 1978;

H. "fund" means the state rural universal service fund;

I. "incumbent local exchange carrier" means a person that:

(1) was designated as an eligible telecommunications carrier by the state corporation commission in Docket #97-93-TC by order dated October 23, 1997 or that provided local exchange service in New Mexico on February 8, 1996; or

(2) became a successor or assignee of an incumbent local exchange carrier;

J. "incumbent rural telecommunications carrier" means an incumbent local exchange carrier that serves fewer than fifty thousand access lines within the state and has been designated as an eligible telecommunications company by the state corporation commission or the public regulation commission;

K. "local exchange area" means a geographic area encompassing one or more local communities, as described in maps, tariffs or rate schedules filed with the commission, where local exchange rates apply;

L. "local exchange service" means the transmission of two-way interactive switched voice communications furnished by a telecommunications company within a local exchange area;

M. "message telecommunications service" means telecommunications service between local exchange areas within the state for which charges are made on a per-unit basis, not including wide-area telecommunications service, or its equivalent, or individually negotiated contracts for telecommunications services;

N. "noncompetitive telecommunications service" means a service that has not been determined to be subject to effective competition pursuant to Section 63-9A-8 NMSA 1978;

O. "person" means a natural person, individual, corporation, association, partnership or any other legal entity;

P. "private telecommunications service" means a system, including the construction, maintenance or operation thereof, for the provision of telecommunications service, or any portion of that service, by a person for the sole and exclusive use of that

person and not for resale, directly or indirectly. For purposes of this definition, the person that may use such service includes any affiliates of the person if at least eighty percent of the assets or voting stock of the affiliates is owned by the person. If any other person uses the telecommunications service, whether for hire or not, the private telecommunications service is a public telecommunications service;

Q. "public telecommunications service" means the transmission of signs, signals, writings, images, sounds, messages, data or other information of any nature by wire, radio, lightwaves or other electromagnetic means originating and terminating in this state regardless of actual call routing. "Public telecommunications service" does not include the provision of terminal equipment used to originate or terminate such service; private telecommunications service; broadcast transmissions by radio, television and satellite broadcast stations regulated by the federal communications commission; radio common carrier services, including mobile telephone service and radio paging; or one-way cable television service;

R. "telecommunications company" means a person that provides public telecommunications service;

S. "voice services" means the transmission of signs, signals, writings, images, sounds, messages, data or other information of any nature by wire, radio, light waves or other electromagnetic means, including those voice services provided by incumbent local exchange carriers, competitive telecommunications service providers, mobile wireless providers and interconnected voice-over-internet protocol service providers;

T. "wire center" means a facility where local exchange access lines converge and are connected to a switching device that provides access to the public switched network and includes remote switching units and host switching units; and

U. "wire center serving area" means the geographic area of a local exchange area served by a single wire center."

## **Chapter 92 Section 2 Laws 2023**

SECTION 2. Section 63-9A-5 NMSA 1978 (being Laws 1985, Chapter 242, Section 5, as amended) is amended to read:

"63-9A-5. REGULATION BY COMMISSION.--

A. Except as otherwise provided in the New Mexico Telecommunications Act, each public telecommunications service is declared to be affected with the public interest and, as such, subject to the provisions of that act, including the regulation thereof as provided in that act.

B. Except in cases regarding the fixing of rates pursuant to Section 63-7-1.1 NMSA 1978, the commission has exclusive jurisdiction to regulate incumbent local exchange carriers that serve fifty thousand or more access lines within the state to the extent authorized by the New Mexico Telecommunications Act; provided that:

(1) the commission's jurisdiction includes the regulation of wholesale rates, including access charges and interconnection agreements consistent with federal law and its enforcement and determinations of participation in low-income telephone service assistance programs pursuant to the Low Income Telephone Service Assistance Act; and

(2) incumbent local exchange carriers regulated pursuant to this section shall be regulated in the same manner as incumbent rural telecommunications carriers are regulated pursuant to the Rural Telecommunications Act of New Mexico.

C. Any rules adopted by the commission for the regulation of incumbent local exchange carriers pursuant to the New Mexico Telecommunications Act shall preserve and not alter:

(1) the rights and obligations of any entity, including the commission, established pursuant to federal law, including 47 U.S.C. Sections 251 and 252, or established pursuant to any state law, rule, procedure, regulation or order related to interconnection, intercarrier compensation, intercarrier complaints, wholesale rights and obligations or any wholesale rate or schedule that is filed with and maintained by the commission;

(2) the rights and obligations of any competitive telecommunications service provider holding a certificate of public convenience and necessity, or the rights and obligations of any competitive carrier to obtain such a certificate;

(3) the authority of the commission to resolve consumer complaints regarding basic local exchange service; provided, however, that the commission's authority to resolve such complaints shall be limited to resolving issues of consumer protection and shall not include the authority to determine or fix rates, provider of last resort obligations or service quality standards except as expressly set forth in the New Mexico Telecommunications Act;

(4) the authority of the commission to establish reasonable quality of service standards; provided, however, that the enforcement of such standards shall be limited to the commission's fining authority set forth in Section 63-7-23 NMSA 1978 and the authority to seek an injunction set forth in Section 63-9-19 NMSA 1978;

(5) the rights and obligations of any entity, including the commission, regarding the fund;

(6) the rights and obligations of any entity, including the commission, regarding access to emergency service to the extent consistent with the Enhanced 911 Act; or

(7) the rights and obligations of any entity, including the commission, regarding the administration of slamming and cramming rules, telecommunications relay service and numbering resources to the extent permitted by and consistent with federal law.

D. The provisions of the New Mexico Telecommunications Act do not apply to incumbent rural telecommunications carriers."

## **Chapter 92 Section 3 Laws 2023**

SECTION 3. Section 63-9A-8 NMSA 1978 (being Laws 1985, Chapter 242, Section 8, as amended) is amended to read:

"63-9A-8. REGULATION OF RATES AND CHARGES--EFFECTIVE COMPETITION.--

A. In accordance with the policy established in the New Mexico Telecommunications Act, the commission shall, by its own motion or upon petition by any interested party, determine if a wire center serving area is subject to effective competition. When the commission has made a determination that a wire center serving area is subject to effective competition, the commission shall, consistent with the purposes of the New Mexico Telecommunications Act, eliminate rules, regulations and other requirements applicable to the provision of telecommunications services within that wire center serving area. The commission's action shall include the detariffing of service and may include the establishment of minimum rates that will cover the costs for the service. Such action shall be consistent with the maintenance of the availability of access to local exchange service and message telecommunications service at affordable rates comparable in both urban and rural markets as established by the commission, except that volume discounts or other discounts based on reasonable business purposes shall be permitted. The commission shall also modify the same or similar retail regulatory requirements for those providers of comparable public telecommunications services in the same relevant markets so that there shall be parity of retail regulatory standards and requirements for all such providers; provided, however, that this subsection shall not be construed to permit the adoption of any new regulatory requirements or standards for providers of comparable telecommunications services.

B. Effective competition pursuant to the New Mexico Telecommunications Act shall exist in a wire center serving area when voice services are available to business customers from two or more alternate providers not affiliated with the incumbent local exchange carrier in the wire center serving area and are available to residential

customers from two or more alternate providers not affiliated with the incumbent local exchange carrier in the wire center serving area, regardless of:

- (1) the technology used to provide the voice services;
- (2) whether the voice services are regulated or unregulated; or
- (3) whether the voice services are provided by alternate providers that receive state or federal funding assistance.

C. In addition to establishment of effective competition pursuant to Subsection B of this section and upon notice to the commission, when an alternate provider other than the incumbent local exchange carrier has been awarded funding to provide broadband service within a wire center serving area pursuant to a state or federal broadband assistance or deployment program, effective competition for all regulated telecommunications services in that wire center serving area shall exist.

D. No provider of public telecommunications service may use current revenues earned or expenses incurred in conjunction with any noncompetitive service to subsidize competitive public telecommunications services. In order to avoid cross-subsidization of competitive services by noncompetitive telecommunications services, prices or rates charged for a competitive telecommunications service shall cover the cost for the provision of the service consistent with the provisions of Subsection G of Section 63-9A-8.1 NMSA 1978. In any proceeding held pursuant to this section, the party claiming that the price for a competitive telecommunications service does not cover the cost shall bear the burden of proving that the prices charged for competitive telecommunications services do not cover cost; provided, however, that the commission may require the telecommunications company against whom the complaint is filed to submit a cost study for the service that is the subject of the complaint as part of its examination and determination of the complaint.

E. The commission may, upon its own motion or on the petition of an interested party and after notice to all interested parties and customers and a hearing, reclassify any service previously determined to be a competitive telecommunications service if after a hearing the commission finds that a service is not subject to effective competition.

F. If a wire center serving area is deregulated pursuant to a determination of effective competition, for those wire center serving areas where that service is deregulated, the petitioning telecommunications company shall no longer be eligible to claim an exemption from the application of the Unfair Practices Act or the Antitrust Act."

## **Chapter 92 Section 4 Laws 2023**

SECTION 4. Section 63-9A-21 NMSA 1978 (being Laws 2017, Chapter 71, Section 7) is amended to read:

"63-9A-21. COMMISSION REVIEW OF IMPACTS.--

A. The commission shall review the impact of provisions of the New Mexico Telecommunications Act on residential and business consumers in urban and rural areas of the state every three years, the first review to be completed by July 31, 2019, and shall report its findings to the legislature. The review shall:

(1) investigate the impact on rates, service quality, incumbent local exchange carrier employment, investment in telecommunications infrastructure and the availability and deployment of high speed data services;

(2) report on the wire center serving areas that have been deemed to have effective competition and any wire centers no longer subject to carrier of last resort obligations; and

(3) specify the steps the commission has taken to implement parity of regulation among all incumbent local exchange carriers consistent with the provisions of the New Mexico Telecommunications Act.

B. For any wire center serving an area deregulated pursuant to the provisions of Section 63-9A-8 NMSA 1978, if the commission finds that reregulation of basic local exchange service is necessary to protect the public interest following a hearing and findings of fact and conclusions of law, after July 31, 2023, the commission shall regulate basic local exchange service pursuant to the New Mexico Telecommunications Act."

## **Chapter 92 Section 5 Laws 2023**

SECTION 5. REPEAL.--Section 63-9A-2 NMSA 1978 (being Laws 1985, Chapter 242, Section 2, as amended) is repealed.

## **Chapter 92 Section 6 Laws 2023**

SECTION 6. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# **LAWS 2023, CHAPTER 93**

**SJC/Senate Bill 69**

**Approved April 4, 2023**

AN ACT

RELATING TO TRANSPORTATION; AMENDING THE CHILD HELMET SAFETY ACT; DEFINING "ELECTRIC-ASSISTED BICYCLE"; PROVIDING STANDARDS FOR THE

REGULATION AND USE OF ELECTRIC-ASSISTED BICYCLES; AMENDING AND ENACTING SECTIONS OF THE MOTOR VEHICLE CODE.

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

**Chapter 93 Section 1 Laws 2023**

SECTION 1. Section 32A-24-2 NMSA 1978 (being Laws 2007, Chapter 66, Section 2) is amended to read:

"32A-24-2. DEFINITIONS.--As used in the Child Helmet Safety Act:

A. "bicycle" means a human-powered vehicle with two wheels in tandem designed to transport, by the act of pedaling, one or more persons seated on one or more saddle seats on its frame and includes an electric-assisted bicycle and a human-powered vehicle designed to transport by the act of pedaling, which has more than two wheels when the vehicle is used on a public roadway, public bicycle path or other public road or right of way, including a tricycle;

B. "electric-assisted bicycle" means a bicycle with fully operable pedals and an electric motor not exceeding seven hundred fifty watts of power;

C. "minor" means a person under eighteen years of age;

D. "operator" means a person under eighteen years of age who travels on a bicycle seated on a saddle seat from which that person is intended to and can pedal the bicycle, or who propels the person's self by way of using inline skates, roller skates, a skateboard or a scooter;

E. "passenger" means a person under eighteen years of age who travels on a bicycle or scooter in any manner except as an operator;

F. "protective helmet" means a piece of headgear that meets or exceeds the impact standard for protective helmets set by the United States consumer product safety commission federal safety standard and those standards developed by the American national standards institute, the Snell memorial foundation or the American society for testing and materials;

G. "public bicycle path" means a right of way under the jurisdiction and control of the state or a local political subdivision for use primarily by bicyclists and pedestrians;

H. "public roadway" means a right of way under the jurisdiction and control of the state or a local political subdivision for use primarily by motor vehicular traffic;

I. "public skateboard park" means an area of public property set aside, designed and maintained for recreation by persons using bicycles, scooters, skateboards or skates;

J. "scooter" means a wheeled vehicle, regardless of the number or placement of those wheels, that has handlebars, designed to be stood on by the operator or passenger and used to glide or propel the operator or passenger over the ground;

K. "skateboard" means a set of wheels attached to a platform or flat surface, regardless of the number or placement of those wheels, and used to glide or propel the operator over the ground; and

L. "skates" means a pair of devices worn on the feet with a set of wheels attached and used to glide or propel the user over the ground and may be either inline or roller, but "skates" does not include a pair of devices, similar to a pair of common shoes, that has one or more wheels embedded in the sole of each device."

## **Chapter 93 Section 2 Laws 2023**

SECTION 2. Section 66-1-4.5 NMSA 1978 (being Laws 1990, Chapter 120, Section 6, as amended) is amended to read:

"66-1-4.5. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "electric-assisted bicycle" means a vehicle having two or three wheels, fully operable pedals and an electric motor. Electric-assisted bicycles are classified as follows:

(1) "class 1 electric-assisted bicycle" means an electric-assisted bicycle equipped with a motor not exceeding seven hundred fifty watts of power that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches a speed of twenty miles per hour;

(2) "class 2 electric-assisted bicycle" means an electric-assisted bicycle equipped with a motor not exceeding seven hundred fifty watts of power that provides assistance regardless of whether the rider is pedaling but ceases to provide assistance when the bicycle reaches a speed of twenty miles per hour; and

(3) "class 3 electric-assisted bicycle" means an electric-assisted bicycle equipped with a motor not exceeding seven hundred fifty watts of power that provides assistance only when the rider is pedaling and that ceases to provide assistance when the bicycle reaches a speed of twenty-eight miles per hour;

B. "electric mobility device" means a two- or three-wheel vehicle with an electric motor for propulsion that does not meet the definition of an electric-assisted

bicycle and is capable of exceeding a speed of twenty miles per hour on motor power alone;

C. "electric personal assistive mobility device" means a self-balancing device having two nontandem wheels designed to transport a single person by means of an electric propulsion system with an average power of one horsepower and with a maximum speed on a paved level surface of less than twenty miles per hour when powered solely by its propulsion system and while being ridden by an operator who weighs one hundred seventy pounds;

D. "essential parts" means all integral and body parts of a vehicle of a type required to be registered by the provisions of the Motor Vehicle Code, the removal, alteration or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type or mode of operation;

E. "established place of business", for a dealer or auto recycler, means a place:

(1) devoted exclusively to the business for which the dealer or auto recycler is licensed and related business;

(2) identified by a prominently displayed sign giving the dealer's or auto recycler's trade name used by the business;

(3) of sufficient size or space to permit the display of one or more vehicles or to permit the parking or storing of vehicles to be dismantled or wrecked for recycling;

(4) on which there is located an enclosed building on a permanent foundation, which building meets the building requirements of the community and is large enough to accommodate the office or offices of the dealer or auto recycler and large enough to provide a safe place to keep the books and records of the dealer or auto recycler;

(5) where the principal portion of the business of the dealer or auto recycler is conducted and where the books and records of the business are kept and maintained; and

(6) where vehicle sales are of new vehicles only, such as a department store or a franchisee of a department store, as long as the department store or franchisee keeps the books and records of its vehicle business in a general office location at its place of business; as used in this paragraph, "department store" means a business that offers a variety of merchandise other than vehicles, and sales of the merchandise other than vehicles constitute at least eighty percent of the gross sales of the business; and

F. "explosives" means any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion and that contains any oxidizing and combustive units or other ingredients in such proportions, quantities or packing that an ignition by fire, friction, concussion, percussion or detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb."

## **Chapter 93 Section 3 Laws 2023**

SECTION 3. Section 66-1-4.11 NMSA 1978 (being Laws 1990, Chapter 120, Section 12, as amended) is amended to read:

"66-1-4.11. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "mail" means any item properly addressed with postage prepaid delivered by the United States postal service or any other public or private enterprise primarily engaged in the transport and delivery of letters, packages and other parcels;

B. "manufactured home" means a movable or portable housing structure 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 for human occupancy;

C. "manufacturer" means every person engaged in the business of constructing or assembling vehicles of a type required to be registered under the Motor Vehicle Code;

D. "manufacturer's certificate of origin" means a certification, on a form supplied by or approved by the department, signed by the manufacturer that the new vehicle or boat described in the certificate has been transferred to the New Mexico dealer or distributor named in the certificate or to a dealer duly licensed or recognized as such in another state, territory or possession of the United States and that such transfer is the first transfer of the vehicle or boat in ordinary trade and commerce;

E. "moped" means a two-wheeled or three-wheeled vehicle with an automatic transmission and a motor having a piston displacement of less than fifty cubic centimeters, that is capable of propelling the vehicle at a maximum speed of not more than thirty miles an hour on level ground, at sea level;

F. "motorcycle" means every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, including autocycles and excluding a tractor;

G. "motor home" means a camping body built on a self-propelled motor vehicle chassis so designed that seating for driver and passengers is within the body itself;

H. "motor vehicle" means every vehicle that is self-propelled and every vehicle that is propelled by electric power obtained from batteries or from overhead trolley wires, but not operated upon rails, including an electric mobility device, but does not include an electric-assisted bicycle; for the purposes of the Mandatory Financial Responsibility Act, "motor vehicle" does not include "special mobile equipment"; and

I. "motor vehicle insurance policy" means a policy of vehicle insurance that covers self-propelled vehicles of a kind required to be registered pursuant to New Mexico law for use on the public streets and highways. A "motor vehicle insurance policy":

(1) shall include:

(a) motor vehicle bodily injury and property damage liability coverages in compliance with the Mandatory Financial Responsibility Act; and

(b) uninsured motorist coverage, subject to the provisions of Section 66-5-301 NMSA 1978 permitting the insured to reject such coverage; and

(2) may include:

(a) physical damage coverage;

(b) medical payments coverage; and

(c) other coverages that the insured and the insurer agree to include within the policy."

## **Chapter 93 Section 4 Laws 2023**

SECTION 4. Section 66-1-4.13 NMSA 1978 (being Laws 1990, Chapter 120, Section 14, as amended) is amended to read:

"66-1-4.13. DEFINITIONS.--As used in the Motor Vehicle Code:

A. "odometer" means a device for recording the total mileage traveled by a vehicle from the vehicle's manufacture and for so long as the vehicle is operable on the highways;

B. "off-highway motor vehicle" means any motor vehicle operated or used exclusively off the highways of this state and that is not legally equipped for operation on the highways of this state, but does not include an electric-assisted bicycle;

C. "official printout" means any record supplied by the division or a similar agency or government entity that indicates the lienholders of record or owners of record of a vehicle or motor vehicle registered within that government's jurisdiction or indicates information about a driver's license or identification card, including traffic violation history or status;

D. "official traffic-control devices" means all signs, signals, markings and devices consistent with the Motor Vehicle Code placed or erected, by authority of a public body or official having jurisdiction, for the purpose of regulating, warning or guiding traffic;

E. "operational design domain" means the specific conditions under which a given automated driving system or feature of the system is designed to function;

F. "operator" means driver, as defined in Section 66-1-4.4 NMSA 1978; and

G. "owner" means a person who holds the legal title of a vehicle and may include a conservator, guardian, personal representative, executor or similar fiduciary, or, in the event that a vehicle is the subject of an agreement for conditional sale or lease with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or, in the event that a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagor."

## **Chapter 93 Section 5 Laws 2023**

SECTION 5. Section 66-3-1 NMSA 1978 (being Laws 1978, Chapter 35, Section 21, as amended) is amended to read:

### "66-3-1. VEHICLES SUBJECT TO REGISTRATION--EXCEPTIONS.--

A. With the exception of vehicles identified in Subsection B of this section, every motor vehicle, manufactured home, trailer, semitrailer and pole trailer when driven or moved upon a highway and every off-highway motor vehicle is subject to the registration and certificate of title provisions of the Motor Vehicle Code except:

(1) any such vehicle driven or moved upon a highway in conformance with the provisions of the Motor Vehicle Code relating to manufacturers, dealers, lienholders or nonresidents;

(2) any such vehicle that is driven or moved upon a highway only for the purpose of crossing the highway from one property to another;

(3) an implement of husbandry that is only incidentally operated or moved upon a highway;

- (4) special mobile equipment;
- (5) a vehicle that is propelled exclusively by electric power obtained from overhead trolley wires though not operated upon rails;
- (6) a freight trailer if it is:
  - (a) properly registered in another state;
  - (b) identified by a proper base registration plate that is properly displayed; and
  - (c) identified by other registration documents that are in the possession of the operator and exhibited at the request of a police officer;
- (7) a freight trailer or utility trailer owned and used by:
  - (a) a nonresident solely for the transportation of farm products purchased by the nonresident from growers or producers of the farm products and transported in the trailer out of the state;
  - (b) a farmer or a rancher who transports to market only the produce, animals or fowl produced by that farmer or rancher or who transports back to the farm or ranch supplies for use thereon; or
  - (c) a person who transports animals to and from fairs, rodeos or other places, except racetracks, where the animals are exhibited or otherwise take part in performances, in trailers drawn by a motor vehicle or truck of less than ten thousand pounds gross vehicle weight rating bearing a proper registration plate, but in no case shall the owner of an unregistered trailer described in this paragraph perform such uses for hire;
- (8) a moped;
- (9) an electric personal assistive mobility device;
- (10) a vehicle moved on a highway by a towing service as defined in Section 59A-50-2 NMSA 1978;
- (11) an off-highway motor vehicle exempted pursuant to Section 66-3-1005 NMSA 1978; and
- (12) an electric-assisted bicycle.

B. A certificate of title required pursuant to Subsection A of this section is not required for a vehicle of a type subject to registration owned by:

(1) the government of the United States; or

(2) a carrier that is from a jurisdiction that is not a participant in the International Fuel Tax Agreement, that is authorized by the United States government or an agency of the United States government to conduct cross-border operations beyond the commercial border zone pursuant to the provisions of the United States-Mexico-Canada Agreement and that identifies New Mexico as the carrier's base jurisdiction.

C. A person who violates the provisions of this section is guilty of a penalty assessment misdemeanor. A person charged with violating this section shall not be convicted if the person produces, in court, evidence of compliance valid at the time of issuance of the citation."

### **Chapter 93 Section 6 Laws 2023**

SECTION 6. A new section of the Motor Vehicle Code, Section 66-3-708 NMSA 1978, is enacted to read:

"66-3-708. ELECTRIC-ASSISTED BICYCLES--LABELS--STANDARDS.--

A. Every manufacturer or distributor of new electric-assisted bicycles intended for sale or distribution in New Mexico shall permanently affix to each electric-assisted bicycle, in a prominent location, a label that contains the classification number, top assisted speed and motor wattage of the electric-assisted bicycle. The label shall be printed in arial font in at least nine-point type.

B. A person shall not knowingly modify an electric-assisted bicycle so as to change the speed capability or motor engagement of the electric-assisted bicycle without also appropriately replacing, or causing to be replaced, the label indicating the classification required by Subsection A of this section.

C. An electric-assisted bicycle shall comply with the equipment and manufacturing requirements for bicycles adopted by the United States consumer product safety commission and codified at 16 CFR 1512 or its successor regulation.

D. A class 2 electric-assisted bicycle shall operate in a manner so that the electric motor is disengaged or ceases to function when the brakes are applied. Class 1 and class 3 electric-assisted bicycles shall be equipped with a mechanism or circuit that cannot be bypassed and that causes the electric motor to disengage or cease to function when the rider stops pedaling.

E. A class 3 electric-assisted bicycle shall be equipped with a speedometer that displays, in miles per hour, the speed that the electric-assisted bicycle is traveling."

## **Chapter 93 Section 7 Laws 2023**

SECTION 7. A new section of the Motor Vehicle Code, Section 66-3-709 NMSA 1978, is enacted to read:

"66-3-709. OPERATION OF ELECTRIC-ASSISTED BICYCLES.--

A. A person may ride a class 1 electric-assisted bicycle on a bicycle or pedestrian path where bicycles are authorized to travel; provided that a political subdivision of the state may prohibit the operation of a class 1 electric-assisted bicycle on a bicycle or pedestrian path within its jurisdiction.

B. A person shall not ride a class 2 or class 3 electric-assisted bicycle on a bicycle or pedestrian path unless:

(1) the path is within a street or highway; or

(2) a political subdivision of the state permits the operation of a class 2 or class 3 electric-assisted bicycle on a path under its jurisdiction.

C. A person under sixteen years of age shall not operate a class 3 electric-assisted bicycle upon any street, highway or bicycle or pedestrian path, except that a person under sixteen years of age may ride as a passenger on a class 3 electric-assisted bicycle that is designed to accommodate passengers.

D. This section does not apply to a trail that is specifically designated as non-motorized and that has a natural surface tread that is made by clearing and grading the native soil with no added surfacing materials. A political subdivision of the state or a state agency having jurisdiction over a trail described in this subsection may regulate the use of an electric-assisted bicycle on that trail."

## **Chapter 93 Section 8 Laws 2023**

SECTION 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# **LAWS 2023, CHAPTER 94**

**Senate Bill 81**

**Approved April 4, 2023**

AN ACT

RELATING TO IMMUNIZATION; ALLOWING PHYSICIAN ASSISTANTS OR CERTIFIED NURSE PRACTITIONERS TO CERTIFY THAT IMMUNIZATION IS DETRIMENTAL TO THE PHYSICAL CONDITION OF A CHILD.

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

## **Chapter 94 Section 1 Laws 2023**

SECTION 1. Section 24-5-3 NMSA 1978 (being Laws 1959, Chapter 329, Section 3, as amended) is amended to read:

"24-5-3. EXEMPTION FROM IMMUNIZATION.--

A. Any minor child through the child's parent or guardian may file with the health authority charged with the duty of enforcing the immunization laws:

(1) a certificate of a licensed physician, a physician assistant or a certified nurse practitioner stating that the physical condition of the child is such that immunization would seriously endanger the life or health of the child;

(2) an affidavit or written affirmation from an officer of a recognized religious denomination that the child's parents or guardians are bona fide members of a denomination whose religious teaching requires reliance upon prayer or spiritual means alone for healing; or

(3) an affidavit or written affirmation from the child's parent or legal guardian that the parent's or legal guardian's religious beliefs, held either individually or jointly with others, do not permit the administration of vaccine or other immunizing agent.

B. Upon filing and approval of such certificate, affidavit or affirmation, the child is exempt from the legal requirement of immunization for a period not to exceed nine months on the basis of any one certificate, affidavit or affirmation."

## **Chapter 94 Section 2 Laws 2023**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# **LAWS 2023, CHAPTER 95**

**SJC/Senate Bill 92**

**Approved April 4, 2023**

AN ACT

RELATING TO PROFESSIONAL LICENSURE; AMENDING AND ENACTING SECTIONS OF THE PHARMACY ACT TO EXPAND PHARMACIST SCOPE OF PRACTICE.

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

## **Chapter 95 Section 1 Laws 2023**

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, devices or supplies for prescribed drug therapy for health conditions, including diabetes; 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; the ordering, performing and interpreting of tests provided for in Section 2 of this 2023 act that are authorized by the federal food and drug administration and other tests waived pursuant to the federal Clinical Laboratory Improvement Amendments of 1988, as amended; and the maintenance of proper records consistent with the standard of care in general medical practice;

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 95 Section 2 Laws 2023**

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

"TESTING, SCREENING AND TREATMENT OF HEALTH CONDITIONS.--

A. Pursuant to a board-approved protocol approved by the New Mexico medical board, a pharmacist may order, test, screen, treat and provide preventative services for health conditions or situations that include:

- (1) influenza;
- (2) group A streptococcus pharyngitis;
- (3) SARS-COV-2;
- (4) uncomplicated urinary tract infection;
- (5) human immunodeficiency virus, limited to the provision of pre-exposure prophylaxis and post-exposure prophylaxis; and

(6) other emerging and existing public health threats identified by the board or department of health during civil or public health emergencies.

B. A pharmacist who orders, tests, screens or treats for health conditions or situations pursuant to this section may use any test that may guide clinical decision making, including tests waived pursuant to the federal Clinical Laboratory Improvement Amendments of 1988, as amended, the federal rules adopted thereunder or any established screening procedure that can safely be performed by a pharmacist.

C. A pharmacist may delegate the administrative and technical tasks of performing a test waived by the federal Clinical Laboratory Improvement Amendments of 1988, as amended, to a pharmacist intern or pharmacy technician acting under the supervision of the pharmacist."

### **Chapter 95 Section 3 Laws 2023**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

## **LAWS 2023, CHAPTER 96**

**Senate Bill 102, aa**  
**Approved April 4, 2023**

AN ACT

RELATING TO MOTOR VEHICLES; REGULATING LANE TRAVEL FOR TRUCK TRACTORS; PROVIDING PENALTIES.

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

### **Chapter 96 Section 1 Laws 2023**

SECTION 1. A new section of the Motor Vehicle Code, Section 66-7-376 NMSA 1978, is enacted to read:

"66-7-376. MULTIPLE LANE ROADWAYS--REQUIRED LANE TRAVEL FOR TRUCK TRACTORS--TWO-WAY LEFT-TURN LANES.--

A. Whenever any roadway has been divided into two or more clearly marked lanes for traffic, the following requirements, in addition to all consistent requirements within the Motor Vehicle Code, shall apply:

(1) a truck tractor shall be driven as nearly as practicable entirely within a single lane;

(2) a truck tractor shall not be moved from the lane until the driver has first ascertained that the movement can be made with safety and then given a signal, not less than the last one hundred feet traveled by the truck tractor, of the driver's intention to change lanes;

(3) upon a roadway that is divided into three lanes, a truck tractor shall not be driven in the center lane except:

(a) when overtaking and passing another vehicle where the roadway is clearly visible and the center lane is clear of traffic within a safe distance;

(b) in preparation for a left turn; or

(c) where the center lane is at the time allocated exclusively to traffic moving in the direction the truck tractor is proceeding and is signposted to give notice of the allocation;

(4) a truck tractor shall not be driven in the left lane of a roadway except when overtaking and passing another vehicle; provided, however, that this paragraph shall not prohibit driving in the left lane when traffic conditions, flow or road configuration, such as the potential of merging traffic, require the use of the left lane to maintain safe traffic conditions; and provided further that this paragraph shall not prohibit driving in the left lane of a roadway within the city limits of a municipality or upon a county road as long as such roadway is not part of the national system of interstate and defense highways; and

(5) official signs may be erected directing slow-moving traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway, and drivers of vehicles shall obey the directions of every such sign.

B. A two-way left-turn lane is a lane near the center of the highway set aside for use by vehicles making left turns in both directions from or into the roadway. Two-way left-turn lanes shall be designated by distinctive roadway markings consisting of parallel double yellow lines, interior line dashed and exterior line solid, on each side of the lane. A vehicle shall not be driven in a designated two-way left-turn lane except when preparing for or making a left turn from or into a roadway. Vehicles turning left from the roadway shall not be driven in the two-way left-turn lane for more than two hundred feet while preparing for and making the turn. A vehicle turning left onto the roadway may utilize the two-way left-turn lane as a staging area by stopping and waiting for traffic proceeding in the same direction to clear before merging into the adjacent lanes of travel. A left turn shall not be made from any other lane where a two-way left-turn lane has been designated; provided, however, that this section shall not prohibit driving across a two-way left-turn lane when moving from a service drive onto such marked roadway."

## Chapter 96 Section 2 Laws 2023

SECTION 2. 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-		
(1) first violation	66-7-374	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
Improper use of travel lane	66-7-376	250.00.

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 96 Section 3 Laws 2023**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# **LAWS 2023, CHAPTER 97**

**Senate Bill 106, aa, w/ec**  
**Approved April 4, 2023**

AN ACT

RELATING TO HEALTH CARE; INCLUDING PSYCHOLOGISTS, PHYSICIAN ASSISTANTS AND PHARMACISTS IN THE DEFINITION OF "HEALTH CARE PRACTITIONER" FOR THE PURPOSE OF MAKING CERTAIN PROVISIONS IN HEALTH CARE PRACTITIONER AGREEMENTS VOID, UNENFORCEABLE AND AGAINST PUBLIC POLICY; DECLARING AN EMERGENCY.

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

## **Chapter 97 Section 1 Laws 2023**

SECTION 1. Section 24-11-1 NMSA 1978 (being Laws 2015, Chapter 96, Section 1, as amended) is amended to read:

"24-11-1. DEFINITIONS.--As used in Chapter 24, Article 11 NMSA 1978:

A. "agreement" means a written contract to which a health care practitioner is a party; and

B. "health care practitioner" means:

- (1) a dentist;
- (2) an osteopathic physician;
- (3) a physician;
- (4) a podiatrist;
- (5) a certified registered nurse anesthetist;
- (6) a certified nurse practitioner;
- (7) a certified nurse-midwife;
- (8) a psychologist;
- (9) a physician assistant; and
- (10) a pharmacist."

## **Chapter 97 Section 2 Laws 2023**

SECTION 2. Section 24-11-5 NMSA 1978 (being Laws 2015, Chapter 96, Section 5, as amended) is amended to read:

"24-11-5. APPLICABILITY.--

A. Chapter 24, Article 11 NMSA 1978 does not apply to agreements between health care practitioners who are shareholders, owners, partners or directors of a health care practice.

B. Except as provided by Subsections C and D of this section, the provisions of Chapter 24, Article 11 NMSA 1978 apply to agreements, or renewals or extensions of agreements, executed on or after July 1, 2015.

C. The provisions of Subsection B of Section 24-11-2 NMSA 1978 apply to agreements, or renewals or extensions of agreements, executed on or after April 6, 2017.

D. For psychologists, physician assistants and pharmacists, the provisions of Chapter 24, Article 11 NMSA 1978 apply to agreements, or renewals or extensions of agreements, executed on or after the effective date of this 2023 act."

## **Chapter 97 Section 3 Laws 2023**

SECTION 3. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

# **LAWS 2023, CHAPTER 98**

**Senate Bill 131, aa**  
**Approved April 4, 2023**

## **AN ACT**

RELATING TO PUBLIC SCHOOL CAPITAL OUTLAY; ALLOWING THE PUBLIC SCHOOL FACILITIES AUTHORITY BUDGET TO BE BASED ON A FIVE-YEAR AVERAGE; ELIMINATING OFFSETS FOR SCHOOL DISTRICTS; REDUCING THE LOCAL MATCH BY ONE-THIRD FOR SOME SCHOOL DISTRICTS; REDUCING THE LOCAL MATCH BY ONE-HALF FOR CERTAIN SMALL SCHOOL DISTRICTS; ELIMINATING THE IMPACT AID CREDIT; ELIMINATING OFFSETS FOR CHARTER SCHOOLS; REDUCING THE LOCAL MATCH FOR PRE-KINDERGARTEN PROJECTS BY FIFTY PERCENT; PROVIDING TECHNICAL CLEANUP.

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

## **Chapter 98 Section 1 Laws 2023**

SECTION 1. Section 22-24-4 NMSA 1978 (being Laws 1975, Chapter 235, Section 4, as amended) 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 that 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 five 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 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 or charter school shall not exceed:

(a) the actual annual lease payments owed for leasing a facility;  
or

(b) seven hundred dollars (\$700) multiplied by the MEM using the leased 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 grant 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 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 facilities in the first year of instruction, as shown in the approved charter school application; provided that, after the second reporting date of the current school year, the MEM shall be adjusted to reflect the full-time-equivalent enrollment on that date; and

(b) "facilities" includes the space needed for 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 to fully fund the demolition of the abandoned school district facility if Paragraphs (1) and (2) of this subsection are satisfied.

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. The fund may be expended in each of fiscal years 2020 through 2024 for a pre-kindergarten classroom facilities initiative project in accordance with Section 22-24-12 NMSA 1978.

O. 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 98 Section 2 Laws 2023**

SECTION 2. Section 22-24-4.5 NMSA 1978 (being Laws 2014, Chapter 28, Section 4, as amended) 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 shall develop guidelines for a statewide education technology infrastructure network that integrates regional hub locations for network services and the installation and maintenance of equipment. The council may fund education technology infrastructure projects or items that the council determines are in accord with the guidelines and necessary to education for:

(1) students;

(2) school buses;

(3) internet connectivity within a school district;

(4) a multi-district regional education network; and

(5) a statewide education network.

C. 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 (9) 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 98 Section 3 Laws 2023**

SECTION 3. 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; and

(d) 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 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;

(6) 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 (8), (9) or (10) 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 year 2024 through fiscal year 2026, the percentage shall be the phase two formula value plus a percentage equal to one-third of the difference between one and the phase two formula value; provided that, for school districts with fewer than 200 MEM, the percentage shall be the phase two formula value plus a percentage equal to one-half of the difference between one and the phase two formula; and

(b) for fiscal year 2027 and thereafter, the percentage shall be the phase two formula value;

(7) as used in this subsection:

(a) "governmental entity" includes an Indian nation, tribe or pueblo;

(b) "phase two formula value" for a state-chartered charter school means the phase two 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) "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

(d) "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;

(8) the amount calculated pursuant to Paragraph (6) 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;

(9) 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;

(10) 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

(11) 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 (6), (8) or (9) 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, the need for career-technical education facilities or classrooms 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.

K. For any school district that received a standards- or systems-based award from the council in fiscal year 2023, the state share for any future phase of the project for which funding has not yet been awarded shall be the amount calculated pursuant to Subsection B of this section for fiscal year 2024, regardless of the state share at the time of the initial award.

L. As used in this section:

(1) "MEM" means membership; and

(2) "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."

## **Chapter 98 Section 4 Laws 2023**

SECTION 4. 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 (11) 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 (11) 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 98 Section 5 Laws 2023**

SECTION 5. 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 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."

## **Chapter 98 Section 6 Laws 2023**

SECTION 6. Section 22-24-12 NMSA 1978 (being Laws 2019, Chapter 179, Section 1) is amended to read:

"22-24-12. 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 project shall be calculated according to the methodology outlined in Subsection B of Section 22-24-5 NMSA 1978; provided that, for fiscal years 2024 through 2026, the state share of an approved pre-kindergarten classroom facilities initiative project shall be the phase two formula value plus a percentage equal to one-half of the difference between one and the phase two formula value.

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 98 Section 7 Laws 2023

SECTION 7. Section 22-25-9 NMSA 1978 (being Laws 1975 (S.S.), Chapter 5, Section 9, as amended) is amended to read:

### "22-25-9. STATE DISTRIBUTION TO SCHOOL DISTRICT IMPOSING TAX UNDER CERTAIN CIRCUMSTANCES.--

A. Except as provided in Subsection E of this section, for each year that a capital improvements tax is imposed by a school district, the secretary shall distribute from the public school capital improvements fund to the school district an amount equal to the greater of:

(1) the difference between:

(a) the product of: 1) the school district's program units; 2) multiplied by the tax rate imposed by the school district; and 3) multiplied further by the sum calculated pursuant to Subsection B of this section; and

(b) the school district's estimated tax revenue; or

(2) the product of:

(a) five dollars (\$5.00) for fiscal year 2023; and in each subsequent fiscal year, the amount for the previous fiscal year adjusted by the percentage increase between the next preceding calendar year and the preceding calendar year of the consumer price index for the United States, all items, as published by the United States department of labor;

(b) multiplied by the school district's program units; and

(c) multiplied further by the tax rate imposed by the school district.

B. The amount in Item 3) of Subparagraph (a) of Paragraph (1) of Subsection A of this section shall be equal to the sum of:

(1) for fiscal year 2023, eighty-nine dollars twenty-five cents (\$89.25); and in each subsequent fiscal year, the amount for the previous fiscal year adjusted by the percentage increase between the next preceding calendar year and the preceding calendar year of the consumer price index for the United States, all items, as published by the United States department of labor; plus

(2) an additional amount certified to the secretary by the public school capital outlay council. No later than June 1 of each year, the council shall determine the amount needed in the next fiscal year for public school capital outlay projects pursuant

to the Public School Capital Outlay Act and the amount of revenue, from all sources, available for the projects. If, in the sole discretion of the council, the amount available exceeds the amount needed, the council may certify an additional amount pursuant to this paragraph; provided that the sum of the amount calculated pursuant to this paragraph plus the amount in Paragraph (1) of this subsection shall not result in a total statewide distribution that, in the opinion of the council, exceeds one-half of the total revenue estimated to be received from taxes imposed pursuant to the Public School Capital Improvements Act.

C. If a distribution is made to a school district pursuant to Subsection A of this section, the secretary shall make an additional distribution from the public school capital improvements fund to the school district in an amount equal to the product of:

- (1) fifty-three dollars (\$53.00);
- (2) multiplied by the sum of the school district's program units;
- (3) multiplied further by the greater of six percent or the percentage calculated pursuant to Paragraph (5) of Subsection B of Section 22-24-5 NMSA 1978; and
- (4) multiplied further by the tax rate imposed by the school district.

D. In expending distributions made pursuant to this section, school districts and charter schools shall give priority to maintenance projects, including payments under contracts with regional education cooperatives for maintenance support services. In addition, distributions made pursuant to this section may be expended by school districts and charter schools as follows, but no distribution from the public school capital improvements fund may be used for capital improvements to any administration building of a school district:

- (1) for the school district portion of the total project cost for roof repair or replacement required by Section 22-24-4.3 NMSA 1978; or
- (2) for the school district portion of payments made under 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 the payments made, if the school district has received a grant for the state share of the payments pursuant to Subsection D of Section 22-24-5 NMSA 1978.

E. In the event that sufficient funds are not available in the public school capital improvements fund to make the distributions pursuant to this section, the dollar per program unit figure shall be reduced as necessary.

F. A portion of each distribution made by the state pursuant to this section shall be further distributed by the school district to each locally chartered or state-

chartered charter school located within the school district. The amount to be distributed to each charter school shall be in the same proportion as the average full-time-equivalent enrollment of the charter school on the second and third reporting dates of the prior school year is to the total such enrollment in the school district; provided that, in determining the school district's total enrollment, charter school students located within the school district shall be included; and provided further 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 school district the amount to be distributed to each charter school. Distributions received by a charter school pursuant to this subsection shall be expended pursuant to the provisions of the Public School Capital Improvements Act; except that if capital improvements for the charter school were not identified in a resolution approved by the electors, the charter school may expend the distribution for any capital improvements, including those specified in Subsection D of this section.

G. In making distributions pursuant to this section, the secretary shall include such reporting requirements and conditions as are required by rule of the public school capital outlay council. The council shall adopt such requirements and conditions as are necessary to ensure that the distributions are expended in the most prudent manner possible and are consistent with the original purpose as specified in the authorizing resolution. Copies of reports or other information received by the secretary in response to the requirements and conditions shall be forwarded to the council.

H. As used in this section:

(1) "capital improvements tax" means the tax authorized pursuant to the Public School Capital Improvements Act;

(2) "estimated tax revenue" means the revenue estimated to be received by a school district from the capital improvements tax, using prior year valuations and assuming a one hundred percent collection rate;

(3) "program units" means a school district's final program units determined pursuant to Sections 22-8-19, 22-8-20 through 22-8-23.1 and 22-8-23.3 NMSA 1978 generated in the previous fiscal year, including such program units generated by a charter school located within the school district; and

(4) "tax rate" means the rate approved by the qualified electors in the most recent election on the question of imposing a tax pursuant to the Public School Capital Improvements Act."

## **Chapter 98 Section 8 Laws 2023**

SECTION 8. TEMPORARY PROVISION--ELIMINATION OF CURRENT OFFSETS.--All current outstanding offsets held against school districts or charter

schools for a direct legislative appropriation shall be eliminated on the effective date of this act.

## **Chapter 98 Section 9 Laws 2023**

SECTION 9. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# **LAWS 2023, CHAPTER 99**

**STBTC/SHPAC/Senate Bill 132, aa**  
**Approved April 4, 2023**

## **AN ACT**

RELATING TO HEALTH CARE; 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 ELIMINATE COST-SHARING REQUIREMENTS FOR PREVENTIVE CARE AND TREATMENT OF SEXUALLY TRANSMITTED INFECTION; PROVIDING THAT AGE DOES NOT IMPACT ABILITY TO CONSENT TO PREVENTIVE CARE.

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

## **Chapter 99 Section 1 Laws 2023**

SECTION 1. A new section of the Health Care Purchasing Act is enacted to read:

"SEXUALLY TRANSMITTED INFECTION CARE--COST SHARING ELIMINATED.--

A. Group health coverage, including self-insurance, offered, issued, amended, delivered or renewed under the Health Care Purchasing Act, that offers coverage for preventive care or treatment of sexually transmitted infections shall not impose cost sharing on eligible insureds.

B. Pursuant to this section, preventive care or treatment of sexually transmitted infections shall not be conditioned upon the gender identity of the insured.

C. The provisions of Subsection A of this section do not apply to high-deductible health care plans with health savings accounts until an eligible insured's deductible has been met, unless otherwise allowed pursuant to federal law.

D. For the purposes of this section:

(1) "cost sharing" means policy deductibles, copayments or coinsurance;

(2) "preventive care" means screening, testing, examination or counseling and the administration, dispensing or prescribing of drugs, devices or supplies incidental to the prevention of a sexually transmitted infection;

(3) "sexually transmitted infection" means chlamydia, syphilis, gonorrhea, HIV and relevant types of hepatitis, as well as any other sexually transmitted infection regardless of mode of transportation, as designated by rule upon making a finding that the particular sexually transmitted infection is contagious; and

(4) "treatment" means medically necessary care for the management of an existing sexually transmitted infection."

## **Chapter 99 Section 2 Laws 2023**

SECTION 2. A new section of Chapter 59A, Article 22 NMSA 1978 is enacted to read:

"SEXUALLY TRANSMITTED INFECTION CARE--COST SHARING ELIMINATED.--

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 that offers coverage for preventive care or treatment of sexually transmitted infections shall not impose cost sharing on insureds.

B. Pursuant to this section, preventive care or treatment of sexually transmitted infections shall not be conditioned upon the gender identity of the insured.

C. The provisions of Subsection A of this section do not apply to high-deductible health care plans with health savings accounts until an eligible insured's deductible has been met, unless otherwise allowed pursuant to federal law.

D. For the purposes of this section:

(1) "cost sharing" means policy deductibles, copayments or coinsurance;

(2) "preventive care" means screening, testing, examination or counseling and the administration, dispensing or prescribing of preventive drugs, devices or supplies incidental to the prevention of a sexually transmitted infection;

(3) "sexually transmitted infection" means chlamydia, syphilis, gonorrhea, HIV and relevant types of hepatitis, as well as any other sexually transmitted

infection regardless of mode of transportation, as designated by rule upon making a finding that the particular sexually transmitted infection is contagious; and

(4) "treatment" means medically necessary care for the management of an existing sexually transmitted infection."

## **Chapter 99 Section 3 Laws 2023**

SECTION 3. A new section of Chapter 59A, Article 23 NMSA 1978 is enacted to read:

### **"SEXUALLY TRANSMITTED INFECTION CARE--COST SHARING ELIMINATED.--**

A. A blanket or group health insurance policy, health care plan or certificate of health insurance that is delivered, issued for delivery or renewed in this state that offers coverage for preventive care or treatment of sexually transmitted infections shall not impose cost sharing on eligible insureds.

B. Pursuant to this section, preventive care or treatment of sexually transmitted infections shall not be conditioned upon the gender identity of the insured.

C. The provisions of Subsection A of this section do not apply to high-deductible health care plans with health savings accounts until an eligible insured's deductible has been met, unless otherwise allowed pursuant to federal law.

D. For the purposes of this section:

(1) "cost sharing" means policy deductibles, copayments or coinsurance;

(2) "preventive care" means screening, testing, examination or counseling and the administration, dispensing or prescribing of preventive drugs, devices or supplies incidental to the prevention of a sexually transmitted infection;

(3) "sexually transmitted infection" means chlamydia, syphilis, gonorrhea, HIV and relevant types of hepatitis, as well as any other sexually transmitted infection regardless of mode of transportation, as designated by rule upon making a finding that the particular sexually transmitted infection is contagious; and

(4) "treatment" means medically necessary care for the management of an existing sexually transmitted infection."

## **Chapter 99 Section 4 Laws 2023**

SECTION 4. A new section of the Health Maintenance Organization Law is enacted to read:

"SEXUALLY TRANSMITTED INFECTION CARE--COST SHARING  
ELIMINATED.--

A. An individual or group health maintenance organization contract that is delivered, issued for delivery or renewed in this state that offers coverage for preventive care or treatment of sexually transmitted infections shall not impose cost sharing on eligible enrollees.

B. Pursuant to this section, preventive care or treatment of sexually transmitted infections shall not be conditioned upon the gender identity of the insured.

C. The provisions of Subsection A of this section do not apply to high-deductible health care plans with health savings accounts until an eligible enrollee's deductible has been met, unless otherwise allowed pursuant to federal law.

D. For the purposes of this section:

(1) "cost sharing" means policy deductibles, copayments or coinsurance;

(2) "preventive care" means screening, testing, examination or counseling and the administration, dispensing or prescribing of preventive drugs, devices or supplies incidental to the prevention of a sexually transmitted infection;

(3) "sexually transmitted infection" means chlamydia, syphilis, gonorrhea, HIV and relevant types of hepatitis, as well as any other sexually transmitted infection regardless of mode of transportation, as designated by rule upon making a finding that the particular sexually transmitted infection is contagious; and

(4) "treatment" means medically necessary care for the management of an existing sexually transmitted infection."

## **Chapter 99 Section 5 Laws 2023**

SECTION 5. A new section of the Nonprofit Health Care Plan Law is enacted to read:

"SEXUALLY TRANSMITTED INFECTION CARE--COST SHARING  
ELIMINATED.--

A. An individual or group health care plan that is delivered, issued for delivery or renewed in this state that offers coverage for preventive care or treatment of sexually transmitted infections shall not impose cost sharing on eligible subscribers.

B. Pursuant to this section, preventive care or treatment of sexually transmitted infections shall not be conditioned upon the gender identity of the insured.

C. The provisions of Subsection A of this section do not apply to high-deductible health care plans with health savings accounts until an eligible subscriber's deductible has been met, unless otherwise allowed pursuant to federal law.

D. For the purposes of this section:

(1) "cost sharing" means policy deductibles, copayments or coinsurance;

(2) "preventive care" means screening, testing, examination or counseling and the administration, dispensing or prescribing of preventive drugs, devices or supplies incidental to the prevention of a sexually transmitted infection;

(3) "sexually transmitted infection" means chlamydia, syphilis, gonorrhea, HIV and relevant types of hepatitis, as well as any other sexually transmitted infection regardless of mode of transportation, as designated by rule upon making a finding that the particular sexually transmitted infection is contagious; and

(4) "treatment" means medically necessary care for the management of an existing sexually transmitted infection."

## **Chapter 99 Section 6 Laws 2023**

SECTION 6. Section 24-1-9 NMSA 1978 (being Laws 1973, Chapter 359, Section 9, as amended) is amended to read:

"24-1-9. CAPACITY TO CONSENT TO EXAMINATION, PREVENTIVE CARE AND TREATMENT FOR A SEXUALLY TRANSMITTED INFECTION.--Any person regardless of age has the capacity to consent to an examination, preventive care and treatment by a licensed health care provider for any sexually transmitted infection."

## **Chapter 99 Section 7 Laws 2023**

SECTION 7. APPLICABILITY.--The provisions of this act apply to health insurance policies, health care plans, certificates of health insurance or health maintenance organization contracts that are delivered, issued for delivery or renewed in this state on or after January 1, 2024.

# LAWS 2023, CHAPTER 100

Senate Bill 160, aa  
Approved April 4, 2023

## AN ACT

RELATING TO PUBLIC SERVICE COMPANY REGULATION; TRANSFERRING RESPONSIBILITY FOR TRANSPORTATION REGULATION FROM THE PUBLIC REGULATION COMMISSION TO THE DEPARTMENT OF TRANSPORTATION, INCLUDING MOTOR CARRIER REGULATION AND ENFORCEMENT, RAILROAD SAFETY ENFORCEMENT AND AMBULANCE STANDARDS; TRANSFERRING PERSONNEL, FUNCTIONS, MONEY, APPROPRIATIONS, OTHER PROPERTY AND CONTRACTUAL OBLIGATIONS; CHANGING REFERENCES IN LAW; ELIMINATING FROM THE MOTOR CARRIER ACT REDUNDANT PERMITS FOR TRANSPORTATION OF PASSENGERS OR HOUSEHOLD GOODS PURSUANT TO A CONTRACT; REMOVING OUTDATED REFERENCES IN THE AVIATION ACT AND THE RURAL AIR SERVICE ENHANCEMENT ACT; REPEALING PROVISIONS RELATING TO AVIATION COMMON CARRIERS AND AIR TRAFFIC RULES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

### Chapter 100 Section 1 Laws 2023

SECTION 1. DEPARTMENT OF TRANSPORTATION--POWERS AND DUTIES--COMMON CARRIERS.--

A. With respect to common carriers, the department of transportation shall:

(1) fix, determine, supervise, regulate and control all charges and rates of railway, express, sleeping car and other transportation companies and common carriers within the state;

(2) determine any matters of public convenience and necessity with respect to matters subject to its regulatory authority as provided by law;

(3) require railway companies and other common carriers to provide and maintain adequate equipment, depots, stock pens, station buildings, agents and facilities for the accommodation of shippers and passengers and for receiving and delivering freight and express and to provide and maintain necessary crossings, culverts, sidings and other facilities for convenience and safety whenever in the department's judgment the public interest demands;

(4) require railway companies, transportation companies and common carriers to provide such reasonable safety appliances and use such reasonable safety practices as may be necessary and proper for the safety of employees and the public as required by federal or state laws and rules;

(5) change, amend and rescind rates;

(6) enforce its rules through administrative sanctions and in the courts;  
and

(7) carry out all other duties and have all other powers provided by law.

B. The department of transportation may subpoena witnesses and documents, enforce its subpoenas through any court and, through the court, punish for contempt.

C. The department of transportation has the power, after notice and hearing of record, to determine and decide any question and to issue orders relating to its powers and duties.

D. An interested party may appeal from a final order of the department of transportation by filing a notice of appeal with the supreme court asking for review of the order within thirty days of the final order. The appellant shall pay to the department any costs of preparing and transmitting the record to the court.

E. The pendency of an appeal shall not automatically stay the order appealed from. The appellant may seek to obtain a stay from the department of transportation or the supreme court.

F. The appeal shall be on the record of the hearing before the department of transportation and shall be governed by the appellate rules applicable to administrative appeals. The supreme court shall affirm the department's order unless it is:

(1) arbitrary, capricious or an abuse of discretion;

(2) not supported by substantial evidence in the record; or

(3) otherwise not in accordance with law.

G. In the case of a failure or refusal of a person to comply with an order of the department of transportation within the time prescribed in the order or within thirty days after the order is entered, whichever is later, unless a stay has been granted, the department shall seek enforcement of the order in the district court. The enforcement hearing shall be held on an expedited basis. At the hearing, the sole question shall be whether the person has failed to comply with or violated the order.

## **Chapter 100 Section 2 Laws 2023**

**SECTION 2. DEPARTMENT OF TRANSPORTATION MAY INSPECT BOOKS AND RECORDS.--**The department of transportation or person authorized by the department in writing under its seal to make an examination shall have the right at all times to inspect the books, papers and records of all such companies and common carriers doing business in this state relating to any matter pending before or being investigated by the department. Any officer, agent or employee of any such company or corporation or any person in charge of such books, papers and records who refuses to permit examination or who conceals, destroys or mutilates or attempts to conceal, destroy or mutilate any such books, papers or records or remove the same beyond the limits of the state for the purpose of preventing examination shall be deemed guilty of a misdemeanor and upon conviction may be fined not to exceed five hundred dollars (\$500) or imprisoned in the county jail not more than six months.

## **Chapter 100 Section 3 Laws 2023**

### **SECTION 3. CARRIER INSPECTION--FEE.--**

A. Each carrier doing business in this state that is subject to the control and jurisdiction of the department of transportation with respect to its rates and service shall pay annually to the department a fee in performance of its duties as now provided by law. The fee for carriers shall not exceed two hundred fifty-six thousandths percent of its gross receipts from business transacted in New Mexico for the preceding calendar year. This sum shall be payable annually on or before April 1 in each year. No similar fee shall be imposed upon the carrier. In the case of carriers engaged in interstate business, the fees shall be measured by the gross receipts of the carriers from intrastate business only for the preceding calendar year and not in any respect upon receipts derived wholly or in part from interstate business.

B. When a fee is not paid on the date it is due, interest shall be paid to the state on the amount due. The interest on the amount due shall start to accrue on the day following the due date and shall continue to accrue until the total amount due is paid. The rate of interest on a late fee payment shall be fifteen percent per year, computed at the rate of one and one-fourth percent per month.

C. In addition to any interest due on a late fee payment, a penalty shall be paid to the state for failure to pay the fee when it is due. The penalty imposed shall be two percent of the amount of the fee due.

D. The attorney general, in the name of the state, shall bring suit to collect fees, interest and penalties that remain unpaid.

## **Chapter 100 Section 4 Laws 2023**

SECTION 4. DISPOSITION OF FEES.--All money collected under the provisions of Section 3 of this 2023 act shall be deposited with the state treasurer who shall credit it to the general fund.

## **Chapter 100 Section 5 Laws 2023**

SECTION 5. EXEMPTIONS.--The provisions of Section 3 of this 2023 act shall not apply to common or contract motor carriers or aircraft carriers transporting passengers or property for hire.

## **Chapter 100 Section 6 Laws 2023**

SECTION 6. Section 5-1-1 NMSA 1978 (being Laws 1967, Chapter 167, Section 1, as amended) is amended to read:

"5-1-1. POLITICAL SUBDIVISIONS--AMBULANCE SERVICE.--

A. A municipality or county may:

(1) provide ambulance service to transport sick or injured persons to a place of treatment in the absence of an established ambulance service only as authorized by the department of transportation;

(2) contract with other political subdivisions or with private ambulance services for the operation of its ambulance service;

(3) lease ambulances and other equipment necessary to the operation of its ambulance service;

(4) in the course of its operation of an ambulance service, proceed to the scene of a disaster beyond its subdivision boundaries when requested, providing no local established ambulance service is available or, if one exists, such local ambulance service deems its capacity inadequate or insufficient for emergency transportation of the disaster victims; and

(5) transport sick or injured persons from the subdivision boundaries to any place of treatment.

B. No personal action shall be maintained in any court of this state against any member or officer of a political subdivision for any tort or act done, or attempted to be done, when done by the authority of the political subdivision or in execution of its orders under this section. In all such cases, political subdivisions shall be responsible. Any member or officer of the political subdivision may plead the provisions of this section in bar of such action whether it is now pending or hereafter commenced."

## **Chapter 100 Section 7 Laws 2023**

SECTION 7. Section 7-24A-4 NMSA 1978 (being Laws 1978, Chapter 182, Section 4) is amended to read:

"7-24A-4. LIMITATIONS ON POWER.--

A. All contracts for work, material or labor in connection with such transportation shall be let in the manner provided by law for the letting of other contracts by the county or municipality.

B. Transit service may not be extended to points outside the county in which a city is located or outside the boundaries of the county unless prior approval is obtained from the department of transportation and other regulatory bodies having jurisdiction in the matter."

## **Chapter 100 Section 8 Laws 2023**

SECTION 8. Section 22-17-1 NMSA 1978 (being Laws 1974, Chapter 38, Section 1) is amended to read:

"22-17-1. SHORT TITLE.--Chapter 22, Article 17 NMSA 1978 may be cited as the "Emergency Transportation Act"."

## **Chapter 100 Section 9 Laws 2023**

SECTION 9. Section 22-17-2 NMSA 1978 (being Laws 1974, Chapter 38, Section 2, as amended) is amended to read:

"22-17-2. DEPARTMENT OF TRANSPORTATION PERMITS.--

A. Subject to the Emergency Transportation Act, the department of transportation may approve a permit application of a school district operating its own school buses or of an independent school bus operator who operates school buses under contract with a school district for the operation of such buses for general public transportation if the department of transportation determines that:

(1) the school district operating its own school buses or the independent school bus operator has complied with laws, regulations and other requirements governing transportation of the general public;

(2) existing public or private transportation systems will not be adversely affected by the use of school buses for general public transportation; and

(3) a public transportation emergency exists within the proposed area of operation necessitating the use of school buses for general public transportation.

B. Notice of approval or denial of the permit application shall be submitted to the state transportation director and to the applicant within ten days of final determination by the department of transportation.

C. As used in the Emergency Transportation Act, "public transportation emergency" includes an event:

(1) that is open to the public;

(2) that, if in a class A county, is expected to attract over fifty thousand visitors and residents;

(3) that has such insurance or surety as is necessary to insure against all losses and damages proximately caused by or resulting from the negligent operation, maintenance or use of school buses or for loss of or damage to property of others; and

(4) for which school buses are needed to transport the public to the event because:

(a) existing public transportation systems cannot adequately and timely transport the public to the event;

(b) private transportation systems are unavailable or prohibitively expensive; or

(c) the event and the surrounding area are likely to suffer economic hardship if school buses are not utilized pursuant to the Emergency Transportation Act."

## **Chapter 100 Section 10 Laws 2023**

SECTION 10. Section 22-17-3 NMSA 1978 (being Laws 1974, Chapter 38, Section 3) is amended to read:

"22-17-3. STATE TRANSPORTATION DIRECTOR--APPROVAL.--

A. Upon the receipt of approval of the permit application from the department of transportation, the state transportation director may grant a permit to operate school buses for general public transportation to a school district that operates its own school buses or to the independent school bus operator who operates school buses under contract with a school district if the director determines that:

(1) school bus service to students will not be adversely affected by issuance of the permit;

(2) the operation of school buses for general public transportation service by the school district or the independent operator will not provide unnecessary duplication of a general public transportation service by school buses of another school district or independent school bus operator contracting with another school district; and

(3) there has been compliance with the rules and regulations of the state transportation director issued pursuant to the Emergency Transportation Act.

B. The state transportation director subject to the approval of the secretary shall by regulation provide for application fees, forms and permit procedures pursuant to the Emergency Transportation Act.

C. A permit issued under this section shall be valid for one year and shall be annually renewed upon payment of a reasonable application fee to the state transportation division and certification by the department of transportation of the permittee's compliance with all applicable laws. Notice of renewal of the permit shall be delivered by the state transportation division to the department of transportation and the local school board concerned."

## **Chapter 100 Section 11 Laws 2023**

SECTION 11. Section 22-17-4 NMSA 1978 (being Laws 1974, Chapter 38, Section 4) is amended to read:

"22-17-4. TERMINATION OF PERMIT.--A permit issued pursuant to the Emergency Transportation Act shall be terminated by the state transportation director upon thirty days' written notice to the holder of the permit if the state transportation director receives written notice from:

A. the department of transportation that it has determined that a public transportation emergency in the area in which the permittee provides general public transportation no longer exists or that public or private transportation systems are being adversely affected in the area; or

B. the local school board that the local school board has determined that school bus service to students is being adversely affected by providing general public transportation under the permit."

## **Chapter 100 Section 12 Laws 2023**

SECTION 12. Section 24-10B-4 NMSA 1978 (being Laws 1983, Chapter 190, Section 4, as amended) is amended to read:

"24-10B-4. BUREAU--DUTIES.--The bureau is designated as the lead agency for the emergency medical services system, including injury prevention, and shall establish

and maintain a program for regional planning and development, improvement, expansion and direction of emergency medical services throughout the state, including:

A. design, development, implementation and coordination of emergency medical services communications systems to join the personnel, facilities and equipment of a given region or system that will allow for medical direction;

B. provision of technical assistance to the department of transportation for further development and implementation of standards for certification of ambulance services, vehicles and equipment;

C. development of requirements for the collection of data and statistics to evaluate the availability, operation and quality of providers in the state;

D. adoption of rules for emergency medical services medical direction upon the recommendation of the medical direction committee;

E. approval of continuing education programs for emergency medical services personnel;

F. adoption of rules pertaining to the training and licensure of emergency medical dispatchers and their instructors;

G. adoption of rules based upon the recommendations of a trauma advisory committee, for implementation and monitoring of a statewide, comprehensive trauma care system, including:

(1) minimum standards for designation or retention of designation as a trauma center or a participating trauma facility;

(2) pre-hospital care management guidelines for the triage and transportation of traumatized persons;

(3) establishment for interfacility transfer criteria and transfer agreements;

(4) standards for collection of data relating to trauma system operation, patient outcome and trauma prevention; and

(5) creation of a state trauma care plan;

H. adoption of rules, based upon the recommendations of the air transport advisory committee, for the certification of air ambulance services;

I. adoption of rules pertaining to authorization of providers to honor advance directives, such as emergency medical services do not resuscitate forms, to withhold or

terminate care in certain pre-hospital or interfacility circumstances, as guided by local medical protocols;

J. operation of a critical incident stress management program for emergency providers utilizing specifically trained volunteers who shall be considered public employees for the purposes of the Tort Claims Act when called upon to perform their duties;

K. adoption of rules to establish a cardiac arrest targeted response program pursuant to the Cardiac Arrest Response Act, including registration of automated external defibrillator programs, maintenance of equipment, data collection, approval of automated external defibrillator training programs and a schedule of automated external defibrillator program registration fees;

L. adoption of rules for the administration of an emergency medical services certification program for certified emergency medical services; and

M. promoting, developing, implementing, coordinating and evaluating risk reduction and injury prevention systems."

## **Chapter 100 Section 13 Laws 2023**

SECTION 13. Section 24-15-4 NMSA 1978 (being Laws 1969, Chapter 218, Section 4, as amended) is amended to read:

"24-15-4. INSURANCE.--

A. Every ski area operator shall file with the department of transportation and keep on file with the department proof of financial responsibility in the form of a current insurance policy in a form approved by the department, issued by an insurance company authorized to do business in the state and conditioned to pay, within the limits of liability prescribed in this section, all final judgments for personal injury or property damage proximately caused by or resulting from negligence of the ski area operator covered by the policy, as such negligence is defined and limited by the Ski Safety Act. The minimum limits of liability insurance to be provided by ski area operators shall be as follows:

	SKI SAFETY ACT LIABILITY INSURANCE LIMITS OF LIABILITY REQUIRED MINIMUM COVERAGES FOR INJURIES, DEATH OR DAMAGES		
KIND AND NUMBER OF LIFTS OPERATED	LIMITS FOR BODILY INJURY TO OR DEATH OF ONE PERSON	LIMITS FOR BODILY INJURY TO OR DEATH OF ALL PERSONS INJURED	PROPERTY DAMAGE

		OR KILLED IN ANY ONE ACCIDENT	
Not more than three surface lifts	\$ 100,000	\$ 300,000	\$ 5,000
Not more than three ski lifts, including one or more chair lifts	250,000	500,000	25,000
More than three ski lifts or one or more tramways	500,000	1,000,000	50,000.

B. No ski lift or tramway shall be operated in this state after the effective date of the Ski Safety Act unless a current insurance policy as required by this section is in effect and properly filed with the department of transportation. Each policy shall contain a provision that it cannot be canceled prior to its expiration date without thirty days' written notice of intent to cancel served by registered mail on the insured and on the department."

### **Chapter 100 Section 14 Laws 2023**

SECTION 14. Section 24-15-8 NMSA 1978 (being Laws 1979, Chapter 279, Section 5) is amended to read:

"24-15-8. DUTIES OF SKI AREA OPERATORS WITH RESPECT TO SKI LIFTS.--Every ski area operator has the duty to operate, repair and maintain all ski lifts in safe condition. The ski area operator, prior to December 1 of each year, shall certify to the department of transportation the policy number and name of the company providing liability insurance for the ski area, the date of the ski lift inspections and the name of the person making those inspections."

### **Chapter 100 Section 15 Laws 2023**

SECTION 15. Section 27-5-4 NMSA 1978 (being Laws 1965, Chapter 234, Section 4, as amended) is amended to read:

"27-5-4. DEFINITIONS.--As used in the Indigent Hospital and County Health Care Act:

A. "ambulance provider" or "ambulance service" means a specialized carrier based within the state authorized under provisions and subject to limitations as provided in individual carrier certificates issued by the department of transportation to transport persons alive, dead or dying en route by means of ambulance service. The rates and charges established by department of transportation tariff shall govern as to allowable

cost. Also included are air ambulance services approved by the county. The air ambulance service charges shall be filed and approved pursuant to Subsection D of Section 27-5-6 NMSA 1978 and Section 27-5-11 NMSA 1978;

B. "cost" means all allowable costs of providing health care services, to the extent determined by resolution of a county, for an indigent patient. Allowable costs shall be based on medicaid fee-for-service reimbursement rates for hospitals, licensed medical doctors and osteopathic physicians;

C. "county" means 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;

D. "department" means the human services department;

E. "fund" means a county health care assistance fund;

F. "health care services" means treatment and services designed to promote improved health in the county indigent population, including primary care, prenatal care, dental care, behavioral health care, alcohol or drug detoxification and rehabilitation, hospital care, provision of prescription drugs, preventive care or health outreach services, to the extent determined by resolution of the county;

G. "indigent patient" means a person to whom an ambulance service, a hospital or a health care provider has provided medical care, ambulance transportation or health care services and who can normally support the person's self and the person's dependents on present income and liquid assets available to the person but, taking into consideration the person's income, assets and requirements for other necessities of life for the person and the person's dependents, is unable to pay the cost of the ambulance transportation or medical care administered or both; provided that if a definition of "indigent patient" is adopted by a county in a resolution, the definition shall not include any person whose annual income together with that person's spouse's annual income totals an amount that is fifty percent greater than the per capita personal income for New Mexico as shown for the most recent year available in the survey of current business published by the United States department of commerce. "Indigent patient" includes a minor who has received ambulance transportation or medical care or both and whose parent or the person having custody of that minor would qualify as an indigent patient if transported by ambulance, admitted to a hospital for care or treated by a health care provider;

H. "medicaid eligible" means a person who is eligible for medical assistance from the department;

I. "planning" means the development of a countywide or multicounty health plan to improve and fund health services in the county based on the county's needs

assessment and inventory of existing services and resources and that demonstrates coordination between the county and state and local health planning efforts;

J. "public entity" means a state, local or tribal government or other political subdivision or agency of that government; and

K. "qualifying hospital" means an acute care general hospital licensed by the department of health that is qualified to receive payments from the safety net care pool pursuant to an agreement with the federal centers for medicare and medicaid services."

## **Chapter 100 Section 16 Laws 2023**

SECTION 16. Section 48-11-7 NMSA 1978 (being Laws 1987, Chapter 314, Section 7, as amended) is amended to read:

"48-11-7. ENFORCEMENT OF LIEN.--

A. An owner's lien, as provided under the Self-Service Storage Lien Act, for a claim that has become due may be satisfied as follows:

(1) after the occupant has been in default continuously for a period of five days, the owner may deny the occupant access to the occupant's space for storage;

(2) after the occupant has been in default continuously for a period of thirty days, the owner may enter the space and may remove the personal property within it to a safe place; provided that the owner has sent a notice of intent to enforce a lien, pursuant to Subsection B of this section, to the occupant at the occupant's last known address within five days of entering the space. The owner shall also give notice to all lienholders listed in the disclosure provision in the rental agreement; and

(3) no action to sell any property as provided in the Self-Service Storage Lien Act shall be taken by an owner until the occupant has been in default continuously for a period of ninety days.

B. The notice of intent to enforce a lien shall include:

(1) an itemized statement of the owner's claim showing the sum due at the time of the notice and the date when the sum became due;

(2) a brief and general statement of the personal property subject to the lien. That description shall be reasonably adequate to permit the person notified to identify the property, except that any container, including a trunk, valise or box that is locked, fastened, sealed or tied in a manner that deters immediate access to its contents, may be so described without describing its contents;

(3) a notification of denial of access to the personal property. That notification shall provide the name, street address and telephone number of the owner or the owner's designated agent whom the occupant may contact to respond to that notification;

(4) a demand for payment within a specified time, not less than fifteen days after the delivery of the notice; and

(5) a conspicuous statement that unless the claim is paid within the time stated in the notice, the personal property will be advertised for sale or other disposition and will be sold or otherwise disposed of to satisfy the owner's lien.

C. All notices made pursuant to this section shall be by verified mail or electronic mail pursuant to the occupant's option at the time of entering into the current rental agreement.

D. An owner shall provide written notice by verified mail to the occupant's last known address or by electronic mail to the occupant's last known electronic address. If an owner sends a notice by electronic mail and does not receive a response, return receipt or delivery confirmation from the electronic address to which the notice was sent within three business days after the day on which the notice was sent, the owner shall deliver a one-time notice by verified mail to the occupant's last known address.

E. After the expiration of the time given in the notice of intent to enforce a lien, the owner shall publish an advertisement of the sale or other disposition of the property once a week for two consecutive weeks in a newspaper of general circulation in the county where the self-service storage facility is located. The advertisement shall include:

(1) a brief and general description of the personal property reasonably adequate to permit its identification as provided in Paragraph (2) of Subsection B of this section, the address of the self-service storage facility where the personal property is located and the name and last known address of the occupant; and

(2) the time, place and manner of the sale or other disposition. The sale or disposition shall take place not sooner than fifteen days after the first publication.

If there is no newspaper of general circulation in the county where the self-service storage facility is located, the owner shall post the advertisement at least ten days prior to the sale or other disposition in at least six conspicuous places in the neighborhood where the self-service storage facility is located.

F. Any sale or other disposition of the personal property shall conform to the terms of the notification as provided for in this section.

G. Any sale or other disposition of the personal property shall be held at the self-service storage facility or at the nearest suitable place within the county to where the personal property is held or stored or may be conducted on a publicly accessible online website.

H. Before any sale or other disposition of personal property pursuant to this section is made, the occupant may pay the amount necessary to satisfy the lien and the reasonable expenses incurred under this section and thereby redeem the property. Upon receipt of the payment, the owner shall return the personal property and thereafter the owner shall have no liability to any person with regard to that personal property.

I. A good faith purchaser takes the property free of any rights of an unsecured lienholder and free of any rights of a secured lienholder who has received notice by owner as provided in this section.

J. In the event of a sale under this section, the owner may satisfy the owner's lien from the proceeds of the sale, subject to the rights of any prior lienholder who has not received notice. The lien rights of such prior lienholder are automatically transferred to the proceeds of the sale. If the sale was made in good faith and conducted in a reasonable manner, the owner shall not be subject to any surcharge for a deficiency in the amount of a prior secured lien, but shall hold the balance, if any, for delivery to the occupant, lienholder or other person in interest. If the occupant, lienholder or other person in interest does not claim the balance of the proceeds within two years of the date of sale, it shall become the property of the owner without further recourse by the occupant, lienholder or other person in interest.

K. Nothing in this section affects the rights and liabilities of the owner, occupant or any other person if there is a willful violation of any of the provisions of the Self-Service Storage Lien Act. If the property subject to a lien described in this section is a vehicle, watercraft or trailer, the occupant is in default for a continuous sixty-day period and the owner chose not to sell the vehicle, the owner may have the vehicle towed from the self-storage facility by an independent towing carrier that is licensed by the department of transportation pursuant to the Motor Carrier Act. Within one day after the day on which a vehicle is towed, the owner shall send verified notice to the occupant's last known address or electronic address that states:

- (1) the date the vehicle was towed; and
- (2) the address and telephone number of the person that towed the vehicle."

## **Chapter 100 Section 17 Laws 2023**

SECTION 17. Section 62-19-5 NMSA 1978 (being Laws 2013, Chapter 64, Section 1, as amended) is amended to read:

"62-19-5. QUALIFICATIONS OF COMMISSIONERS.--

A. Commissioners shall be persons who are independent of the industries regulated by the commission and shall possess demonstrated competence.

B. In order to be appointed as a commissioner, a person must be qualified for office by:

(1) having a baccalaureate degree from an institution of higher education that has been accredited by a regional or national accrediting body and 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, policy, engineering or law; or

(2) having higher education resulting in at least a professional license or a post-graduate degree from an institution of higher education that has been accredited by a regional or national accrediting body in a field related to an area regulated by the commission, including accounting, public or business administration, economics, finance, statistics, policy, engineering or law, and at least ten years of professional experience within the person's field.

C. A commissioner shall not have a financial interest in a public utility in this state or elsewhere and shall not have been employed by a commission-regulated entity at any time during the two years prior to appointment to the commission.

D. Commissioners shall give their entire time to the business of the commission and shall not pursue any other business or vocation or hold any other office for profit.

E. As used in this section, "professional experience" means employment in which the prospective appointee for commissioner regularly made decisions requiring discretion and independent judgment and:

(1) engaged in policy analysis, research, consumer advocacy 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, energy policy 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 prospective appointee."

## **Chapter 100 Section 18 Laws 2023**

SECTION 18. Section 62-19-12 NMSA 1978 (being Laws 1998, Chapter 108, Section 6, as amended) is amended to read:

"62-19-12. COMMISSION--ORGANIZATIONAL UNITS.--The commission includes the following organizational units:

- A. the administrative services division;
- B. the consumer relations division;
- C. the legal division;
- D. the utility division; and
- E. the pipeline safety bureau."

## **Chapter 100 Section 19 Laws 2023**

SECTION 19. Section 62-19-16 NMSA 1978 (being Laws 1998, Chapter 108, Section 11) is repealed and a new Section 62-19-16 NMSA 1978 is enacted to read:

"62-19-16. PIPELINE SAFETY BUREAU.--The pipeline safety bureau shall serve as staff to the commission for the regulation of pipelines and pipeline safety, as provided by law."

## **Chapter 100 Section 20 Laws 2023**

SECTION 20. Section 63-1-41 NMSA 1978 (being Laws 1878, Chapter 1, Section 8-22, as amended) is amended to read:

"63-1-41. ANNUAL REPORT.--Every railroad corporation shall make an annual report to the department of transportation of the operations of the year ending on December 31. The president or general superintendent and the secretary and treasurer of the corporation shall verify the report. A railroad corporation shall file the report with the department of transportation on or before March 1 next ensuing and shall state:

- A. the capital stock and the amount thereof actually paid in;
- B. the amount paid for the purchase of lands for the construction of the road, for buildings, engines and cars, respectively;
- C. the amount and nature of the indebtedness of the corporation and the amount due to it;

D. the amount received for the transportation of passengers, property, mails, express matter, respectively, and the amount received from any other sources;

E. the amount of freight transported, specifying the quantity in tons;

F. the amount paid for the repair of engines, cars, buildings and other expenses, in gross, showing the current expense of running its road;

G. the number and amount of dividends and when paid; and

H. the number of engine houses and shops, of engines and cars and their character."

## **Chapter 100 Section 21 Laws 2023**

SECTION 21. Section 63-7-1.1 NMSA 1978 (being Laws 1998, Chapter 108, Section 52) is amended to read:

"63-7-1.1. COMMISSION POWERS AND DUTIES--TRANSMISSION COMPANIES--TELEPHONE AND TELEGRAPH COMPANIES.--

A. With respect to transmission companies, the commission shall:

(1) fix, determine, supervise, regulate and control all charges and rates of telegraph, telephone and other transmission companies within the state;

(2) determine any matters of public convenience and necessity with respect to matters subject to its regulatory authority as provided by law;

(3) change, amend and rescind rates;

(4) enforce its rules through administrative sanctions and in the courts;  
and

(5) carry out all other duties and have all other powers provided by law.

B. In fixing rates of telephone and telegraph companies, due consideration shall be given to the earnings, investments and expenditures as a whole within the state. The commission shall include in that consideration the earnings, investments and expenditures derived from or related to the sale of directory advertising and other directory listing services.

C. The commission may subpoena witnesses and documents, enforce its subpoenas through any court and, through the court, punish for contempt.

D. The commission has the power, after notice and hearing of record, to determine and decide any question and to issue orders relating to its powers and duties.

E. An interested party may appeal from a final order of the commission by filing a notice of appeal with the supreme court asking for review of the order within thirty days of the final order. The appellant shall pay to the commission any costs of preparing and transmitting the record to the court.

F. The pendency of an appeal shall not automatically stay the order appealed from. The appellant may seek to obtain a stay from the commission or the supreme court.

G. The appeal shall be on the record of the hearing before the commission and shall be governed by the appellate rules applicable to administrative appeals. The supreme court shall affirm the commission's order unless it is:

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

H. In the case of a failure or refusal of any person to comply with an order of the commission within the time prescribed in the order or within thirty days after the order is entered, whichever is later, unless a stay has been granted, the commission shall seek enforcement of the order in the district court. The enforcement hearing shall be held on an expedited basis. At the hearing, the sole question shall be whether the person has failed to comply with or violated the order."

## **Chapter 100 Section 22 Laws 2023**

SECTION 22. Section 63-7-20 NMSA 1978 (being Laws 1951, Chapter 194, Section 1, as amended) is amended to read:

"63-7-20. UTILITY INSPECTION--FEE.--

A. Each utility doing business in this state that is subject to the control and jurisdiction of the commission by virtue of the provisions of Article 11 of the constitution of New Mexico with respect to its rates and service shall pay annually to the commission a fee in performance of its duties as now provided by law. The fee for utilities shall not exceed five hundred eleven thousandths percent of its gross receipts from business transacted in New Mexico for the preceding calendar year. This sum shall be payable annually on or before April 1 in each year. No similar fee shall be imposed upon the utility. In the case of utilities engaged in interstate business, the fees shall be measured by the gross receipts of the utilities from intrastate business only for the preceding calendar year and not in any respect upon receipts derived wholly or in

part from interstate business. As used in this section, "utility" includes telephone companies and transmission companies but does not include public utilities subject to the Public Utility Act.

B. When a fee is not paid on the date it is due, interest shall be paid to the state on the amount due. The interest on the amount due shall start to accrue on the day following the due date and shall continue to accrue until the total amount due is paid. The rate of interest on a late fee payment shall be fifteen percent per year, computed at the rate of one and one-fourth percent per month.

C. In addition to any interest due on a late fee payment, a penalty shall be paid to the state for failure to pay the fee when it is due. The penalty imposed shall be two percent of the amount of the fee due.

D. The attorney general, in the name of the state, shall bring suit to collect fees, interest and penalties that remain unpaid."

## **Chapter 100 Section 23 Laws 2023**

SECTION 23. Section 63-7-22 NMSA 1978 (being Laws 1951, Chapter 194, Section 3) is amended to read:

"63-7-22. EXEMPTIONS.--The provisions of Sections 63-7-20 through 63-7-22 NMSA 1978 shall not apply to pipelines that are used for the transportation of oil, natural gas or the products thereof."

## **Chapter 100 Section 24 Laws 2023**

SECTION 24. Section 64-1-12 NMSA 1978 (being Laws 1963, Chapter 314, Section 2, as amended) is amended to read:

"64-1-12. DEFINITIONS.--As used in the Aviation Act:

- A. "aircraft" means airplane and helicopter;
- B. "pilot" means any person participating in the operation of an aircraft while it is in flight;
- C. "passenger" means any person riding in an aircraft except a pilot;
- D. "department" means the department of transportation;
- E. "division" means the aviation division of the department;
- F. "director" means the director of the division; and

G. "secretary" means the secretary of transportation."

## **Chapter 100 Section 25 Laws 2023**

SECTION 25. Section 64-1-13 NMSA 1978 (being Laws 1963, Chapter 314, Section 5, as amended) is amended to read:

"64-1-13. AVIATION DIVISION--POWERS AND DUTIES.--The division shall:

A. cooperate with all public and private agencies and organizations, state, local and federal, to encourage and advance aviation in this state;

B. assemble and distribute to the public information relating to aviation, landing fields, beacons and other matters pertaining to aviation and may accept federal money made available for the advancement of aviation;

C. authorize expenditures of money from the state aviation fund for construction, development and maintenance of public-use airport facilities, except airports serving regularly scheduled interstate airlines using aircraft with a maximum passenger capacity of more than one hundred seats or a maximum payload capacity of more than twenty-five thousand pounds, including rural landing fields and airstrips. Expenditures shall be made according to the need for airport facilities as determined by the division;

D. operate under a director, appointed by the secretary, with the approval of the governor, who shall have an aviation background and meet other qualifications prescribed by the secretary;

E. establish policies for operation of the division;

F. promulgate rules for proper enforcement of aviation laws;

G. provide for a surety bond, paid from the state aviation fund, issued by a corporate surety company licensed to do business in New Mexico, in an amount set by the state board of finance, on a form approved by the attorney general, conditioned upon the faithful performance of the duties of the personnel of the division who expend or authorize the expenditure of state funds;

H. have the following powers with respect to state airports:

(1) the division may, on behalf of and in the name of the state, out of appropriations and other money made available for such purposes, plan, construct, enlarge, improve, maintain, equip and operate airports and air navigation facilities, including the construction, equipment, maintenance and operation at such airports of buildings and other facilities for the servicing of aircraft or for the comfort and accommodation of air travelers. For such purposes, the division may, in the name of the

state, by purchase, gift, devise, lease or otherwise, acquire property, real or personal, or any interest in property, including easements in airport hazards or land outside the boundaries of an airport or airport site, as are necessary to permit safe and efficient operation of the airports or air navigation facilities. The division may enter into any contracts necessary to the execution of the powers granted it by this paragraph; and

(2) the division may accept, receive, receipt for, disburse and expend federal money and other money, public or private, made available to accomplish, in whole or in part, any of the purposes of this subsection. All federal money accepted under this subsection shall be accepted and expended by the division upon such terms and conditions as are prescribed by the United States. The division, on behalf of the state, may enter into contracts with the United States or with any person that may be required in connection with a grant or loan of federal money for airport or air navigation facility purposes. All money received by the division pursuant to this subsection is appropriated for the purpose for which the money was made available, to be disbursed or expended in accordance with the terms and conditions upon which the money was made available; provided that nothing contained in this section shall affect the power of a local government to contract with the United States or any person in connection with a grant or loan of money for airports or air navigation facilities in accordance with the terms and conditions upon which the funds were made available; and

I. have the power to engage in planning for the development of a system of public airports within the state."

## **Chapter 100 Section 26 Laws 2023**

SECTION 26. Section 64-1-14 NMSA 1978 (being Laws 1963, Chapter 314, Section 6, as amended) is amended to read:

"64-1-14. DIRECTOR--POWERS AND DUTIES.--The director shall:

- A. be the executive officer of the division;
- B. with the consent of the secretary, employ necessary personnel; and
- C. administer the aviation laws of this state and enforce the policies, rules and regulations of the division."

## **Chapter 100 Section 27 Laws 2023**

SECTION 27. Section 64-6-3 NMSA 1978 (being Laws 2021, Chapter 47, Section 3, as amended) is amended to read:

"64-6-3. RURAL AIR SERVICE ENHANCEMENT GRANT PROGRAM.--

A. The "rural air service enhancement grant program" is created in the division to be administered by the director.

B. The director shall:

(1) establish and publish deadlines and guidelines for the submission of grant applications;

(2) develop procedures for receipt, review and approval of grant applications;

(3) receive, review and approve grant applications;

(4) monitor municipalities' and counties' use of grant money by reviewing annual reports submitted to the director to ensure that grants are used consistently with the terms of the grant awards;

(5) establish grant reporting requirements that meet the general purpose of the Rural Air Service Enhancement Act; and

(6) perform other duties as necessary to carry out the provisions of the Rural Air Service Enhancement Act.

C. Each fiscal year, competitive grants for minimum revenue guarantees shall be awarded to applicants for the sole purpose of funding rural air service enhancement grants.

D. The director shall award grants to applicants through a competitive process and based upon the following criteria:

(1) the demand for service on the proposed new air routes or expanded air routes;

(2) the economic impact on the municipality or county of the proposed new air routes or expanded air routes; and

(3) the feasibility of a common carrier servicing proposed new air routes or expanded air routes.

E. Applicants shall meet the following minimum criteria to be eligible for a grant:

(1) municipalities or counties shall have a minimum population of twenty thousand persons residing within a fifty-mile radius of the airport unless the municipality or county has existing air routes;

(2) aircraft to be used to service proposed new air routes or expanded air routes served by the rural air service enhancement grant program shall have a passenger capacity of not more than thirty persons; and

(3) minimum matching funds from a municipality or county shall be:

(a) ten percent if the municipality or county has no existing scheduled air routes at the time of application; and

(b) twenty percent if the municipality or county has existing scheduled air routes at the time of application.

F. Individual grants awarded through the rural air service enhancement grant program shall not:

(1) exceed two million two hundred fifty thousand dollars (\$2,250,000) per year for municipalities or counties with existing scheduled air routes;

(2) exceed two million seven hundred fifty thousand dollars (\$2,750,000) per year for municipalities or counties not served by existing scheduled air routes; or

(3) be used for infrastructure improvement.

G. Individual grants awarded through the rural air service enhancement grant program shall cover a time frame of at least two years. If funds are available in the rural air service enhancement fund, the director may extend the term of an existing grant up to three additional years.

H. No more than ten percent of the balance of the rural air service enhancement fund on July 1 of any year may be used by the division for infrastructure improvements associated with individual grants awarded through the rural air service enhancement grant program.

I. Funds received through individual grants awarded through the rural air service enhancement grant program shall be expended by the grantee municipality or county only to airlines that have been selected through a competitive process pursuant to the Procurement Code."

## **Chapter 100 Section 28 Laws 2023**

SECTION 28. Section 65-1-6 NMSA 1978 (being Laws 1967, Chapter 97, Section 8, as amended) is amended to read:

"65-1-6. FIELD ENFORCEMENT OF MOTOR TRANSPORTATION ACT AND MOTOR CARRIER ACT AND RULES.--The department shall:

A. enforce in the field the provisions of the Motor Transportation Act and the Motor Carrier Act and the rules promulgated by the department of transportation pursuant to the Motor Carrier Act; and

B. maintain sufficient personnel in the field to enforce the provisions of the Motor Transportation Act and the Motor Carrier Act and the rules promulgated by the department of transportation pursuant to the Motor Carrier Act."

## **Chapter 100 Section 29 Laws 2023**

SECTION 29. Section 65-1-27 NMSA 1978 (being Laws 1967, Chapter 97, Section 17, as amended) is amended to read:

"65-1-27. HEARINGS--ATTENDANCE.--The secretary or the secretary's representative may attend all hearings held by the department of transportation concerning motor transportation. The department of transportation shall notify the secretary of all such hearings, and the department is declared to be an interested party and as such may present evidence pertaining to matters under consideration by the department of transportation. The department of transportation shall send copies of all orders entered by the department of transportation in motor transportation matters to the department."

## **Chapter 100 Section 30 Laws 2023**

SECTION 30. Section 65-2A-1 NMSA 1978 (being Laws 2003, Chapter 359, Section 1) is amended to read:

"65-2A-1. SHORT TITLE.--Chapter 65, Article 2A NMSA 1978 may be cited as the "Motor Carrier Act"."

## **Chapter 100 Section 31 Laws 2023**

SECTION 31. Section 65-2A-3 NMSA 1978 (being Laws 2003, Chapter 359, Section 3, as amended) is amended to read:

"65-2A-3. DEFINITIONS.--As used in the Motor Carrier Act:

A. "ability to provide certificated service" means that an applicant or carrier can provide reasonably continuous and adequate transportation service of the type required by its application or its operating authority in the territory authorized or sought to be authorized;

B. "ambulance service" means the intrastate transportation of sick or injured persons in an ambulance meeting the standards established by the department under the Ambulance Standards Act;

C. "amendment of a certificate" means a permanent change in the type or nature of service, territory or terms of service authorized by an existing certificate;

D. "antitrust laws" means the laws of this state relating to combinations in restraint of trade;

E. "base state" means the registration state for an interstate motor carrier that either is subject to regulation or is transporting commodities exempt from regulation by the federal motor carrier safety administration pursuant to the unified carrier registration system;

F. "cancellation of an operating authority" means the voluntary, permanent termination of all or part of an operating authority;

G. "certificate" means the authority issued by the department to a person that authorizes the person to offer and provide a certificated service as a motor carrier;

H. "certificated service" means one of the following transportation services:

- (1) an ambulance service;
- (2) a household goods service;
- (3) a shuttle service;
- (4) a specialized passenger service; or
- (5) a taxicab service;

I. "change in a certificate" means the voluntary amendment, cancellation, change in form of legal entity of the holder, lease, reinstatement, transfer or voluntary suspension of a certificate;

J. "charter service" means the compensated transportation of a group of persons in a motor vehicle who, pursuant to a common purpose, under a single contract, at a fixed charge for the motor vehicle and driver, have acquired the exclusive use of the motor vehicle to travel together under an itinerary either specified in advance or modified after having left the place of origin;

K. "commuter service" means the intrastate transportation of passengers in motor vehicles having a capacity of seven to fifteen persons, including the driver, provided to a volunteer-driver commuter group that shares rides to and from the workplace or training site, where participation is incidental to the primary work or training-related purposes of the commuter group, and where the fees paid by the participants do not exceed the costs for transportation, including gas and other trip-related expenses;

L. "continuous and adequate service" means:

(1) for full-service carriers, reasonably continuous availability, offering and provision of transportation services through motor vehicles, equipment and resources satisfying safety and financial responsibility requirements under the Motor Carrier Act and department rule, that are reasonably adequate to serve the entire full-service territory authorized in the certificate, with reasonable response to all requests for service for the nature of passenger service authorized, based on the nature of public need, expense and volume of demand for the type of service authorized during seasonal periods; and

(2) for general-service carriers, reasonably continuous availability and offering of transportation services through motor vehicles, equipment and resources satisfying safety and financial responsibility requirements under the Motor Carrier Act and department rule for the nature of the transportation service authorized in the certificate;

M. "contract driver" means a person who contracts with a motor carrier as an independent contractor to drive a vehicle pursuant to an operating authority issued to the motor carrier;

N. "department" means the department of transportation;

O. "endorsement" means the specification in a certificate of the territory in which the carrier is authorized to operate, the nature of service to be provided by a certificated passenger service and any additional terms of service that may be reasonably granted or required by the department for the particular authority granted;

P. "fare" means the full compensation charged for transportation by a tariffed passenger service;

Q. "financial responsibility" means the ability to respond in damages for liability arising out of the ownership, maintenance or use of a motor vehicle in the provision of transportation services;

R. "fitness to provide a transportation service" means that an applicant or carrier complies with state law as provided in the Motor Carrier Act or by rule of the department;

S. "for hire" means that transportation is offered or provided to the public for remuneration, compensation or reward of any kind, paid or promised, either directly or indirectly;

T. "full service" means one of the following certificated passenger services that are endorsed and required to meet specific standards for the provision of service to or throughout a community:

- (1) an ambulance service;
- (2) a scheduled shuttle service; or
- (3) a municipal taxicab service;

U. "general service" means one of the following certificated services that provides transportation services of the type authorized, but is not required to provide unprofitable or marginally profitable carriage:

- (1) a general shuttle service;
- (2) a general taxicab service;
- (3) a specialized passenger service; or
- (4) a household goods service;

V. "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;

W. "holder of an operating authority" means the grantee of the operating authority or a person that currently holds all or part of the right to exercise the authority through a transfer by operation of law;

X. "household goods" means personal effects and property used or to be used in a dwelling when a part of the equipment or supply of the dwelling and other similar property as the federal motor carrier safety administration may provide by regulation, but shall not include property moving to or from a factory or store, other than property the householder has purchased to use in the householder's dwelling that is transported at the request of, and the transportation charges are paid to the carrier by, the householder;

Y. "household goods service" means the intrastate transportation, packing and storage of household goods for hire;

Z. "interested person" means a motor carrier operating in the territory involved in an application or grant of temporary authority, a person affected by an order of the department or a rule proposed for adoption by the department or a person the department may deem interested in a particular matter;

AA. "interstate motor carrier" means a person providing compensated transportation in interstate commerce, whether or not the person is subject to regulation by the federal motor carrier safety administration;

BB. "intrastate motor carrier" means a motor carrier offering or providing transportation for hire by motor vehicle between points and places in the state;

CC. "involuntary suspension" means the temporary cessation of use of all or part of an operating authority ordered by the department for cause for a stated period of time or pending compliance with certain conditions;

DD. "lease of a certificate" means an agreement by which the holder of a certificate grants to another person the exclusive right to use all or part of the certificate for a specified period of time in exchange for consideration, but does not include an agreement between a motor carrier and its contract driver;

EE. "lease of equipment" means an agreement whereby a motor carrier obtains equipment owned by another person for use by the motor carrier in the exercise of its operating authority, but does not include an agreement between a motor carrier and its contract driver;

FF. "motor carrier" or "carrier" means a person offering or providing transportation of persons, property or household goods for hire by motor vehicle, whether in intrastate or interstate commerce;

GG. "motor carrier organization" means an organization approved by the department to represent motor carriers and to discuss and propose industry interests and matters other than rates, as well as discussing and proposing rates and other matters pertaining to statewide tariffs;

HH. "motor vehicle" or "vehicle" means a vehicle, machine, tractor, trailer or semitrailer propelled or drawn by mechanical power and used on a highway in the transportation of property, household goods or persons, but does not include a vehicle, locomotive or car operated exclusively on rails;

II. "nature of service" means the type of transportation service to be provided by a certificated passenger service as set forth in Subsection A of Section 65-2A-8 NMSA 1978;

JJ. "nonconsensual tow" means the compensated transportation of a motor vehicle by a towing service, if such transportation is performed at the request of a law enforcement officer or without the prior consent or authorization of the owner or operator of the motor vehicle;

KK. "notice period" means the period of time specified in Section 65-2A-6 NMSA 1978 following publication of notice during which the department may not act;

LL. "objection" means a document filed with the department by an interested person or a member of the public during the notice period for an application for a

certificate, or for amendment, lease or transfer of a certificate, that expresses an objection to, or provides information concerning, the matter before the department;

MM. "operating authority" means a certificate, warrant, unified carrier registration or temporary authority issued by the department to a motor carrier;

NN. "passenger" means a person other than the driver of a motor vehicle transported in a motor vehicle;

OO. "passenger service" means a transportation service offered or provided for the transportation of passengers by motor vehicle;

PP. "predatory rate or practice" means the knowing and willful requirement by a carrier that a passenger or shipper pay a rate, fare or other charge in excess of the rates and charges or in a manner other than in accordance with terms of service as provided by law, as provided in a tariff governing the carrier or as provided in a preexisting written contract regarding the carriage, when such charge is made:

(1) by a passenger carrier as a prior condition for the provision of transportation or continued transportation of a passenger; or

(2) as a prior condition by a towing service carrier performing nonconsensual tows or a household goods service carrier for delivery of, release of or access to vehicles or household goods by the shipper or registered owner;

QQ. "process" means, in the context of legal process, an order, subpoena or notice issued by the department or an order, subpoena, notice, writ or summons issued by a court;

RR. "property" means movable articles of value, including cadavers, hazardous matter, farm products, livestock feed, stock salt, manure, wire, posts, dairy products, livestock hauled in lots of twenty-five thousand pounds or more, farm or ranch machinery and the items transported by a towing service, but does not include household goods or unprocessed farm products transported by a farmer from the place of harvesting to market, storage or a processing plant;

SS. "protest" means a document in the form of a pleading filed with the department by a full-service carrier that expresses an objection to an application before the department for a certificate for passenger service, for ambulance service or for passenger service pursuant to a public-charge contract or for amendment, lease or transfer of such a certificate:

(1) when the territory involved in the application includes all or a portion of the full-service territory of the protesting carrier; and

(2) for a carrier other than an ambulance service carrier, when the grant of the application will, or presents a reasonable potential to, impair, diminish or otherwise adversely affect its existing provision of full-service passenger service to the public within its full-service territory;

TT. "public-charge contract" means a contract or contractual arrangement between a motor carrier and a third party for passenger service that requires or allows the motor carrier to charge passengers a fare for the transportation service to be provided pursuant to the contract;

UU. "rate" means a form of compensation charged, whether directly or indirectly, by a person for a transportation service subject to the jurisdiction of the department;

VV. "record of a motor carrier" means an account, correspondence, memorandum, tape, disc, paper, book or transcribed information, or electronic data information, including the electronic hardware or software necessary to access the electronic data information in its document form, regarding the operation of a motor carrier;

WW. "registration year" means a calendar year;

XX. "revocation" means the involuntary, permanent termination of all or part of an operating authority ordered by the department for cause;

YY. "shipper" means a person who consigns or receives property or household goods for transportation;

ZZ. "shuttle service" means the intrastate transportation of passengers for hire pursuant to a set fare for each passenger between two or more specified terminal points or areas and includes both scheduled shuttle service and general shuttle service as follows:

(1) "scheduled shuttle service" means a shuttle service that transports passengers to and from an airport both through prior arrangement and through presentment at terminal locations, on the basis of a daily time schedule filed with the department, that must be met in a timely fashion with a vehicle present at the terminal location regardless of the number of passengers carried on any run, if any, and that includes general shuttle service; and

(2) "general shuttle service" means a shuttle service that is not required to operate on a set schedule, that may optionally use a grid map to specify distant or adjacent terminal areas and that is not required to accept passengers other than pre-arranged passengers;

AAA. "specialized passenger service" means the intrastate transportation for hire of passengers with special physical needs by specialized types of vehicles, or for specialized types of service to the public or community, as the department may by rule provide;

BBB. "tariff" means a document filed by a tariffed service carrier that has been approved by the department and sets forth the transportation services offered by the motor carrier to the general public, including the rates, terms of service and applicable time schedules relating to those services;

CCC. "tariffed service" means one of the following transportation services authorized by the department for the provision of service on the basis of rates and terms of service contained in a tariff approved by the department:

- (1) an ambulance service;
- (2) a household goods service;
- (3) a shuttle service;
- (4) a specialized passenger service;
- (5) a taxicab service; or
- (6) a towing service performing nonconsensual tows;

DDD. "taxicab association" means an association, cooperative or other legal entity whose members are taxicab drivers, which shall be treated in the same manner as any other applicant with regard to applications for a certificate for general taxicab service or for full-service municipal taxicab service and which shall be subject in the same manner to all other provisions, requirements and limitations of the Motor Carrier Act;

EEE. "taxicab service" means intrastate transportation of passengers for hire in a motor vehicle having a capacity of not more than eight persons, including the driver, for which the passenger or other person engaging the vehicle is allowed to specify not only the origin and destination points of the trip but also, within reason, the route taken by the vehicle, any intermediate stop, any optional waiting at a stop and any other passengers transported during the trip and that charges a fare for use of the vehicle primarily on the basis of a drop-flag fee, cumulative mileage and cumulative wait time through a taxicab meter used to cumulate and display the fare to the passenger and includes both municipal taxicab service and general taxicab service, as follows:

- (1) "municipal taxicab service" means a taxicab service that deploys vehicles at all times of the day and year, is centrally dispatched and reasonably responds to all calls for service within its endorsed full-service territory regardless of

profitability of the individual trip, in addition to the transportation service provided by a general taxicab service; and

(2) "general taxicab service" means a taxicab service that need not be dispatched, that may pick up on-demand passengers through flagging or at a taxicab stand or queue, that need not deploy vehicles in any particular manner and that may charge for trips to destination points or places outside of the taxicab service's certificated territories on the basis of a set fare;

FFF. "terms of service" means all terms, aspects, practices, limitations, conditions and schedules of service other than specific rate amounts pertaining to a tariffed service;

GGG. "towing service" means the use of specialized equipment, including repossession services using towing equipment, to transport or store:

- (1) a damaged, disabled or abandoned motor vehicle and its cargo;
- (2) a motor vehicle to replace a damaged, disabled or abandoned motor vehicle;
- (3) parts and equipment to repair a damaged, disabled or abandoned motor vehicle;
- (4) a motor vehicle whose driver has been declared unable to drive by a law enforcement officer;
- (5) a motor vehicle whose driver has been removed from the scene or is unable to drive; or
- (6) a motor vehicle repossessed or seized pursuant to lawful authority;

HHH. "transfer of a certificate" means a permanent conveyance of all or part of a certificate;

III. "transfer by operation of law" means that all or a part of a grantee's interest in an operating authority passes to a fiduciary or other person by application of established rules of law;

JJJ. "transportation service" means transportation subject to the jurisdiction of the department, offered or provided by a motor carrier, that requires the carrier to obtain an operating authority from the department under the Motor Carrier Act, regardless of whether the motor carrier has obtained appropriate operating authority from the department;

KKK. "verification" means a notarized signature verifying the contents of the document or other filing or a signature verifying the contents of the document or other filing under penalty of perjury, expressly providing that the signatory swears or affirms the contents under penalty of perjury as provided in Subsection A of Section 65-2A-33 NMSA 1978;

LLL. "voluntary suspension" means the department-authorized cessation of use of all or part of a certificate at the request of the holder for a specified period of time, not to exceed twelve consecutive months;

MMM. "warrant" means the authority issued by the department to a person that authorizes the person to offer and provide a warranted service as a motor carrier;

NNN. "warranted service" means one of the following intrastate transportation services offered or provided for hire:

- (1) a charter service;
- (2) a property transportation service; or
- (3) a towing service; and

OOO. "weight-bumping" means the knowing and willful statement of a fraudulent weight on a shipment of household goods."

## **Chapter 100 Section 32 Laws 2023**

SECTION 32. Section 65-2A-4 NMSA 1978 (being Laws 2003, Chapter 359, Section 4, as amended by Laws 2013, Chapter 73, Section 3 and by Laws 2013, Chapter 77, Section 3) is amended to read:

"65-2A-4. POWERS AND DUTIES OF THE DEPARTMENT.--

A. In accordance with the Motor Carrier Act, the department shall:

- (1) issue operating authorities for a motor carrier operating in New Mexico;
- (2) establish minimum requirements for financial responsibility for motor carriers; provided that the financial responsibility standards required shall not be inconsistent with applicable federal standards;
- (3) establish safety requirements for intrastate motor carrier motor vehicles and drivers subject to the jurisdiction of the department; provided that the safety requirements shall not be inconsistent with or more stringent than applicable federal safety standards;

(4) establish reasonable requirements with respect to continuous and adequate service to be provided under an operating authority;

(5) regulate the rates of tariffed service carriers to the extent provided in the Motor Carrier Act, including rates and terms of service for storing household goods and motor vehicles;

(6) determine matters of public interest and other matters relating to authorities, rates, territories, nature of service and other terms of service of motor carriers;

(7) have jurisdiction to determine any matter under the Motor Carrier Act relating to any transportation service carrier that has not obtained an appropriate operating authority from the department;

(8) subpoena witnesses and records, enforce its subpoenas through a court and, through the court, seek a remedy for contempt;

(9) hold a public hearing specific to a protest or a request by the traffic safety bureau of the department that has been filed within the notice period in opposition to or in consideration of an application;

(10) create a statewide tariff for household goods service carriers establishing maximum rates that may be charged by carriers; and

(11) adopt rules, issue orders and conduct activities necessary to implement and enforce the Motor Carrier Act.

B. The department may:

(1) designate inspectors who may inspect the records of a motor carrier subject to the Motor Carrier Act and who shall have the powers of peace officers in the state's political subdivisions with respect to a law or rule that the department is empowered to enforce pursuant to Section 65-1-6 NMSA 1978, excluding the enforcement authority granted to the New Mexico state police division of the department of public safety;

(2) institute civil actions in the district court of Santa Fe county in its own name to enforce the Motor Carrier Act, its orders and rules, and in the name of the state to recover assessments of administrative fines;

(3) from time to time, modify the type and nature of service, territory and terms of service of operating authorities previously issued, and change or rescind rates previously approved;

(4) establish statewide tariffs as needed for voluntary and optional use by tariffed service carriers; and

(5) adopt rules to implement these powers."

### **Chapter 100 Section 33 Laws 2023**

SECTION 33. Section 65-2A-5 NMSA 1978 (being Laws 2003, Chapter 359, Section 5, as amended by Laws 2013, Chapter 73, Section 4 and by Laws 2013, Chapter 77, Section 4) is amended to read:

"65-2A-5. APPLICATIONS IN GENERAL--MINISTERIAL GRANTS OF AUTHORITY--WHEN PUBLIC HEARINGS REQUIRED.--

A. A person shall file an application for any matter for which department approval is required. An application shall be made in writing, verified and in a form that contains information and is accompanied by proof of service upon interested persons as required by the department.

B. The department shall simplify to the extent possible the process for approving applications. The department may hold a public hearing on its own initiative or specific to an objection that has been filed within the notice period in opposition to or in consideration of an application.

C. The department shall hold a public hearing on an application whenever a protest is filed concerning the application during the notice period or the traffic safety bureau of the department requests a hearing during the notice period.

D. The department may approve or deny an application in whole or in part, or allow or require particular terms of service as it may find reasonable and appropriate. If no objection, protest or request for hearing by the traffic safety bureau of the department is filed during the notice period, the department may grant the application by ministerial action, if the application complies with the provisions of the Motor Carrier Act and the rules of the department regarding fitness, ability, financial responsibility and safety."

### **Chapter 100 Section 34 Laws 2023**

SECTION 34. Section 65-2A-6 NMSA 1978 (being Laws 2003, Chapter 359, Section 6, as amended by Laws 2013, Chapter 73, Section 5 and by Laws 2013, Chapter 77, Section 5) is amended to read:

"65-2A-6. NOTICE.--

A. The department shall electronically publish notice regarding an application before the department for a certificate or for a change in a certificate, regarding

proposed rulemaking, or regarding other orders of the department of general application, by posting a copy of the notice or document on the department's internet website and sending electronic mail to all motor carriers, public officials or agencies, or other persons or entities who have previously supplied electronic mail addresses to the department for the purpose of publication, advising such persons of the filing and posting. If the department in its discretion should also require publication by newspaper, the requirement is met if notice is published once in a newspaper of general circulation in the state. The department shall not act on an application for a certificate or for an amendment, lease or transfer of a certificate less than twenty days after the date notice was published.

B. Whenever the Motor Carrier Act requires publication of notice regarding any other matter, the requirement is met if notice is published once in a newspaper of general circulation in the state. The department shall not act on a matter less than ten days after the date notice was published."

### **Chapter 100 Section 35 Laws 2023**

SECTION 35. Section 65-2A-7 NMSA 1978 (being Laws 2003, Chapter 359, Section 7, as amended) is amended to read:

"65-2A-7. OPERATING AUTHORITIES IN GENERAL.--

A. Other than an entity receiving funding to supplement transportation services through Title III B of the federal Older Americans Act of 1965, no person shall offer or provide a transportation service for hire within the state without first obtaining an appropriate operating authority from the department. Every motor carrier providing a transportation service shall meet and comply with the requirements of the Motor Carrier Act and the lawfully adopted rules and orders of the department.

B. A certificate or warrant, or a change in a certificate, shall be effective from the date issued by the department and shall remain in effect until canceled, revoked, suspended or amended.

C. A motor carrier shall carry a copy of its operating authority in each motor vehicle it operates in New Mexico.

D. A certificated service carrier shall render reasonably continuous and adequate service as the department may by rule prescribe."

### **Chapter 100 Section 36 Laws 2023**

SECTION 36. Section 65-2A-8 NMSA 1978 (being Laws 2003, Chapter 359, Section 8, as amended by Laws 2013, Chapter 73, Section 7 and by Laws 2013, Chapter 77, Section 7) is amended to read:

"65-2A-8. CERTIFICATES FOR PASSENGER SERVICE.--

- A. The department may issue a certificate for a passenger service as follows:
- (1) a certificate for an ambulance service;
  - (2) a certificate for a shuttle service shall be endorsed for nature of service as a scheduled shuttle service or as a general shuttle service;
  - (3) a certificate for a specialized passenger service shall be endorsed for nature of service as provided by department rule; and
  - (4) a certificate for a taxicab service shall be endorsed for nature of service as a municipal taxicab service or as a general taxicab service.
- B. Except as provided in this section and in Section 65-2A-13 NMSA 1978, the department shall issue a certificate allowing a person to provide passenger service after notice and public hearing requirements are met, if:
- (1) the applicant is fit and able to provide the transportation service to be authorized by the certificate;
  - (2) the applicant is in compliance with the safety and financial responsibility requirements of the Motor Carrier Act, the rules of the department and other applicable federal and state laws and rules;
  - (3) for an application for ambulance service, the transportation service to be provided under the certificate is or will serve a useful public purpose that is responsive to a public demand or need; and
  - (4) the applicant has filed a tariff as provided in Section 65-2A-20 NMSA 1978.
- C. Before granting a certificate for passenger service, the department shall consider any objections or protests that were filed within the notice period.
- D. Before granting a certificate for ambulance service, the department shall also consider the effect that issuance of the certificate would have on existing ambulance service in the territory.
- E. A certificate issued by the department for provision of passenger service shall contain one or more endorsements, each of which shall specify the:
- (1) nature of service to be rendered;
  - (2) territory authorized to be served; and

(3) reasonable terms of service as the department may allow or require for the particular certificate.

F. Territorial endorsements to a certificate for passenger service shall:

(1) be limited to territory sought in the application that will be served in a reasonably continuous and adequate manner beginning within thirty days of the issuance of the certificate or such other definite period or date as the department may provide for a particular application and shall generally be authorized on the basis of county or incorporated municipal boundaries, subject to other specification reasonably allowed or required by the department;

(2) except for shuttle services, authorize transportation between points and places within the specified territory, and from points and places within the specified territory to all points and places in the state and return, unless otherwise expressly allowed or specified in the terms of service in the endorsement to the certificate; and

(3) for shuttle services, provide for transportation between two or more specified end or intermediate terminal points or areas, and authorize pick-up or drop-off of passengers throughout a terminal area, but shall not authorize transportation between points and places within a single terminal area or the provision of transportation services in any other areas of the state."

## **Chapter 100 Section 37 Laws 2023**

SECTION 37. Section 65-2A-9 NMSA 1978 (being Laws 2003, Chapter 359, Section 9, as amended by Laws 2013, Chapter 73, Section 8 and by Laws 2013, Chapter 77, Section 8) is amended to read:

"65-2A-9. CERTIFICATES FOR HOUSEHOLD GOODS SERVICE.--

A. Except as provided in this section and in Section 65-2A-13 NMSA 1978, the department shall issue a certificate allowing a person to provide household goods service after notice and public hearing requirements are met, if the applicant:

(1) is fit and able to provide the transportation to be authorized by the certificate;

(2) has a place of business and stations equipment within the state and is in compliance with the safety and financial responsibility requirements of the Motor Carrier Act, the rules of the department and other applicable federal and state laws and rules; and

(3) has filed a tariff as provided in Section 65-2A-20 NMSA 1978.

B. Before granting a certificate for household goods service to an applicant, the department shall consider any objections that were filed within the notice period.

C. A certificate issued by the department for provision of household goods service shall contain one or more endorsements, each of which shall specify:

(1) the territory to be served, which shall be limited to territory sought in the application that will be served in a reasonably continuous and adequate manner beginning within thirty days of the issuance of the certificate or such other definite period or date as the department may provide for a particular application, and shall generally be specified on the basis of county boundaries, subject to other or further specification by the department by rule or in regard to a particular application; and

(2) any reasonable terms of service that the department may allow or require for the particular certificate."

## **Chapter 100 Section 38 Laws 2023**

SECTION 38. Section 65-2A-11 NMSA 1978 (being Laws 2003, Chapter 359, Section 11, as amended by Laws 2013, Chapter 73, Section 10 and by Laws 2013, Chapter 77, Section 10) is amended to read:

"65-2A-11. TEMPORARY AUTHORITY.--

A. The department may without notice grant temporary authority to an applicant for a certificate or for amendment, lease or transfer of all or part of a certificate for a period not to exceed the duration of the application process, if it finds that:

(1) the notice period for such application has not yet expired, the application is one directly involving public safety, a governmental program or a specific public event, there is an urgent and immediate public need for such service and the public may be harmed by waiting for the notice period to expire;

(2) the applicant for temporary authority has a complete application for a certificate or for amendment, lease or transfer of all or part of a certificate pending before the department;

(3) the applicant is fit to provide the transportation service requested, is able to provide any certificated service requested and is in compliance with the safety and financial responsibility requirements of the Motor Carrier Act and the rules of the department; and

(4) satisfactory proof of urgent and immediate need has been made by verified proof as the department shall by rule prescribe.

B. An applicant for temporary authority as a tariffed service carrier shall file tariffs covering the transportation services for which temporary authority is being sought.

C. If a hearing is held before a hearing examiner for any reason on an application for a certificate or for amendment, lease or transfer of all or part of a certificate or for a tariff rate increase, the applicant may move in such proceeding for a grant of temporary authority or rate approval for a period not to exceed the duration of the application process, and any protesting carrier or the traffic safety bureau of the department may move in such proceeding for reconsideration or modification of any grant of temporary authority previously granted by the department or the hearing examiner. The hearing examiner in the proceeding shall hold an expedited preliminary public hearing on the grant of temporary authority on the issues in the proceeding and the testimony evidence presented in the hearing on such procedural basis as the department shall by rule prescribe.

D. Motor carriers operating under temporary authority shall comply with the requirements of the Motor Carrier Act and the rules of the department.

E. A grant of temporary authority shall not create a presumption that permanent authority will be granted."

## **Chapter 100 Section 39 Laws 2023**

SECTION 39. Section 65-2A-12 NMSA 1978 (being Laws 2003, Chapter 359, Section 12, as amended) is amended to read:

"65-2A-12. WARRANTS.--

A. The department shall issue a warrant that allows a person to provide warranted service as a charter service, towing service or motor carrier of property if the department finds that the applicant is in compliance with the financial responsibility and safety requirements of the Motor Carrier Act and the rules of the department.

B. A towing service carrier performing nonconsensual tows is subject to tariff rates and terms of service. A towing service carrier performing nonconsensual tows shall not use the same motor vehicles, equipment and facilities used by another warranted towing service carrier performing nonconsensual tows.

C. A warrant shall not be transferred or leased to another person.

D. The department may without notice or a public hearing cancel a warrant if the owner fails to operate under the warrant for twelve consecutive months or fails to provide proof of financial responsibility as required by the department for four consecutive months."

## Chapter 100 Section 40 Laws 2023

SECTION 40. Section 65-2A-13 NMSA 1978 (being Laws 2003, Chapter 359, Section 13, as amended by Laws 2013, Chapter 73, Section 12 and by Laws 2013, Chapter 77, Section 12) is amended to read:

### "65-2A-13. PROTESTS, OBJECTIONS AND HEARINGS.--

A. Any interested person or any member of the public may provide information to the department or express an objection to any application for a certificate, or for amendment, lease or transfer of a certificate, during the notice period for the application by filing a written objection in regard to the application. The department shall consider any objections filed in regard to determining whether to hold a hearing on the application. The department is not required to hold a hearing pursuant to any objection but may, in its discretion or on its own motion for any reason, hold a hearing on any application for a certificate or for an amendment, lease or transfer of a certificate.

B. The department shall hold a hearing on an application whenever a protest is filed within the notice period or the traffic safety bureau of the department files a request for a hearing relative to an application within the notice period. The department shall allow a protesting carrier to proceed as an intervenor in the application proceeding.

C. In any hearing held on an application:

(1) the applicant has the burden of proving that the applicant meets the requirements of the Motor Carrier Act and the rules of the department for the application at issue, the burden of demonstrating with reasonable specificity the nature and scope of its proposed transportation service, the burden of proving any particular factual matters that the department or the traffic safety bureau of the department may identify and require, the burden of proving any additional allegations and matters of public interest that it may raise and, if the application pertains to ambulance service, the burden of proving that the ambulance service that currently exists in the territory sought in the application is inadequate and that the proposed service is directly responsive to a public need and demand for the service proposed;

(2) a protesting carrier has the burden of proving all matters of fact pertaining to its full-service operation within its certificated full-service territory, the burden of proving the potential impairment or adverse impact on its existing full-service operation by the transportation service proposed by the applicant and the burden of proving all other allegations and matters of public interest that it may raise. The protesting carrier's proof should include, without limitation, a demonstration with reasonable specificity of the nature of the existing full service being provided, the volume of passengers transported, economic analysis related to expenses and revenues of the full-service operation and the anticipated economic, business or functional effect of the proposed service on the existing provision of, or rates for, full-service transportation within the full-service territory;

(3) the department may allow other interested persons to intervene, either generally or on the basis of specific facts or issues. A permissive intervenor has the burden of proof for its position on all factual matters and legal issues that it alleges and on which it is permitted to intervene; and

(4) all parties to a hearing may base their demonstration and proof on business data, experienced persons and mathematical calculations. Expert testimony shall not be required of any party but may be provided at the option of a party.

D. The department shall not grant an application:

(1) for a certificate for ambulance service, or for amendment, lease or transfer of such a certificate, if it finds after hearing that the existing ambulance service is provided on a reasonably continuous and adequate basis in the territory in which the new service is sought or that the holder of the certificate or lessee providing the existing ambulance service in such territory is willing and able to provide, and does subsequently provide, reasonably continuous and adequate service within such territory, as specified by department order;

(2) for a new certificate for general taxicab service within the full-service territory of a protesting municipal taxicab service carrier; or

(3) for a certificate for any passenger service other than those identified in Paragraphs (1) and (2) of this subsection, or for amendment, lease or transfer of such a certificate, within a protesting full-service carrier's full-service territory, if it finds after hearing that the grant of the application presents a reasonable potential to impair, diminish or otherwise adversely affect the existing provision of full-service passenger service to the public in the full-service territory or if the application is otherwise contrary to the public interest in the full-service territory. In considering the potential effect on provision of transportation services to the public in regard to such an application, the department shall consider all evidence presented pertaining to such potential effect, including evidence of the effect that diversion of revenue or traffic may have on the provision of full-service passenger service to the community. Diversion of revenue or traffic from an existing motor carrier shall not, however, be sufficient grounds for denying the application without a showing that the diversion presents a reasonable potential to affect the provision of full-service passenger service to the community."

## **Chapter 100 Section 41 Laws 2023**

SECTION 41. Section 65-2A-14 NMSA 1978 (being Laws 2003, Chapter 359, Section 14, as amended by Laws 2013, Chapter 73, Section 13 and by Laws 2013, Chapter 77, Section 13) is amended to read:

"65-2A-14. CHANGES IN CERTIFICATES.--

A. A change in a certificate shall not be valid or effective without the approval of the department.

B. The department may, for good cause and after notice and public hearing requirements are met, authorize the following changes in all or part of a certificate at the request of the holder if the department finds:

(1) that the applicant for amendment, lease or transfer of a certificate for passenger service meets the requirements pursuant to Section 65-2A-8 NMSA 1978 for a certificate for such passenger service;

(2) that the applicant for amendment, lease or a transfer of a certificate for household goods service meets the requirements pursuant to Section 65-2A-9 NMSA 1978 for a certificate for such household goods service; and

(3) in addition, that:

(a) for transfer or lease of all or part of a certificate, the transferor-applicant has rendered reasonably continuous and adequate service in the territory to be transferred or leased prior to the application for lease or transfer; and

(b) for transfer of all or a part of a certificate, accrued taxes, rents, wages of employees and other indebtedness pertaining to all or part of a certificate proposed to be transferred have been paid by the transferor-applicant or assumed by the transferee-applicant.

C. The department may, without notice or a public hearing, authorize the following changes in all or part of a certificate at the request of the holder:

(1) voluntary cancellation of the certificate;

(2) voluntary suspension of the certificate for a period not to exceed twelve consecutive months;

(3) change in the form of legal entity or name of the holder of the certificate;

(4) reinstatement of the certificate following voluntary suspension of a period not exceeding twelve consecutive months;

(5) change in control of a holder of the certificate through issuance or transfer of stock or other legal interest in a holder that is a corporation, partnership, trust or other legal business entity; and

(6) matters pertaining to transfers by operation of law."

## **Chapter 100 Section 42 Laws 2023**

SECTION 42. Section 65-2A-15 NMSA 1978 (being Laws 2003, Chapter 359, Section 15, as amended by Laws 2013, Chapter 73, Section 14 and by Laws 2013, Chapter 77, Section 14) is amended to read:

"65-2A-15. MULTIPLE OPERATING AUTHORITIES AND BUSINESS TRADE NAMES ALLOWED.--

- A. A person may simultaneously hold certificates for different kinds of certificated services and warrants for different kinds of warranted service within the same territory.
- B. Any motor carrier that holds more than one certificate for the same kind and nature of certificated service in the same territory shall file an application with the department to consolidate the operating authorities.
- C. The department shall not grant any new operating authority to a motor carrier that duplicates the operating authority of the same kind and for the same territory already held by that motor carrier.
- D. Certificated service carriers holding both a certificate and warrant for related services may use the same vehicles and may transport passengers and property, or mixed loads of household goods and property, pursuant to those authorities in the same vehicles and on the same trip.
- E. Every certificated or warranted service carrier shall file with the traffic safety bureau of the department all business trade names under which the carrier operates its service or services authorized and shall provide the traffic safety bureau of the department with proof of financial responsibility for all business trade names in addition to its legal name. The department shall accept business trade names as submitted by a carrier. Filing with the traffic safety bureau of the department shall not, by itself, establish or otherwise affect the ownership or right to use a business trade name under the intellectual property laws of the state of New Mexico."

## **Chapter 100 Section 43 Laws 2023**

SECTION 43. Section 65-2A-16 NMSA 1978 (being Laws 2003, Chapter 359, Section 16, as amended) is amended to read:

"65-2A-16. INTERSTATE MOTOR CARRIERS.--

- A. Foreign and domestic motor carriers, motor private carriers, leasing companies, brokers and freight forwarders shall not operate in interstate commerce in this state without first registering with a base state and paying all fees as required under

the federal Unified Carrier Registration Act of 2005. The department is authorized to register applicants and collect all fees without notice or a public hearing.

B. The department is authorized to follow rules and collect fee assessments set by the federal secretary of transportation from foreign and domestic motor carriers, motor private carriers, leasing companies, brokers and freight forwarders and do all things necessary to enable New Mexico to participate in the federal unified carrier registration system pursuant to the federal Unified Carrier Registration Act of 2005, including the collection of an equal amount of revenue as was collected by the department in the last registration year under Section 4005 of the federal Intermodal Surface Transportation Efficiency Act of 1991 and the collection of an equal amount of revenue annually from all other sources allowed under the federal Unified Carrier Registration Act of 2005 in the last year that such collections were not prohibited by federal law.

C. The department is the state agency in New Mexico responsible for operation of the federal Unified Carrier Registration Act of 2005, including participating in the development, implementation and administration of the unified carrier registration agreement. The department is authorized to follow rules governing the unified carrier registration agreement issued under the unified carrier registration plan by its board of directors.

D. Revenue remitted to the state from fees imposed by the federal Unified Carrier Registration Act of 2005 shall be remitted to the state treasurer, who shall deposit the revenue in the motor transportation fee fund.

E. Compliance by an interstate motor carrier with the provisions of the federal Unified Carrier Registration Act of 2005 shall not authorize a carrier to provide intrastate transportation services in New Mexico. An interstate motor carrier wishing to provide compensated transportation in intrastate commerce shall apply for the appropriate intrastate operating authority from the department. A taxicab service or shuttle service traveling to or from a federally licensed airport terminal facility located in the state of New Mexico is engaged in nonexempt intrastate business within the state regardless of a prior exemption if its service provides, with regard to any service run, for both:

(1) initiation of the transportation of one or more passengers within this state; and

(2) delivery to a departure point within this state of one or more passengers whose transportation on that service run was initiated at a point within this state."

## Chapter 100 Section 44 Laws 2023

SECTION 44. Section 65-2A-18 NMSA 1978 (being Laws 2003, Chapter 359, Section 18, as amended by Laws 2013, Chapter 73, Section 16 and by Laws 2013, Chapter 77, Section 16) is amended to read:

"65-2A-18. FINANCIAL RESPONSIBILITY.--

- A. The department shall prescribe minimum requirements for financial responsibility for all motor carriers.
- B. A motor carrier shall not operate on the highways of this state without having filed with the department proof of financial responsibility in the form and amount as the department shall by rule prescribe.
- C. In prescribing minimum requirements for financial responsibility for motor carriers, the department shall adopt the same minimum liability insurance requirements as those required by the federal motor carrier safety administration for interstate motor carriers for all motor vehicles for carriage of property or household goods and for all passenger motor vehicles with such capacities. The department shall adopt reasonable minimum liability insurance requirements for the use of passenger motor vehicles with capacities less than those regulated by the federal motor carrier safety administration and in doing so shall consider the number of passengers being transported and the nature of the transportation services provided by the motor carriers using vehicles of those capacities.
- D. The department may authorize a motor carrier to carry its own insurance in lieu of filing a policy of insurance, certificate showing the issuance of a policy of insurance or a surety bond. In approving an application to be self-insured, the department shall consider:
- (1) the financial stability of the carrier;
  - (2) previous loss history of the carrier;
  - (3) the safety record of the carrier;
  - (4) the size, nature of operations and other operating characteristics of the carrier; and
  - (5) other factors necessary for the protection of passengers, shippers and the public.
- E. Notwithstanding any requirement of the New Mexico Insurance Code to the contrary, the department may accept proof of public liability insurance from an insurer not authorized in New Mexico if:

(1) the insurance is for an interstate motor carrier transporting commodities exempt from regulation by the federal motor carrier safety administration participating in the unified carrier registration system for those motor carriers; and

(2) the insurer is authorized to write public liability insurance in at least one other state.

F. All motor carriers shall carry proof of financial responsibility in each motor vehicle they operate in this state."

## **Chapter 100 Section 45 Laws 2023**

SECTION 45. Section 65-2A-19 NMSA 1978 (being Laws 2003, Chapter 359, Section 19, as amended) is amended to read:

"65-2A-19. SAFETY REQUIREMENTS FOR MOTOR VEHICLES AND DRIVERS.--

A. A motor carrier shall provide safe and adequate service, equipment and facilities for the rendition of transportation services in this state.

B. The department shall prescribe safety requirements for drivers and for motor vehicles weighing twenty-six thousand pounds or less or carrying fifteen or fewer persons, including the driver, used by intrastate motor carriers operating in this state. The department may prescribe additional requirements related to safety, including driver safety training programs, vehicle preventive maintenance programs, inquiries regarding the safety of the motor vehicles and drivers employed by a motor carrier, and the appropriateness of the motor vehicles and equipment for the transportation services to be provided by the motor carrier.

C. The New Mexico state police division of the department of public safety may immediately order, without notice or a public hearing, a motor vehicle to be taken out of service for violation of a federal or state law or rule relating to safety if the violation would endanger the public health or safety.

D. The department shall implement rules requiring carriers to obtain criminal background reports for all employed or contract drivers of certificated service carriers and for all other persons employed by certificated household goods service carriers who enter private dwellings in the course of household goods service."

## **Chapter 100 Section 46 Laws 2023**

SECTION 46. Section 65-2A-20 NMSA 1978 (being Laws 2003, Chapter 359, Section 20, as amended by Laws 2013, Chapter 73, Section 18 and by Laws 2013, Chapter 77, Section 18) is amended to read:

"65-2A-20. TARIFFS.--

A. A tariffed service carrier shall not commence operations or perform a new service under its operating authority without having an approved tariff on file with the department.

B. A tariffed service carrier shall file with the department proposed tariffs showing the rates for transportation and all related activities and containing a description of the type and nature of the service, territory and all terms of service for transportation and related services. The rates shall be stated in terms of United States currency. Tariffs for individual carriers shall also include the carrier's legal name, all business trade names used by the carrier, contact information, information for service of process, the territory authorized for each transportation service listed in the tariff and any terms of service contained in the operating authorities for that particular carrier. Each tariffed service carrier operating pursuant to a statewide tariff shall file with the department a tariff statement referencing the statewide tariff being used and include the carrier's legal name, all business trade names used by the carrier, contact information, information for service of process, the territory authorized for that carrier and any terms of service contained in the operating authority for that particular carrier.

C. A tariffed service carrier shall not charge, or permit its agents, employees or contract drivers to charge, a different or additional rate, or to use different or additional practices or terms of service, for transportation or for a service rendered to or for the user of the service other than the rates and terms of service specified in approved tariffs in effect at the time, except:

(1) for ambulance and household goods service carriers, in accordance with rates and terms of service established by federal or state law for federal or state governmental programs or operations; and

(2) for tariffed passenger service carriers other than ambulance service carriers, in accordance with the rates and terms of service established by governmental programs or operations in which they voluntarily participate.

D. A tariffed service carrier shall not pay or refund, directly or indirectly to any person, a portion of the rate specified in its approved tariff, offer to a person privileges or facilities, perform a service or remit anything of value, except:

(1) in accordance with tariffs approved by the department;

(2) for ambulance and household goods service carriers, in accordance with rates and terms of service established by federal and state law for federal and state governmental entities, programs or operations;

(3) for tariffed passenger service carriers other than ambulance service carriers, in accordance with the rates and terms of service established by governmental programs or operations in which they voluntarily participate; or

(4) in settling or resolving a claim by a customer.

E. The department shall post on its internet website electronic copies of all currently approved individual and statewide tariffs, and all tariff statements filed by carriers using statewide tariffs, in a manner to facilitate public access, review and comparison of rates and terms of service. A certificated passenger service carrier other than an ambulance service carrier shall post its tariff rates in each vehicle used in the provision of its transportation service.

F. A tariffed service carrier shall file an application with the department for any change in the tariff, accompanied by the proposed tariff, at least twenty days prior to implementation of the amended rates and terms of service contained in the tariff. Except as provided in this section, an amended tariff shall be approved and become effective twenty days after filing of the application for a change in the tariff. The department shall post notice of each application for a change in a tariff along with a copy of the proposed tariff on the department website.

G. No changes in terms of service disapproved by the traffic safety bureau of the department as inconsistent with the Motor Carrier Act, rule of the department, the individual operating authority of the carrier or otherwise in violation of law shall become effective or be part of the approved tariff. The following terms of service contained in a tariff shall not be considered inconsistent with, or predatory or discriminatory in nature under the Motor Carrier Act or department rule:

(1) a carrier may decline or terminate service under circumstances that reasonably appear to present a physical danger to the driver, to another employee of the carrier or to passengers or, for carriers other than ambulance service carriers, a danger to the condition of the motor vehicle or cargo;

(2) a carrier is not responsible for cancellations or delays due to weather or road conditions when reasonably required for safety or when due to road construction, road closures, law enforcement stops or similar matters beyond the control of the carrier;

(3) a passenger service carrier may require that all firearms carried by any passenger other than an authorized law enforcement officer be unloaded and placed in a locked area of the vehicle during transport, along with all ammunition and any other weapons; or

(4) a passenger service carrier other than an ambulance service carrier may decline or terminate service when the passenger cannot give an adequate

description of, or direction to, the destination or cannot transfer into or out of the motor vehicle without requiring physical assistance from the driver.

H. An application for amendment of tariff rates that increases any tariff rate to a level greater than that previously approved by the department for a full-service carrier or a towing service providing nonconsensual tows shall not become effective until approved by the department as reasonable under Section 65-2A-21 NMSA 1978. The department shall hold a hearing appropriate to the type of transportation service provided by the carrier for any such application, if requested by the applicant or by the traffic safety bureau of the department, or if ordered in the discretion of the department. The department may provide for reasonable periodic rate increases for full-service carriers or towing services providing nonconsensual tows pursuant to a rate escalator or adjustment clause for any or all rates of a carrier on such basis as the department finds reasonable.

I. A person may make a complaint in writing to the department that a rate or term of service contained in a tariff, or a rate otherwise charged or practice otherwise effected, is inconsistent with or in violation of the Motor Carrier Act, department rule or the operating authority or current tariff of the motor carrier. The department may suspend the operation of a rate, term of service or practice for a period not to exceed sixty days to investigate its reasonableness. If the department finds that a rate charged by a tariffed carrier, or a term of service or practice effected by a tariffed carrier, is unauthorized, predatory or discriminatory, the department shall prescribe the rate or the maximum or minimum rate to be observed or the terms of service to be made effective."

## **Chapter 100 Section 47 Laws 2023**

SECTION 47. Section 65-2A-21 NMSA 1978 (being Laws 2003, Chapter 359, Section 21, as amended by Laws 2013, Chapter 73, Section 19 and by Laws 2013, Chapter 77, Section 19) is amended to read:

"65-2A-21. RATES.--

A. Tariffed service carriers shall observe nonpredatory and nondiscriminatory rates and terms of service for the transportation services they provide. A predatory or discriminatory charge for service is unlawful.

B. Reduced rates for minor children accompanied by an adult, for students traveling between their homes and their schools and for persons sixty-five years of age or older shall not be considered discriminatory. A motor carrier shall not furnish free transportation to persons except to bona fide owners, officers, employees or other business personnel of the motor carrier and their dependents.

C. Towing services performing nonconsensual tows may charge rates lower than the rates in their approved tariff to members of not-for-profit motor clubs after those rates have been filed with the department.

D. A household goods service carrier shall establish and observe nonpredatory and nondiscriminatory rates and practices relating to the manner and method of presenting, marking, packing and delivering household goods for transportation and other matters relating to the transportation of household goods.

E. In proceedings to determine the reasonableness of rates, the department shall authorize revenue levels that are adequate under honest, economical and efficient management to cover total operating expenses, including the operation of leased motor vehicles, and depreciation, plus a reasonable profit. The rules adopted by the department to implement this section shall allow a carrier to achieve revenue levels that will provide a flow of net income, plus depreciation, adequate to support prudent capital outlays, ensure the repayment of a reasonable level of debt, permit the raising of needed equity capital and attract and retain capital in amounts adequate to provide a sound motor carrier transportation system in the state."

### **Chapter 100 Section 48 Laws 2023**

SECTION 48. Section 65-2A-22 NMSA 1978 (being Laws 2003, Chapter 359, Section 22, as amended by Laws 2013, Chapter 73, Section 20 and by Laws 2013, Chapter 77, Section 20) is amended to read:

"65-2A-22. TIME SCHEDULES.--

A. A scheduled shuttle service carrier shall file a proposed time schedule with its tariff and shall file any change in its schedule through an amended tariff.

B. Failure by a scheduled shuttle service carrier to operate the service on each day pursuant to department rule as scheduled in its tariff shall result in an appropriate penalty as the department, in its discretion, shall determine.

C. A time schedule shall not be designed to require the operation of a motor vehicle between given terminals or terminal areas at a rate of speed greater than the maximum speed allowed."

### **Chapter 100 Section 49 Laws 2023**

SECTION 49. Section 65-2A-23 NMSA 1978 (being Laws 2003, Chapter 359, Section 23, as amended by Laws 2013, Chapter 73, Section 21 and by Laws 2013, Chapter 77, Section 21) is amended to read:

"65-2A-23. MOTOR CARRIER ORGANIZATIONS.--

A. A tariffed service carrier may enter into discussions with another tariffed service carrier to establish a motor carrier organization. The organization shall obtain authorization from the department before its members enter into any discussions concerning the rates contained in a statewide tariff. The department may authorize the

creation of a motor carrier organization to discuss and promote industry matters, other than the rates of individual carriers, if the organization:

(1) allows any intrastate motor carrier authorized to provide the same type of service to become a member of the organization and allows a member carrier to discuss matters before the organization and to vote upon any proposal;

(2) does not interfere with a member carrier's right to establish its own tariff and does not change or cancel an independently established tariff;

(3) does not file an objection, protest or complaint with the department against a tariff item independently published by or for the account of a member carrier;

(4) does not permit its employees or an employee committee to file or act upon a proposal effecting a change in a tariff item published by or for the account of a member carrier; and

(5) proposes matters concerning statewide tariffs for approval by the department.

B. A member carrier of the organization shall file with the department information as the department may by rule prescribe.

C. A motor carrier organization approved by the department pursuant to this section shall be subject to accounting, recordkeeping, reporting and inspection requirements as the department may by rule prescribe.

D. The department may, upon complaint or upon its own initiative, investigate and determine whether a motor carrier organization previously authorized by it is not in conformity with the requirements of this section or with the terms and conditions upon which the motor carrier organization was granted authorization. The department may modify or terminate its authorization of a motor carrier organization found to be noncompliant with the requirements of this rule.

E. The antitrust laws of the state shall not apply to discussions concerning general industry matters, terms of service or any matters concerning a statewide tariff, including the rates contained in a statewide tariff, by member carriers of a motor carrier organization authorized by the department."

## **Chapter 100 Section 50 Laws 2023**

SECTION 50. Section 65-2A-24 NMSA 1978 (being Laws 2003, Chapter 359, Section 24, as amended by Laws 2013, Chapter 73, Section 22 and by Laws 2013, Chapter 77, Section 22) is amended to read:

"65-2A-24. MOTOR VEHICLE LEASES--DRIVER CONTRACTS.--

A. An intrastate motor carrier shall not lease a motor vehicle or operate a leased motor vehicle in the course of its transportation service except as provided by department rule. The department may approve a motor vehicle lease without notice or a public hearing.

B. A motor carrier may use employed or contract drivers or taxicab association member drivers in the provision of a transportation service. Regardless of the provisions of any written or oral agreement between a motor carrier and a contract driver or taxicab association member driver, motor carriers providing transportation services that use contract drivers or taxicab association member drivers remain fully responsible to the department for complying with all provisions of the Motor Carrier Act and department rules applicable to transportation service carriers.

C. Motor carriers providing intrastate transportation services that use contract drivers or taxicab association member drivers shall maintain, at their principal places of business within the state, a current written agreement with each such driver. No agreement with any contract driver or taxicab association member driver shall contain any provision contrary to a provision of the Motor Carrier Act or a rule of the department. Each written agreement shall contain a clause that requires the contract driver or taxicab association member driver to adhere to all provisions of the Motor Carrier Act and to all department rules applicable to transportation service carriers."

## **Chapter 100 Section 51 Laws 2023**

SECTION 51. Section 65-2A-25 NMSA 1978 (being Laws 2003, Chapter 359, Section 25, as amended by Laws 2013, Chapter 73, Section 23 and by Laws 2013, Chapter 77, Section 23) is amended to read:

"65-2A-25. HOUSEHOLD GOODS OPERATIONS.--

A. The department shall establish a statewide tariff for household goods services, containing terms of service and maximum rates that household goods service carriers may charge the public.

B. A certificated household goods service carrier shall be responsible for acts or omissions of its agents that relate to the performance of household goods transportation services, including accessorial or terminal services, that are within the actual or apparent authority of the agent derived from or ratified by the certificated household goods service carrier.

C. A certificated household goods service carrier shall use reasonable care in selecting and retaining household goods agents who are sufficiently knowledgeable, fit, willing and able to provide adequate household goods transportation services, including accessorial and terminal services, and to fulfill the obligations imposed upon them by the Motor Carrier Act and by the certificated household goods service carrier.

D. If the department has reason to believe from a complaint or investigation that a household goods agent has violated Subsection G or H of Section 65-2A-33 NMSA 1978, or is consistently unfit, unwilling or unable to provide adequate household goods transportation services, including accessorial and terminal services, the department may issue to that household goods agent notice of the complaint, specific charges and the time and place for a hearing on the complaint. The hearing shall be held no later than sixty days after service of the complaint to the household goods agent. The household goods agent has the right to appear at the hearing and rebut the charges contained in the complaint.

E. If the household goods agent does not appear at the complaint hearing, or if the department finds that the household goods agent has violated Subsection G or H of Section 65-2A-33 NMSA 1978, or is consistently unfit, unwilling or unable to provide adequate household goods transportation services, including accessorial and terminal services, the department shall issue an order to compel compliance by the household goods agent. Thereafter, the department may issue an order to limit or prohibit the household goods agent from any involvement in the provision of household goods transportation services if, after notice and an opportunity to be heard, it finds that the household goods agent has failed to comply with the order within a reasonable time after the date of its issuance, but in no event less than thirty days after its issuance. A household goods agent may file a petition with the department seeking reconsideration of an order entered by the department pursuant to this section.

F. The department shall adopt rules for the following elements of household goods transportation services:

- (1) methods of determining shipping charges;
- (2) cost estimates, for which charges shall be subject to the antitrust laws of this state;
- (3) inventory;
- (4) weighing;
- (5) receipts and bills of lading;
- (6) liability based on value established between the motor carrier and the shipper;
- (7) equipment stationing by, and joint transportation between, household goods service carriers;
- (8) household goods agents; and
- (9) service standards.

G. In adopting reasonable rules for intrastate household goods service carriers, the department shall balance the interests of shippers and carriers and consider and observe industry standards.

H. The antitrust laws shall not apply to discussions or agreements between a household goods service carrier and its authorized agents, whether or not an agent is also a household goods service carrier when related solely to:

(1) rates for the transportation of household goods under the authority of the principal carrier;

(2) accessorial, terminal, storage or other charges for transportation services incidental to the transportation of household goods transported under the authority of the principal carrier;

(3) allowances relating to transportation of household goods under the authority of the principal carrier; or

(4) ownership of a household goods service carrier by an agent or membership on the board of directors of any household goods service carrier by an agent."

## **Chapter 100 Section 52 Laws 2023**

SECTION 52. Section 65-2A-26 NMSA 1978 (being Laws 2003, Chapter 359, Section 26, as amended by Laws 2013, Chapter 73, Section 24 and by Laws 2013, Chapter 77, Section 24) is amended to read:

"65-2A-26. HOUSEHOLD GOODS VOLUNTARY DISPUTE SETTLEMENT PROGRAM.--

A. The department shall establish a program to settle disputes, at the voluntary option of the shipper, between shippers and all household goods service carriers concerning the transportation of household goods, which shall be a fair and expeditious method for settling disputes and complies with each of the following requirements and rules the department may prescribe:

(1) the program is designed to prevent a household goods service carrier from having any special advantage in a case in which the shipper resides or does business at a place distant from the motor carrier's place of business;

(2) the program provides adequate notice of its availability, including a concise, understandable and accurate summary of the program and disclosure of the legal effects of using the program. The notice shall be given to the shipper before the shipper tenders the household goods to the motor carrier for transportation;

(3) upon request of a shipper, the motor carrier shall promptly provide forms and other information necessary to initiate an action to resolve a dispute under the program;

(4) a person authorized pursuant to the program to settle disputes shall be independent of the parties to the dispute and shall be capable, as determined by rules prescribed by the department, to resolve disputes fairly and expeditiously. The program shall ensure that a person chosen to settle a dispute is authorized and able to obtain from the shipper or motor carrier any material and relevant information necessary to carry out a fair and expeditious decision-making process;

(5) the person settling the dispute may charge the shipper a fee of not more than twenty-five dollars (\$25.00) for instituting a proceeding under the program if the program is binding solely on the carrier, but shall not charge the shipper a fee otherwise. The person settling the dispute shall refund the fee to the shipper in a case in which the dispute is settled in favor of the shipper, unless the person settling the dispute determines that the refund is inappropriate;

(6) the program shall not require the shipper to agree to use the dispute settlement program prior to the time that a dispute arises;

(7) the program may provide for an oral presentation of a dispute concerning transportation of household goods by a party to the dispute or a party's representative, but an oral presentation shall not be made unless the parties to the dispute expressly agree to the presentation and the date, time and location of the presentation; and

(8) a person settling a dispute under the program shall, as expeditiously as possible, but no later than sixty days after receipt of written notification of the dispute, render a decision based on the information gathered; except that, in a case in which a party to the dispute fails to timely provide information that the person settling the dispute may reasonably require, the person settling the dispute may extend the sixty-day period for a reasonable period of time. A decision resolving a dispute may include remedies appropriate under the circumstances, including repair, replacement, refund or reimbursement for expenses and compensation for damages.

B. The department may investigate at any time the functioning of the program approved under this section and may, after notice and an opportunity to be heard, take appropriate action against any household goods service carrier for failure to meet the requirements of this section and rules as the department may prescribe.

C. In a court action to resolve a dispute between a shipper and a household goods service carrier, concerning the transportation of household goods by the carrier, the shipper shall be awarded reasonable attorney fees if:

(1) the shipper submits a claim to the carrier within one hundred twenty days after the date the shipment is delivered or the date delivery is scheduled, whichever is later;

(2) the shipper prevails in the court action; and

(3) a decision resolving the dispute was not rendered under the dispute settlement program within sixty days or an extension of the sixty-day period; or

(4) the court proceeding is to enforce a decision rendered under the dispute settlement program and is instituted after the period for performance under the decision has elapsed.

D. In a court action to resolve a dispute between a shipper and a household goods service carrier concerning the transportation of household goods by the carrier, the carrier shall be awarded reasonable attorney fees by the court only if the shipper brought the action in bad faith:

(1) after resolution of the dispute under the dispute settlement program;  
or

(2) after institution of a proceeding by the shipper to resolve the dispute under the dispute settlement program and before:

(a) the expiration of the sixty-day period or extension of the sixty-day period for resolution of the dispute; and

(b) a decision resolving the dispute is rendered under the program."

## **Chapter 100 Section 53 Laws 2023**

SECTION 53. Section 65-2A-27 NMSA 1978 (being Laws 2003, Chapter 359, Section 27, as amended by Laws 2013, Chapter 73, Section 25 and by Laws 2013, Chapter 77, Section 25) is amended to read:

### **"65-2A-27. INVOLUNTARY SUSPENSION, REVOCATION OR AMENDMENT OF OPERATING AUTHORITIES--REINSTATEMENT.--**

A. The department shall immediately suspend, without notice or a public hearing, the operating authority of a motor carrier for failure to continuously maintain the forms and amounts of financial responsibility prescribed by department rule.

B. The department may immediately suspend, without notice or a public hearing, the operating authority of a motor carrier for violation of a safety requirement of the Motor Carrier Act, the department's rules or the rules of the New Mexico state police

division of the department of public safety, if the violation endangers the public health or safety.

C. The department may, upon complaint or the department's own initiative and after notice and a public hearing, if required, order involuntary suspension, revocation or amendment, in whole or in part, of an operating authority for failure to:

- (1) comply with a provision of the Motor Carrier Act;
- (2) comply with a lawful order or rule of the department;
- (3) comply with a term of service of an operating authority or tariff; or
- (4) render reasonably continuous and adequate service under a certificate.

D. The department may approve an application for reinstatement of an operating authority following involuntary suspension if it finds, after notice and public hearing requirements are met, that:

- (1) the reasons for the involuntary suspension no longer pertain; and
- (2) the holder of the operating authority is fit, and a certificate holder is able, to provide the authorized transportation services, and the holder will comply with the Motor Carrier Act and the rules of the department."

## **Chapter 100 Section 54 Laws 2023**

SECTION 54. Section 65-2A-28 NMSA 1978 (being Laws 2003, Chapter 359, Section 28, as amended by Laws 2013, Chapter 73, Section 26 and by Laws 2013, Chapter 77, Section 26) is amended to read:

"65-2A-28. DESIGNATION OF AN AGENT FOR SERVICE OF PROCESS.--

A. An applicant for an operating authority shall file with the department an appointment in writing of a resident agent for service of process. The appointment shall specify the address of the agent and shall stipulate that service upon the appointed agent of process of the department or of a court shall have the same force and effect as if service had been made personally upon the motor carrier within this state. The appointment shall continue in force until the motor carrier files an appointment of a substitute agent or until liability against the motor carrier growing out of its operations in the state has terminated. A copy of the appointment, duly certified by the department, shall be accepted as sufficient evidence of appointment of an agent in a court of the state.

B. If the holder of an operating authority from the department operates without appointing a resident agent for service of process, or the department has unsuccessfully attempted to serve process upon the designated resident agent, the holder shall be deemed to have appointed the secretary of state as its resident agent for service of process in an action or proceeding against the motor carrier growing out of an accident, collision or transaction in which the motor carrier may be involved by operating in this state.

C. If the secretary of state is served with process directed to the holder of an operating authority from the department, the secretary of state shall forward the process by certified mail to the motor carrier at the address shown on its last change of address report, annual report or application with respect to its operating authority, whichever is most recent. The secretary of state shall file a certificate of service with the department, which shall be accepted as prima facie proof of service.

D. The secretary of state shall assess to the motor carrier the fee prescribed in Section 65-2A-36 NMSA 1978 for a process from a court served upon the secretary of state but shall not charge a fee for service of department process.

E. The principal motor carrier of a household goods agent shall be deemed to be the agent for service of process of the household goods agent unless the household goods agent notifies the department in writing of the substitution of another agent for service of process."

## **Chapter 100 Section 55 Laws 2023**

SECTION 55. Section 65-2A-29 NMSA 1978 (being Laws 2003, Chapter 359, Section 29, as amended by Laws 2013, Chapter 73, Section 27 and by Laws 2013, Chapter 77, Section 27) is amended to read:

### **"65-2A-29. REPORTS AND RECORDS.--**

A. The department shall establish reasonable requirements with respect to reports, records and uniform systems of accounts and preservation of records for motor carriers.

B. The department may require any holder of an operating authority from the department or any lessee of an authority to prepare and transmit to the department an annual report of its operations. The report shall be in the form, contain specific information, including financial information, and be due on a date as the department may by rule require. Financial data filed by motor carriers in annual reports shall not be made available for inspection by the public.

C. The department or its employees or duly authorized agents shall, at all times, have access to:

(1) land, buildings, improvements to real property and equipment of motor carriers used in connection with their operations; and

(2) records kept by motor carriers.

D. The department may, by order, require a motor carrier subject to the Motor Carrier Act, or its officers or agents, to produce within this state at such reasonable time and place as it may designate, original or certified copies of records regardless of where they are kept by the motor carrier when their production is pertinent to a matter before the department, in order that the department may examine them. No trade secret or business confidentiality immunity or privilege may be asserted by the motor carrier in response to such an order or request; provided that nothing in this provision shall prevent a carrier from moving for, or the department from entering, an appropriate protective order to preserve the carrier's trade secrets or business confidentiality from further disclosure, nor shall this provision or any production required under this provision waive or diminish the carrier's trade secret or business confidentiality immunity or privilege as to persons other than the department.

E. The New Mexico state police division of the department of public safety shall furnish to the department all information needed or required by the department to carry out its responsibilities when the information is obtainable only through field enforcement.

F. All applications, protests, objections, amendments to filings, operating authorities, tariffs, pleadings or any other documents filed in docketed proceedings not subject to confidentiality orders are public records and shall, as soon as practical, be made electronically available to the public."

## **Chapter 100 Section 56 Laws 2023**

SECTION 56. Section 65-2A-30 NMSA 1978 (being Laws 2003, Chapter 359, Section 30, as amended by Laws 2013, Chapter 73, Section 28 and by Laws 2013, Chapter 77, Section 28) is amended to read:

"65-2A-30. UNAUTHORIZED CARRYING OF PERSONS PROHIBITED.--Except in the case of an emergency, a transportation service carrier not authorized to transport passengers shall not carry a passenger, including a hitchhiker, except on-duty employees of the motor carrier or department representatives on official business in a vehicle used in the provision of transportation service under its operating authority."

## **Chapter 100 Section 57 Laws 2023**

SECTION 57. Section 65-2A-31 NMSA 1978 (being Laws 2003, Chapter 359, Section 31) is amended to read:

"65-2A-31. WITNESSES--SUBPOENAS--SERVICE OF PROCESS.--

A. If the department orders a person to appear before it, the department shall compensate the witness one full day's per diem plus mileage as provided for employees in the Per Diem and Mileage Act. The state shall pay such compensation out of the motor transportation fee fund pursuant to rules of the department of finance and administration. Witnesses subpoenaed by parties other than the department shall be paid the same compensation by the party issuing the subpoena.

B. A person shall not be excused from testifying or producing documentary evidence before the department or a court in obedience to a subpoena of the department issued pursuant to the Motor Carrier Act on the ground that the testimony or documentary evidence required of the person may tend to incriminate the person or subject the person to a penalty. A person shall not be prosecuted or subjected to a penalty for a transaction or matter about which the person may be required to testify or produce documentary evidence; provided that a person testifying shall not be exempt from prosecution and punishment for perjury committed in testifying. A person shall not be required to testify or produce documentary evidence in response to an inquiry not pertinent to a question lawfully before the department or court for determination.

C. Upon request of the department, a district court may issue a writ of attachment to a person who fails to comply with a subpoena issued by the department compelling the person to comply with the subpoena. The court shall have the power to punish for contempt in the same manner as for disobedience of a subpoena issued by the court.

D. The department may administer an oath, certify to an official act, issue a subpoena and compel the attendance of a witness and the production of evidence in hearings before the department for the purposes provided in the Motor Carrier Act.

E. The department may issue and serve process on the person affected by delivering a copy of the process, signed by a member of the department, to the person or to an officer or agent of the person. An employee of the department, a duly authorized law enforcement officer or a person over the age of eighteen who is not a party to the proceeding may serve process and shall return a copy of the process served, with an endorsement of service, to the department. The endorsed process shall be entered into the record of the proceeding and shall be prima facie evidence that the process was duly served.

F. The department may in writing authorize an employee or other person to investigate and take testimony regarding a matter pending before the department."

## **Chapter 100 Section 58 Laws 2023**

SECTION 58. Section 65-2A-32 NMSA 1978 (being Laws 2003, Chapter 359, Section 32) is amended to read:

"65-2A-32. ADMINISTRATIVE PENALTIES.--

A. If the department finds after investigation that a provision of the Motor Carrier Act or an order or rule of the department is being, has been or is about to be violated, it may issue an order specifying the actual or proposed acts or omissions to act that constitute a violation and require that the violation be discontinued, rectified or prevented.

B. Notwithstanding the existence of any other penalties, the department may assess an administrative fine of not more than ten thousand dollars (\$10,000) for each violation of a provision of the Motor Carrier Act or of a lawful rule or order of the department. In case of a continuing violation, each day's violation shall be deemed to be a separate and distinct offense.

C. Notwithstanding the existence of other penalties, the department may assess an administrative fine of not more than ten thousand dollars (\$10,000) against a person knowingly using a motor carrier not properly authorized by the department.

D. All penalties accruing under the Motor Carrier Act shall be cumulative, and a suit for recovery of one penalty shall not be a bar to or affect the recovery of any other penalty or be a bar to any criminal prosecution under the Motor Carrier Act."

## **Chapter 100 Section 59 Laws 2023**

SECTION 59. Section 65-2A-33 NMSA 1978 (being Laws 2003, Chapter 359, Section 33, as amended by Laws 2013, Chapter 73, Section 29 and by Laws 2013, Chapter 77, Section 29) is amended to read:

"65-2A-33. CRIMINAL AND CIVIL PENALTIES--UNFAIR TRADE PRACTICES.--

A. A person who knowingly makes a false statement of material fact under oath or penalty of perjury in a department proceeding, whether orally or in writing, shall be guilty of perjury.

B. A person who willfully makes a false return of process or report to the department or an employee of the department, and a person who knowingly aids or abets a person who willfully makes a false return of process or report to the department or an employee of the department, shall be guilty of a felony, and upon conviction shall be imprisoned for not more than five years.

C. A person who willfully makes a false entry in records required by the Motor Carrier Act or the rules of the department, willfully destroys, mutilates or by other means willfully falsifies the records or willfully neglects or fails to make full, true and correct entries of all facts, shall be guilty of a felony and upon conviction shall be imprisoned for not more than five years.

D. An employee of the department who divulges information about an inspection, examination or investigation of a record or of the property and facilities of a

motor carrier, except insofar as may be authorized by the department or a court of competent jurisdiction, shall be guilty of a misdemeanor and upon conviction shall be fined not more than one thousand dollars (\$1,000).

E. A person who violates or who procures, aids or abets in the violation of a provision of the Motor Carrier Act or a rule or order of the department shall be guilty of a misdemeanor and upon conviction shall be fined not more than one thousand dollars (\$1,000), imprisoned for not more than ninety days, or both.

F. A motor carrier shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars (\$500), imprisoned for not more than six months, or both, if the motor carrier:

- (1) refuses to permit examination of its records;
- (2) conceals, destroys or mutilates its records;
- (3) attempts to conceal, destroy or mutilate its records; or
- (4) removes its records beyond the limits of the state for the purpose of preventing examination.

G. A person who commits weight-bumping shall be guilty of a felony and upon conviction shall be fined not less than one thousand dollars (\$1,000) nor more than ten thousand dollars (\$10,000), imprisoned for not more than two years, or both.

H. A person shall be assessed a civil penalty of not more than two thousand dollars (\$2,000) for each violation and not more than five thousand dollars (\$5,000) for each subsequent violation if the person knowingly engages in or authorizes an agent or other person to:

- (1) falsify the documents used in the transportation of household goods that evidence the weight of shipment; or
- (2) charge for accessorial services that are not performed, or for which the carrier is not entitled to be compensated, in a case in which such services are not reasonably necessary for the safe and adequate transportation of the shipment.

I. A law enforcement officer of the state shall arrest and the district attorney and attorney general shall prosecute a violation of the Motor Carrier Act.

J. It is an unfair and deceptive trade practice under the Unfair Practices Act for any transportation service carrier to offer or provide transportation services of a type for which, or in any territory in which, it is not authorized to do so by the department. The attorney general or a person who has been damaged or who is likely to be damaged as the result of such unauthorized service, including a shipper, a passenger

or an authorized transportation service carrier, may bring an action pursuant to the Unfair Practices Act against the transportation service carrier regarding such unauthorized service. Any such civil action shall be in addition to, and shall not bar, any investigation or civil or criminal enforcement action regarding the unauthorized service available to the attorney general or a district attorney, or available to the department under the Motor Carrier Act.

K. It is an unfair and deceptive trade practice under the Unfair Practices Act for any transportation service carrier or its agent, employee or contract driver to charge or collect a predatory rate or to undertake a predatory practice in the provision of transportation services. The attorney general or a person who has been damaged or who is likely to be damaged as the result of a predatory rate or practice may bring an action pursuant to the Unfair Practices Act against the transportation service carrier regarding the predatory rate or practice. Any civil action shall be in addition to, and shall not bar, any investigation or civil or criminal enforcement action regarding the predatory rate or practice available to the attorney general or a district attorney, or available to the department under the Motor Carrier Act."

## **Chapter 100 Section 60 Laws 2023**

SECTION 60. Section 65-2A-34 NMSA 1978 (being Laws 2003, Chapter 359, Section 34) is amended to read:

"65-2A-34. ACTIONS TO ENFORCE DEPARTMENT ORDERS.--If a person fails to comply with an order of the department within the time prescribed in the order or within thirty days after the order is entered, whichever is later, unless a stay has been granted, the department shall seek enforcement of the order in the district court for Santa Fe county. The enforcement hearing shall be held on an expedited basis. At the hearing, the sole question shall be whether the person has failed to comply with the order."

## **Chapter 100 Section 61 Laws 2023**

SECTION 61. Section 65-2A-35 NMSA 1978 (being Laws 2003, Chapter 359, Section 35) is amended to read:

"65-2A-35. APPEAL TO SUPREME COURT.--

A. A motor carrier or other interested person aggrieved by a final order or determination of the department issued pursuant to the Motor Carrier Act may appeal to the supreme court within thirty days. The appellant shall pay to the department the costs of preparing and transmitting the record to the court.

B. The pendency of an appeal shall not automatically stay the order appealed from. The appellant may petition the department or the supreme court for a stay of the order.

C. The appeal shall be on the record of the hearing before the department and shall be governed by the appellate rules applicable to administrative appeals. The supreme court shall affirm the department's order unless it is:

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

## **Chapter 100 Section 62 Laws 2023**

SECTION 62. Section 65-2A-36 NMSA 1978 (being Laws 2003, Chapter 359, Section 36, as amended by Laws 2013, Chapter 73, Section 30 and by Laws 2013, Chapter 77, Section 30) is amended to read:

"65-2A-36. FEES.--

A. The department shall establish in rule reasonable fees:

- (1) for filing an application for a certificate or an application for an amendment of a certificate, or for any protest or permissive intervention in regard to such application;
- (2) for filing an application for a warrant;
- (3) for filing an application or motion for temporary authority;
- (4) for filing an application for a change in a tariff for a tariffed service carrier;
- (5) for filing an application for lease or transfer of a certificate, or for any protest or permissive intervention in regard to such application;
- (6) for filing an application for reinstatement of a certificate following voluntary or involuntary suspension;
- (7) for filing an application for voluntary suspension of a certificate;
- (8) for filing an application for a single trip ticket;
- (9) for filing a change in the legal name of any holder of an operating authority, or a change of business trade name or the addition or deletion of a business trade name of any holder or lessee of an operating authority;
- (10) for filing an equipment lease;

(11) for a miscellaneous filing;

(12) for certifying copies of a record, order or operating authority, the charge per page provided by law for governmental agencies;

(13) for copies of written department documents or records, the charge per page provided by law for governmental agencies, in addition to any applicable certification charge; and

(14) for copies of other department records, including electronic media, an amount set by the department, in addition to any applicable certification charge.

B. The fees established by the department pursuant to Subsection A of this section shall not exceed the actual cost of processing the application or providing the administrative service.

C. The secretary of state shall charge and collect a fee of four dollars (\$4.00) for each process from a court served upon the secretary of state as the designated agent for service of process by operation of law.

D. The "motor transportation fee fund" is created in the state treasury. The department shall collect all fees at the time an application is filed or service is provided, and shall remit them to the state treasurer, who shall deposit them in the fund. At the end of each month, the state treasurer shall transfer the unencumbered balance in the fund to the state road fund.

E. If a fee has been erroneously paid, the person having paid the fee may apply for a refund in writing to the department no later than sixty days after the erroneous payment. Upon approval of the application by the department, the amount erroneously paid shall be refunded from the motor transportation fee fund to the person who made the payment.

F. An application shall be fully completed within sixty days or the fee submitted with the application shall be forfeited to the state. If the applicant renews the application, the applicant shall pay the applicable fee."

## **Chapter 100 Section 63 Laws 2023**

SECTION 63. Section 65-2A-37 NMSA 1978 (being Laws 2003, Chapter 359, Section 37, as amended by Laws 2013, Chapter 73, Section 31 and by Laws 2013, Chapter 77, Section 31) is amended to read:

"65-2A-37. ELECTRONIC FILING AND CERTIFICATION OF DOCUMENTS--  
ELECTRONIC PAYMENT OF FEES.--

A. The department may adopt rules permitting the electronic filing, submission and service of documents by facsimile, electronic mail or other electronic transmission, including original documents, and the certification of electronically filed documents when filing or certification is required or permitted pursuant to the Motor Carrier Act. The rules shall provide for the appropriate treatment of electronic filings to satisfy requirements for original documents or copies and shall provide the requirements for signature with respect to electronic filings. If the department accepts electronic filing of a document, it may accept for filing a document containing a signature line, however made.

B. The department may accept a credit or debit card or other means of payment, in lieu of cash or check, as payment of a fee pursuant to the Motor Carrier Act. The department shall determine those credit or debit cards or other means of payment that may be accepted for payment."

## **Chapter 100 Section 64 Laws 2023**

SECTION 64. Section 65-5-3 NMSA 1978 (being Laws 1943, Chapter 125, Section 10, as amended) is amended to read:

"65-5-3. CLEARANCE CERTIFICATES--TYPES OF CARRIERS.--After inspection of the vehicle and related documentation and any necessary registration, clearance certificates or special permits may be issued by the department for:

A. commercial motor carrier vehicles operating in compliance with the provisions of the Motor Carrier Act when:

(1) all taxes and registration fees required by the laws of this state upon the vehicles and contents of the vehicles have been paid and all other laws and rules and regulations of departments of this state applicable to the vehicles and contents have been complied with; and

(2) the operator or owner of the vehicle is not in default or delinquent in the payment of any tax, the filing of any report or the observance of any requirements of the Motor Carrier Act;

B. commercial motor carrier vehicles classified and designated in law as exempt when:

(1) all taxes required by the laws of this state upon the contents of the vehicles have been paid and all other laws and rules and regulations of departments of this state applicable to the contents have been complied with; and

(2) the vehicles have been registered in this state or another state and evidence of registration, including proper display of registration plates, required by the laws of this state is provided;

C. commercial motor carrier vehicles not registered or licensed in this state that are transporting passengers for hire or property for hire or resale when:

(1) all taxes and registration fees required by the laws of this state upon the vehicles and contents of the vehicles have been paid and all other laws and rules and regulations of departments of this state applicable to the vehicles and contents have been complied with;

(2) the vehicle is properly covered by liability insurance in accordance with the provisions of the Motor Carrier Act and the rules of the department of transportation; and

(3) the trip tax has been fully paid; and

D. commercial motor carrier vehicles not registered or licensed in this state that are transporting property not for hire or resale when:

(1) all taxes required by the laws of this state upon the contents of the vehicles have been paid and all other laws, rules and regulations applicable to such contents have been complied with; and

(2) the trip tax has been fully paid."

## **Chapter 100 Section 65 Laws 2023**

SECTION 65. Section 65-6-1 NMSA 1978 (being Laws 1974, Chapter 82, Section 1) is amended to read:

"65-6-1. SHORT TITLE.--Chapter 65, Article 6 NMSA 1978 may be cited as the "Ambulance Standards Act"."

## **Chapter 100 Section 66 Laws 2023**

SECTION 66. Section 65-6-2 NMSA 1978 (being Laws 1974, Chapter 82, Section 2, as amended) is amended to read:

"65-6-2. DEFINITIONS.--As used in the Ambulance Standards Act:

A. "ambulance" means a vehicle, including motor vehicles or watercraft, designed and used or intended to be used for the transportation of sick or injured persons;

B. "attendant" means a person who, on a regular or irregular basis, either paid or voluntary, serves as an assistant to the driver in the operation of the ambulance;

C. "department" means the department of transportation; and

D. "driver" means a person who, on a regular or irregular basis, either paid or voluntary, serves as the operator of an ambulance."

## **Chapter 100 Section 67 Laws 2023**

SECTION 67. Section 65-6-4 NMSA 1978 (being Laws 1974, Chapter 82, Section 4) is amended to read:

"65-6-4. DEPARTMENT--DUTIES.--The department, in accordance with its responsibilities to regulate common carriers, shall hold public hearings as prescribed in the Motor Carrier Act and adopt rules:

A. for the establishment of reasonable, flexible standards for ambulances, including but not limited to:

- (1) vehicle design;
- (2) health and safety equipment to be maintained and used in ambulances;
- (3) procedures for the operation of ambulances; and
- (4) at least annual inspection of ambulances; and

B. for the licensure of all drivers and attendants, to include:

- (1) minimum training requirements to include basic and advanced red cross and such other available training as the department finds reasonable and in the best interests of the public; and
- (2) a written and practical examination of competence limited to that material, information and training required of drivers and attendants, respectively, in the rules adopted by the department.

In establishing standards for ambulances, the department shall give serious consideration to the vehicle needs and limitations imposed by the topography and road and weather conditions of various localities. Further, the department shall take into consideration the resources of the various communities, institutions and sponsoring organizations providing ambulance service to the public."

## **Chapter 100 Section 68 Laws 2023**

SECTION 68. Section 65-7-1 NMSA 1978 (being Laws 2016, Chapter 80, Section 1) is amended to read:

"65-7-1. SHORT TITLE.--Chapter 65, Article 7 NMSA 1978 may be cited as the "Transportation Network Company Services Act"."

### **Chapter 100 Section 69 Laws 2023**

SECTION 69. Section 65-7-4 NMSA 1978 (being Laws 2016, Chapter 80, Section 4) is amended to read:

"65-7-4. TRANSPORTATION NETWORK COMPANY PERMIT REQUIRED.--

A. A person shall not operate a transportation network company in New Mexico without first having obtained a permit from the department of transportation.

B. A permit issued to a transportation network company by the department of transportation shall be effective for one year.

C. The department of transportation shall issue a permit to a transportation network company that meets the requirements set forth in the Transportation Network Company Services Act and any rules adopted by the department pursuant to that act. The transportation network company shall pay an annual permit fee of ten thousand dollars (\$10,000) to the department."

### **Chapter 100 Section 70 Laws 2023**

SECTION 70. Section 65-7-13 NMSA 1978 (being Laws 2016, Chapter 80, Section 13) is amended to read:

"65-7-13. VEHICLE SAFETY.--

A. A transportation network company shall not allow a driver to be connected to potential passengers using the digital network or software application service of the transportation network company if the motor vehicle operated by the driver to provide transportation services:

(1) is not in compliance with all federal, state and local laws concerning the operation and maintenance of the motor vehicle;

(2) has fewer than four doors; or

(3) is designed to carry more than eight passengers, including the driver.

B. A transportation network company shall inspect or cause to be inspected every motor vehicle used by a driver to provide transportation services before allowing the driver to use the motor vehicle to provide prearranged rides and not less than once each year thereafter.

C. The department of transportation shall promulgate rules setting forth the requirements of annual inspection of a vehicle used by a transportation network company driver while logged on to a digital network or engaged in a prearranged ride."

## **Chapter 100 Section 71 Laws 2023**

SECTION 71. Section 65-7-19 NMSA 1978 (being Laws 2016, Chapter 80, Section 19) is amended to read:

"65-7-19. TRANSPORTATION NETWORK FUND CREATED--ASSESSMENT AND COLLECTION OF FEES.--

A. The "transportation network fund" is created in the state treasury for the purpose of ensuring the safety and financial responsibility of transportation network companies and transportation network company drivers. The fund shall consist of fees collected pursuant to the Transportation Network Company Services Act, appropriations, gifts, grants, donations and earnings on investment of the fund. Balances in the fund shall not revert to the general fund or any other fund at the end of any fiscal year.

B. The transportation network fund shall be administered by the department of transportation. Money in the fund is appropriated to the department to carry out its duties pursuant to the provisions of the Transportation Network Company Services Act. Not more than five percent of the fees collected pursuant to this section shall be used by the department for administrative purposes.

C. Payments from the transportation network fund shall be made upon vouchers issued and signed by the secretary of transportation or the secretary's authorized representative upon warrants drawn by the secretary of finance and administration."

## **Chapter 100 Section 72 Laws 2023**

SECTION 72. Section 65-7-20 NMSA 1978 (being Laws 2016, Chapter 80, Section 20) is amended to read:

"65-7-20. RECORDS PURSUANT TO RULES OF THE DEPARTMENT OF TRANSPORTATION.--

A. A transportation network company holding a permit issued by the department of transportation shall maintain the records required pursuant to the Transportation Network Company Services Act to be collected by the transportation network company, including records regarding transportation network company drivers.

B. In response to a specific complaint, the department of transportation, its employees or its duly authorized agents may inspect those records held by a transportation network company for the investigation and resolution of the complaint.

C. No more than semiannually and as determined by the department of transportation, the department, its employees or its duly authorized agents may, in a mutually agreed setting, inspect those records held by a transportation network company whose review is necessary to ensure public safety; provided that such review shall be on an audit rather than a comprehensive basis.

D. Any proprietary records obtained by the department of transportation pursuant to this section shall not be subject to disclosure by the department."

### **Chapter 100 Section 73 Laws 2023**

SECTION 73. Section 65-7-21 NMSA 1978 (being Laws 2016, Chapter 80, Section 21) is amended to read:

"65-7-21. ADMINISTRATIVE PENALTIES.--

A. If the department of transportation finds after investigation that a provision of the Transportation Network Company Services Act or an order or rule of the department is being, has been or is about to be violated, it may issue an order specifying the actual or proposed acts or omissions to act that constitute a violation and require that the violation be discontinued, rectified or prevented.

B. Notwithstanding the existence of any other penalties, the department of transportation may assess an administrative fine of not more than one thousand dollars (\$1,000) for each violation of a provision of the Transportation Network Company Services Act or of a lawful rule or order of the department. In the case of a continuing violation, each day's violation shall be deemed to be a separate and distinct offense.

C. All penalties accruing under the Transportation Network Company Services Act shall be cumulative, and a suit for recovery of one penalty shall not be a bar to or affect the recovery of any other penalty or be a bar to any criminal prosecution."

### **Chapter 100 Section 74 Laws 2023**

SECTION 74. Section 65-7-22 NMSA 1978 (being Laws 2016, Chapter 80, Section 22) is amended to read:

"65-7-22. INVOLUNTARY SUSPENSION AND REVOCATION.--

A. The department of transportation shall immediately suspend, without notice or a hearing, the permit of a transportation network company that:

(1) does not continuously maintain the insurance coverage prescribed by the Transportation Network Company Services Act;

(2) does not pay the fees owed by the transportation network company and the transportation network company's drivers; or

(3) operates in a manner that poses an immediate or imminent threat to public safety.

B. Once suspended, the transportation network company may apply for reinstatement by requesting a public hearing before the department of transportation and shall establish that the basis for the suspension has been corrected."

## **Chapter 100 Section 75 Laws 2023**

SECTION 75. 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 department of transportation 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 department of transportation 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 100 Section 76 Laws 2023**

SECTION 76. Section 66-3-120 NMSA 1978 (being Laws 1978, Chapter 35, Section 67) is amended to read:

"66-3-120. TRANSPORTATION OF CERTAIN VEHICLES--PROOF OF OWNERSHIP.--

A. A person transporting a crushed or inoperable vehicle or motor vehicle on a public way, street or highway in any manner shall have in the person's possession proof of ownership of the vehicle or:

(1) an affidavit from the property owner upon whose property the vehicle or motor vehicle was abandoned authorizing the vehicle's removal from the property owner's land; and

(2) a police clearance indicating the vehicle or motor vehicle has not been reported stolen.

B. Any person who possesses either a New Mexico dismantler's or wrecker's license, a New Mexico auto dealer's license, a department of transportation license or a vehicle contract or common carrier license issued by the federal interstate commerce commission shall be exempt from the provisions of this section while transporting vehicles that are not abandoned, provided the person prominently displays a dealer's license plate or a dismantler's plate on the vehicle in tow or has a New Mexico department of transportation vehicle contract or common carrier permit number or a federal interstate commerce commission vehicle contract or common carrier permit number prominently displayed on the towing vehicle.

C. Any person failing to have such documentation in the person's possession while transporting such a vehicle or motor vehicle is subject to the penalties produced in Section 66-4-9 NMSA 1978, and any vehicle or motor vehicle being transported by the person is subject to immediate confiscation. The vehicle or motor vehicle shall be towed to an authorized police impound lot until proof of ownership is presented or until the documentation described in this section is provided by either the owner of the vehicle or the person in possession. Failure to provide documentation within thirty days shall result in the vehicle or motor vehicle being deemed unclaimed and thus subject to claim by the person or firm in possession."

## **Chapter 100 Section 77 Laws 2023**

SECTION 77. Section 66-6-8 NMSA 1978 (being Laws 1978, Chapter 35, Section 343, as amended) is amended to read:

"66-6-8. BUS REGISTRATION--AGRICULTURAL LABOR FEES.--

A. A bus that has a normal seating capacity of forty passengers or less and that is used exclusively for the transportation of agricultural laborers may be registered upon payment to the division of a fee of thirty-three dollars (\$33.00).

B. In addition to the registration fee imposed by this section, there is imposed at the time of registration an annual tire recycling fee of fifty cents (\$.50) per wheel that is in contact with the ground on each vehicle subject to a registration fee pursuant to this section.

C. Application for registration of a bus pursuant to this section shall be made in the form prescribed by the division and shall be accompanied by an affidavit that the bus will be used exclusively for the transportation of agricultural laborers. Upon registration, the bus is exempt from tariff-filing requirements of the department of transportation."

## **Chapter 100 Section 78 Laws 2023**

SECTION 78. Section 66-7-413 NMSA 1978 (being Laws 1978, Chapter 35, Section 484, as amended) is amended to read:

"66-7-413. PERMITS FOR EXCESSIVE SIZE AND WEIGHT--SPECIAL NOTIFICATION REQUIRED ON MOVEMENT OF MANUFACTURED HOMES.--

A. The department of transportation and local highway authorities may, in their discretion, upon application in writing and good cause being shown, issue a special permit in writing authorizing the applicant to operate or move a vehicle or load of a size or weight exceeding the maximum specified in Sections 66-7-401 through 66-7-416 NMSA 1978 on a highway under the jurisdiction of the state transportation commission or local authorities. Except for the movement of manufactured homes, a permit may be granted, in cases of emergency, for the transportation of loads on a certain unit or combination of equipment for a specified period of time not to exceed one year, and the permit shall contain the route to be traversed, the type of load to be transported and any other restrictions or conditions deemed necessary by the body granting the permit. In every other case, the permit shall be issued for a single trip and may designate the route to be traversed and contain any other restrictions or conditions deemed necessary by the body granting the permit. Every permit shall be carried in the vehicle to which it refers and shall be opened for inspection to any peace officer. It is a misdemeanor for a person to violate a condition or term of the special permit.

B. The department of transportation shall promulgate rules in accordance with the State Rules Act pertaining to safety practices, liability insurance and equipment for escort vehicles provided by the motor carrier and for escort vehicles provided by a private business in this state; provided that:

(1) the department of public safety or the department of transportation shall provide the escort personnel with a copy of applicable rules and shall inspect the

escort vehicles for the safety equipment required by the rules. If the escort vehicles and personnel meet the requirements set forth in the rules, the department of public safety shall issue the special permit;

(2) the movement of vehicles upon the highways of this state requiring a special permit and required to use an escort of the type noted in Paragraph (1) of this subsection is subject to the authority of the department of transportation and the department of public safety and to inspection at all times; and

(3) the department of transportation shall conduct engineering investigations and engineering inspections to determine which four-lane highways are safe for the operation or movement of manufactured homes without an escort. After making that determination, the department of transportation shall hold public hearings in the area of the state affected by the determination, after which it may adopt rules designating those four-lane highways as being safe for the operation or movement of manufactured homes without an escort. If a portion of such a four-lane highway lies within the boundaries of a municipality, the department of transportation, after obtaining the approval of the municipal governing body, shall include such portions in its rules.

C. Except for the movement of manufactured homes, special permits may be issued for a single vehicle or combination of vehicles by the department of transportation for a period not to exceed one year for a fee of two hundred fifty dollars (\$250). The special permits may allow excessive height, length and width for a vehicle or combination of vehicles or load thereon and may include a provision for excessive weight if the weight of the vehicle or combination of vehicles is not greater than one hundred forty thousand pounds. Utility service vehicles, operating with special permits pursuant to this subsection, shall be exempt from prohibitions or restrictions relating to hours or days of operation or restrictions on movement because of poor weather conditions.

D. Special permits for a single trip for a vehicle or combination of vehicles or load thereon of excessive weight, width, length and height may be issued by the department of transportation for a single vehicle for a fee of twenty-five dollars (\$25.00) plus the product of two and one-half cents (\$.025) for each two thousand pounds in excess of eighty-six thousand four hundred pounds or major fraction thereof multiplied by the number of miles to be traveled by the vehicle or combination of vehicles on the highways of this state.

E. If a vehicle for which a permit is issued pursuant to this section is a manufactured home, the department of transportation or local highway authority issuing the permit shall furnish the following information to the property tax division of the taxation and revenue department, which shall forward the information:

(1) to the county assessor of a county from which a manufactured home is being moved, the date the permit was issued, the location being moved from, the location being moved to if within the same county, the name of the owner of the

manufactured home and the identification and registration numbers of the manufactured home;

(2) to the county assessor of any county in this state to which a manufactured home is being moved, the date the permit was issued, the location being moved from, the location being moved to, the name of the owner of the manufactured home and the registration and identification numbers of the manufactured home; and

(3) to the owner of a manufactured home having a destination in this state, notification that the information required in Paragraphs (1) and (2) of this subsection is being given to the respective county assessors and that manufactured homes are subject to property taxation.

F. Except as provided in Subsection G of this section, if the movement of a manufactured home originates in this state, a permit shall not be issued pursuant to Subsection E of this section until the owner of the manufactured home or the authorized agent of the owner obtains and presents to the department of transportation proof that a certificate has been issued by the county assessor or treasurer of the county in which the manufactured home movement originates showing that either:

(1) all property taxes due or to become due on the manufactured home for the current tax year or any past tax years have been paid, except for manufactured homes located on an Indian reservation; or

(2) liability for property taxes on the manufactured home does not exist for the current tax year or a past tax year, except for manufactured homes located on an Indian reservation.

G. The movement of a manufactured home from the lot or business location of a manufactured home dealer to its destination designated by an owner-purchaser is not subject to the requirements of Subsection F of this section if the manufactured home movement originates from the lot or business location of the dealer and the manufactured home was part of the dealer's inventory prior to the sale to the owner-purchaser; however, the movement of a manufactured home by a dealer or the dealer's authorized agent as a result of a sale or trade-in from a nondealer-owner is subject to the requirements of Subsection F of this section whether the destination is the business location of a dealer or some other destination.

H. A permit shall not be issued pursuant to this section for movement of a manufactured home whose width exceeds eighteen feet with no more than a six-inch roof overhang on the left side or twelve inches on the right side in addition to the eighteen-foot width of the manufactured home. Manufactured homes exceeding the limitations of this section shall only be moved on dollies placed on the front and the rear of the structure.

I. The secretary of transportation may by rule provide for movers of manufactured homes to self-issue permits for certain sizes of manufactured homes over specific routes. The cost of a permit shall not be less than twenty-five dollars (\$25.00).

J. The secretary of transportation may provide by rule for dealers of implements of husbandry to self-issue permits for the movement of certain sizes of implements of husbandry from the lot or business location of the dealer over specific routes with specific escort requirements, if necessary, to a destination designated by an owner-purchaser or for purposes of a working demonstration on the property of a proposed owner-purchaser. The department of transportation shall charge a fee for each self-issued permit not to exceed fifteen dollars (\$15.00).

K. A private motor carrier requesting an oversize or overweight permit shall provide proof of insurance in at least the following amounts:

(1) bodily injury liability, providing:

(a) fifty thousand dollars (\$50,000) for each person; and

(b) one hundred thousand dollars (\$100,000) for each accident;

and

(2) property damage liability, providing twenty-five thousand dollars (\$25,000) for each accident.

L. A motor carrier requesting an oversize permit shall produce a copy of a warrant or a single state registration receipt as evidence that the motor carrier maintains the insurance minimums prescribed by the department of transportation.

M. The department of transportation may provide by rule the time periods during which a vehicle or load of a size or weight exceeding the maximum specified in Sections 66-7-401 through 66-7-416 NMSA 1978 may be operated or moved by a motor carrier on a highway under the jurisdiction of the state transportation commission or local authorities.

N. An applicant for a special permit to operate a vehicle or combination of vehicles with a gross weight not exceeding ninety-six thousand pounds within six miles of the port of entry at the border with Mexico at Santa Teresa or within a circular quadrant starting at that port of entry with an east boundary line running due north twelve miles from the Santa Teresa port of entry to a point, then along an arc to the west with a twelve-mile radius and central angle of approximately ninety degrees to a point on the international boundary with Mexico, then returning due east twelve miles to the starting point at that port of entry, and twelve miles of other ports of entry on the border with Mexico shall not be required to demonstrate to the department of transportation that the load cannot be reduced as a condition of the issuance of the permit.

O. Revenue from fees for special permits authorizing vehicles and loads of excessive size or weight to operate or move upon a highway under the jurisdiction of the state transportation commission or local authorities shall be collected for the department of transportation and transferred to the state road fund."

## Chapter 100 Section 79 Laws 2023

SECTION 79. Section 66-8-116.2 NMSA 1978 (being Laws 1989, Chapter 319, Section 13, as amended) is amended to read:

"66-8-116.2. PENALTY ASSESSMENT MISDEMEANORS--MOTOR CARRIER ACT.--As used in the Motor Vehicle Code and the Motor Carrier Act, "penalty assessment misdemeanor" means, in addition to the definitions of that term in Sections 66-8-116 and 66-8-116.1 NMSA 1978, violation of the following listed sections of the NMSA 1978 for which, except as provided in Subsection E of this section, the listed penalty is established:

A. GENERAL		
COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
Failure to register motor carrier	66-3-1.1	\$300.00
Failure to carry tax identification permit	65-1-26	300.00
Failure of motor carrier to comply with weight distance requirements of the Weight Distance Tax Act	65-1-26	
(1) first conviction		300.00
(2) second conviction, within ten years of the first conviction		500.00
3) third or subsequent conviction, within ten years of the first conviction		1,000.00
Failure to comply with department of transportation rules	65-2A-7	50.00
Failure to carry single state registration receipt issued by a base state	65-2A-7	50.00
Failure to register with a base state under the federal Unified Carrier Registration Act		

of 2005	65-2A-16	50.00
Failure to stop at designated registration place	65-5-1	100.00
Failure to obtain proper clearance certificates	65-5-3	100.00.

**B. VEHICLE OUT-OF-SERVICE VIOLATIONS**

COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
Absence of braking action	65-3-9	\$100.00
Damaged brake lining or pads	65-3-9	50.00
Loose or missing brake components	65-3-12	100.00
Inoperable breakaway braking system	65-3-12	50.00
Defective or damaged brake tubing	65-3-12	50.00
Inoperative low pressure warning device	65-3-9	50.00
Reservoir pressure not maintained	65-3-12	100.00
Inoperative tractor protection valve	65-3-9	100.00
Damaged or loose air compressor	65-3-12	100.00
Audible air leak at brake chamber	65-3-12	50.00
Defective safety devices--chains or hooks	65-3-9	100.00
Defective towing or coupling devices	65-3-9	100.00
Defective exhaust systems	65-3-9	30.00
Frame defects--trailers	65-3-12	100.00
Frame defects--other	65-3-9	100.00
Defective fuel systems	65-3-9	50.00
Missing or inoperative lamps	65-3-9	25.00
Missing lamps on projecting loads	65-3-9	50.00
Missing or inoperative turn signal	65-3-9	25.00
Unsafe loading	65-3-8	100.00
Possession of radar detector in commercial motor carrier vehicle	65-3-8	100.00

Possession of alcoholic beverage in commercial motor carrier vehicle	65-3-8	200.00
Excessive steering wheel play	65-3-9	100.00
Steering column defects	65-3-9	100.00
Steering box or steering system defects	65-3-9	100.00
Suspension system defects	65-3-9	50.00
Defective springs or spring assembly	65-3-9	50.00
Defective tires--steering axle	65-3-9	100.00
Defective tires--other axles	65-3-9	30.00
Defective wheels and rims	65-3-9	50.00
Defective or missing windshield wipers	65-3-9	30.00
Defective or inoperative emergency exit--bus	65-3-9	100.00.

C. DRIVER OUT-OF-SERVICE VIOLATIONS

COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
Driver's age	65-3-7	\$30.00
Driver not licensed for type of vehicle being operated	65-3-7	30.00
Failure to have valid commercial driver's license in possession	66-5-59	30.00
No waiver of physical disqualification in possession	65-3-7	30.00
Sickness or fatigue	65-3-8	100.00
Driver disqualification	65-3-7	500.00
Exceeding the 10-hour driving rule for passenger carrier transportation	65-3-11	100.00
Exceeding the 11-hour driving rule for property carrier transportation	65-3-11	100.00
Exceeding the 14-hour on duty rule for property carrier transportation	65-3-11	100.00
Exceeding the 15-hour on duty rule for passenger		

carrier transportation	65-3-11	100.00
Exceeding the 60 hours in 7 days on duty rule	65-3-11	100.00
Exceeding the 70 hours in 8 days on duty rule	65-3-11	100.00
False log book	65-3-11	100.00
No log book	65-3-11	100.00
No record for previous 7 days	65-3-11	100.00.

**D. HAZARDOUS MATERIALS OUT-OF-SERVICE VIOLATIONS**

COMMON NAME OF OFFENSE	SECTION VIOLATED	PENALTY ASSESSMENT
Placarding violations	65-3-13	\$250.00
Cargo tank not meeting specifications	65-3-13	250.00
Internal valve operation violations	65-3-13	250.00
Hazardous materials packaging violations	65-3-13	250.00
Insecure load--hazardous materials	65-3-13	250.00
Shipping papers violations	65-3-13	30.00
Shipment of forbidden combination of hazardous materials	65-3-13	250.00
No hazardous waste manifest	65-3-13	30.00
Bulk packaging marking violations	65-3-13	30.00
Cargo tank marking violations	65-3-13	30.00.

E. Upon a second conviction for failure to stop at a port of entry or inspection station pursuant to Section 65-5-1 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)."

**Chapter 100 Section 80 Laws 2023**

**SECTION 80. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS, PERSONNEL, APPROPRIATIONS, PROPERTY, RECORDS, CONTRACTS AND REFERENCES IN LAW.--**

A. On July 1, 2024, all staff positions, functions, personnel, appropriations, money, records, equipment, supplies, other property and contractual obligations of the public regulation commission related to motor carrier regulation and enforcement, railroad safety enforcement and ambulance standards are transferred to the department of transportation.

B. Beginning July 1, 2024, all references in law, rules, orders and other official acts to the public regulation commission or the transportation division of the public regulation commission related to motor carrier regulation and enforcement, railroad safety enforcement and ambulance standards shall be deemed references to the department of transportation.

C. Beginning July 1, 2024, all contractual obligations of the public regulation commission related to motor carrier regulation and enforcement, railroad safety enforcement and ambulance standards are binding on the department of transportation.

D. The rules, orders and decisions of the public regulation commission related to motor carrier regulation and enforcement, railroad safety enforcement and ambulance standards shall remain in effect until repealed or amended.

### **Chapter 100 Section 81 Laws 2023**

SECTION 81. TEMPORARY PROVISION--RULES.--The department of transportation may review, amend, repeal and enact rules to carry out the provisions of this act; provided that any rules amended, repealed or enacted pursuant to the authority provided in this section shall not be effective until July 1, 2024.

### **Chapter 100 Section 82 Laws 2023**

SECTION 82. REPEAL.--Sections 63-3-33, 64-1-1 through 64-1-10, 64-1-18, 65-2A-10, 65-2A-41 and 65-6-5 NMSA 1978 (being Laws 1915, Chapter 37, Section 5; Laws 1929, Chapter 71, Sections 1 through 8 and 10; Laws 1941, Chapter 115, Section 1; Laws 1939, Chapter 199, Section 5; Laws 2003, Chapter 359, Section 10; Laws 2013, Chapter 73, Section 33 and Laws 2013, Chapter 77, Section 33; and Laws 1974, Chapter 82, Section 5, as amended) are repealed.

### **Chapter 100 Section 83 Laws 2023**

SECTION 83. EFFECTIVE DATE.--The effective date of the provisions of Sections 1 through 80 and 82 of this act is July 1, 2024.

## **LAWS 2023, CHAPTER 101**

**Senate Bill 168, aa**  
**Approved April 4, 2023**

AN ACT

RELATING TO DEATH REGISTRATION; ALLOWING FOR REGISTERED NURSES EMPLOYED BY HOSPICE AGENCIES TO MAKE DEATH PRONOUNCEMENTS.

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

## **Chapter 101 Section 1 Laws 2023**

SECTION 1. Section 24-14-20 NMSA 1978 (being Laws 1961, Chapter 44, Section 18, as amended) is amended to read:

"24-14-20. DEATH REGISTRATION.--

A. A death certificate for each death that occurs in this state shall be filed within five days after the death and prior to final disposition. The death certificate shall be registered by the state registrar if it has been completed and filed in accordance with this section, subject to the exception provided in Section 24-14-24 NMSA 1978; provided that:

(1) if the place of death is unknown but the dead body is found in this state, a death certificate shall be filed with a local registrar within ten days after the occurrence. The place where the body is found shall be shown as the place of death. If the date of death is unknown, it shall be approximated by the state medical investigator; and

(2) if death occurs in a moving conveyance in the United States and the body is first removed from the conveyance in this state, the death shall be registered in this state and the place where the body is first removed shall be considered the place of death. When a death occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the body is first removed from the conveyance in this state, the death shall be registered in this state, but the certificate shall show the actual place of death insofar as can be determined by the state medical investigator.

B. The funeral service practitioner or person acting as a funeral service practitioner who first assumes custody of a dead body shall:

(1) file the death certificate;

(2) obtain the personal data from the next of kin or the best qualified person or source available; and

(3) obtain the medical certification of cause of death.

C. The medical certification shall be completed and signed within forty-eight hours after death by the physician or nurse practitioner in charge of the patient's care for the illness or condition that resulted in death, except when inquiry is required by law. Except as provided in Subsection D of this section, in the absence of the physician or nurse practitioner, or with the physician's or the nurse practitioner's approval, the medical certification may be completed and signed by the physician's associate

physician or the nurse practitioner's associate nurse practitioner, the chief medical officer of the institution in which death occurred or the physician who performed an autopsy on the decedent; provided that the individual has access to the medical history of the case and views the deceased at or after death and that death is due to natural causes.

D. Unless there is reasonable cause to believe that the death is not due to natural causes, a registered nurse employed by a nursing home or a hospice agency may pronounce the death of a resident of the nursing home and a registered nurse employed by a hospital may pronounce the death of a patient of the hospital. The nurse shall have access to the medical history of the case and view the deceased at or after death, and the individual who completes the medical certification shall not be required to view the deceased at or after death. The death shall be pronounced pursuant to procedures or facility protocols prescribed by the hospital for patients or by the physician who is the medical director of the nursing home for residents. The procedures or facility protocols shall ensure that the medical certification of death is completed in accordance with the provisions of Subsection C of this section.

E. For purposes of this section:

(1) "hospital" means a public hospital, profit or nonprofit private hospital or a general or special hospital that is licensed as a hospital by the department of health;

(2) "nurse practitioner" means a registered nurse who is licensed by the board of nursing for advanced practice as a certified nurse practitioner and whose name and pertinent information are entered on the list of certified nurse practitioners maintained by the board of nursing; and

(3) "nursing home" means any nursing institution or facility required to be licensed under state law as a nursing facility by the public health division of the department of health, whether proprietary or nonprofit, including skilled nursing home facilities.

F. When death occurs without medical attendance as set forth in Subsection C or D of this section or when death occurs more than ten days after the decedent was last treated by a physician, the case shall be referred to the state medical investigator for investigation to determine and certify the cause of death.

G. An amended death certificate based on an anatomical observation shall be filed within thirty days of the completion of an autopsy."

## **LAWS 2023, CHAPTER 102**

**Senate Bill 181**

**Approved April 4, 2023**

AN ACT

RELATING TO OPIOID OVERDOSE; MODIFYING THE WARNING REQUIREMENTS PERTAINING TO ADMINISTRATION OF OPIOID ANTAGONISTS.

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

**Chapter 102 Section 1 Laws 2023**

SECTION 1. Section 24-2D-7 NMSA 1978 (being Laws 2019, Chapter 94, Section 3) is amended to read:

"24-2D-7. 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 on the risks of overdose and inform the patient of the availability of an opioid antagonist on the first occasion that the health care provider prescribes, distributes or dispenses an opioid analgesic each calendar year.

B. A health care provider who prescribes an opioid analgesic for a patient shall co-prescribe an opioid antagonist if the amount of opioid analgesic being prescribed is at least a five-day supply. The prescription for the opioid antagonist shall be accompanied by written information regarding the temporary effects of the opioid antagonist and techniques for administering the opioid antagonist. That written information shall contain a warning that a person administering the opioid antagonist should call 911 immediately after administering the opioid antagonist, unless that person is a health care provider as provided in the Pain Relief Act."

**LAWS 2023, CHAPTER 103**

**Senate Bill 205**

**Approved April 4, 2023**

AN ACT

RELATING TO TAXATION; ENACTING THE COUNTY HOSPITAL GROSS RECEIPTS TAX.

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

## Chapter 103 Section 1 Laws 2023

SECTION 1. A new section of the County Local Option Gross Receipts and Compensating Taxes Act is enacted to read:

"COUNTY HOSPITAL GROSS RECEIPTS TAX--AUTHORITY TO IMPOSE--RATE--ELECTION--USE OF REVENUE.--

A. Upon submission of a resolution to the governing body pursuant to Subsection D of this section, the governing body of a county shall enact an ordinance imposing or reimposing an excise tax at a rate of one-half percent on any person engaging in business in the county for the privilege of engaging in business in the county. The tax imposed pursuant to this section may be referred to as the "county hospital gross receipts tax".

B. The governing body, at the time of enacting an ordinance imposing a tax pursuant to this section, shall dedicate:

(1) twenty-five percent of the revenue to support a nursing program administered by a state university or branch of a state university within the boundaries of the county; and

(2) the remainder of the revenue for the payment of gross receipts tax bonds for hospital capital projects in the county. The tax shall be imposed for the period necessary for payment of the principal and interest on the revenue bonds issued to accomplish the purpose for which the revenue is dedicated, but the period shall not exceed ten years from the effective date of the ordinance imposing the tax.

C. The governing body may reimpose a county hospital gross receipts tax to be effective upon termination of a previously imposed county hospital gross receipts tax by following the procedures set forth in this section.

D. An ordinance imposing the county hospital gross receipts tax 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 imposing the tax. The governing body shall adopt a resolution calling for an election on the question of imposing the tax. The election shall be held pursuant to the Local Election Act. If a majority of the voters voting on the question approves the ordinance imposing the tax, then the ordinance shall become effective in accordance with the provisions of the County Local Option Gross Receipts and Compensating Taxes Act. If the question of imposing the tax fails, the governing body shall not again propose the imposition of the tax for a period of one year from the date of the election.

E. The proceeds from revenue bonds issued for purposes provided by this section shall be administered by the governing body for the purposes authorized in this section and as set out in the resolution submitted by the boards to the governing body.

F. As used in this section:

(1) "capital projects" means the designing, constructing and equipping of hospital buildings; the remodeling, renovating or making additions to and equipping existing hospital buildings; or the improving or equipping of the grounds of hospital buildings; and

(2) "county" means a class B county with a population of less than thirty-seven thousand according to the most recent federal decennial census and a net taxable value for property tax purposes of more than one billion five hundred ninety million dollars (\$1,590,000,000) but less than two billion dollars (\$2,000,000,000)."

## **Chapter 103 Section 2 Laws 2023**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# **LAWS 2023, CHAPTER 104**

**Senate Bill 216, aa**  
**Approved April 4, 2023**

AN ACT

RELATING TO ACTIONS AFFECTING PROPERTY; PROVIDING LIMITATIONS ON THE GARNISHMENT OF CERTAIN EARNINGS AND ACCOUNTS; IDENTIFYING AND LIMITING THE HOMESTEAD EXEMPTION AND OTHER EXEMPTIONS IN CERTAIN LEGAL PROCEEDINGS, INCLUDING BANKRUPTCY; PROVIDING FOR COST-OF-LIVING ADJUSTMENTS; CHANGING NOTICE REQUIREMENTS IN GARNISHMENT; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

## **Chapter 104 Section 1 Laws 2023**

SECTION 1. Section 35-12-2 NMSA 1978 (being Laws 1968, Chapter 62, Section 134) is amended to read:

"35-12-2. GARNISHMENT--SERVICE ON GARNISHEE.--

A. The garnishment shall be served on the garnishee within the magistrate district in the manner provided by law for service of a civil summons in the magistrate court and shall order the garnishee in the action to appear before the magistrate within twenty days from the date of service to answer under oath, as of the date the garnishment was served and also as of the date of the garnishee's answer:

(1) what, if anything, the garnishee is indebted to the defendant and on what account;

(2) what, if any, personal property of the defendant is in the garnishee's possession; and

(3) what other persons, if any, within the garnishee's knowledge are indebted to the defendant or have personal property of the defendant in their possession.

B. Return on the garnishment shall be made in the manner provided by law for return on a civil summons in the magistrate court.

C. At the same time as the garnishment is served on the garnishee, a copy of the garnishment shall be sent to the defendant's last known address."

## **Chapter 104 Section 2 Laws 2023**

SECTION 2. Section 35-12-7 NMSA 1978 (being Laws 1969, Chapter 139, Section 6, as amended) is amended to read:

### "35-12-7. GARNISHMENT--EXEMPTIONS.--

A. Exempt from garnishment with respect to the enforcement of an order or decree for child support is fifty percent of the defendant's disposable earnings for any pay period. Exempt from garnishment in all other situations is the greater of the following portions of the defendant's disposable earnings:

(1) seventy-five percent of the defendant's disposable earnings for any pay period; or

(2) an amount each week equal to forty times the highest applicable minimum hourly wage rate at the place the wages were earned. The director of the financial institutions division of the regulation and licensing department shall provide a table giving equivalent exemptions for pay periods of other than one week.

B. As used in this section:

(1) "disposable earnings" means that part of a defendant's wage or salary remaining after deducting the amounts that are required by law to be withheld; and

(2) "highest applicable minimum hourly wage rate" means the highest federal, state or local minimum hourly wage rate for an eight-hour day and a forty-hour week applicable at the time the wages are payable. However, it is immaterial whether

the garnishee is exempt under federal, state or local law from paying the highest applicable minimum hourly wage rate.

C. The maximum amount that may be taken from a spouse's disposable earnings under both the garnishment procedure and the wage deduction procedure for the enforcement of child support is fifty percent of the spouse's disposable earnings.

D. Amounts exempt under this section shall retain their exempt status when deposited into a personal bank account, provided that they are reasonably traceable."

### Chapter 104 Section 3 Laws 2023

SECTION 3. Section 35-12-18 NMSA 1978 (being Laws 1968, Chapter 62, Section 147, as amended) is amended to read:

"35-12-18. GARNISHMENT--FORM OF WRIT.--Writs of garnishment in civil actions in the magistrate court shall state whether the writ is issued in advance of or in aid of execution of judgment and shall be in substantially the following form:

"STATE OF NEW MEXICO  
 \_\_\_\_\_MAGISTRATE DISTRICT, DIVISION \_\_\_\_\_  
 (Name), Plaintiff )  
 )  
 v. ) CIVIL DOCKET NO. \_\_\_\_\_  
 )  
 (Name), Defendant )  
 )  
 (Name), Garnishee )

#### WRIT OF GARNISHMENT

THE STATE OF NEW MEXICO to the above-named garnishee:

You are ordered to appear before the magistrate court located at \_\_\_\_\_ within twenty days from the service of this writ upon you to answer under oath the following questions, as of the date of service and as of the date of your answer:

1. What, if anything, are you indebted to the defendant in this action and on what account?

2. What, if any, personal property of the defendant is in your possession or under your control?

3. What other persons, if any, within your knowledge are indebted to the defendant or have personal property of the defendant in their possession?

Service of this writ upon you has the effect of attaching all nonexempt personal property, money, rights, credits, bonds, bills, notes, drafts and other choses in action of the defendant in your possession or under your control at the time of service and that may come into your possession or under your control or be owing by you between the time of service and the time of making your answer.

This writ was issued in (advance) (aid of execution) of judgment against the defendant. If this writ was issued in advance of judgment, it does not attach any wages or salary due from you to the defendant. If this writ was issued in aid of execution of judgment, it attaches wages or salary due from you to the defendant in excess of the greater of the following portions of the defendant's disposable earnings:

A. seventy-five percent of the defendant's disposable earnings for any pay period; or

B. an amount each week equal to forty times the highest applicable minimum hourly wage rate at the place the wages were earned. A table giving equivalent exemptions for pay periods of other than one week may be obtained from the director of the financial institutions division of the regulation and licensing department. "Disposable earnings" means that part of the defendant's wage or salary remaining after deducting the amounts that are required by law to be withheld. "Highest applicable minimum hourly wage rate" means the highest federal, state or local minimum hourly wage rate for an eight-hour day or a forty-hour week. It is immaterial whether you are exempt under federal, state or local law from paying the highest applicable minimum hourly wage rate.

## FINANCIAL INSTITUTION WRITS

If you are a financial institution, the defendant who is an individual or sole proprietor has an exemption totaling two thousand four hundred dollars (\$2,400) in depository and investment accounts. This writ attaches only to money in excess of two thousand four hundred dollars (\$2,400). You may rely on the representations of the person executing this writ as to whether the exemption amount has already been satisfied with other accounts held by other financial institutions. This provision shall not prevent the individual or sole proprietor from claiming that additional money in depository or investment accounts is exempt under any other available exemption provided by law.

Any wages you owe the employee in excess of two thousand four hundred dollars (\$2,400) or that you may come to owe the employee in excess of that amount must be kept by you until further order of this court. This means that you shall not pay the non-exempt amounts to the plaintiff until further order from this court requiring payment.

It is unlawful to pay or deliver to the defendant any item attached by this writ. If you fail to appear and answer as directed, or if you unlawfully dispose of any item

attached by this writ, judgment may be rendered against you for the full amount of the plaintiff's claim against the defendant in this action.

Dated \_\_\_\_\_, 20 \_\_\_\_\_  
Magistrate".

## **Chapter 104 Section 4 Laws 2023**

SECTION 4. Section 42-10-1 NMSA 1978 (being Laws 1971, Chapter 215, Section 1, as amended) is amended to read:

### "42-10-1. EXEMPTIONS.--

A. The following shall be exempt from receivers or trustees in bankruptcy or other insolvency proceedings, fines, attachment, execution, garnishment, levy or foreclosure by a judgment creditor:

(1) a person's aggregate interest in household goods and furnishings, not exceeding a value of seventy-five thousand dollars (\$75,000);

(2) a person's aggregate interest in motor vehicles, not exceeding ten thousand dollars (\$10,000) in value;

(3) a person's interest in a wedding band and an engagement ring and a person's interest in additional jewelry held primarily for the use of the person, the person's spouse or any dependent of the person, not exceeding five thousand dollars (\$5,000) in the aggregate for this additional jewelry;

(4) works of art or artwork of the person or any relative of the person, not exceeding a value of two thousand five hundred dollars (\$2,500) in the aggregate;

(5) tools, equipment, implements, professional books, instruments, inventory, supplies and materials reasonably necessary for use in the person's trade, profession, business or occupation, or that of the person's spouse, not exceeding fifteen thousand dollars (\$15,000) in the aggregate;

(6) the person's right to receive:

(a) social security benefits;

(b) veteran's benefits;

(c) disability, illness, unemployment or workers' compensation benefits;

(d) public benefits such as medicaid, medicare, food stamps or other aid from a government public assistance program;

(e) alimony, family or domestic support or separate maintenance to the extent reasonably necessary for the support of the person or any dependent of the person; and

(f) payment pursuant to a stock bonus, pension, profit-sharing individual retirement account, annuity or similar plan or contract on account of illness, disability, death or length of service, to the extent reasonably necessary for the support of the person or any dependent of the person, unless such plan or contract does not qualify pursuant to Section 401(a), 403(a), 403(b) or 408 of the Internal Revenue Code of 1986;

(7) refundable federal and state tax credits;

(8) exempt wages as defined by Section 35-12-7 NMSA 1978;

(9) any stimulus payment held by or payable to the person or the person's dependents in any form;

(10) an interest in or proceeds from a pension, individual retirement account, annuity, profit-sharing plan and any other retirement account;

(11) an individual retirement account that would qualify for tax exemptions under 26 U.S.C. 408 or any similar individual retirement account;

(12) an educational savings account that would qualify for tax exemptions under 26 U.S.C. 529 or any similar educational savings account;

(13) a health savings account that would qualify for tax exemptions under 26 U.S.C. 223 or any similar health savings account; and

(14) a person's aggregate interest, not exceeding fifteen thousand dollars (\$15,000), in any personal property, tangible or intangible, not otherwise specified in this subsection, including any deposits in financial or investments accounts or personal property that exceeds the monetary limits set forth in this section; provided that for an individual or sole proprietor who is a defendant in any action except a bankruptcy action, the maximum cumulative amount that a defendant may claim as exempt in a depository or investment account is two thousand four hundred dollars (\$2,400), plus any money derived from the sources set forth in Paragraphs (6) through (11) of this subsection.

B. As used in this section, "household goods and furnishings" means items primarily used by or for the support and maintenance of the household of the person or the person's spouse, family and dependents, including:

- (1) furniture;
- (2) appliances such as a refrigerator, stove, oven, freezer, clothes washer, clothes dryer, dishwasher, microwave, coffee maker, toaster and vacuum cleaner;
- (3) clothing and personal effects;
- (4) electronic equipment such as televisions, radios, cellular telephones, computers, computer equipment, digital or compact disc players and other electronic consumer devices;
- (5) medical equipment, supplies and professionally prescribed health aids reasonably necessary for the care and support of the person or any dependent of the person;
- (6) musical instruments, not exceeding four thousand dollars (\$4,000) in the aggregate;
- (7) toys, games, sports, hobby and craft equipment, materials and supplies, not exceeding two thousand five hundred dollars (\$2,500) in the aggregate;
- (8) books; and
- (9) two firearms.

C. Property exempted pursuant to the provisions of this section shall be valued at the property's fair market value."

## **Chapter 104 Section 5 Laws 2023**

SECTION 5. Section 42-10-4 NMSA 1978 (being Laws 1887, Chapter 37, Section 7, as amended) is amended to read:

"42-10-4. BENEVOLENT ASSOCIATIONS--BENEFITS.--Any beneficiary fund not exceeding fifty thousand dollars (\$50,000) set apart, appropriated or paid by any benevolent association or society, according to its rules, regulations or bylaws, to the family of any deceased member or to any member of the deceased member's family, shall not be liable to be taken by any process or proceedings, legal or equitable, to pay any debts of the deceased member."

## **Chapter 104 Section 6 Laws 2023**

SECTION 6. Section 42-10-7 NMSA 1978 (being Laws 1971, Chapter 215, Section 4) is amended to read:

"42-10-7. TAXES EXCEPTED.--Sections 42-10-1 through 42-10-7 NMSA 1978 are not applicable to taxes."

## **Chapter 104 Section 7 Laws 2023**

SECTION 7. Section 42-10-9 NMSA 1978 (being Laws 1971, Chapter 215, Section 6, as amended) is amended to read:

"42-10-9. HOMESTEAD EXEMPTION.--

A. A person shall have a homestead exemption in a domicile or land owned by the person that is the primary residence of the person. Such homestead is exempt from attachment, execution or foreclosure by a judgment creditor and from any proceeding of receivers or trustees in insolvency or bankruptcy proceedings and from executors or administrators in probate.

B. The amount of the homestead exemption is:

(1) one hundred fifty thousand dollars (\$150,000); or

(2) three hundred thousand dollars (\$300,000) if the spouse of the person claiming the exemption died within two years prior to the date of claiming the homestead exemption and if the deceased spouse would have been able to claim the homestead exemption had the deceased spouse survived until the date of claiming the homestead exemption.

C. As used in this section, "domicile" means any shelter or dwelling used by the person as a primary residence and may include a mobile home, trailer, recreational vehicle, outbuilding or other similar shelter, regardless of whether such dwelling complies with relevant housing or building regulations.

D. This section shall be liberally construed in favor of the person claiming a homestead exemption.

E. The provisions of this section shall not apply to garnishment or properly perfected liens of secured creditors."

## **Chapter 104 Section 8 Laws 2023**

SECTION 8. Section 42-10-10 NMSA 1978 (being Laws 1971, Chapter 215, Section 7, as amended) is amended to read:

"42-10-10. EXEMPTION IN LIEU OF HOMESTEAD.--Any resident of this state who does not own a homestead shall in addition to other exemptions hold exempt real or personal property in the amount of fifteen thousand dollars (\$15,000) in lieu of the homestead exemption."

## **Chapter 104 Section 9 Laws 2023**

SECTION 9. Section 42-10-13 NMSA 1978 (being Laws 1975, Chapter 246, Section 1) is amended to read:

"42-10-13. CLAIM OF EXEMPTION OR PRIORITY.--

A. Any person desiring to claim that property is exempt from execution or garnishment or is subject to execution only after other property is used to satisfy a debt under the provisions of Sections 40-3-10 and 40-3-11 NMSA 1978 shall file a claim of exemption or priority in the appropriate court; provided that the time to file that claim of exemption shall not be less than ten days after the filing of a writ of execution as set forth in New Mexico Rule of Civil Procedure 1-065.1.

B. A notice of the right to claim exemption to garnishment, execution, levy, attachment or foreclosure or a form to file or claim that exemption shall be provided by the creditor to the person whose property is subject to garnishment, execution, levy, attachment or foreclosure, and that notice shall contain a complete list of exemptions provided by the law."

## **Chapter 104 Section 10 Laws 2023**

SECTION 10. A new Section 42-10-14 NMSA 1978 is enacted to read:

"42-10-14. COST-OF-LIVING ADJUSTMENTS.--

A. On July 1, 2025, and at each two-year interval ending on July 1 thereafter, each dollar amount provided for in Sections 35-12-18, 42-10-1, 42-10-4, 42-10-9 and 42-10-10 NMSA 1978 shall be adjusted to reflect the change in the consumer price index for all urban consumers as published by the United States department of labor for the most recent two-year period ending immediately before such January 1 preceding such July 1. The administrative office of the courts shall publish any adjustments to the exemptions in Sections 35-12-18, 42-10-1, 42-10-4, 42-10-9 and 42-10-10 NMSA 1978 every two years on July 1, beginning July 1, 2025. The dollar amount shall be adjusted to the twenty-five-dollar (\$25.00) increment nearest to the dollar amount that represents such change.

B. Adjustments made in accordance with Subsection A of this section shall not apply to legal proceedings commenced prior to the date of such adjustments."

## **Chapter 104 Section 11 Laws 2023**

SECTION 11. Section 51-1-37 NMSA 1978 (being Laws 1936 (S.S.), Chapter 1, Section 15, as amended) is amended to read:

"51-1-37. PROTECTION OF RIGHTS AND BENEFITS.--

A. Except as provided by Section 51-1-37.1 NMSA 1978, any agreement by an individual to waive, release or commute the individual's rights to benefits or any other rights under the Unemployment Compensation Law shall be void. No agreement by any individual in the employ of any person or concern to pay all or any portion of an employer's contributions or payments in lieu of contributions, required under the Unemployment Compensation Law from such employer, shall be valid. No employer shall directly or indirectly make or require or accept any deduction from the remuneration of individuals in the employer's employ to finance the employer's contributions or payments in lieu of contributions required from the employer or require or accept any waiver of any right hereunder by an individual in the employer's employ. Any employer or officer or agent of an employer who violates any provisions of this subsection shall, for each offense, be fined not less than one hundred dollars (\$100) nor more than one thousand dollars (\$1,000) or be imprisoned for not more than six months, or both.

B. No individual claiming benefits shall be charged fees of any kind in any proceeding under the Unemployment Compensation Law by the department or its representatives or by any court or any officer thereof. Any individual claiming benefits and any employer in any proceeding before the secretary, the secretary's authorized representative or the board of review may be represented by counsel or any other duly authorized agent, but no such counsel or agent shall either charge or receive for such services more than an amount approved by the secretary. Any person who violates any provision of this subsection shall, for each such offense, be fined not less than fifty dollars (\$50.00) nor more than five hundred dollars (\$500) or imprisoned for not more than six months, or both.

C. Except as provided in Subsection D of this section, any assignment, pledge or encumbrance of any right to benefits that are or may become due or payable under the Unemployment Compensation Law shall be void, and such rights to benefits shall be exempt from levy, execution, attachment, garnishment or any other remedy provided for the collection of debt. Benefits received by any individual shall be exempt from a remedy for the collection of debts. Any waiver of any exemption provided for in this subsection is void.

D. The following actions for collection of the indicated obligations may be taken:

(1) deduction and withholding of amounts of unpaid child support pursuant to Section 51-1-37.1 NMSA 1978;

(2) levy by the federal internal revenue service pursuant to Section 6331(h)(2)(C) of the Internal Revenue Code of 1986; provided that arrangements have been made by the internal revenue service for reimbursement of the division for administrative costs incurred by the division that are attributable to the repayment of uncollected federal internal revenue taxes. Levy of federal income taxes will be made in accordance with such regulations as the secretary may prescribe; and

(3) deduction and withholding of amounts for food stamp overissuances pursuant to Section 51-1-37.2 NMSA 1978."

### **Chapter 104 Section 12 Laws 2023**

SECTION 12. REPEAL.--Section 42-10-2 NMSA 1978 (being Laws 1971, Chapter 215, Section 2, as amended) is repealed.

### **Chapter 104 Section 13 Laws 2023**

SECTION 13. APPLICABILITY.--The provisions of this act apply to actions filed on or after July 1, 2023.

### **Chapter 104 Section 14 Laws 2023**

SECTION 14. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

## **LAWS 2023, CHAPTER 105**

**Senate Bill 219, aa**  
**Approved April 4, 2023**

### **AN ACT**

RELATING TO ATHLETICS; REMOVING THE PROHIBITION ON POST-SECONDARY EDUCATIONAL INSTITUTIONS ARRANGING COMPENSATION FOR THE USE OF A STUDENT ATHLETE'S NAME, IMAGE, LIKENESS OR ATHLETIC REPUTATION; ALLOWING ENTITIES AND INDIVIDUALS WHO REPRESENTED A POST-SECONDARY EDUCATIONAL INSTITUTION IN THE PAST FOUR YEARS TO REPRESENT A STUDENT ATHLETE WHO IS ATTENDING THAT POST-SECONDARY EDUCATIONAL INSTITUTION.

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

### **Chapter 105 Section 1 Laws 2023**

SECTION 1. Section 21-31-3 NMSA 1978 (being Laws 2021, Chapter 124, Section 3) is amended to read:

"21-31-3. STUDENT ATHLETE COMPENSATION.--

A. A post-secondary educational institution shall not:

(1) uphold any rule, requirement, standard or other limitation that prevents a student athlete of that institution from fully participating in athletics without penalty:

(a) for receiving food, shelter, medical expenses or insurance from a third party; or

(b) for earning compensation from a third party as a result of the use of the student athlete's name, image, likeness or athletic reputation; or

(2) prevent a student athlete from receiving third-party compensation for using the student athlete's name, image, likeness or athletic reputation when the student athlete is not engaged in official, mandatory team activities.

B. Earning compensation from the use of a student athlete's name, image, likeness or athletic reputation shall not affect a student athlete's grant-in-aid or stipend eligibility, amount, duration or renewal. For the purposes of this section, a grant-in-aid or stipend shall not be revoked or reduced as a result of a student athlete earning compensation pursuant to this section.

C. A third party shall not offer a student athlete a contract to provide compensation to the student athlete for use of the student athlete's name, image, likeness or athletic reputation that requires a student athlete to advertise for the sponsor in person during official, mandatory team activities without the approval of the student athlete's post-secondary educational institution."

## **Chapter 105 Section 2 Laws 2023**

SECTION 2. Section 21-31-4 NMSA 1978 (being Laws 2021, Chapter 124, Section 4) is amended to read:

"21-31-4. PROFESSIONAL REPRESENTATION.--A post-secondary educational institution shall not interfere with or prevent a student athlete from fully participating in athletics for obtaining representation in relation to contracts or legal matters."

## **LAWS 2023, CHAPTER 106**

**Senate Bill 223, aa**  
**Approved April 4, 2023**

AN ACT

RELATING TO CHILD SUPPORT; UPDATING THE CHILD SUPPORT GUIDELINES TO REQUIRE THE HUMAN SERVICES DEPARTMENT TO ESTABLISH A NEW CHILD SUPPORT SCHEDULE BY RULE; OUTLINING REQUIREMENTS THAT THE HUMAN

SERVICES DEPARTMENT MUST FOLLOW WHEN ESTABLISHING THE NEW CHILD SUPPORT SCHEDULE; UPDATING STATUTORY REFERENCES TO THE CHILD SUPPORT SCHEDULE.

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

## **Chapter 106 Section 1 Laws 2023**

SECTION 1. Section 40-4-11.1 NMSA 1978 (being Laws 1988, Chapter 87, Section 2, as amended) is amended to read:

"40-4-11.1. CHILD SUPPORT--GUIDELINES.--

A. In any action to establish or modify child support, the child support guidelines as set forth in this section and the child support schedule promulgated by the department shall be applied to determine the child support due and shall be a rebuttable presumption for the amount of such child support. Every decree or judgment or stipulation of child support that deviates from the guideline amount shall contain a statement of the reasons for the deviation.

B. The purposes of the child support guidelines are to:

(1) establish as state policy an adequate standard of support for children, subject to the ability of parents to pay;

(2) make awards more equitable by ensuring more consistent treatment of persons in similar circumstances; and

(3) improve the efficiency of the court process by promoting settlements and giving courts and the parties guidance in establishing levels of awards.

C. For purposes of the guidelines specified in this section:

(1) "income" means actual gross income of a parent if employed to full capacity or potential income if unemployed or underemployed. The gross income of a parent means only the income and earnings of that parent and not the income of subsequent spouses, notwithstanding the community nature of both incomes after remarriage; and

(2) "gross income" includes income from any source and includes but is not limited to income from salaries, wages, tips, commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, social security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, significant in-kind benefits that reduce personal living expenses, prizes and alimony or maintenance received, provided:

(a) "gross income" shall not include benefits received from: 1) means-tested public assistance programs, including but not limited to temporary assistance for needy families, supplemental security income and general assistance; 2) the earnings or public assistance benefits of a child who is the subject of a child support award; or 3) child support received by a parent for the support of other children;

(b) for income from self-employment, rent, royalties, proprietorship of a business or joint ownership of a partnership or closely held corporation, "gross income" means gross receipts minus ordinary and necessary expenses required to produce such income, but ordinary and necessary expenses do not include expenses determined by the court to be inappropriate for purposes of calculating child support;

(c) "gross income" shall not include the amount of alimony payments actually paid in compliance with a court order;

(d) "gross income" shall not include the amount of child support actually paid by a parent in compliance with a court order for the support of prior children; and

(e) "gross income" shall not include a reasonable amount for a parent's obligation to support prior children who are in that parent's custody. A duty to support subsequent children is not ordinarily a basis for reducing support owed to children of the parties but may be a defense to a child support increase for the children of the parties. In raising such a defense, a party may use Table A as set forth in Subsection M of this section to calculate the support for the subsequent children.

D. If a court finds that a parent has willfully failed to obtain or maintain appropriate employment or is willfully underemployed, the court may impute to that parent an income equal to that parent's earning and employment potential.

- (1) The following criteria shall be used:
  - (a) availability of employment opportunities for the parent;
  - (b) the parent's employment history;
  - (c) the parent's income history;
  - (d) the parent's job skills;
  - (e) the parent's education;
  - (f) the parent's age and health;
  - (g) the parent's history of convictions and incarceration; and

(h) the parent's ability to obtain or maintain employment due to providing care for a child of the parties who is under the age of six or is disabled.

(2) Minimum wage may be imputed if a parent has no recent employment or earnings history and that parent has the capacity to earn minimum wage. The minimum wage to be imputed to that parent is the prevailing minimum wage in the locality where that parent resides.

E. Income may not be imputed to a parent if the parent is incarcerated for a period of one hundred eighty days or longer. Incarceration is not considered a voluntary unemployment.

F. As used in this section:

(1) "department" means the human services department;

(2) "children of the parties" means the natural or adopted child or children of the parties to the action before the court but shall not include the natural or adopted child or children of only one of the parties;

(3) "basic visitation" means a custody arrangement whereby one parent has physical custody and the other parent has visitation with the children of the parties less than thirty-five percent of the time. Such arrangements can exist where the parties share responsibilities pursuant to Section 40-4-9.1 NMSA 1978;

(4) "shared responsibility" means a custody arrangement whereby each parent provides a suitable home for the children of the parties, when the children of the parties spend at least thirty-five percent of the year in each home and the parents significantly share the duties, responsibilities and expenses of parenting; and

(5) "schedule" means the child support schedule promulgated by the department.

G. The basic child support obligation shall be calculated based on the combined income of both parents and shall be paid by them proportionately pursuant to Subsection L of this section.

H. Physical custody adjustments shall be made as follows:

(1) for basic visitation situations, the basic child support obligation shall be calculated using the basic child support schedule promulgated by the department, Worksheet A and instructions contained in Subsection M of this section. The court may provide for a partial abatement of child support for visitations of one month or longer; and

(2) for shared responsibility arrangements, the basic child support obligation shall be calculated using the basic child support schedule promulgated by the department, Worksheet B and instructions contained in Subsection M of this section.

I. In shared responsibility situations, each parent retains the percentage of the basic support obligation equal to the number of twenty-four-hour days of responsibility spent by each child with each respective parent divided by three hundred sixty-five.

J. The cost of providing medical and dental insurance for the children of the parties and the net reasonable child-care costs incurred on behalf of these children due to employment or job search of either parent shall be paid by each parent in proportion to that parent's income, in addition to the basic obligation.

K. The child support may also include the payment of the following expenses not covered by the basic child support obligation:

(1) any extraordinary medical, dental and counseling expenses incurred on behalf of the children of the parties. Such extraordinary expenses are uninsured expenses in excess of one hundred dollars (\$100) per child per year;

(2) any extraordinary educational expenses for children of the parties;  
and

(3) transportation and communication expenses necessary for long distance visitation or time sharing.

L. Whenever application of the child support guidelines set forth in this section requires a person to pay to another person more than forty percent of the paying person's gross income for a single child support obligation for current support, there shall be a presumption of a substantial hardship, justifying a deviation from the guidelines.

M. The department shall:

(1) establish the basic child support schedule by rule, using the recommendations of the child support guidelines review commission as the initial proposed rules; and

(2) update and adjust the basic child support schedule when such a change is necessary to ensure that the child support schedule complies with the child support guidelines set forth in this section. The basic child support schedule shall be promulgated pursuant to the State Rules Act and shall be published and available to the public through the New Mexico Administrative Code, the New Mexico supreme court's website and the department's website. When the department is developing or updating the child support schedule, it shall consider:

- (a) all of the earnings and income of the noncustodial and custodial parent;
- (b) the basic subsistence needs of a noncustodial parent who may have a limited ability to pay by incorporating a mechanism that adjusts the basic support obligation for low-income parents;
- (c) economic data on the costs of raising children;
- (d) state and local labor market data; and
- (e) regional and national trends in child support schedule adjustments.

WORKSHEET A - BASIC VISITATION

\_\_\_\_\_ JUDICIAL DISTRICT COURT  
 COUNTY OF \_\_\_\_\_  
 STATE OF NEW MEXICO

NO. \_\_\_\_\_

\_\_\_\_\_,  
 Petitioner,

vs.

\_\_\_\_\_,  
 Respondent.

MONTHLY CHILD SUPPORT OBLIGATION

	Custodial Parent		Other Parent		Combined
1. Gross Monthly Income \$_____		+	\$_____	=	\$_____
2. Percentage of Combined Income (Each parent's income divided by combined income)	_____%	+	_____%	=	100%
3. Number of Children _____					
4. Basic Support from Schedule (Use combined income from Line 1)			=		_____
5. Children's Health and Dental Insurance Premium _____		+	_____	=	_____
6. Work-Related Child Care _____		+	_____	=	_____
7. Additional Expenses _____		+	_____	=	_____
8. Total Support (Add					

Lines 5, 6 and 7 for each parent and Lines 4, 5, 6 and 7 for combined column) \_\_\_\_\_ + \_\_\_\_\_ = \_\_\_\_\_

9. Each Parent's Obligation (Combined Column Line 8 x each parent's Line 2) \_\_\_\_\_

10. Enter amount for each parent from Line 8 - \_\_\_\_\_ - \_\_\_\_\_

11. Each Parent's Net Obligation (Subtract Line 10 from Line 9 for each parent). \_\_\_\_\_

Other Parent pays Custodial Parent this Amount

\_\_\_\_\_ PAYS \_\_\_\_\_ EACH MONTH \$ \_\_\_\_\_

\_\_\_\_\_  
Petitioner's Signature

\_\_\_\_\_  
Respondent's Signature

Date: \_\_\_\_\_

### BASIC VISITATION

#### INSTRUCTIONS FOR WORKSHEET A

Line 1. Gross monthly income:

Includes all income, except temporary assistance for needy families, food stamps and supplemental security income. If a parent pays child support by court order to other children, subtract from gross income. Use current income if steady. If income varies a lot from month to month, use an average of the last twelve months, if available, or last year's income tax return. Add both parents' gross incomes and put total under the combined column.

Line 2. Percentage of Combined Income:

Divide each parent's income by combined income to get that parent's percentage of combined income.

Lines 3 and 4. Basic Support:

Fill in number of children on worksheet (Line 3). Round combined income to nearest fifty dollars (\$50.00). Look at the basic child support schedule. In the far left-hand column of the basic child support schedule, find the rounded combined income figure. Read across to the column with the correct number of children. Enter that amount on Line 4.

Line 5. Children's Health and Dental Insurance Premium:

Enter the cost paid by a parent for covering these children with medical and dental insurance under that parent's column on Line 5. Add costs paid by each parent and enter under the combined column on Line 5.

Line 6. Work-Related Child Care:

Enter the cost paid by each parent for work-related child care. If the cost varies (for example, between school year and summer), take the total yearly cost and divide by twelve. Enter each parent's figure in that parent's column on Line 6. Add the cost for both parents and enter in the combined column on Line 6.

Line 7. Additional Expenses:

Enter the amounts paid by each parent for additional expenses provided by Subsection J of this section on Line 7. Add the cost for both parents and enter in the combined column on Line 7.

Line 8. Total Support:

Total the basic support amount from Line 4 in the combined column with the combined column on Lines 5, 6 and 7 and enter the totals in the combined column on Line 8.

Line 9. Each Parent's Obligation:

Multiply the total child support amount on Line 8 by each parent's percentage share on Line 2, and enter each parent's dollar share under that parent's column on Line 9.

Line 10. Total Support:

Enter the total amount shown for each parent on Line 8 beside the "minus" marks on Line 10.

Line 11. Each Parent's Net Obligation:

For each parent, subtract the amount on Line 10 from the amount on Line 9. Enter the difference for each parent in that parent's column on Line 11. The amount in the box "other parent" is what that parent pays to the custodial parent each month. Do not subtract the amount on the custodial parent's Line 11 from the amount in the other parent's box. The custodial parent is presumed to use the amount in that parent's column on Line 11 for the children.

WORKSHEET B - SHARED RESPONSIBILITY

\_\_\_\_\_ JUDICIAL DISTRICT COURT

COUNTY OF \_\_\_\_\_

STATE OF NEW MEXICO

NO. \_\_\_\_\_

\_\_\_\_\_,

Petitioner,

vs.

\_\_\_\_\_,

Respondent.

MONTHLY CHILD SUPPORT OBLIGATION

Part 1 - Basic Support:	Parent One		Parent Two	=	Combined
1. Gross Monthly Income	\$_____	+	\$_____	=	\$_____
2. Percentage of Combined Income (Each parent's income divided by combined income)	_____ %	+	_____ %	=	100%
3. Number of Children	_____				
4. Basic Support from Schedule (Use combined income from Line 1)				=	_____
5. Shared Responsibility Basic Obligation (Line 4 x 1.5)				=	_____
6. Each Parent's Share (Line 5 x each parent's Line 2)	_____		_____		
7. Number of 24-Hour Days with Each Parent (must total 365)	_____	+	_____	=	<u>365</u>
8. Percentage with Each Parent (Line 7 divided by 365)	_____ %	+	_____ %	=	100%

9. Amount Retained (Line 6 x Line 8 for Each Parent) \_\_\_\_\_

10. Each Parent's Basic Obligation (subtract Line 9 from Line 6) \_\_\_\_\_

11. Amount Transferred (subtract smaller amount on Line 10 from larger amount on Line 10). Parent with larger amount on Line 10 pays other parent the difference. \_\_\_\_\_

Part 2 - Additional Payments:

12. Children's Health and Dental Insurance Premium \_\_\_\_\_ + \_\_\_\_\_ = \_\_\_\_\_

13. Work-Related Child Care \_\_\_\_\_ + \_\_\_\_\_ = \_\_\_\_\_

14. Additional Expenses \_\_\_\_\_ + \_\_\_\_\_ = \_\_\_\_\_

15. Total Additional Payments (Add Lines 12, 13 and 14 for each parent and for combined column) \_\_\_\_\_ + \_\_\_\_\_ = \_\_\_\_\_

16. Each Parent's Obligation (Combined Column Line 15 x each parent's Line 2) \_\_\_\_\_

17. Amount Transferred (Subtract each parent's Line 16 from that parent's Line 15). Parent with "minus" figure pays that amount to other parent. \_\_\_\_\_

Part 3 - Net Amount Transferred:

18. Combine Lines 11 and 17 by addition if same parent pays on both lines, otherwise by subtraction. \_\_\_\_\_

\_\_\_\_\_ PAYS \_\_\_\_\_ EACH MONTH \$ \_\_\_\_\_

\_\_\_\_\_  
 Petitioner's Signature  
 Date: \_\_\_\_\_

\_\_\_\_\_  
 Respondent's Signature

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SHARED RESPONSIBILITY  
INSTRUCTIONS FOR WORKSHEET B

Part 1 - Basic Support:

Line 1. Gross Monthly Income:

Includes all income, except temporary assistance for needy families, food stamps and supplemental security income. See text for allowed deductions from income. Use current income if steady. If income varies a lot from month to month, use an average of the last twelve months, if available, or last year's income tax return. Add both parents' gross incomes and put total under the combined column.

Line 2. Percentage of Combined Income:

Divide each parent's income by combined income to get that parent's percentage of combined income.

Lines 3 and 4. Basic Support:

Fill in the number of children on the worksheet (Line 3). Round combined income to nearest fifty dollars (\$50.00). Look at the basic child support schedule. In the far left-hand column of that schedule, find the rounded combined income figure. Read across to the column with the correct number of children. Enter that amount on Line 4.

Line 5. Shared Responsibility Basic Obligation:

Multiply the basic obligation on Line 4 by 1.5.

Line 6. Each Parent's Share:

Multiply the support amount on Line 5 by each parent's percentage share on Line 2, and enter each parent's dollar share under that parent's column on Line 6.

Line 7. Each Parent's Time of Care for Children:

Enter the number of twenty-four-hour days of responsibility that each parent has each child in a year according to the parenting plan.

Line 8. Percentage of Twenty-Four-Hour Days With Each Parent:

Divide each parent's number of twenty-four-hour days (Line 7) by three hundred sixty-five to obtain a percentage.

Line 9. Amount Retained:

Under shared responsibility arrangements, each parent retains the percentage of the basic support obligation equal to the number of twenty-four-hour days of responsibility spent by each child with each respective parent divided by three hundred sixty-five. Multiply each parent's share of basic support (Line 6) by the percentage in that parent's Line 8 and enter the result on that parent's Line 9. This is the amount that each parent retains to pay the children's expenses during that parent's periods of responsibility.

Line 10. Each Parent's Basic Obligation:

Subtract the amount retained by each parent for direct expenses (Line 9) from that parent's share (Line 6) and enter the difference on that parent's Line 10.

Line 11. Amount Transferred for Basic Support:

In shared responsibility situations, both parents are entitled not only to retain money for direct expenses but also to receive contributions from the other parent toward those expenses. Therefore, subtract the smaller amount on Line 10 from the larger amount on Line 10 to arrive at a net amount transferred for basic support.

Part 2 - Additional Payments:

Line 12. Children's Health and Dental Insurance Premium: Enter the cost paid by a parent for covering these children with medical and dental insurance under that parent's column on Line 12. Add costs paid by each parent and enter under the combined column on Line 12.

Line 13. Work-Related Child Care:

Enter the cost paid by each parent for work-related child care. If the cost varies (for example, between school year and summer), take the total yearly cost and divide by twelve. Enter each parent's figure in that parent's column on Line 13. Add the cost for both parents and enter in the combined column on Line 13.

Line 14. Additional Expenses:

Enter the cost paid by each parent for additional expenses provided by Subsection J of this section on Line 14.

Line 15. Total Additional Payments:

For each parent, total the amount paid by that parent for insurance, child care and additional expenses (Lines 12, 13 and 14). Enter the total in that parent's column on Line 15 and the total of both parents' expenses under the combined column on Line 15.

Line 16. Each Parent's Obligation:

Multiply the total additional payments (combined column on Line 15) by each parent's percentage share of income on Line 2, and enter each parent's dollar share of the additional payments on that parent's Line 16.

Line 17. Amount Transferred:

Subtract each parent's obligation for additional expenses (that parent's Line 16) from the total additional payments made by that parent (that parent's Line 15). The parent with a "minus" figure pays the other parent the amount on Line 17.

Part 3 - Net Amount Transferred:

Line 18. Combine Lines 11 and 17:

Combine the amount owed by one parent to the other for basic support (Line 11) and the amount owed by one parent to the other for additional payments (Line 17). If the same parent owes for both obligations, add Lines 11 and 17, and enter the total on Line 18. If one parent owes for basic support and the other owes for additional payments, subtract the smaller amount from the larger and enter on Line 18. Fill in the blanks by stating which parent pays and which parent receives the net amount transferred."

## **Chapter 106 Section 2 Laws 2023**

SECTION 2. Section 40-4-11.2 NMSA 1978 (being Laws 1989, Chapter 36, Section 1, as amended) is amended to read:

"40-4-11.2. GROUNDS FOR DEVIATION FROM CHILD SUPPORT GUIDELINES.--Any deviation from the child support guidelines set forth in Section 40-4-11.1 NMSA 1978 and the basic child support schedule promulgated by the human services department shall be supported by a written finding in the decree, judgment or order of child support that application of the guidelines and basic child support schedule would be unjust or inappropriate. A finding that rebuts the child support guidelines and basic child support schedule shall state the amount of support that would have been required under the guidelines and basic child support schedule and the justification of why the order varies from the guidelines and the basic child support schedule. Circumstances creating a substantial hardship in the obligor, obligee or subject children

may justify a deviation upward or downward from the amount that would otherwise be payable under the guidelines and basic child support schedule."

## **Chapter 106 Section 3 Laws 2023**

SECTION 3. Section 40-4C-3 NMSA 1978 (being Laws 1990, Chapter 78, Section 3, as amended) is amended to read:

"40-4C-3. DEFINITIONS.--As used in the Mandatory Medical Support Act:

A. "carrier" means an entity that offers, delivers or administers an employment-related or other group health care coverage plan, a health maintenance organization, a nonprofit health care plan or other type of health care coverage plan under which medical or dental services are provided, regardless of service delivery mechanism;

B. "cash medical support" means an amount ordered to be paid toward the cost of health care coverage provided by a public entity or by another parent through employment or otherwise, or for other medical costs not covered by health care coverage;

C. "court" means any district court ordering support by a medical support obligor;

D. "department" means the human services department;

E. "employer" means an individual, organization, agency, business or corporation hiring a medical support obligor for pay;

F. "gross income" means income from any source and includes income from salaries, wages, tips, commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, social security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, significant in-kind benefits that reduce personal living expenses, prizes and alimony or maintenance received; provided that:

(1) "gross income" does not include benefits received from:

(a) means-tested public assistance programs, including temporary assistance for needy families, supplemental security income and general assistance;

(b) the earnings or public assistance benefits of a child who is the subject of a child support award; or

(c) child support received by a parent for the support of other children;

(2) for income from self-employment, rent, royalties, proprietorship of a business or joint ownership of a partnership or closely held corporation, "gross income" means gross receipts minus ordinary and necessary expenses required to produce such income, but ordinary and necessary expenses do not include expenses determined by the court to be inappropriate for purposes of calculating child support;

(3) "gross income" does not include the amount of alimony payments actually paid in compliance with a court order;

(4) "gross income" does not include the amount of child support actually paid by a parent in compliance with a court order for the support of prior children; and

(5) "gross income" does not include a reasonable amount for a parent's obligation to support prior children who are in that parent's custody. A duty to support subsequent children is not ordinarily a basis for reducing support owed to children of the parties but may be a defense to a child support increase for the children of the parties. In raising such a defense, a party may use the child support schedule promulgated by the department pursuant to Subsection M of Section 40-4-11.1 NMSA 1978 to calculate the support for the subsequent children;

G. "health care coverage" means fee-for-service, health maintenance organization, preferred provider organization and other types of private health insurance and public health care coverage under which medical services may be provided to minor children;

H. "medical support obligee" means a person to whom a duty of medical support is owed or a person, including the department, who has commenced a proceeding for enforcement of a duty to provide health support for each minor child or for registration of a support order that includes a provision for such support for each minor child;

I. "medical support obligor" means a person owing a duty to provide health support or against whom a proceeding for the enforcement of such a duty of support is commenced or for registration of a support order that includes provisions for such support for each minor child;

J. "minor child" means a child younger than eighteen years of age who has not been emancipated; and

K. "national medical support notice" means a notice to an employer that an employee's child must be covered by the employment-related group health and dental care coverage plan pursuant to a court order."

## **Chapter 106 Section 4 Laws 2023**

SECTION 4. TEMPORARY PROVISION--INITIAL CHILD SUPPORT SCHEDULE LIMITATIONS.--The initial child support schedule established by the human services department shall:

A. not decrease the yearly basic support obligation for any level of combined parental income by more than the dollar change in the federal poverty guidelines for one person since 2018;

B. not increase the yearly support obligation for any level of combined parental income by more than one and one-half times the change in the consumer price index since 2018. Any increase in support obligation that is larger than the increase in the consumer price index since 2018 must be specifically supported by economic data and evidence;

C. not change the format of the child support schedule in a way that would be inconsistent with Worksheet A or Worksheet B in Subsection M of Section 1 of this act; and

D. be promulgated, published and available to the public through the New Mexico Administrative Code, the New Mexico supreme court's website and the human services department's website no later than January 1, 2024.

## **Chapter 106 Section 5 Laws 2023**

SECTION 5. APPLICABILITY.--The provisions of this act apply to all decrees, judgments or orders of child support made on or after January 1, 2024.

## **Chapter 106 Section 6 Laws 2023**

SECTION 6. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2024.

# **LAWS 2023, CHAPTER 107**

**Senate Bill 224**

**Approved April 4, 2023**

AN ACT

RELATING TO PARENTAL SUPPORT; AMENDING PORTIONS OF THE MANDATORY MEDICAL SUPPORT ACT; ALLOWING PARENTS TO SATISFY THEIR OBLIGATION OF PROVIDING MEDICAL SUPPORT TO THEIR CHILDREN BY ENROLLING THEIR CHILDREN IN MEDICAID.

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

## Chapter 107 Section 1 Laws 2023

SECTION 1. Section 40-4C-3 NMSA 1978 (being Laws 1990, Chapter 78, Section 3, as amended) is amended to read:

"40-4C-3. DEFINITIONS.--As used in the Mandatory Medical Support Act:

A. "carrier" means an entity that offers, delivers or administers an employment-related or other group health care coverage plan, a health maintenance organization, a nonprofit health care plan or other type of health care coverage plan under which medical or dental services are provided, regardless of service delivery mechanism;

B. "cash medical support" means an amount ordered to be paid toward the cost of health care coverage provided by another parent through employment or otherwise, or for other medical costs not covered by health care coverage;

C. "court" means any district court ordering support by a medical support obligor;

D. "department" means the human services department;

E. "employer" means an individual, organization, agency, business or corporation hiring a medical support obligor for pay;

F. "gross income" means income from any source and includes income from salaries, wages, tips, commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, social security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, significant in-kind benefits that reduce personal living expenses, prizes and alimony or maintenance received; provided that:

(1) "gross income" does not include benefits received from:

(a) means-tested public assistance programs, including temporary assistance for needy families, supplemental security income and general assistance;

(b) the earnings or public assistance benefits of a child who is the subject of a child support award; or

(c) child support received by a parent for the support of other children;

(2) for income from self-employment, rent, royalties, proprietorship of a business or joint ownership of a partnership or closely held corporation, "gross income" means gross receipts minus ordinary and necessary expenses required to produce such income, but ordinary and necessary expenses do not include expenses determined by the court to be inappropriate for purposes of calculating child support;

(3) "gross income" does not include the amount of alimony payments actually paid in compliance with a court order;

(4) "gross income" does not include the amount of child support actually paid by a parent in compliance with a court order for the support of prior children; and

(5) "gross income" does not include a reasonable amount for a parent's obligation to support prior children who are in that parent's custody. A duty to support subsequent children is not ordinarily a basis for reducing support owed to children of the parties but may be a defense to a child support increase for the children of the parties. In raising such a defense, a party may use Table A as set forth in Subsection M of Section 40-4-11.1 NMSA 1978 to calculate the support for the subsequent children;

G. "health care coverage" means fee-for-service, health maintenance organization, preferred provider organization and other types of private health insurance and public health care coverage under which medical services may be provided to minor children;

H. "medical support obligee" means a person to whom a duty of medical support is owed or a person who has commenced a proceeding for enforcement of a duty to provide health support for each minor child or for registration of a support order that includes a provision for such support for each minor child;

I. "medical support obligor" means a person owing a duty to provide medical support or against whom a proceeding for the enforcement of such a duty of support is commenced or for registration of a support order that includes provisions for such support for each minor child;

J. "minor child" means a child younger than eighteen years of age who has not been emancipated; and

K. "national medical support notice" means a notice to an employer that an employee's child must be covered by the employment-related group health and dental care coverage plan pursuant to a court order."

## **Chapter 107 Section 2 Laws 2023**

SECTION 2. Section 40-4C-4 NMSA 1978 (being Laws 1990, Chapter 78, Section 4, as amended) is amended to read:

"40-4C-4. MEDICAL SUPPORT--ORDER.--

A. The court shall determine a parent or both parents to be a medical support obligor based on the following:

(1) the availability of health care coverage that meets or exceeds the minimum standards required under the Mandatory Medical Support Act;

(2) the availability of health care coverage through an employment-related or other group health and dental care coverage plan; and

(3) the availability of health care coverage through a public entity when either parent meets eligibility requirements.

B. When a medical support obligor is ordered to provide health care coverage, the medical support obligor shall properly name each minor child on behalf of whom medical support is owed as an eligible dependent enrolled in health care coverage.

C. The court may consider the impact of the cost of health care coverage on the payment of the base child support amounts in determining whether the coverage shall be ordered; provided that:

(1) the health care coverage for the minor child shall be available to the parent responsible for providing medical support at a reasonable cost;

(2) cash medical support or the cost of health care coverage for the minor child is considered reasonable in cost if the cost to the parent responsible for providing medical support does not exceed five percent of the parent's gross income; and

(3) the court shall allocate the cost of coverage between the minor child's parents by including the costs in the child support worksheet as set forth in Section 40-4-11.1 NMSA 1978.

D. The court may order the medical support obligor to obtain health care coverage for each minor child to whom medical support is owed if the court finds that health care coverage for each minor child is not available to the medical support obligor through an employment-related or other group health care coverage plan.

E. The court shall require the medical support obligor to pay cash medical support in specific dollar amounts when:

(1) the court finds that health care coverage is not available at the time an order is entered or modified and until such time that health care coverage becomes available; or

(2) the court finds that the health care coverage required to be obtained by a medical support obligor does not pay all the medical or dental expenses of each minor child.

F. The court shall require the medical support obligor to be liable to the custodial parent for all or a portion of the uninsured or uncovered medical and dental expenses of each minor child.

G. The court shall require the medical support obligor to provide health care coverage or dental care coverage for the benefit of the medical support obligee if it is available at no additional cost to the medical support obligor.

H. The court in any proceeding for the establishment, enforcement or modification of a child support obligation may modify an existing order of support or establish child support, as applicable, for each minor child to incorporate the provisions for medical and dental support ordered pursuant to the Mandatory Medical Support Act.

I. The court shall consider health care coverage provided by a public entity as meeting the standards required under the Mandatory Medical Support Act."

### **Chapter 107 Section 3 Laws 2023**

SECTION 3. Section 40-4C-6 NMSA 1978 (being Laws 1990, Chapter 78, Section 6, as amended) is amended to read:

"40-4C-6. OBLIGATIONS--EMPLOYERS, UNIONS AND CARRIERS--PLAN.--

A. Upon receipt of a national medical support notice or the court order for health care coverage pursuant to Section 40-4C-5 NMSA 1978 or upon application of the medical support obligor pursuant to the court order, the employer or union shall enroll the minor child as an eligible dependent in the health care coverage plan and withhold any required premium from the medical support obligor's income or wages. If more than one health care coverage plan and dental care coverage plan is offered by the employer, union or carrier, the minor child shall be enrolled in the plan in which the medical support obligor is enrolled. If the medical support obligor is not enrolled in a plan, the child shall be enrolled in a plan that meets the minimum coverage criteria required pursuant to the Mandatory Medical Support Act. If the medical support obligor is not enrolled in a plan, the premiums charged for the child or children of the medical support obligor shall be those charged for the enrollment of the medical support obligor only.

B. In any instance in which the medical support obligor is required by a court order to provide health care coverage for each minor child and the medical support obligor is eligible for health care coverage through an employment-related or other group health care coverage plan, the employer, union or carrier shall do the following:

(1) permit the medical support obligor to enroll for health care coverage each minor child who is otherwise eligible for coverage without regard to any enrollment season restrictions;

(2) enroll each minor child for health care coverage if the medical support obligor fails to enroll each minor child upon application by the medical support obligee or the department;

(3) not disenroll or eliminate coverage of any minor child so enrolled unless:

(a) the employer is provided with satisfactory written evidence that the court order is no longer in effect;

(b) the minor child is or will be enrolled in comparable health care coverage that meets the health care coverage criteria required pursuant to the Mandatory Medical Support Act and that will take effect not later than the effective date of the disenrollment;

(c) the medical support obligor has terminated employment; or

(d) the employer has eliminated health care coverage for all of its employees; and

(4) withhold from the medical support obligor's compensation the medical support obligor's share, if any, of premiums for health care coverage and to pay the share of premiums to the carrier, unless otherwise provided in law or regulation.

C. In those instances in which the medical support obligor fails or refuses to execute any document necessary to enroll a minor child in a health care coverage plan ordered by the court, the required information and authorization may be provided by the department or the custodial parent or guardian of the minor child.

D. Information and authorization provided by the department or the custodial parent or guardian of a minor child shall be valid for the purpose of meeting enrollment requirements of the health care coverage plan and shall not affect the obligation of the employer or union and the carrier to enroll the minor child in the health care coverage plan for which other eligibility, enrollment, underwriting terms and other requirements are met. In instances in which a minor child is covered through the medical support obligor, the carrier shall provide all information to the medical support obligee that may be helpful or necessary for the minor child to obtain benefits.

E. A minor child that a medical support obligor is required to cover as an eligible dependent pursuant to the Mandatory Medical Support Act shall be considered for health care coverage purposes as a dependent of the medical support obligor until the child is emancipated or until further order of the court.

F. In instances in which a minor child is provided health care coverage through a medical support obligor, unless prohibited by federal law, the carrier is prohibited from denying health care coverage of the minor child on the grounds that:

- (1) the minor child was born out of wedlock;
- (2) the minor child is not claimed as a dependent on the medical support obligor's federal income tax return; or
- (3) the minor child does not reside with the medical support obligor or reside in the carrier's service area.

G. In instances in which a minor child is provided health care coverage through a medical support obligor, the carrier is prohibited from imposing requirements on the department that are different from requirements applicable to an agent or assignee of any other individual covered by the health care coverage plan.

H. In instances in which a minor child is provided health care coverage through a medical support obligor who is a noncustodial parent, the carrier shall permit the custodial parent or health care provider, with the approval of the custodial parent, to submit claims for covered services without the approval of the medical support obligor. The carrier shall make payments on submitted claims directly to the custodial parent or the health care provider.

I. In instances in which a minor child is covered through a public entity, the medical support obligor is required to maintain the recertification of the health care coverage as long as the medical support obligor meets eligibility requirements.

J. If the medical support obligor is terminated, the employer shall notify the department of the termination."

## **Chapter 107 Section 4 Laws 2023**

SECTION 4. Section 40-4C-12 NMSA 1978 (being Laws 1990, Chapter 78, Section 12, as amended) is amended to read:

### **"40-4C-12. MEDICAL SUPPORT OBLIGOR LIABILITY.--**

A. A medical support obligor who fails to maintain the health care coverage for the benefit of a minor child as ordered pursuant to the Mandatory Medical Support Act shall be liable to the other parent for any medical and dental expenses incurred from the date of the court order.

B. A medical support obligor who receives payment from a third party for the costs of medical or dental services provided to a minor child and who fails to use the payment to reimburse the department is liable to the department to the extent of the

department's payment for the services. The department is authorized to intercept the obligor's tax refund, if the medical support obligor is a noncustodial parent, or use other means of enforcement available to the department to recoup amounts paid. Claims for current or past due child support take priority over any claims made pursuant to this subsection. Failure to maintain health care coverage as ordered constitutes a showing of increased need and provides a basis for modification of the medical support obligor's child support order.

C. A medical support obligor is required to provide the department with the following information concerning health care coverage:

- (1) medical support obligor's name and tax identification number;
- (2) type of coverage (single or family);
- (3) name, address and identifying number of health care coverage;
- (4) name and tax identification number of other individuals who are provided health care coverage by the medical support obligor;
- (5) effective period of coverage; and
- (6) name, address and the tax identification number of the employer."

## **Chapter 107 Section 5 Laws 2023**

SECTION 5. Section 40-4C-13 NMSA 1978 (being Laws 1990, Chapter 78, Section 13, as amended) is amended to read:

"40-4C-13. DEPARTMENT--DUTIES.--The department shall pursue the establishment and enforcement of an order for health care coverage of a minor child upon application of a custodial or noncustodial parent to the department and payment by the custodial or noncustodial parent of fees required by the department."

## **LAWS 2023, CHAPTER 108**

**Senate Bill 242**

**Approved April 4, 2023**

AN ACT

RELATING TO HEALTH; AMENDING THE LYNN AND ERIN COMPASSIONATE USE ACT TO CHANGE THE PERIOD OF VALIDITY FOR A MEDICAL CANNABIS PATIENT REGISTRY IDENTIFICATION CARD AND TO CHANGE THE APPLICATION PERIOD FOR RENEWAL.

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

## **Chapter 108 Section 1 Laws 2023**

SECTION 1. Section 26-2B-7 NMSA 1978 (being Laws 2007, Chapter 210, Section 7, as amended) 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) determine additional duties and responsibilities of the advisory board; and

(6) 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 two 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;

(3) to the division; or

(4) 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 person licensed pursuant to the Cannabis Regulation Act; and

(4) shall register with a person licensed pursuant to the Cannabis Regulation Act for the purpose of tracking sales to the reciprocal participant in an electronic system that is accessible to the department."

## **Chapter 108 Section 2 Laws 2023**

SECTION 2. Section 26-2B-7.1 NMSA 1978 (being Laws 2019, Chapter 247, Section 9) is amended to read:

"26-2B-7.1. REGISTRY IDENTIFICATION CARD-- REGISTRATION-- RENEWAL--WRITTEN CERTIFICATION.--The department shall require a qualified patient to reapply for a registry identification card no sooner than thirty days before the date the patient's current registry identification card expires; 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 to the department together with the qualified patient's application for a registry card 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."

## **LAWS 2023, CHAPTER 109**

**Senate Bill 245**

**Approved April 4, 2023**

AN ACT

RELATING TO PUBLIC HEALTH; ALLOWING RURAL HEALTH FACILITIES TO APPLY FOR RURAL EMERGENCY HOSPITAL LICENSURE; ESTABLISHING RURAL EMERGENCY HOSPITAL LICENSURE REQUIREMENTS.

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

### **Chapter 109 Section 1 Laws 2023**

SECTION 1. A new section of the Public Health Act is enacted to read:

"RURAL EMERGENCY HOSPITAL LICENSURE--LICENSING REQUIREMENTS.--

A. The department shall promulgate rules to establish a rural emergency hospital license that enables certain hospitals to apply to receive federal health care reimbursement as rural emergency hospitals.

B. The department shall only issue a rural emergency hospital license to a health facility that:

(1) on December 27, 2020, was:

(a) designated as a critical access hospital by the centers for medicare and medicaid services; or

(b) licensed as a hospital with less than fifty licensed beds and located in a county in a rural area as defined in Section 1886(d)(2)(D) or Section 1886(d)(8)(E) of the federal Social Security Act;

(2) provides rural emergency hospital services in the facility twenty-four hours per day and is staffed twenty-four hours per day, seven days per week with a physician, nurse practitioner, clinical nurse specialist or physician assistant;

- (3) has a transfer agreement in effect with a level I or level II trauma center;
- (4) does not have an annual average patient length of stay over twenty-four hours; and
- (5) meets any other requirements that the department finds necessary to implement state licensure and satisfy centers for medicare and medicaid services requirements for reimbursement as a rural emergency hospital.

C. A health facility that applies to the department for licensure as a rural emergency hospital shall include with the licensure application:

- (1) an action plan for initiating rural emergency hospital services, including a detailed transition plan that lists the specific services that the facility will retain, modify, add and discontinue;
- (2) a description of services that the facility intends to provide on an outpatient basis; and
- (3) any other information required by rules of the department.

D. A rural emergency hospital shall not have inpatient beds, but a rural emergency hospital may have a unit that is a distinct part of the hospital that is licensed as a skilled nursing facility and provides post-hospital extended care services.

E. For the purposes of this section:

- (1) "department" means the department of health; and
- (2) "rural emergency hospital" means a health facility that provides emergency and observational care and meets the licensure requirements outlined in Subsection B of this section."

## **LAWS 2023, CHAPTER 110**

**SHPAC/Senate Bill 246, aa, w/cc**  
**Approved April 4, 2023**

AN ACT

RELATING TO NOTARIAL ACTS; AMENDING THE REVISED UNIFORM LAW ON NOTARIAL ACTS; DEFINING "AUTOMATIC NOTARIAL OFFICERS" AND "JUDICIAL OFFICERS"; REDEFINING ROLES OF NOTARIAL OFFICERS AND NOTARIES PUBLIC; AMENDING PERSONAL APPEARANCE REQUIREMENTS; PROHIBITING

ACTS OF DISCRIMINATION AS GROUNDS TO REFUSE TO PERFORM NOTARIAL ACTS; PROVIDING FOR NOTARIAL ACTS TO BE PERFORMED BY NOTARIAL OFFICERS AND OTHERS AUTHORIZED BY STATE LAW; RECOGNIZING NOTARIAL ACTS PERFORMED BY AN INDIAN NATION, TRIBE OR PUEBLO; REQUIRING AN OFFICIAL STAMP IN SPECIFIED CIRCUMSTANCES; CLARIFYING OFFICIAL STAMP REQUIREMENTS; PROVIDING REQUIREMENTS FOR A CERTIFICATE OF NOTARIAL ACTS; AMENDING CONTINUING LEGAL EDUCATION CREDIT REQUIREMENTS; MAKING TECHNICAL AND CONFORMING CHANGES; PROVIDING GROUNDS TO DENY, REFUSE TO RENEW, REVOKE, SUSPEND OR CONDITION THE COMMISSION OF A NOTARIAL OFFICER.

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

### **Chapter 110 Section 1 Laws 2023**

SECTION 1. Section 14-13-3 NMSA 1978 (being Laws 1882, Chapter 28, Section 1, as amended) is amended to read:

"14-13-3. OATHS--POWER TO ADMINISTER.--The secretary of state, county clerks, court clerks and all notarial officers are hereby authorized and empowered to administer oaths and affirmations within the state."

### **Chapter 110 Section 2 Laws 2023**

SECTION 2. Section 14-14A-1 NMSA 1978 (being Laws 2021, Chapter 21, Section 1) is amended to read:

"14-14A-1. SHORT TITLE.--Chapter 14, Article 14A NMSA 1978 may be cited as the "Revised Uniform Law on Notarial Acts"."

### **Chapter 110 Section 3 Laws 2023**

SECTION 3. Section 14-14A-2 NMSA 1978 (being Laws 2021, Chapter 21, Section 2) is amended to read:

"14-14A-2. DEFINITIONS.--In addition to the general definitions provided in Section 12-2A-3 NMSA 1978 of the Uniform Statute and Rule Construction Act, as used in the Revised Uniform Law on Notarial Acts:

A. "acknowledgment" means a declaration by an individual before a notarial officer that:

(1) the individual has signed a record for the purpose stated in the record; and

(2) if the record is signed in a representative capacity, the individual signed the record with proper authority and signed it as the act of the individual or entity identified in the record;

B. "automatic notarial officer" means any of the following who has registered an official stamp with the secretary of state:

(1) a judicial officer;

(2) the secretary of state or a full-time staff member of the secretary of state's office while performing a notarial act within the scope of the secretary of state's or staff member's duties;

(3) a county clerk or deputy county clerk while performing a notarial act within the scope of the county clerk's or deputy county clerk's duties; and

(4) an individual who is a member of the state bar of New Mexico and licensed to practice law;

C. "electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities;

D. "electronic signature" means an electronic symbol, sound or process attached to or logically associated with a record and executed or adopted by an individual with the intent to sign the record;

E. "foreign state" means a government other than the United States, a state or a federally recognized Indian tribe;

F. "in a representative capacity" means acting as:

(1) an authorized officer, agent, partner, trustee or other representative for a person other than an individual;

(2) a public officer, personal representative, guardian or other representative, in the capacity stated in a record;

(3) an agent or attorney-in-fact for a principal; or

(4) an authorized representative of another in any other capacity;

G. "judicial officer" means:

(1) a judge of a state court of this state;

(2) a special commissioner or hearing officer appointed pursuant to supreme court rule and employed by a state court;

(3) a special master appointed pursuant to supreme court rule or state statute; and

(4) a court clerk or deputy court clerk of a state court of this state;

H. "licensed to practice law" means a person who is a member of the state bar of New Mexico and, based on such membership, is authorized to practice law before the courts of this state;

I. "notarial act" means an act, whether performed with respect to a tangible or electronic record, that a notarial officer may perform under the law of this state. The term includes taking an acknowledgment, administering an oath or affirmation, taking a verification on oath or affirmation, witnessing or attesting a signature, certifying or attesting a copy and noting a protest of a negotiable instrument, but does not apply to any act that would otherwise be a notarial act if:

(1) the act is performed by a judicial officer within the scope of the judicial officer's duties; and

(2) the record is filed in the court of the judicial officer;

J. "notarial officer" means:

(1) an automatic notarial officer; and

(2) a notary public;

K. "notary public" means an individual commissioned by the secretary of state to be a notary public and authorized by such commission to perform notarial acts pursuant to the Revised Uniform Law on Notarial Acts;

L. "official notary seal" means the great seal of the state of New Mexico, unless the secretary of state has adopted a seal specific for use by notarial officers; provided that as applied to automatic notarial officers, "official notary seal" includes as an option:

(1) for judicial officers, the seal of the court, if the supreme court has approved a seal for such court and the seal has been filed with the secretary of state;

(2) for the secretary of state or a full-time staff member of the secretary of state's office, the seal of the secretary of state, if the secretary of state has approved a seal and the seal has been filed with the secretary of state;

(3) for county clerks or deputy county clerks, the seal of the county, if the board of county commissioners has approved a seal for the county and the seal has been filed with the secretary of state; and

(4) for a person who is licensed to practice law and who is not performing a notarial act pursuant to Paragraphs (1) through (3) of this subsection, a seal approved by the state bar of New Mexico for such purpose and the seal has been filed with the secretary of state;

M. "official stamp" means a physical image affixed to or embossed on a tangible record or an electronic image attached to or logically associated with an electronic record and includes an official notary seal;

N. "person" also includes a statutory trust, public corporation, government or governmental subdivision, agency or instrumentality;

O. "record" 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;

P. "sign" or "subscribe", when used with present intent to authenticate or adopt a record, means to:

(1) execute or adopt a tangible symbol; or

(2) attach to or logically associate with the record an electronic symbol, sound or process;

Q. "signature" means a tangible symbol or an electronic signature that evidences the signing of a record;

R. "stamping device" means:

(1) a physical device capable of affixing to or embossing on a tangible record an official stamp; or

(2) an electronic device or process capable of attaching to or logically associating with an electronic record an official stamp; and

S. "verification on oath or affirmation" means a declaration, made by an individual on oath or affirmation before a notarial officer, that a statement in a record is true."

## **Chapter 110 Section 4 Laws 2023**

SECTION 4. Section 14-14A-3 NMSA 1978 (being Laws 2021, Chapter 21, Section 3) is amended to read:

"14-14A-3. AUTHORITY TO PERFORM NOTARIAL ACT.--

A. A notarial officer shall perform all notarial acts pursuant to the Revised Uniform Law on Notarial Acts or by law of this state other than the Revised Uniform Law on Notarial Acts.

B. A notarial officer shall not perform a notarial act with respect to a record to which the officer or the officer's spouse or domestic partner is a party or in which either of them has a direct beneficial interest. A notarial act performed in violation of this subsection is voidable.

C. A notarial officer may certify that a tangible copy of an electronic record is an accurate copy of the electronic record."

**Chapter 110 Section 5 Laws 2023**

SECTION 5. Section 14-14A-5 NMSA 1978 (being Laws 2021, Chapter 21, Section 5) is amended to read:

"14-14A-5. PERSONAL APPEARANCE REQUIRED--EXCEPTION AUTHORIZED FOR REMOTE NOTARIZATIONS.--

A. If a notarial act relates to a statement made in or a signature executed on a record, the individual making the statement or executing the signature shall appear personally before the notarial officer.

B. A remotely located individual may comply with this section or with any other requirement of the laws of this state that state that a person appear before a notarial officer at the time of a notarial act by using communication technology to appear before a notarial officer.

C. A notarial officer located in this state may perform a notarial act using communication technology for a remotely located individual if:

(1) the notarial officer:

(a) has personal knowledge of the identity of the individual pursuant to Subsection A of Section 14-14A-6 NMSA 1978;

(b) has taken the required class and has satisfactory evidence of the identity of the remotely located individual by oath or affirmation from a credible witness appearing before the notary public pursuant to Subsection B of Section 14-14A-6 NMSA 1978 or this section; or

(c) has obtained satisfactory evidence of the identity of the remotely located individual by using at least two different types of identity proofing;

(2) the notarial officer is able to reasonably confirm that a record before the notarial officer is the same record in which the remotely located individual made a statement or on which the individual executed a signature;

(3) the notarial officer, or a person acting on behalf of the notarial officer, creates an audiovisual recording of the performance of the notarial act; and

(4) for a remotely located individual located outside the United States:

(a) the record: 1) is to be filed with or relates to a matter before a public official or court, governmental entity or other entity subject to the jurisdiction of the United States; or 2) involves property located in the territorial jurisdiction of the United States or involves a transaction substantially connected with the United States;

(b) the notarial act is deemed to be performed in this state and therefore does not require an apostille in the form otherwise prescribed by the Hague Convention of October 5, 1961; and

(c) the act of making the statement or signing the record is not prohibited by the foreign state in which the remotely located individual is located.

D. If a notarial act is performed pursuant to this section, the certificate of notarial act required by Section 14-14A-15 NMSA 1978 and the short-form certificate provided in Section 14-14A-15 NMSA 1978 shall indicate that the notarial act was performed using communication technology.

E. A short-form certificate provided pursuant to Section 14-14A-15 NMSA 1978 for a notarial act subject to this section is sufficient if it:

(1) complies with rules adopted under Paragraph (1) of Subsection H of this section; or

(2) is in the form provided in Section 14-14A-15 NMSA 1978 and contains a statement substantially as follows: "This notarial act involved the use of communication technology."

F. A notarial officer, a guardian, a conservator or an agent of a notarial officer or a personal representative of a deceased notarial officer shall retain the audiovisual recording created pursuant to Paragraph (3) of Subsection C of this section or cause the recording to be retained by a repository designated by or on behalf of the person required to retain the recording. Unless a different period is required by rule adopted pursuant to Paragraph (4) of Subsection H of this section, the recording must be retained for a period of at least ten years after the recording is made.

G. Before a notarial officer performs the notarial officer's initial notarial act with a remotely located individual under this section, the notarial officer shall notify the

secretary of state that the notarial officer will be performing notarial acts with respect to remotely located individuals and identify the technologies the notarial officer intends to use. If the secretary of state has established standards pursuant to Subsection H of this section and Section 14-14A-26 NMSA 1978 for approval of communication technology or identity proofing, the communication technology and identity proofing shall conform to the standards.

H. In addition to adopting rules pursuant to Section 14-14A-26 NMSA 1978, the secretary of state may adopt rules under this section regarding performance of a notarial act. The rules may:

- (1) prescribe the means of performing a notarial act involving a remotely located individual using communication technology;
- (2) establish standards for communication technology and identity proofing;
- (3) establish requirements or procedures to approve providers of communication technology and the process of identity proofing; and
- (4) establish standards and a period for the retention of an audiovisual recording created pursuant to Paragraph (3) of Subsection C of this section.

I. Before adopting, amending or repealing a rule governing performance of a notarial act with respect to a remotely located individual, the secretary of state shall consider:

- (1) the most recent standards regarding the performance of a notarial act with respect to a remotely located individual promulgated by national standard-setting organizations and the recommendations of the national association of secretaries of state;
- (2) standards, practices and customs of other jurisdictions that have laws substantially similar to this section; and
- (3) input from governmental officials and entities and other interested persons.

J. By allowing its communication technology or identity proofing to facilitate a notarial act for a remotely located individual or by providing storage of the audiovisual recording created pursuant to Paragraph (3) of Subsection C of this section, the provider of the communication technology, identity proofing or storage appoints the secretary of state as the provider's agent for service of process in a civil action in this state related to the notarial act.

K. As used in this section:

(1) "communication technology" means an electronic device or process that:

(a) allows a notarial officer and a remotely located individual to communicate with each other simultaneously by sight and sound; and

(b) when necessary and consistent with other applicable law, facilitates communication with a remotely located individual who has a vision, hearing or speech impairment;

(2) "identity proofing" means a process or service by which a third person provides a notarial officer with the means to verify the identity of a remotely located individual by a review of personal information from public or private data sources;

(3) "outside the United States" means a location outside the geographic boundaries of the United States, Puerto Rico, the United States Virgin Islands and any territory, insular possession or other location subject to the jurisdiction of the United States; and

(4) "remotely located individual" means an individual who is not in the physical presence of the notarial officer who performs a notarial act under Subsection C of this section."

## **Chapter 110 Section 6 Laws 2023**

SECTION 6. Section 14-14A-7 NMSA 1978 (being Laws 2021, Chapter 21, Section 7) is amended to read:

"14-14A-7. AUTHORITY TO REFUSE TO PERFORM NOTARIAL ACTS.--

A. A notarial officer may refuse to perform a notarial act if the officer is not satisfied that:

(1) the individual executing the record is competent or has the capacity to execute the record; or

(2) the individual's signature is knowingly and voluntarily made.

B. A notarial officer may refuse to perform a notarial act unless refusal is prohibited by a state or federal law other than the Revised Uniform Law on Notarial Acts.

C. In accordance with the Human Rights Act, a notary public or notarial officer shall not discriminate in the refusal to perform or the manner in which a notarial act is performed pursuant to the Revised Uniform Law on Notarial Acts."

## **Chapter 110 Section 7 Laws 2023**

SECTION 7. Section 14-14A-9 NMSA 1978 (being Laws 2021, Chapter 21, Section 9) is amended to read:

"14-14A-9. NOTARIAL ACTS IN THIS STATE.--

A. A notarial act may be performed in this state by:

- (1) a notary public of this state; or
- (2) an automatic notarial officer of this state.

B. The signature and title of an individual performing a notarial act in this state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

C. The signature and title of a notarial officer described in Subsection A of this section conclusively establish the authority of the officer to perform the notarial act. An official stamp is required unless a state law specifies that an official stamp is not required for that notarial act."

## **Chapter 110 Section 8 Laws 2023**

SECTION 8. Section 14-14A-10 NMSA 1978 (being Laws 2021, Chapter 21, Section 10) is amended to read:

"14-14A-10. NOTARIAL ACT IN ANOTHER STATE.--

A. A notarial act performed in another state has the same effect under the law of this state as if performed by a notarial officer of this state if the act performed in that state is performed by a notarial officer or other individual authorized by the law of that state to perform the notarial act.

B. The signature and title of an individual performing a notarial act in another state are prima facie evidence that the signature is genuine and that the individual holds the designated title.

C. The signature and title of a notarial officer described in Subsection A of this section conclusively establish the authority of the officer to perform the notarial act. An official stamp is required unless a state law specifies that an official stamp is not required by that notarial officer or for that notarial act."

## **Chapter 110 Section 9 Laws 2023**

SECTION 9. Section 14-14A-11 NMSA 1978 (being Laws 2021, Chapter 21, Section 11) is amended to read:

"14-14A-11. NOTARIAL ACT UNDER THE AUTHORITY OF A FEDERALLY RECOGNIZED INDIAN NATION, TRIBE OR PUEBLO.--

A. A notarial act performed under the authority and in the jurisdiction of a federally recognized Indian nation, tribe or pueblo has the same effect as if performed by a notarial officer of this state if the act performed in the jurisdiction of the nation, tribe or pueblo is performed by a notarial officer or other individual authorized by the written law of the nation, tribe or pueblo to perform the notarial act.

B. The signature and title of an individual performing a notarial act under the authority of and in the jurisdiction of a federally recognized Indian nation, tribe or pueblo are prima facie evidence that the signature is genuine and that the individual holds the designated title.

C. The signature and title of a notarial officer described in Subsection A of this section conclusively establish the authority of the officer to perform the notarial act. An official stamp is required unless the laws of the nation, tribe or pueblo specify that an official stamp is not required by that notarial officer for that notarial act."

## **Chapter 110 Section 10 Laws 2023**

SECTION 10. Section 14-14A-12 NMSA 1978 (being Laws 2021, Chapter 21, Section 12) is amended to read:

"14-14A-12. NOTARIAL ACT UNDER FEDERAL AUTHORITY.--

A. A notarial act performed under federal law has the same effect under the law of this state as if performed by a notarial officer of this state if the act performed under federal law is performed by:

- (1) a judge;
- (2) a court clerk or deputy court clerk;
- (3) an individual in military service or performing duties under the authority of military service who is authorized to perform notarial acts under federal law;
- (4) an individual designated a notarizing officer by the United States department of state for performing notarial acts overseas; or

(5) any other individual authorized by federal law to perform a specified notarial act.

B. The signature and title of an individual acting under federal authority and performing a notarial act are prima facie evidence that the signature is genuine and that the individual holds the designated title.

C. The signature and title of an officer described in Subsection A of this section conclusively establish the authority of the officer to perform the notarial act. An official stamp is required unless a law specifies that an official stamp is not required by that federal notarial officer or for that notarial act."

## **Chapter 110 Section 11 Laws 2023**

SECTION 11. Section 14-14A-13 NMSA 1978 (being Laws 2021, Chapter 21, Section 13) is amended to read:

"14-14A-13. FOREIGN NOTARIAL ACTS.--

A. If a notarial act is performed under authority and in the jurisdiction of a foreign state or constituent unit of the foreign state or is performed under the authority of a multinational or international governmental organization, the act has the same effect under the law of this state as if performed by a notarial officer of this state.

B. If the title of office and indication of authority to perform notarial acts in a foreign state appears in a digest of foreign law or in a list customarily used as a source for that information, the authority of an officer with that title to perform notarial acts is conclusively established.

C. The signature and official stamp of an individual holding an office described in Subsection B of this section are prima facie evidence that the signature is genuine and the individual holds the designated title. An official stamp is required unless a law of the foreign state specifies that an official stamp is not required by that notarial officer or for that notarial act.

D. An apostille in the form prescribed by the Hague Convention of October 5, 1961 and issued by a foreign state party to the Hague Convention of October 5, 1961 conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office.

E. A consular authentication issued by an individual designated by the United States department of state as a notarizing officer for performing notarial acts overseas and attached to the record with respect to which the notarial act is performed conclusively establishes that the signature of the notarial officer is genuine and that the officer holds the indicated office."

## Chapter 110 Section 12 Laws 2023

SECTION 12. Section 14-14A-14 NMSA 1978 (being Laws 2021, Chapter 21, Section 14) is amended to read:

### "14-14A-14. CERTIFICATE OF NOTARIAL ACT.--

- A. A notarial act shall be evidenced by a certificate. The certificate shall:
- (1) be executed contemporaneously with the performance of the notarial act;
  - (2) be signed and dated by the notarial officer in the same manner as on file with the secretary of state;
  - (3) identify the jurisdiction in which the notarial act is performed;
  - (4) contain the title of office of the notarial officer;
  - (5) if the notarial officer is a notary public, indicate the notary public's commission number and the date of expiration of the notarial officer's commission; and
  - (6) if the notarial officer is an automatic notarial officer:
    - (a) identify the judicial district or area served if the notarial officer is a judicial officer;
    - (b) identify the county served if the notarial officer is a county clerk or deputy county clerk; and
    - (c) identify the state bar number if the notarial officer is an attorney but is not performing a notarial act pursuant to Subparagraph (a) or (b) of this paragraph and is not a judge.

B. If a notarial act regarding a tangible record is performed by a notary public, an official stamp shall be affixed to or embossed on the certificate. If a notarial act is performed regarding a tangible record by an automatic notarial officer and the certificate contains the information specified in Paragraphs (2), (3), (4), (5) and (6) of Subsection A of this section, an official stamp shall be affixed to or embossed on the certificate. If a notarial act regarding an electronic record is performed by a notarial officer and the certificate contains the information specified in Paragraphs (2), (3), (4), (5) and (6) of Subsection A of this section, an official stamp shall be attached to or logically associated with the certificate.

C. A certificate of a notarial act is sufficient if it meets the requirements of Subsections A and B of this section and:

- (1) is in a short-form set forth in Section 14-14A-15 NMSA 1978;
- (2) is in a form otherwise permitted by the laws of this state;
- (3) is in a form permitted by law applicable in the jurisdiction in which the notarial act was performed; or
- (4) sets forth the actions of the notarial officer, and the actions are sufficient to meet the requirements of the notarial act as provided in Sections 14-14A-4 through 14-14A-6 NMSA 1978 or law of this state other than the Revised Uniform Law on Notarial Acts.

D. By executing a certificate of a notarial act, a notarial officer certifies that the officer has complied with the requirements and made the determinations specified in Sections 14-14A-4 through 14-14A-6 NMSA 1978.

E. A notarial officer shall not affix the officer's signature to, or logically associate it with, a certificate until after the notarial act has been performed.

F. If a notarial act is performed regarding a tangible record, a certificate shall be part of, or securely attached to, the record. If a notarial act is performed regarding an electronic record, the certificate shall be affixed to, or logically associated with, the electronic record. If the secretary of state has established standards pursuant to Section 14-14A-26 NMSA 1978 for attaching, affixing or logically associating the certificate, the process shall conform to the standards."

**Chapter 110 Section 13 Laws 2023**

SECTION 13. Section 14-14A-15 NMSA 1978 (being Laws 2021, Chapter 21, Section 15) is amended to read:

"14-14A-15. SHORT-FORM CERTIFICATES.--The following short-form certificates of notarial acts are sufficient for the purposes indicated, if completed with the information required by Subsections A and B of Section 14-14A-14 NMSA 1978:

- A. for an acknowledgment in an individual capacity:

State of \_\_\_\_\_

[County] of \_\_\_\_\_

This record was acknowledged before me on \_\_\_\_\_

Date

by \_\_\_\_\_.

Name(s) of individual(s)

\_\_\_\_\_

Signature of notarial officer

Stamp

[\_\_\_\_\_]

Title of office

[New Mexico state bar identification number, judicial district or area, county or notary public commission number and date of commission expiration: \_\_\_\_\_];

B. for an acknowledgment in a representative capacity:

State of \_\_\_\_\_

[County] of \_\_\_\_\_

This record was acknowledged before me on \_\_\_\_\_ by

Date

\_\_\_\_\_

Name(s) of individual(s)

as (type of authority, such as officer or trustee) of (name of party on behalf of whom record was executed).

\_\_\_\_\_

Signature of notarial officer

Stamp

[\_\_\_\_\_]

Title of office

[New Mexico state bar identification number, judicial district or area, county served or notary public commission number and date of commission expiration: \_\_\_\_\_];

C. for a verification on oath or affirmation:

State of \_\_\_\_\_

[County] of \_\_\_\_\_

Signed and sworn to (or affirmed) before me on \_\_\_\_\_

Date

by \_\_\_\_\_.

Name(s) of individual(s)

making statement

\_\_\_\_\_

Signature of notarial officer

Stamp

[\_\_\_\_\_]

Title of office

[New Mexico state bar identification number, judicial district or area, county served or notary public commission number and date of commission expiration:

\_\_\_\_\_];

D. for witnessing or attesting a signature:

State of \_\_\_\_\_

[County] of \_\_\_\_\_

Signed (or attested) before me on \_\_\_\_\_ by

Date

\_\_\_\_\_.

Name(s) of individual(s)

\_\_\_\_\_

Signature of notarial officer

Stamp

[\_\_\_\_\_]

Title of office

[New Mexico state bar identification number, judicial district or area, county served or notary public commission number and date of commission expiration:

\_\_\_\_\_]; and

E. for certifying a copy of a record:

State of \_\_\_\_\_

[County] of \_\_\_\_\_

I certify that this is a true and correct copy of a record in the possession of

\_\_\_\_\_.

Dated \_\_\_\_\_

\_\_\_\_\_

Signature of notarial officer

Stamp

[\_\_\_\_\_]

Title of office

[New Mexico state bar identification number, judicial district or area, county served or notary public commission number and date of commission expiration:

\_\_\_\_\_]."

## **Chapter 110 Section 14 Laws 2023**

SECTION 14. Section 14-14A-16 NMSA 1978 (being Laws 2021, Chapter 21, Section 16) is amended to read:

"14-14A-16. OFFICIAL STAMP.--The official stamp of a notarial officer shall:

A. include the notarial officer's name, New Mexico state bar identification number if the notary public is licensed to practice law, judicial district or area served if the notarial officer is a judge, court clerk or deputy court clerk, county if the notarial officer is a county clerk or deputy county clerk or notary public commission number and date of commission expiration, the notarial officer's official notary seal and other information required by the secretary of state;

B. be capable of being copied together with the record to which it is affixed or attached or with which it is logically associated; and

C. be filed with the secretary of state before the notarial officer performs the notarial officer's initial notarial act."

## **Chapter 110 Section 15 Laws 2023**

SECTION 15. Section 14-14A-17 NMSA 1978 (being Laws 2021, Chapter 21, Section 17) is amended to read:

"14-14A-17. STAMPING DEVICE.--

A. A notarial officer is responsible for the security of the notarial officer's stamping device and may not allow another individual to use the device to perform a notarial act. On resignation from, or the revocation or expiration of, a notary public's commission, or on the expiration of the date set forth in the stamping device, if any, the notary public shall disable the stamping device by destroying, defacing, damaging, erasing or securing it against use in a manner that renders it unusable. On the death or adjudication of incompetency of a notarial officer, the notarial officer's personal representative or guardian or any other person knowingly in possession of the stamping device shall render it unusable by destroying, defacing, damaging, erasing or securing it against use in a manner that renders it unusable.

B. If a notarial officer's stamping device is lost or stolen, the notarial officer or the notarial officer's personal representative or guardian shall promptly notify the secretary of state on discovering that the device is lost or stolen."

## **Chapter 110 Section 16 Laws 2023**

SECTION 16. Section 14-14A-18 NMSA 1978 (being Laws 2021, Chapter 21, Section 18) is amended to read:

"14-14A-18. JOURNAL.--

A. A notarial officer in this state shall maintain a journal in which the notarial officer chronicles all notarial acts that the notarial officer performs. The notarial officer shall retain the journal for ten years after the performance of the last notarial act chronicled in the journal.

B. A journal may be created on a tangible medium or in an electronic format. A notarial officer performing notarial acts pursuant to Subsection E of this section shall maintain only one journal at a time to chronicle all notarial acts, whether those notarial acts are performed regarding tangible or electronic records; provided that a notarial officer may keep a journal in a tangible medium for tangible records and an electronic journal for electronic records. If the journal is maintained on a tangible medium, it must

be a permanent, bound register with numbered pages. If the journal is maintained in an electronic format, it must be in a permanent, tamper-evident electronic format complying with the rules of the secretary of state.

C. An entry in a journal must be made contemporaneously with performance of the notarial act and contain the following information:

- (1) the date and time of the notarial act;
- (2) a description of the record, if any, and type of notarial act;
- (3) the full name and address of each individual for whom the notarial act is performed;
- (4) if identity of the individual is based on personal knowledge, a statement to that effect;
- (5) if identity of the individual is based on satisfactory evidence, a brief description of the method of identification and the identification credential presented, if any, including the date of issuance and expiration of any identification credential; and
- (6) the fee, if any, charged by the notarial officer.

D. If a notarial officer's journal is lost or stolen, the notarial officer shall promptly notify the secretary of state on discovering that the journal is lost or stolen.

E. Pursuant to the requirements provided in Subsections B and C of this section, a notarial officer licensed to practice law shall maintain a journal when performing notarial acts for members of the public unrelated to an established attorney-client relationship.

F. On resignation from, or the revocation or suspension of, a notary public's commission, the notary public shall retain the notary public's journal in accordance with Subsection A of this section and inform the secretary of state of where the journal is located.

G. Instead of retaining a journal as provided in Subsections A and F of this section, a current or former notarial officer may transmit the journal to the secretary of state, the state records administrator or a repository approved by the secretary of state.

H. On the death or adjudication of incompetency of a current or former notarial officer, the notarial officer's personal representative or guardian or any other person knowingly in possession of the journal shall transmit the journal to the secretary of state, the state records officer or a repository approved by the secretary of state."

## **Chapter 110 Section 17 Laws 2023**

SECTION 17. Section 14-14A-19 NMSA 1978 (being Laws 2021, Chapter 21, Section 19) is amended to read:

"14-14A-19. NOTIFICATION REGARDING PERFORMANCE OF NOTARIAL ACT ON ELECTRONIC RECORD--SELECTION OF TECHNOLOGY.--

A. A notarial officer shall select one or more tamper-evident technologies to perform notarial acts with respect to electronic records. A person may not require a notarial officer to perform a notarial act with respect to an electronic record with a technology that the notarial officer has not selected.

B. Before performing the notarial officer's initial notarial act with respect to an electronic record, a notarial officer shall notify the secretary of state that the notarial officer will be performing notarial acts with respect to electronic records and identify the technology the notarial officer intends to use. If the secretary of state has established standards for approval of technology pursuant to Section 14-14A-26 NMSA 1978, the technology must conform to the standards. If the technology conforms to those standards, the secretary of state shall approve the use of the technology."

## **Chapter 110 Section 18 Laws 2023**

SECTION 18. Section 14-14A-20 NMSA 1978 (being Laws 2021, Chapter 21, Section 20) is amended to read:

"14-14A-20. COMMISSION AS NOTARY PUBLIC QUALIFICATIONS--NO IMMUNITY OR BENEFIT.--

A. An individual may apply to the secretary of state for a commission as a notary public. The applicant shall comply with and provide the information required by rules established by the secretary of state and pay any application fee.

B. To qualify for the commission as a notary public, an applicant:

- (1) shall be at least eighteen years of age;
- (2) shall be a resident of or have a place of employment in this state;
- (3) shall be able to read and write English;
- (4) shall not be disqualified to receive a commission under Section 14-14A-22 NMSA 1978;
- (5) shall have passed the examination required pursuant to Subsection A of Section 14-14A-21 NMSA 1978; and

(6) if a judicial officer, the secretary of state or a full-time staff member of the secretary of state's office, county clerk or deputy county clerk who is not licensed to practice law, may also be commissioned as a notary public to perform notarial acts outside the individual's scope of duties as an automatic notarial officer.

C. Before issuance of a commission as a notary public, an applicant for the commission shall execute an oath of office pursuant to the laws of this state and submit it to the secretary of state.

D. Before issuance of a commission as a notary public, the notary public or applicant for a commission shall submit to the secretary of state an assurance in the form of a surety bond or its functional equivalent in the amount of ten thousand dollars (\$10,000). The assurance must be issued by a surety or other entity licensed or authorized to do business in this state. The assurance must cover acts performed during the term of the notary public's commission and must be in the form prescribed by the secretary of state. If a notary public violates law with respect to notaries public in this state, the surety or issuing entity is liable under the assurance. The surety or issuing entity shall give thirty days notice to the secretary of state before canceling the assurance. The surety or issuing entity shall notify the secretary of state not later than thirty days after making a payment to a claimant under the assurance. A notary public may perform notarial acts in this state only during the period that a valid assurance is on file with the secretary of state.

E. On compliance with this section, the secretary of state shall issue a commission as a notary public to an applicant for a term of four years.

F. A commission to act as a notary public authorizes the notary public to perform notarial acts. The commission does not provide the notary public any immunity or benefit conferred by law of this state on public officials or employees.

G. At least thirty days before expiration of each notarial officer's commission, the secretary of state shall mail a notice of expiration to the notarial officer's mailing address of record. A notarial officer may be reappointed upon making an application in the same manner as required for an original application."

## **Chapter 110 Section 19 Laws 2023**

SECTION 19. Section 14-14A-21 NMSA 1978 (being Laws 2021, Chapter 21, Section 21) is amended to read:

"14-14A-21. EXAMINATION OF NOTARY PUBLIC AND NOTARIAL OFFICERS--CONTINUING LEGAL EDUCATION REQUIREMENTS FOR AUTOMATIC NOTARIAL OFFICERS.--

A. An applicant for a commission as a notary public who does not hold a commission in this state is required to pass an examination administered by the

secretary of state or an entity approved by the secretary of state. The examination will be based on the course of study described in Subsection B of this section.

B. The secretary of state or an entity approved by the secretary of state shall offer regularly a course of study to applicants who do not hold commissions as notaries public in this state. The course must cover the laws, rules, procedures and ethics relevant to notarial acts.

C. A person qualified to be an automatic notarial officer is required to attend a course, not to exceed ninety minutes, delivered by the secretary of state or an entity approved by the secretary of state. The course may be delivered in person or online. Attendance in the course is required before the person's seal may be registered with the secretary of state, and attendees shall demonstrate an understanding of the course material. The course shall cover laws, rules, procedures and ethics relevant to being an automatic notarial officer.

D. An automatic notarial officer may obtain continuing legal education credit, pursuant to rules established by the board of bar commissioners of the state of New Mexico, for participating in continuing legal education related to performing the notarial acts."

## **Chapter 110 Section 20 Laws 2023**

SECTION 20. Section 14-14A-22 NMSA 1978 (being Laws 2021, Chapter 21, Section 22) is amended to read:

"14-14A-22. GROUNDS TO DENY, REFUSE TO RENEW, REVOKE, SUSPEND OR CONDITION COMMISSION OF NOTARIAL OFFICER.--

A. The state ethics commission may revoke, suspend or impose a condition on a notarial officer for any act or omission that demonstrates that the individual lacks the honesty, integrity, competence or reliability to act as a notarial officer, including:

- (1) failure to comply with the Revised Uniform Law on Notarial Acts;
- (2) a fraudulent, dishonest or deceitful misstatement or omission in the application for a commission as a notary public;
- (3) a conviction of the applicant or automatic notarial officer of any felony or a crime involving fraud, dishonesty or deceit during the preceding four years;
- (4) a finding against, or admission of liability by, the applicant or notarial officer in any legal proceeding or disciplinary action based on the applicant's or notarial officer's fraud, dishonesty or deceit;

(5) failure by the notarial officer to discharge any duty required of a notarial officer, whether by the provisions of the Revised Uniform Law on Notarial Acts, rules of the secretary of state or any federal or state law;

(6) violation by the notarial officer of an obligation required of a notarial officer, whether by the provisions of the Revised Uniform Law on Notarial Acts, rules of the secretary of state or any federal or state law;

(7) use of false or misleading advertising or representation by the notary public representing that the notary has a duty, right or privilege that the notary does not have;

(8) denial, refusal to renew, revocation, suspension or conditioning of a notary public commission in another state;

(9) failure of the notary public to maintain an assurance as provided in Subsection D of Section 14-14A-20 NMSA 1978; or

(10) if the individual ceases to be a resident of this state or ceases to be employed in this state.

B. The secretary of state may deny or refuse to renew an applicant upon notice from the state ethics commission of adverse action upon an applicant or a notarial officer.

C. The authority of the state ethics commission to deny, refuse to renew, suspend, revoke or impose conditions on a notarial officer does not prevent a person from seeking and obtaining other criminal or civil remedies provided by law."

## **Chapter 110 Section 21 Laws 2023**

SECTION 21. Section 14-14A-23 NMSA 1978 (being Laws 2021, Chapter 21, Section 23) is amended to read:

"14-14A-23. DATABASE OF NOTARIAL OFFICERS.--The secretary of state shall maintain an electronic database of notarial officers providing the following:

A. information and a means through which a person may verify the authority of a notarial officer to perform notarial acts; and

B. indication of whether a notarial officer has notified the secretary of state that the notarial officer will be performing notarial acts on electronic records."

## Chapter 110 Section 22 Laws 2023

SECTION 22. Section 14-14A-24 NMSA 1978 (being Laws 2021, Chapter 21, Section 24) is amended to read:

### "14-14A-24. PROHIBITED ACTS.--

A. A commission as a notary public or status as an automatic notarial officer does not by itself authorize an individual to:

- (1) assist persons in drafting legal records, give legal advice or otherwise practice law;
- (2) act as an immigration consultant or an expert on immigration matters;
- (3) represent a person in a judicial or administrative proceeding relating to immigration to the United States, United States citizenship or related matters; or
- (4) receive compensation for performing any of the activities listed in this subsection.

B. A notarial officer shall not engage in false or deceptive advertising.

C. A notarial officer, other than an attorney licensed to practice law in this state, shall not use the term "notario" or "notario publico".

D. A notarial officer who is not licensed to practice law shall not advertise or represent that the notarial officer may assist persons in drafting legal records, give legal advice or otherwise practice law. If a notarial officer who is not an attorney licensed to practice law in any manner advertises or represents that the notary public offers notarial services, whether orally or in a record, including broadcast media, print media and the internet, the notarial officer shall include the following statement or an alternate statement authorized or required by the secretary of state, in the advertisement or representation, prominently and in each language used in the advertisement or representation: "I am not an attorney licensed to practice law in this state. I am not allowed to draft legal records, give advice on legal matters, including immigration, or charge a fee for those activities." If the form of advertisement or representation is not broadcast media, print media or the internet and does not permit inclusion of the statement required by this subsection because of size, the statement shall be displayed prominently or provided at the place of performance of the notarial act before the notarial act is performed.

E. Except as otherwise allowed by law, a notarial officer shall not withhold access to or possession of an original record provided by a person that seeks performance of a notarial act by the notarial officer.

F. A notarial officer shall not:

- (1) perform a notarial act on a blank or incomplete record;
- (2) certify or authenticate a photograph;
- (3) perform a notarial act with intent to deceive or defraud; or
- (4) use the title of notary public, notarial officer or official stamp to endorse, promote, denounce or oppose any product, service, contest, candidate or other offering.

G. A notarial officer shall not:

- (1) make or deliver a certificate of notarial act containing statements that the notarial officer knows to be false; or
- (2) knowingly perform a notarial act for an individual who does not comply with Section 14-14A-6 NMSA 1978.

H. A notarial officer who violates any of the provisions of Subsections A through G of this section is guilty of a misdemeanor for each violation and upon conviction shall be punished by a fine not exceeding one thousand dollars (\$1,000) or by imprisonment for a period not exceeding six months, or both.

I. An individual who performs a purported notarial act with knowledge that the individual's commission as a notary public has expired or that the individual is otherwise disqualified from being a notarial officer is guilty of a misdemeanor for each purported notarial act and upon conviction shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978."

## **Chapter 110 Section 23 Laws 2023**

SECTION 23. Section 14-14A-25 NMSA 1978 (being Laws 2021, Chapter 21, Section 25) is amended to read:

"14-14A-25. VALIDITY OF NOTARIAL ACTS.--Except as otherwise provided in Subsection B of Section 14-14A-3 NMSA 1978, the failure of a notarial officer to perform a duty or meet a requirement specified in the Revised Uniform Law on Notarial Acts does not invalidate a notarial act performed by the notarial officer. The validity of a notarial act under the Revised Uniform Law on Notarial Acts does not prevent an aggrieved person from seeking to invalidate the record or transaction that is the subject of the notarial act or from seeking other remedies based on law of this state other than the Revised Uniform Law on Notarial Acts or law of the United States. This section does not validate a purported notarial act performed by an individual who does not have the authority to perform notarial acts."

## Chapter 110 Section 24 Laws 2023

SECTION 24. Section 14-14A-26 NMSA 1978 (being Laws 2021, Chapter 21, Section 26) is amended to read:

"14-14A-26. RULES.--

A. The secretary of state may adopt rules to implement the secretary's responsibilities pursuant to the Revised Uniform Law on Notarial Acts. Rules adopted regarding the performance of notarial acts with respect to electronic records may not require, or accord greater legal status or effect to, the implementation or application of a specific technology or technical specification. The rules may:

- (1) prescribe the manner of performing notarial acts regarding tangible and electronic records;
- (2) include provisions to ensure that any change to or tampering with a record bearing a certificate of a notarial act is self-evident;
- (3) include provisions to ensure integrity in the creation, transmittal, storage or authentication of electronic records or signatures;
- (4) prescribe the process of granting or renewing a notary public commission;
- (5) include provisions to prevent fraud or mistake in the performance of notarial acts;
- (6) establish the process for approving and accepting surety bonds and other forms of assurance pursuant to Subsection D of Section 14-14A-20 NMSA 1978;
- (7) provide for the administration of the examination pursuant to Subsection A of Section 14-14A-21 NMSA 1978 and the course of study pursuant to Subsection B of Section 14-14A-21 NMSA 1978; and
- (8) provide for the administration of continuing legal education for notarial officers authorized to practice law in this state in collaboration with the board of bar commissioners of the state of New Mexico and pursuant to rules adopted by the board of bar commissioners of the state of New Mexico.

B. In adopting, amending or repealing rules about notarial acts with respect to electronic records, the secretary of state shall consider, so far as is consistent with the Revised Uniform Law on Notarial Acts:

- (1) the most recent standards regarding electronic records promulgated by national bodies, such as the national association of secretaries of state;

(2) standards, practices and customs of other jurisdictions that substantially enact the Revised Uniform Law on Notarial Acts; and

(3) the views of governmental officials and entities and other interested persons.

C. The state ethics commission may adopt rules to implement the commission's responsibilities pursuant to the Revised Uniform Law on Notarial Acts. The rules may:

(1) prescribe the process of submitting a complaint;

(2) provide for the administration of the adjudication of complaints;

(3) prescribe the procedure by which the state ethics commission shall handle complaints;

(4) prescribe the procedure the state ethics commission shall follow in approving a hearing officer's recommendation; and

(5) prescribe the procedure of appealing the state ethics commission's determination."

## **Chapter 110 Section 25 Laws 2023**

SECTION 25. Section 14-14A-27 NMSA 1978 (being Laws 2021, Chapter 21, Section 27) is amended to read:

"14-14A-27. EFFECT OF ADOPTION OF AND AMENDMENTS TO ACT.--

A. A commission as a notary public in effect on the effective date of the Revised Uniform Law on Notarial Acts continues until its date of expiration.

B. A notarial officer, in performing notarial acts after the effective date of the Revised Uniform Law on Notarial Acts or any amendments to the Revised Uniform Law on Notarial Acts shall comply with the most recent version of the Revised Uniform Law on Notarial Acts in effect.

C. When changes to the official stamp are adopted in the Revised Uniform Law on Notarial Acts or by rules issued by the secretary of state, a notarial officer who has registered a stamp with the secretary of state may continue to use the registered stamp until:

(1) the expiration of the officer's commission, in the case of a notary public; or

(2) one year following the effective date of the change, in the case of an automatic notarial officer.

D. The secretary of state shall notify notarial officers when a change to the official stamp is adopted."

## **Chapter 110 Section 26 Laws 2023**

SECTION 26. Section 14-14A-28 NMSA 1978 (being Laws 2021, Chapter 21, Section 28) is amended to read:

"14-14A-28. FEES.--

A. A notarial officer may charge the maximum fee specified in this section, charge less than the maximum fee or waive the fee.

B. An employer shall not establish fees for notarial services that are in excess of those specified in this section nor on the attributes of the principal as delineated.

C. The maximum fees that may be charged by a notarial officer for notarial acts are:

(1) for acknowledgments, five dollars (\$5.00) per acknowledgment;

(2) for oaths or affirmations without a signature, five dollars (\$5.00) per person;

(3) for jurats, five dollars (\$5.00) per jurat; and

(4) for copy certifications, fifty cents (\$.50) per page with a minimum total charge of five dollars (\$5.00).

D. A notarial officer may charge a travel fee when traveling to perform a notarial act if:

(1) the notarial officer and the person requesting the notarial act agree upon the travel fee in advance of the travel; and

(2) the notarial officer explains to the person requesting the notarial act that the travel fee is separate from the notarial fees and not mandated by law.

E. In addition to the fees prescribed in Subsections C and D of this section, a notarial officer may charge a technology fee not to exceed twenty-five dollars (\$25.00) or other amount established by rule by the secretary of state per notarial act performed with respect to an electronic record."

## **Chapter 110 Section 27 Laws 2023**

SECTION 27. Section 14-14A-30 NMSA 1978 (being Laws 2021, Chapter 21, Section 30) is amended to read:

"14-14A-30. SAVING CLAUSE.--The Revised Uniform Law on Notarial Acts does not affect the validity or effect of a notarial act performed before the effective date of the Revised Uniform Law on Notarial Acts or any amendments to the Revised Uniform Law on Notarial Acts."

## **LAWS 2023, CHAPTER 111**

### **Senate Bill 250**

**Approved April 4, 2023**

#### **AN ACT**

**RELATING TO FIREFIGHTERS' SURVIVORS SUPPLEMENTAL BENEFITS;  
INCREASING THE AMOUNT OF DEATH BENEFITS TO THE SURVIVING SPOUSE  
OR CHILDREN OF A FIREFIGHTER KILLED IN THE LINE OF DUTY.**

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

## **Chapter 111 Section 1 Laws 2023**

SECTION 1. Section 10-11B-5 NMSA 1978 (being Laws 2007, Chapter 149, Section 5, as amended) is amended to read:

**"10-11B-5. FIREFIGHTERS' SURVIVORS SUPPLEMENTAL BENEFITS--  
REVIEW COMMITTEE--DETERMINATION--PAYMENT.--**

A. There is created the "firefighters' survivors supplemental death benefits review committee". The committee shall consist of the attorney general or the attorney general's designee and the fire services council.

B. The firefighters' survivors supplemental death benefits review committee shall determine whether a firefighter has been killed in the line of duty and advise the state fire marshal of that determination. In addition to any other death benefits provided by law, the surviving spouse or children shall be paid one million dollars (\$1,000,000) as supplemental death benefits whenever a firefighter is killed in the line of duty. The benefits shall be paid from the fund.

C. The benefits shall be paid entirely to the surviving spouse. If there is no surviving spouse, the benefits shall be distributed in pro rata shares to all surviving

children. If there are no surviving children or spouse, benefits shall be distributed to the surviving parents of the firefighter."

## **Chapter 111 Section 2 Laws 2023**

SECTION 2. Section 59A-53-7 NMSA 1978 (being Laws 1984, Chapter 127, Section 978, as amended) is amended to read:

"59A-53-7. DISTRIBUTION OF FIRE PROTECTION FUND.--

A. Based on periodic allotments approved by the marshal, the state treasurer shall distribute from the money in the fire protection fund, to each municipality and county fire district, the amount that the marshal or the secretary of homeland security and emergency management has certified to the state treasurer. Payment shall be made to the treasurer of any municipality and to the county treasurer of the county in which any county fire district is located for credit to the county fire district.

B. The state treasurer is authorized to redirect a distribution to the New Mexico finance authority in the amount that the marshal or the secretary of homeland security and emergency management, as the case may be, has certified to the state treasurer pursuant to an ordinance or a resolution passed by the municipality or county and a written agreement of the municipality or county in which any county fire district is located and the New Mexico finance authority.

C. In addition to the distributions made pursuant to Subsections A and B of this section, upon certification by the marshal that the balance of the firefighters' survivors fund is less than one million dollars (\$1,000,000), the state treasurer shall distribute an amount from the fire protection fund to the firefighters' survivors fund so that the balance of the firefighters' survivors fund equals one million dollars (\$1,000,000)."

## **LAWS 2023, CHAPTER 112**

**Senate Bill 251, aa**  
**Approved April 4, 2023**

AN ACT

RELATING TO METROPOLITAN REDEVELOPMENT; PROVIDING FOR THE DEDICATION OF A PORTION OF AN INCREASE IN CERTAIN PROPERTY TAX REVENUE, LOCAL OPTION GROSS RECEIPTS TAX REVENUE AND STATE GROSS RECEIPTS TAX REVENUE TO FUND A METROPOLITAN REDEVELOPMENT PROJECT; AUTHORIZING A LOCAL GOVERNMENT TO ISSUE BONDS PAYABLE FROM LOCAL OPTION AND STATE GROSS RECEIPTS TAX REVENUES AND REMOVING AUTHORITY TO ISSUE BONDS PAYABLE FROM PROPERTY TAX

REVENUE; PROVIDING FOR LEGISLATIVE APPROVAL OF THE ISSUANCE OF BONDS AGAINST REVENUE ATTRIBUTABLE TO AN INCREMENT OF THE STATE GROSS RECEIPTS TAX; REMOVING A REQUIREMENT FOR A SEALED BIDDING PROCEDURE AND APPROVAL OF AWARD OF CONTRACT BY A LOCAL GOVERNMENT FOR CERTAIN REHABILITATION CONTRACTS BETWEEN PRIVATE PROPERTY OWNERS AND CONTRACTORS; ALLOWING A LOCAL GOVERNMENT TO DELEGATE TO A METROPOLITAN REDEVELOPMENT AGENCY THE POWER TO APPROVE LOANS, GRANTS AND LEASES OF MORE THAN ONE YEAR'S DURATION; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

## **Chapter 112 Section 1 Laws 2023**

SECTION 1. Section 3-60A-10 NMSA 1978 (being Laws 1979, Chapter 391, Section 10, as amended) is amended to read:

"3-60A-10. POWERS OF LOCAL GOVERNMENT.--A local government shall have all the powers, other than the power of eminent domain, necessary or convenient to carry out and effectuate the purposes and provisions of the Metropolitan Redevelopment Code, including the following powers:

A. to undertake and carry out metropolitan redevelopment projects within its area of operation, including clearance and redevelopment, rehabilitation, conservation and development activities and programs; to make, enter into and execute contracts and other agreements and instruments necessary or convenient to the exercise of its powers under the Redevelopment Law; and to disseminate information regarding slum clearance, prevention of blight and the metropolitan redevelopment projects and areas;

B. to provide, arrange or contract for the furnishing or repair by a public or private person or agency for services, privileges, works, streets, roads, public utilities, public buildings or other facilities for or in connection with a metropolitan redevelopment project; to, within its area of operation, install, acquire, construct, reconstruct, remodel, rehabilitate, maintain and operate streets, utilities, parks, buildings, playgrounds and public buildings, including parking facilities, transportation centers, public safety buildings and other public improvements or facilities or improvements for public purposes, as may be required by the local government, the state or a political subdivision of the state; to agree to conditions that it may deem reasonable and appropriate that are attached to federal financial assistance and imposed pursuant to federal law, including conditions relating to the determination of prevailing salaries or wages or compliance with federal and state labor standards, compliance with federal property acquisition policy and the provision of relocation assistance in accordance with federal law in the undertaking or carrying out of a metropolitan redevelopment project; and to include in a contract let in connection with the project provisions to fulfill these

conditions as it may deem reasonable and appropriate; provided, however, that all purchases of personal property shall be in accordance with the Procurement Code;

C. within its area of operation, to inspect any building or property in a metropolitan redevelopment area in order to make surveys, appraisals, soundings or test borings and to obtain an order for this purpose from a court of competent jurisdiction in the event inspection is denied by the property owner or occupant; to acquire, by purchase, lease, option, gift, grant, bequest, devise or otherwise, any real property or personal property for its administrative or project purposes, together with any improvements thereon; to hold, improve, clear or prepare for redevelopment any such property; to mortgage, pledge, hypothecate or otherwise encumber or dispose of any real property; to insure or provide for the insurance of real or personal property or operations of the local government against risks or hazards, including the power to pay premiums on that insurance; and to enter into contracts necessary to effectuate the purposes of the Metropolitan Redevelopment Code;

D. to invest metropolitan redevelopment project funds held in reserve, sinking funds or other project funds that are not required for immediate disbursement in property or securities in which local governments may legally invest funds subject to their control; to redeem bonds as have been issued pursuant to the Metropolitan Redevelopment Code at the redemption price established in the bonds or to purchase the bonds at less than redemption price. Bonds so redeemed or purchased shall be canceled;

E. to borrow or lend money subject to those procedures and limitations as may be provided in the constitution of New Mexico or statutes and to apply for and accept advances, loans, grants, contributions and other forms of financial assistance from the federal government, the state, the county or other public body or from sources, public or private, for the purposes of the Metropolitan Redevelopment Code; and to give security as may be required and subject to the provisions and limitations of general law except as may otherwise be provided by the Redevelopment Law and to enter into and carry out contracts in connection with that law. A local government may include in a contract for financial assistance with the federal government for a metropolitan redevelopment project conditions imposed pursuant to federal law that the local government may deem reasonable or appropriate and that are not inconsistent with the purposes of the Metropolitan Redevelopment Code;

F. within its area of operation, to make plans necessary for the carrying out of the purposes of the Metropolitan Redevelopment Code and to contract with any person, public or private, in making and carrying out such plans and to adopt or approve, modify and amend the plans. The plans may include without limitation:

- (1) a general plan for redevelopment of the area as a whole;
- (2) redevelopment plans for specific areas;

(3) plans for programs of voluntary or assisted repair and rehabilitation of buildings and improvements;

(4) plans for the enforcement of state and local laws, codes and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition or removal of buildings and improvements; and

(5) appraisals, title searches, surveys, studies and other preliminary plans and work necessary to prepare for the undertaking of metropolitan redevelopment projects;

G. to develop, test and report methods and techniques and carry out demonstrations and other activities for the prevention and elimination of slums and blight and to pay for, accept and use grants of funds from the federal government for those purposes;

H. to prepare plans for the relocation of families displaced from a metropolitan redevelopment area to the extent essential for acquiring possession of and clearing the area or its parts or permit the carrying out of the metropolitan redevelopment project;

I. to appropriate under existing authority the funds and make expenditures necessary to carry out the purposes of the Metropolitan Redevelopment Code and under existing authority to levy taxes and assessments for such purposes; to close, vacate, plan or replan streets, roads, sidewalks, ways or other places; in accordance with applicable law or ordinances, to plan or replan, zone or rezone any part within the jurisdiction of the local government or make exceptions from building regulations; and to enter into agreements with a metropolitan redevelopment agency vested with metropolitan redevelopment project powers, which agreements may extend over any period, notwithstanding any provision or rule of law to the contrary, respecting action to be taken by the local government pursuant to the powers granted by the Redevelopment Law;

J. within its area of operation, to organize, coordinate and direct the administration of the provisions of the Redevelopment Law as they apply to the local government in order that the objective of remedying slum areas and blighted areas and preventing the causes of those areas within the jurisdiction of the local government may be most effectively promoted and achieved and to establish any new office of the local government or to reorganize existing offices as necessary;

K. to acquire real property that is appropriate for the preservation or restoration of historic sites; the beautification of urban land; the conservation of open spaces, natural resources and scenic areas; or the provision of recreational opportunities; or that is to be used for public purposes;

L. to engage in the following activities as part of a metropolitan redevelopment project:

(1) acquisition, construction, reconstruction or installation of public works, facilities and site or other improvements, including neighborhood facilities, senior citizen centers, historic properties, utilities, streets, street lights, water and sewer facilities, including connections for residential users, foundations and platforms for air-rights sites, pedestrian malls and walkways, parks, playgrounds and other recreation facilities, flood and drainage facilities, parking facilities, solid waste disposal facilities and fire protection or health facilities that serve designated areas;

(2) special projects directed to the removal of materials and architectural barriers that restrict the mobility and accessibility of elderly and disabled persons;

(3) provision of public services in the metropolitan redevelopment area that are not otherwise available in the area, including the provisions of public services directed to the employment, economic development, crime prevention, child care, health, drug abuse, welfare or recreation needs of the people who reside in the metropolitan redevelopment area;

(4) payment of the nonfederal share of any federal grant-in-aid program to the local government that will be a part of a metropolitan redevelopment project;

(5) if federal funds are used in the project, to provide for payment of relocation costs and assistance to individuals, families, businesses, organizations and farm operations displaced as a direct result of a metropolitan redevelopment project in accordance with applicable law governing such payment;

(6) payment of reasonable administrative costs and carrying charges related to the planning and execution of plans and projects;

(7) economic and marketing studies to determine the economic condition of an area and to determine the viability of certain economic ventures proposed for the metropolitan redevelopment area;

(8) issuance of bonds, grants or loans as authorized by the Metropolitan Redevelopment Code in accordance with the requirements of that code; and

(9) grants to nonprofit corporations, local development corporations or entities organized under Section 301 (d) of the federal Small Business Investment Act of 1958 for the purposes of carrying out the provisions of the Metropolitan Redevelopment Code;

M. in a metropolitan redevelopment project or rehabilitation or conservation undertaking or activity, to exercise the following powers in one or more metropolitan redevelopment areas to include the elimination and prevention of the development or spread of slums or blight and may involve slum clearance and redevelopment in that area or rehabilitation or conservation in that area or any combination or part of those areas in accordance with a metropolitan redevelopment plan and for undertakings or activities of a local government in a metropolitan redevelopment area to eliminate the conditions that caused an area to be so designated and may include the following:

(1) acquisition of real property within the metropolitan redevelopment area pursuant to any powers and for purposes enumerated in the Metropolitan Redevelopment Code;

(2) clearing the land, grading the land and replatting the land in accordance with the metropolitan redevelopment plan; installation, construction or reconstruction of roads, streets, gutters, sidewalks, storm drainage facilities, water lines or water supply installations, sewer lines and sewage disposal installations, steam, gas and electric lines and installations, airport facilities and construction of any other needed public facilities or buildings whether on or off the site if deemed necessary by the local government to prepare the land in the metropolitan redevelopment area for residential, commercial, industrial and public use in accordance with the metropolitan redevelopment plan; and

(3) making the land available for development by private enterprise or public agencies, including sale, initial leasing, leasing or retention by the local government itself, at its fair market value for uses in accordance with the metropolitan redevelopment plan for the area;

N. the local government is empowered in a metropolitan redevelopment area to undertake slum clearance and redevelopment that includes:

(1) acquisition of a slum area or a blighted area or portion thereof;

(2) demolition and removal of buildings and improvements;

(3) installation, construction, reconstruction, maintenance and operation of streets, utilities, storm drainage facilities, curbs and gutters, parks, playgrounds, single-family or multifamily dwelling units, buildings, public buildings, including parking facilities, transportation centers, safety buildings and other improvements, necessary for carrying out in the area the provisions of an approved plan for the area; and

(4) making the real property available for development or redevelopment by private enterprise or public agencies, including sale, leasing or retention by the local government itself, at its fair value for uses in accordance with the metropolitan redevelopment area plan; and

O. to engage in rehabilitation or conservation that includes the restoration and renewal of a slum or blighted area or portion thereof in accordance with any approved plan, by:

(1) carrying out plans for a program of voluntary or compulsory repair and rehabilitation of buildings or other improvements;

(2) acquisition of real property and demolition or removal of buildings and improvements thereon where necessary to eliminate unhealthful, unsanitary or unsafe conditions, lessen or increase density, eliminate obsolete or other uses detrimental to the public welfare or to otherwise remove or prevent the spread of blight or deterioration or to provide land for needed public facilities;

(3) installation, construction or reconstruction of streets, utilities, parks, playgrounds and other improvements necessary for carrying out in the area the provisions of the Metropolitan Redevelopment Code;

(4) the disposition of any property acquired in the area, including sale, leasing or retention by the local government itself, for uses in accordance with an approved plan;

(5) acquisition of real property in the area that, under a plan, is to be repaired or rehabilitated;

(6) repair or rehabilitation of structures within the area;

(7) power to resell repaired or rehabilitated property;

(8) acquisition, without regard to any requirement that the area be a slum or blighted area, of air-rights in an area consisting principally of land on which is located a highway, railway, bridge or subway tracks or tunnel entrance or other similar facilities that have a blighting influence on the surrounding area and over which air-rights sites are to be developed for the elimination of such blighting influences; and

(9) making loans or grants or authorizing the use of the proceeds of bonds issued pursuant to the Metropolitan Redevelopment Code for the purpose of constructing, repairing, remodeling or modifying a building or buildings located in the metropolitan redevelopment area. Such rehabilitation or conservation with use of funds expended by authority of the Metropolitan Redevelopment Code or by metropolitan revenue bonds authorized by that code shall be authorized after approval by the local government and after it has been determined that the expenditure is in accordance with the metropolitan redevelopment plan for that area."

## **Chapter 112 Section 2 Laws 2023**

SECTION 2. Section 3-60A-15 NMSA 1978 (being Laws 1979, Chapter 391, Section 15, as amended) is amended to read:

"3-60A-15. EXERCISE OF POWERS IN CARRYING OUT PROJECTS.--

A. A local government may directly exercise its metropolitan redevelopment project powers or it may, by ordinance if it determines such action to be in the public interest, elect to delegate the exercise of such powers to the metropolitan redevelopment agency created pursuant to the Redevelopment Law. If the local government so determines, the agency shall be vested with all of the powers in the same manner as though all the powers were conferred on the agency or authority instead of the local government.

B. As used in this section, the term "redevelopment project powers" includes any rights, powers, functions and duties of a local government authorized by the Redevelopment Law except the following, which are reserved to the local government, the power to:

- (1) declare an area to be a slum or a blighted area or combination thereof and to designate the area as appropriate for a redevelopment project;
- (2) approve or amend redevelopment plans;
- (3) approve a general plan for the local government as a whole;
- (4) make findings of necessity prior to preparation of a metropolitan redevelopment plan as provided in the Redevelopment Law and the findings and determinations required prior to approval of a metropolitan redevelopment plan or project as provided in the Redevelopment Law;
- (5) issue general obligation bonds and revenue bonds as authorized by law;
- (6) issue redevelopment bonds; and
- (7) appropriate funds and levy taxes and assessments."

## **Chapter 112 Section 3 Laws 2023**

SECTION 3. Section 3-60A-20 NMSA 1978 (being Laws 1979, Chapter 391, Section 20, as amended) is amended to read:

"3-60A-20. ALTERNATIVE FUNDING METHOD.--A local government may elect by resolution to use the procedures set forth in the Tax Increment Law for funding

metropolitan redevelopment projects. Such procedures may be used in addition to or in conjunction with other methods provided by law for funding such projects."

## **Chapter 112 Section 4 Laws 2023**

SECTION 4. Section 3-60A-21 NMSA 1978 (being Laws 1979, Chapter 391, Section 21, as amended) is amended to read:

"3-60A-21. PROPERTY AND GROSS RECEIPTS TAX INCREMENTS--  
PROCEDURES.--

A. The procedures to be used in determining a property tax increment are:

(1) the local government shall, after approval of a metropolitan redevelopment plan, notify the county assessor of the taxable parcels of property within the metropolitan redevelopment area;

(2) upon receipt of the notification, the county assessor shall identify the parcels of property within the metropolitan redevelopment area within their respective jurisdictions and certify to the county treasurer the net taxable value of the property at the time of notification as the base value for the distribution of property tax revenues authorized by the Property Tax Code. If because of acquisition by the local government the property becomes tax exempt, the county assessor shall note that fact on their respective records and so notify the county treasurer, but the county assessor and the county treasurer shall preserve a record of the net taxable value at the time of inclusion of the property within the metropolitan redevelopment area as the base value for the purpose of distribution of property tax revenues when the parcel again becomes taxable. The county assessor is not required by this section to preserve the new taxable value at the time of inclusion of the property within the metropolitan redevelopment area as the base value for the purposes of valuation of the property;

(3) if because of acquisition by the local government the property becomes tax exempt, when the parcel again becomes taxable, the local government shall notify the county assessor of the parcels of property that because of their rehabilitation or other improvement are to be revalued for property tax purposes. A new taxable value of this property shall then be determined by the county assessor. If no acquisition by the local government occurs, improvement or rehabilitation of property subject to valuation by the assessor shall be reported to the assessor as required by the Property Tax Code, and the new taxable value shall be determined as of January 1 of the tax year following the year in which the improvement or rehabilitation is completed; and

(4) current tax rates shall then be applied to the new taxable value of property included in the metropolitan redevelopment area. The amount by which the revenue received exceeds that which would have been received by application of the same rates to the base value before inclusion in the metropolitan redevelopment area

shall be multiplied by the percentage of the increment dedicated by the local government pursuant to Section 3-60A-23 NMSA 1978, credited to the local government and deposited in the metropolitan redevelopment fund. This transfer shall take place only after the county treasurer has been notified to apply the procedures pursuant to this subsection to property included in a metropolitan redevelopment area. Unless the entire metropolitan redevelopment area is specifically included by the local government for purposes of tax increment financing, the payment by the county treasurer to the local government shall be limited to those properties specifically included. The remaining revenue shall be distributed to participating units of government as authorized by the Property Tax Code.

B. The procedures to be used in determining a gross receipts tax increment are:

(1) after approval of a metropolitan redevelopment area, a dedication is made pursuant to Section 3-60A-23 NMSA 1978 and at least one hundred twenty days before the effective date of the dedication, the local government shall notify the taxation and revenue department of the geographical area within the metropolitan redevelopment area and the percentages of a gross receipts tax increment;

(2) within ninety days of receipt of the notification, the taxation and revenue department shall certify to the local government the base year gross receipts tax revenue amounts, which shall be calculated as:

(a) the amount of the local government's local option gross receipts tax revenue attributable to the gross receipts of persons engaging in business in the metropolitan redevelopment area in the previous fiscal year, less any local option gross receipts tax revenue attributable to construction activities located within the metropolitan redevelopment area; and

(b) the amount of state gross receipts tax revenue attributable to the gross receipts of persons engaging in business in the metropolitan redevelopment area in the previous fiscal year, less any state gross receipts tax revenue attributable to construction activities located within the metropolitan redevelopment area and, if the local government is a municipality, any amount distributed to the municipality pursuant to Section 7-1-6.4 NMSA 1978 attributable to the gross receipts of persons engaging in business in the metropolitan redevelopment area; and

(3) within six months of the end of each fiscal year following the base year:

(a) the taxation and revenue department shall compare the amounts of gross receipts tax revenues of the base year with the amounts of gross receipts tax revenues of that following fiscal year, using the same calculation methods as provided in Paragraph (2) of this subsection, except the amounts of gross receipts

tax revenues of the following fiscal year shall include revenue attributable to construction activities located within the metropolitan redevelopment area; and

(b) if there is an increase between the gross receipts tax revenue of the base year and the gross receipts tax revenue of that following fiscal year, the sum of: 1) the product of the total rate of the local government's local option gross receipts tax multiplied by the increased amount of the local government's local option gross receipts tax revenue, further multiplied by the percentage of the gross receipts tax increment dedicated by the local government pursuant to Section 3-60A-23 NMSA 1978; plus 2) the product of the state gross receipts tax rate multiplied by the increased amount of the state gross receipts tax revenue, further multiplied by the percentage of the gross receipts tax increment dedicated by the state board of finance pursuant to Section 3-60A-23 NMSA 1978.

C. The procedures specified in this section shall be followed annually for a maximum period of twenty years following the date of notification provided by this section.

D. As used in this section:

(1) "local option gross receipts tax revenue" means revenue transferred to the local government pursuant to Section 7-1-6.12 or 7-1-6.13 NMSA 1978, as appropriate; and

(2) "state gross receipts tax revenue" means revenue received from the gross receipts tax imposed pursuant to Section 7-9-4 NMSA 1978."

## **Chapter 112 Section 5 Laws 2023**

SECTION 5. Section 3-60A-23 NMSA 1978 (being Laws 1979, Chapter 391, Section 23, as amended) is amended to read:

"3-60A-23. APPROVAL OF ALTERNATIVE FUNDING METHOD.--

A. A metropolitan redevelopment plan, as originally approved or as later modified, may contain a provision that a portion of a property tax increment or gross receipts tax increment may be dedicated for the purpose of funding a metropolitan redevelopment project for a period of up to twenty years.

B. A local government may dedicate up to seventy-five percent of a property tax increment or gross receipts tax increment and the state board of finance, subject to the provisions of Subsection C of this section, may dedicate up to seventy-five percent of a gross receipts tax increment, each as determined pursuant to Section 3-60A-21 NMSA 1978, with the agreement of the municipality, county or state board of finance, evidenced by a resolution adopted by a majority vote of those entities. A resolution to

dedicate a property tax increment or gross receipts tax increment shall become effective only on January 1 or July 1 of the calendar year.

C. 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 6 of this 2023 act and that the initial bonds issuance secured by such an increment shall be issued no later than four years after the state board of finance has adopted the resolution making the dedication. A resolution of the state board of finance shall find that:

(1) the state board of finance has reviewed the request for the use of the state gross receipts tax increment; and

(2) based upon review by the state board of finance of the applicable metropolitan redevelopment plan, the dedication by the state board of finance of the gross receipts tax increment within the metropolitan redevelopment area for use in meeting the required goals of the metropolitan redevelopment plan is reasonable and in the best interest of the state.

D. The governing body of the jurisdiction in which a metropolitan redevelopment area has been established shall timely notify the assessor of the county in which the area has been established, the taxation and revenue department and the local government division of the department of finance and administration when:

(1) a metropolitan redevelopment plan has been approved that contains a provision for the allocation and percentage of property tax increments and gross receipts tax increments;

(2) any outstanding bonds of the area have been paid off; and

(3) the purposes of the area have otherwise been achieved."

## **Chapter 112 Section 6 Laws 2023**

SECTION 6. A new section of the Metropolitan Redevelopment Code is enacted to read:

"APPROVAL REQUIRED FOR ISSUANCE OF BONDS AGAINST A STATE GROSS RECEIPTS TAX INCREMENT.--

A. In addition to all other requirements of the Metropolitan Redevelopment Code, prior to 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 metropolitan redevelopment area and before a distribution attributable to the state gross receipts tax is made pursuant to Section 11 of this 2023 act, 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 metropolitan redevelopment project in accordance with the area's metropolitan redevelopment 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 112 Section 7 Laws 2023**

SECTION 7. Section 3-60A-23.1 NMSA 1978 (being Laws 2000, Chapter 103, Section 4, as amended) is amended to read:

### "3-60A-23.1. TAX INCREMENT BONDS.--

A. For the purpose of financing metropolitan redevelopment projects, in whole or in part, a local government may issue tax increment bonds or tax increment bond anticipation notes that are payable from and secured by revenue from a gross receipts tax increment allocated to the metropolitan redevelopment fund pursuant to Sections 3-60A-21 and 3-60A-23 NMSA 1978. The principal of, premium, if any, and interest on the bonds or notes shall be payable from and secured by a pledge of such revenues, and the local government shall irrevocably pledge all or part of the revenues to the payment of the bonds or notes. The revenues deposited in the metropolitan redevelopment fund or the designated part thereof may thereafter be used only for the payment of the principal of, premium, if any, and interest on the bonds or notes, and a holder of the bonds or notes shall have a first lien against the revenues deposited in the metropolitan redevelopment fund or the designated part thereof for the payment of principal of, premium, if any, and interest on the bonds or notes. To increase the security and marketability of the tax increment bonds or notes, the local government may:

(1) create a lien for the benefit of the bondholders on any public improvements or public works used solely by the metropolitan redevelopment project or portion of a project financed by the bonds or notes, or on the revenues of such improvements or works;

(2) provide that the proceeds from the sale of real and personal property acquired with the proceeds from the sale of bonds or notes issued pursuant to the Tax Increment Law shall be deposited in the metropolitan redevelopment fund and used for the purposes of repayment of principal of, premium, if any, and interest on the bonds or notes; and

(3) make covenants and do any and all acts not inconsistent with law as may be necessary, convenient or desirable in order to additionally secure the bonds or notes or make the bonds or notes more marketable in the exercise of the discretion of the local government.

B. Bonds and notes issued pursuant to this section shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, shall not be general obligations of the local government, shall be collectible only from the proper pledged revenues and shall not be subject to the provisions of any other law or charter relating to the authorization, issuance or sale of tax increment bonds or tax increment bond anticipation notes. Bonds and notes issued pursuant to the Tax Increment Law are declared to be issued for an essential public and governmental purpose and, together with interest thereon, shall be exempted from all taxes by the state.

C. The bonds or notes shall be authorized by an ordinance of the local government; shall be in a denomination or denominations, bear a date and mature, in the case of bonds, at a time not exceeding twenty years from their date, and in the case of notes, not exceeding five years from the date of the original note; bear interest at a rate or have appreciated principal value not exceeding the maximum net effective interest rate permitted by the Public Securities Act; and be in a form, carry registration privileges, be executed in a manner, be payable at a place within or without the state, be payable at intervals or at maturity and be subject to terms of redemption as the authorizing ordinance or supplemental resolution of the local government may provide.

D. The bonds or notes may be sold in one or more series at, below or above par, at public or private sale, in a manner and for a price as the local government, in its discretion, shall determine; provided that the price at which the bonds or notes are sold shall not result in a net effective interest rate that exceeds the maximum permitted by the Public Securities Act. As an incidental expense of a metropolitan redevelopment project or the portion financed with the bonds or notes, the local government in its discretion may employ financial and legal consultants with regard to the financing of the project.

E. In case any of the public officials of the local government whose signatures appear on any bonds or notes issued pursuant to the Tax Increment Law cease to be public officials before the delivery of the bonds or notes, the signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if the officials had remained in office until delivery. Any provision of law to the contrary notwithstanding, any bonds or notes issued pursuant to the Tax Increment Law shall be fully negotiable.

F. In any suit, action or proceeding involving the validity or enforceability of any bond or note issued pursuant to the Tax Increment Law or the security therefor, any bond or note reciting in substance that it has been issued by the local government in connection with a metropolitan redevelopment project shall be conclusively deemed to have been issued for that purpose and the project shall be conclusively deemed to have been planned, located and carried out in accordance with the provisions of the Metropolitan Redevelopment Code.

G. The proceedings under which tax increment bonds or tax increment bond anticipation notes are authorized to be issued and any mortgage, deed of trust, trust indenture or other lien or security device on real and personal property given to secure the same may contain provisions customarily contained in instruments securing bonds and notes and constituting a covenant with the bondholders.

H. A local government may issue bonds or notes pursuant to this section with the proceeds from the bonds or notes to be used as other money is authorized to be used in the Metropolitan Redevelopment Code.

I. Subject to the provisions of Section 6 of this 2023 act, the local government shall have the power to issue renewal notes, to issue bonds to pay notes and, whenever it deems refunding expedient, to refund any bonds by the issuance of new bonds, whether the bonds to be refunded have or have not matured, and to issue bonds partly to refund bonds then outstanding and partly for other purposes in connection with financing metropolitan redevelopment projects, in whole or in part. Refunding bonds issued pursuant to the Tax Increment Law to refund outstanding tax increment bonds shall be payable from a gross receipts tax increment, out of which the bonds to be refunded thereby are payable or from other lawfully available revenues.

J. The proceeds from the sale of any bonds or notes shall be applied only for the purpose for which the bonds or notes were issued, and if, for any reason, any portion of the proceeds are not needed for the purpose for which the bonds or notes were issued, the unneeded portion of the proceeds shall be applied to the payment of the principal of or the interest on the bonds or notes.

K. The cost of financing a metropolitan redevelopment project shall be deemed to include the actual cost of acquiring a site and the cost of the construction of any part of a project, including architects' and engineers' fees, the purchase price of any part of a project that may be acquired by purchase and all expenses in connection with the authorization, sale and issuance of the bonds or notes to finance the acquisition and any related costs incurred by the local government.

L. No action shall be brought questioning the legality of any contract, mortgage, deed of trust, trust indenture or other lien or security device, proceeding or bonds or notes executed in connection with any project authorized by the Metropolitan Redevelopment Code on and after thirty days from the effective date of the ordinance authorizing the issuance of such bonds or notes."

## **Chapter 112 Section 8 Laws 2023**

SECTION 8. Section 3-60A-27 NMSA 1978 (being Laws 1979, Chapter 391, Section 27, as amended) is amended to read:

"3-60A-27. DEFINITIONS.--As used in the Redevelopment Bonding Law:

A. "finance" or "financing" means the issuing of bonds by a local government and the use of substantially all of the proceeds from the bonds pursuant to a financing agreement with the user to pay or to reimburse the user or its designee for the costs of the acquisition or construction of a project, whether these costs are incurred by the local government, the user or a designee of the user; provided that title to or in the project may at all times remain in the user, and, in such case, the bonds of the local government may be secured by mortgage or other lien upon the project or upon any other property of the user, or both, granted by the user or by a pledge of one or more notes, debentures, bonds or other secured or unsecured debt obligations of the user, as the governing body deems advisable, but no local government shall be authorized hereby to pledge any of its property or to otherwise secure the payment of any bonds with its property, except that the local government may pledge the revenues from the project;

B. "financing agreement" includes a lease, sublease, installment purchase agreement, rental agreement, option to purchase or any other agreement or any combination thereof entered into in connection with the financing of a project pursuant to the Metropolitan Redevelopment Code;

C. "mortgage" means a deed of trust or any other security device for both real and personal property;

D. "ordinance" means an ordinance of a local government financing or refinancing an activity involving or affecting improvement or improvements;

E. "project" means an activity that can be funded or refinanced by revenue bonds issued pursuant to the Redevelopment Bonding Law for the purpose of acquiring, improving, rehabilitating, conserving, financing, refinancing, erecting or building new or improved facilities on land, building or buildings or any other improvement or improvements, site or any other activity authorized by the Metropolitan Redevelopment Code for projects or activities located within the boundaries of a metropolitan redevelopment area. The revenue bonds may be used for the projects hereafter enumerated for any purpose or use in such project, except that no funds shall be used for inventories, raw materials or other working capital, whether or not in existence, suitable or used for or in connection with any of the following projects:

(1) manufacturing, industrial, commercial or business enterprises, including without limitation enterprises engaged in storing, warehousing, distributing, selling or transporting any products of industry, commerce, manufacturing or business or any utility plant;

(2) hospital, health care or nursing home facilities, including without limitation clinics and outpatient facilities and facilities for the training of hospital, health care or nursing home personnel;

(3) residential facilities intended for use as the place of residence by the owners or intended occupants;

(4) sewage or solid waste disposal facilities;

(5) facilities for the furnishing of water, if available, on reasonable demand to members of the general public;

(6) facilities for the furnishing of energy or gas;

(7) sports and recreational facilities;

(8) convention or trade show facilities;

(9) research, product testing and administrative facilities;

(10) creative enterprises or industries;

(11) cultural facilities as defined in the Local Economic Development Act; and

(12) public infrastructure in state-authorized main street projects or arts and cultural districts;

F. "revenue bonds" means bonds, notes or other securities evidencing an obligation and issued pursuant to the powers granted by the Metropolitan Redevelopment Code by a local government for purposes authorized by that code;

G. "user" means one or more persons who enter into a financing agreement with a local government relating to a project, except that the user need not be the person actually occupying, operating or maintaining the project; and

H. "utility plant" means any facility used for or in connection with the generation, production, transmission or distribution of electricity; the production, manufacture, storage or distribution of gas; the transportation or conveyance of gas, oil or other fluid substance by pipeline; or the diverting, developing, pumping, impounding, distributing or furnishing of water."

## **Chapter 112 Section 9 Laws 2023**

SECTION 9. Section 3-60A-30 NMSA 1978 (being Laws 1979, Chapter 391, Section 30, as amended) is amended to read:

"3-60A-30. BONDS AS LEGAL INVESTMENTS.--All banks, trust companies, bankers, building and loan associations, savings and loan associations, investment companies and other persons carrying on a banking or investment business; all

insurance companies, insurance associations and other persons carrying on an insurance business; and all executors, administrators, curators, trustees and other fiduciaries may legally invest any sinking funds, money or other funds belonging to them or within their control in any bonds or other obligations issued by a local government pursuant to the Metropolitan Redevelopment Code or by any agency vested with metropolitan redevelopment project powers under the Redevelopment Law; provided that the bonds and other obligations shall be secured by a pledge of revenues that is of sufficient value to equal the principal and interest of the bonds at maturity. The bonds and other obligations shall be authorized security for all public deposits. Nothing contained in this section with regard to legal investments shall be construed as relieving any person of any duty of exercising reasonable care in selecting securities."

### **Chapter 112 Section 10 Laws 2023**

SECTION 10. Section 3-60A-33 NMSA 1978 (being Laws 1979, Chapter 391, Section 33, as amended) is amended to read:

"3-60A-33. REVENUE BONDS--BOND SECURITY.--The principal of, the interest on and any prior redemption premiums due in connection with the revenue bonds shall be payable from, secured by a pledge of and constitute a lien on the revenues out of which the bonds shall be made payable. In addition, they may be secured by a mortgage covering all or any part of the project or upon any other property of the user or both by a pledge of the revenues from or a financing agreement for the project or both as the local government in its discretion may determine; but no local government shall be authorized by the Redevelopment Bonding Law to pledge any of its property or to otherwise secure the payment of any bonds with its property, except that the local government may pledge the revenues from the project."

### **Chapter 112 Section 11 Laws 2023**

SECTION 11. A new section of the Tax Administration Act is enacted to read:

"DISTRIBUTION--METROPOLITAN REDEVELOPMENT FUND.--A distribution for a metropolitan redevelopment project pursuant to the Metropolitan Redevelopment Code shall be made to the metropolitan redevelopment fund in accordance with a notice filed by a municipality or county pursuant to Section 3-60A-21 NMSA 1978 with respect to a dedication of a gross receipts tax increment."

### **Chapter 112 Section 12 Laws 2023**

SECTION 12. 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.

C. A transfer pursuant to this section shall be adjusted for a distribution made to the Local Economic Development Act fund pursuant to Section 7-1-6.67 NMSA 1978 and with respect to the amount dedicated by a municipality pursuant to Subsection B of Section 5-10-17 NMSA 1978.

D. A transfer pursuant to this section shall be adjusted for a distribution made to the metropolitan redevelopment fund pursuant to Section 11 of this 2023 act and with respect to the amount dedicated by a municipality pursuant to Section 3-60A-23 NMSA 1978."

## **Chapter 112 Section 13 Laws 2023**

SECTION 13. 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. 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.

C. A transfer pursuant to this section shall be adjusted for a distribution made to the Local Economic Development Act fund pursuant to Section 7-1-6.67 NMSA 1978 and with respect to the amount dedicated by a county pursuant to Subsection B of Section 5-10-17 NMSA 1978.

D. A transfer pursuant to this section shall be adjusted for a distribution made to the metropolitan redevelopment fund pursuant to Section 11 of this 2023 act and with respect to the amount dedicated by a county pursuant to Section 3-60A-23 NMSA 1978."

### **Chapter 112 Section 14 Laws 2023**

SECTION 14. REPEAL.--Section 3-60A-24 NMSA 1978 (being Laws 1979, Chapter 391, Section 24) is repealed.

### **Chapter 112 Section 15 Laws 2023**

SECTION 15. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2024.

## **LAWS 2023, CHAPTER 113**

**Senate Bill 260, aa**  
**Approved April 4, 2023**

AN ACT

RELATING TO DISABILITIES; UPDATING STATUTORY REFERENCES PERTAINING TO DEVELOPMENTAL AND INTELLECTUAL DISABILITIES; REVISING THE DEFINITION OF "DEVELOPMENTAL DISABILITY" IN THE MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES CODE; REPEALING SECTION 24-1-5.4 NMSA 1978 (BEING LAWS 1997, CHAPTER 217, SECTION 2).

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

### **Chapter 113 Section 1 Laws 2023**

SECTION 1. Section 15-7-3 NMSA 1978 (being Laws 1978, Chapter 166, Section 8, as amended) is amended to read:

"15-7-3. ADDITIONAL POWERS AND DUTIES OF THE RISK MANAGEMENT DIVISION.--

A. The risk management division of the general services department may:

(1) enter into contracts;

(2) procure insurance, reinsurance or employee group benefits; provided that any proposal or contract for the procurement of any group health care benefits shall be subject to the provisions of the Health Care Purchasing Act; and provided further that reinsurance or excess coverage insurance may be placed by private negotiation, notwithstanding the provisions of the Procurement Code, if the insurance or reinsurance has a restricted number of interested carriers, the board determines that the coverage is in the interest of the state and cannot otherwise be procured for a reasonable cost and the director seeks the advice and review of the board in the placement and in designing private negotiation procedures;

(3) in the manner prescribed by Subsection E of Section 9-17-5 NMSA 1978, after a notice and a public hearing, prescribe by rule reasonable and objective underwriting and safety standards for governmental entities and reasonable standards for municipal self-insurance pooling agreements covering liability under the Tort Claims Act and adopt such other regulations as may be deemed necessary;

(4) compromise, adjust, settle and pay claims;

(5) pay expenses and costs;

(6) in the manner prescribed by Subsection E of Section 9-17-5 NMSA 1978, prescribe by rule the rating bases, assessments, penalties and risks to be covered by the public liability fund, the workers' compensation retention fund and the public property reserve fund and the extent such risks are to be covered;

(7) issue certificates of coverage in accordance with Paragraph (6) of this subsection:

(a) to any governmental entity for any tort liability risk covered by the public liability fund;

(b) to any governmental entity for any personal injury liability risk or for the defense of any errors or act or omission or neglect or breach of duty, including the risks set forth in Paragraph (2) of Subsection B and Paragraph (2) of Subsection D of Section 41-4-4 NMSA 1978; and

(c) to any governmental entity for any part of risk covered by the workers' compensation retention fund, the surety bond fund or the public property reserve fund;

(8) study the risks of all governmental entities;

(9) initiate the establishment of safety programs and adopt rules to carry out such programs in the manner prescribed by Subsection E of Section 9-17-5 NMSA 1978;

(10) hire a safety program director who shall coordinate all safety programs of all state agencies;

(11) consult with and advise local public bodies on their risk management problems; and

(12) employ full-time legal counsel who shall be under the exclusive control and supervision of the director and the secretary of general services.

B. The risk management division of the general services department shall provide liability coverage for the following risks:

(1) a claim made pursuant to the provisions of 42 USC Section 1983 against a nonprofit corporation, members of its board of directors or its employees when the claim is based upon action taken pursuant to the provisions of a contract between the corporation and the department of health under which the corporation provides developmental or intellectual disability services to clients of the department and the claim is made by or on behalf of a client; and

(2) a claim made pursuant to the provisions of 42 USC Section 1983 against a nonprofit corporation, members of its board of directors or its employees when the corporation operates a facility licensed by the department of health as an intermediate care facility for individuals with developmental or intellectual disabilities and the claim is based upon action taken pursuant to the provisions of the license and is made by or on behalf of a resident of the licensed facility.

C. The director shall report findings and recommendations, if any, for the consideration of each legislature. The report shall include the amount and name of any person receiving payment from the public liability fund of any claim paid during the previous fiscal year exceeding one thousand dollars (\$1,000). The report shall be made available to the legislature on or before December 15 preceding each regular legislative session."

## **Chapter 113 Section 2 Laws 2023**

SECTION 2. Section 24-26-2 NMSA 1978 (being Laws 2004, Chapter 53, Section 2) is amended to read:

"24-26-2. DEFINITIONS.--As used in the Patient Care Monitoring Act:

- A. "department" means the aging and long-term services department;
- B. "facility" means a long-term care facility licensed pursuant to the provisions of Section 24-1-5 NMSA 1978, other than an intermediate care facility for individuals with developmental or intellectual disabilities, and may also include:
  - (1) a skilled nursing facility;
  - (2) an intermediate care nursing facility;
  - (3) a nursing facility;
  - (4) an adult residential shelter care home;
  - (5) a boarding home;
  - (6) any adult care home or adult residential care facility; and
  - (7) any swing bed in an acute care facility or extended care facility;
- C. "monitoring device" means a surveillance instrument that broadcasts or records activity, but does not include a still camera;
- D. "patient" means a person who is a resident of a facility;
- E. "program" means the New Mexico long-term care ombudsman program;  
and
- F. "surrogate" means a legal guardian or a legally appointed substitute decision-maker who is authorized to act on behalf of a patient."

## **Chapter 113 Section 3 Laws 2023**

SECTION 3. Section 27-2-6.1 NMSA 1978 (being Laws 1978, Chapter 30, Section 1) is amended to read:

"27-2-6.1. SUPPLEMENTAL POSTNATAL ASSISTANCE.--The department shall establish a program of supplemental postnatal assistance for those developmentally or intellectually disabled persons who during pregnancy received temporary assistance for needy families but whose assistance was revoked upon relinquishment of the newly born child for adoption. The supplemental postnatal assistance provided for in this section shall be at the same rate as temporary assistance for needy families, but supplemental postnatal assistance shall not exceed a period of sixty days. The department shall promulgate rules to carry out the provisions of this section."

## **Chapter 113 Section 4 Laws 2023**

SECTION 4. Section 27-2-12.6 NMSA 1978 (being Laws 1994, Chapter 62, Section 22) is amended to read:

"27-2-12.6. MEDICAID PAYMENTS--MANAGED CARE.--

A. The department shall provide for a statewide, managed care system to provide cost-efficient, preventive, primary and acute care for medicaid recipients by July 1, 1995.

B. The managed care system shall ensure:

(1) access to medically necessary services, particularly for medicaid recipients with chronic health problems;

(2) to the extent practicable, maintenance of the rural primary care delivery infrastructure;

(3) that the department's approach is consistent with national and state health care reform principles; and

(4) to the maximum extent possible, that medicaid-eligible individuals are not identified as such except as necessary for billing purposes.

C. The department may exclude nursing homes, intermediate care facilities for individuals with developmental or intellectual disabilities, medicaid in-home and community-based waiver services and residential and community-based mental health services for children with serious emotional disorders from the provisions of this section."

## **Chapter 113 Section 5 Laws 2023**

SECTION 5. Section 27-2A-4 NMSA 1978 (being Laws 1994, Chapter 87, Section 4, as amended) is amended to read:

"27-2A-4. DEPARTMENT TO SEEK RECOVERY OF MEDICAL ASSISTANCE PAYMENTS--RESTRICTION.--

A. The department shall seek recovery from the estate of an individual:

(1) for medical assistance paid on behalf of an individual who was an inpatient in a nursing facility, intermediate care facility for individuals with developmental or intellectual disabilities or other medical institution if the individual was required, as a condition of receiving services in the facility or institution pursuant to the state plan, to spend for costs of services all but a minimal amount of the individual's income required

for personal needs, and with respect to whom the department determined, after opportunity for a hearing in accordance with procedures established by the department, could not reasonably have been expected to have been discharged from the facility or institution to return home; and

(2) for medical assistance payments made for nursing facility services, home- and community-based services and related hospital and prescription drug services on behalf of an individual who was fifty-five years of age or older when the individual received medical assistance.

B. In the case of an individual who has participated in the state's qualified state long-term care insurance partnership program pursuant to Section 27-2-12.17 NMSA 1978, the department shall seek recovery of medical assistance paid on behalf of the individual only of the value of the individual's estate that exceeds the amount that the department has disregarded from the individual's countable resources pursuant to Paragraph (2) of Subsection A of Section 27-2-12.17 NMSA 1978 in making its eligibility determination for medical assistance for institutional care or a medical assistance home- and community-based long-term care program."

## **Chapter 113 Section 6 Laws 2023**

SECTION 6. Section 27-7A-2 NMSA 1978 (being Laws 2005, Chapter 256, Section 2) is amended to read:

"27-7A-2. DEFINITIONS.--As used in the Employee Abuse Registry Act:

A. "abuse" means:

(1) knowingly, intentionally or negligently and without justifiable cause inflicting physical pain, injury or mental anguish; or

(2) the intentional deprivation by a caretaker or other person of services necessary to maintain the mental and physical health of a person;

B. "department" means the department of health;

C. "direct care" means face-to-face services provided or routine and unsupervised physical or financial access to a recipient of services;

D. "employee" means a person employed by or on contract with a provider, either directly or through a third party arrangement to provide direct care. "Employee" does not include a New Mexico licensed health care professional practicing within the scope of the profession's license or a certified nurse aide;

E. "exploitation" means an unjust or improper use of a person's money or property for another person's profit or advantage, pecuniary or otherwise;

F. "neglect" means, subject to a person's right to refuse treatment and subject to a provider's right to exercise sound medical discretion, the failure of an employee to provide basic needs such as clothing, food, shelter, supervision and care for the physical and mental health of a person or failure by a person that may cause physical or psychological harm;

G. "provider" means an intermediate care facility for individuals with developmental or intellectual disabilities; a rehabilitation facility; a home health agency; a homemaker agency; a home for the aged or disabled; a group home; an adult foster care home; a case management entity that provides services to elderly people or people with developmental disabilities; a corporate guardian; a private residence that provides personal care, adult residential care or natural and surrogate family services provided to persons with developmental disabilities; an adult daycare center; a boarding home; an adult residential care home; a residential service or habilitation service authorized to be reimbursed by medicaid; any licensed or medicaid-certified entity or any program funded by the aging and long-term services department that provides respite, companion or personal care services; programs funded by the children, youth and families department that provide homemaker or adult daycare services; and any other individual, agency or organization that provides respite care or delivers home- and community-based services to adults or children with developmental disabilities or physical disabilities or to the elderly, but excluding a managed care organization unless the employees of the managed care organization provide respite care or deliver home- and community-based services to adults or children with developmental disabilities or physical disabilities or to the elderly;

H. "registry" means an electronic database that provides information on substantiated employee abuse, neglect or exploitation; and

I. "secretary" means the secretary of health."

## **Chapter 113 Section 7 Laws 2023**

SECTION 7. Section 28-16-15.2 NMSA 1978 (being Laws 1993, Chapter 84, Section 2) is amended to read:

"28-16-15.2. DEVELOPMENTAL DISABILITIES COUNCIL--ADDITIONAL DUTIES.--The developmental disabilities council shall cooperate with the department of health and the human services department to:

A. provide data to support an amendment to the developmental disabilities medicaid waiver program to increase the number of eligible persons served;

B. develop a contingency plan to describe the role and control the growth of intermediate care facilities for individuals with developmental or intellectual disabilities; and

C. develop flexibility in the system of prioritization for admission to allow persons to move within the service system to an appropriate level of service, including movement of residents of intermediate care facilities for individuals with developmental or intellectual disabilities to the developmental disabilities medicaid waiver program."

## **Chapter 113 Section 8 Laws 2023**

SECTION 8. Section 29-17-4 NMSA 1978 (being Laws 1998, Chapter 68, Section 3, as amended) is amended to read:

"29-17-4. DEFINITIONS.--As used in the Caregivers Criminal History Screening Act:

A. "applicant" means a person who seeks and is offered employment or contractual service as a caregiver or hospital caregiver with a care provider;

B. "caregiver" means a person, not otherwise required to undergo a nationwide criminal history screening by the New Mexico Children's and Juvenile Facility and Program Criminal Records Screening Act, whose employment or contractual service with a care provider includes direct care or routine and unsupervised physical or financial access to any care recipient served by that provider;

C. "care provider" or "provider" means a skilled nursing facility; an intermediate care facility; a care facility for individuals with developmental or intellectual disabilities; a general acute care facility; a psychiatric facility; a rehabilitation facility; a home health agency; a homemaker agency; a home for the aged or disabled; a group home; an adult foster care home; a guardian service provider; a case management entity that provides services to people with developmental disabilities; a private residence that provides personal care, adult residential care or nursing care for two or more persons not related by blood or marriage to the facility's operator or owner; an adult daycare center; a boarding home; an adult residential care home; a residential service or habilitation service authorized to be reimbursed by medicaid; any licensed or medicaid-certified entity or any program funded by the aging and long-term services department that provides respite, companion or personal care services; or programs funded by the children, youth and families department that provide homemaker or adult daycare services. "Care provider" or "provider" does not include resident care facilities located at or performing services exclusively for any correctional facility, outpatient treatment facilities, diagnostic and treatment facilities, ambulatory surgical centers and facilities, end-stage renal dialysis and treatment facilities, rural health clinics, private physicians' offices or other clinics that operate in the same manner as private physicians' offices in group practice settings;

D. "care recipient" means any person under the care of a provider who has a physical or mental illness, injury or disability or who suffers from any cognitive impairment that restricts or limits the person's activities;

E. "conviction" means a plea, judgment or verdict of guilty, a plea of nolo contendere, an Alford plea or any plea or judgment entered in connection with a suspended sentence, in this state or any other state or jurisdiction;

F. "hospital caregiver" means a person who provides direct unsupervised patient care in an inpatient setting and is not a licensed New Mexico health care professional practicing within the scope of a profession's license;

G. "nationwide criminal history screening" means a criminal history background investigation of an applicant, caregiver or hospital caregiver through the use of fingerprints collected by the department of public safety and submitted to the federal bureau of investigation, resulting in generation of a nationwide criminal history record for that applicant, caregiver or hospital caregiver;

H. "nationwide criminal history record" means information concerning a person's arrests, indictments or other formal criminal charges and any dispositions arising therefrom, including convictions, dismissals, acquittals, sentencing and correctional supervision, and collected by criminal justice agencies; and

I. "statewide criminal history screening" means a criminal history background investigation of an applicant or caregiver through the comparison of identifying information with the department of public safety's criminal record repository."

## **Chapter 113 Section 9 Laws 2023**

SECTION 9. Section 30-47-3 NMSA 1978 (being Laws 1990, Chapter 55, Section 3, as amended) is amended to read:

"30-47-3. DEFINITIONS.--As used in the Resident Abuse and Neglect Act:

A. "abuse" means any act or failure to act performed intentionally, knowingly or recklessly that causes or is likely to cause harm to a resident, including:

(1) physical contact that harms or is likely to harm a resident of a care facility;

(2) inappropriate use of a physical restraint, isolation or medication that harms or is likely to harm a resident;

(3) inappropriate use of a physical or chemical restraint, medication or isolation as punishment or in conflict with a physician's order;

(4) medically inappropriate conduct that causes or is likely to cause physical harm to a resident;

(5) medically inappropriate conduct that causes or is likely to cause great psychological harm to a resident; or

(6) an unlawful act, a threat or menacing conduct directed toward a resident that results and might reasonably be expected to result in fear or emotional or mental distress to a resident;

B. "care facility" means a hospital; skilled nursing facility; intermediate care facility; care facility for individuals with developmental or intellectual disabilities; psychiatric facility; rehabilitation facility; kidney disease treatment center; home health agency; ambulatory surgical or outpatient facility; home for the aged or disabled; group home; adult foster care home; private residence that provides personal care, sheltered care or nursing care for one or more persons; a resident's or care provider's home in which personal care, sheltered care or nursing care is provided; adult daycare center; boarding home; adult residential shelter care home; and any other health or resident care related facility or home, but does not include a care facility located at or performing services for any correctional facility;

C. "department" means the human services department or its successor, contractor, employee or designee;

D. "great psychological harm" means psychological harm that causes mental or emotional incapacitation for a prolonged period of time or that causes extreme behavioral change or severe physical symptoms that require psychological or psychiatric care;

E. "great physical harm" means physical harm of a type that causes physical loss of a bodily member or organ or functional loss of a bodily member or organ for a prolonged period of time;

F. "neglect" means, subject to the resident's right to refuse treatment and subject to the caregiver's right to exercise sound medical discretion, the grossly negligent:

(1) failure to provide any treatment, service, care, medication or item that is necessary to maintain the health or safety of a resident;

(2) failure to take any reasonable precaution that is necessary to prevent damage to the health or safety of a resident; or

(3) failure to carry out a duty to supervise properly or control the provision of any treatment, care, food, service or medication necessary to maintain the health or safety of a resident;

G. "person" means any individual, corporation, partnership, unincorporated association or other governmental or business entity;

H. "physical harm" means an injury to the body that causes substantial pain or incapacitation; and

I. "resident" means any person who resides in a care facility or who receives treatment from a care facility."

## **Chapter 113 Section 10 Laws 2023**

SECTION 10. Section 31-9-1.6 NMSA 1978 (being Laws 1997, Chapter 153, Section 1, as amended) is amended to read:

"31-9-1.6. HEARING TO DETERMINE DEVELOPMENTAL OR INTELLECTUAL DISABILITY.--

A. Upon motion of the defense requesting a ruling, the court shall hold a hearing to determine whether the defendant has a developmental or intellectual disability as defined in Subsection E of this section.

B. If the court finds by a preponderance of the evidence that the defendant has a developmental or intellectual disability and that there is not a substantial probability that the defendant will become competent to proceed in a criminal case within a reasonable period of time not to exceed nine months from the date of the original finding of incompetency, then, no later than sixty days from notification to the secretary of health or the secretary's designee of the court's findings, the department of health shall perform an evaluation to determine whether the defendant presents a likelihood of serious harm to self or others.

C. If the department of health evaluation results in a finding that the defendant presents a likelihood of serious harm to self or others, within sixty days of the department's evaluation, the department shall commence proceedings pursuant to Chapter 43, Article 1 NMSA 1978 if the defendant was charged with murder in the first degree, first degree criminal sexual penetration, criminal sexual contact of a minor or arson in the initial proceedings, and the court presiding over the initial proceedings shall enter a finding that the respondent presents a likelihood of harm to others.

D. The criminal charges shall be dismissed without prejudice after the hearing pursuant to Chapter 43, Article 1 NMSA 1978 or upon expiration of fourteen months from the court's initial determination that the defendant is incompetent to proceed in a criminal case.

E. As used in this section, "developmental or intellectual disability" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior. An intelligence quotient of seventy or below on a reliably administered intelligence quotient test shall be presumptive evidence of developmental or intellectual disability."

## Chapter 113 Section 11 Laws 2023

SECTION 11. Section 38-6-8 NMSA 1978 (being Laws 1993, Chapter 333, Section 1) is amended to read:

"38-6-8. WITNESSES WITH DEVELOPMENTAL OR INTELLECTUAL DISABILITY--COMPETENCY EVALUATION.--

A. As used in this section:

(1) "witness with a developmental or intellectual disability" means a witness in a proceeding whom the court has found after hearing, as provided in Subsection B of this section, to have a developmental or intellectual disability; and

(2) "developmental or intellectual disability" means a substantial limitation in present functioning characterized by significantly subaverage intellectual functioning, existing concurrently with related limitations in two or more of the following applicable skill areas: communication, self-care, home living, social skills, community use, self-direction, health and safety, functional academics, leisure and work.

B. In any judicial proceeding wherein a witness with a developmental or intellectual disability may or will testify, the court on its own motion or on motion of the proponent of the witness with a developmental or intellectual disability, and after hearing, may order the use of one of the alternative procedures for determining competency to testify or for taking the testimony of the witness with a developmental or intellectual disability described below, provided that the court finds at the time of the order, by a preponderance of the evidence in the case, that the witness with a developmental or intellectual disability is likely, as a result of submitting to usual procedures for determining competency or as a result of testifying in open court:

(1) to suffer unreasonable and unnecessary mental or emotional harm;  
or

(2) to suffer a temporary loss of or regression in cognitive or behavioral functioning or communicative abilities such that the witness's ability to testify will be significantly impaired.

C. If the court orders the use of an alternative procedure pursuant to this section, the court shall make and enter specific findings on the record describing the reasons for such order.

D. A court that makes findings in accordance with Subsection B of this section may order any of the following suitable alternative procedures for determining the competency to testify or for taking the testimony of the witness with a developmental or intellectual disability:

(1) taking the testimony of the witness with a developmental or intellectual disability while permitting a person familiar to the witness such as a family member, clinician, counselor, social worker or friend to sit near or next to the witness;

(2) taking the testimony of the witness with a developmental or intellectual disability in court but off the witness stand;

(3) if the proceeding is a bench proceeding, taking the testimony of the witness with a developmental or intellectual disability in a setting familiar to the witness;

(4) if the proceeding is a jury trial, videotaping of testimony, out of the presence of the jury or in a location chosen by the court or by agreement of the parties;  
or

(5) the procedure set forth in Paragraph (1) in combination with Paragraph (2), (3) or (4) of this subsection.

E. Testimony taken by a videotape pursuant to an order issued as provided in Subsection B of this section shall be taken in the presence of the judge, counsel for all parties and such other persons as the court may allow. Counsel shall be given the opportunity to examine, confront or cross-examine the witness with a developmental or intellectual disability to the same extent as would be permitted if ordinary procedures had been followed, subject to such protection of the witness as the judge deems necessary.

F. An order issued pursuant to provisions of Subsection B of this section that the testimony of the witness with a developmental or intellectual disability be videotaped out of the presence of the jury shall provide that the videotape be shown in court to the jury in the presence of the judge, the parties and the parties' counsel. At such courtroom showing, the audio portion of the video shall be entered into the record as would any oral testimony and shall be treated in all respects as oral testimony to the jury.

G. The videotape or giving of testimony taken by an alternative procedure pursuant to an order issued as provided in Subsection B of this section shall be admissible as substantive evidence to the same extent as and in lieu of live testimony by the witness in any proceeding for which the order is issued or in any related proceeding against the same party when consistent with the interests of justice; provided that such an order is entered or re-entered based on current findings at the time when, or within a reasonable time before, the videotape or testimony is offered into evidence, and provided, in the case of a related criminal proceeding, that the requirements of Subsection E of this section were satisfied when the videotape was recorded or the alternative procedure was used.

H. Whenever, pursuant to an order issued as provided in Subsection B of this section, testimony is recorded on videotape, the court shall ensure that:

- (1) the recording equipment is capable of making an accurate recording and is operated by a competent operator;
- (2) the recording is in color and is taken in well-lit conditions;
- (3) the presence of the presiding judge, the attorneys, the defendant or parties, if in the room, and all other persons present is stated on the recording;
- (4) the witness with a developmental or intellectual disability is visible at all times and, to the extent reasonably possible, the recording shows all persons present in the room as a jury would perceive them in open court;
- (5) every voice on the recording is audible and identifiable;
- (6) the recording is accurate, undistorted in picture or sound quality and has not been altered except as ordered by the court; and
- (7) each party is afforded the opportunity to view the recording before it is shown in the courtroom.

I. The fact that the witness with a developmental or intellectual disability has been found in a court proceeding to be incompetent to make informed decisions of a personal, medical or financial nature or is under a guardianship or conservatorship shall not preclude the witness from testifying if found competent to testify and, further, shall not preclude a determination of competency to testify.

J. The use of alternative procedures shall not be denied because they may take significantly more time than conventional procedures.

K. Expert opinion shall be admissible at any hearing held pursuant to this section, including hearings to determine the competency of a witness with a developmental or intellectual disability to testify.

L. Nothing in this section shall be deemed to prohibit the court from using other appropriate means, consistent with this section and other laws and with the defendant's rights, to protect a witness with a developmental or intellectual disability from trauma during a court proceeding."

## **Chapter 113 Section 12 Laws 2023**

SECTION 12. Section 43-1-3 NMSA 1978 (being Laws 1977, Chapter 279, Section 2, as amended) is amended to read:

"43-1-3. DEFINITIONS.--As used in the Mental Health and Developmental Disabilities Code:

A. "aversive stimuli" means anything that, because it is believed to be unreasonably unpleasant, uncomfortable or distasteful to the client, is administered or done to the client for the purpose of reducing the frequency of a behavior, but does not include verbal therapies, physical restrictions to prevent imminent harm to self or others or psychotropic medications that are not used for purposes of punishment;

B. "client" means any patient who is requesting or receiving mental health services or any person requesting or receiving developmental disabilities services or who is present in a mental health or developmental disabilities facility for the purpose of receiving such services or who has been placed in a mental health or developmental disabilities facility by the person's parent or guardian or by any court order;

C. "code" means the Mental Health and Developmental Disabilities Code;

D. "consistent with the least drastic means principle" means that the habilitation or treatment and the conditions of habilitation or treatment for the client, separately and in combination:

(1) are no more harsh, hazardous or intrusive than necessary to achieve acceptable treatment objectives for the client;

(2) involve no restrictions on physical movement and no requirement for residential care except as reasonably necessary for the administration of treatment or for the protection of the client or others from physical injury; and

(3) are conducted at the suitable available facility closest to the client's place of residence;

E. "convulsive treatment" means any form of mental health treatment that depends upon creation of a convulsion by any means, including electroconvulsive treatment and insulin coma treatment;

F. "court" means a district court of New Mexico;

G. "department" or "division" means the behavioral health services division of the human services department;

H. "developmental or intellectual disability" means a severe chronic disability attributable to significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior, cerebral palsy, autism or neurological dysfunction that requires similar treatment or habilitation;

I. "evaluation facility" means a community mental health or developmental disability program or a medical facility that has psychiatric or developmental or intellectual disability services available, including the New Mexico behavioral health institute at Las Vegas, the Los Lunas medical center or, if none of the foregoing is

reasonably available or appropriate, the office of a physician or a certified psychologist, and that is capable of performing a mental status examination adequate to determine the need for involuntary treatment;

J. "experimental treatment" means any mental health or developmental disabilities treatment that presents significant risk of physical harm, but does not include accepted treatment used in competent practice of medicine and psychology and supported by scientifically acceptable studies;

K. "grave passive neglect" means failure to provide for basic personal or medical needs or for one's own safety to such an extent that it is more likely than not that serious bodily harm will result in the near future;

L. "habilitation" means the process by which professional persons and their staff assist a client with a developmental or an intellectual disability in acquiring and maintaining those skills and behaviors that enable the person to cope more effectively with the demands of the person's self and environment and to raise the level of the person's physical, mental and social efficiency. "Habilitation" includes but is not limited to programs of formal, structured education and treatment;

M. "likelihood of serious harm to 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 the person's self by violent or other self-destructive means, including grave passive neglect;

N. "likelihood of serious harm to others" means that it is more likely than not that in the near future a 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 the person;

O. "mental disorder" means substantial disorder of a person's emotional processes, thought or cognition that grossly impairs judgment, behavior or capacity to recognize reality, but does not mean developmental or intellectual disability;

P. "mental health or developmental or intellectual disabilities professional" means a physician or other professional who by training or experience is qualified to work with persons with a mental disorder or a developmental or intellectual disability;

Q. "physician" or "certified psychologist", when used for the purpose of hospital admittance or discharge, means a physician or certified psychologist who has been granted admitting privileges at a hospital licensed by the department of health, if such privileges are required;

R. "protected health information" means individually identifiable health information transmitted by or maintained in an electronic form or any other form or media that relates to the:

- (1) past, present or future physical or mental health or condition of an individual;
- (2) provision of health care to an individual; or
- (3) payment for the provision of health care to an individual;

S. "psychosurgery":

(1) means those operations currently referred to as lobotomy, psychiatric surgery and behavioral surgery and all other forms of brain surgery if the surgery is performed for the purpose of the following:

(a) modification or control of thoughts, feelings, actions or behavior rather than the treatment of a known and diagnosed physical disease of the brain;

(b) treatment of abnormal brain function or normal brain tissue in order to control thoughts, feelings, actions or behavior; or

(c) treatment of abnormal brain function or abnormal brain tissue in order to modify thoughts, feelings, actions or behavior when the abnormality is not an established cause for those thoughts, feelings, actions or behavior; and

(2) does not include prefrontal sonic treatment in which there is no destruction of brain tissue;

T. "qualified mental health professional licensed for independent practice" means an independent social worker, a licensed professional clinical mental health counselor, a marriage and family therapist, a certified nurse practitioner or a clinical nurse specialist with a specialty in mental health, all of whom by training and experience are qualified to work with persons with a mental disorder;

U. "residential treatment or habilitation program" means diagnosis, evaluation, care, treatment or habilitation rendered inside or on the premises of a mental health or developmental disabilities facility, hospital, clinic, institution or supervisory residence or nursing home when the client resides on the premises; and

V. "treatment" means any effort to accomplish a significant change in the mental or emotional condition or behavior of the client."

## **Chapter 113 Section 13 Laws 2023**

SECTION 13. REPEAL.--Section 24-1-5.4 NMSA 1978 (being Laws 1997, Chapter 217, Section 2) is repealed.

## **LAWS 2023, CHAPTER 114**

**STBTC/Senate Bill 273, aa**  
**Approved April 4, 2023**

### **AN ACT**

RELATING TO HEALTH COVERAGE; ENACTING SECTIONS OF THE HEALTH CARE PURCHASING ACT AND THE NEW MEXICO INSURANCE CODE TO PROHIBIT INSURERS FROM APPLYING LIMITATIONS ON COVERAGE FOR MENTAL HEALTH OR SUBSTANCE USE DISORDER SERVICES THAT ARE MORE RESTRICTIVE THAN LIMITATIONS ON COVERAGE FOR OTHER TYPES OF HEALTH CARE SERVICES; PROVIDING FOR INSURER COMPLIANCE.

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

## **Chapter 114 Section 1 Laws 2023**

SECTION 1. A new section of the Health Care Purchasing Act is enacted to read:

"DEFINITIONS.--As used in Sections 1 through 9 of this 2023 act:

A. "generally recognized standards" means standards of care and clinical practice established by evidence-based sources, including clinical practice guidelines and recommendations from mental health and substance use disorder care provider professional associations and relevant federal government agencies, that are generally recognized by providers practicing in relevant clinical specialties, including:

- (1) psychiatry;
- (2) psychology;
- (3) social work;
- (4) clinical counseling;
- (5) addiction medicine and counseling; or
- (6) family and marriage counseling; and

B. "mental health or substance use disorder services" means:

(1) professional services, including inpatient and outpatient services and prescription drugs, provided in accordance with generally recognized standards of care for the identification, prevention, treatment, minimization of progression, habilitation and rehabilitation of conditions or disorders listed in the current edition of the American psychiatric association's *Diagnostic and Statistical Manual of Mental Disorders*, including substance use disorder; or

(2) professional talk therapy services, provided in accordance with generally recognized standards of care, provided by a marriage and family therapist licensed pursuant to the Counseling and Therapy Practice Act."

### **Chapter 114 Section 2 Laws 2023**

SECTION 2. A new section of the Health Care Purchasing Act is enacted to read:

"BENEFITS REQUIRED.--Group coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act shall provide coverage for all mental health or substance use disorder services required by generally recognized standards of care."

### **Chapter 114 Section 3 Laws 2023**

SECTION 3. A new section of the Health Care Purchasing Act is enacted to read:

"PARITY FOR COVERAGE OF MENTAL HEALTH AND SUBSTANCE USE DISORDER SERVICES.--

A. The office of superintendent of insurance shall ensure that an insurer complies with federal and state laws, rules and regulations applicable to coverage for mental health or substance use disorder services.

B. An insurer shall not impose quantitative treatment limitations, financial restrictions, limitations or requirements on the provision of mental health or substance use disorder services that are more restrictive than the predominant restrictions, limitations or requirements that are imposed on substantially all of the coverage of benefits for other conditions.

C. An insurer shall not impose non-quantitative treatment limitations for the treatment of mental health or substance use disorders or conditions unless factors, including the processes, strategies or evidentiary standards used in applying the non-quantitative treatment limitation, as written and in operation, are comparable to and are applied no more restrictively than the factors used in applying the limitation to medical or surgical benefits in the classification."

## **Chapter 114 Section 4 Laws 2023**

SECTION 4. A new section of the Health Care Purchasing Act is enacted to read:

"PROVIDER NETWORK ADEQUACY.--

A. An insurer shall maintain an adequate provider network to provide mental health and substance use disorder services.

B. The superintendent of insurance shall ensure access to mental health and substance use disorder services providers, including parity with medical and surgical services provider access, through regulation and review of claims processing, provider reimbursement procedures, network adequacy and provider reimbursement rate adequacy.

C. An insurer shall ensure that the process by which reimbursement rates for mental health and substance use disorder services are determined is comparable to and no more stringent than the process for reimbursement of medical or surgical benefits. In developing provider reimbursement rates, an insurer shall demonstrate that it has performed a comparability analysis of provider:

(1) reimbursement rates in surrounding states;

(2) reimbursement rates between mental health and substance use disorder providers and medical or surgical providers; and

(3) credentialing processes for mental health and substance use disorder providers and medical or surgical providers.

D. An insurer shall undertake all efforts, including increasing provider reimbursement rates through the processes and strategies described in Subsection C of this section, to ensure state-mandated network adequacy for the provision of mental health or substance use disorder services.

E. When in-network access to mental health or substance use disorder services is not reasonably available, an insurer shall provide access to out-of-network services with the same cost-sharing obligations to the insured as those required for in-network services."

## **Chapter 114 Section 5 Laws 2023**

SECTION 5. A new section of the Health Care Purchasing Act is enacted to read:

"UTILIZATION REVIEW OF MENTAL HEALTH OR SUBSTANCE USE DISORDER SERVICES.--

A. An insurer shall, at least monthly, review and update the insurer's utilization review process to reflect the most recent evidence and generally recognized standards of care.

B. When performing a utilization review of mental health or substance use disorder services, including level of care placement, continued stay, transfer and discharge, an insurer shall apply criteria in accordance with generally recognized standards of care.

C. An insurer shall provide utilization review training to staff and contractors undertaking activities related to utilization review.

D. An insurer shall:

(1) develop utilization review policies regarding quantitative and non-quantitative limitations for mental health and substance use disorder services coverage that are no more restrictive than the utilization review policies regarding quantitative and non-quantitative limitations for medical and surgical care; and

(2) make utilization review policies available to providers or plan members."

## **Chapter 114 Section 6 Laws 2023**

SECTION 6. A new section of the Health Care Purchasing Act is enacted to read:

"PROHIBITED EXCLUSIONS OF COVERAGE FOR MENTAL HEALTH OR SUBSTANCE USE DISORDER SERVICES.--An insurer shall not exclude provider prescribed coverage for mental health or substance use disorder services otherwise included in its coverage when:

A. it is available pursuant to federal or state law for individuals with disabilities;

B. it is otherwise ordered by a court or administrative agency;

C. it is available to an insured through a public benefit program; or

D. an insured has a concurrent diagnosis."

## **Chapter 114 Section 7 Laws 2023**

SECTION 7. A new section of the Health Care Purchasing Act is enacted to read:

"LEVEL OF CARE DETERMINATIONS FOR THE PROVISION OF MENTAL HEALTH OR SUBSTANCE USE DISORDER SERVICES.--

A. An insurer shall provide coverage for all in-network mental health or substance use disorder services, consistent with generally recognized standards of care, including placing an insured into a medically necessary level of care.

B. Changes in level and duration of care shall be determined by the insured's provider in consultation with the insurer.

C. Level of care determinations shall include placement of an insured into a facility that provides detoxification services, a hospital, an inpatient rehabilitation treatment facility or an outpatient treatment program.

D. Level of care services for an insured with a mental health or substance use disorder shall be based on the mental health or substance use disorder needs of the insured rather than arbitrary time limits."

### **Chapter 114 Section 8 Laws 2023**

SECTION 8. A new section of the Health Care Purchasing Act is enacted to read:

"COORDINATION OF CARE.--An insurer may facilitate communication between mental health or substance use disorder services providers and the insured's designated primary care provider to ensure coordination of care to prevent any conflicts of care that could be harmful to the insured."

### **Chapter 114 Section 9 Laws 2023**

SECTION 9. A new section of the Health Care Purchasing Act is enacted to read:

"CONFIDENTIALITY PROVISIONS.--An insurer shall protect the confidentiality of an insured receiving mental health or substance use disorder services."

### **Chapter 114 Section 10 Laws 2023**

SECTION 10. A new section of the Health Care Purchasing Act is enacted to read:

"EXCEPTIONS.--The provisions of Sections 1 through 9 of this 2023 act do not apply to short-term plans subject to the Short-Term Health Plan and Excepted Benefit Act."

### **Chapter 114 Section 11 Laws 2023**

SECTION 11. A new section of the Prior Authorization Act is enacted to read:

"PRIOR AUTHORIZATION RESCINDING OR MODIFYING PROHIBITED.--A health insurer shall not rescind or modify an authorization for mental health or substance use disorder services that has been authorized, after the provider renders the services pursuant to a determination of medical necessity, in good faith, except for cases of fraud or violation of the provider's contract with the health insurer."

## **Chapter 114 Section 12 Laws 2023**

SECTION 12. A new section of the Prior Authorization Act is enacted to read:

"PRIOR AUTHORIZATION OR REFERRAL REQUIREMENT FOR IN-NETWORK MENTAL HEALTH OR SUBSTANCE USE DISORDER SERVICES COVERAGE PROHIBITED.--

A. A health insurer shall not require prior authorization and referral requirements for the following mental health or substance use disorder services:

- (1) acute or immediately necessary care;
- (2) acute episodes of chronic mental health or substance use disorder conditions; or
- (3) initial in-network inpatient or outpatient substance use treatment services.

B. Prior authorization shall be determined in consultation with the insured's mental health or substance use disorder services provider for:

- (1) continuation of services in chronic or stable conditions; or
- (2) additional services.

C. Except in cases in which the insured terminates a plan, a health insurer shall not terminate coverage of services without consultation with the insured's mental health or substance use disorder services provider.

D. A health insurer shall not limit coverage for mental health or substance use disorder services up to the point of relief of presenting signs and symptoms or to short-term care or acute treatment.

E. The duration of coverage for an insured with a mental health or substance use disorder shall be based on the mental health or substance use disorder needs of the insured rather than on arbitrary time limits.

F. A health insurer may require a mental health or substance use disorder services provider to provide notification to the health insurer after the initiation of in-

network mental health or substance use disorder treatment pursuant to Subsection A of this section.

G. If a provider fails to notify a health insurer pursuant to Subsection F of this section, a health insurer may perform appropriate utilization review.

H. A health insurer may require a mental health or substance use disorder services provider to develop and submit a treatment plan for an insured receiving in-network services in a manner that is compliant with federal law."

## **Chapter 114 Section 13 Laws 2023**

SECTION 13. A new section of the Prior Authorization Act is enacted to read:

"PRIOR AUTHORIZATION FOR PRESCRIPTION DRUGS OR STEP THERAPY FOR SUBSTANCE USE DISORDER PROHIBITED.--

A. Coverage for medication approved by the federal food and drug administration that is prescribed for the treatment of a substance use disorder, pursuant to a medical necessity determination, shall not be subject to prior authorization, except in cases in which a generic version is available.

B. A health insurer shall not impose step therapy requirements before authorizing coverage for medication approved by the federal food and drug administration that is prescribed for the treatment of a substance use disorder, pursuant to a medical necessity determination, except in cases in which a generic version is available."

## **Chapter 114 Section 14 Laws 2023**

SECTION 14. A new section of Chapter 59A, Article 23 NMSA 1978 is enacted to read:

"DEFINITIONS.--As used in Sections 14 through 22 of this 2023 act:

A. "generally recognized standards" means standards of care and clinical practice established by evidence-based sources, including clinical practice guidelines and recommendations from mental health and substance use disorder care provider professional associations and relevant federal government agencies, that are generally recognized by providers practicing in relevant clinical specialties, including:

- (1) psychiatry;
- (2) psychology;
- (3) social work;

- (4) clinical counseling;
- (5) addiction medicine and counseling; or
- (6) family and marriage counseling; and

B. "mental health or substance use disorder services" means:

(1) professional services, including inpatient and outpatient services and prescription drugs, provided in accordance with generally recognized standards of care for the identification, prevention, treatment, minimization of progression, habilitation and rehabilitation of conditions or disorders listed in the current edition of the American psychiatric association's *Diagnostic and Statistical Manual of Mental Disorders*, including substance use disorder; or

(2) professional talk therapy services, provided in accordance with generally recognized standards of care, provided by a marriage and family therapist licensed pursuant to the Counseling and Therapy Practice Act."

### **Chapter 114 Section 15 Laws 2023**

SECTION 15. A new section of Chapter 59A, Article 23 NMSA 1978 is enacted to read:

"BENEFITS REQUIRED.--A group health plan, other than a small group health plan or a blanket health insurance policy or contract that is delivered, issued for delivery or renewed in this state shall provide coverage for all mental health or substance use disorder services required by generally recognized standards of care."

### **Chapter 114 Section 16 Laws 2023**

SECTION 16. A new section of Chapter 59A, Article 23 NMSA 1978 is enacted to read:

"PARITY FOR COVERAGE OF MENTAL HEALTH OR SUBSTANCE USE DISORDER SERVICES.--

A. The office of superintendent of insurance shall ensure that an insurer complies with federal and state laws, rules and regulations applicable to coverage for mental health or substance use disorder services.

B. An insurer shall not impose quantitative treatment limitations, financial restrictions, limitations or requirements on the provision of mental health or substance use disorder services that are more restrictive than the predominant restrictions, limitations or requirements that are imposed on substantially all of the coverage of benefits for other conditions.

C. An insurer shall not impose non-quantitative treatment limitations for the treatment of mental health or substance use disorders or conditions unless factors, including the processes, strategies or evidentiary standards used in applying the non-quantitative treatment limitation, as written and in operation, are comparable to and are applied no more restrictively than the factors used in applying the limitation with respect to medical or surgical benefits in the classification."

## **Chapter 114 Section 17 Laws 2023**

SECTION 17. A new section of Chapter 59A, Article 23 NMSA 1978 is enacted to read:

### **"PROVIDER NETWORK ADEQUACY.--**

A. An insurer shall maintain an adequate provider network to provide mental health or substance use disorder services.

B. The superintendent shall ensure access to mental health or substance use disorder services providers, including parity with medical and surgical services provider access, through regulation and review of claims processing, provider reimbursement procedures, network adequacy and provider reimbursement rate adequacy.

C. An insurer shall ensure that the process by which reimbursement rates for mental health and substance use disorder services are determined is comparable to and no more stringent than the process for reimbursement of medical or surgical benefits. In developing provider reimbursement rates, an insurer shall demonstrate that it has performed a comparability analysis of provider:

(1) reimbursement rates in surrounding states;

(2) reimbursement rates between mental health and substance use disorder providers and medical or surgical providers; and

(3) credentialing processes for mental health and substance use disorder providers and medical or surgical providers.

D. An insurer shall undertake all efforts, including increasing provider reimbursement rates through the processes and strategies described in Subsection C of this section, to ensure state-mandated network adequacy for the provision of mental health or substance use disorder services.

E. When in-network access to mental health or substance use disorder services is not reasonably available, an insurer shall provide access to out-of-network services with the same cost-sharing obligations to the insured as those required for in-network services."

## **Chapter 114 Section 18 Laws 2023**

SECTION 18. A new section of Chapter 59A, Article 23 NMSA 1978 is enacted to read:

"UTILIZATION REVIEW OF MENTAL HEALTH OR SUBSTANCE USE DISORDER SERVICES.--

A. An insurer shall, at least monthly, review and update the insurer's utilization review process to reflect the most recent evidence and generally recognized standards of care.

B. When performing a utilization review of mental health or substance use disorder services, including level of care placement, continued stay, transfer and discharge, an insurer shall apply criteria in accordance with generally recognized standards of care.

C. An insurer shall provide utilization review training to staff and contractors undertaking activities related to utilization review.

D. An insurer shall:

(1) develop utilization review policies regarding quantitative and non-quantitative limitations for mental health or substance use disorder services coverage that are no more restrictive than the utilization review policies regarding quantitative and non-quantitative limitations for medical and surgical care; and

(2) make utilization review policies available to providers or plan members."

## **Chapter 114 Section 19 Laws 2023**

SECTION 19. A new section of Chapter 59A, Article 23 NMSA 1978 is enacted to read:

"PROHIBITED EXCLUSIONS OF COVERAGE FOR MENTAL HEALTH OR SUBSTANCE USE DISORDER SERVICES.--An insurer shall not exclude provider prescribed coverage for mental health or substance use disorder services otherwise included in its coverage when:

A. it is available pursuant to federal or state law for individuals with disabilities;

B. it is otherwise ordered by a court or administrative agency;

C. it is available to an insured through a public benefit program; or

D. an insured has a concurrent diagnosis."

### **Chapter 114 Section 20 Laws 2023**

SECTION 20. A new section of Chapter 59A, Article 23 NMSA 1978 is enacted to read:

"LEVEL OF CARE DETERMINATIONS FOR THE PROVISION OF MENTAL HEALTH OR SUBSTANCE USE DISORDER SERVICES.--

A. An insurer shall provide coverage for all in-network mental health or substance use disorder services, consistent with generally recognized standards of care, including placing an insured into a medically necessary level of care.

B. Changes in level and duration of care shall be determined by the insured's provider in consultation with the insurer.

C. Level of care determinations shall include placement of an insured into a facility that provides detoxification services, a hospital, an inpatient rehabilitation treatment facility or an outpatient treatment program.

D. Level of care services for an insured with a mental health or substance use disorder shall be based on the mental health or substance use disorder needs of the insured rather than arbitrary time limits."

### **Chapter 114 Section 21 Laws 2023**

SECTION 21. A new section of Chapter 59A, Article 23 NMSA 1978 is enacted to read:

"COORDINATION OF CARE.--At the request of an insured, an insurer may facilitate communication between mental health or substance use disorder services providers and the insured's designated primary care provider to ensure coordination of care to prevent any conflicts of care that could be harmful to the insured."

### **Chapter 114 Section 22 Laws 2023**

SECTION 22. A new section of Chapter 59A, Article 23 NMSA 1978 is enacted to read:

"CONFIDENTIALITY PROVISIONS.--An insurer shall protect the confidentiality of an insured receiving mental health or substance use disorder services."

## **Chapter 114 Section 23 Laws 2023**

SECTION 23. A new section of Chapter 59A, Article 23 NMSA 1978 is enacted to read:

"EXCEPTIONS.--The provisions of Sections 14 through 22 of this 2023 act do not apply to short-term plans subject to the Short-Term Health Plan and Excepted Benefit Act."

## **Chapter 114 Section 24 Laws 2023**

SECTION 24. Section 59A-23E-18 NMSA 1978 (being Laws 2000, Chapter 6, Section 1, as amended) 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. 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."

## **Chapter 114 Section 25 Laws 2023**

SECTION 25. A new section of the Health Maintenance Organization Law is enacted to read:

"DEFINITIONS.--As used in Sections 25 through 33 of this 2023 act:

A. "generally recognized standards" means standards of care and clinical practice established by evidence-based sources, including clinical practice guidelines and recommendations from mental health and substance use disorder care provider professional associations and relevant federal government agencies, that are generally recognized by providers practicing in relevant clinical specialties, including:

- (1) psychiatry;
- (2) psychology;

- (3) social work;
- (4) clinical counseling;
- (5) addiction medicine and counseling; or
- (6) family and marriage counseling; and

B. "mental health or substance use disorder services" means:

(1) professional services, including inpatient and outpatient services and prescription drugs, provided in accordance with generally recognized standards of care for the identification, prevention, treatment, minimization of progression, habilitation and rehabilitation of conditions or disorders listed in the current edition of the American psychiatric association's *Diagnostic and Statistical Manual of Mental Disorders*, including substance use disorder; or

(2) professional talk therapy services, provided in accordance with generally recognized standards of care, provided by a marriage and family therapist licensed pursuant to the Counseling and Therapy Practice Act."

## **Chapter 114 Section 26 Laws 2023**

SECTION 26. A new section of the Health Maintenance Organization Law is enacted to read:

"BENEFITS REQUIRED.--A health maintenance organization, other than a small group health maintenance organization contract that is delivered, issued for delivery or renewed in this state, shall provide coverage for all mental health or substance use disorder services required by generally recognized standards of care."

## **Chapter 114 Section 27 Laws 2023**

SECTION 27. A new section of the Health Maintenance Organization Law is enacted to read:

"PARITY FOR COVERAGE OF MENTAL HEALTH OR SUBSTANCE USE DISORDER SERVICES.--

A. The office of superintendent of insurance shall ensure that a carrier complies with federal and state laws, rules and regulations applicable to coverage for mental health or substance use disorder services.

B. A carrier shall not impose quantitative treatment limitations, financial restrictions, limitations or requirements on the provision of mental health or substance use disorder services that are more restrictive than the predominant restrictions,

limitations or requirements that are imposed on substantially all of the coverage of benefits for other conditions.

C. A carrier shall not impose non-quantitative treatment limitations for the treatment of mental health or substance use disorders or conditions unless factors, including the processes, strategies or evidentiary standards used in applying the non-quantitative treatment limitation, as written and in operation, are comparable to and are applied no more restrictively than the factors used in applying the limitation with respect to medical or surgical benefits in the classification."

## **Chapter 114 Section 28 Laws 2023**

SECTION 28. A new section of the Health Maintenance Organization Law is enacted to read:

"PROVIDER NETWORK ADEQUACY.--

A. A carrier shall maintain an adequate provider network to provide mental health or substance use disorder services.

B. The superintendent shall ensure access to mental health or substance use disorder services providers, including parity with medical and surgical services provider access, through regulation and review of claims processing, provider reimbursement procedures, network adequacy and provider reimbursement rate adequacy.

C. A carrier shall ensure that the process by which reimbursement rates for mental health and substance use disorder services are determined is comparable to and no more stringent than the process for reimbursement of medical or surgical benefits. In developing provider reimbursement rates, a carrier shall demonstrate that it has performed a comparability analysis of provider:

(1) reimbursement rates in surrounding states;

(2) reimbursement rates between mental health and substance use disorder providers and medical or surgical providers; and

(3) credentialing processes for mental health and substance use disorder providers and medical or surgical providers.

D. A carrier shall undertake all efforts, including increasing provider reimbursement rates through the processes and strategies described in Subsection C of this section, to ensure state-mandated network adequacy for the provision of mental health or substance use disorder services.

E. When in-network access to mental health or substance use disorder services are not reasonably available, a carrier shall provide access to out-of-network

services with the same cost-sharing obligations to an enrollee as those required for in-network services."

## **Chapter 114 Section 29 Laws 2023**

SECTION 29. A new section of the Health Maintenance Organization Law is enacted to read:

"UTILIZATION REVIEW OF MENTAL HEALTH OR SUBSTANCE USE DISORDER SERVICES.--

A. A carrier shall, at least monthly, review and update the carrier's utilization review process to reflect the most recent evidence and generally recognized standards of care.

B. When performing a utilization review of mental health or substance use disorder services, including level of care placement, continued stay, transfer and discharge, a carrier shall apply criteria in accordance with generally recognized standards of care.

C. A carrier shall provide utilization review training to staff and contractors undertaking activities related to utilization review.

D. A carrier shall:

(1) develop utilization review policies regarding quantitative and non-quantitative limitations for mental health or substance use disorder services coverage that are no more restrictive than the utilization review policies regarding quantitative and non-quantitative limitations for medical and surgical care; and

(2) make utilization review policies available to providers or enrollees."

## **Chapter 114 Section 30 Laws 2023**

SECTION 30. A new section of the Health Maintenance Organization Law is enacted to read:

"PROHIBITED EXCLUSIONS OF COVERAGE FOR MENTAL HEALTH OR SUBSTANCE USE DISORDER SERVICES.--A carrier shall not exclude provider prescribed coverage for mental health or substance use disorder services otherwise included in its coverage when:

A. it is available pursuant to federal or state law for individuals with disabilities;

B. it is otherwise ordered by a court or administrative agency;

- C. it is available to an enrollee through a public benefit program; or
- D. an enrollee has a concurrent diagnosis."

### **Chapter 114 Section 31 Laws 2023**

SECTION 31. A new section of the Health Maintenance Organization Law is enacted to read:

"LEVEL OF CARE DETERMINATIONS FOR THE PROVISION OF MENTAL HEALTH OR SUBSTANCE USE DISORDER SERVICES.--

A. A carrier shall provide coverage for all in-network mental health or substance use disorder services, consistent with generally recognized standards of care, including placing an enrollee into a medically necessary level of care.

B. Changes in level and duration of care shall be determined by the enrollee's provider in consultation with the carrier.

C. Level of care determinations shall include placement of an enrollee into a facility that provides detoxification services, a hospital, an inpatient rehabilitation treatment facility or an outpatient treatment program.

D. Level of care services for an enrollee with a mental health or substance use disorder shall be based on the mental health or substance use disorder needs of the enrollee rather than arbitrary time limits."

### **Chapter 114 Section 32 Laws 2023**

SECTION 32. A new section of the Health Maintenance Organization Law is enacted to read:

"COORDINATION OF CARE.--At the request of an enrollee, a carrier may facilitate communication between mental health or substance use disorder services providers and the enrollee's designated primary care provider to ensure coordination of care to prevent any conflicts of care that could be harmful to the enrollee."

### **Chapter 114 Section 33 Laws 2023**

SECTION 33. A new section of the Health Maintenance Organization Law is enacted to read:

"CONFIDENTIALITY PROVISIONS.--A carrier shall protect the confidentiality of an enrollee receiving mental health or substance use disorder treatment."

## Chapter 114 Section 34 Laws 2023

SECTION 34. A new section of the Health Maintenance Organization Law is enacted to read:

"EXCEPTIONS.--The provisions of Sections 25 through 33 of this 2023 act do not apply to short-term plans subject to the Short-Term Health Plan and Excepted Benefit Act."

## Chapter 114 Section 35 Laws 2023

SECTION 35. A new section of the Nonprofit Health Care Plan Law is enacted to read:

"DEFINITIONS.--As used in Sections 35 through 43 of this 2023 act:

A. "generally recognized standards" means standards of care and clinical practice, established by evidence-based sources, including clinical practice guidelines and recommendations from mental health and substance use disorder care provider professional associations and relevant federal government agencies, that are generally recognized by providers practicing in relevant clinical specialties, including:

- (1) psychiatry;
- (2) psychology;
- (3) social work;
- (4) clinical counseling;
- (5) addiction medicine and counseling; or
- (6) family and marriage counseling; and

B. "mental health or substance use disorder services" means:

(1) professional services, including inpatient and outpatient services and prescription drugs, provided in accordance with generally recognized standards of care for the identification, prevention, treatment, minimization of progression, habilitation and rehabilitation of conditions or disorders listed in the current edition of the American psychiatric association's *Diagnostic and Statistical Manual of Mental Disorders*, including substance use disorder; or

(2) professional talk therapy services, provided in accordance with generally recognized standards of care, provided by a marriage and family therapist licensed pursuant to the Counseling and Therapy Practice Act."

## **Chapter 114 Section 36 Laws 2023**

SECTION 36. A new section of the Nonprofit Health Care Plan Law is enacted to read:

"BENEFITS REQUIRED.--A health care plan, other than a small health care plan, that is delivered, issued for delivery or renewed in this state shall provide coverage for all mental health or substance use disorder services required by generally recognized standards of care."

## **Chapter 114 Section 37 Laws 2023**

SECTION 37. A new section of the Nonprofit Health Care Plan Law is enacted to read:

"PARITY FOR COVERAGE OF MENTAL HEALTH OR SUBSTANCE USE DISORDER SERVICES.--

A. The office of superintendent of insurance shall ensure that a health care plan complies with federal and state laws, rules and regulations applicable to coverage for mental health or substance use disorder services.

B. A health care plan shall not impose quantitative treatment limitations, financial restrictions, limitations or requirements on the provision of mental health or substance use disorder services that are more restrictive than the predominant restrictions, limitations or requirements that are imposed on substantially all of the coverage of benefits for other conditions.

C. A health care plan shall not impose non-quantitative treatment limitations for the treatment of mental health or substance use disorders or conditions unless factors, including the processes, strategies or evidentiary standards used in applying the non-quantitative treatment limitation, as written and in operation, are comparable to and are applied no more restrictively than the factors used in applying the limitation with respect to medical or surgical benefits in the classification."

## **Chapter 114 Section 38 Laws 2023**

SECTION 38. A new section of the Nonprofit Health Care Plan Law is enacted to read:

"PROVIDER NETWORK ADEQUACY.--

A. A health care plan shall maintain an adequate provider network to provide mental health or substance use disorder services.

B. The superintendent shall ensure access to mental health or substance use disorder services providers, including parity with medical and surgical services provider access, through regulation and review of claims processing, provider reimbursement procedures, network adequacy and provider reimbursement rate adequacy.

C. A health care plan shall ensure that the process by which reimbursement rates for mental health and substance use disorder services are determined is comparable to and no more stringent than the process for reimbursement of medical or surgical benefits. In developing provider reimbursement rates, a health care plan shall demonstrate that it has performed a comparability analysis of provider:

- (1) reimbursement rates in surrounding states;
- (2) reimbursement rates between mental health and substance use disorder providers and medical or surgical providers; and
- (3) credentialing processes for mental health and substance use disorder providers and medical or surgical providers.

D. A health care plan shall undertake all efforts, including increasing provider reimbursement rates through the processes and strategies described in Subsection C of this section, to ensure state-mandated network adequacy for the provision of mental health or substance use disorder services.

E. When in-network access to mental health or substance use disorder services are not reasonably available, a health care plan shall provide access to out-of-network services with the same cost-sharing obligations to a subscriber as those required for in-network services."

## **Chapter 114 Section 39 Laws 2023**

SECTION 39. A new section of the Nonprofit Health Care Plan Law is enacted to read:

### **"UTILIZATION REVIEW OF MENTAL HEALTH OR SUBSTANCE USE DISORDER SERVICES.--**

A. A health care plan shall, at least monthly, review and update the health care plan's utilization review process to reflect the most recent evidence and generally recognized standards of care.

B. When performing a utilization review of mental health or substance use disorder services, including level of care placement, continued stay, transfer and discharge, a health care plan shall apply criteria in accordance with generally recognized standards of care.

C. A health care plan shall provide utilization review training to staff and contractors undertaking activities related to utilization review.

D. A health care plan shall:

(1) develop utilization review policies regarding quantitative and non-quantitative limitations for mental health or substance use disorder services coverage that are no more restrictive than the utilization review policies regarding quantitative and non-quantitative limitations for medical and surgical care; and

(2) make utilization review policies available to providers or subscribers."

### **Chapter 114 Section 40 Laws 2023**

SECTION 40. A new section of the Nonprofit Health Care Plan Law is enacted to read:

"PROHIBITED EXCLUSIONS OF COVERAGE FOR MENTAL HEALTH OR SUBSTANCE USE DISORDER SERVICES.--A health care plan shall not exclude provider prescribed coverage for mental health or substance use disorder services otherwise included in its coverage when:

A. it is available pursuant to federal or state law for individuals with disabilities;

B. it is otherwise ordered by a court or administrative agency;

C. it is available to a subscriber through a public benefit program; or

D. a subscriber has a concurrent diagnosis."

### **Chapter 114 Section 41 Laws 2023**

SECTION 41. A new section of the Nonprofit Health Care Plan Law is enacted to read:

"LEVEL OF CARE DETERMINATIONS FOR THE PROVISION OF MENTAL HEALTH OR SUBSTANCE USE DISORDER SERVICES.--

A. A health care plan shall provide coverage for all in-network mental health or substance use disorder services, consistent with generally recognized standards of care, including placing a subscriber into a medically necessary level of care.

B. Changes in level and duration of care shall be determined by the subscriber's provider in consultation with the insurer.

C. Level of care determinations shall include placement of a subscriber into a facility that provides detoxification services, a hospital, an inpatient rehabilitation treatment facility or an outpatient treatment program.

D. Level of care services for a subscriber with a mental health or substance use disorder shall be based on the mental health or substance use disorder needs of the subscriber rather than arbitrary time limits."

### **Chapter 114 Section 42 Laws 2023**

SECTION 42. A new section of the Nonprofit Health Care Plan Law is enacted to read:

"COORDINATION OF CARE.--At the request of a subscriber, a health care plan may facilitate communication between mental health or substance use disorder services providers and the subscriber's designated primary care provider to ensure coordination of care to prevent any conflicts of care that could be harmful to the subscriber."

### **Chapter 114 Section 43 Laws 2023**

SECTION 43. A new section of the Nonprofit Health Care Plan Law is enacted to read:

"CONFIDENTIALITY PROVISIONS.--A health care plan shall protect the confidentiality of a subscriber receiving mental health or substance use disorder treatment."

### **Chapter 114 Section 44 Laws 2023**

SECTION 44. A new section of the Nonprofit Health Care Plan Law is enacted to read:

"EXCEPTIONS.--The provisions of Sections 35 through 43 of this 2023 act do not apply to short-term plans subject to the Short-Term Health Plan and Excepted Benefit Act."

### **Chapter 114 Section 45 Laws 2023**

SECTION 45. REPORTING.--The office of superintendent of insurance shall report annually to the legislative health and human services committee and the legislative finance committee regarding the implementation, regulation, compliance and enforcement of the provisions of this 2023 act.

## **Chapter 114 Section 46 Laws 2023**

SECTION 46. APPLICABILITY.--The provisions of this act are applicable to group health insurance policies, health care plans or certificates of health insurance, other than small group health plans, that are delivered, issued for delivery or renewed in this state on or after January 1, 2024.

## **LAWS 2023, CHAPTER 115**

**SFC/SRC/Senate Bill 280, aa**  
**Approved April 4, 2023**

### **AN ACT**

RELATING TO CYBERSECURITY; ENACTING THE CYBERSECURITY ACT; CREATING THE CYBERSECURITY OFFICE; PROVIDING DUTIES AND POWERS; CREATING THE POSITION OF STATE CHIEF INFORMATION SECURITY OFFICER; PROVIDING DUTIES; CREATING THE CYBERSECURITY ADVISORY COMMITTEE; PROVIDING EXEMPTIONS TO THE OPEN MEETINGS ACT AND INSPECTION OF PUBLIC RECORDS ACT; REQUIRING REPORTS.

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

## **Chapter 115 Section 1 Laws 2023**

SECTION 1. SHORT TITLE.--This act may be cited as the "Cybersecurity Act".

## **Chapter 115 Section 2 Laws 2023**

SECTION 2. DEFINITIONS.--As used in the Cybersecurity Act:

- A. "agency" means executive cabinet agencies and their administratively attached agencies, offices, boards and commissions;
- B. "cybersecurity" means acts, practices or systems that eliminate or reduce the risk of loss of critical assets, loss of sensitive information or reputational harm as a result of a cyber attack or breach within an organization's network;
- C. "information security" means acts, practices or systems that eliminate or reduce the risk that legally protected information or information that could be used to facilitate criminal activity is accessed or compromised through physical or electronic means;

D. "information technology" means computer hardware, storage media, networking equipment, physical devices, infrastructure, processes and code, firmware, software and ancillary products and services, including:

- (1) systems design and analysis;
- (2) development or modification of hardware or solutions used to create, process, store, secure or exchange electronic data;
- (3) information storage and retrieval;
- (4) voice, radio, video and data communications;
- (5) network, hosting and cloud-based systems;
- (6) simulation and testing;
- (7) interactions between a user and an information system; and
- (8) user and system credentials; and

E. "security officer" means the state chief information security officer.

## **Chapter 115 Section 3 Laws 2023**

### **SECTION 3. CYBERSECURITY OFFICE CREATED--SECURITY OFFICER-- DUTIES AND POWERS.--**

A. The "cybersecurity office" is created and is administratively attached to the department of information technology. The office shall be managed by the security officer.

B. Except as required by federal law, the cybersecurity office shall oversee, in a fiscally responsible manner, cybersecurity- and information security-related functions for agencies and may:

- (1) adopt and implement rules establishing minimum security standards and policies to protect agency information technology systems and infrastructure and provide appropriate governance and application of the standards and policies across information technology resources used by agencies to promote the availability, security and integrity of the information processed, transacted or stored by agencies in the state's information technology infrastructure and systems;
- (2) develop minimum cybersecurity controls for managing and protecting information technology assets and infrastructure for all entities that are connected to an agency-operated or -owned telecommunications network;

(3) consistent with information security standards, monitor agency information technology networks to detect security incidents and support mitigation efforts as necessary and within capabilities;

(4) as reasonably necessary to perform its monitoring and detection duties, obtain agency system event logs to support monitoring and detection pursuant to Paragraph (3) of this subsection;

(5) in coordination with state and federal cybersecurity emergency management agencies as appropriate, create a model incident-response plan for public bodies to adopt with the cybersecurity office as the incident-response coordinator for incidents that:

(a) impact multiple public bodies;

(b) impact more than ten thousand residents of the state;

(c) involve a nation-state actor; or

(d) involve the marketing or transfer of confidential data derived from a breach of cybersecurity;

(6) serve as a cybersecurity resource for local governments;

(7) develop a service catalog of cybersecurity services to be offered to agencies and to political subdivisions of the state;

(8) collaborate with agencies in developing standards, functions and services in order to ensure the agency regulatory environments are understood and considered as part of a cybersecurity incident response;

(9) establish core services to support minimum security standards and policies;

(10) establish minimum data classification policies and standards and design controls to support compliance with classifications and report on exceptions;

(11) develop and issue cybersecurity awareness policies and training standards and develop and offer cybersecurity training services; and

(12) establish a centralized cybersecurity and data breach reporting process for agencies and political subdivisions of the state.

## **Chapter 115 Section 4 Laws 2023**

SECTION 4. STATE CHIEF INFORMATION SECURITY OFFICER--  
QUALIFICATIONS.--The position of "state chief information security officer" is created. The security officer shall be a classified position in accordance with rules promulgated pursuant to the Personnel Act.

## **Chapter 115 Section 5 Laws 2023**

SECTION 5. CYBERSECURITY ADVISORY COMMITTEE CREATED--  
MEMBERSHIP--DUTIES.--

A. The "cybersecurity advisory committee" is created within the cybersecurity office and shall:

- (1) assist the office in the development of:
  - (a) a statewide cybersecurity plan;
  - (b) guidelines for best cybersecurity practices for agencies; and
  - (c) recommendations on how to respond to a specific cybersecurity threat or attack; and
- (2) have authority over the hiring, supervision, discipline and compensation of the security officer.

B. The security officer or the security officer's designee shall chair and be an advisory nonvoting member of the cybersecurity advisory committee; provided that the security officer shall be recused from deliberations concerning supervision, discipline or compensation of the security officer and the secretary of information technology shall chair those deliberations. The remaining members consist of:

- (1) the secretary of information technology or the secretary's designee;
- (2) the principal information technology staff person for the administrative office of the courts or the director's designee;
- (3) the director of the legislative council service or the director's designee;
- (4) one member appointed by the secretary of Indian affairs, who is experienced with cybersecurity issues;
- (5) three members appointed by the chair of the board of directors of the New Mexico association of counties who represent county governmental agencies

and who are experienced with cybersecurity issues; provided that at least one member shall represent a county other than a class A or H class county;

(6) three members appointed by the chair of the board of directors of the New Mexico municipal league who represent municipal governmental agencies and who are experienced with cybersecurity issues; provided that only one member may represent a home rule municipality; and

(7) three members appointed by the governor who may represent separate agencies other than the department of information technology and are experienced with cybersecurity issues.

C. The cybersecurity advisory committee may invite representatives of unrepresented county, municipal or tribal agencies or other public entities to participate as advisory members of the committee as it determines that their participation would be useful to the deliberations of the committee.

D. A meeting of and material presented to or generated by the cybersecurity advisory committee are subject to the Open Meetings Act and the Inspection of Public Records Act subject to an exception for a meeting or material concerning information that could, if made public, expose a vulnerability in:

- (1) an information system owned or operated by a public entity; or
- (2) a cybersecurity solution implemented by a public entity.

E. Pursuant to the Cybersecurity Act or other statutory authority, the security officer may issue orders regarding the compliance of agencies with guidelines or recommendations of the cybersecurity advisory committee; however, compliance with those guidelines or recommendations by non-executive agencies or county, municipal or tribal governments shall be strictly voluntary.

F. The cybersecurity advisory committee shall hold its first meeting on or before August 16, 2023 and shall meet every two months at minimum after that; provided that the security officer shall have the discretion to call for more frequent meetings as circumstances warrant. At the discretion of the security officer, the committee may issue advisory reports regarding cybersecurity issues.

G. The cybersecurity advisory committee shall present a report to the legislative finance committee and the appropriate legislative interim committee concerned with information technology at those committees' November 2023 meetings and to the governor by November 30, 2023 regarding the status of cybersecurity preparedness within agencies and elsewhere in the state. On or before October 30, 2024 and on or before October 30 of each subsequent year, the cybersecurity office shall present updated reports to the legislative committees and the governor. The reports to legislative committees shall be in executive session, and any materials

connected with the report presentations are exempt from the Inspection of Public Records Act.

H. The members of the cybersecurity advisory committee shall receive no pay for their services as members of the committee, but shall be allowed per diem and mileage pursuant to the provisions of the Per Diem and Mileage Act. All per diem and contingent expenses incurred by the cybersecurity office shall be paid upon warrants of the secretary of finance and administration, supported by vouchers of the security officer."

## **Chapter 115 Section 6 Laws 2023**

SECTION 6. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS, PERSONNEL, MONEY, APPROPRIATIONS, PROPERTY, CONTRACTUAL OBLIGATIONS AND STATUTORY REFERENCES.--On the effective date of this act:

A. all functions, personnel, money, appropriations, records, furniture, equipment, supplies and other property pertaining to cybersecurity or information security of the department of information technology are transferred to the cybersecurity office;

B. all contractual obligations of the department of information technology for cybersecurity or information security services are binding on the cybersecurity office;

C. all references in law to the chief information security officer of the department of information technology shall be deemed to be references to the state chief information security officer; and

D. the chief information security officer for the department of information technology shall become the initial state chief information security officer.

## **Chapter 115 Section 7 Laws 2023**

SECTION 7. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# **LAWS 2023, CHAPTER 116**

**Senate Bill 302**

**Approved April 4, 2023**

AN ACT

RELATING TO THE JUDICIAL STANDARDS COMMISSION; LIMITING JUDICIAL STANDARDS COMMISSION OVERSIGHT TO MATTERS INVOLVING THE CONDUCT OR CHARACTER OF JUSTICES, JUDGES OR MAGISTRATES.

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

## **Chapter 116 Section 1 Laws 2023**

SECTION 1. Section 34-10-2.1 NMSA 1978 (being Laws 1977, Chapter 289, Section 1, as amended) 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.

B. The judicial standards commission shall:

(1) investigate all charges, complaints and allegations as to a justice's, judge's or magistrate's 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 that judicial officer;

(2) investigate and, if the commission deems necessary, hold hearings on any charge, complaint or allegation that a justice, judge or magistrate has suffered a disability that is seriously interfering with the performance of that judicial officer'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 justice, judge or magistrate.

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."

## **LAWS 2023, CHAPTER 117**

**Senate Bill 310, aa**  
**Approved April 4, 2023**

### **AN ACT**

RELATING TO MENTAL HEALTH; AMENDING AND ENACTING SECTIONS OF THE MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES CODE; DEFINING "CRISIS TRIAGE CENTER"; AUTHORIZING PEACE OFFICERS TO BRING INDIVIDUALS IN CRISIS TO CRISIS TRIAGE CENTERS FOR MENTAL STATUS EXAMINATIONS; AUTHORIZING CRISIS TRIAGE CENTERS TO INVOLUNTARILY ADMIT CERTAIN INDIVIDUALS IN CRISIS AND TO PROVIDE INVOLUNTARY TREATMENT TO CERTAIN INDIVIDUALS IN CRISIS.

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

### **Chapter 117 Section 1 Laws 2023**

SECTION 1. A new section of the Mental Health and Developmental Disabilities Code is enacted to read:

"CRISIS TRIAGE CENTERS--ADMISSION OR TREATMENT.--A crisis triage center may accept:

- A. voluntary admissions;
- B. individuals who are voluntarily seeking treatment;
- C. involuntary admissions; and
- D. individuals who are not voluntarily seeking treatment."

### **Chapter 117 Section 2 Laws 2023**

SECTION 2. Section 43-1-3 NMSA 1978 (being Laws 1977, Chapter 279, Section 2, as amended) is amended to read:

"43-1-3. DEFINITIONS.--As used in the Mental Health and Developmental Disabilities Code:

A. "aversive stimuli" means anything that, because it is believed to be unreasonably unpleasant, uncomfortable or distasteful to the client, is administered or done to the client for the purpose of reducing the frequency of a behavior, but does not include verbal therapies, physical restrictions to prevent imminent harm to self or others or psychotropic medications that are not used for purposes of punishment;

B. "client" means any patient who is requesting or receiving mental health services or any person requesting or receiving developmental disabilities services or who is present in a mental health or developmental disabilities facility for the purpose of receiving such services or who has been placed in a mental health or developmental disabilities facility by the person's parent or guardian or by any court order;

C. "code" means the Mental Health and Developmental Disabilities Code;

D. "consistent with the least drastic means principle" means that the habilitation or treatment and the conditions of habilitation or treatment for the client, separately and in combination:

(1) are no more harsh, hazardous or intrusive than necessary to achieve acceptable treatment objectives for the client;

(2) involve no restrictions on physical movement and no requirement for residential care except as reasonably necessary for the administration of treatment or for the protection of the client or others from physical injury; and

(3) are conducted at the suitable available facility close to the client's place of residence;

E. "convulsive treatment" means any form of mental health treatment that depends upon creation of a convulsion by any means, including but not limited to electroconvulsive treatment and insulin coma treatment;

F. "court" means a district court of New Mexico;

G. "crisis triage center" means a health facility that:

(1) is licensed by the department of health; and

(2) provides stabilization of behavioral health crises and may include residential and nonresidential stabilization;

H. "department" or "division" means the behavioral health services division of the human services department;

I. "developmental disability" means a disability of a person that is attributable to mental retardation, cerebral palsy, autism or neurological dysfunction that requires treatment or habilitation similar to that provided to persons with mental retardation;

J. "evaluation facility" means a community mental health or developmental disability program, a crisis triage center or a medical facility that has psychiatric or developmental disability services available, including the New Mexico behavioral health institute at Las Vegas, the Los Lunas medical center, or, if none of the foregoing is reasonably available or appropriate, the office of a physician or a certified psychologist, and that is capable of performing a mental status examination adequate to determine the need for involuntary treatment;

K. "experimental treatment" means any mental health or developmental disabilities treatment that presents significant risk of physical harm, but does not include accepted treatment used in competent practice of medicine and psychology and supported by scientifically acceptable studies;

L. "grave passive neglect" means failure to provide for basic personal or medical needs or for one's own safety to such an extent that it is more likely than not that serious bodily harm will result in the near future;

M. "habilitation" means the process by which professional persons and their staff assist a client with a developmental disability in acquiring and maintaining those skills and behaviors that enable the person to cope more effectively with the demands of the person's self and environment and to raise the level of the person's physical, mental and social efficiency. "Habilitation" includes but is not limited to programs of formal, structured education and treatment;

N. "likelihood of serious harm to 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 the person's self by violent or other self-destructive means, including grave passive neglect;

O. "likelihood of serious harm to others" means that it is more likely than not that in the near future a 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 the person;

P. "mental disorder" means substantial disorder of a person's emotional processes, thought or cognition that grossly impairs judgment, behavior or capacity to recognize reality, but does not mean developmental disability;

Q. "mental health or developmental disabilities professional" means a physician or other professional who by training or experience is qualified to work with persons with a mental disorder or a developmental disability;

R. "physician" or "certified psychologist", when used for the purpose of hospital admittance or discharge, means a physician or certified psychologist who has been granted admitting privileges at a hospital licensed by the department of health, if such privileges are required;

S. "protected health information" means individually identifiable health information transmitted by or maintained in an electronic form or any other form or media that relates to the:

- (1) past, present or future physical or mental health or condition of an individual;
- (2) provision of health care to an individual; or
- (3) payment for the provision of health care to an individual;

T. "psychosurgery":

(1) means those operations currently referred to as lobotomy, psychiatric surgery and behavioral surgery and all other forms of brain surgery if the surgery is performed for the purpose of the following:

(a) modification or control of thoughts, feelings, actions or behavior rather than the treatment of a known and diagnosed physical disease of the brain;

(b) treatment of abnormal brain function or normal brain tissue in order to control thoughts, feelings, actions or behavior; or

(c) treatment of abnormal brain function or abnormal brain tissue in order to modify thoughts, feelings, actions or behavior when the abnormality is not an established cause for those thoughts, feelings, actions or behavior; and

(2) does not include prefrontal sonic treatment in which there is no destruction of brain tissue;

U. "qualified mental health professional licensed for independent practice" means an independent social worker, a licensed professional clinical mental health counselor, a marriage and family therapist, a certified nurse practitioner, a clinical nurse specialist with a specialty in mental health or a licensed art therapist, all of whom by training and experience are qualified to work with persons with a mental disorder;

V. "residential treatment or habilitation program" means diagnosis, evaluation, care, treatment or habilitation rendered inside or on the premises of a mental health or developmental disabilities facility, hospital, clinic, institution or supervisory residence or nursing home when the client resides on the premises; and

W. "treatment" means any effort to accomplish a significant change in the mental or emotional condition or behavior of the client."

## **LAWS 2023, CHAPTER 118**

**Senate Bill 315**

**Approved April 4, 2023**

AN ACT

RELATING TO CHILDREN; ENACTING THE REVISED INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

### **Chapter 118 Section 1 Laws 2023**

SECTION 1. Section 32A-11-1 NMSA 1978 (being Laws 1977, Chapter 151, Section 1) is repealed and a new Section

32A-11-1 NMSA 1978 is enacted to read:

"32A-11-1. INTERSTATE COMPACT.--The Revised Interstate Compact on the Placement of Children is hereby enacted into law and entered into with all other jurisdictions legally joining therein in form substantially as follows:

REVISED INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN

ARTICLE 1. PURPOSE

The purpose of the Revised Interstate Compact for the Placement of Children is to:

- A. provide a process through which children subject to this compact are placed in safe and suitable homes in a timely manner;
- B. facilitate ongoing supervision of a placement, the delivery of services and communication between the states;
- C. provide operating procedures that will ensure that children are placed in safe and suitable homes in a timely manner;

D. provide for the promulgation and enforcement of administrative rules implementing the provisions of this compact and regulating the covered activities of the member states;

E. provide for uniform data collection and information sharing between member states under this compact;

F. promote coordination between this compact, the Interstate Compact for Juveniles, the Interstate Compact on Adoption and Medical Assistance and other compacts affecting the placement of and which provide services to children otherwise subject to this compact;

G. provide for a state's continuing legal jurisdiction and responsibility for placement and care of a child that it would have had if the placement were intrastate; and

H. provide for the promulgation of guidelines, in collaboration with Indian nations, tribes and pueblos, for interstate cases involving Indian children as is or may be permitted by federal law.

## ARTICLE 2. DEFINITIONS

As used in this compact:

A. "approved placement" means the public child placing agency in the receiving state has determined that the placement is both safe and suitable for the child;

B. "assessment" means an evaluation of a prospective placement by a public child placing agency in the receiving state to determine if the placement meets the individualized needs of the child, including but not limited to the child's safety and stability, health and well-being and mental, emotional and physical development. An assessment is only applicable to a placement by a public child placing agency;

C. "child" means an individual who has not attained the age of eighteen;

D. "certification" means to attest, declare or swear to before a judge or notary public;

E. "default" means the failure of a member state to perform the obligations or responsibilities imposed upon it by this compact, the bylaws or rules of the interstate commission;

F. "home study" means an evaluation of a home environment conducted in accordance with the applicable requirements of the state in which the home is located, and documents the preparation and the suitability of the placement

resource for the placement of a child in accordance with the laws and requirements of the state in which the home is located;

G. "Indian nations, tribes and pueblos" means any Indian tribe, band, nation, pueblo or other organized group or community of Indians recognized as eligible for services provided to Indians by the United States secretary of the interior because of their status as Indians, including any Alaskan native village as defined in section 3 (c) of the Alaska Native Claims Settlement Act at 43 U.S.C. Section 1602(c);

H. "interstate commission for the placement of children" means the commission that is created under Article 8 of this compact and that is generally referred to as the "interstate commission";

I. "jurisdiction" means the power and authority of a court to hear and decide matters;

J. "legal risk placement" or "legal risk adoption" means a placement made preliminary to an adoption where the prospective adoptive parents acknowledge in writing that a child can be ordered returned to the sending state or the birth mother's state of residence, if different from the sending state, and a final decree of adoption shall not be entered in any jurisdiction until all required consents are obtained or are dispensed with in accordance with applicable law;

K. "member state" means a state that has enacted this compact;

L. "noncustodial parent" means a person who, at the time of the commencement of court proceedings in the sending state, does not have sole legal custody of the child or has joint legal custody of a child and who is not the subject of allegations or findings of child abuse or neglect;

M. "nonmember state" means a state that has not enacted this compact;

N. "notice of residential placement" means information regarding a placement into a residential facility provided to the receiving state, including the name, date and place of birth of the child, the identity and address of the parent or legal guardian, evidence of authority to make the placement, and the name and address of the facility in which the child will be placed; "notice of residential placement" also includes information regarding a discharge and any unauthorized absence from the facility;

O. "placement" means the act by a public or private child placing agency intended to arrange for the care or custody of a child in another state;

P. "private child placing agency" means any private corporation, agency, foundation, institution or charitable organization, or any private person or

attorney that facilitates, causes or is involved in the placement of a child from one state to another and that is not an instrumentality of the state or acting under color of state law;

Q. "provisional placement" means a determination made by the public child placing agency in the receiving state that the proposed placement is safe and suitable and, to the extent allowable, the receiving state has temporarily waived its standards or requirements otherwise applicable to prospective foster or adoptive parents so as to not delay the placement. Completion of the receiving state requirements regarding training for prospective foster or adoptive parents shall not delay an otherwise safe and suitable placement;

R. "public child placing agency" means any government child welfare agency or child protection agency or a private entity under contract with such an agency, regardless of whether they act on behalf of a state, county, municipality or other governmental unit and which facilitates, causes or is involved in the placement of a child from one state to another;

S. "receiving state" means the state to which a child is sent, brought or caused to be sent or brought;

T. "relative" means someone who is related to the child as a parent, step-parent, sibling by half or whole blood or by adoption, grandparent, aunt, uncle or first cousin or a non-relative with such significant ties to the child that they may be regarded as relatives as determined by the court in the sending state;

U. "residential facility" means a facility providing a level of care that is sufficient to substitute for parental responsibility or foster care, and is beyond what is needed for assessment or treatment of an acute condition. For purposes of the compact, "residential facilities" do not include institutions primarily educational in character, hospitals or other medical facilities;

V. "rule" means a written directive, mandate, standard or principle issued by the interstate commission promulgated pursuant to Article 9 of this compact that is of general applicability and that implements, interprets or prescribes a policy or provision of the compact; "rule" has the force and effect of an administrative rule in a member state, and includes the amendment, repeal or suspension of an existing rule;

W. "sending state" means the state from which the placement of a child is initiated;

X. "service member's permanent duty station" means the military installation where an active duty armed services member is currently assigned and is physically located under competent orders that do not specify the duty as temporary;

Y. "service member's state of legal residence" means the state in which the active duty armed services member is considered a resident for tax and voting purposes;

Z. "state" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Mariana Islands and any other territory of the United States;

AA. "state court" means a judicial body of a state that is vested by law with responsibility for adjudicating cases involving abuse, neglect, deprivation, delinquency or status offenses of individuals who have not attained the age of eighteen; and

BB. "supervision" means monitoring provided by the receiving state once a child has been placed in a receiving state pursuant to this compact.

### ARTICLE 3. APPLICABILITY

A. Except as otherwise provided in Section B of this article, this compact shall apply to:

(1) the interstate placement of a child subject to ongoing court jurisdiction in the sending state, due to allegations or findings that the child has been abused, neglected or deprived as defined by the laws of the sending state; provided however, that the placement of such a child into a residential facility shall only require notice of residential placement to the receiving state prior to placement;

(2) the interstate placement of a child adjudicated delinquent or unmanageable based on the laws of the sending state and subject to ongoing court jurisdiction of the sending state if:

(a) the child is being placed in a residential facility in another member state and is not covered under another compact; or

(b) the child is being placed in another member state and the determination of safety and suitability of the placement and services required is not provided through another compact; and

(3) the interstate placement of any child by a public child placing agency or private child placing agency as defined in this compact as a preliminary step to a possible adoption.

B. The provisions of this compact shall not apply to:

(1) the interstate placement of a child in a custody proceeding in which a public child placing agency is not a party; provided that the placement is not intended to effectuate an adoption;

(2) the interstate placement of a child with a non-relative in a receiving state by a parent with the legal authority to make such a placement; provided, however, that the placement is not intended to effectuate an adoption;

(3) the interstate placement of a child by one relative with the lawful authority to make such a placement directly with a relative in a receiving state;

(4) the placement of a child, not subject to Section A of this article into a residential facility by the child's parent;

(5) the placement of a child with a noncustodial parent; provided that:

(a) the noncustodial parent proves to the satisfaction of a court in the sending state a substantial relationship with the child;

(b) the court in the sending state makes a written finding that placement with the noncustodial parent is in the best interests of the child; and

(c) the court in the sending state dismisses its jurisdiction in interstate placements in which the public child placing agency is a party to the proceeding;

(6) a child entering the United States from a foreign country for the purpose of adoption or leaving the United States to go to a foreign country for the purpose of adoption in that country;

(7) cases in which a United States citizen child living overseas with the child's family, at least one of whom is in the United States armed services and who is stationed overseas, is removed and placed in a state; and

(8) the sending of a child by a public child placing agency or a private child placing agency for a visit as defined by the rules of the interstate commission.

C. For purposes of determining the applicability of this compact to the placement of a child with a family in the armed services, the public child placing agency or private child placing agency may choose the state of the service member's permanent duty station or the service member's declared legal residence.

D. Nothing in this compact shall be construed to prohibit the concurrent application of the provisions of this compact with other applicable interstate compacts,

including the Interstate Compact for Juveniles and the Interstate Compact on Adoption and Medical Assistance. The interstate commission may in cooperation with other interstate compact commissions having responsibility for the interstate movement, placement or transfer of children, promulgate like rules to ensure the coordination of services, timely placement of children and the reduction of unnecessary or duplicative administrative or procedural requirements.

#### ARTICLE 4. JURISDICTION

A. Except as provided in Section H of Article 4 and Paragraphs (2) and (3) of Section B of Article 5 concerning private and independent adoptions, and in interstate placements in which the public child placing agency is not a party to a custody proceeding, the sending state shall retain jurisdiction over a child with respect to all matters of custody and disposition of the child that it would have had if the child had remained in the sending state. Such jurisdiction shall also include the power to order the return of the child to the sending state.

B. When an issue of child protection or custody is brought before a court in the receiving state, the court shall confer with the court of the sending state to determine the most appropriate forum for adjudication.

C. In cases that are before courts and subject to this compact, the taking of testimony for hearings before any judicial officer may occur in person or by telephone, audio-video conference or such other means as approved by the rules of the interstate commission; and judicial officers may communicate with other judicial officers and persons involved in the interstate process as may be permitted by their canons of judicial conduct and any rules promulgated by the interstate commission.

D. In accordance with its own laws, the court in the sending state shall have authority to terminate its jurisdiction if:

(1) the child is reunified with the parent in the receiving state who is the subject of allegations or findings of abuse or neglect, only with the concurrence of the public child placing agency in the receiving state;

(2) the child is adopted;

(3) the child reaches the age of majority under the laws of the sending state;

(4) the child achieves legal independence pursuant to the laws of the sending state;

(5) a guardianship is created by a court in the receiving state with the concurrence of the court in the sending state;

(6) an Indian tribe has petitioned for and received jurisdiction from the court in the sending state; or

(7) the public child placing agency of the sending state requests termination and has obtained the concurrence of the public child placing agency in the receiving state.

E. When a sending state court terminates its jurisdiction, the receiving state child placing agency shall be notified.

F. Nothing in this article shall defeat a claim of jurisdiction by a receiving state court sufficient to deal with an act of truancy, delinquency, crime or behavior involving a child as defined by the laws of the receiving state committed by the child in the receiving state which would be a violation of its laws.

G. Nothing in this article shall limit the receiving state's ability to take emergency jurisdiction for the protection of the child.

H. The substantive laws of the state in which an adoption will be finalized shall solely govern all issues relating to the adoption of the child and the court in which the adoption proceeding is filed shall have subject matter jurisdiction regarding all substantive issues relating to the adoption, except:

(1) when the child is a ward of another court that established jurisdiction over the child prior to the placement;

(2) when the child is in the legal custody of a public agency in the sending state; or

(3) when a court in the sending state has otherwise appropriately assumed jurisdiction over the child, prior to the submission of the request for approval of placement.

I. A final decree of adoption shall not be entered in any jurisdiction until the placement is authorized as an "approved placement" by the public child placing agency in the receiving state.

## ARTICLE 5. PLACEMENT EVALUATION

A. Prior to sending, bringing or causing a child to be sent or brought into a receiving state, the public child placing agency shall provide a written request for assessment to the receiving state.

B. For placements by a private child placing agency, a child may be sent or brought, or caused to be sent or brought, into a receiving state, upon receipt and immediate review of the required content in a request for approval of a placement in

both the sending and receiving state public child placing agency. The required content to accompany a request for approval shall include all of the following:

(1) a request for approval identifying the child, the birth parent(s), the prospective adoptive parent(s) and the supervising agency, signed by the person requesting approval;

(2) the appropriate consents or relinquishments signed by the birth parents in accordance with the laws of the sending state, or where permitted by the laws of the state where the adoption will be finalized;

(3) certification by a licensed attorney or authorized agent of a private adoption agency that the consent or relinquishment is in compliance with the applicable laws of the sending state, or where permitted by the laws of the state where finalization of the adoption will occur;

(4) a home study; and

(5) an acknowledgment of legal risk signed by the prospective adoptive parents.

C. The sending state and the receiving state may request additional information or documents prior to finalization of an approved placement, but they may not delay travel by the prospective adoptive parents with the child if the required content for approval has been submitted, received and reviewed by the public child placing agency in both the sending state and the receiving state.

D. Approval from the public child placing agency in the receiving state for a provisional or approved placement is required as provided for in the rules of the interstate commission.

E. The procedures for making and the request for an assessment shall contain all information and be in a form as provided for in the rules of the interstate commission.

F. Upon receipt of a request from the public child placing agency of the sending state, the receiving state shall initiate an assessment of the proposed placement to determine its safety and suitability. If the proposed placement is a placement with a relative, the public child placing agency of the sending state may request a determination for a provisional placement.

G. The public child placing agency in the receiving state may request from the public child placing agency or the private child placing agency in the sending state, and shall be entitled to receive, supporting or additional information necessary to complete the assessment or approve the placement.

H. The public child placing agency in the receiving state shall approve a provisional placement and complete or arrange for the completion of the assessment within the time frames established by the rules of the interstate commission.

I. For a placement by a private child placing agency, the sending state shall not impose any additional requirements to complete the home study that are not required by the receiving state, unless the adoption is finalized in the sending state.

J. The interstate commission may develop uniform standards for the assessment of the safety and suitability of interstate placements.

#### ARTICLE 6. PLACEMENT AUTHORITY

A. Except as otherwise provided in this compact, no child subject to this compact shall be placed into a receiving state until approval for such placement is obtained.

B. If the public child placing agency in the receiving state does not approve the proposed placement, then the child shall not be placed. The receiving state shall provide written documentation of any such determination in accordance with the rules promulgated by the interstate commission. Such determination is not subject to judicial review in the sending state.

C. If the proposed placement is not approved, any interested party shall have standing to seek an administrative review of the receiving state's determination;

(1) the administrative review and any further judicial review associated with the determination shall be conducted in the receiving state pursuant to its applicable administrative procedures act; and

(2) if a determination not to approve the placement of the child in the receiving state is overturned upon review, the placement shall be deemed approved; provided, however, that all administrative or judicial remedies have been exhausted or the time for such remedies has passed.

#### ARTICLE 7. PLACING AGENCY RESPONSIBILITY

A. For the interstate placement of a child made by a public child placing agency or state court:

(1) the public child placing agency in the sending state shall have financial responsibility for:

(a) the ongoing support and maintenance for the child during the period of the placement, unless otherwise provided for in the receiving state; and

(b) as determined by the public child placing agency in the sending state, services for the child beyond the public services for which the child is eligible in the receiving state;

(2) the receiving state shall only have financial responsibility for:

(a) any assessment conducted by the receiving state; and

(b) supervision conducted by the receiving state at the level necessary to support the placement as agreed upon by the public child placing agencies of the receiving and sending state; and

(3) nothing in this provision shall prohibit public child placing agencies in the sending state from entering into agreements with licensed agencies or persons in the receiving state to conduct assessments and provide supervision.

B. For the placement of a child by a private child placing agency preliminary to a possible adoption, the private child placing agency shall be:

(1) legally responsible for the child during the period of placement as provided for in the law of the sending state until the finalization of the adoption; and

(2) financially responsible for the child absent a contractual agreement to the contrary.

C. The public child placing agency in the receiving state shall provide timely assessments, as provided for in the rules of the interstate commission.

D. The public child placing agency in the receiving state shall provide, or arrange for the provision of, supervision and services for the child, including timely reports, during the period of the placement.

E. Nothing in this compact shall be construed as to limit the authority of the public child placing agency in the receiving state from contracting with a licensed agency or person in the receiving state for an assessment or the provision of supervision or services for the child or otherwise authorizing the provision of supervision or services by a licensed agency during the period of placement.

F. Each member state shall provide for coordination among its branches of government concerning the state's participation in, and compliance with,

the compact and interstate commission activities through the creation of an advisory council or use of an existing body or board.

G. Each member state shall establish a central state compact office that shall be responsible for state compliance with the compact and the rules of the interstate commission.

H. The public child placing agency in the sending state shall oversee compliance with the provisions of the federal Indian Child Welfare Act (25 U.S.C. Section 1901, et seq.) for placements subject to the provisions of this compact, prior to placement.

I. With the consent of the interstate commission, states may enter into limited agreements that facilitate the timely assessment and provision of services and supervision of placements under this compact.

#### ARTICLE 8. INTERSTATE COMMISSION FOR THE PLACEMENT OF CHILDREN

The member states hereby establish, by way of this compact, a commission known as the "interstate commission for the placement of children". The activities of the interstate commission are the formation of public policy and are a discretionary state function. The interstate commission shall:

A. be a joint commission of the member states and shall have the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by subsequent concurrent action of the respective legislatures of the member states;

B. consist of one commissioner from each member state who shall be appointed by the executive head of the state human services administration with ultimate responsibility for the child welfare program. The appointed commissioner shall have the legal authority to vote on policy related matters governed by this compact binding the state;

(1) each member state represented at a meeting of the interstate commission is entitled to one vote;

(2) a majority of the member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission;

(3) a representative shall not delegate a vote to another member state; and

(4) a representative may delegate voting authority to another person from the representative's state for a specified meeting;

C. in addition to the commissioners of each member state, the interstate commission shall include persons who are members of interested organizations as defined in the bylaws or rules of the interstate commission. Such members shall be ex officio and shall not be entitled to vote on any matter before the interstate commission; and

D. establish an executive committee that shall have the authority to administer the day-to-day operations and administration of the interstate commission. The executive committee shall not have the power to engage in rulemaking.

## ARTICLE 9. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The interstate commission shall have the following powers:

A. to promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this compact;

B. to provide for dispute resolution among member states;

C. to issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the Revised Interstate Compact on the Placement of Children or the commission's bylaws, rules or actions;

D. to enforce compliance with this compact or the bylaws or rules of the interstate commission pursuant to Article 12;

E. collect standardized data concerning the interstate placement of children subject to this compact as directed through its rules, which shall specify the data to be collected, the means of collection and data exchange and reporting requirements;

F. to establish and maintain offices as may be necessary for the transacting of its business;

G. to purchase and maintain insurance and bonds;

H. to hire or contract for services of personnel or consultants as necessary to carry out its functions under this compact and establish personnel qualification policies and rates of compensation;

I. to establish and appoint committees and officers, including an executive committee as required by Article 10;

J. to accept any and all donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose thereof;

K. to lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve or use any property, real, personal or mixed;

L. to sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed;

M. to establish a budget and make expenditures;

N. to adopt a seal and bylaws governing the management and operation of the interstate commission;

O. to report annually to the legislatures, governors, the judiciary and state advisory councils of the member states concerning the activities of the interstate commission during the preceding year. Such reports shall also include any recommendations that may have been adopted by the interstate commission;

P. to coordinate and provide education, training and public awareness regarding the interstate movement of children for officials involved in such activity;

Q. to maintain books and records in accordance with the bylaws of the interstate commission; and

R. to perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

#### ARTICLE 10. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

##### A. Bylaws:

(1) within twelve months after the first interstate commission meeting, the interstate commission shall adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of this compact; and

(2) the interstate commission's bylaws and rules shall establish conditions and procedures under which the interstate commission shall make its information and official records available to the public for inspection or copying. The interstate commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.

##### B. Meetings:

(1) the interstate commission shall meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings;

(2) public notice shall be given by the interstate commission of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in this compact. The interstate commission and its committees may close a meeting, or portion thereof, where it determines by a two-thirds' vote that an open meeting would be likely to:

(a) relate solely to the interstate commission's internal personnel practices and procedures;

(b) disclose matters specifically exempted from disclosure by federal law;

(c) disclose financial or commercial information that is privileged, proprietary or confidential in nature;

(d) involve accusing a person of a crime or formally censuring a person;

(e) disclose information of a personal nature when disclosure would constitute a clearly unwarranted invasion of personal privacy or physically endanger one or more persons;

(f) disclose investigative records compiled for law enforcement purposes; or

(g) specifically relate to the interstate commission's participation in a civil action or other legal proceeding;

(3) for a meeting, or portion of a meeting, closed pursuant to this provision, the interstate commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemption provision. The interstate commission shall keep minutes that shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the interstate commission or by court order; and

(4) the bylaws may provide for meetings of the interstate commission to be conducted by telecommunication or other electronic communication.

#### C. Officers and Staff:

(1) the interstate commission may, through its executive committee, appoint or retain a staff director for such period, upon such terms and

conditions and for such compensation as the interstate commission may deem appropriate. The staff director shall serve as secretary to the interstate commission, but shall not have a vote. The staff director may hire and supervise such other staff as may be authorized by the interstate commission;

(2) the interstate commission shall elect, from among its members, a chairperson and a vice chairperson of the executive committee and other necessary officers, each of whom shall have such authority and duties as may be specified in the bylaws.

D. Qualified Immunity, Defense and Indemnification:

(1) the interstate commission's staff director and its employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error or omission that occurred, or that a person had a reasonable basis for believing occurred within the scope of commission employment, duties or responsibilities; provided that such person shall not be protected from suit or liability for damage, loss, injury or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person;

(a) the liability of the interstate commission's staff director and employees or interstate commission representatives, acting within the scope of the person's employment or duties for acts, errors or omissions occurring within the person's state may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees and agents. The interstate commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subparagraph shall be construed to protect such person from suit or liability for damage, loss, injury or liability caused by a criminal act or the intentional or willful and wanton misconduct of such person;

(b) the interstate commission shall defend the staff director and its employees and, subject to the approval of the attorney general or other appropriate legal counsel of the member state, shall defend the commissioner of a member state in a civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities; provided that the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of the person; and

(c) to the extent not covered by the state involved, member state or the interstate commission, the representatives or employees of the interstate commission shall be held harmless in the amount of a settlement or judgment, including attorney fees and costs, obtained against such persons arising out of an actual or alleged act, error or omission that occurred within the scope of interstate

commission employment, duties or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities; provided that the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

#### ARTICLE 11. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. The interstate commission shall promulgate and publish rules in order to effectively and efficiently achieve the purposes of this compact.

B. Rulemaking shall occur pursuant to the criteria set forth in this article and the bylaws and rules adopted pursuant thereto. Such rulemaking shall substantially conform to the principles of the "Model State Administrative Procedures Act," 1981 Act, Uniform Laws Annotated, Vol.215, p.1 (2000), or other administrative procedure acts that the interstate commission deems appropriate and consistent with due process requirements under the United States constitution as now or hereafter interpreted by the United States supreme court. All rules and amendments shall become binding as of the date specified, as published with the final version of the rule as approved by the interstate commission.

C. When promulgating a rule, the interstate commission shall, at a minimum:

(1) publish the proposed rule's entire text stating the reason(s) for that proposed rule;

(2) allow and invite any and all persons to submit written data, facts, opinions and arguments, which information shall be added to the record, and be made publicly available; and

(3) promulgate a final rule and its effective date, if appropriate, based on input from state or local officials or interested parties.

D. Rules promulgated by the interstate commission shall have the force and effect of administrative rules and shall be binding in the compacting states to the extent and in the manner provided for in this compact.

E. Not later than sixty days after a rule is promulgated, an interested person may file a petition in the United States district court for the District of Columbia or in the federal district court where the interstate commission's principal office is located for judicial review of such rule. If the court finds that the interstate commission's action is not supported by substantial evidence in the rulemaking record, the court shall hold the rule unlawful and set it aside.

F. If a majority of the legislatures of the member states rejects a rule, those states may, by enactment of a statute or resolution in the same manner used to adopt the compact, cause that such rule shall have no further force and effect in any member state.

G. The existing rules governing the operation of the Revised Interstate Compact on the Placement of Children superseded by this act shall be null and void no less than twelve, but no more than twenty-four months after the first meeting of the interstate commission created hereunder, as determined by the members during the first meeting.

H. Within the first twelve months of operation, the interstate commission shall promulgate rules addressing the following:

- (1) transition rules;
- (2) forms and procedures;
- (3) time lines;
- (4) data collection and reporting;
- (5) rulemaking;
- (6) visitation;
- (7) progress reports and supervision;
- (8) sharing of information and confidentiality;
- (9) financing of the interstate commission;
- (10) mediation, arbitration and dispute resolution;
- (11) education, training and technical assistance;
- (12) enforcement; and
- (13) coordination with other interstate compacts.

I. Upon determination by a majority of the members of the interstate commission that an emergency exists:

- (1) the interstate commission may promulgate an emergency rule only if it is required to:

(a) protect the children covered by this compact from an imminent threat to their health, safety and well-being;

(b) prevent loss of federal or state funds; or

(c) meet a deadline for the promulgation of an administrative rule required by federal law;

(2) an emergency rule shall become effective immediately upon adoption; provided that the usual rulemaking procedures provided hereunder shall be retroactively applied to said rule as soon as reasonably possible, but no later than ninety days after the effective date of the emergency rule; and

(3) an emergency rule shall be promulgated as provided for in the rules of the interstate commission.

## ARTICLE 12. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

### A. Oversight:

(1) the interstate commission shall oversee the administration and operation of this compact;

(2) the executive, legislative and judicial branches of state government in each member state shall enforce this compact and the rules of the interstate commission and shall take all actions necessary and appropriate to effectuate this compact's purposes and intent. This compact and its rules shall be binding in the compacting states to the extent and in the manner provided for in this compact;

(3) all courts shall take judicial notice of this compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact; and

(4) the interstate commission shall be entitled to receive service of process in any action in which the validity of a compact provision or rule is the issue for which a judicial determination has been sought and shall have standing to intervene in any proceedings. Failure to provide service of process to the interstate commission shall render any judgment, order or other determination, however so captioned or classified, void as to the interstate commission, this compact, its bylaws or rules of the interstate commission.

### B. Dispute Resolution:

(1) the interstate commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the compact and that may arise among member states and between member and non-member states; and

(2) the interstate commission shall promulgate a rule providing for both mediation and binding dispute resolution for disputes among compacting states. The costs of such mediation or dispute resolution shall be the responsibility of the parties to the dispute.

C. Enforcement:

(1) if the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, its by laws or rules, the interstate commission may:

(a) provide remedial training and specific technical assistance;

(b) provide written notice to the defaulting state and other member states, of the nature of the default and the means of curing the default. The interstate commission shall specify the conditions by which the defaulting state must cure its default;

(c) by majority vote of the members, initiate against a defaulting member state legal action in the United States district court for the District of Columbia or, at the discretion of the interstate commission, in the federal district where the interstate commission has its principal office, to enforce compliance with the provisions of this compact, its bylaws or rules. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation, including reasonable attorney fees; or

(d) avail itself of any other remedies available under state law or the regulation of official or professional conduct.

### ARTICLE 13. FINANCING OF THE COMMISSION

A. The interstate commission shall pay, or provide for the payment of the reasonable expenses of its establishment, organization and ongoing activities.

B. The interstate commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the interstate commission and its staff, which must be in a total amount sufficient to cover the interstate commission's annual budget as approved by its members each year. The aggregate annual assessment amount shall be allocated based upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states.

C. The interstate commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same; nor shall the interstate

commission pledge the credit of any of the member states, except by and with the authority of the member states.

D. The interstate commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the interstate commission shall be subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the interstate commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in and become part of the annual report of the interstate commission.

#### ARTICLE 14. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

A. Any state is eligible to become a member state.

B. This compact shall become effective and binding upon legislative enactment of the compact into law by no less than thirty-five states. The effective date shall be the later of July 1, 2007 or upon enactment of the compact into law by the thirty-fifth state. Thereafter, it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The executive heads of the state human services administration with ultimate responsibility for the child welfare program of non-member states or their designees shall be invited to participate in the activities of the interstate commission on a non-voting basis prior to adoption of this compact by all states.

C. The interstate commission may propose amendments to this compact for enactment by the member states. No amendment shall become effective and binding on the member states unless and until it is enacted into law by unanimous consent of the member states.

#### ARTICLE 15. WITHDRAWAL AND DISSOLUTION

A. Withdrawal:

(1) once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact specifically repealing the statute that enacted the compact into law;

(2) withdrawal from this compact shall be by the enactment of a statute repealing the same. The effective date of withdrawal shall be the effective date of the repeal of the statute;

(3) the withdrawing state shall immediately notify the president of the interstate commission in writing upon the introduction of legislation repealing this

compact in the withdrawing state. The interstate commission shall then notify the other member states of the withdrawing state's intent to withdraw;

(4) the withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of withdrawal; and

(5) reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the members of the interstate commission.

B. Dissolution of Compact:

(1) this compact shall dissolve effective upon the date of the withdrawal or default of the member state that reduces the membership in the compact to one member state;

(2) upon the dissolution of this compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the interstate commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

#### ARTICLE 16. SEVERABILITY AND CONSTRUCTION

A. The provisions of this compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.

B. The provisions of this compact shall be liberally construed to effectuate its purposes.

C. Nothing in this compact shall be construed to prohibit the concurrent applicability of other interstate compacts to which the states are members.

#### ARTICLE 17. BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Other Laws:

(1) nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

B. Binding Effect of the Compact:

(1) all lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, are binding upon the member states;

(2) all agreements between the interstate commission and the member states are binding in accordance with their terms; and

(3) in the event any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

## ARTICLE 18. INDIAN NATIONS, TRIBES AND PUEBLOS

Notwithstanding any other provision in this compact, the interstate commission may promulgate guidelines to permit Indian nations, tribes and pueblos to utilize the compact to achieve any or all of the purposes of the compact as specified in Article 1. The interstate commission shall make reasonable efforts to consult with Indian nations, tribes and pueblos in promulgating guidelines to reflect the diverse circumstances of the various Indian nations, tribes and pueblos."

### **Chapter 118 Section 2 Laws 2023**

SECTION 2. Section 32A-11-2 NMSA 1978 (being Laws 1977, Chapter 151, Section 2) is amended to read:

"32A-11-2. FINANCIAL RESPONSIBILITY--DEFAULT IN COMPACT.--Financial responsibility for any child placed pursuant to the provisions of the Revised Interstate Compact on the Placement of Children shall be determined in accordance with the provisions of Article 7 and Article 12 of that compact in the first instance. However, in the event of partial or complete default of performance under that compact, the provisions of the New Mexico law fixing responsibility for the support of children also may be invoked."

### **Chapter 118 Section 3 Laws 2023**

SECTION 3. Section 32A-11-5 NMSA 1978 (being Laws 1977, Chapter 151, Section 5, as amended) is amended to read:

"32A-11-5. FINANCIAL COMMITMENT--APPROVAL.--The officers and agencies of the state and of its political subdivisions having authority to place children are hereby empowered to enter into agreements with appropriate officers or agencies of or in other party states pursuant to Paragraph (3) of Section A of Article 7 of the Revised Interstate Compact on the Placement of Children. Any such agreement that contains a financial commitment or imposes a financial obligation on the state or political subdivision or agency thereof shall not be binding unless it has the approval in writing of the secretary of finance and administration and of the chief local fiscal officer in the case of a political subdivision of the state."

## **Chapter 118 Section 4 Laws 2023**

SECTION 4. Section 32A-11-6 NMSA 1978 (being Laws 1977, Chapter 151, Section 6) is amended to read:

"32A-11-6. COURT JURISDICTION IN PLACEMENT OF DELINQUENT CHILDREN.--Any court having jurisdiction to place delinquent children may place such a child in an institution in another state pursuant to Article 3 of the Revised Interstate Compact on the Placement of Children and shall retain jurisdiction as provided in Article 4 of that compact."

## **Chapter 118 Section 5 Laws 2023**

SECTION 5. Section 32A-11-7 NMSA 1978 (being Laws 1977, Chapter 151, Section 7) is amended to read:

"32A-11-7. GOVERNOR.--As used in Article 8 of the Revised Interstate Compact on the Placement of Children, the term "executive head" means the governor. The governor is hereby authorized to appoint a compact administrator in accordance with the terms of Article 8 of that compact."

## **Chapter 118 Section 6 Laws 2023**

SECTION 6. REPEAL.--Sections 32A-11-3 and 32A-11-4 NMSA 1978 (being Laws 1977, Chapter 151, Sections 3 and 4) are repealed.

## **Chapter 118 Section 7 Laws 2023**

SECTION 7. CONTINGENT EFFECTIVE DATE.--The provisions of this act shall become effective when the thirty-fifth state has enacted the Revised Interstate Compact on the Placement of Children as provided in Section B of Article 14 of the Revised Interstate Compact on the Placement of Children. The secretary of children, youth and families shall notify the governor, the executive director of the New Mexico compilation commission and the director of the legislative council service when the thirty-fifth state has enacted.

# **LAWS 2023, CHAPTER 119**

**Senate Bill 324**

**Approved April 4, 2023**

AN ACT

RELATING TO COUNTY OFFICIALS; INCREASING THE AMOUNT OF ADDITIONAL COMPENSATION A COUNTY MAY PROVIDE TO ASSESSORS AND CERTAIN CERTIFIED EMPLOYEES IN APPRAISER OFFICES.

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

### **Chapter 119 Section 1 Laws 2023**

SECTION 1. Section 4-39-4 NMSA 1978 (being Laws 1969, Chapter 269, Section 3, as amended) is amended to read:

"4-39-4. ADDITIONAL COMPENSATION TO ASSESSORS.--In addition to the salaries provided for county assessors in Sections 4-44-4 through 4-44-5 NMSA 1978, county assessors may receive additional cumulative increments up to:

- A. an additional seven hundred fifty dollars (\$750) a year for holding an "Appraiser 1" certificate;
- B. an additional one thousand seven hundred fifty dollars (\$1,750) a year for holding an "Appraiser 2" certificate;
- C. an additional three thousand dollars (\$3,000) a year for holding an "Appraiser 3" certificate; and
- D. an additional three thousand five hundred dollars (\$3,500) a year for holding an "Appraiser 4" certificate."

### **Chapter 119 Section 2 Laws 2023**

SECTION 2. Section 4-39-5 NMSA 1978 (being Laws 1977, Chapter 138, Section 2, as amended) is amended to read:

"4-39-5. ADDITIONAL COMPENSATION TO CERTAIN CERTIFIED EMPLOYEES IN APPRAISER OFFICES.--A board of county commissioners may provide additional cumulative increments to the salary of employees in the office of the assessor as an incentive for obtaining greater qualification levels up to the following amounts:

- A. an additional seven hundred fifty dollars (\$750) a year for holding an "Appraiser 1" certificate;
- B. an additional one thousand seven hundred fifty dollars (\$1,750) a year for holding an "Appraiser 2" certificate;
- C. an additional three thousand dollars (\$3,000) a year for holding an "Appraiser 3" certificate; and

D. an additional three thousand five hundred dollars (\$3,500) a year for holding an "Appraiser 4" certificate."

## **Chapter 119 Section 3 Laws 2023**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# **LAWS 2023, CHAPTER 120**

**Senate Bill 327**

**Approved April 4, 2023**

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; EXTENDING THE DATE BY 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 120 Section 1 Laws 2023**

SECTION 1. Section 6-25-6 NMSA 1978 (being Laws 2016, Chapter 38, Section 1, as amended) 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, 2027, 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."

## **LAWS 2023, CHAPTER 121**

**Senate Bill 332, aa, w/ec**  
**Approved April 4, 2023**

## 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 121 Section 1 Laws 2023**

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. Catron county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems, public recreational facilities and refinance projects;
2. De Baca county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems, public recreational facilities and refinance projects;
3. the town of Dexter in Chaves county for land, buildings, equipment, water rights, public utilities, including water and wastewater systems, and refinance projects;
4. Dona Ana county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems, public recreational facilities and refinance projects;
5. the Dora consolidated school district in Roosevelt county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights and refinance projects;
6. the board of regents of eastern New Mexico university in Roosevelt county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems, public recreational facilities and refinance projects;

7. the eastern New Mexico water utility authority in Curry county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems, public recreational facilities and refinance projects;

8. the Elida municipal school district in Roosevelt county for land, buildings, equipment, furniture, machinery and refinance projects;

9. the city of Farmington in San Juan county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems, public recreational facilities and refinance projects;

10. the Floyd municipal school district in Roosevelt county for land, buildings, equipment, furniture, machinery and refinance projects;

11. Harding county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems, public recreational facilities and refinance projects;

12. the Inspiration public improvement district in Bernalillo county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems and public recreational facilities projects;

13. the town of Kirtland in San Juan county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems, public recreational facilities and refinance projects;

14. the Laguna Pueblo utility authority in Cibola county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights and capital asset projects;

15. Lea county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems, public recreational facilities and refinance projects;

16. the Lobo development corporation in Bernalillo county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems, public recreational facilities and refinance projects;

17. Lobo energy, incorporated, in Bernalillo county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems and water rights projects;
18. Los Diamantes public improvement district in Sandoval county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems and public recreational facilities projects;
19. Luna county for land, buildings, equipment, furniture, machinery, roads, streets, airports, parking facilities and public transportation systems projects;
20. the village of Magdalena in Socorro county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems, public recreational facilities and refinance projects;
21. the northwest New Mexico council of governments in McKinley county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems, public recreational facilities and refinance projects;
22. Otero county for land, buildings, equipment, furniture, machinery, roads, streets, airports, parking facilities and public transportation systems projects;
23. the Reserve independent school district in Catron county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights and refinance projects;
24. the Santa Clara development corporation in Rio Arriba county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems, public recreational facilities and refinance projects;
25. the village of San Jon in Quay county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems, public recreational facilities and refinance projects;
26. Sandoval county for land, buildings, equipment, furniture and machinery projects;
27. the South Salazar public improvement district in Taos county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and

wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems, public recreational facilities and refinance projects;

28. the Pueblo of Santa Clara in Rio Arriba county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems, public recreational facilities and refinance projects;

29. the town of Taos in Taos county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems, public recreational facilities and refinance projects;

30. the Taos regional landfill board in Taos county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems, public recreational facilities and refinance projects;

31. the board of regents of the university of New Mexico in Bernalillo county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems, public recreational facilities and refinance projects;

32. Torrance county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems, public recreational facilities and refinance projects;

33. the board of regents of the university of New Mexico for the Valencia branch campus in Valencia county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems, public recreational facilities and refinance projects;

34. the university of New Mexico medical group, incorporated, in Bernalillo county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems, public recreational facilities and refinance projects;

35. the West Las Vegas public school district in San Miguel county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems and public recreational facilities projects;

36. the Boulders public improvement district in Bernalillo county for refinance projects;
37. the Tierra Santa public improvement district 1 in Dona Ana county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems and public recreational facilities projects;
38. the Valencia Park public improvement district in Dona Ana county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems and public recreational facilities projects;
39. the Volterra public improvement district in Bernalillo county for refinance projects;
40. the Trails public improvement district in Bernalillo county for refinance projects;
41. the Mark Armijo academy charter school in Bernalillo county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems, public recreational facilities and refinance projects;
42. the South Valley preparatory charter school in Bernalillo county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems, public recreational facilities and refinance projects;
43. the Alta Vista Solares 1 and 2 public improvement districts in Taos county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems, public recreational facilities and refinance projects;
44. the Chamisa Verde 3 public improvement district in Taos county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems, public recreational facilities and refinance projects;
45. the Winrock town center tax increment development district 1 in Bernalillo county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems and public recreational facilities projects;

46. the Winrock town center tax increment development district 2 in Bernalillo county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems and public recreational facilities projects;

47. the Mesa del Sol tax increment development district 1 in Bernalillo county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems and public recreational facilities projects; and

48. the Mesa del Sol tax increment development district 2 in Bernalillo county for land, buildings, equipment, furniture, machinery, public utilities, including electric, water and wastewater, solid waste systems, water rights, roads, streets, airports, parking facilities, public transportation systems and public recreational facilities projects.

## **Chapter 121 Section 2 Laws 2023**

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 2026 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 121 Section 3 Laws 2023**

SECTION 3. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

# **LAWS 2023, CHAPTER 122**

**STBTC/Senate Bill 336, aa, w/ec**  
**Approved April 4, 2023**

## **AN ACT**

**RELATING TO GAMING CONTROL; ALLOWING THE USE OF RACETRACK FUNDS TO OFFSET THE COSTS OF JOCKEY AND EXERCISE RIDER INSURANCE AND THE COSTS OF COMPLYING WITH FEDERAL LAW; TEMPORARILY DECREASING THE PERCENTAGE OF NET TAKE THAT IS ALLOCATED TO THE GAMING TAX; DIRECTING THE STATE RACING COMMISSION TO REVIEW AND PROVIDE LEGISLATIVE RECOMMENDATIONS ON CHANGES RELATING TO THE USE OF NET TAKE FOR PURSES; DECLARING AN EMERGENCY.**

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

## **Chapter 122 Section 1 Laws 2023**

SECTION 1. Section 60-2E-47 NMSA 1978 (being Laws 1997, Chapter 190, Section 49, as amended) is amended to read:

"60-2E-47. GAMING TAX--IMPOSITION--ADMINISTRATION.--

A. An excise tax is imposed on the privilege of engaging in gaming activities in the state. This tax shall be known as the "gaming tax".

B. The gaming tax is an amount equal to ten percent of the gross receipts of manufacturer licensees from the sale, lease or other transfer of gaming devices in or into the state, except receipts of a manufacturer from the sale, lease or other transfer to a licensed distributor for subsequent sale or lease may be excluded from gross receipts; ten percent of the gross receipts of distributor licensees from the sale, lease or other transfer of gaming devices in or into the state; ten percent of the net take of a gaming operator licensee that is a nonprofit organization; and twenty-four and eight-tenths percent of the net take of every other gaming operator licensee. For the purposes of this section, "gross receipts" means the total amount of money or the value of other consideration received from selling, leasing or otherwise transferring gaming devices.

C. The gaming tax imposed on a licensee is in lieu of all state and local gross receipts taxes on that portion of the licensee's gross receipts attributable to gaming activities.

D. The gaming tax is to be paid on or before the fifteenth day of the month following the month in which the taxable event occurs. The gaming tax shall be administered and collected by the taxation and revenue department in cooperation with the board. The provisions of the Tax Administration Act apply to the collection and administration of the tax.

E. In addition to the gaming tax, a gaming operator licensee that is a racetrack shall pay:

(1) twenty percent of its net take solely to purses in accordance with rules adopted by the state racing commission; and

(2) one and two-tenths percent of its net take solely to offset the costs of jockey and exercise rider insurance and to comply with federal and state laws affecting horse racing.

F. An amount not to exceed twenty percent of the interest earned on the balance of any fund consisting of money for purses distributed by racetrack gaming operator licensees pursuant to this subsection may be expended for the costs of

administering the distributions. The state racing commission is responsible for regulatory oversight of funds withdrawn for exercise rider and jockey insurance and compliance with federal and state laws affecting horse racing. The state racing commission is also responsible for regulatory oversight of the twenty percent and one and two-tenths percent fees funding from gaming. A racetrack gaming operator licensee shall spend no less than one-fourth percent of the net take of its gaming machines to fund or support programs for the treatment and assistance of compulsive gamblers.

G. A nonprofit gaming operator licensee shall distribute at least sixty percent of the balance of its net take, after payment of the gaming tax and any income taxes, for charitable or educational purposes."

## **Chapter 122 Section 2 Laws 2023**

SECTION 2. Section 60-2E-47 NMSA 1978 (being Laws 1997, Chapter 190, Section 49, as amended) is repealed and a new Section 60-2E-47 NMSA 1978 is enacted to read:

### **"60-2E-47. GAMING TAX--IMPOSITION--ADMINISTRATION.--**

A. An excise tax is imposed on the privilege of engaging in gaming activities in the state. This tax shall be known as the "gaming tax".

B. The gaming tax is an amount equal to ten percent of the gross receipts of manufacturer licensees from the sale, lease or other transfer of gaming devices in or into the state, except receipts of a manufacturer from the sale, lease or other transfer to a licensed distributor for subsequent sale or lease may be excluded from gross receipts; ten percent of the gross receipts of distributor licensees from the sale, lease or other transfer of gaming devices in or into the state; ten percent of the net take of a gaming operator licensee that is a nonprofit organization; and twenty-six percent of the net take of every other gaming operator licensee. For the purposes of this section, "gross receipts" means the total amount of money or the value of other consideration received from selling, leasing or otherwise transferring gaming devices.

C. The gaming tax imposed on a licensee is in lieu of all state and local gross receipts taxes on that portion of the licensee's gross receipts attributable to gaming activities.

D. The gaming tax is to be paid on or before the fifteenth day of the month following the month in which the taxable event occurs. The gaming tax shall be administered and collected by the taxation and revenue department in cooperation with the board. The provisions of the Tax Administration Act apply to the collection and administration of the tax.

E. In addition to the gaming tax, a gaming operator licensee that is a racetrack shall pay twenty percent of its net take to purses in accordance with rules

adopted by the state racing commission. An amount not to exceed twenty percent of the interest earned on the balance of any fund consisting of money for purses distributed by racetrack gaming operator licensees pursuant to this subsection may be expended for the costs of administering the distributions. A racetrack gaming operator licensee shall spend no less than one-fourth percent of the net take of its gaming machines to fund or support programs for the treatment and assistance of compulsive gamblers.

F. A nonprofit gaming operator licensee shall distribute at least sixty percent of the balance of its net take, after payment of the gaming tax and any income taxes, for charitable or educational purposes."

### **Chapter 122 Section 3 Laws 2023**

SECTION 3. TEMPORARY PROVISION--STATE RACING COMMISSION--REVIEW EFFECTIVENESS OF USING NET TAKE FOR PURSES TO OFFSET THE COSTS OF JOCKEY INSURANCE AND TO COMPLY WITH FEDERAL AND STATE LAWS AFFECTING HORSE RACING.--The state racing commission shall review the effectiveness of the amendments to Section 60-2E-47 NMSA 1978 enacted in Section 1 of this act and shall, no earlier than July 1, 2026 and no later than December 1, 2026, provide the conclusions of its review and any legislative recommendations to the interim legislative committees that address taxation and horse racing.

### **Chapter 122 Section 4 Laws 2023**

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of Section 2 of this act is July 1, 2027.

### **Chapter 122 Section 5 Laws 2023**

SECTION 5. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

## **LAWS 2023, CHAPTER 123**

**SCONC/Senate Bill 337, aa**  
**Approved April 4, 2023**

AN ACT

RELATING TO WATER PLANNING; ENACTING THE WATER SECURITY PLANNING ACT; AUTHORIZING THE INTERSTATE STREAM COMMISSION TO MAKE LOANS AND GRANTS FOR REGIONAL WATER PLANNING; REQUIRING THE INTERSTATE STREAM COMMISSION TO MAKE RULES AND GUIDELINES FOR REGIONAL WATER PLANNING; PROVIDING DUTIES OF REGIONAL WATER PLANNING

ENTITIES; PROTECTING PRIORITY ADMINISTRATION AND WATER RIGHTS OWNERS.

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

### **Chapter 123 Section 1 Laws 2023**

SECTION 1. SHORT TITLE.--Sections 1 through 5 of this act may be cited as the "Water Security Planning Act".

### **Chapter 123 Section 2 Laws 2023**

SECTION 2. DEFINITION.--As used in the Water Security Planning Act, "commission" means the interstate stream commission.

### **Chapter 123 Section 3 Laws 2023**

SECTION 3. CONDEMNATION OF WATER RIGHTS.--Nothing in the Water Security Planning Act shall be construed as permitting the condemnation of water rights or as determining, abridging or affecting in any way the water rights of water right owners in the state.

### **Chapter 123 Section 4 Laws 2023**

SECTION 4. WATER PLANNING FUNDING--REGIONAL WATER PLANNING--RULES--GUIDELINES.--

A. Subject to available funding, the commission shall establish and conduct a regional water security program pursuant to the provisions of the Water Security Planning Act. The commission may make grants or loans of funds for the purpose of regional water planning, as possible, using appropriations made for that purpose.

B. The commission shall establish a procedure, in consultation with the Indian affairs department, to establish an advisory council for taking into account in the regional water security program tribal sovereignty, tribal water rights and the water needs of tribal communities.

C. The commission shall:

(1) promulgate rules that, at a minimum, establish:

(a) the boundaries and number of water planning regions in the state;

(b) the criteria for commission approval of a regional water security plan with prioritized projects, programs and policies;

(c) the procedure for a regional water planning entity to develop and provide notice to the commission of issues and concerns relating to the public welfare of the water planning region;

(d) the composition of a regional water planning entity; and

(e) the procedure for a regional water planning entity to consider public welfare values and the needs of future generations of New Mexicans;

(2) adopt guidelines that, at a minimum, address:

(a) the identification of regional stakeholders and opportunities for stakeholder collaboration;

(b) the public input requirements for regional water planning;

(c) the requirements for a proposal for grants or loans for planning activities;

(d) the process for approval of grants or loans;

(e) the process for state agency collaboration;

(f) the metrics for reporting on regional water projects and, programs and policies;

(g) the procedures to support implementation of a regional water security plan; and

(h) the schedule for implementation of regional water planning, including integration with statewide objectives;

(3) emphasize engagement, communication and education in regional water planning activities statewide;

(4) provide engagement with Indian nations, tribes and pueblos, including through the use of the State-Tribal Collaboration Act;

(5) provide engagement with acequia communities;

(6) provide for the engagement of rural communities;

(7) ensure, by using the integrated water data and information platform developed pursuant to the Water Data Act and collaborating with the bureau of geology and mineral resources of the New Mexico institute of mining and technology and the water resources research institute, that the best science, data and models relating to water resource planning are available to the regional water planning entities and are used with scientific integrity and adherence to principles of honesty, objectivity, transparency and professionalism in developing, vetting and prioritizing proposals;

(8) report, by October 31 of each year, to the appropriate legislative interim committee dealing with water and natural resources and, by October 31 of each year, distribute the report to the appropriate state agencies dealing with water and natural resources on regional water planning implementation that includes:

(a) approved regional water security plans with prioritized projects, programs and policies for state funding;

(b) outcomes of regional water security plan implementation; and

(c) the status of regional water planning expenditures; and

(9) support regional water planning entities by:

(a) providing technical and local capacity development support, including commission staff and funding;

(b) providing statewide objectives for regional water security plan development, including compliance with interstate compacts, the federal Endangered Species Act of 1973 and congressionally authorized tribal water settlement acts;

(c) supporting the development of a proposal for alternative administration through active water resources management, if prioritized by the region, that may be submitted to the state engineer and affected Indian nations, tribes and pueblos for approval; and

(d) identifying funding sources and supporting the acquisition of funds for implementation of approved regional water security plans.

## **Chapter 123 Section 5 Laws 2023**

### **SECTION 5. REGIONAL WATER PLANNING ENTITIES.--**

A. An entity shall not be made a part of a proposal for planning funds under this section without that entity's consent.

B. The outcomes sought by each regional water planning entity shall:

- (1) be established through broad public input;
- (2) consider public welfare values, balancing water uses and the needs of future generations of New Mexicans;
- (3) be grounded in state water law;
- (4) be developed using the best available science;
- (5) recognize and respect federally recognized or reserved tribal water rights;
- (6) consider access to water for domestic use; and
- (7) comply with applicable federal water law.

C. Each regional water planning entity shall:

- (1) be composed of regional stakeholders as identified in the entity's guidelines;
- (2) ensure opportunities for participation by Indian nations, tribes or pueblos located within the water planning region;
- (3) obtain public input in the development, vetting and prioritization of regional water planning activities and proposals;
- (4) assist in the funding, development and incorporation of plans for rural communities;
- (5) report to the commission by June 30 of each year on the progress of planning activities and outcomes of regional water security plan implementation; and
- (6) review existing water plans and data sets of municipalities, counties and other entities within the water planning region and use them as appropriate.

## **Chapter 123 Section 6 Laws 2023**

SECTION 6. Section 72-14-44 NMSA 1978 (being Laws 1987, Chapter 182, Section 2) is amended to read:

"72-14-44. INTERSTATE STREAM COMMISSION—GROUNDWATER APPROPRIATION--WATER RIGHTS PURCHASE.--

A. The interstate stream commission is authorized to appropriate groundwater or purchase water rights on behalf of any of the various regions of the state.

B. Nothing in this section shall be construed as permitting the condemnation of water rights or as determining, abridging or affecting in any way the water rights of Indian nations, tribes or pueblos".

## **LAWS 2023, CHAPTER 124**

**Senate Bill 378, aa**  
**Approved April 4, 2023**

### **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 2023.

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

### **Chapter 124 Section 1 Laws 2023**

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 2023, the state board of finance shall not issue and sell more than six hundred eighty-two million two hundred thousand dollars (\$682,200,000) of supplemental severance tax bonds or notes."

### **Chapter 124 Section 2 Laws 2023**

SECTION 2. A new section of the Severance Tax Bonding Act, Section 7-27-10.2 NMSA 1978, is enacted to read:

"7-27-10.2. TRANSFER TO SEVERANCE TAX PERMANENT FUND BEFORE DETERMINING BONDING CAPACITY.--On December 31 of each year from 2023 through 2033, the board of finance division of the department of finance and administration shall transfer ninety-two million dollars (\$92,000,000) 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."

## **LAWS 2023, CHAPTER 125**

**Senate Bill 388**

**Approved April 4, 2023**

### AN ACT

RELATING TO CHILDREN; RAISING THE AGE LIMIT AT WHICH A CHILD MAY BE HELD IN CUSTODY TO TWELVE YEARS OF AGE OR OLDER.

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

### **Chapter 125 Section 1 Laws 2023**

SECTION 1. Section 32A-2-10 NMSA 1978 (being Laws 1993, Chapter 77, Section 39, as amended) is amended to read:

"32A-2-10. RELEASE OR DELIVERY FROM CUSTODY.--

A. A person taking a child into custody shall, with all reasonable speed:

(1) release the child to the child's parent, guardian or custodian or an adult authorized by the child's parent, guardian or custodian and issue verbal counsel or warning as may be appropriate;

(2) release the child to the child's parent, guardian or custodian or an adult authorized to sign on behalf of the child's parent, guardian or custodian upon written promise to bring the child before the court when requested by the court. If the parent, guardian or custodian or an adult authorized to sign on behalf of the child's parent, guardian or custodian fails, when requested, to bring the child before the court as promised, the court may order the child taken into custody and brought before the court;

(3) deliver the child to a place of detention as provided in Section 32A-2-12 NMSA 1978;

(4) deliver the child to a medical facility, if available, if the child is believed to be suffering from a serious illness that requires prompt treatment or prompt diagnosis;

(5) deliver the child to an evaluation facility, if available, if the person taking the child into custody has reasonable grounds to believe the child presents a likelihood of serious harm to the child's self or others or is suffering from some other serious mental condition or illness that requires prompt treatment or prompt diagnosis;  
or

(6) deliver the child to a center or organization that the court or the department recognizes as an alternative to secure detention.

B. When an alleged delinquent child is delivered to a place of detention or a center or organization recognized as an alternative to secure detention as provided in Section 32A-2-12 NMSA 1978, only a department employee or a trained county detention professional designated by the department may place the child in detention or with a center or organization recognized as an alternative to secure detention in accordance with the criteria for detention set forth in Section 32A-2-11 NMSA 1978. If the criteria for detention of an alleged delinquent child are not met, the child shall be released from custody.

C. A child under the age of twelve shall not be held in detention. If a child under the age of twelve poses a substantial risk of harm to the child's self or others, a peace officer may detain and transport that child for emergency mental health evaluation and care in accordance with Section 32A-6A-19 NMSA 1978.

D. If a child is taken into custody and is not released to the child's parent, guardian or custodian or an adult authorized by the child's parent, guardian or custodian, the person taking the child into custody shall give written notice thereof as soon as possible, and in no case later than twenty-four hours, to the child's parent, guardian or custodian or an adult authorized by the child's parent, guardian or custodian and to the court, together with a statement of the reason for taking the child into custody.

E. In all cases when a child is taken into custody, the child shall be released to the child's parent, guardian or custodian or an adult authorized by the child's parent, guardian or custodian in accordance with the conditions and time limits set forth in the Children's Court Rules."

## **LAWS 2023, CHAPTER 126**

**Senate Bill 396, aa**  
**Approved April 4, 2023**

AN ACT

RELATING TO TRANSPORTATION; INCREASING FEES FOR THE ANNUAL REGISTRATION OF MOTORCYCLES; INCREASING DISTRIBUTIONS FROM THE MOTOR VEHICLE SUSPENSE FUND TO THE MOTORCYCLE TRAINING FUND.

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

### **Chapter 126 Section 1 Laws 2023**

SECTION 1. Section 66-6-1 NMSA 1978 (being Laws 1978, Chapter 35, Section 336, as amended) is amended to read:

"66-6-1. MOTORCYCLES--REGISTRATION FEES.--

A. For the registration of motorcycles, the department shall collect the following fees for a twelve-month registration period:

(1) for a motorcycle having not more than two wheels in contact with the ground, twenty dollars (\$20.00); and

(2) for a motorcycle having three wheels in contact with the ground or having a sidecar, twenty dollars (\$20.00).

B. In addition to other fees required by this section, the department shall collect for each motorcycle an annual tire recycling fee of one dollar (\$1.00) for a twelve-month registration period."

### **Chapter 126 Section 2 Laws 2023**

SECTION 2. Section 66-6-23 NMSA 1978 (being Laws 1978, Chapter 35, Section 358, as amended) is amended to read:

"66-6-23. DISPOSITION OF FEES.--

A. After the necessary disbursements for refunds and other purposes have been made, the money remaining in the motor vehicle suspense fund, except for remittances received within the previous two months that are unidentified as to source or disposition, shall be distributed as follows:

(1) to each municipality, county or fee agent operating a motor vehicle field office:

(a) an amount equal to six dollars (\$6.00) per driver's license and five dollars (\$5.00) per identification card or motor vehicle or motorboat registration or title transaction performed;

(b) for each such agent determined by the secretary pursuant to Section 66-2-16 NMSA 1978 to have performed ten thousand or more transactions in the preceding fiscal year, other than a class A county with a population exceeding three hundred thousand or a municipality with a population exceeding three hundred thousand that has been designated as an agent pursuant to Section 66-2-14.1 NMSA 1978, an amount equal to one dollar (\$1.00) in addition to the amount distributed pursuant to Subparagraph (a) of this paragraph for each driver's license, identification card, motor vehicle registration, motorboat registration or title transaction performed; and

(c) to each military installation designated as a fee agent pursuant to Section 66-2-14.1 NMSA 1978, an amount equal to one dollar fifty cents (\$1.50) in addition to the amount distributed pursuant to Subparagraph (a) of this paragraph for each administrative service fee remitted by the military installation to the department pursuant to Subsection A of Section 66-2-16 NMSA 1978;

(2) to each municipality or county, other than a class A county with a population exceeding three hundred thousand or a municipality with a population exceeding three hundred thousand that has been designated as an agent pursuant to Section 66-2-14.1 NMSA 1978, operating a motor vehicle field office, an amount equal to one dollar fifty cents (\$1.50) for each administrative service fee remitted by that county or municipality to the department pursuant to the provisions of Subsection A of Section 66-2-16 NMSA 1978;

(3) to the state road fund:

(a) an amount equal to the fees collected pursuant to Sections 66-7-413 and 66-7-413.4 NMSA 1978;

(b) an amount equal to the fee collected pursuant to Section 66-3-417 NMSA 1978;

(c) the remainder of each driver's license fee collected by the department employees from an applicant to whom a license is granted after deducting from the driver's license fee the amount of the distribution authorized in Paragraph (1) of this subsection with respect to that collected driver's license fee; and

(d) an amount equal to fifty percent of the fees collected pursuant to Section 66-6-19 NMSA 1978;

(4) to the local governments road fund, the amount of the fees collected pursuant to Subsection B of Section 66-5-33.1 NMSA 1978 and the remainder of the fees collected pursuant to Subsection A of Section 66-5-408 NMSA 1978;

(5) to the department:

(a) any amounts reimbursed to the department pursuant to Subsection D of Section 66-2-14.1 NMSA 1978;

(b) an amount equal to two dollars (\$2.00) of each motorcycle registration fee collected pursuant to Section 66-6-1 NMSA 1978;

(c) an amount equal to the fees provided for in Subsection D of Section 66-2-7 NMSA 1978, Subsection E of Section 66-2-16 NMSA 1978, Subsections K and L of Section 66-3-6 NMSA 1978 other than the administrative fee, Subsection C of Section 66-5-44 NMSA 1978 and Subsection B of Section 66-5-408 NMSA 1978;

(d) the amounts due to the department for the manufacture and issuance of a special registration plate collected pursuant to the section of law authorizing the issuance of the specialty plate;

(e) an amount equal to the registration fees collected pursuant to Section 66-6-6.1 NMSA 1978 for the purposes of enforcing the provisions of the Mandatory Financial Responsibility Act and for creating and maintaining a multilanguage noncommercial driver's license testing program; and after those purposes are met, the balance of the registration fees shall be distributed to the department to defray the costs of operating the division;

(f) an amount equal to fifty cents (\$.50) for each administrative fee remitted to the department by a county or municipality operating a motor vehicle field office pursuant to Subsection A of Section 66-2-16 NMSA 1978;

(g) an amount equal to one dollar twenty-five cents (\$1.25) for each administrative fee collected by the department or any of its agents other than a county or municipality operating a motor vehicle field office pursuant to Subsection A of Section 66-2-16 NMSA 1978; and

(h) an amount equal to the royalties or other consideration paid by commercial users of databases of motor vehicle-related records of the department pursuant to Subsection C of Section 14-3-15.1 NMSA 1978 for the purpose of defraying the costs of maintaining databases of motor vehicle-related records of the department; and after that purpose is met, the balance of the royalties and other consideration shall be distributed to the department to defray the costs of operating the division or for use pursuant to Subsection F of Section 66-6-13 NMSA 1978;

(6) to each New Mexico institution of higher education, an amount equal to that part of the fees distributed pursuant to Paragraph (2) of Subsection D of Section 66-3-416 NMSA 1978 proportionate to the number of special registration plates issued in the name of the institution to all such special registration plates issued in the name of all institutions;

(7) to the armed forces veterans license fund, the amount to be distributed pursuant to Paragraph (2) of Subsection E of Section 66-3-419 NMSA 1978;

(8) to the children's trust fund, the amount to be distributed pursuant to Paragraph (2) of Subsection D of Section 66-3-420 NMSA 1978;

(9) to the department of transportation, an amount equal to the fees collected pursuant to Section 66-5-35 NMSA 1978;

(10) to the state equalization guarantee distribution made annually pursuant to the general appropriation act, an amount equal to one hundred percent of the driver safety fee collected pursuant to Subsection D of Section 66-5-44 NMSA 1978;

(11) to the motorcycle training fund, seven dollars (\$7.00) of each motorcycle registration fee collected pursuant to Section 66-6-1 NMSA 1978;

(12) to the recycling and illegal dumping fund:

(a) fifty cents (\$.50) of the tire recycling fee collected pursuant to the provisions of Section 66-6-1 NMSA 1978;

(b) fifty cents (\$.50) of each of the tire recycling fees collected pursuant to the provisions of Sections 66-6-2 and 66-6-4 NMSA 1978; and

(c) twenty-five cents (\$.25) of each of the tire recycling fees collected pursuant to Sections 66-6-5 and 66-6-8 NMSA 1978;

(13) to the highway infrastructure fund:

(a) fifty cents (\$.50) of the tire recycling fee collected pursuant to the provisions of Section 66-6-1 NMSA 1978;

(b) one dollar (\$1.00) of each of the tire recycling fees collected pursuant to the provisions of Sections 66-6-2 and 66-6-4 NMSA 1978; and

(c) twenty-five cents (\$.25) of each of the tire recycling fees collected pursuant to Sections 66-6-5 and 66-6-8 NMSA 1978;

(14) to each county, an amount equal to fifty percent of the fees collected pursuant to Section 66-6-19 NMSA 1978 multiplied by a fraction, the numerator of which is the total mileage of public roads maintained by the county and the denominator of which is the total mileage of public roads maintained by all counties in the state;

(15) to the litter control and beautification fund, an amount equal to the fees collected pursuant to Section 66-6-6.2 NMSA 1978;

(16) to the local government division of the department of finance and administration, an amount equal to the fees collected pursuant to Section 66-3-424.3 NMSA 1978 for distribution to each county to support animal control spaying and neutering programs in an amount proportionate to the number of residents of that county who have purchased pet care special registration plates pursuant to Section 66-3-424.3 NMSA 1978; and

(17) to the Cumbres and Toltec scenic railroad commission, twenty-five dollars (\$25.00) collected pursuant to the Cumbres and Toltec scenic railroad special registration plate.

B. The balance, exclusive of unidentified remittances, shall be distributed in accordance with Section 66-6-23.1 NMSA 1978.

C. If any of the paragraphs, subsections or sections referred to in Subsection A of this section are recompiled or otherwise redesignated without a corresponding change to Subsection A of this section, the reference in Subsection A of this section shall be construed to be the recompiled or redesignated paragraph, subsection or section."

## **Chapter 126 Section 3 Laws 2023**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# **LAWS 2023, CHAPTER 127**

**Senate Bill 402, aa**  
**Approved April 4, 2023**

AN ACT

RELATING TO PUBLIC FINANCE; AMENDING THE VENTURE CAPITAL PROGRAM ACT; REVISING THE DEFINITION OF "VENTURE PRIVATE EQUITY FUND"; REVISING INVESTMENT GUIDELINES; ELIMINATING BOND REQUIREMENTS FOR NEW MEXICO FINANCE AUTHORITY EMPLOYEES; PROVIDING AN EXCEPTION TO THE INSPECTION OF PUBLIC RECORDS ACT.

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

## **Chapter 127 Section 1 Laws 2023**

SECTION 1. Section 6-33-1 NMSA 1978 (being Laws 2022, Chapter 21, Section 1) is amended to read:

"6-33-1. SHORT TITLE.--Chapter 6, Article 33 NMSA 1978 may be cited as the "Venture Capital Program Act"."

## **Chapter 127 Section 2 Laws 2023**

SECTION 2. Section 6-33-2 NMSA 1978 (being Laws 2022, Chapter 21, Section 2) is amended to read:

"6-33-2. DEFINITIONS.--As used in the Venture Capital Program Act:

- A. "authority" means the New Mexico finance authority;
- B. "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 at least eighty percent of its assets located in New Mexico; and
- C. "venture private equity fund" means an entity that makes, manages or sources potential investments in New Mexico businesses and that:
  - (1) 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 business purposes in early stages of development;
  - (2) holds out prospects for capital appreciation from such investments;
  - (3) 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; and
  - (4) accepts investments only from accredited investors, as that term is defined in the federal Securities Act of 1933, as amended, and rules and regulations promulgated pursuant to that section, or federally recognized Indian nations, tribes and pueblos with at least five million dollars (\$5,000,000) in overall investment assets."

## **Chapter 127 Section 3 Laws 2023**

SECTION 3. Section 6-33-4 NMSA 1978 (being Laws 2022, Chapter 21, Section 4) is amended to read:

"6-33-4. INVESTMENTS--QUALIFICATIONS--BOARD APPROVAL.--

- A. In making investments pursuant to the Venture Capital Program Act, the authority shall make:

- (1) investments in venture private equity funds; or
- (2) early stage investments in New Mexico businesses whose investments or enterprises enhance the economic development objectives of the state.

B. The authority 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) an investment in any one business does not exceed ten percent of the balance of the venture capital program fund;
- (2) an investment in any one industry does not exceed thirty percent of the balance of the venture capital program fund; 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 authority 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 fund.

C. In making investments pursuant to the Venture Capital Program Act, the authority may make differential rate investments for economic development purposes.

D. The authority shall make investments pursuant to the Venture Capital Program Act only upon approval of the board of directors of the authority and within guidelines and policies established by the board."

## **Chapter 127 Section 4 Laws 2023**

SECTION 4. Section 6-33-5 NMSA 1978 (being Laws 2022, Chapter 21, Section 5) is amended to read:

"6-33-5. BUDGET.--The authority shall annually prepare a budget for administering and investing all funds managed by the venture capital program, which shall be reviewed and approved by the board of directors of the authority. Funds provided for the operating budget of the venture capital program may be made from the assets of the venture capital program fund or any other funds managed by the authority, as authorized by law."

## **Chapter 127 Section 5 Laws 2023**

SECTION 5. A new section of the Venture Capital Program Act is enacted to read:

"PROPRIETARY INFORMATION--CONFIDENTIALITY.--Information obtained by the authority in order to make investments from the venture capital program fund, which information is proprietary, technical, trade secret or business information, shall be confidential and not subject to inspection pursuant to the Inspection of Public Records Act."

## **LAWS 2023, CHAPTER 128**

**SFL/Senate Bill 417**  
**Approved April 4, 2023**

AN ACT

RELATING TO SCHOOL PERSONNEL; CREATING A VOCATIONAL EDUCATION LICENSURE TRACK FOR TEACHERS.

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

## **Chapter 128 Section 1 Laws 2023**

SECTION 1. 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 a standard level one vocational license to an applicant who meets the requirements of Subsection D of this section or to an applicant who is at least twenty-three years of age and who:

(1) has five or more years of professional experience in the vocational field in which the applicant will teach; and

(2) meets other qualifications for level one licensure, including clearance of a background check pursuant to Section 22-10A-5 NMSA 1978.

F. The department shall issue an alternative level one license to an applicant who meets the requirements of Section 22-10A-8 NMSA 1978.

G. 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.

H. The minimum salary for a level one teacher, except for a teacher licensed pursuant to Subsection E of this section, is fifty thousand dollars (\$50,000) for a standard nine and one-half month contract; 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.

I. After the issuance of a license, a license holder shall not be required to meet changed requirements to maintain the license until such time as the license expires and the license holder seeks renewal of the license."

## **Chapter 128 Section 2 Laws 2023**

SECTION 2. 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. The minimum salary for a level two teacher, except for those teachers with a vocational education license, is sixty thousand dollars (\$60,000) for a standard nine and one-half month contract; 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 128 Section 3 Laws 2023**

SECTION 3. 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 department shall grant a level three-A license to an applicant seeking a level three-A vocational education license who does not meet the requirements of Subsection B of this section, but who otherwise is eligible for a level three-A license, provided that the applicant:

- (1) has been a level two teacher for at least three years;
- (2) provides documentation from an accredited higher education institution of the applicant's eligibility to teach dual-credit courses at the post-secondary level in the field in which the applicant is teaching; or
- (3) completes a department-approved career-technical education training certificate course of study that is a minimum of sixteen hours at an accredited higher education institution.

D. The minimum salary for a level three-A teacher, except teachers licensed pursuant to Subsection C of this section, is seventy thousand dollars (\$70,000) for a standard nine and one-half month contract; 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.

E. 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 D of this section."

## **Chapter 128 Section 4 Laws 2023**

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# LAWS 2023, CHAPTER 129

Senate Bill 423

Approved April 4, 2023

AN ACT

RELATING TO FINANCE; AMENDING THE BEHAVIORAL HEALTH CAPITAL FUNDING ACT, THE PRIMARY CARE CAPITAL FUNDING ACT AND THE CHILD CARE FACILITY LOAN ACT; MOVING THE PRIMARY CARE CAPITAL FUND TO THE NEW MEXICO FINANCE AUTHORITY; ALLOWING FOR THE PROVISION OF OPERATING CAPITAL; ALLOWING THE NEW MEXICO FINANCE AUTHORITY TO CONTRACT FOR SERVICES; PROVIDING DUTIES; DIRECTING RULEMAKING; ALLOWING THE NEW MEXICO FINANCE AUTHORITY TO PROVIDE REMEDIES.

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

## Chapter 129 Section 1 Laws 2023

SECTION 1. Section 6-26-3 NMSA 1978 (being Laws 2004, Chapter 71, Section 3, as amended) 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 acquisition, repair, renovation or construction of a behavioral health facility; purchase of land; or acquisition of capital equipment;
- C. "department" means the human services department;
- 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;
- E. "fund" means the behavioral health capital fund;
- F. "operating capital" means funds needed to meet short-term obligations, such as accounts payable, wages, debt servicing, lease and income tax payments; and

G. "project" means a capital project or operating capital needed to support the increase of behavioral health services to sick and medically indigent persons."

## **Chapter 129 Section 2 Laws 2023**

SECTION 2. Section 6-26-4 NMSA 1978 (being Laws 2004, Chapter 71, Section 4, as amended) 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 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 actual costs of administering the fund and originating loans."

## **Chapter 129 Section 3 Laws 2023**

SECTION 3. Section 6-26-5 NMSA 1978 (being Laws 2004, Chapter 71, Section 5) is amended to read:

"6-26-5. AUTHORITY--RULES.--The authority, in conjunction with the department, shall adopt rules to administer and implement the provisions of the Behavioral Health Capital Funding Act, including provisions:

- A. establishing procedures and forms for applying for loans;
- B. specifying the documentation required to be provided by the applicant to justify the need for the project;
- C. specifying the documentation required to be provided by the applicant to demonstrate that the applicant is an eligible entity;
- D. establishing procedures for review, evaluation and approval of loans, including the programmatic, organizational and financial information necessary to review, evaluate and approve an application;
- E. for evaluating the ability and competence of an applicant to provide efficiently and adequately for the completion of a proposed project;

F. for the approval of loan applications, including provisions that accord priority attention to areas with the greatest need for behavioral health services;

G. that ensure fair geographic distribution of loans;

H. establishing requirements for repayment of loans, including payment schedules, interest rates, loan terms and other requirements;

I. for ensuring the authority's interest in any project by the filing of a lien equal to the total of the authority's financial participation in the project; and

J. for such other requirements deemed necessary by the department and the authority to ensure that the state receives the behavioral health services for which the legislature appropriates money and that the investment in a project is protected."

## **Chapter 129 Section 4 Laws 2023**

SECTION 4. Section 6-26-6 NMSA 1978 (being Laws 2004, Chapter 71, Section 6) is amended to read:

"6-26-6. DEPARTMENT--AUTHORITY--POWERS AND DUTIES.--

A. The department and the authority shall administer the loan programs established pursuant to the provisions of the Behavioral Health Capital Funding Act. The department and the authority shall:

(1) enter into joint powers agreements with each other or other appropriate public agencies to carry out the provisions of that act; and

(2) apply to any appropriate federal, state or local governmental agency or private organization for grants and gifts to carry out the provisions of that act.

B. The department and the authority may:

(1) instead of a loan, contract for services with an eligible entity to provide free or reduced-fee primary care services for sick and medically indigent persons as reasonably adequate legal consideration for money from the fund to the eligible entity so it may acquire or construct a capital project to provide the services;

(2) make and enter into contracts and agreements necessary to carry out their powers and duties pursuant to the provisions of the Behavioral Health Capital Funding Act; and

(3) do all things necessary or appropriate to carry out the provisions of the Behavioral Health Capital Funding Act.

C. The authority is responsible for all financial duties of the programs, including:

- (1) administering the fund;
- (2) accounting for all money received, controlled or disbursed for capital projects in accordance with the provisions of the Behavioral Health Capital Funding Act;
- (3) evaluating and approving loans, including determining the financial capacity of an eligible entity;
- (4) enforcing contract provisions of loans, including the ability to sue to recover money or property owed the state;
- (5) determining interest rates and other financial aspects of a loan and relevant terms of a contract for services; and
- (6) performing other duties in accordance with the provisions of the Behavioral Health Capital Funding Act, rules promulgated pursuant to that act or joint powers agreements entered into with the department.

D. The department is responsible for the following duties:

- (1) defining sick and medically indigent persons for purposes of the Behavioral Health Capital Funding Act;
- (2) establishing priorities for loans;
- (3) determining the appropriateness of a project;
- (4) evaluating the capability of an applicant to provide and maintain behavioral health services;
- (5) selecting recipients of loans and persons with whom to contract for services; and
- (6) determining that projects comply with all state and federal licensing requirements.

E. The authority may make a loan to an eligible entity to acquire, construct, renovate or otherwise improve a capital project, provided there is a finding:

- (1) by the department that the project will provide behavioral health services to sick and indigent persons as determined by the department; and

(2) by the authority that there is adequate protection, including loan guarantees, real property liens, title insurance, security interests in or pledges of accounts and other assets, loan covenants and warranties or restrictions or other encumbrances and pledges for the state funds extended for the loan."

## **Chapter 129 Section 5 Laws 2023**

SECTION 5. Section 6-26-7 NMSA 1978 (being Laws 2004, Chapter 71, Section 7) is amended to read:

"6-26-7. ELIGIBLE ENTITY--CHANGE IN STATUS.--If an eligible entity that has received a loan or contract for services for a project ceases to maintain its nonprofit status or ceases to deliver behavioral health services at the site of the project for twelve consecutive months, the authority may pursue the remedies provided in the loan agreement or contract for services or as provided by law."

## **Chapter 129 Section 6 Laws 2023**

SECTION 6. 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 acquisition, 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;

F. "operating capital" means funds needed to meet short-term obligations, such as accounts payable, wages, debt servicing, lease and income tax payments;

G. "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; and

H. "project" means a capital project or operating capital needed to support the increase of primary care services to sick and medically indigent persons."

## **Chapter 129 Section 7 Laws 2023**

SECTION 7. 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 authority. 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 actual costs of administering the fund and originating loans."

## **Chapter 129 Section 8 Laws 2023**

SECTION 8. Section 24-1C-5 NMSA 1978 (being Laws 1994, Chapter 62, Section 11) is amended to read:

"24-1C-5. RULES.--The authority shall adopt rules to administer and implement the provisions of the Primary Care Capital Funding Act, including providing for:

A. the determination of rural or other health care underserved areas of the state in which eligible entities may receive loans or contracts for services from the fund;

- B. procedures and forms for applying for loans or contracts for services for projects;
- C. documentation required to be provided by the applicant to justify the need for the project;
- D. documentation required to be provided by the applicant to demonstrate that the applicant is an eligible entity;
- E. procedures for review, evaluation and approval of loans and contracts for services, including the programmatic, organizational and financial information necessary to review, evaluate and approve an application;
- F. evaluation of the ability and competence of an applicant to provide efficiently and adequately for the completion of a proposed project;
- G. approval of loan and contract for services applications, including provisions that accord priority attention to areas with the greatest need for primary care services;
- H. fair geographic distribution of loans and contracts for services; and
- I. such other requirements deemed necessary by the department to ensure that the state receives the primary care services for which the legislature appropriates money and that protect the state's interest in a project."

## **Chapter 129 Section 9 Laws 2023**

SECTION 9. Section 24-1C-6 NMSA 1978 (being Laws 1994, Chapter 62, Section 12, as amended) is amended to read:

"24-1C-6. DEPARTMENT--AUTHORITY--POWERS AND DUTIES.--

A. The department and the authority shall administer the loan programs and contracts for services established pursuant to the provisions of the Primary Care Capital Funding Act. The department and authority shall:

- (1) enter into joint powers agreements with each other or other appropriate public agencies to carry out the provisions of that act; and
- (2) apply to any appropriate federal, state or local governmental agency or private organization for grants and gifts to carry out the provisions of that act or to fund allied community-based health care programs.

B. The department or authority may, instead of a loan, contract for services with an eligible entity to provide free or reduced fee primary care services for sick and

medically indigent persons as reasonably adequate legal consideration for money from the fund to the entity so it may acquire or construct a capital project to provide the services.

C. The department and authority may:

(1) make and enter into contracts and agreements necessary to carry out their powers and duties pursuant to the provisions of the Primary Care Capital Funding Act; and

(2) do all things necessary or appropriate to carry out the provisions of the Primary Care Capital Funding Act.

D. The authority is responsible for all financial duties of the programs, including:

(1) administering the fund;

(2) accounting for all money received, controlled or disbursed for capital projects in accordance with the provisions of the Primary Care Capital Funding Act;

(3) evaluating and approving loans and contracts for services, including determining financial capacity of an eligible entity;

(4) enforcing contract provisions of loans and contracts for services, including the ability to sue to recover money or property owed the state;

(5) determining requirements for repayment of loans, including interest rates, loan terms, payment schedules and other financial aspects of a loan and relevant terms of a contract for services;

(6) ensuring the authority's interest in any project by the filing of a lien equal to the total of the authority's financial participation in the project; and

(7) performing other duties in accordance with the provisions of the Primary Care Capital Funding Act, rules promulgated pursuant to that act or joint powers agreements entered into with the department.

E. The department is responsible for the following duties:

(1) defining sick and medically indigent persons for purposes of the Primary Care Capital Funding Act;

(2) establishing priorities for loans and contracts for services;

- (3) determining the appropriateness of the project;
- (4) evaluating the capability of an applicant to provide and maintain primary care or hospice services;
- (5) selecting recipients of loans and persons with whom to contract for services;
- (6) determining that capital projects comply with all state and federal licensing; and
- (7) contracting with an eligible entity to provide primary care services without charge or at a reduced fee for sick and medically indigent persons as defined by the department.

F. The authority may make a loan to an eligible entity to acquire, construct, renovate or otherwise improve a capital project or to fund operating capital, provided there is a finding:

- (1) by the department that the project will provide primary care services to sick and medically indigent persons as defined by the department; and
- (2) by the authority that there is adequate protection, including loan guarantees, real property liens, title insurance, security interests in or pledges of accounts and other assets, loan covenants and warranties or restrictions on other encumbrances and pledges for the state funds extended for the loan.

G. The authority may make a loan to a school-based health center that operates in a school district or to a telehealth site for a capital project; provided, however, that the loan shall not exceed the amount in the account reserved for school-based health center or telehealth site funding."

## **Chapter 129 Section 10 Laws 2023**

SECTION 10. Section 24-1C-9 NMSA 1978 (being Laws 1994, Chapter 62, Section 15, as amended) is amended to read:

"24-1C-9. ELIGIBLE ENTITY--CHANGE IN STATUS.--If an eligible entity that has received a loan or contract for services for a capital project ceases to maintain its nonprofit status or ceases to deliver primary care services at the site of the capital project for twelve consecutive months, the authority may pursue the remedies provided in the loan agreement or contract for services or as provided by law."

## **Chapter 129 Section 11 Laws 2023**

SECTION 11. Section 24-24-3 NMSA 1978 (being Laws 2003, Chapter 316, Section 3) is amended to read:

"24-24-3. DEFINITIONS.--As used in the Child Care Facility Loan Act:

- A. "department" means the early childhood education and care department;
- B. "facility" means a child care facility operated by a provider, including both family home-based and center-based programs, licensed by the department to provide care to infants, toddlers and children;
- C. "fund" means the child care facility revolving loan fund;
- D. "operating capital" means funds needed to meet short-term obligations, such as accounts payable, wages, debt servicing, lease and income tax payments; and
- E. "provider" means a person licensed by the department to provide child care to infants, toddlers and children pursuant to Section 9-2A-8 NMSA 1978."

## **Chapter 129 Section 12 Laws 2023**

SECTION 12. Section 24-24-4 NMSA 1978 (being Laws 2003, Chapter 316, Section 4) is amended to read:

"24-24-4. FUND CREATED--ADMINISTRATION.--

- A. The "child care facility revolving loan fund" is created in the New Mexico finance authority to provide low-interest, long-term loans to providers to make health and safety improvements in their facilities and for operating capital. The fund shall consist of appropriations, gifts, grants and donations to the fund, which shall be invested as provided in the New Mexico Finance Authority Act. Money in the fund shall not revert and is appropriated to the department, which shall utilize the fund for the purposes of the Child Care Facility Loan Act. Administrative costs of the authority may be paid from the fund.
- B. Money in the fund shall be used to make loans to providers that demonstrate the need to make health and safety improvements, including space expansion, in order to maintain an adequate and appropriate environment for their clients. Loans from the fund are to be made at an interest rate greater than zero percent for a term that does not exceed the useful life of the project being financed.
- C. No more than twenty percent of the fund may be loaned for a single provider in a single project. The department shall give priority for loans to facilities of

providers that serve proportionately high numbers of state-subsidized clients and low-income families.

D. The department, in conjunction with the New Mexico finance authority, shall adopt rules to administer and implement the Child Care Facility Loan Act. The rules shall become effective when filed in accordance with the State Rules Act."

## **LAWS 2023, CHAPTER 130**

### **Senate Bill 433**

**Approved April 4, 2023**

#### AN ACT

RELATING TO AVIATION; AMENDING THE RURAL AIR SERVICE ENHANCEMENT ACT; INCREASING THE PASSENGER CAPACITY OF AIRCRAFT USED FOR NEW OR EXPANDED AIR ROUTES FROM THIRTY TO ONE HUNDRED PASSENGERS.

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

### **Chapter 130 Section 1 Laws 2023**

SECTION 1. Section 64-6-3 NMSA 1978 (being Laws 2021, Chapter 47, Section 3, as amended) is amended to read:

"64-6-3. RURAL AIR SERVICE ENHANCEMENT GRANT PROGRAM.--

A. The "rural air service enhancement grant program" is created in the division to be administered by the director.

B. The director shall:

- (1) establish and publish deadlines and guidelines for the submission of grant applications;
- (2) develop procedures for receipt, review and approval of grant applications;
- (3) receive, review and approve grant applications;
- (4) monitor municipalities' and counties' use of grant money by reviewing annual reports submitted to the director to ensure that grants are used consistently with the terms of the grant awards;

(5) establish grant reporting requirements that meet the general purpose of the Rural Air Service Enhancement Act; and

(6) perform other duties as necessary to carry out the provisions of the Rural Air Service Enhancement Act.

C. Each fiscal year, competitive grants for minimum revenue guarantees shall be awarded to applicants for the sole purpose of funding rural air service enhancement grants.

D. The director shall award grants to applicants through a competitive process and based upon the following criteria:

(1) the demand for service on the proposed new air routes or expanded air routes;

(2) the economic impact on the municipality or county of the proposed new air routes or expanded air routes; and

(3) the feasibility of a common carrier licensed by the state servicing proposed new air routes or expanded air routes.

E. Applicants shall meet the following minimum criteria to be eligible for a grant:

(1) municipalities or counties shall have a minimum population of twenty thousand persons residing within a fifty-mile radius of the airport unless the municipality or county has existing air routes;

(2) aircraft to be used to service proposed new air routes or expanded air routes served by the rural air service enhancement grant program shall have a passenger capacity of not more than one hundred persons; and

(3) minimum matching funds from a municipality or county shall be:

(a) ten percent if the municipality or county has no existing scheduled air routes at the time of application; and

(b) twenty percent if the municipality or county has existing scheduled air routes at the time of application.

F. Individual grants awarded through the rural air service enhancement grant program shall not:

(1) exceed two million two hundred fifty thousand dollars (\$2,250,000) per year for municipalities or counties with existing scheduled air routes;

(2) exceed two million seven hundred fifty thousand dollars (\$2,750,000) per year for municipalities or counties not served by existing scheduled air routes; or

(3) be used for infrastructure improvement.

G. Individual grants awarded through the rural air service enhancement grant program shall cover a time frame of at least two years. If funds are available in the rural air service enhancement fund, the director may extend the term of an existing grant up to three additional years.

H. No more than ten percent of the balance of the rural air service enhancement fund on July 1 of any year may be used by the division for infrastructure improvements associated with individual grants awarded through the rural air service enhancement grant program.

I. Funds received through individual grants awarded through the rural air service enhancement grant program shall be expended by the grantee municipality or county only to airlines that have been selected through a competitive process pursuant to the Procurement Code."

## **Chapter 130 Section 2 Laws 2023**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# **LAWS 2023, CHAPTER 131**

**Senate Bill 442, aa**  
**Approved April 4, 2023**

AN ACT

RELATING TO ELECTED OFFICIALS; INCREASING THE COMPENSATION OF ELECTIVE STATE OFFICERS.

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

## **Chapter 131 Section 1 Laws 2023**

SECTION 1. Section 8-1-1 NMSA 1978 (being Laws 1971, Chapter 260, Section 1, as amended) is amended to read:

"8-1-1. COMPENSATION OF ELECTIVE STATE OFFICERS.--

A. Annual compensation of elective state officers shall be paid as follows:

governor	\$169,714
lieutenant governor	144,714
secretary of state	144,714
state auditor	144,714
state treasurer	144,714
attorney general	154,714
commissioner of public lands	149,714.

B. Any person succeeding to the office of governor as provided in Article 5, Section 7 of the constitution of New Mexico shall receive the salary of the office. Every person serving as acting governor during the incapacity or absence of the governor from the state, shall receive five hundred dollars (\$500) as compensation for each day's service as acting governor.

C. All compensation under this section shall be paid from the general fund, except that the amount paid to the commissioner of public lands shall be paid from the state lands maintenance fund."

## **Chapter 131 Section 2 Laws 2023**

SECTION 2. REPEAL.--Section 8-3-3 NMSA 1978 (being Laws 1971, Chapter 138, Section 3, as amended) is repealed.

## **Chapter 131 Section 3 Laws 2023**

SECTION 3. APPLICABILITY.--The provisions of this act relating to the annual compensation set for the governor apply to that position for terms of office beginning on or after January 1, 2027.

# **LAWS 2023, CHAPTER 132**

**SHPAC/Senate Bill 452, aa**  
**Approved April 4, 2023**

AN ACT

RELATING TO BROADBAND; AMENDING, REPEALING AND ENACTING SECTIONS OF THE DEPARTMENT OF INFORMATION TECHNOLOGY ACT; AUTHORIZING THE LEASE OR SALE OF BROADBAND INFRASTRUCTURE AND THE PROVISION OF CYBERSECURITY, INFORMATION TECHNOLOGY AND TELECOMMUNICATION NETWORK SERVICES; PROVIDING FOR ADMINISTRATIVE HEARINGS; CLARIFYING THE BASES FOR SOME SERVICE RATES; PROVIDING DEFINITIONS; AMENDING SECTIONS OF THE BROADBAND ACCESS AND EXPANSION ACT;

REQUIRING REPORTING BY SOME INTERNET SERVICE PROVIDERS;  
ESTABLISHING CONDITIONS FOR LEASE OF THE STATE-OWNED BROADBAND  
NETWORK.

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

## **Chapter 132 Section 1 Laws 2023**

SECTION 1. Section 9-27-3 NMSA 1978 (being Laws 2007, Chapter 290, Section 3, as amended) is amended to read:

"9-27-3. DEFINITIONS.--As used in the Department of Information Technology Act:

A. "agency", unless otherwise specified, means executive branch cabinet agencies and their administratively attached agencies, offices, boards and commissions;

B. "cybersecurity" means acts, practices or systems that eliminate or reduce the risk of loss of critical assets, loss of sensitive information or reputational harm as a result of a cyberattack or breach within an organization's telecommunication network;

C. "department" means the department of information technology;

D. "information technology" means computer hardware, storage media, networking equipment, physical devices, infrastructure, processes and code, firmware, software and ancillary products and services, including:

(1) systems design and analysis;

(2) development or modification of hardware or solutions used to create, process, store, secure or exchange electronic data;

(3) information storage and retrieval systems;

(4) voice, radio, video and data communication systems;

(5) network, hosting and cloud-based systems;

(6) simulation and testing; and

(7) interactions between a user and an information system;

E. "information technology project" means the purchase, replacement, development or modification of a hardware or software system;

F. "secretary" means the secretary of information technology;

G. "state information architecture" means a logically consistent set of principles, policies and standards that guides the engineering of state government's information technology systems and infrastructure in a way that ensures alignment with state government's business needs;

H. "state information technology strategic plan" means the information technology planning document for the state that spans a three-year period; and

I. "telecommunication network" means the physical and logical components and all associated infrastructure used in transporting, routing, aggregating and delivering voice and data information from computer and telecommunications systems in one location to peer systems in another."

## **Chapter 132 Section 2 Laws 2023**

SECTION 2. Section 9-27-6 NMSA 1978 (being Laws 2007, Chapter 290, Section 6, as amended by Laws 2017, Chapter 7, Section 2 and by Laws 2017, Chapter 45, Section 2) is amended to read:

"9-27-6. 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 the secretary's duties, 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) 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 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 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) take administrative action by issuing orders and instructions, not inconsistent with the law, to ensure 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;

(6) conduct research and studies that will improve the operations of the department and the provision of services to state agencies and 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 for each division a "director". 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; and

(11) acquire, hold and maintain, through lease, trade or purchase, any real or personal property necessary to meet customer requirements or department obligations, including obligations of administratively attached offices or bodies.

C. As the chief information officer, the secretary shall:

(1) review agency plans regarding prudent allocation of information technology resources; reduction of duplicate or redundant data, hardware and software; and improvement of system interoperability and data accessibility among agencies;

(2) approve agency information technology requests for proposals and other agency requests that are subject to the Procurement Code, prior to final approval;

(3) promulgate rules for oversight of information technology procurement;

(4) approve agency information technology contracts and amendments to those contracts, including emergency procurements, sole source contracts and price agreements, prior to approval by the department of finance and administration;

(5) develop and implement procedures to standardize data elements, determine data ownership and ensure data sharing among executive agencies;

(6) verify compliance with state information architecture and the state information technology strategic plan before approving documents referred to in Paragraphs (2) and (4) of this subsection;

(7) monitor agency compliance with its agency plan, the state information technology strategic plan and state information architecture and report to the governor, executive agency management and the legislative finance committee on noncompliance;

(8) develop information technology cost recovery mechanisms and information systems rate and fee structures of state agencies and other public or private sector providers and make recommendations to the information technology rate committee;

(9) provide technical support to executive agencies in the development of their agency plans;

(10) ensure the use of existing public or private information technology or telecommunications resources when the use is practical, efficient, effective and financially prudent and is in compliance with the Procurement Code;

(11) review appropriation requests related to agency information technology requests to ensure compliance with agency plans and the state information technology strategic plan and make written recommendations by November 14 of each year to the department of finance and administration and by November 21 of each year to the legislative finance committee and the appropriate interim legislative committee; provided, however, that the recommendations to the legislative committees have been agreed to by the department of information technology and the department of finance and administration;

(12) promulgate rules to ensure that information technology projects satisfy criteria established by the secretary and are phased in with funding released in phases contingent upon successful completion of the prior phase;

(13) provide oversight of information technology projects, including ensuring adequate risk management, disaster recovery and business continuity practices and monitoring compliance with strategies for information technology projects that affect multiple agencies;

(14) conduct reviews of information technology projects and provide written reports to the appropriate legislative oversight bodies;

(15) conduct background checks on department employees and prospective department employees that have or will have administrative access or authority to sensitive, confidential or private information or the ability to alter systems, networks or other information technology hardware or software; and

(16) perform any other information technology function assigned by the governor.

D. As the chief information officer, the secretary may:

(1) upon the advice and recommendation of the director of the office of broadband access and expansion pursuant to the provisions of the Broadband Access and Expansion Act, make available by lease or sale at the department's established rates on a competitively neutral basis such state-owned broadband network infrastructure or internet service that would connect underserved and unserved populations of New Mexico and otherwise support objectives of the state broadband plan;

(2) offer cybersecurity risk prevention and information technology mitigation and response solutions, including application and equipment selection, intrusion response, system monitoring or system testing for all users of agency-operated or -owned information technology, to include compliance standards for broadband infrastructure projects within the oversight or administration of the department; and

(3) establish an administrative hearing and enforcement process internal to the department or in coordination with the administrative hearings office to support the department's private sector regulatory activities or any administratively attached office or body.

E. Each agency shall submit an agency information technology plan to the secretary in the form and detail required by the secretary. Each agency shall conduct background checks on agency or prospective agency employees that have or will have administrative access or authority to alter systems, networks or other information technology hardware or software.

F. An agency that receives an invoice from the department for services rendered to the agency shall have thirty days from receipt of the invoice to pay the

department or to notify the department if the amount of the invoice is in dispute. The agency shall have fifteen days from its notification of dispute to the department to present its reasons in writing and request an adjustment. The department shall have fifteen days from its receipt of the reasons for dispute to notify the agency of its decision. If the department and the agency do not agree on a resolution, the secretary of finance and administration shall make a determination on the amount owed by the agency to the department. If the agency has not paid the department or notified the department of a dispute within thirty days of receipt of the invoice, the department shall notify the department of finance and administration and request that the department of finance and administration transfer funds from the agency to the department of information technology to satisfy the agency's obligation.

G. The secretary, as chief information officer, shall prepare a state information technology strategic plan for the executive branch and update it at least once every three years, which plan shall be available to agencies by July 31 of each year. The plan shall comply with the provisions of the Department of Information Technology Act and provide for the:

(1) interchange of information related to information technology among executive agencies;

(2) coordination among executive agencies in the development and maintenance of information technology systems;

(3) protection of the privacy and security of individual information as well as of individuals using the state's information technology systems;

(4) development of a statewide broadband network plan in conjunction with the public education department, the higher education department, state universities, other educational institutions, the public school capital outlay council, political subdivisions of the state, Indian nations, tribes and pueblos, the public regulation commission and telecommunication network service providers; and

(5) coordination and aggregation of services where feasible for entities as provided for in Section 9-27-20 NMSA 1978 and other publicly funded entities.

H. 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 or those of an administratively attached office or public body.

I. Where information technology functions of executive agencies overlap or a function assigned to one agency could better be performed by another agency, the secretary may recommend appropriate legislation to the next session of the legislature for its approval.

J. Pursuant to the State Rules Act and rules promulgated pursuant to that act, the secretary may make and adopt such reasonable procedural rules as may be necessary to carry out the duties, or relating to any matter within the oversight, of the department and its administratively attached offices or public bodies, divisions and requirements and standards for the executive branch's information technology needs, functions, systems and resources, including:

- (1) information technology security;
- (2) approval for procurement of information technology not in conflict with the Procurement Code that exceeds an amount set by rule;
- (3) detail and format for the agency information technology plan;
- (4) acquisition, licensing and sale of information technology; and
- (5) requirements for agency information technology projects and related plan, analysis, oversight, assessment and specifications.

K. 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, 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 an advance notice of hearing. Rules shall be filed in accordance with the State Rules Act."

## **Chapter 132 Section 3 Laws 2023**

SECTION 3. Section 9-27-7 NMSA 1978 (being Laws 2007, Chapter 290, Section 7, as amended) is amended to read:

"9-27-7. INFORMATION TECHNOLOGY RATE COMMITTEE--MEMBERSHIP--DUTIES.--

A. The "information technology rate committee" is created. The committee consists of seven members as follows:

- (1) five members appointed by the governor from executive agencies that use information technology services and pay rates to an internal service fund;

(2) the secretary of finance and administration, who shall serve as chair of the committee; and

(3) the secretary of information technology.

B. The information technology rate committee shall:

(1) review the rate and fee schedule proposed by the secretary;

(2) ensure that the rate and fee schedule complies with the federal office of management and budget circular A-87 or its successor directive with respect to rates for expenditure of money from federal grant awards;

(3) consider for approval an equitable rate and fee schedule based on cost recovery for state agencies that use information technology services and pay rates to an internal service fund, with priority service to public safety agencies;

(4) present the committee's proposed rate and fee schedule by June 1 of each year to the office of the governor, the department of finance and administration and the legislative finance committee; and

(5) by July 15 of each year, implement a rate and fee schedule based on the committee's recommendations; provided, however, that a reduction in rates or fees by the department shall not require the committee's approval if the reduction is based on cost recovery and if the committee is notified timely."

## **Chapter 132 Section 4 Laws 2023**

SECTION 4. Section 9-27-15 NMSA 1978 (being Laws 1997, Chapter 263, Section 1, as amended by Laws 2007, Chapter 288, Section 2 and by Laws 2007, Chapter 290, Section 15) is amended to read:

"9-27-15. LEASE OF RADIO COMMUNICATIONS NETWORK--CONDITIONS AND REQUIREMENTS.--In exercising supervisory control pursuant to Section 9-27-14 NMSA 1978, the department may lease to a private entity excess capacity relating to the provision of two-way radio services on its radio communications property, including buildings, towers or antennas, provided that:

A. the lease is for an equivalent value exchange of money or property or services;

B. the secretary certifies that the excess capacity will be available for at least the duration of the lease;

C. if the lease exceeds ten years, the lease is first approved by the state board of finance;

D. the department has submitted to the legislative finance committee a detailed plan for the use of excess capacity being leased and an assessment of how the lease will affect public sector uses and local telecommunication service providers; and

E. income from the leases shall be deposited to the credit of the department and used to carry out the duties of the department."

## **Chapter 132 Section 5 Laws 2023**

SECTION 5. Section 9-27-20 NMSA 1978 (being Laws 1963, Chapter 181, Section 1, as amended) is repealed and a new Section 9-27-20 NMSA 1978 is enacted to read:

"9-27-20. TELECOMMUNICATIONS--DUTIES.--

A. The department shall enter into necessary agreements to provide, where feasible, a telecommunication network and related facilities to all executive, legislative and judicial branches and may, when capacity exists and it is economical, provide a telecommunication network and related facilities to educational institutions and other entities, with a preference to public entities.

B. The department may, in compliance with the Procurement Code, establish price agreements with vendors for information technology goods and services. Any public body may directly procure goods or services offered under a department-placed price agreement other than a price agreement for an enterprise service administered by the department.

C. On July 1, 2023, and on July 1 of each subsequent year, the department shall provide a catalog listing the information technology goods and services it has available to offer with the approved rates.

D. Subject to capacity after meeting requirements of agency customers, the department may offer catalog goods and services to non-agency customers. The department may require a non-agency customer to comply with all rules and guidance applicable to the department-provided good or service but shall not require a non-agency customer to comply with any other law administered by the department unless otherwise provided by law."

## **Chapter 132 Section 6 Laws 2023**

SECTION 6. Section 9-27-26 NMSA 1978 (being Laws 2017, Chapter 7, Section 9) is amended to read:

"9-27-26. INDIAN NATIONS, TRIBES AND PUEBLOS--AGENCY-OWNED OR - OPERATED BROADBAND NETWORK--STATEWIDE BROADBAND--RIGHT-OF-WAY AGREEMENT AND SERVICE AGREEMENT.--Indian nations, tribes and pueblos may

connect to an agency-owned or -operated statewide broadband network in exchange for a mutually agreed upon right-of-way agreement or a service agreement with the chief information officer. The chief information officer shall apply for reimbursements from the federal universal service fund pursuant to Section 254 of the federal Telecommunications Act of 1996, 47 U.S.C. 254, as such section existed on January 1, 2006, on behalf of Indian nations, tribes and pueblos that execute a right-of-way agreement or service agreement."

## **Chapter 132 Section 7 Laws 2023**

SECTION 7. Section 63-9J-2 NMSA 1978 (being Laws 2021, Chapter 123, Section 2) is amended to read:

"63-9J-2. DEFINITIONS.--As used in the Broadband Access and Expansion Act:

A. "broadband infrastructure" means facilities and equipment used to provide internet service, excluding telecommunications equipment owned, controlled or operated by a public or private end user;

B. "broadband office" means the office of broadband access and expansion;

C. "department", unless otherwise specified, means the department of information technology;

D. "director" means the director of the broadband office;

E. "end user" means an individual, business, institution or governmental entity that subscribes to an internet service and does not resell that service to other individuals or entities;

F. "facilities-based provider" means a provider of internet service to end users in New Mexico using facilities that satisfy any of the following criteria:

(1) physical facilities that the entity owns and that terminate at the end user premises;

(2) facilities that the entity has obtained the right to use from other entities, such as dark fiber or satellite transponder capacity as part of its own network, or has obtained;

(3) unbundled network element loops, special access lines or other leased facilities that the entity uses to complete terminations to the end user premises;

(4) wireless spectrum for which the entity holds a license or that the entity manages or has obtained the right to use via a spectrum leasing arrangement or comparable arrangement pursuant to federal regulations promulgated pursuant to the

federal Communications Act of 1934, as amended, or upon subsequent amendment or repeal of that act, by the broadband office by rule; or

(5) unlicensed spectrum;

G. "internet" means a global set of computing and electronic devices interconnected through networking infrastructures to provide data and information sharing and communication facilities;

H. "local government" means the government of a municipality, county or political subdivision of the state;

I. "open access" means equal nondiscriminatory access to the state-owned broadband network by eligible entities on a technologically and competitively neutral basis, regardless of whether the entity is privately or publicly owned;

J. "public educational institution" means a public school, a school district, a public post-secondary educational institution or an agency that provides administrative, funding or technical support to public schools, school districts and public post-secondary educational institutions;

K. "quality of service" means the standards established by the federal communications commission;

L. "state-owned broadband network" means the state-owned broadband infrastructure that is owned, leased or operated by the department;

M. "statewide broadband plan" means a plan, including recommended statutory changes and implementation procedures, for the development and expansion of broadband infrastructure and services throughout the state to meet the needs:

(1) for the delivery of internet-based educational, medical and emergency services;

(2) for local and tribal communities to foster and recruit internet-reliant business and industry and to promote economic development and job creation; and

(3) to support internet-reliant state, local and tribal government functions and facilitate the delivery of governmental services in a manner that is competitive with similar government agencies in neighboring states;

N. "underserved" means an area or property that does not have access to internet service offering speeds greater than one hundred megabits downstream and twenty megabits upstream; and

O. "unserved" means an area or property that either does not have access to internet service at all or only has access to internet service offering speeds below twenty-five megabits per second downstream or three megabits per second upstream."

## **Chapter 132 Section 8 Laws 2023**

SECTION 8. Section 63-9J-3 NMSA 1978 (being Laws 2021, Chapter 123, Section 3) is amended to read:

"63-9J-3. OFFICE OF BROADBAND ACCESS AND EXPANSION CREATED--  
DIRECTOR--STANDARDS--DATA COLLECTION--STATEWIDE BROADBAND PLAN--  
ASSISTANCE FOR POLITICAL SUBDIVISIONS.--

A. The "office of broadband access and expansion" is created and is administratively attached to the department.

B. The broadband office shall be managed by the director, who shall be appointed by the governor. The director may hire staff as needed to meet the responsibilities of the broadband office.

C. The broadband office shall:

(1) establish by rule standards for quality of service for homes, businesses and public institutions;

(2) create and maintain an official, publicly accessible online New Mexico broadband access map showing broadband availability and quality of service for homes, businesses and public institutions on a county-by-county basis; and

(3) create and maintain a repository for broadband data and information in New Mexico on a county-by-county basis, including:

(a) the number of homes and businesses that do not have access to broadband service;

(b) the number of homes and businesses that have broadband service that falls below the quality of service standards established by the broadband office; and

(c) the locations of broadband infrastructure currently owned or projected for construction by the state or local governments on a county-by-county basis.

D. On or before January 1, 2022, the broadband office shall develop and provide to the governor and the legislature a three-year statewide broadband plan.

E. On or before January 1, 2023, and on or before January 1 of each year thereafter, the broadband office shall update and revise the statewide broadband plan developed pursuant to this section for the ensuing three years and report the updated and revised statewide broadband plan to the governor and the legislature. In its initial plan pursuant to Subsection D of this section and in its annual revised and updated plan pursuant to this subsection, the broadband office shall provide an assessment of broadband service across the state compared to the standards established by the various federal broadband regulatory and assistance programs.

F. In the development of the statewide broadband plan, the broadband office shall request advice and provide opportunities for meaningful input from each local and tribal government within New Mexico, and all state agencies and public educational institutions shall cooperate with and provide relevant broadband-related information collected or developed by the agencies as requested by the broadband office.

G. The broadband office shall implement the statewide broadband plan.

H. The broadband office shall provide technical and planning assistance to local governments, public educational institutions and state agencies in the design, development or implementation of their own plans for the development of broadband service. When providing planning and technical assistance, the broadband office shall encourage the use of regional planning and may provide planning and technical assistance to tribal government agencies and schools when those entities are participants in a joint powers agreement with a county, municipality, political subdivision, public educational institution or agency or memorandum of understanding for the design, development or implementation of a regional broadband plan.

I. The broadband office may form an advisory committee comprising representatives of state, local and tribal government agencies and the general public to facilitate the collection of information and the development of proposals for the statewide broadband plan; provided that if an advisory committee is formed, at least three different tribal agencies shall be represented on the committee.

J. In furtherance of statewide broadband planning, all facilities-based providers shall report semiannually to the broadband office the same data in the same format that is reported to the federal communications commission pursuant to federal law governing data submitted for broadband mapping. The reports shall be submitted each year on or before April 1, with regard to data existing as of December 31 of the prior year, and on or before October 1, with regard to data existing as of June 30 of the then current year. All information reported by a facilities-based provider pursuant to this subsection shall be maintained as confidential information by the broadband office in accordance with applicable state or federal law.

K. The reporting requirements set forth in Subsection J of this section do not apply to tribal corporations federally chartered by the bureau of Indian affairs.

L. The broadband office may adopt rules requiring facilities-based providers to report data in addition to the data required pursuant to Subsection J of this section; provided that no such rule shall require a facilities-based provider to report any such data more frequently than twice per year."

## **Chapter 132 Section 9 Laws 2023**

SECTION 9. Section 63-9J-4 NMSA 1978 (being Laws 2021, Chapter 123, Section 4) is amended to read:

### **"63-9J-4. COORDINATION OF STATE AND LOCAL GOVERNMENT BROADBAND EFFORTS.--**

A. The broadband office shall identify federal and nongovernmental broadband funding assistance opportunities for local governments, public educational institutions, state agencies and tribal governments and shall publish a list of those opportunities in a manner that can be searched on a county-by-county basis.

B. The broadband office may be the applicant for such funding assistance for all state agencies except the department of transportation.

C. State agencies and public educational institutions shall coordinate with the broadband office concerning the purchase of broadband infrastructure and services with the goal of obtaining best-value or bulk pricing agreements where practicable.

D. The broadband office shall coordinate with and may enter into memoranda of understanding with federal, local government, state and tribal government agencies to create an integrated system of permits, licenses and rules for broadband infrastructure across all governmental jurisdictions within each region of the state, including the creation of a centralized repository, and an expedited review process for rights of way use applications, with the goal of creating uniform coordinated permitting and licensing requirements statewide. The broadband office shall develop proposals for government agencies at the local, county and state levels to build and pay for broadband networks, upon request for such assistance.

E. The broadband office shall advise and make recommendations to the department regarding proposals to use the state-owned broadband network for the purpose of connecting unserved and underserved populations of the state to internet service on the basis of open access that supports objectives of the state broadband plan; provided that:

(1) the department may lease a portion of the state-owned broadband network or provide internet service to a facilities-based provider that offers fixed wire broadband to end users in the state pursuant to the following conditions:

(a) the lease or internet service agreement shall allow the deployment of internet service to an area in which at least fifty percent of the residential and business locations are underserved or unserved;

(b) the broadband office shall post a notice on its website at least forty-five days prior to the execution of the lease or internet service agreement. The notice shall include: 1) the name of the facilities-based provider with which the department intends to enter into the lease or internet service agreement; 2) a statement describing the boundaries of the geographical area that will be served under the terms of the lease or internet service agreement; 3) the specifications of the broadband infrastructure or internet service that will be the subject of the lease or internet service agreement; and 4) the price upon which the lease or internet service agreement shall be offered by the department;

(c) within the forty-five-day posting period required by Subparagraph (b) of this paragraph, no private facilities-based provider has notified the broadband office in writing that it can provide the same broadband infrastructure or internet service identified in the notice, as applicable, at a price that does not exceed one hundred ten percent of the price being offered by the department; and

(d) if the lease exceeds ten years, the lease is first approved by the state board of finance;

(2) the department may sell or otherwise transfer ownership of a portion of the state-owned broadband network pursuant to existing state law regarding the sale or disposition of such property; provided that the department and any successor in interest shall not transfer ownership of any portion of the state-owned broadband network to any wholly private entity for at least twenty years after construction of the broadband infrastructure to be sold was completed;

(3) the department shall not sell or otherwise deliver internet service directly to a nongovernmental end user; and

(4) the department shall adopt and implement rules to govern the lease or sale of state-owned broadband network capacity to the private sector. The rules shall include processes that will enable a facilities-based provider to challenge a determination that an area is eligible to receive state-owned broadband network capacity."

## **Chapter 132 Section 10 Laws 2023**

SECTION 10. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# LAWS 2023, CHAPTER 133

Senate Bill 471, w/ec  
Approved April 4, 2023

AN ACT

RELATING TO HEALTH CARE; AMENDING THE END-OF-LIFE OPTIONS ACT TO CLARIFY THAT HEALTH CARE PROVIDERS ARE ABLE TO REFUSE TO PARTICIPATE IN MEDICAL AID IN DYING FOR REASONS OF CONSCIENCE; DECLARING AN EMERGENCY.

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

## Chapter 133 Section 1 Laws 2023

SECTION 1. Section 24-7C-1 NMSA 1978 (being Laws 2021, Chapter 132, Section 1) is amended to read:

"24-7C-1. SHORT TITLE.--Chapter 24, Article 7C NMSA 1978 may be cited as the "End-of-Life Options Act" or the "Elizabeth Whitefield End-of-Life Options Act"."

## Chapter 133 Section 2 Laws 2023

SECTION 2. Section 24-7C-7 NMSA 1978 (being Laws 2021, Chapter 132, Section 7) is amended to read:

"24-7C-7. IMMUNITIES--CONSCIENCE-BASED DECISIONS.--

A. A person shall not be subject to criminal liability, licensing sanctions or other professional disciplinary action for:

(1) participating in medical aid in dying in good faith compliance with the provisions of the End-of-Life Options Act;

(2) being present when a qualified patient self-administers the prescribed medical aid in dying medication to end the qualified individual's life in accordance with the provisions of the End-of-Life Options Act; or

(3) refusing, for reasons of conscience, to participate in medical aid in dying in any way, which includes refusing to provide information on medical aid in dying to a patient and refusing to refer a patient to any entity or individual who is able and willing to assist the patient in obtaining medical aid in dying.

B. A health care entity, health insurer, managed care organization or health care provider shall not subject a person to censure, discipline, suspension, loss or denial of license, credential, privileges or membership or other penalty for participating, or refusing to participate, in the provision of medical aid in dying in good faith compliance with the provisions of the End-of-Life Options Act.

C. No health care provider who objects for reasons of conscience to participating in the provision of medical aid in dying shall be required to participate in the provision of medical aid in dying under any circumstance. If a health care provider is unable or unwilling to carry out an individual's request pursuant to the End-of-Life Options Act, that health care provider shall so inform the individual and refer the individual to a health care provider who is able and willing to carry out the individual's request or to another individual or entity to assist the requesting individual in seeking medical aid in dying. If the health care provider transfers the individual's care to a new health care provider, the prior health care provider shall transfer, upon request, a copy of the individual's relevant medical records to the new health care provider.

D. A health care entity shall not forbid or otherwise sanction a health care provider who provides medical aid in dying in accordance with the End-of-Life Options Act off the premises of the health care entity or when the health care provider is not acting within the normal course and scope of the health care provider's employment with the health care entity.

E. A health care entity may sanction a health care provider for participating in medical aid in dying on the premises of the prohibiting health care entity only if the health care entity has given written notice to the health care provider of the prohibiting entity's written policy forbidding participation in medical aid in dying and the health care provider participates in medical aid in dying:

- (1) on the premises of the health care entity; or
- (2) within the course and scope of the health care provider's employment for the health care entity.

F. Nothing in this section shall be construed to prevent:

- (1) a health care provider from participating in medical aid in dying while the health care provider is acting outside the health care entity's premises or outside the course and scope of the health care provider's capacity as an employee; or
- (2) an individual who seeks medical aid in dying from contracting with the individual's prescribing health care provider or consulting health care provider to act outside the course and scope of the provider's affiliation with the sanctioning health care entity.

G. A health care entity that imposes sanctions on a health care provider pursuant to the End-of-Life Options Act shall act reasonably, both substantively and procedurally, and shall be neither arbitrary nor capricious in its imposition of sanctions.

H. Participating, or not participating, in medical aid in dying shall not be the basis for a report of unprofessional conduct.

I. A health care entity that prohibits medical aid in dying shall accurately and clearly articulate this in an appropriate location on any website maintained by the entity and in any appropriate materials given to patients to whom the health care entity provides health care in words to be determined by the health care entity."

### **Chapter 133 Section 3 Laws 2023**

SECTION 3. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

## **LAWS 2023, CHAPTER 134**

**HJC/House Bill 15, aa, w/ec**  
**Approved April 5, 2023**

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE; ENACTING THE SPECIAL IMMIGRANT JUVENILE CLASSIFICATION ACT; PROVIDING FOR JURISDICTION OF SPECIAL IMMIGRANT JUVENILE CLASSIFICATION; DECLARING AN EMERGENCY.

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

### **Chapter 134 Section 1 Laws 2023**

SECTION 1. A new section of Chapter 40 NMSA 1978 is enacted to read:

"SHORT TITLE.--This act may be cited as the "Special Immigrant Juvenile Classification Act"."

### **Chapter 134 Section 2 Laws 2023**

SECTION 2. A new section of Chapter 40 NMSA 1978 is enacted to read:

"DEFINITIONS.--As used in the Special Immigrant Juvenile Classification Act:

A. "abandoned child" means a child who is left without provision for reasonable and necessary care or supervision;

B. "abused child" means a child:

(1) who has suffered or who is at risk of suffering serious harm because of the action or inaction of the child's parent, guardian or custodian;

(2) who has suffered physical abuse, emotional abuse or psychological abuse inflicted or caused by the child's parent, guardian or custodian;

(3) who has suffered sexual abuse or sexual exploitation inflicted by the child's parent, guardian or custodian;

(4) whose parent, guardian or custodian has knowingly, intentionally or negligently placed the child in a situation that may endanger the child's life or health; or

(5) whose parent, guardian or custodian has knowingly or intentionally tortured, cruelly confined or cruelly punished the child;

C. "child" means any unmarried, foreign-born person under the age of twenty-one;

D. "court" means any court in this state with jurisdiction to make decisions concerning the protection, well-being, care or custody of a child;

E. "dependent on the court" means subject to the jurisdiction of a court competent to make decisions concerning the protection, well-being, care and custody of a child, to make findings and issue orders or referrals to support the health, safety and welfare of a child or to remedy the effects on a child of abuse, neglect, abandonment or similar circumstances;

F. "neglected child" means a child:

(1) who has been abandoned by the child's parent, guardian or custodian;

(2) who is without proper parental care and control or subsistence, education, medical or other care or control necessary for the child's well-being because of the faults or habits of the child's parent, guardian or custodian or the failure or refusal of the parent, guardian or custodian, when able to do so, to provide them;

(3) who has been physically or sexually abused, when the child's parent, guardian or custodian knew or should have known of the abuse and failed to take reasonable steps to protect the child from further harm;

(4) whose parent, guardian or custodian is unable to discharge that person's responsibilities to and for the child because of incarceration, hospitalization or physical or mental disorder or incapacity; or

(5) who has been placed for care or adoption in violation of the law; provided that nothing in the Special Immigrant Juvenile Classification Act shall be construed to imply that a child who is being provided with treatment by spiritual means alone through prayer, in accordance with the tenets and practices of a recognized church or religious denomination, by a duly accredited practitioner thereof is for that reason alone a neglected child within the meaning of the Special Immigrant Juvenile Classification Act; and further provided that no child shall be denied the protection afforded to all children under any other provision of law; and

G. "similar circumstances" means a similar basis under state law that demonstrates similar harm or effects of those of an abused child, neglected child or abandoned child, including but not limited to the death of a parent, deportation of a parent or incarceration of a parent."

### **Chapter 134 Section 3 Laws 2023**

SECTION 3. A new section of Chapter 40 NMSA 1978 is enacted to read:

"APPLICATIONS AND PETITIONS FOR CLASSIFICATION AS A SPECIAL IMMIGRANT JUVENILE.--

A. A request may be made by a petitioner pursuant to this section for classification as a special immigrant juvenile as provided in 8 U.S.C. Section 1101(a)(27)(J), in conjunction with a petition for any determination on the care and custody of a child.

B. The application or petition for classification as a special immigrant juvenile shall set forth the facts necessary to establish eligibility pursuant to this section."

### **Chapter 134 Section 4 Laws 2023**

SECTION 4. A new section of Chapter 40 NMSA 1978 is enacted to read:

"JURISDICTION OF THE COURT--STANDARDS--PROCEDURES.--

A. The court has jurisdiction to make findings of fact and determinations of law in the best interests of the child for classification as a special immigrant juvenile pursuant to 8 U.S.C. Section 1101(a)(27)(J) in all matters and proceedings that involve an abused child, a neglected child or an abandoned child, including but not limited to child custody, guardianship and abuse and neglect proceedings.

B. A court acting pursuant to the Special Immigrant Juvenile Classification Act acts as a juvenile court as defined in 8 C.F.R. Section 204.11(a).

C. Upon review of an application or petition for classification as a special immigrant juvenile pursuant to 8 U.S.C. Section 1101(a)(27)(J), supporting affidavits and any other evidence, the court shall issue findings of fact and rulings of law to determine whether:

(1) the child is dependent on the court;

(2) the child is an abused child, neglected child or abandoned child or has suffered similar circumstances;

(3) the child may not be viably reunified with one or both of the child's parents because the child is an abused child, neglected child or abandoned child or has suffered similar circumstances; and

(4) it is not in the child's best interests to be returned to the child's or parent's country of nationality or country of last habitual residence.

D. A court shall hear and adjudicate an application or petition and issue findings of fact and rulings of law as soon as it is administratively feasible but before the child reaches the age of twenty-one.

E. Nothing in the Special Immigrant Juvenile Classification Act shall preclude the district court from issuing findings of fact and rulings of law similar to the provisions of Subsection C of this section in any other proceeding."

## **Chapter 134 Section 5 Laws 2023**

SECTION 5. APPLICABILITY.--The provisions of this act shall apply retroactively to any child deemed by a state court order to be an abused child, neglected child or abandoned child from the time the child received the order; provided that the petition is subject to denial or revocation by a federal immigration agency based on the child's dependency status or age when the special findings were issued.

## **Chapter 134 Section 6 Laws 2023**

SECTION 6. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

# **LAWS 2023, CHAPTER 135**

**House Bill 35, aa**

**Approved April 5, 2023**

## AN ACT

RELATING TO FAMILIES; PROVIDING TO FOSTER FAMILIES, ENROLLEES OF THE FOSTERING CONNECTIONS PROGRAM AND CHILDREN IN THE CUSTODY OF THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT FREE CAMPING PASSES AND FISHING LICENSES; PROVIDING TO ENROLLEES OF THE FOSTERING CONNECTIONS PROGRAM AND CHILDREN IN THE CUSTODY OF THE CHILDREN, YOUTH AND FAMILIES DEPARTMENT FREE ADMISSION TO STATE-OWNED MUSEUMS AND STATE PARKS.

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

### **Chapter 135 Section 1 Laws 2023**

SECTION 1. Section 32A-3A-12 NMSA 1978 (being Laws 2019, Chapter 132, Section 1) is amended to read:

"32A-3A-12. FOSTER FAMILIES--FREE ADMISSION TO MUSEUMS AND STATE PARKS--CAMPING PASSES--FISHING LICENSES.--

A. As provided in Subsection B of this section, foster parents and children in the custody of foster parents, young adults enrolled in the fostering connections program and children who are in the custody of the children, youth and families department or in tribal custody, who are residents of the state, shall be provided for free:

- (1) admission to state-owned museums and state parks;
- (2) a camping pass for up to three consecutive nights of overnight access to a state park; and
- (3) a fishing license.

B. Eligibility for free admission shall be contingent on demonstration of proof of identity, residency and status as a foster parent, child in the custody of a foster parent, young adult enrolled in the fostering connections program or child in the custody of the children, youth and families department or in tribal custody in accordance with rules of the:

- (1) cultural affairs department, for free day-use admission to state-owned museums;
- (2) energy, minerals and natural resources department, for free day-use admission and camping passes to state parks; or
- (3) state game commission, for fishing licenses."

# LAWS 2023, CHAPTER 136

House Bill 40, aa  
Approved April 5, 2023

AN ACT

RELATING TO MOTOR VEHICLES; CREATING THE NONTRADITIONAL COMMUNICATION OR DISABILITY REGISTRY; REQUIRING PEACE OFFICERS WHILE ENFORCING TRAFFIC LAWS TO, IF PRACTICABLE, DETERMINE WHETHER A MOTOR VEHICLE IS IN THE NONTRADITIONAL COMMUNICATION OR DISABILITY REGISTRY.

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

## Chapter 136 Section 1 Laws 2023

SECTION 1. A new section of the Motor Vehicle Code is enacted to read:

"NONTRADITIONAL COMMUNICATION OR DISABILITY REGISTRY--  
INCLUSION IN VEHICLE RECORD SYSTEM AND NATIONAL CRIME INFORMATION CENTER SYSTEM.--

A. The department shall create and maintain a statewide registry referred to as the "nontraditional communication or disability registry" to identify motor vehicles that may be driven or occupied by a person who has a medical diagnosis by a licensed health practitioner of a condition or disability that may cause the person to fail to be able to communicate with a peace officer or to respond appropriately to a peace officer's commands, including an autism spectrum disorder, deafness, a brain injury, an intellectual disability, a behavioral health disorder, dementia or a seizure disorder. The registry shall cite all of the conditions and disabilities associated with the drivers and occupants of a particular motor vehicle. The department shall provide online internet access to the registry to peace officers. The registry shall not be made available to the public and is exempt from disclosure pursuant to the Inspection of Public Records Act.

B. The department shall include in its electronic motor vehicle record management system a data field indicating that a motor vehicle is in the nontraditional communication or disability registry and a link to the registry. The department shall share this data with the department of public safety, which shall include it in the national crime information center system for peace officers to view when enforcing the law."

## Chapter 136 Section 2 Laws 2023

SECTION 2. A new section of Chapter 29, Article 1 NMSA 1978 is enacted to read:

"CONSULT NONTRADITIONAL COMMUNICATION OR DISABILITY REGISTRY.--Prior to interacting with a driver or occupant of a motor vehicle, every peace officer shall, if practicable, consult the national crime information center system or other electronic motor vehicle record management system to determine if the motor vehicle is on the nontraditional communication or disability registry, and if the motor vehicle is on the registry, take appropriate safety precautions during the interaction. If the registry reveals that a driver or occupant of the motor vehicle has a seizure disorder that may be triggered by flashing lights, including photosensitive epilepsy, the peace officer shall minimize the use of flashing lights to the extent feasible, taking safety into consideration."

## **Chapter 136 Section 3 Laws 2023**

SECTION 3. Section 66-3-4 NMSA 1978 (being Laws 1978, Chapter 35, Section 24, as amended) is amended to read:

"66-3-4. APPLICATION FOR REGISTRATION AND CERTIFICATE OF TITLE--NONREPAIRABLE VEHICLE CERTIFICATE.--

A. Except for a vehicle owned by a carrier that is from a jurisdiction that is not a participant in the International Fuel Tax Agreement, that is authorized by the United States government or an agency of the United States government to conduct cross-border operations beyond the commercial border zone pursuant to the provisions of the United States-Mexico-Canada Agreement Implementation Act and that identifies New Mexico as the carrier's base jurisdiction, every owner of a vehicle of a type required to be registered in this state shall make application to the division for the registration and issuance of a certificate of title for the vehicle. Applications shall be upon the appropriate forms furnished by the division and shall bear the signature of the owner; provided that the signature may either be made using an electronic signature in conformance with the Electronic Authentication of Documents Act and the Uniform Electronic Transactions Act or written with pen and ink. All applications presented to the division shall contain:

(1) for a vehicle other than a recreational vehicle, the name, bona fide New Mexico residence address and mail address of the owner or, if the owner is a firm, association or corporation, the name, bona fide New Mexico business address and mail address of the firm, association or corporation and for a recreational vehicle, the name, bona fide residence address and mail address of the owner and proof of delivery in New Mexico;

(2) a description of the vehicle, including, to the extent that the following specified data may exist with respect to a given vehicle, the make, model, type of body, number of cylinders, type of fuel used, serial number of the vehicle, odometer reading, engine or other identification number provided by the manufacturer of the vehicle, whether new or used, and, if a vehicle not previously registered, date of sale by the manufacturer or dealer to the person intending to operate the vehicle. In the event a

vehicle is designed, constructed, converted or rebuilt for the transportation of property, the application shall include a statement of its rated capacity as established by the manufacturer of the chassis or the complete vehicle;

(3) a statement of the applicant's title and of all liens or encumbrances upon the vehicle and the names and addresses of all persons having an interest in the vehicle, the nature of each interest and the name and address of the person to whom the certificate of title shall be delivered by the division;

(4) a space to allow the applicant the option of adding the applicant's vehicle to the nontraditional communication or disability registry; provided that the applicant submits evidence satisfactory to the division that the vehicle will regularly be driven or occupied by a person who has a medical diagnosis by a licensed health practitioner of a condition or disability that may cause the person to fail to be able to communicate with a peace officer or to respond appropriately to a peace officer's commands, including an autism spectrum disorder, deafness, a brain injury, an intellectual disability, a behavioral health disorder, dementia or a seizure disorder;

(5) if the vehicle required to be registered is a house trailer, as defined in the Motor Vehicle Code, a certificate from the treasurer or assessor of the county in which the house trailer is located showing that either:

(a) all property taxes due or to become due on the house trailer for the current tax year or any past tax years have been paid; or

(b) no liability for property taxes on the house trailer exists for the current year or any past tax years; and

(6) further information as may reasonably be required by the division to enable it to determine whether the vehicle is lawfully entitled to registration and the owner entitled to a certificate of title.

B. The owner of a vehicle subject to registration that has never been registered in this state and that has been registered in another state, except manufactured homes, shall have the vehicle examined and inspected for its identification number or engine number by the division or an officer or a designated agent of the division incident to securing registration, reregistration or a certificate of title from the division.

C. When an application refers to a vehicle not previously registered and the vehicle is purchased from a dealer licensed in this state or a dealer licensed or recognized as such in any other state, territory or possession of the United States, the application shall be accompanied by a manufacturer's certificate of origin duly assigned by the dealer to the purchaser. In the event that a vehicle not previously registered is sold by the manufacturer to a dealer in a state not requiring a manufacturer's certificate of origin and in the event that the vehicle is subsequently purchased by a dealer or any

person in this state, the application for title shall be accompanied by the evidence of title accepted by the state in which the vehicle was sold by the manufacturer to a dealer in that state together with evidence of subsequent transfers.

D. Prior to the sale or disposal of a nonrepairable vehicle, the owner, owner's agent or salvage pool shall obtain a properly endorsed nonrepairable vehicle certificate from the department and deliver it to the purchaser within twenty days after payment in full for the nonrepairable vehicle and shall also comply with Section 66-3-10.1 NMSA 1978. The department shall accept the endorsed nonrepairable vehicle certificate in lieu of the certificate of ownership or other evidence of ownership when accompanied by an application and other documents and fees as may be required by the department. A vehicle for which a nonrepairable vehicle certificate has been issued shall not be titled or registered for use on the highways of this state.

E. If an insurance company makes a total loss settlement on a nonrepairable vehicle and takes possession of that vehicle, either itself or through an agent or salvage pool, the insurance company or an authorized agent of the insurance company shall:

(1) stamp the face of the title or manufacturer's certificate of origin with the word "NONREPAIRABLE", in letters no less than one-half inch high, at an angle of approximately forty-five degrees to the text of the title or manufacturer's certificate of origin; and

(2) within twenty days after receipt of title by the insurer, free and clear of all liens, submit a copy of the branded title or manufacturer's certificate of title to the department together with documents explaining the reason for branding and shall forward a properly endorsed certificate of title or manufacturer's certificate of origin or other evidence of ownership acceptable to the department together with the proper fee to the department. The department, upon receipt of the title or manufacturer's certificate of origin or other evidence of ownership, shall issue a nonrepairable vehicle certificate for the vehicle.

F. If an owner of a nonrepairable vehicle elects to retain possession of the vehicle, the insurance company shall notify the department of the retention on a form prescribed by the department. The insurance company shall also notify the insured or owner of the insured's or owner's responsibility to comply with this section. The owner shall, within twenty days from the date of settlement of the loss, forward a properly endorsed certificate of title or manufacturer's certificate of origin or other evidence of ownership acceptable to the department together with the proper fee to the department. The department, upon receipt of the title or manufacturer's certificate of origin or other evidence of ownership, shall issue a nonrepairable vehicle certificate for the vehicle.

G. If a nonrepairable vehicle is not the subject of an insurance settlement, the owner shall, within twenty days from the date of the loss, forward a properly endorsed certificate of title or manufacturer's certificate of origin or other evidence of ownership acceptable to the department together with the proper fee to the department. The

department, upon receipt of the title or manufacturer's certificate of origin or other evidence of ownership, shall issue a nonrepairable vehicle certificate for the vehicle.

H. The department shall not issue a new registration card and certificate of ownership pursuant to Subsection A, B or C of this section on a vehicle that has been issued a nonrepairable vehicle certificate pursuant to Subsections E, F and G of this section."

## **Chapter 136 Section 4 Laws 2023**

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2024.

# **LAWS 2023, CHAPTER 137**

**HFL/House Bill 62, aa**  
**Approved April 5, 2023**

## **AN ACT**

RELATING TO MOTOR VEHICLES; LIMITING THE LOCATIONS WHERE A MOTOR VEHICLE MAY BE SOLD OR OFFERED FOR SALE; PROHIBITING THE SALE OF A MOTOR VEHICLE BY A NON-OWNER WHO IS NOT A MOTOR VEHICLE DEALER.

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

## **Chapter 137 Section 1 Laws 2023**

SECTION 1. Section 66-3-126 NMSA 1978 (being Laws 1987, Chapter 250, Section 2) is amended to read:

"66-3-126. CASUAL SALES--REGISTRATION--PENALTY.--

A. Unless a person is a motor vehicle dealer or the holder of a security interest filed pursuant to Section 66-3-201 NMSA 1978, before the person attempts to sell a used motor vehicle, the person shall legally possess the title to the used motor vehicle.

B. Any person who violates any provision of this section is guilty of a misdemeanor and shall be punished by a fine of three hundred dollars (\$300) or by imprisonment for not less than thirty days or both."

## **Chapter 137 Section 2 Laws 2023**

SECTION 2. Section 66-4-2.2 NMSA 1978 (being Laws 2007, Chapter 319, Section 41) is amended to read:

"66-4-2.2. OFF-SITE SALES.--

A. Except as otherwise provided in this section, a New Mexico licensed dealer or the holder of a security interest filed pursuant to Section 66-3-201 NMSA 1978 shall not sell a vehicle or offer a motor vehicle for sale at a location other than the licensed dealer's established place of business, as defined in Section 66-1-4.5 NMSA 1978; provided that for purposes of this subsection, a vehicle shall not be deemed offered for sale at a location other than the licensed dealer's established place of business if the vehicle is in use for a purpose other than to sell or offer the vehicle for sale.

B. A New Mexico licensed dealer, before offering a vehicle or vessel for sale at a temporary off-site location, shall apply to the department for and obtain an off-site permit. No off-site permit shall be issued to a New Mexico licensed dealer, other than a dealer in motorcycles only, for a temporary off-site location unless the dealer:

(1) documents to the satisfaction of the department that the dealer has offered the majority of dealers, other than dealers in motorcycles only, in the county in which the proposed temporary off-site location would be located, the opportunity to offer vehicles or vessels for sale at the proposed temporary off-site location; provided that the offer shall be for sale of vehicles or vessels at all times during which the applicant proposes to sell vehicles or vessels and shall not be conditioned upon the payment of a fee by a dealer to whom the off-site permit is addressed that is greater than a fair share of the actual expenses; and

(2) obtains either an original rider to the dealer's existing corporate surety bond or an original corporate surety bond in compliance with the provisions of Section 66-4-7 NMSA 1978 to cover the proposed temporary off-site location and dates of sale.

C. All temporary off-site locations shall be identified by prominently displayed signs identifying the names of the New Mexico licensed dealers selling vehicles or vessels at the temporary off-site location and shall be of sufficient size or space to permit the safe display of the vehicles or vessels offered for sale."

## **Chapter 137 Section 3 Laws 2023**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# LAWS 2023, CHAPTER 138

HCPAC/House Bill 73, aa  
Approved April 5, 2023

## AN ACT

RELATING TO HEALTH INSURANCE COVERAGE; ENACTING SECTIONS OF THE HEALTH CARE PURCHASING ACT, THE PUBLIC ASSISTANCE ACT, THE NEW MEXICO INSURANCE CODE, THE HEALTH MAINTENANCE ORGANIZATION LAW AND THE NONPROFIT HEALTH CARE PLAN LAW TO REQUIRE COVERAGE OF BIOMARKER TESTING.

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

### Chapter 138 Section 1 Laws 2023

SECTION 1. A new section of the Health Care Purchasing Act is enacted to read:

"BIOMARKER TESTING INSURER COVERAGE.--

A. Group health coverage, including self-insurance, offered, issued, amended, delivered or renewed under the Health Care Purchasing Act shall provide coverage for insureds to receive biomarker testing.

B. Coverage provided pursuant to this section shall be for the purposes of diagnosis, treatment, appropriate management or ongoing monitoring of an insured's disease or condition when the test is supported by medical and scientific evidence, including:

- (1) labeled indications for a United States food and drug administration-approved or -cleared test;
- (2) indicated tests for a United States food and drug administration-approved drug;
- (3) warnings and precautions on United States food and drug administration labels;
- (4) federal centers for medicare and medicaid services national coverage determinations or medicare administrative contractor local coverage determinations; or
- (5) nationally recognized clinical practice guidelines.

C. An insurer providing coverage for biomarker testing pursuant to this section shall ensure that:

(1) coverage is provided in a manner that limits disruptions in care, including coverage for multiple biopsies or biospecimen samples; and

(2) a patient and a practitioner who prescribes biomarker testing have clear, accessible and convenient processes to request an appeal of a benefit denial by the insurer and that those processes are accessible on the insurer's website.

D. Coverage for biomarker testing may be subject to deductibles and coinsurance consistent with those imposed on other benefits under the same group health care coverage, including any form of self-insurance.

E. The provisions of this section do not apply to accident-only or limited or specified disease policies, plans or certificates of health insurance.

F. As used in this section:

(1) "biomarker" means a characteristic that is objectively measured and evaluated as an indicator of normal biological processes, pathogenic processes or pharmacologic responses to a specific therapeutic intervention, including known gene-drug interactions for medications being considered for use or already being administered. "Biomarker" includes gene mutations, characteristics of genes or protein expression;

(2) "biomarker testing" means analysis of a patient's tissue, blood or other biospecimen for the presence of a biomarker and includes single-analyte tests, multi-plex panel tests, protein expression and whole exome, whole genome and whole transcriptome sequencing; and

(3) "nationally recognized clinical practice guidelines" means evidence-based clinical practice guidelines that are:

(a) developed by independent organizations or medical professional societies using a transparent methodology and reporting structure and with a conflict-of-interest policy; and

(b) used to establish standards of care informed by a systematic review of evidence and an assessment of the benefits and risks of alternative care options and include recommendations intended to optimize patient care."

## **Chapter 138 Section 2 Laws 2023**

SECTION 2. A new section of the Public Assistance Act is enacted to read:

"BIOMARKER TESTING COVERAGE.--

A. In accordance with federal law, the secretary shall adopt and promulgate rules that provide medical assistance coverage for enrollees to receive biomarker testing.

B. A medical assistance plan providing coverage pursuant to this section shall be for the purposes of diagnosis, treatment, appropriate management or ongoing monitoring of an enrollee's disease or condition when the test is supported by medical and scientific evidence, including:

(1) labeled indications for a United States food and drug administration-approved or -cleared test;

(2) indicated tests for a United States food and drug administration-approved drug;

(3) warnings and precautions on United States food and drug administration labels;

(4) federal centers for medicare and medicaid services national coverage determinations or medicare administrative contractor local coverage determinations; or

(5) nationally recognized clinical practice guidelines.

C. Medicaid contractors delivering services to enrollees shall provide biomarker testing at the same scope, duration and frequency as the medical assistance plan otherwise provides to enrollees.

D. A medical assistance plan providing coverage for biomarker testing pursuant to this section shall ensure that:

(1) coverage is provided in a manner that limits disruptions in care, including coverage for multiple biopsies or biospecimen samples; and

(2) a patient and a practitioner who prescribes biomarker testing have clear, readily accessible and convenient processes to request an appeal of a benefit denial by the insurer and that those processes are accessible on the medical assistance division of the department's website.

E. As used in this section:

(1) "biomarker" means a characteristic that is objectively measured and evaluated as an indicator of normal biological processes, pathogenic processes or pharmacologic responses to a specific therapeutic intervention, including known gene-

drug interactions for medications being considered for use or already being administered. "Biomarker" includes gene mutations, characteristics of genes or protein expression;

(2) "biomarker testing" means analysis of a patient's tissue, blood or other biospecimen for the presence of a biomarker and includes single-analyte tests, multi-plex panel tests, protein expression and whole exome, whole genome and whole transcriptome sequencing; and

(3) "nationally recognized clinical practice guidelines" means evidence-based clinical practice guidelines that are:

(a) developed by independent organizations or medical professional societies using a transparent methodology and reporting structure and with a conflict-of-interest policy; and

(b) used to establish standards of care informed by a systematic review of evidence and an assessment of the benefits and risks of alternative care options and include recommendations intended to optimize patient care."

## **Chapter 138 Section 3 Laws 2023**

SECTION 3. A new section of Chapter 59A, Article 22 NMSA 1978 is enacted to read:

### **"BIOMARKER TESTING COVERAGE.--**

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 insureds to receive biomarker testing for the purposes of diagnosis, treatment, appropriate management or ongoing monitoring of an insured's disease or condition when the test is supported by medical and scientific evidence.

B. Coverage provided pursuant to this section shall be for the purposes of diagnosis, treatment, appropriate management or ongoing monitoring of an insured's disease or condition when the test is supported by medical and scientific evidence, including:

(1) labeled indications for a United States food and drug administration-approved or -cleared test;

(2) indicated tests for a United States food and drug administration-approved drug;

(3) warnings and precautions on United States food and drug administration labels;

(4) federal centers for medicare and medicaid services national coverage determinations or medicare administrative contractor local coverage determinations; or

(5) nationally recognized clinical practice guidelines.

C. An individual or group health policy, health care plan or certificate of health insurance providing coverage for biomarker testing pursuant to this section shall ensure that:

(1) coverage is provided in a manner that limits disruptions in care, including coverage for multiple biopsies or biospecimen samples; and

(2) a patient and a practitioner who prescribe biomarker testing have clear, accessible and convenient processes to request an appeal of a benefit denial by the insurer and that those processes are accessible on the insurer's website.

D. Coverage for biomarker testing may be subject to deductibles and coinsurance consistent with those imposed on other benefits under the same policy, plan or certificate.

E. The provisions of this section do not apply to short-term travel, accident-only or limited or specified disease policies, plans or certificates of health insurance.

F. As used in this section:

(1) "biomarker" means a characteristic that is objectively measured and evaluated as an indicator of normal biological processes, pathogenic processes or pharmacologic responses to a specific therapeutic intervention, including known gene-drug interactions for medications being considered for use or already being administered. "Biomarker" includes gene mutations, characteristics of genes or protein expression;

(2) "biomarker testing" means analysis of a patient's tissue, blood or other biospecimen for the presence of a biomarker and includes single-analyte tests, multi-plex panel tests, protein expression and whole exome, whole genome and whole transcriptome sequencing; and

(3) "nationally recognized clinical practice guidelines" means evidence-based clinical practice guidelines that are:

(a) developed by independent organizations or medical professional societies using a transparent methodology and reporting structure and with a conflict-of-interest policy; and

(b) used to establish standards of care informed by a systematic review of evidence and an assessment of the benefits and risks of alternative care options and include recommendations intended to optimize patient care."

## **Chapter 138 Section 4 Laws 2023**

SECTION 4. A new section of Chapter 59A, Article 23 NMSA 1978 is enacted to read:

### **"BIOMARKER TESTING COVERAGE.--**

A. A blanket 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 insureds to receive biomarker testing.

B. Coverage provided pursuant to this section shall be for the purposes of diagnosis, treatment, appropriate management or ongoing monitoring of an insured's disease or condition when the test is supported by medical and scientific evidence, including:

(1) labeled indications for a United States food and drug administration-approved or -cleared test;

(2) indicated tests for a United States food and drug administration-approved drug;

(3) warnings and precautions on United States food and drug administration labels;

(4) federal centers for medicare and medicaid services national coverage determinations or medicare administrative contractor local coverage determinations; or

(5) nationally recognized clinical practice guidelines.

C. A blanket or group health policy, health care plan or certificate of health insurance providing coverage for biomarker testing pursuant to this section shall ensure that:

(1) coverage is provided in a manner that limits disruptions in care, including coverage for multiple biopsies or biospecimen samples; and

(2) a patient and a practitioner who prescribes biomarker testing have clear, accessible and convenient processes to request an appeal of a benefit denial by the insurer and that those processes are accessible on the insurer's website.

D. Coverage for biomarker testing may be subject to deductibles and coinsurance consistent with those imposed on other benefits under the same policy, plan or certificate.

E. The provisions of this section do not apply to accident-only or limited or specified disease policies, plans or certificates of health insurance.

F. As used in this section:

(1) "biomarker" means a characteristic that is objectively measured and evaluated as an indicator of normal biological processes, pathogenic processes or pharmacologic responses to a specific therapeutic intervention, including known gene-drug interactions for medications being considered for use or already being administered. "Biomarker" includes gene mutations, characteristics of genes or protein expression;

(2) "biomarker testing" means analysis of a patient's tissue, blood or other biospecimen for the presence of a biomarker and includes single-analyte tests, multi-plex panel tests, protein expression and whole exome, whole genome and whole transcriptome sequencing; and

(3) "nationally recognized clinical practice guidelines" means evidence-based clinical practice guidelines that are:

(a) developed by independent organizations or medical professional societies using a transparent methodology and reporting structure and with a conflict-of-interest policy; and

(b) used to establish standards of care informed by a systematic review of evidence and an assessment of the benefits and risks of alternative care options and include recommendations intended to optimize patient care."

## **Chapter 138 Section 5 Laws 2023**

SECTION 5. A new section of the Health Maintenance Organization Law is enacted to read:

### **"BIOMARKER TESTING COVERAGE.--**

A. An individual or group health maintenance organization contract that is delivered, issued for delivery or renewed in this state shall provide coverage for eligible enrollees to receive biomarker testing.

B. Coverage provided pursuant to this section shall be for the purposes of diagnosis, treatment, appropriate management or ongoing monitoring of an enrollee's

disease or condition when the test is supported by medical and scientific evidence, including:

- (1) labeled indications for a United States food and drug administration-approved or -cleared test;
- (2) indicated tests for a United States food and drug administration-approved drug;
- (3) warnings and precautions on United States food and drug administration labels;
- (4) federal centers for medicare and medicaid services national coverage determinations or medicare administrative contractor local coverage determinations; or
- (5) nationally recognized clinical practice guidelines.

C. A health maintenance organization contract providing coverage for biomarker testing pursuant to this section shall ensure that:

- (1) coverage is provided in a manner that limits disruptions in care, including coverage for multiple biopsies or biospecimen samples; and
- (2) a patient and a practitioner who prescribes biomarker testing have clear, accessible and convenient processes to request an appeal of a benefit denial by the carrier and that those processes are accessible on the carrier's website.

D. Coverage for biomarker testing may be subject to deductibles and coinsurance consistent with those imposed on other benefits under the same contract.

E. The provisions of this section do not apply to accident-only or limited or specified disease policies, plans or certificates of health insurance.

F. As used in this section:

(1) "biomarker" means a characteristic that is objectively measured and evaluated as an indicator of normal biological processes, pathogenic processes or pharmacologic responses to a specific therapeutic intervention, including known gene-drug interactions for medications being considered for use or already being administered. "Biomarker" includes gene mutations, characteristics of genes or protein expression;

(2) "biomarker testing" means analysis of a patient's tissue, blood or other biospecimen for the presence of a biomarker and includes single-analyte tests,

multi-plex panel tests, protein expression and whole exome, whole genome and whole transcriptome sequencing; and

(3) "nationally recognized clinical practice guidelines" means evidence-based clinical practice guidelines that are:

(a) developed by independent organizations or medical professional societies using a transparent methodology and reporting structure and with a conflict-of-interest policy; and

(b) used to establish standards of care informed by a systematic review of evidence and an assessment of the benefits and risks of alternative care options and include recommendations intended to optimize patient care."

## **Chapter 138 Section 6 Laws 2023**

SECTION 6. A new section of the Nonprofit Health Care Plan Law is enacted to read:

### **"BIOMARKER TESTING COVERAGE.--**

A. An individual or group health care plan that is delivered, issued for delivery or renewed in this state shall provide coverage for subscribers to receive biomarker testing.

B. Coverage provided pursuant to this section shall be for the purposes of diagnosis, treatment, appropriate management or ongoing monitoring of a subscriber's disease or condition when the test is supported by medical and scientific evidence, including:

(1) labeled indications for a United States food and drug administration-approved or -cleared test;

(2) indicated tests for a United States food and drug administration-approved drug;

(3) warnings and precautions on United States food and drug administration labels;

(4) federal centers for medicare and medicaid services national coverage determinations or medicare administrative contractor local coverage determinations; or

(5) nationally recognized clinical practice guidelines.

C. Health care plans providing coverage for biomarker testing pursuant to this section shall ensure that:

(1) coverage is provided in a manner that limits disruptions in care, including coverage for multiple biopsies or biospecimen samples; and

(2) a patient and a practitioner who prescribes biomarker testing have clear, accessible and convenient processes to request an appeal of a benefit denial by the health care plan and that those processes are accessible on the health care plan's website.

D. Coverage for biomarker testing may be subject to deductibles and coinsurance consistent with those imposed on other benefits under the same policy, plan or certificate.

E. The provisions of this section do not apply to short-term travel, accident-only or limited or specified disease policies, plans or certificates of health insurance.

F. As used in this section:

(1) "biomarker" means a characteristic that is objectively measured and evaluated as an indicator of normal biological processes, pathogenic processes or pharmacologic responses to a specific therapeutic intervention, including known gene-drug interactions for medications being considered for use or already being administered. "Biomarker" includes gene mutations, characteristics of genes or protein expression;

(2) "biomarker testing" means analysis of a patient's tissue, blood or other biospecimen for the presence of a biomarker and includes single-analyte tests, multi-plex panel tests, protein expression and whole exome, whole genome and whole transcriptome sequencing; and

(3) "nationally recognized clinical practice guidelines" means evidence-based clinical practice guidelines that are:

(a) developed by independent organizations or medical professional societies using a transparent methodology and reporting structure and with a conflict-of-interest policy; and

(b) used to establish standards of care informed by a systematic review of evidence and an assessment of the benefits and risks of alternative care options and include recommendations intended to optimize patient care."

## **Chapter 138 Section 7 Laws 2023**

SECTION 7. APPLICABILITY.--The provisions of this act apply to health insurance policies, health care plans, certificates of health insurance or health maintenance organization contracts that are delivered, issued for delivery or renewed in this state on or after January 1, 2024.

## **LAWS 2023, CHAPTER 139**

**House Bill 76, aa, w/ec**  
**Approved April 5, 2023**

### **AN ACT**

RELATING TO COURTS; PROVIDING THAT THE ADMINISTRATIVE OFFICE OF THE COURTS SHALL ADMINISTER THE JUDICIAL EDUCATION FUND; CREATING THE COURT EDUCATION SERVICES DIVISION IN THE ADMINISTRATIVE OFFICE OF THE COURTS; MAKING AN APPROPRIATION; DECLARING AN EMERGENCY.

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

## **Chapter 139 Section 1 Laws 2023**

SECTION 1. Section 34-13-1 NMSA 1978 (being Laws 1993, Chapter 273, Section 1) is amended to read:

"34-13-1. JUDICIAL EDUCATION FUND CREATED--ADMINISTRATION--INCOME TO THE FUND.--

A. The "judicial education fund" is created in the state treasury and shall be administered by the administrative office of the courts. Money in the fund shall be invested by the state treasurer as provided by law and earnings of the fund shall be credited to the fund. Unexpended or unencumbered balances remaining in the fund at the end of any fiscal year shall not revert.

B. Money from the fund may only be expended upon appropriation by the legislature.

C. The judicial education fund consists of general appropriations and judicial education fees levied and collected pursuant to Sections 35-6-1, 35-7-4, 35-14-11, 66-8-116.3 and 66-8-119 NMSA 1978 as well as gifts, grants, donations and other appropriations and distributions to the fund made pursuant to the Tax Administration Act."

## **Chapter 139 Section 2 Laws 2023**

SECTION 2. Section 34-13-2 NMSA 1978 (being Laws 1993, Chapter 273, Section 2, as amended) is amended to read:

"34-13-2. COURT EDUCATION SERVICES DIVISION--PURPOSE.--The court education services division of the administrative office of the courts shall provide judicial 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."

## **Chapter 139 Section 3 Laws 2023**

SECTION 3. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

# **LAWS 2023, CHAPTER 140**

## **House Bill 79**

**Approved April 5, 2023**

### **AN ACT**

RELATING TO INSURANCE; MANDATING THAT A HEARING TO CONSIDER PROMULGATION OF PREMIUM RATES AND OTHER TITLE INSURANCE MATTERS BE HELD EVERY THREE YEARS.

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

## **Chapter 140 Section 1 Laws 2023**

SECTION 1. Section 59A-30-8 NMSA 1978 (being Laws 1985, Chapter 28, Section 8, as amended) is amended to read:

"59A-30-8. HEARINGS--NOTICE.--

A. The superintendent shall commence a hearing no earlier than November 1 of every third calendar year to consider promulgation of premium rates and any other matters related to the regulation of the business of title insurance deemed necessary by the superintendent.

B. The superintendent may, in the superintendent's discretion, hold a public hearing at any time to consider promulgation of premium rates and such other matters and subjects related to the regulation of the business of title insurance as the superintendent shall determine necessary or proper.

C. Notice of the public hearings provided for in Subsections A and B of this section shall be as provided in Subsection A of Section 59A-4-16 NMSA 1978.

D. The superintendent may promulgate premium rates and forms of title insurance policies only after a public hearing as provided in Subsections A and B of this section.

E. After the collection of all evidence relevant to the hearing, the superintendent shall file a notice of closure of the administrative record. The superintendent shall issue a decision within sixty days following the filing of the notice of closure of the administrative record for the public hearing provided for in Subsections A and B of this section. However, if the superintendent determines that the data and information presented to the superintendent pursuant to Section 59A-30-7 NMSA 1978 are incomplete, inaccurate or otherwise insufficient to determine whether a change in rates is warranted, the superintendent shall require a party, intervenor or participant at the public hearing to furnish the additional necessary data and information, and, in such event, the period of time allowed for the superintendent to issue a decision shall commence from the date such additional data and information are furnished."

## **LAWS 2023, CHAPTER 141**

**HCEDC/House Bill 83**

**Approved April 5, 2023**

### **AN ACT**

RELATING TO LICENSURE; REQUIRING THE NEW MEXICO MEDICAL BOARD TO ENFORCE AND ADMINISTER THE PODIATRY ACT; CHANGING THE TITLE OF "PODIATRIST" TO "PODIATRIC PHYSICIAN"; CONFORMING SECTIONS OF THE PODIATRY ACT; PROVIDING FOR THE NEW MEXICO MEDICAL BOARD FUND TO RECEIVE FUNDS COLLECTED UNDER THE PODIATRY ACT; CREATING THE PODIATRY ADVISORY COMMITTEE; REQUIRING THE PODIATRY ADVISORY COMMITTEE TO ADVISE THE NEW MEXICO MEDICAL BOARD; DEFINING DUTIES; CHANGING RECIPROCITY REQUIREMENTS; REQUIRING LICENSURE RENEWAL AFTER TWO YEARS; REMOVING THE TAXATION REGISTRATION NUMBER REQUIREMENT AS A CONDITION OF RENEWAL; ADDING A CIRCUMSTANCE FOR POSTGRADUATE EDUCATION WAIVER; REPEALING SECTIONS OF THE PODIATRY ACT.

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

## Chapter 141 Section 1 Laws 2023

SECTION 1. Section 61-6-5 NMSA 1978 (being Laws 1973, Chapter 361, Section 2, as amended) is amended to read:

"61-6-5. MEDICAL BOARD 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, the Podiatry Act and the Naprapathic Practice Act;

B. promulgate, in accordance with 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, the Podiatry 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. discipline licensees or 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 law that the board is charged with enforcing;

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 a health care profession or occupation over which the board has authority 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 education requirements for licensed practitioners over which the board has authority;

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 the recruitment and retention of health care practitioners over which the board has authority."

## **Chapter 141 Section 2 Laws 2023**

SECTION 2. 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 for physicians" means a program approved by the accreditation council for graduate medical education, the American osteopathic association or other board-approved program;

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 or osteopathic physician licensed under the Medical Practice Act to practice medicine in New Mexico;

E. "licensee" or "health care practitioner" means a medical physician, osteopathic physician, physician assistant, polysomnographic technologist,

anesthesiologist assistant, naturopathic doctor, podiatric physician or naprapath licensed by the board to practice in New Mexico;

F. "medical college or school in good standing" for medical physicians 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; and for osteopathic physicians means a college of osteopathic medicine accredited by the commission of osteopathic college accreditation;

G. "medical student" means a student enrolled in a board-approved medical college or school in good standing;

H. "physician assistant" means a health care practitioner 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. "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;

J. "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 or to practice health care that is under the authority of the board 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;

K. "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;

L. "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 or health care practice;

M. "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 or health care practice; and

N. "United States" means the fifty states, its territories and possessions and the District of Columbia."

## **Chapter 141 Section 3 Laws 2023**

SECTION 3. Section 61-6-15 NMSA 1978 (being Laws 1969, Chapter 46, Section 6, as amended) is amended to read:

"61-6-15. LICENSE MAY BE REFUSED, REVOKED OR SUSPENDED--  
LICENSEE MAY BE FINED, CENSURED OR REPRIMANDED--PROCEDURE--  
PRACTICE AFTER SUSPENSION OR REVOCATION--PENALTY--  
UNPROFESSIONAL AND DISHONORABLE CONDUCT DEFINED--FEES AND  
EXPENSES.--

A. The board may refuse to license and may revoke or suspend a license that has been issued by the board or a previous board and may fine, censure or reprimand a

licensee upon satisfactory proof being made to the board that the applicant for or holder of the license has been guilty of unprofessional or dishonorable conduct. The board may also refuse to license an applicant who is unable to practice as a physician, practice as a physician assistant, an anesthesiologist assistant, a genetic counselor, a naturopathic practitioner, a naprapathic practitioner or a podiatric physician or practice polysomnography, pursuant to Section 61-7-3 NMSA 1978. All proceedings shall be as required by the Uniform Licensing Act or the Impaired Health Care Provider Act.

B. The board may, in its discretion and for good cause shown, place the licensee on probation on the terms and conditions it deems proper for protection of the public, for the purpose of rehabilitation of the probationer or both. Upon expiration of the term of probation, if a term is set, further proceedings may be abated by the board if the holder of the license furnishes the board with evidence that the licensee is competent to practice, is of good moral character and has complied with the terms of probation.

C. If evidence fails to establish to the satisfaction of the board that the licensee is competent and is of good moral character or if evidence shows that the licensee has not complied with the terms of probation, the board may revoke or suspend the license. If a license to practice in this state is suspended, the holder of the license may not practice during the term of suspension. A person whose license has been revoked or suspended by the board and who thereafter practices or attempts or offers to practice in New Mexico, unless the period of suspension has expired or been modified by the board or the license reinstated, is guilty of a felony and shall be punished as provided in Section 61-6-20 NMSA 1978.

D. "Unprofessional or dishonorable conduct", as used in this section, means, but is not limited to because of enumeration, conduct of a licensee that includes the following:

- (1) procuring, aiding or abetting an illegal procedure;
- (2) employing a person to solicit patients for the licensee;
- (3) representing to a patient that a manifestly incurable condition of sickness, disease or injury can be cured;
- (4) obtaining a fee by fraud or misrepresentation;
- (5) willfully or negligently divulging a professional confidence;
- (6) conviction of an offense punishable by incarceration in a state penitentiary or federal prison or conviction of a misdemeanor associated with the practice of the licensee. A copy of the record of conviction, certified by the clerk of the court entering the conviction, is conclusive evidence;
- (7) habitual or excessive use of intoxicants or drugs;

(8) fraud or misrepresentation in applying for or procuring a license to practice in this state or in connection with applying for or procuring renewal, including cheating on or attempting to subvert the licensing examinations;

(9) making false or misleading statements regarding the skill of the licensee or the efficacy or value of the medicine, treatment or remedy prescribed or administered by the licensee or at the direction of the licensee in the treatment of a disease or other condition of the human body or mind;

(10) impersonating another licensee, permitting or allowing a person to use the license of the licensee or practicing as a licensee under a false or assumed name;

(11) aiding or abetting the practice of a person not licensed by the board;

(12) gross negligence in the practice of a licensee;

(13) manifest incapacity or incompetence to practice as a licensee;

(14) discipline imposed on a licensee by another licensing jurisdiction, including denial, probation, suspension or revocation, based upon acts by the licensee similar to acts described in this section. A certified copy of the record of disciplinary action or sanction taken by another jurisdiction is conclusive evidence of the action;

(15) the use of a false, fraudulent or deceptive statement in a document connected with the practice of a licensee;

(16) fee splitting;

(17) the prescribing, administering or dispensing of narcotic, stimulant or hypnotic drugs for other than accepted therapeutic purposes;

(18) conduct likely to deceive, defraud or harm the public;

(19) repeated similar negligent acts or a pattern of conduct otherwise described in this section or in violation of a board rule;

(20) employing abusive billing practices;

(21) failure to report to the board any adverse action taken against the licensee by:

(a) another licensing jurisdiction;

(b) a peer review body;

- (c) a health care entity;
  - (d) a professional or medical society or association;
  - (e) a governmental agency;
  - (f) a law enforcement agency; or
  - (g) a court for acts or conduct similar to acts or conduct that would constitute grounds for action as defined in this section;
- (22) failure to report to the board the denial of licensure, surrender of a license or other authorization to practice in another state or jurisdiction or surrender of membership on any medical staff or in any medical or professional association or society following, in lieu of and while under disciplinary investigation by any of those authorities or bodies for acts or conduct similar to acts or conduct that would constitute grounds for action as defined in this section;
- (23) failure to furnish the board, its investigators or representatives with information requested by the board;
- (24) abandonment of patients;
- (25) being found mentally incompetent or insane by a court of competent jurisdiction;
- (26) injudicious prescribing, administering or dispensing of a drug or medicine;
- (27) failure to adequately supervise, as provided by board rule, a medical or surgical assistant or technician or professional licensee who renders health care;
- (28) sexual contact with a patient or person who has authority to make medical decisions for a patient, other than the spouse of the licensee;
- (29) conduct unbecoming in a person licensed to practice or detrimental to the best interests of the public;
- (30) the surrender of a license or withdrawal of an application for a license before another state licensing board while an investigation or disciplinary action is pending before that board for acts or conduct similar to acts or conduct that would constitute grounds for action pursuant to this section;
- (31) sexual contact with a former mental health patient of the licensee, other than the spouse of the licensee, within one year from the end of treatment;

(32) sexual contact with a patient when the licensee uses or exploits treatment, knowledge, emotions or influence derived from the current or previous professional relationship;

(33) improper management of medical records, including failure to maintain timely, accurate, legible and complete medical records;

(34) failure to provide pertinent and necessary medical records to a physician or patient of the physician in a timely manner when legally requested to do so by the patient or by a legally designated representative of the patient;

(35) undertreatment of pain as provided by board rule;

(36) interaction with physicians, hospital personnel, patients, family members or others that interferes with patient care or could reasonably be expected to adversely impact the quality of care rendered to a patient;

(37) soliciting or receiving compensation by a physician assistant or anesthesiologist assistant from a person who is not an employer of the assistant;

(38) willfully or negligently divulging privileged information or a professional secret; or

(39) the use of conversion therapy on a minor.

E. 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) "fee splitting" includes offering, delivering, receiving or accepting any unearned rebate, refunds, commission preference, patronage dividend, discount or other unearned consideration, whether in the form of money or otherwise, as compensation or inducement for referring patients, clients or customers to a person,

irrespective of any membership, proprietary interest or co-ownership in or with a person to whom the patients, clients or customers are referred;

(3) "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;

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

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

F. 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 is included as a condition of probation."

## **Chapter 141 Section 4 Laws 2023**

SECTION 4. 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. The "New Mexico medical board fund" is created.

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, the Podiatry 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, the Podiatry 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 and osteopathic physicians 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, the Podiatry 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, the Podiatry Act and the Naprapathic Practice Act."

## **Chapter 141 Section 5 Laws 2023**

SECTION 5. Section 61-8-2 NMSA 1978 (being Laws 1977, Chapter 221, Section 2, as amended) is amended to read:

"61-8-2. DEFINITIONS.--As used in the Podiatry Act:

- A. "board" means the New Mexico medical board;
- B. "committee" means the podiatry advisory committee;
- C. "foot and ankle radiation technologist" means a person who takes x-rays of the foot and ankle under the supervision of a podiatric physician;
- D. "podiatric physician" means a podiatric physician licensed under the Podiatry Act to practice podiatry in New Mexico; and
- E. "practice of podiatry" means engaging in that primary health care profession, the members of which examine, diagnose, treat and prevent by medical, surgical and biomechanical means ailments affecting the human foot and ankle and the structures governing their functions, but does not include amputation of the foot or the personal administration of a general anesthetic. A podiatric physician, pursuant to the laws of this state, is defined as a physician and surgeon within the scope of the podiatric physician license."

## **Chapter 141 Section 6 Laws 2023**

SECTION 6. Section 61-8-3 NMSA 1978 (being Laws 1977, Chapter 221, Section 3, as amended) is amended to read:

"61-8-3. LICENSE REQUIRED.--Unless licensed as a podiatric physician pursuant to the provisions of the Podiatry Act or exempted from that act pursuant to Section 61-8-4 NMSA 1978, no person shall practice podiatry."

## **Chapter 141 Section 7 Laws 2023**

SECTION 7. Section 61-8-5 NMSA 1978 (being Laws 1977, Chapter 221, Section 5, as amended) is amended to read:

"61-8-5. PODIATRY ADVISORY COMMITTEE CREATED--MEMBERS--QUALIFICATIONS--TERMS--VACANCIES.--

A. The "podiatry advisory committee" is created to advise the board regarding licensure of podiatric physicians and efforts to recruit and retain podiatric physicians for practice in this state. The committee shall consist of three members, one member who shall be the executive director of the New Mexico podiatric medical association serving as an ex-officio member and two members who shall be podiatric physicians licensed to practice in New Mexico who have been actively engaged in the practice of podiatry for at least three consecutive years immediately prior to their appointments.

B. Members of the committee shall be appointed by the board from a list of names submitted to the board by the New Mexico podiatric medical association or its authorized governing body or council. The list shall be submitted to the board within thirty days of a vacancy and shall contain at least three qualified podiatric physicians for each member to be appointed. Member vacancies shall be filled in the same manner. Committee members shall serve until their successors have been appointed and qualified."

## **Chapter 141 Section 8 Laws 2023**

SECTION 8. Section 61-8-6 NMSA 1978 (being Laws 1977, Chapter 221, Section 6, as amended) is amended to read:

"61-8-6. BOARD AND COMMITTEE ORGANIZATION--MEETINGS--COMPENSATION--POWERS AND DUTIES.--

A. The committee shall hold meetings in a frequency necessary to conduct business and shall meet at the request of the board. Meetings of the committee shall be subject to the Open Meetings Act.

B. Members of the committee are entitled to reimbursement as provided in the Per Diem and Mileage Act, but shall receive no other compensation, perquisite or allowance.

C. The board, with the advice of the committee, shall:

- (1) administer and enforce the provisions of the Podiatry Act;
- (2) promulgate, in accordance with the State Rules Act, all rules for the implementation and enforcement of the provisions of the Podiatry Act;
- (3) adopt and use a seal;
- (4) conduct hearings, administer oaths and take testimony on matters within the board's jurisdiction;
- (5) keep an accurate record of its meetings, receipts and disbursements;
- (6) keep records of the name, address and license number of licensed podiatric physicians together with a record of license renewals, suspensions and revocations;
- (7) grant, deny, renew, suspend or revoke licenses to practice podiatry or take other actions provided in Section 61-1-3 NMSA 1978 in accordance with the provisions of the Uniform Licensing Act for any cause stated in the Podiatry Act;
- (8) promulgate rules setting standards of preliminary and professional qualifications for the practice of podiatry;
- (9) promulgate rules for the examination, licensure and regulation of podiatric assistants. The rules shall include definitions and limitations on the practice of podiatric assistants, qualifications for applicants for licensure, an initial license fee in an amount not to exceed two hundred fifty dollars (\$250) and a renewal fee not to exceed one hundred dollars (\$100) per year, provisions for the regulation of podiatric assistants and provisions for the suspension or revocation of licenses;
- (10) determine by rule all qualifications and requirements for applicants seeking licensure as podiatric physicians or podiatric assistants;
- (11) promulgate rules for the examination and licensure as foot and ankle radiation technologists, which shall include definitions and limitations on the practice of foot and ankle radiation technologists, qualifications for applicants for licensure, an initial license fee in an amount not to exceed two hundred fifty dollars (\$250) and a renewal fee not to exceed one hundred dollars (\$100) per year, provisions

for the regulation of foot and ankle radiation technologists and provisions for the suspension or revocation of licenses; and

(12) require fingerprints, or other biometric identification, and other information necessary for a state and national criminal background check as a condition for licensure."

## **Chapter 141 Section 9 Laws 2023**

SECTION 9. Section 61-8-8 NMSA 1978 (being Laws 1977, Chapter 221, Section 8, as amended) is amended to read:

"61-8-8. QUALIFICATIONS FOR LICENSURE AS A PODIATRIC PHYSICIAN.--

A. Each applicant for licensure as a podiatric physician shall furnish evidence satisfactory to the board that the applicant:

(1) has reached the age of majority;

(2) has graduated and been awarded a doctor of podiatric medicine degree from a college of podiatric medicine accredited by the American podiatric medical association council on podiatric medical education; and

(3) has completed, at a minimum, a one-year residency program at a hospital accredited by the American podiatric medical association council on education.

B. Each applicant shall file an application under oath on forms supplied by the board and shall pay the required fees.

C. An applicant for licensure by examination shall submit evidence to the board that the applicant has passed the examinations administered by the national board of podiatry examiners for students graduating from colleges of podiatry and shall furnish the board an official transcript and take clinical and written examinations as the board deems necessary. The examinations shall be in English and the subjects covered by the examinations shall be determined by the board and taken from subjects taught in accredited colleges of podiatric medicine. No applicant for licensure by examination shall be licensed who has not received a passing score on all board-approved examinations.

D. A podiatric physician licensed in another state may, on a temporary basis, consult, advise or cooperate in patient treatment with a podiatric physician licensed in New Mexico, subject to rules promulgated by the board."

## **Chapter 141 Section 10 Laws 2023**

SECTION 10. Section 61-8-9 NMSA 1978 (being Laws 1977, Chapter 221, Section 9, as amended) is amended to read:

"61-8-9. EXPEDITED LICENSURE BY RECIPROCITY.--

A. An applicant for expedited licensure by reciprocity shall meet the qualifications set forth in Section 61-8-8 NMSA 1978, shall file an application under oath on forms supplied by the board that conform to board rules on reciprocity and furnish proof satisfactory to the board of having been licensed by national examination in another licensing jurisdiction. In addition, each applicant for licensure by reciprocity shall:

(1) furnish the board an affidavit from the applicant's state board showing a valid, unrestricted license and the fact that the applicant has been licensed to practice podiatry and has practiced podiatry for at least three consecutive years immediately preceding the filing of the application for reciprocal licensure and is in good standing with the other licensing jurisdiction; and

(2) pay required fees.

B. The board shall, as soon as practicable but no later than thirty days after an out-of-state licensee files an application for licensure by reciprocity, process the application and issue the license in accordance with Section 61-1-31.1 NMSA 1978.

C. The board shall determine the states and territories of the United States and the District of Columbia from which it will not accept an applicant for expedited licensure and the foreign countries from which it will accept an applicant for expedited licensure. The board shall post the list of disapproved and approved licensing jurisdictions on its website. The list of disapproved licensing jurisdictions shall include the specific reasons for disapproval. The lists shall be reviewed annually to determine if amendments to the rule are warranted."

## **Chapter 141 Section 11 Laws 2023**

SECTION 11. Section 61-8-10 NMSA 1978 (being Laws 1977, Chapter 221, Section 10, as amended) is amended to read:

"61-8-10. LICENSE FEES--LICENSURE UNDER PRIOR LAW--RENEWAL.--

A. Except as provided in Section 61-1-34 NMSA 1978, an applicant for licensure as a podiatric physician shall pay the following fees:

(1) for licensure by examination:

(a) an examination fee equal to the cost of purchasing the examination, plus an administration fee not to exceed fifty percent of the examination fee; and

(b) an application fee not to exceed six hundred dollars (\$600);

(2) for licensure on the basis of reciprocity, a fee set by the board in an amount not to exceed six hundred dollars (\$600);

(3) for the biennial renewal of license on or before January 1 of the renewal year, a renewal fee set by the board in an amount not to exceed six hundred dollars (\$600);

(4) for the late renewal after January 1 for the ensuing two years, a late charge not to exceed fifty dollars (\$50.00) per month or part thereof commencing on January 2;

(5) in addition to the renewal fees and late charges, the applicant for the renewal of a license shall pay a reinstatement fee not to exceed two hundred fifty dollars (\$250) for the first twelve months of delinquency and a reinstatement fee of five hundred dollars (\$500) for a license that has lapsed more than one year but not more than three years; and

(6) for the issuance of a temporary license, a fee not to exceed one hundred dollars (\$100).

B. If any licensee permits the licensee's license to lapse for a period of three full years, the license shall automatically be canceled and shall not be reinstated.

C. The provisions of Paragraphs (3), (4) and (5) of Subsection A of this section shall not apply to licensees who practice in the service of the United States whose licenses shall be renewed upon application for renewal within three months after the termination of service.

D. Current renewal certificates issued by the board shall be displayed in the office of the licensee, and, in the case of the suspension or revocation of a license, no portion of a fee or penalty shall be returned."

## **Chapter 141 Section 12 Laws 2023**

SECTION 12. Section 61-8-10.1 NMSA 1978 (being Laws 1989, Chapter 185, Section 2, as amended) is amended to read:

"61-8-10.1. LICENSE RENEWAL--CONTINUING EDUCATION--PENALTY FOR FAILURE TO RENEW.--

A. All licensees shall renew their licenses on or before January 1 of every second year. Upon application for renewal, each licensee shall furnish evidence that the licensee has completed continuing education requirements as set forth in Subsection B of this section.

B. As a condition of renewal, all applicants shall furnish the board with evidence of completion of postgraduate study as required by board rule. Postgraduate study may be obtained from a college of podiatric medicine accredited by the American podiatric medical association, one of its constituent societies or affiliate organizations or other courses approved by the board. This requirement may only be waived for reasons of prolonged illness or other incapacity or during a public health emergency.

C. The board may summarily suspend the license of a podiatric physician who fails to renew the podiatric physician's license or submit proof of completion of continuing education requirements within sixty days of January 1 as provided in Subsection A of this section. The board may reinstate licenses suspended upon payment of all applicable late fees, delinquent renewal fees and reinstatement fees."

## **Chapter 141 Section 13 Laws 2023**

SECTION 13. Section 61-8-11 NMSA 1978 (being Laws 1977, Chapter 221, Section 11, as amended) is amended to read:

"61-8-11. SUSPENSION, REVOCATION OR REFUSAL OF LICENSE.--The board may refuse to issue or may suspend or revoke a license in accordance with the provisions of the Uniform Licensing Act for any one or more of the following reasons:

- A. making a false statement in any part of an application for licensure, examination or registration pursuant to the provisions of the Podiatry Act;
- B. having a disqualifying criminal conviction as determined by the board. As used in this subsection, "disqualifying criminal conviction" means a conviction for a crime that is related to the profession of podiatry;
- C. the habitual indulgence in the use of narcotics, alcohol or other substances that impair intellect and judgment to an extent as will, in the opinion of the board, incapacitate a podiatric physician from the proper performance of professional duties;
- D. lending the use of one's name to an unlicensed podiatric physician;
- E. selling, giving or prescribing any compound or substance containing narcotic drugs or other controlled substances for illegal purposes;
- F. the willful violation of a patient's right to confidentiality;
- G. gross malpractice or incompetency as defined by board rule; or

H. dishonest or unprofessional conduct as defined by the Podiatry Act or rules adopted pursuant to that act."

## **Chapter 141 Section 14 Laws 2023**

SECTION 14. Section 61-8-12 NMSA 1978 (being Laws 1977, Chapter 221, Section 12, as amended) is amended to read:

"61-8-12. OFFENSES--PENALTIES.--Each of the following acts committed by any person constitutes a misdemeanor punishable upon conviction by a fine of not less than one hundred dollars (\$100) or more than ten thousand dollars (\$10,000) or by imprisonment not to exceed one year, or both:

A. practicing or attempting to practice podiatry without a current valid license issued by the board;

B. obtaining registration under the Podiatry Act by false or untrue statements to the board or by presenting a fraudulent diploma or license to the board;

C. swearing falsely or giving a false affidavit in any proceeding before the board;

D. advertising or using any designation, diploma or certificate tending to imply that one is a practitioner of podiatry, including the use of the words "chiroprapist", "podiatrist", "podiatric physician", "M.Cp.", "D.S.C.", "D.P.M.", "foot specialist", "foot correctionist", "foot culturist", "foot practipedist", "foot doctor" or words of similar import, unless one holds a license or is exempted under the provisions of the Podiatry Act; or

E. practicing podiatry during any period of time in which one's license has been revoked or suspended as provided in the Podiatry Act."

## **Chapter 141 Section 15 Laws 2023**

SECTION 15. Section 61-8-13 NMSA 1978 (being Laws 1977, Chapter 221, Section 13, as amended) is amended to read:

"61-8-13. UNPROFESSIONAL CONDUCT.--Unprofessional conduct pursuant to Subsection H of Section 61-8-11 NMSA 1978 for a podiatric physician licensed under the Podiatry Act includes using false or misleading advertising or making a false or misleading statement in communications with patients or potential patients or using a misleading or deceptive title or designation in a name or title of a podiatric practice."

## **Chapter 141 Section 16 Laws 2023**

SECTION 16. Section 61-8-14 NMSA 1978 (being Laws 1977, Chapter 221, Section 14, as amended) is amended to read:

"61-8-14. LIMITATION ON LICENSURE--TEMPORARY LICENSE.--

A. No license to practice podiatry shall be issued to a corporation, partnership or association; provided, however, that this subsection shall not prohibit licensed podiatric physicians from associating themselves as otherwise allowed by law in a professional corporation, professional limited liability company, partnership or association for the purpose of practicing podiatry.

B. In cases of emergency, as defined by board rule, the board may grant a temporary license to practice podiatry to a person who meets the requirements of Subsections A and B of Section 61-8-8 NMSA 1978. The temporary license shall automatically expire on the date of the next board meeting at which applications for licensure by examination or reciprocity are approved. No person may be issued more than one temporary license pursuant to this provision.

C. To facilitate educational programs, subject to conditions and terms set forth in board rules, the board may grant a temporary license to practice podiatry to a person enrolled and participating in such program."

### **Chapter 141 Section 17 Laws 2023**

SECTION 17. Section 61-8-15 NMSA 1978 (being Laws 1998, Chapter 24, Section 16) is amended to read:

"61-8-15. PRIVILEGED COMMUNICATIONS.--Medical and other health care-related information concerning a patient obtained by a podiatric physician or by an employee of a podiatric physician during the course of examination, diagnosis or treatment and advice, diagnosis, orders, prescriptions and other health care-related communications from a podiatric physician or an employee of a podiatric physician are confidential communications protected in courts of law and administrative proceedings by the physician-patient privilege."

### **Chapter 141 Section 18 Laws 2023**

SECTION 18. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS, PERSONNEL AND PROPERTY.--On July 1, 2023:

A. all functions, personnel, records, equipment, supplies and other property of the board of podiatry shall be transferred to the podiatry advisory committee; and

B. all money and appropriations of the board of podiatry shall be transferred to the New Mexico medical board fund.

## **Chapter 141 Section 19 Laws 2023**

SECTION 19. REPEAL.--Sections 61-8-7 and 61-8-17 NMSA 1978 (being Laws 1977, Chapter 221, Section 7 and Laws 1979, Chapter 385, Section 2, as amended) are repealed.

## **LAWS 2023, CHAPTER 142**

**House Bill 90, w/cc**  
**Approved April 5, 2023**

AN ACT

RELATING TO COMMERCIAL TRANSACTIONS; AMENDING, REPEALING AND ENACTING SECTIONS OF THE UNIFORM COMMERCIAL CODE; PROVIDING FOR CONTROLLABLE ELECTRONIC RECORDS.

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

## **Chapter 142 Section 1 Laws 2023**

SECTION 1. Section 55-1-201 NMSA 1978 (being Laws 2005, Chapter 144, Section 9) is amended to read:

"55-1-201. GENERAL DEFINITIONS.--

(a) Unless the context otherwise requires, words or phrases defined in this section, or in the additional definitions contained in other articles of the Uniform Commercial Code that apply to particular articles or parts thereof, have the meanings stated.

(b) Subject to definitions contained in other articles of the Uniform Commercial Code that apply to particular articles or parts thereof:

(1) "action", in the sense of a judicial proceeding, includes recoupment, counterclaim, set-off, suit in equity and any other proceeding in which rights are determined;

(2) "aggrieved party" means a party entitled to pursue a remedy;

(3) "agreement", as distinguished from "contract", means the bargain of the parties in fact, as found in their language or inferred from other circumstances, including course of performance, course of dealing or usage of trade as provided in Section 55-1-303 NMSA 1978;

(4) "bank" means a person engaged in the business of banking and includes a savings bank, savings and loan association, credit union and trust company;

(5) "bearer" means a person in control of a negotiable electronic document of title or a person in possession of a negotiable instrument, negotiable tangible document of title or certificated security that is payable to bearer or indorsed in blank;

(6) "bill of lading" means a document of title evidencing the receipt of goods for shipment issued by a person engaged in the business of directly or indirectly transporting or forwarding goods. The term does not include a warehouse receipt;

(7) "branch" includes a separately incorporated foreign branch of a bank;

(8) "burden of establishing" a fact means the burden of persuading the trier of fact that the existence of the fact is more probable than its nonexistence;

(9) "buyer in ordinary course of business" means a person that buys goods in good faith, without knowledge that the sale violates the rights of another person in the goods, and in the ordinary course from a person, other than a pawnbroker, in the business of selling goods of that kind. A person buys goods in the ordinary course if the sale to the person comports with the usual or customary practices in the kind of business in which the seller is engaged or with the seller's own usual or customary practices. A person that sells oil, gas or other minerals at the wellhead or minehead is a person in the business of selling goods of that kind. A buyer in ordinary course of business may buy for cash, by exchange of other property or on secured or unsecured credit and may acquire goods or documents of title under a preexisting contract for sale. Only a buyer that takes possession of the goods or has a right to recover the goods from the seller under Chapter 55, Article 2 NMSA 1978 may be a buyer in ordinary course of business. "Buyer in ordinary course of business" does not include a person that acquires goods in a transfer in bulk or as security for or in total or partial satisfaction of a money debt;

(10) "conspicuous", with reference to a term, means so written, displayed or presented that, based upon the totality of the circumstances, a reasonable person against which it is to operate ought to have noticed it. Whether a term is "conspicuous" or not is a decision for the court;

(11) "consumer" means an individual who enters into a transaction primarily for personal, family or household purposes;

(12) "contract", as distinguished from "agreement", means the total legal obligation that results from the parties' agreement as determined by the Uniform Commercial Code as supplemented by any other applicable laws;

(13) "creditor" includes a general creditor, a secured creditor, a lien creditor and any representative of creditors, including an assignee for the benefit of creditors, a trustee in bankruptcy, a receiver in equity and an executor or administrator of an insolvent debtor's or assignor's estate;

(14) "defendant" includes a person in the position of defendant in a counterclaim, cross-claim or third-party claim;

(15) "delivery", with respect to an electronic document of title, means voluntary transfer of control, and with respect to an instrument, a tangible document of title or an authoritative tangible copy of a record evidencing chattel paper, means voluntary transfer of possession;

(16) "document of title" means a record: (i) that in the regular course of business or financing is treated as adequately evidencing that the person in possession or control of the record is entitled to receive, control, hold and dispose of the record and the goods the record covers; and (ii) that purports to be issued by or addressed to a bailee and to cover goods in the bailee's possession that are either identified or are fungible portions of an identified mass. The term includes a bill of lading, transport document, dock warrant, dock receipt, warehouse receipt and order for delivery of goods. An electronic document of title means a document of title evidenced by a record consisting of information stored in an electronic medium. A tangible document of title means a document of title evidenced by a record consisting of information that is inscribed on a tangible medium;

(16A) "electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities;

(17) "fault" means a default, breach or wrongful act or omission;

(18) "fungible goods" means:

(A) goods of which any unit, by nature or usage of trade, is the equivalent of any other like unit; or

(B) goods that by agreement are treated as equivalent;

(19) "genuine" means free of forgery or counterfeiting;

(20) "good faith", except as otherwise provided in Chapter 55, Article 5 NMSA 1978, means honesty in fact and the observance of reasonable commercial standards of fair dealing;

(21) "holder" means:

(A) the person in possession of a negotiable instrument that is payable either to bearer or to an identified person that is the person in possession;

(B) the person in possession of a negotiable tangible document of title if the goods are deliverable either to bearer or to the order of the person in possession; or

(C) the person in control, other than pursuant to Subsection (g) of Section 55-7-106 NMSA 1978, of a negotiable electronic document of title;

(22) "insolvency proceeding" includes an assignment for the benefit of creditors or other proceeding intended to liquidate or rehabilitate the estate of the person involved;

(23) "insolvent" means:

(A) having generally ceased to pay debts in the ordinary course of business other than as a result of bona fide dispute;

(B) being unable to pay debts as they become due; or

(C) being insolvent within the meaning of federal bankruptcy law;

(24) "money" means a medium of exchange currently authorized or adopted by a domestic or foreign government. The term includes a monetary unit of account established by an intergovernmental organization or by agreement between two or more countries. The term does not include an electronic record that is a medium of exchange recorded and transferable in a system that existed and operated for the medium of exchange before the medium of exchange was authorized or adopted by the government;

(25) "organization" means a person other than an individual;

(26) "party", as distinguished from "third party", means a person that has engaged in a transaction or made an agreement subject to the Uniform Commercial Code;

(27) "person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency or instrumentality; or any other legal or commercial entity. The term includes a protected series, however denominated, of an entity if the protected series is established under law other than the Uniform Commercial Code that limits, or limits if conditions specified under the law are satisfied, the ability of a creditor of the entity or of any other protected series of the entity to satisfy a claim from assets of the protected series;

(28) "present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain by use of either an interest rate specified by the parties if that rate is not manifestly unreasonable at the time the transaction is entered into or, if an interest rate is not so specified, a commercially reasonable rate that takes into account the facts and circumstances at the time the transaction is entered into;

(29) "purchase" means taking by sale, lease, discount, negotiation, mortgage, pledge, lien, security interest, issue or reissue, gift or any other voluntary transaction creating an interest in property;

(30) "purchaser" means a person that takes by purchase;

(31) "record" 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;

(32) "remedy" means any remedial right to which an aggrieved party is entitled with or without resort to a tribunal;

(33) "representative" means a person empowered to act for another, including an agent, an officer of a corporation or association and a trustee, executor or administrator of an estate;

(34) "right" includes remedy;

(35) "security interest" means an interest in personal property or fixtures that secures payment or performance of an obligation. "Security interest" includes any interest of a consignor and a buyer of accounts, chattel paper, a payment intangible or a promissory note in a transaction that is subject to Chapter 55, Article 9 NMSA 1978. "Security interest" does not include the special property interest of a buyer of goods on identification of those goods to a contract for sale under Section 55-2-401 NMSA 1978, but a buyer may also acquire a "security interest" by complying with Chapter 55, Article 9 NMSA 1978. Except as otherwise provided in Section 55-2-505 NMSA 1978, the right of a seller or lessor of goods under Chapter 55, Article 2 or 2A NMSA 1978 to retain or acquire possession of the goods is not a "security interest", but a seller or lessor may also acquire a "security interest" by complying with Chapter 55, Article 9 NMSA 1978. The retention or reservation of title by a seller of goods notwithstanding shipment or delivery to the buyer under Section 55-2-401 NMSA 1978 is limited in effect to a reservation of a "security interest". Whether a transaction in the form of a lease creates a "security interest" is determined pursuant to Section 55-1-203 NMSA 1978;

(36) "send" in connection with a record or notification means:

(A) to deposit in the mail, deliver or transmit for transmission by any other usual means of communication, with postage or cost of transmission provided

for, addressed to any address specified thereon or otherwise agreed or, if there be none, to any address reasonable under the circumstances; or

(B) to cause the record or notification to be received within the time it would have been received if properly sent under Subparagraph (A) of this paragraph;

(37) "sign" means, with present intent to authenticate or adopt a record:

(A) execute or adopt a tangible symbol; or

(B) attach to or logically associate with the record an electronic symbol, sound or process. "Signed", "signing" and "signature" have corresponding meanings;

(38) "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;

(39) "surety" includes a guarantor or other secondary obligor;

(40) "term" means a portion of an agreement that relates to a particular matter;

(41) "unauthorized signature" means a signature made without actual, implied or apparent authority. The term includes a forgery;

(42) "warehouse receipt" means a document of title issued by a person engaged in the business of storing goods for hire; and

(43) "writing" includes printing, typewriting or any other intentional reduction to tangible form. "Written" has a corresponding meaning."

## **Chapter 142 Section 2 Laws 2023**

SECTION 2. Section 55-1-204 NMSA 1978 (being Laws 2005, Chapter 144, Section 12) is amended to read:

"55-1-204. VALUE.--Except as otherwise provided in Chapter 55, Articles 3, 4, 5 and 12 NMSA 1978, a person gives value for rights if the person acquires them:

(1) in return for a binding commitment to extend credit or for the extension of immediately available credit, whether or not drawn upon and whether or not a charge-back is provided for in the event of difficulties in collection;

(2) as security for, or in total or partial satisfaction of, a preexisting claim;

- (3) by accepting delivery under a preexisting contract for purchase; or
- (4) in return for any consideration sufficient to support a simple contract."

### **Chapter 142 Section 3 Laws 2023**

SECTION 3. Section 55-1-301 NMSA 1978 (being Laws 2005, Chapter 144, Section 15) is amended to read:

"55-1-301. TERRITORIAL APPLICABILITY; PARTIES' POWER TO CHOOSE APPLICABLE LAW.--

A. Except as otherwise provided in this section, when a transaction bears a reasonable relation to this state and also to another state or nation the parties may agree that the law either of this state or of such other state or nation shall govern their rights and duties.

B. In the absence of an agreement effective under Subsection A of this section, and except as provided in Subsection C of this section, the Uniform Commercial Code applies to transactions bearing an appropriate relation to this state.

C. If one of the following provisions of the Uniform Commercial Code specifies the applicable law, that provision governs and a contrary agreement is effective only to the extent permitted by the law so specified:

- (1) Section 55-2-402 NMSA 1978;
- (2) Sections 55-2A-105 and 55-2A-106 NMSA 1978;
- (3) Section 55-4-102 NMSA 1978;
- (4) Section 55-4A-507 NMSA 1978;
- (5) Section 55-5-116 NMSA 1978;
- (6) Section 55-8-110 NMSA 1978;
- (7) Sections 55-9-301 through 55-9-307 NMSA 1978; and
- (8) Section 55-12-107 NMSA 1978."

### **Chapter 142 Section 4 Laws 2023**

SECTION 4. Section 55-1-306 NMSA 1978 (being Laws 2005, Chapter 144, Section 20) is amended to read:

"55-1-306. WAIVER OR RENUNCIATION OF CLAIM OR RIGHT AFTER BREACH.--A claim or right arising out of an alleged breach may be discharged in whole or in part without consideration by agreement of the aggrieved party in a signed record."

## **Chapter 142 Section 5 Laws 2023**

SECTION 5. Section 55-2-102 NMSA 1978 (being Laws 1961, Chapter 96, Section 2-102) is amended to read:

"55-2-102. SCOPE--CERTAIN SECURITY AND OTHER TRANSACTIONS EXCLUDED FROM THIS ARTICLE.--

(1) Unless the context otherwise requires, and except as provided in Subsection (3) of this section, this article applies to transactions in goods and, in the case of a hybrid transaction, it applies to the extent provided in Subsection (2) of this section.

(2) In a hybrid transaction:

(a) if the sale-of-goods aspects do not predominate, only the provisions of this article that relate primarily to the sale-of-goods aspects of the transaction apply, and the provisions that relate primarily to the transaction as a whole do not apply; and

(b) if the sale-of-goods aspects predominate, this article applies to the transaction but does not preclude application in appropriate circumstances of other law to aspects of the transaction that do not relate to the sale of goods.

(3) This article does not:

(a) apply to a transaction that, even though in the form of an unconditional contract to sell or present sale, operates only to create a security interest; or

(b) impair or repeal a statute regulating sales to consumers, farmers or other specified classes of buyers."

## **Chapter 142 Section 6 Laws 2023**

SECTION 6. Section 55-2-106 NMSA 1978 (being Laws 1961, Chapter 96, Section 2-106) is amended to read:

"55-2-106. DEFINITIONS--"CONTRACT"--"AGREEMENT"--"CONTRACT FOR SALE"--"SALE"--"PRESENT SALE"--"CONFORMING" TO CONTRACT--"TERMINATION"--"CANCELLATION"--HYBRID TRANSACTION.--

(1) In this article, unless the context otherwise requires, "contract" and "agreement" are limited to those relating to the present or future sale of goods. "Contract for sale" includes both a present sale of goods and a contract to sell goods at a future time. A "sale" consists in the passing of title from the seller to the buyer for a price (Section 55-2-401 NMSA 1978). A "present sale" means a sale that is accomplished by the making of the contract.

(2) Goods or conduct, including any part of a performance, are "conforming" or conform to the contract when they are in accordance with the obligations under the contract.

(3) "Termination" occurs when either party pursuant to a power created by agreement or law puts an end to the contract otherwise than for its breach. On "termination", all obligations that are still executory on both sides are discharged, but any right based on prior breach or performance survives.

(4) "Cancellation" occurs when either party puts an end to the contract for breach by the other and its effect is the same as that of "termination", except that the cancelling party also retains any remedy for breach of the whole contract or any unperformed balance.

(5) "Hybrid transaction" means a single transaction involving a sale of goods and:

- (a) the provision of services;
- (b) a lease of other goods; or
- (c) a sale, lease or license of property other than goods."

## **Chapter 142 Section 7 Laws 2023**

SECTION 7. Section 55-2-201 NMSA 1978 (being Laws 1961, Chapter 96, Section 2-201) is amended to read:

"55-2-201. FORMAL REQUIREMENTS--STATUTE OF FRAUDS.--

(1) Except as otherwise provided in this section, a contract for the sale of goods for the price of five hundred dollars (\$500) or more is not enforceable by way of action or defense unless there is a record sufficient to indicate that a contract for sale has been made between the parties and signed by the party against whom enforcement is sought or by the party's authorized agent or broker. A record is not insufficient because it omits or incorrectly states a term agreed upon, but the contract is not enforceable under this subsection beyond the quantity of goods shown in the record.

(2) Between merchants if within a reasonable time a record in confirmation of the contract and sufficient against the sender is received and the party receiving it has reason to know its contents, it satisfies the requirements of Subsection (1) of this section against the party unless in a record notice of objection to its contents is given within ten days after it is received.

(3) A contract that does not satisfy the requirements of Subsection (1) of this section but that is valid in other respects is enforceable:

(a) if the goods are to be specially manufactured for the buyer and are not suitable for sale to others in the ordinary course of the seller's business and the seller, before notice of repudiation is received and under circumstances that reasonably indicate that the goods are for the buyer, has made either a substantial beginning of their manufacture or commitments for their procurement; or

(b) if the party against whom enforcement is sought admits in the party's pleading, testimony or otherwise in court that a contract for sale was made, but the contract is not enforceable under this provision beyond the quantity of goods admitted; or

(c) with respect to goods for which payment has been made and accepted or that have been received and accepted (Section 55-2-606 NMSA 1978)."

## **Chapter 142 Section 8 Laws 2023**

SECTION 8. Section 55-2-202 NMSA 1978 (being Laws 1961, Chapter 96, Section 2-202, as amended) is amended to read:

"55-2-202. FINAL WRITTEN EXPRESSION--PAROL OR EXTRINSIC EVIDENCE.--Terms with respect to which the confirmatory memoranda of the parties agree or that are otherwise set forth in a record intended by the parties as a final expression of their agreement with respect to such terms as are included therein may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement but may be explained or supplemented:

(a) by course of performance, course of dealing or usage of trade (Section 55-1-303 NMSA 1978); and

(b) by evidence of consistent additional terms unless the court finds the record to have been intended also as a complete and exclusive statement of the terms of the agreement."

## **Chapter 142 Section 9 Laws 2023**

SECTION 9. Section 55-2-203 NMSA 1978 (being Laws 1961, Chapter 96, Section 2-203) is amended to read:

"55-2-203. SEALS INOPERATIVE.--The affixing of a seal to a record evidencing a contract for sale or an offer to buy or sell goods does not constitute the record a sealed instrument, and the law with respect to sealed instruments does not apply to such a contract or offer."

### **Chapter 142 Section 10 Laws 2023**

SECTION 10. Section 55-2-205 NMSA 1978 (being Laws 1961, Chapter 96, Section 2-205) is amended to read:

"55-2-205. FIRM OFFERS.--An offer by a merchant to buy or sell goods in a signed record that by its terms gives assurance that it will be held open is not revocable, for lack of consideration, during the time stated or if no time is stated for a reasonable time, but in no event may such period of irrevocability exceed three months; but any such term of assurance on a form supplied by the offeree must be separately signed by the offeror."

### **Chapter 142 Section 11 Laws 2023**

SECTION 11. Section 55-2-209 NMSA 1978 (being Laws 1961, Chapter 96, Section 2-209) is amended to read:

"55-2-209. MODIFICATION, RESCISSION AND WAIVER.--

(1) An agreement modifying a contract within this article needs no consideration to be binding.

(2) A signed agreement that excludes modification or rescission except by a signed writing or other signed record cannot be otherwise modified or rescinded, but except as between merchants such a requirement on a form supplied by the merchant must be separately signed by the other party.

(3) The requirements of the statute of frauds section of this article (Section 55-2-201 NMSA 1978) must be satisfied if the contract as modified is within its provisions.

(4) Although an attempt at modification or rescission does not satisfy the requirements of Subsection (2) or (3) of this section, it can operate as a waiver.

(5) A party who has made a waiver affecting an executory portion of the contract may retract the waiver by reasonable notification received by the other party that strict performance will be required of any term waived, unless the retraction would be unjust in view of a material change of position in reliance on the waiver."

## **Chapter 142 Section 12 Laws 2023**

SECTION 12. Section 55-2A-102 NMSA 1978 (being Laws 1992, Chapter 114, Section 9) is amended to read:

"55-2A-102. SCOPE.--

(1) This article applies to any transaction, regardless of form, that creates a lease and, in the case of a hybrid lease, it applies to the extent provided in Subsection (2) of this section.

(2) In a hybrid lease:

(a) if the lease-of-goods aspects do not predominate:

(i) only the provisions of this article that relate primarily to the lease-of-goods aspects of the transaction apply, and the provisions that relate primarily to the transaction as a whole do not apply;

(ii) Section 55-2A-209 NMSA 1978 applies if the lease is a finance lease; and

(iii) Section 55-2A-407 NMSA 1978 applies to the promises of the lessee in a finance lease to the extent that the promises are consideration for the right to possession and use of the leased goods; and

(b) if the lease-of-goods aspects predominate, this article applies to the transaction, but does not preclude application in appropriate circumstances of other law to aspects of the lease that do not relate to the lease of goods."

## **Chapter 142 Section 13 Laws 2023**

SECTION 13. Section 55-2A-103 NMSA 1978 (being Laws 1992, Chapter 114, Section 10, as amended) is amended to read:

"55-2A-103. DEFINITIONS AND INDEX OF DEFINITIONS.--

(1) In this article unless the context otherwise requires:

(a) "buyer in ordinary course of business" means a person who, in good faith and without knowledge that the sale to that person is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, buys in ordinary course from a person in the business of selling goods of that kind, but does not include a pawnbroker. "Buying" may be for cash or by exchange of other property or on secured or unsecured credit and includes acquiring goods or documents

of title under a preexisting contract for sale but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt;

(b) "cancellation" occurs when either party puts an end to the lease contract for default by the other party;

(c) "commercial unit" means such a unit of goods as by commercial usage is a single whole for purposes of lease and division of which materially impairs its character or value on the market or in use. A commercial unit may be a single article, as a machine, or a set of articles, as a suite of furniture or a line of machinery, or a quantity, as a gross or carload, or any other unit treated in use or in the relevant market as a single whole;

(d) "conforming" goods or performance under a lease contract means goods or performance that are in accordance with the obligations under the lease contract;

(e) "consumer lease" means a lease that a lessor regularly engaged in the business of leasing or selling makes to a lessee who is an individual and who takes under the lease primarily for a personal, family or household purpose;

(f) "fault" means wrongful act, omission, breach or default;

(g) "finance lease" means a lease with respect to which:

(i) the lessor does not select, manufacture or supply the goods;

(ii) the lessor acquires the goods or the right to possession and use of the goods in connection with the lease; and

(iii) one of the following occurs:

(A) the lessee receives a copy of the contract by which the lessor acquired the goods or the right to possession and use of the goods before signing the lease contract;

(B) the lessee's approval of the contract by which the lessor acquired the goods or the right to possession and use of the goods is a condition to effectiveness of the lease contract;

(C) the lessee, before signing the lease contract, receives an accurate and complete statement designating the promises and warranties, and any disclaimers of warranties, limitations or modifications of remedies, or liquidated damages, including those of a third party, such as the manufacturer of the goods, provided to the lessor by the person supplying the goods in connection with or as part of

the contract by which the lessor acquired the goods or the right to possession and use of the goods; or

(D) if the lease is not a consumer lease, the lessor, before the lessee signs the lease contract, informs the lessee in writing (a) of the identity of the person supplying the goods to the lessor, unless the lessee has selected that person and directed the lessor to acquire the goods or the right to possession and use of the goods from that person; (b) that the lessee is entitled under this article to the promises and warranties, including those of any third party, provided to the lessor by the person supplying the goods in connection with or as part of the contract by which the lessor acquired the goods or the right to possession and use of the goods; and (c) that the lessee may communicate with the person supplying the goods to the lessor and receive an accurate and complete statement of those promises and warranties, including any disclaimers and limitations of them or of remedies;

(h) "goods" means all things that are movable at the time of identification to the lease contract or are fixtures (Section 55-2A-309 NMSA 1978), but the term does not include money, documents, instruments, accounts, chattel paper, general intangibles or minerals or the like, including oil and gas, before extraction. The term also includes the unborn young of animals;

(h.1) "hybrid lease" means a single transaction involving a lease of goods and:

(i) the provision of services;

(ii) a sale of other goods; or

(iii) a sale, lease or license of property other than goods;

(i) "installment lease contract" means a lease contract that authorizes or requires the delivery of goods in separate lots to be separately accepted, even though the lease contract contains a clause "each delivery is a separate lease" or its equivalent;

(j) "lease" means a transfer of the right to possession and use of goods for a term in return for consideration, but a sale, including a sale on approval or a sale or return, or retention or creation of a security interest is not a lease; unless the context clearly indicates otherwise, the term includes a sublease;

(k) "lease agreement" means the bargain, with respect to the lease, of the lessor and the lessee in fact as found in their language or by implication from other circumstances, including course of dealing or usage or trade or course of performance as provided in this article; unless the context clearly indicates otherwise, the term includes a sublease agreement;

(l) "lease contract" means the total legal obligation that results from the lease agreement as affected by this article and any other applicable rules of law; unless the context clearly indicates otherwise, the term includes a sublease contract;

(m) "leasehold interest" means the interest of the lessor or the lessee under a lease contract;

(n) "lessee" means a person who acquires the right to possession and use of goods under a lease; unless the context clearly indicates otherwise, the term includes a sublessee;

(o) "lessee in ordinary course of business" means a person who in good faith and without knowledge that the lease to that person is in violation of the ownership rights or security interest or leasehold interest of a third party in the goods, leases in ordinary course from a person in the business of selling or leasing goods of that kind, but does not include a pawnbroker; "leasing" may be for cash or by exchange of other property or on secured or unsecured credit and includes acquiring goods or documents of title under a preexisting lease contract but does not include a transfer in bulk or as security for or in total or partial satisfaction of a money debt;

(p) "lessor" means a person who transfers the right to possession and use of goods under a lease; unless the context clearly indicates otherwise, the term includes a sublessor;

(q) "lessor's residual interest" means the lessor's interest in the goods after expiration, termination or cancellation of the lease contract;

(r) "lien" means a charge against or interest in goods to secure payment of a debt or performance of an obligation, but the term does not include a security interest;

(s) "lot" means a parcel or a single article that is the subject matter of a separate lease or delivery whether or not it is sufficient to perform the lease contract;

(t) "merchant lessee" means a lessee that is a merchant with respect to goods of the kind subject to the lease;

(u) "present value" means the amount as of a date certain of one or more sums payable in the future, discounted to the date certain. The discount is determined by the interest rate specified by the parties if the rate was not manifestly unreasonable at the time the transaction was entered into; otherwise, the discount is determined by a commercially reasonable rate that takes into account the facts and circumstances of each case at the time the transaction was entered into;

(v) "purchase" includes taking by sale, lease, mortgage, security interest, pledge, gift or any other voluntary transaction creating an interest in goods;

(w) "sublease" means a lease of goods the right to possession and use of which was acquired by the lessor as a lessee under an existing lease;

(x) "supplier" means a person from whom a lessor buys or leases goods to be leased under a finance lease;

(y) "supply contract" means a contract under which a lessor buys or leases goods to be leased; and

(z) "termination" occurs when either party pursuant to a power created by agreement or law puts an end to the lease contract otherwise than for default.

(2) Other definitions applying to this article and the sections in which they appear are:

"accessions" . . . . .Section 55-2A-310 NMSA 1978;

"construction mortgage" . . . . . Section 55-2A-309 NMSA 1978;

"encumbrance" . . . . . Section 55-2A-309 NMSA 1978;

"fixtures" . . . . . Section 55-2A-309 NMSA 1978;

"fixture filing" . . . . .Section 55-2A-309 NMSA 1978; and

"purchase money lease" . . . . .Section 55-2A-309 NMSA 1978.

(3) The following definitions in other articles apply to this article:

"account" . . . . .Paragraph (2) of Subsection (a) of Section 55-9-102 NMSA 1978;

"between merchants" . . . . . Subsection (3) of Section 55-2-104 NMSA 1978;

"buyer" . . . . .Paragraph (a) of Subsection (1) of Section 55-2-103 NMSA 1978;

"chattel paper" . . . . .Paragraph (11) of Subsection (a) of Section 55-9-102 NMSA 1978;

"consumer goods" . . . . .Paragraph (23) of Subsection (a) of Section 55-9-102 NMSA 1978;

"document" . . . . .Paragraph (30) of Subsection (a) of Section 55-9-102 NMSA 1978;

"entrusting" . . . . . Subsection (3) of Section 55-2-403  
NMSA 1978;

"general intangible" . . . . . Paragraph (42) of Subsection (a) of Section 55-9-102  
NMSA 1978;

"instrument" . . . . . Paragraph (47) of Subsection (a) of Section 55-9-102  
NMSA 1978;

"merchant" . . . . . Subsection (1) of Section 55-2-104  
NMSA 1978;

"mortgage" . . . . . Paragraph (55) of Subsection (a) of Section 55-9-102  
NMSA 1978;

"pursuant to commitment" . . . . . Paragraph (69) of Subsection (a) of Section  
55-9-102 NMSA 1978;

"receipt" . . . . . Paragraph (c) of Subsection (1) of Section 55-2-103  
NMSA 1978;

"sale" . . . . . Subsection (1) of Section 55-2-106  
NMSA 1978;

"sale on approval" . . . . . Section 55-2-326  
NMSA 1978;

"sale or return" . . . . . Section 55-2-326  
NMSA 1978; and

"seller" . . . . . Paragraph (d) of Subsection (1) of Section 55-2-103  
NMSA 1978.

(4) In addition, Chapter 55, Article 1 NMSA 1978 contains general definitions and principles of construction and interpretation applicable throughout this article."

## **Chapter 142 Section 14 Laws 2023**

SECTION 14. Section 55-2A-107 NMSA 1978 (being Laws 1992, Chapter 114, Section 14) is amended to read:

"55-2A-107. WAIVER OR RENUNCIATION OF CLAIM OR RIGHT AFTER DEFAULT.--Any claim or right arising out of an alleged default or breach of warranty may be discharged in whole or in part without consideration by a waiver or renunciation in a signed record delivered by the aggrieved party."

## Chapter 142 Section 15 Laws 2023

SECTION 15. Section 55-2A-201 NMSA 1978 (being Laws 1992, Chapter 114, Section 17) is amended to read:

"55-2A-201. STATUTE OF FRAUDS.--

- (1) A lease contract is not enforceable by way of action or defense unless:
  - (a) the total payments to be made under the lease contract, excluding payments for options to renew or buy, are less than one thousand dollars (\$1,000); or
  - (b) there is a record, signed by the party against whom enforcement is sought or by that party's authorized agent, sufficient to indicate that a lease contract has been made between the parties and to describe the goods leased and the lease term.
- (2) Any description of leased goods or of the lease term is sufficient and satisfies Paragraph (b) of Subsection (1) of this section, whether or not it is specific, if it reasonably identifies what is described.
- (3) A record is not insufficient because it omits or incorrectly states a term agreed upon, but the lease contract is not enforceable under Paragraph (b) of Subsection (1) of this section beyond the lease term and the quantity of goods shown in the record.
- (4) A lease contract that does not satisfy the requirements of Subsection (1) of this section, but that is valid in other respects, is enforceable:
  - (a) if the goods are to be specially manufactured or obtained for the lessee and are not suitable for lease or sale to others in the ordinary course of the lessor's business, and the lessor, before notice of repudiation is received and under circumstances that reasonably indicate that the goods are for the lessee, has made either a substantial beginning of their manufacture or commitments for their procurement;
  - (b) if the party against whom enforcement is sought admits in that party's pleading, testimony or otherwise in court that a lease contract was made, but the lease contract is not enforceable under this provision beyond the quantity of goods admitted; or
  - (c) with respect to goods that have been received and accepted by the lessee.
- (5) The lease term under a lease contract referred to in Subsection (4) of this section is:

(a) if there is a record signed by the party against whom enforcement is sought or by that party's authorized agent specifying the lease term, the term so specified;

(b) if the party against whom enforcement is sought admits in that party's pleading, testimony, or otherwise in court a lease term, the term so admitted; or

(c) a reasonable lease term."

## **Chapter 142 Section 16 Laws 2023**

SECTION 16. Section 55-2A-202 NMSA 1978 (being Laws 1992, Chapter 114, Section 18) is amended to read:

"55-2A-202. FINAL EXPRESSION--PAROL OR EXTRINSIC EVIDENCE.--Terms with respect to which the confirmatory memoranda of the parties agree or that are otherwise set forth in a record intended by the parties as a final expression of their agreement with respect to such terms as are included therein may not be contradicted by evidence of any prior agreement or of a contemporaneous oral agreement but may be explained or supplemented:

(a) by course of dealing or usage of trade or by course of performance; and

(b) by evidence of consistent additional terms unless the court finds the record to have been intended also as a complete and exclusive statement of the terms of the agreement."

## **Chapter 142 Section 17 Laws 2023**

SECTION 17. Section 55-2A-203 NMSA 1978 (being Laws 1992, Chapter 114, Section 19) is amended to read:

"55-2A-203. SEALS INOPERATIVE.--The affixing of a seal to a record evidencing a lease contract or an offer to enter into a lease contract does not render the record a sealed instrument, and the law with respect to sealed instruments does not apply to the lease contract or offer."

## **Chapter 142 Section 18 Laws 2023**

SECTION 18. Section 55-2A-205 NMSA 1978 (being Laws 1992, Chapter 114, Section 21) is amended to read:

"55-2A-205. FIRM OFFERS.--An offer by a merchant to lease goods to or from another person in a signed record that by its terms gives assurance it will be held open is not revocable, for lack of consideration, during the time stated or, if no time is stated, for a reasonable time, but in no event may the period of irrevocability exceed three

months. Any such term of assurance on a form supplied by the offeree must be separately signed by the offeror."

## **Chapter 142 Section 19 Laws 2023**

SECTION 19. Section 55-2A-208 NMSA 1978 (being Laws 1992, Chapter 114, Section 24) is amended to read:

"55-2A-208. MODIFICATION, RESCISSION AND WAIVER.--

(1) An agreement modifying a lease contract needs no consideration to be binding.

(2) A signed lease agreement that excludes modification or rescission except by a signed record may not be otherwise modified or rescinded, but, except as between merchants, such a requirement on a form supplied by a merchant must be separately signed by the other party.

(3) Although an attempt at modification or rescission does not satisfy the requirements of Subsection (2) of this section, it may operate as a waiver.

(4) A party who has made a waiver affecting an executory portion of a lease contract may retract the waiver by reasonable notification received by the other party that strict performance will be required of any term waived, unless the retraction would be unjust in view of a material change of position in reliance on the waiver."

## **Chapter 142 Section 20 Laws 2023**

SECTION 20. Section 55-3-104 NMSA 1978 (being Laws 1992, Chapter 114, Section 91) is amended to read:

"55-3-104. NEGOTIABLE INSTRUMENT.--

(a) Except as provided in Subsections (c) and (d) of this section, "negotiable instrument" means an unconditional promise or order to pay a fixed amount of money, with or without interest or other charges described in the promise or order, if it:

(1) is payable to bearer or to order at the time it is issued or first comes into possession of a holder;

(2) is payable on demand or at a definite time; and

(3) does not state any other undertaking or instruction by the person promising or ordering payment to do any act in addition to the payment of money, but the promise or order may contain (i) an undertaking or power to give, maintain or protect collateral to secure payment; (ii) an authorization or power to the holder to confess

judgment or realize on or dispose of collateral; (iii) a waiver of the benefit of any law intended for the advantage or protection of an obligor; (iv) a term that specifies the law that governs the promise or order; or (v) an undertaking to resolve in a specified forum a dispute concerning the promise or order.

(b) "Instrument" means a negotiable instrument.

(c) An order that meets all of the requirements of Subsection (a) of this section, except Paragraph (1) of that subsection, and otherwise falls within the definition of "check" in Subsection (f) of this section is a negotiable instrument and a check.

(d) A promise or order other than a check is not an instrument if, at the time it is issued or first comes into possession of a holder, it contains a conspicuous statement, however expressed, to the effect that the promise or order is not negotiable or is not an instrument governed by this article.

(e) An instrument is a "note" if it is a promise and is a "draft" if it is an order. If an instrument falls within the definition of both "note" and "draft", a person entitled to enforce the instrument may treat it as either.

(f) "Check" means (i) a draft, other than a documentary draft, payable on demand and drawn on a bank or (ii) a cashier's check or teller's check. An instrument may be a check even though it is described on its face by another term, such as "money order".

(g) "Cashier's check" means a draft with respect to which the drawer and drawee are the same bank or branches of the same bank.

(h) "Teller's check" means a draft drawn by a bank (i) on another bank or (ii) payable at or through a bank.

(i) "Traveler's check" means an instrument that (i) is payable on demand, (ii) is drawn on or payable at or through a bank, (iii) is designated by the term "traveler's check" or by a substantially similar term and (iv) requires, as a condition to payment, a countersignature by a person whose specimen signature appears on the instrument.

(j) "Certificate of deposit" means an instrument containing an acknowledgment by a bank that a sum of money has been received by the bank and a promise by the bank to repay the sum of money. A certificate of deposit is a note of the bank."

## **Chapter 142 Section 21 Laws 2023**

SECTION 21. Section 55-3-105 NMSA 1978 (being Laws 1992, Chapter 114, Section 92) is amended to read:

"55-3-105. ISSUE OF INSTRUMENT.--

(a) "Issue" means:

(1) the first delivery of an instrument by the maker or drawer, whether to a holder or nonholder, for the purpose of giving rights on the instrument to any person; or

(2) if agreed by the payee, the first transmission by the drawer to the payee of an image of an item and information derived from the item that enables the depository bank to collect the item by transferring or presenting under federal law an electronic check.

(b) An unissued instrument, or an unissued incomplete instrument that is completed, is binding on the maker or drawer, but nonissuance is a defense. An instrument that is conditionally issued or is issued for a special purpose is binding on the maker or drawer, but failure of the condition or special purpose to be fulfilled is a defense.

(c) "Issuer" applies to issued and unissued instruments and means a maker or drawer of an instrument."

## **Chapter 142 Section 22 Laws 2023**

SECTION 22. Section 55-3-309 NMSA 1978 (being Laws 1992, Chapter 114, Section 122) is amended to read:

### "55-3-309. ENFORCEMENT OF LOST, DESTROYED OR STOLEN INSTRUMENT.--

(a) A person not in possession of an instrument is entitled to enforce the instrument if:

(1) the person seeking to enforce the instrument:

(A) was entitled to enforce the instrument when loss of possession occurred; or

(B) has directly or indirectly acquired ownership of the instrument from a person who was entitled to enforce the instrument when loss of possession occurred;

(2) the loss of possession was not the result of a transfer by the person or a lawful seizure; and

(3) the person cannot reasonably obtain possession of the instrument because the instrument was destroyed, its whereabouts cannot be determined or it is in the wrongful possession of an unknown person or a person that cannot be found or is not amenable to service of process.

(b) A person seeking enforcement of an instrument under Subsection (a) of this section must prove the terms of the instrument and the person's right to enforce the instrument. If that proof is made, Section 55-3-308 NMSA 1978 applies to the case as if the person seeking enforcement had produced the instrument. The court may not enter judgment in favor of the person seeking enforcement unless it finds that the person required to pay the instrument is adequately protected against loss that might occur by reason of a claim by another person to enforce the instrument. Adequate protection may be provided by any reasonable means."

### **Chapter 142 Section 23 Laws 2023**

SECTION 23. Section 55-3-401 NMSA 1978 (being Laws 1992, Chapter 114, Section 126) is amended to read:

"55-3-401. SIGNATURE.--A person is not liable on an instrument unless (i) the person signed the instrument or (ii) the person is represented by an agent or representative who signed the instrument and the signature is binding on the represented person under Section 55-3-402 NMSA 1978."

### **Chapter 142 Section 24 Laws 2023**

SECTION 24. Section 55-3-604 NMSA 1978 (being Laws 1992, Chapter 114, Section 154, as amended) is amended to read:

"55-3-604. DISCHARGE BY CANCELLATION OR RENUNCIATION.--

(a) A person entitled to enforce an instrument, with or without consideration, may discharge the obligation of a party to pay the instrument: (i) by an intentional voluntary act, such as surrender of the instrument to the party; destruction, mutilation or cancellation of the instrument; cancellation or striking out of the party's signature; or the addition of words to the instrument indicating discharge; or (ii) by agreeing not to sue or otherwise renouncing rights against the party by a signed record. The obligation of a party to pay a check is not discharged solely by destruction of the check in connection with a process in which information is extracted from the check and an image of the check is made and, subsequently, the information and image are transmitted for payment.

(b) Cancellation or striking out of an indorsement pursuant to Subsection (a) of this section does not affect the status and rights of a party derived from the indorsement."

## **Chapter 142 Section 25 Laws 2023**

SECTION 25. Section 55-4A-103 NMSA 1978 (being Laws 1992, Chapter 114, Section 199) is amended to read:

"55-4A-103. PAYMENT ORDER--DEFINITIONS.--

(a) In this article:

(1) "payment order" means an instruction of a sender to a receiving bank, transmitted orally or in a record, to pay, or to cause another bank to pay, a fixed or determinable amount of money to a beneficiary if:

(i) the instruction does not state a condition to payment to the beneficiary other than time of payment,

(ii) the receiving bank is to be reimbursed by debiting an account of, or otherwise receiving payment from, the sender and

(iii) the instruction is transmitted by the sender directly to the receiving bank or to an agent, funds- transfer system or communication system for transmittal to the receiving bank;

(2) "beneficiary" means the person to be paid by the beneficiary's bank;

(3) "beneficiary's bank" means the bank identified in a payment order in which an account of the beneficiary is to be credited pursuant to the order or that otherwise is to make payment to the beneficiary if the order does not provide for payment to an account;

(4) "receiving bank" means the bank to which the sender's instruction is addressed; and

(5) "sender" means the person giving the instruction to the receiving bank.

(b) If an instruction complying with Paragraph (1) of Subsection (a) of this section is to make more than one payment to a beneficiary, the instruction is a separate payment order with respect to each payment.

(c) A payment order is issued when it is sent to the receiving bank."

## **Chapter 142 Section 26 Laws 2023**

SECTION 26. Section 55-4A-201 NMSA 1978 (being Laws 1992, Chapter 114, Section 205) is amended to read:

"55-4A-201. SECURITY PROCEDURE.--"Security procedure" means a procedure established by agreement of a customer and a receiving bank for the purpose of (i) verifying that a payment order or communication amending or canceling a payment order is that of the customer or (ii) detecting error in the transmission or the content of the payment order or communication. A security procedure may impose an obligation on the receiving bank or the customer and may require the use of algorithms or other codes, identifying words, numbers, symbols, sounds, biometrics, encryption, callback procedures or similar security devices. Comparison of a signature on a payment order or communication with an authorized specimen signature of the customer or requiring a payment order to be sent from a known email address, internet protocol address or telephone number is not by itself a security procedure."

## **Chapter 142 Section 27 Laws 2023**

SECTION 27. Section 55-4A-202 NMSA 1978 (being Laws 1992, Chapter 114, Section 206) is amended to read:

"55-4A-202. AUTHORIZED AND VERIFIED PAYMENT ORDERS.--

(a) A payment order received by the receiving bank is the authorized order of the person identified as sender if that person authorized the order or is otherwise bound by it under the law of agency.

(b) If a bank and its customer have agreed that the authenticity of payment orders issued to the bank in the name of the customer as sender will be verified pursuant to a security procedure, a payment order received by the receiving bank is effective as the order of the customer, whether or not authorized, if (i) the security procedure is a commercially reasonable method of providing security against unauthorized payment orders and (ii) the bank proves that it accepted the payment order in good faith and in compliance with the bank's obligations under the security procedure and any agreement or instruction of the customer, evidenced by a record, restricting acceptance of payment orders issued in the name of the customer. The bank is not required to follow an instruction that violates a written agreement with the customer or notice of which is not received at a time and in a manner affording the bank a reasonable opportunity to act on it before the payment order is accepted.

(c) Commercial reasonableness of a security procedure is a question of law to be determined by considering the wishes of the customer expressed to the bank, the circumstances of the customer known to the bank, including the size, type and frequency of payment orders normally issued by the customer to the bank, alternative security procedures offered to the customer and security procedures in general use by customers and receiving banks similarly situated. A security procedure is deemed to be commercially reasonable if (i) the security procedure was chosen by the customer after the bank offered, and the customer refused, a security procedure that was commercially reasonable for that customer and (ii) the customer expressly agreed in a record to be bound by any payment order, whether or not authorized, issued in its name and

accepted by the bank in compliance with the bank's obligations under the security procedure chosen by the customer.

(d) The term "sender" in this article includes the customer in whose name a payment order is issued if the order is the authorized order of the customer under Subsection (a) of this section, or it is effective as the orders of the customer under Subsection (b) of this section.

(e) This section applies to amendments and cancellations of payment orders to the same extent it applies to payment orders.

(f) Except as provided in this section and in Paragraph (1) of Subsection (a) of Section 55-4A-203 NMSA 1978, rights and obligations arising under this section or Section 55-4A-203 NMSA 1978 may not be varied by agreement."

## **Chapter 142 Section 28 Laws 2023**

SECTION 28. Section 55-4A-203 NMSA 1978 (being Laws 1992, Chapter 114, Section 207) is amended to read:

"55-4A-203. UNENFORCEABILITY OF CERTAIN VERIFIED PAYMENT ORDERS.--

(a) If an accepted payment order is not, under Subsection (a) of Section 55-4A-202 NMSA 1978, an authorized order of a customer identified as sender, but is effective as an order of the customer pursuant to Subsection (b) of Section 55-4A-202 NMSA 1978, the following rules apply:

(1) By express agreement evidenced by a record, the receiving bank may limit the extent to which it is entitled to enforce or retain payment of the payment order.

(2) The receiving bank is not entitled to enforce or retain payment of the payment order if the customer proves that the order was not caused, directly or indirectly, by a person (i) entrusted at any time with duties to act for the customer with respect to payment orders or the security procedure or (ii) who obtained access to transmitting facilities of the customer or who obtained, from a source controlled by the customer and without authority of the receiving bank, information facilitating breach of the security procedure, regardless of how the information was obtained or whether the customer was at fault. Information includes any access device, computer software or the like.

(b) This section applies to amendments of payment orders to the same extent it applies to payment orders."

## Chapter 142 Section 29 Laws 2023

SECTION 29. Section 55-4A-207 NMSA 1978 (being Laws 1992, Chapter 114, Section 211) is amended to read:

### "55-4A-207. MISDESCRIPTION OF BENEFICIARY.--

(a) Subject to Subsection (b) of this section, if, in a payment order received by the beneficiary's bank, the name, bank account number or other identification of the beneficiary refers to a nonexistent or unidentifiable person or account, no person has rights as a beneficiary of the order and acceptance of the order cannot occur.

(b) If a payment order received by the beneficiary's bank identifies the beneficiary both by name and by an identifying or bank account number and the name and number identify different persons, the following rules apply:

(1) Except as otherwise provided in Subsection (c) of this section, if the beneficiary's bank does not know that the name and number refer to different persons, it may rely on the number as the proper identification of the beneficiary of the order. The beneficiary's bank need not determine whether the name and number refer to the same person.

(2) If the beneficiary's bank pays the person identified by name or knows that the name and number identify different persons, no person has rights as beneficiary except the person paid by the beneficiary's bank if that person was entitled to receive payment from the originator of the funds transfer. If no person has rights as beneficiary, acceptance of the order cannot occur.

(c) If (i) a payment order described in Subsection (b) of this section is accepted, (ii) the originator's payment order described the beneficiary inconsistently by name and number and (iii) the beneficiary's bank pays the person identified by number as permitted by Paragraph (1) of Subsection (b) of this section, the following rules apply:

(1) If the originator is a bank, the originator is obliged to pay its order.

(2) If the originator is not a bank and proves that the person identified by number was not entitled to receive payment from the originator, the originator is not obliged to pay its order unless the originator's bank proves that the originator, before acceptance of the originator's order, had notice that payment of a payment order issued by the originator might be made by the beneficiary's bank on the basis of an identifying or bank account number even if it identifies a person different from the named beneficiary. Proof of notice may be made by any admissible evidence. The originator's bank satisfies the burden of proof if it proves that the originator, before the payment order was accepted, signed a record stating the information to which the notice relates.

(d) In a case governed by Paragraph (1) of Subsection (b) of this section, if the beneficiary's bank rightfully pays the person identified by number and that person was not entitled to receive payment from the originator, the amount paid may be recovered from that person to the extent allowed by the law governing mistake and restitution as follows:

(1) if the originator is obliged to pay its payment order as stated in Subsection (c) of this section, the originator has the right to recover; or

(2) if the originator is not a bank and is not obliged to pay its payment order, the originator's bank has the right to recover."

## **Chapter 142 Section 30 Laws 2023**

SECTION 30. Section 55-4A-208 NMSA 1978 (being Laws 1992, Chapter 114, Section 212) is amended to read:

"55-4A-208. MISDESCRIPTION OF INTERMEDIARY BANK OR BENEFICIARY'S BANK.--

(a) This subsection applies to a payment order identifying an intermediary bank or the beneficiary's bank only by an identifying number.

(1) The receiving bank may rely on the number as the proper identification of the intermediary or beneficiary's bank and need not determine whether the number identifies a bank.

(2) The sender is obliged to compensate the receiving bank for any loss and expenses incurred by the receiving bank as a result of its reliance on the number in executing or attempting to execute the order.

(b) This subsection applies to a payment order identifying an intermediary bank or the beneficiary's bank both by name and an identifying number if the name and number identify different persons.

(1) If the sender is a bank, the receiving bank may rely on the number as the proper identification of the intermediary or beneficiary's bank if the receiving bank, when it executes the sender's order, does not know that the name and number identify different persons. The receiving bank need not determine whether the name and number refer to the same person or whether the number refers to a bank. The sender is obliged to compensate the receiving bank for any loss and expenses incurred by the receiving bank as a result of its reliance on the number in executing or attempting to execute the order.

(2) If the sender is not a bank and the receiving bank proves that the sender, before the payment order was accepted, had notice that the receiving bank

might rely on the number as the proper identification of the intermediary or beneficiary's bank even if it identifies a person different from the bank identified by name, the rights and obligations of the sender and the receiving bank are governed by Paragraph (1) of this subsection as though the sender were a bank. Proof of notice may be made by any admissible evidence. The receiving bank satisfies the burden of proof if it proves that the sender, before the payment order was accepted, signed a record stating the information to which the notice relates.

(3) Regardless of whether the sender is a bank, the receiving bank may rely on the name as the proper identification of the intermediary or beneficiary's bank if the receiving bank, at the time it executes the sender's order, does not know that the name and number identify different persons. The receiving bank need not determine whether the name and number refer to the same person.

(4) If the receiving bank knows that the name and number identify different persons, reliance on either the name or the number in executing the sender's payment order is a breach of the obligation stated in Paragraph (1) of Subsection (a) of Section 55-4A-302 NMSA 1978."

## **Chapter 142 Section 31 Laws 2023**

SECTION 31. Section 55-4A-210 NMSA 1978 (being Laws 1992, Chapter 114, Section 214) is amended to read:

### **"55-4A-210. REJECTION OF PAYMENT ORDER.--**

(a) A payment order is rejected by the receiving bank by a notice of rejection transmitted to the sender orally or in a record. A notice of rejection need not use any particular words and is sufficient if it indicates that the receiving bank is rejecting the order or will not execute or pay the order. Rejection is effective when the notice is given if transmission is by a means that is reasonable in the circumstances. If notice of rejection is given by a means that is not reasonable, rejection is effective when the notice is received. If an agreement of the sender and receiving bank establishes the means to be used to reject a payment order, (i) any means complying with the agreement is reasonable, and (ii) any means not complying is not reasonable unless no significant delay in receipt of the notice resulted from the use of the noncomplying means.

(b) This subsection applies if a receiving bank other than the beneficiary's bank fails to execute a payment order despite the existence on the execution date of a withdrawable credit balance in an authorized account of the sender sufficient to cover the order. If the sender does not receive notice of rejection of the order on the execution date and the authorized account of the sender does not bear interest, the bank is obliged to pay interest to the sender on the amount of the order for the number of days elapsing after the execution date to the earlier of the day the order is canceled pursuant to Subsection (d) of Section 55-4A-211 NMSA 1978 or the day the sender receives

notice or learns that the order was not executed, counting the final day of the period as an elapsed day. If the withdrawable credit balance during that period falls below the amount of the order, the amount of interest is reduced accordingly.

(c) If a receiving bank suspends payments, all unaccepted payment orders issued to it are deemed rejected at the time the bank suspends payments.

(d) Acceptance of a payment order precludes a later rejection of the order. Rejection of a payment order precludes a later acceptance of the order."

## **Chapter 142 Section 32 Laws 2023**

SECTION 32. Section 55-4A-211 NMSA 1978 (being Laws 1992, Chapter 114, Section 215) is amended to read:

"55-4A-211. CANCELLATION AND AMENDMENT OF PAYMENT ORDER.--

(a) A communication of the sender of a payment order canceling or amending the order may be transmitted to the receiving bank orally or in a record. If a security procedure is in effect between the sender and the receiving bank, the communication is not effective to cancel or amend the order unless the communication is verified pursuant to the security procedure or the bank agrees to the cancellation or amendment.

(b) Subject to Subsection (a) of this section, a communication by the sender canceling or amending a payment order is effective to cancel or amend the order if notice of the communication is received at a time and in a manner affording the receiving bank a reasonable opportunity to act on the communication before the bank accepts the payment order.

(c) After a payment order has been accepted, cancellation or amendment of the order is not effective unless the receiving bank agrees or a funds-transfer system rule allows cancellation or amendment without agreement of the bank.

(1) With respect to a payment order accepted by a receiving bank other than the beneficiary's bank, cancellation or amendment is not effective unless a conforming cancellation or amendment of the payment order issued by the receiving bank is also made.

(2) With respect to a payment order accepted by the beneficiary's bank, cancellation or amendment is not effective unless the order was issued in execution of an unauthorized payment order or because of a mistake by a sender in the funds transfer that resulted in the issuance of a payment order (i) that is a duplicate of a payment order previously issued by the sender, (ii) that orders payment to a beneficiary not entitled to receive payment from the originator or (iii) that orders payment in an amount greater than the amount the beneficiary was entitled to receive from the originator. If the payment order is canceled or amended, the beneficiary's bank is

entitled to recover from the beneficiary any amount paid to the beneficiary to the extent allowed by the law governing mistake and restitution.

(d) An unaccepted payment order is canceled by operation of law at the close of the fifth funds-transfer business day of the receiving bank after the execution date or payment date of the order.

(e) A canceled payment order cannot be accepted. If an accepted payment order is canceled, the acceptance is nullified and no person has any right or obligation based on the acceptance. Amendment of a payment order is deemed to be cancellation of the original order at the time of amendment and issue of a new payment order in the amended form at the same time.

(f) Unless otherwise provided in an agreement of the parties or in a funds-transfer system rule, if the receiving bank, after accepting a payment order, agrees to cancellation or amendment of the order by the sender or is bound by a funds-transfer system rule allowing cancellation or amendment without the bank's agreement, the sender, whether or not cancellation or amendment is effective, is liable to the bank for any loss and expenses, including reasonable attorney fees, incurred by the bank as a result of the cancellation or amendment or attempted cancellation or amendment.

(g) A payment order is not revoked by the death or legal incapacity of the sender unless the receiving bank knows of the death or of an adjudication of incapacity by a court of competent jurisdiction and has reasonable opportunity to act before acceptance of the order.

(h) A funds-transfer system rule is not effective to the extent it conflicts with Paragraph (2) of Subsection (c) of this section."

## **Chapter 142 Section 33 Laws 2023**

SECTION 33. Section 55-4A-305 NMSA 1978 (being Laws 1992, Chapter 114, Section 221) is amended to read:

"55-4A-305. LIABILITY FOR LATE OR IMPROPER EXECUTION OR FAILURE TO EXECUTE PAYMENT ORDER.--

(a) If a funds transfer is completed but the execution of a payment order by the receiving bank in breach of Section 55-4A-302 NMSA 1978 results in delay in payment to the beneficiary, the bank is obliged to pay interest to either the originator or the beneficiary of the funds transfer for the period of delay caused by the improper execution. Except as provided in Subsection (c) of this section, additional damages are not recoverable.

(b) If execution of a payment order by a receiving bank in breach of Section 55-4A-302 NMSA 1978 results in (i) noncompletion of the funds transfer, (ii) failure to

use an intermediary bank designated by the originator or (iii) issuance of a payment order that does not comply with the terms of the payment order of the originator, the bank is liable to the originator for its expenses in the funds transfer and for incidental expenses and interest losses, to the extent not covered by Subsection (a) of this section, resulting from the improper execution. Except as provided in Subsection (c) of this section, additional damages are not recoverable.

(c) In addition to the amounts payable under Subsections (a) and (b) of this section, damages, including consequential damages, are recoverable to the extent provided in an express agreement of the receiving bank, evidenced by a record.

(d) If a receiving bank fails to execute a payment order it was obliged by express agreement to execute, the receiving bank is liable to the sender for its expenses in the transaction and for incidental expenses and interest losses resulting from the failure to execute. Additional damages, including consequential damages, are recoverable to the extent provided in an express agreement of the receiving bank, evidenced by a record, but are not otherwise recoverable.

(e) Reasonable attorney fees are recoverable if demand for compensation under Subsection (a) or (b) of this section is made and refused before an action is brought on the claim. If a claim is made for breach of an agreement under Subsection (d) of this section and the agreement does not provide for damages, reasonable attorney fees are recoverable if demand for compensation under Subsection (d) of this section is made and refused before an action is brought on the claim.

(f) Except as stated in this section, the liability of a receiving bank under Subsections (a) and (b) of this section may not be varied by agreement."

## **Chapter 142 Section 34 Laws 2023**

SECTION 34. Section 55-5-104 NMSA 1978 (being Laws 1997, Chapter 75, Section 6) is amended to read:

"55-5-104. FORMAL REQUIREMENTS.--A letter of credit, confirmation, advice, transfer, amendment or cancellation may be issued in any form that is a signed record."

## **Chapter 142 Section 35 Laws 2023**

SECTION 35. Section 55-5-116 NMSA 1978 (being Laws 1997, Chapter 75, Section 18) is amended to read:

"55-5-116. CHOICE OF LAW AND FORUM.--

(a) The liability of an issuer, nominated person or adviser for action or omission is governed by the law of the jurisdiction chosen by an agreement in the form of a record signed or by a provision in the person's letter of credit, confirmation or other

undertaking. The jurisdiction whose law is chosen need not bear any relation to the transaction.

(b) Unless Subsection (a) of this section applies, the liability of an issuer, nominated person or adviser for action or omission is governed by the law of the jurisdiction in which the person is located. The person is considered to be located at the address indicated in the person's undertaking. If more than one address is indicated, the person is considered to be located at the address from which the person's undertaking was issued.

(c) For the purpose of jurisdiction, choice of law and recognition of interbranch letters of credit, but not enforcement of a judgment, all branches of a bank are considered separate juridical entities, and a bank is considered to be located at the place where its relevant branch is considered to be located under Subsection (d) of this section.

(d) A branch of a bank is considered to be located at the address indicated in the branch's undertaking. If more than one address is indicated, the branch is considered to be located at the address from which the undertaking was issued.

(e) Except as otherwise provided in this subsection, the liability of an issuer, nominated person or adviser is governed by any rules of custom or practice, such as the Uniform Customs and Practice for Documentary Credits, to which the letter of credit, confirmation or other undertaking is expressly made subject. If (i) this article would govern the liability of an issuer, nominated person or adviser under Subsection (a) or (b) of this section; (ii) the relevant undertaking incorporates rules of custom or practice; and (iii) there is conflict between this article and those rules as applied to that undertaking, those rules govern except to the extent of any conflict with the nonvariable provisions specified in Subsection (c) of Section 55-5-103 NMSA 1978.

(f) If there is conflict between this article and Chapter 55, Article 3, 4, 4A or 9 NMSA 1978, this article governs.

(g) The forum for settling disputes arising out of an undertaking within this article may be chosen in the manner and with the binding effect that governing law may be chosen in accordance with Subsection (a) of this section."

## **Chapter 142 Section 36 Laws 2023**

SECTION 36. Section 55-7-102 NMSA 1978 (being Laws 2005, Chapter 144, Section 52) is amended to read:

"55-7-102. DEFINITIONS AND INDEX OF DEFINITIONS.--

(a) In Chapter 55, Article 7 NMSA 1978, unless the context otherwise requires:

(1) "bailee" means a person that by a warehouse receipt, bill of lading or other document of title acknowledges possession of goods and contracts to deliver them;

(2) "carrier" means a person that issues a bill of lading;

(3) "consignee" means a person named in a bill of lading to which or to whose order the bill promises delivery;

(4) "consignor" means a person named in a bill of lading as the person from which the goods have been received for shipment;

(5) "delivery order" means a record that contains an order to deliver goods directed to a warehouse, carrier or other person that in the ordinary course of business issues warehouse receipts or bills of lading;

(6) Reserved;

(7) "goods" means all things that are treated as movable for the purposes of a contract for storage or transportation;

(8) "issuer" means a bailee that issues a document of title or, in the case of an unaccepted delivery order, the person that orders the possessor of goods to deliver. The term includes a person for which an agent or employee purports to act in issuing a document if the agent or employee has real or apparent authority to issue documents, even if the issuer did not receive any goods, the goods were misdescribed or in any other respect the agent or employee violated the issuer's instructions;

(9) "person entitled under the document" means the holder, in the case of a negotiable document of title, or the person to which delivery of the goods is to be made by the terms of, or pursuant to instructions in a record under, a nonnegotiable document of title;

(10) Reserved;

(11) Reserved;

(12) "shipper" means a person that enters into a contract of transportation with a carrier; and

(13) "warehouse" means a person engaged in the business of storing goods for hire.

(b) Definitions in other articles applying to this article and the sections in which they appear are:

- (1) "contract for sale", Section 55-2-106 NMSA 1978;
- (2) "lessee in the ordinary course of business", Section 55-2A-103 NMSA 1978; and
- (3) "receipt" of goods, Section 55-2-103 NMSA 1978.

(c) In addition, Chapter 55, Article 1 NMSA 1978 contains general definitions and principles of construction and interpretation applicable throughout this article."

## **Chapter 142 Section 37 Laws 2023**

SECTION 37. Section 55-7-106 NMSA 1978 (being Laws 2005, Chapter 144, Section 56) is amended to read:

"55-7-106. CONTROL OF ELECTRONIC DOCUMENT OF TITLE.--

(a) A person has control of an electronic document of title if a system employed for evidencing the transfer of interests in the electronic document reliably establishes that person as the person to which the electronic document was issued or transferred.

(b) A system satisfies Subsection (a) of this section, and a person has control of an electronic document of title, if the document is created, stored and transferred in a manner that:

(1) a single authoritative copy of the document exists that is unique, identifiable and, except as otherwise provided in Paragraphs (4), (5) and (6) of this subsection, unalterable;

(2) the authoritative copy identifies the person asserting control as:

(A) the person to which the document was issued; or

(B) if the authoritative copy indicates that the document has been transferred, the person to which the document was most recently transferred;

(3) the authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(4) copies or amendments that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;

(5) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) any amendment of the authoritative copy is readily identifiable as authorized or unauthorized.

(c) A system satisfies Subsection (a) of this section, and a person has control of an electronic document of title, if an authoritative electronic copy of the document, a record attached to or logically associated with the electronic copy or a system in which the electronic copy is recorded:

(1) enables the person readily to identify each electronic copy as either an authoritative copy or a nonauthoritative copy;

(2) enables the person readily to identify itself in any way, including by name, identifying number, cryptographic key, office or account number, as the person to which each authoritative electronic copy was issued or transferred; and

(3) gives the person exclusive power, subject to Subsection (d) of this section, to:

(A) prevent others from adding or changing the person to which each authoritative electronic copy has been issued or transferred; and

(B) transfer control of each authoritative electronic copy.

(d) Subject to Subsection (e) of this section, a power is exclusive under Subparagraphs (A) and (B) of Paragraph (3) of Subsection (c) of this section even if:

(1) the authoritative electronic copy, a record attached to or logically associated with the authoritative electronic copy or a system in which the authoritative electronic copy is recorded limits the use of the document of title or has a protocol that is programmed to cause a change, including a transfer or loss of control; or

(2) the power is shared with another person.

(e) A power of a person is not shared with another person under Paragraph (2) of Subsection (d) of this section, and the person's power is not exclusive if:

(1) the person can exercise the power only if the power also is exercised by the other person; and

(2) the other person:

(A) can exercise the power without exercise of the power by the person; or

(B) is the transferor to the person of an interest in the document of title.

(f) If a person has the powers specified in Subparagraphs (A) and (B) of Paragraph (3) of Subsection (c) of this section, the powers are presumed to be exclusive.

(g) A person has control of an electronic document of title if another person, other than the transferor to the person of an interest in the document:

(1) has control of the document and acknowledges that it has control on behalf of the person; or

(2) obtains control of the document after having acknowledged that it will obtain control of the document on behalf of the person.

(h) A person that has control under this section is not required to acknowledge that it has control on behalf of another person.

(i) If a person acknowledges that it has or will obtain control on behalf of another person, unless the person otherwise agrees or law other than this article or Chapter 55, Article 9 NMSA 1978 otherwise provides, the person does not owe any duty to the other person and is not required to confirm the acknowledgment to any other person."

## **Chapter 142 Section 38 Laws 2023**

SECTION 38. Section 55-8-102 NMSA 1978 (being Laws 1996, Chapter 47, Section 6, as amended) is amended to read:

"55-8-102. DEFINITIONS.--

(a) In this article:

(1) "adverse claim" means a claim that a claimant has a property interest in a financial asset and that it is a violation of the rights of the claimant for another person to hold, transfer or deal with the financial asset;

(2) "bearer form", as applied to a certificated security, means a form in which the security is payable to the bearer of the security certificate according to its terms but not by reason of an indorsement;

(3) "broker" means a person defined as a broker or dealer under the federal securities laws, but without excluding a bank acting in that capacity;

(4) "certificated security" means a security that is represented by a certificate;

(5) "clearing corporation" means:

(i) a person that is registered as a "clearing agency" under the federal securities laws;

(ii) a federal reserve bank; or

(iii) any other person that provides clearance or settlement services with respect to financial assets that would require it to register as a clearing agency under the federal securities laws but for an exclusion or exemption from the registration requirement, if its activities as a clearing corporation, including promulgation of rules, are subject to regulation by a federal or state governmental authority;

(6) "communicate" means to:

(i) send a signed record; or

(ii) transmit information by any mechanism agreed upon by the persons transmitting and receiving the information;

(7) "entitlement holder" means a person identified in the records of a securities intermediary as the person having a security entitlement against the securities intermediary. If a person acquires a security entitlement by virtue of Paragraph (2) or (3) of Subsection (b) of Section 55-8-501 NMSA 1978, that person is the entitlement holder;

(8) "entitlement order" means a notification communicated to a securities intermediary directing transfer or redemption of a financial asset to which the entitlement holder has a security entitlement;

(9) "financial asset", except as otherwise provided in Section 55-8-103 NMSA 1978, means:

(i) a security;

(ii) an obligation of a person or a share, participation or other interest in a person or in property or an enterprise of a person, which is, or is of a type, dealt in or traded on financial markets, or which is recognized in any area in which it is issued or dealt in as a medium for investment; or

(iii) any property that is held by a securities intermediary for another person in a securities account if the securities intermediary has expressly agreed with the other person that the property is to be treated as a financial asset under this article. As context requires, the term means either the interest itself or the means by which a person's claim to it is evidenced, including a certificated or uncertificated security, a security certificate or a security entitlement;

(10) [Reserved];

(11) "indorsement" means a signature that alone or accompanied by other words is made on a security certificate in registered form or on a separate document for the purpose of assigning, transferring or redeeming the security or granting a power to assign, transfer or redeem it;

(12) "instruction" means a notification communicated to the issuer of an uncertificated security that directs that the transfer of the security be registered or that the security be redeemed;

(13) "registered form", as applied to a certificated security, means a form in which:

(i) the security certificate specifies a person entitled to the security; and

(ii) a transfer of the security may be registered upon books maintained for that purpose by or on behalf of the issuer or the security certificate so states;

(14) "securities intermediary" means:

(i) a clearing corporation; or

(ii) a person, including a bank or broker, that in the ordinary course of its business maintains securities accounts for others and is acting in that capacity;

(15) "security", except as otherwise provided in Section 55-8-103 NMSA 1978, means an obligation of an issuer or a share, participation or other interest in an issuer or in property or an enterprise of an issuer:

(i) that is represented by a security certificate in bearer or registered form or the transfer of which may be registered upon books maintained for that purpose by or on behalf of the issuer;

(ii) that is one of a class or series or by its terms is divisible into a class or series of shares, participations, interests or obligations; and

(iii) that:

(A) is, or is of a type, dealt in or traded on securities exchanges or securities markets; or

(B) is a medium for investment and by its terms expressly provides that it is a security governed by this article;

(16) "security certificate" means a certificate representing a security;

(17) "security entitlement" means the rights and property interest of an entitlement holder with respect to a financial asset specified in Part 5 of this article; and

(18) "uncertificated security" means a security that is not represented by a certificate.

(b) The following definitions in this article and other articles apply to this article:

appropriate person	Section 55-8-107 NMSA 1978;
control	Section 55-8-106 NMSA 1978;
controllable account	Section 55-9-102 NMSA 1978;
controllable electronic record	Section 55-12-102 NMSA 1978;
controllable payment intangible	Section 55-9-102 NMSA 1978;
delivery	Section 55-8-301 NMSA 1978;
investment company security	Section 55-8-103 NMSA 1978;
Issuer	Section 55-8-201 NMSA 1978;
overissue	Section 55-8-210 NMSA 1978;
protected purchaser	Section 55-8-303 NMSA 1978; and
securities account	Section 55-8-501 NMSA 1978.

(c) In addition, Chapter 55, Article 1 NMSA 1978 contains general definitions and principles of construction and interpretation applicable throughout this article.

(d) The characterization of a person, business or transaction for purposes of this article does not determine the characterization of the person, business or transaction for purposes of any other law, regulation or rule."

## **Chapter 142 Section 39 Laws 2023**

SECTION 39. Section 55-8-103 NMSA 1978 (being Laws 1996, Chapter 47, Section 7, as amended) is amended to read:

"55-8-103. RULES FOR DETERMINING WHETHER CERTAIN OBLIGATIONS AND INTERESTS ARE SECURITIES OR FINANCIAL ASSETS.--

(a) A share or similar equity interest issued by a corporation, business trust, joint stock company or similar entity is a security.

(b) An "investment company security" is a security. "Investment company security" means a share or similar equity interest issued by an entity that is registered as an investment company under the federal investment company laws, an interest in a unit investment trust that is so registered or a face-amount certificate issued by a face-amount certificate company that is so registered. Investment company security does not

include an insurance policy or endowment policy or annuity contract issued by an insurance company.

(c) An interest in a partnership or limited liability company is not a security unless it is dealt in or traded on securities exchanges or in securities markets, its terms expressly provide that it is a security governed by this article or it is an investment company security. However, an interest in a partnership or limited liability company is a financial asset if it is held in a securities account.

(d) A writing that is a security certificate is governed by Chapter 55, Article 8 NMSA 1978 and not by Chapter 55, Article 3 NMSA 1978, even though it also meets the requirements of that article. However, a negotiable instrument governed by Chapter 55, Article 3 NMSA 1978 is a financial asset if it is held in a securities account.

(e) An option or similar obligation issued by a clearing corporation to its participants is not a security. It is a financial asset.

(f) A commodity contract, as defined in Paragraph (15) of Subsection (a) of Section 55-9-102 NMSA 1978, is not a security or a financial asset.

(g) A document of title is not a financial asset unless Subparagraph (iii) of Paragraph (9) of Subsection (a) of Section 55-8-102 NMSA 1978 applies.

(h) A controllable account, controllable electronic record or controllable payment intangible is not a financial asset unless Subparagraph (iii) of Paragraph (9) of Subsection (a) of Section 55-8-102 NMSA 1978 applies."

## **Chapter 142 Section 40 Laws 2023**

SECTION 40. Section 55-8-106 NMSA 1978 (being Laws 1996, Chapter 47, Section 10, as amended) is amended to read:

"55-8-106. CONTROL.--

(a) A purchaser has "control" of a certificated security in bearer form if the certificated security is delivered to the purchaser.

(b) A purchaser has "control" of a certificated security in registered form if the certificated security is delivered to the purchaser and:

(1) the certificate is indorsed to the purchaser or in blank by an effective indorsement; or

(2) the certificate is registered in the name of the purchaser, upon original issue or registration of transfer by the issuer.

- (c) A purchaser has "control" of an uncertificated security if:
- (1) the uncertificated security is delivered to the purchaser; or
  - (2) the issuer has agreed that it will comply with instructions originated by the purchaser without further consent by the registered owner.
- (d) A purchaser has "control" of a security entitlement if:
- (1) the purchaser becomes the entitlement holder;
  - (2) the securities intermediary has agreed that it will comply with entitlement orders originated by the purchaser without further consent by the entitlement holder; or
  - (3) another person, other than the transferor to the purchaser of an interest in the security entitlement:
    - (A) has control of the security entitlement and acknowledges that it has control on behalf of the purchaser; or
    - (B) obtains control of the security entitlement after having acknowledged that it will obtain control of the security entitlement on behalf of the purchaser.
- (e) If an interest in a security entitlement is granted by the entitlement holder to the entitlement holder's own securities intermediary, the securities intermediary has control.
- (f) A purchaser who has satisfied the requirements of Subsection (c) or (d) of this section has control even if the registered owner in the case of Subsection (c) of this section or the entitlement holder in the case of Subsection (d) of this section retains the right to make substitutions for the uncertificated security or security entitlement, to originate instructions or entitlement orders to the issuer or securities intermediary or otherwise to deal with the uncertificated security or security entitlement.
- (g) An issuer or a securities intermediary may not enter into an agreement of the kind described in Paragraph (2) of Subsection (c) or Paragraph (2) of Subsection (d) of this section without the consent of the registered owner or entitlement holder, but an issuer or a securities intermediary is not required to enter into such an agreement even though the registered owner or entitlement holder so directs. An issuer or securities intermediary that has entered into such an agreement is not required to confirm the existence of the agreement to another party unless requested to do so by the registered owner or entitlement holder.

(h) A person that has control under this section is not required to acknowledge that it has control on behalf of a purchaser.

(i) If a person acknowledges that it has or will obtain control on behalf of a purchaser, unless the person otherwise agrees or law other than this article or Chapter 55, Article 9 NMSA 1978 otherwise provides, the person does not owe any duty to the purchaser and is not required to confirm the acknowledgment to any other person."

## **Chapter 142 Section 41 Laws 2023**

SECTION 41. Section 55-8-110 NMSA 1978 (being Laws 1996, Chapter 47, Section 14, as amended) is amended to read:

"55-8-110. APPLICABILITY--CHOICE OF LAW.--

(a) The local law of the issuer's jurisdiction, as specified in Subsection (d) of this section, governs:

- (1) the validity of a security;
- (2) the rights and duties of the issuer with respect to registration of transfer;
- (3) the effectiveness of registration of transfer by the issuer;
- (4) whether the issuer owes any duties to an adverse claimant to a security; and
- (5) whether an adverse claim can be asserted against a person to whom transfer of a certificated or uncertificated security is registered or a person who obtains control of an uncertificated security.

(b) The local law of the securities intermediary's jurisdiction, as specified in Subsection (e) of this section, governs:

- (1) acquisition of a security entitlement from the securities intermediary;
- (2) the rights and duties of the securities intermediary and entitlement holder arising out of a security entitlement;
- (3) whether the securities intermediary owes any duties to an adverse claimant to a security entitlement; and
- (4) whether an adverse claim can be asserted against a person who acquires a security entitlement from the securities intermediary or a person who purchases a security entitlement or interest therein from an entitlement holder.

(c) The local law of the jurisdiction in which a security certificate is located at the time of delivery governs whether an adverse claim can be asserted against a person to whom the security certificate is delivered.

(d) "Issuer's jurisdiction" means the jurisdiction under which the issuer of the security is organized or, if permitted by the law of that jurisdiction, the law of another jurisdiction specified by the issuer. An issuer organized under the law of this state may specify the law of another jurisdiction as the law governing the matters specified in Paragraphs (2) through (5) of Subsection (a) of this section.

(e) The following rules determine a "securities intermediary's jurisdiction" for purposes of this section:

(1) if an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that a particular jurisdiction is the securities intermediary's jurisdiction for purposes of Sections 55-8-101 through 55-8-116 NMSA 1978, that jurisdiction is the securities intermediary's jurisdiction;

(2) if Paragraph (1) of this subsection does not apply and an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction;

(3) if neither Paragraph (1) nor Paragraph (2) of this subsection applies and an agreement between the securities intermediary and its entitlement holder governing the securities account expressly provides that the securities account is maintained at an office in a particular jurisdiction, that jurisdiction is the securities intermediary's jurisdiction;

(4) if none of the preceding paragraphs applies, the securities intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the entitlement holder's account is located; or

(5) if none of the preceding paragraphs applies, the securities intermediary's jurisdiction is the jurisdiction in which the chief executive office of the securities intermediary is located.

(f) A securities intermediary's jurisdiction is not determined by the physical location of certificates representing financial assets or by the jurisdiction in which is organized the issuer of the financial asset with respect to which an entitlement holder has a security entitlement or by the location of facilities for data processing or other record keeping concerning the account.

(g) The local law of the issuer's jurisdiction or the securities intermediary's jurisdiction governs a matter or transaction specified in Subsection (a) or (b) of this section even if the matter or transaction does not bear any relation to the jurisdiction."

## **Chapter 142 Section 42 Laws 2023**

SECTION 42. Section 55-8-303 NMSA 1978 (being Laws 1996, Chapter 47, Section 33) is amended to read:

"55-8-303. PROTECTED PURCHASER.--

(a) "Protected purchaser" means a purchaser of a certificated or uncertificated security, or of an interest therein, who:

- (1) gives value;
- (2) does not have notice of any adverse claim to the security; and
- (3) obtains control of the certificated or uncertificated security.

(b) A protected purchaser also acquires its interest in the security free of any adverse claim."

## **Chapter 142 Section 43 Laws 2023**

SECTION 43. Section 55-9-102 NMSA 1978 (being Laws 2001, Chapter 139, Section 2, as amended) is amended to read:

"55-9-102. DEFINITIONS AND INDEX OF DEFINITIONS.--

(a) In Chapter 55, Article 9 NMSA 1978:

(1) "accession" means goods that are physically united with other goods in such a manner that the identity of the original goods is not lost;

(2) "account", except as used in "account for", "account statement", "account to", "commodity account" in Paragraph (14) of this subsection, "customer's account", "deposit account" in Paragraph (29) of this subsection, "on account of" and "statement of account":

(A) means a right to payment of a monetary obligation, whether or not earned by performance:

(i) for property that has been or is to be sold, leased, licensed, assigned or otherwise disposed of;

(ii) for services rendered or to be rendered;

(iii) for a policy of insurance issued or to be issued;

(iv) for a secondary obligation incurred or to be incurred;

(v) for energy provided or to be provided;

(vi) for the use or hire of a vessel under a charter or other contract;

(vii) arising out of the use of a credit or charge card or information contained on or for use with the card; or

(viii) as winnings in a lottery or other game of chance operated or sponsored by a state, governmental unit of a state or person licensed or authorized to operate the game by a state or governmental unit of a state; and

(B) includes controllable accounts and health-care-insurance receivables; but

(C) does not include:

(i) chattel paper;

(ii) commercial tort claims;

(iii) deposit accounts;

(iv) investment property;

(v) letter-of-credit rights or letters of credit;

(vi) rights to payment for money or funds advanced or sold, other than rights arising out of the use of a credit or charge card or information contained on or for use with the card; or

(vii) rights to payment evidenced by an instrument;

(3) "account debtor" means a person obligated on an account, chattel paper or general intangible. The term does not include persons obligated to pay a negotiable instrument, even if the negotiable instrument evidences chattel paper;

(4) "accounting", except as used in "accounting for", means a record:

(A) signed by a secured party;

(B) indicating the aggregate unpaid secured obligations as of a date not more than thirty-five days earlier or thirty-five days later than the date of the record; and

(C) identifying the components of the obligations in reasonable detail;

(5) "agricultural lien" means an interest in farm products:

(A) that secures payment or performance of an obligation for:

(i) goods or services furnished in connection with a debtor's farming operation; or

(ii) rent on real property leased by a debtor in connection with its farming operation;

(B) that is created by statute in favor of a person that:

(i) in the ordinary course of its business furnished goods or services to a debtor in connection with a debtor's farming operation; or

(ii) leased real property to a debtor in connection with the debtor's farming operation; and

(C) whose effectiveness does not depend on the person's possession of the personal property;

(6) "as-extracted collateral" means:

(A) oil, gas or other minerals that are subject to a security interest that:

(i) is created by a debtor having an interest in the minerals before extraction; and

(ii) attaches to the minerals as extracted; or

(B) accounts arising out of the sale at the wellhead or minehead of oil, gas or other minerals in which the debtor had an interest before extraction;

(7) [Reserved];

(7A) "assignee", except as used in "assignee for benefit of creditors", means a person:

(i) in whose favor a security interest that secures an obligation is created or provided for under a security agreement, whether or not the obligation is outstanding; or

(ii) to which an account, chattel paper, payment intangible or promissory note has been sold. The term includes a person to which a security interest has been transferred by a secured party;

(7B) "assignor" means a person that:

(i) under a security agreement, creates or provides for a security interest that secures an obligation; or

(ii) sells an account, chattel paper, payment intangible or promissory note. The term includes a secured party that has transferred a security interest to another person;

(8) "bank" means an organization that is engaged in the business of banking and includes savings banks, savings and loan associations, credit unions and trust companies;

(9) "cash proceeds" means proceeds that are money, checks, deposit accounts or the like;

(10) "certificate of title" means a certificate of title with respect to which a statute provides for the security interest in question to be indicated on the certificate as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral. The term includes another record maintained as an alternative to a certificate of title by the governmental unit that issues certificates of title if a statute permits the security interest in question to be indicated on the record as a condition or result of the security interest's obtaining priority over the rights of a lien creditor with respect to the collateral;

(11) "chattel paper" means:

(A) a right to payment of a monetary obligation secured by specific goods if the right to payment and security agreement are evidenced by a record; or

(B) a right to payment of a monetary obligation owed by a lessee under a lease agreement with respect to specific goods and a monetary obligation owed by the lessee in connection with the transaction giving rise to the lease, if:

(i) the right to payment and lease agreement are evidenced by a record; and

(ii) the predominant purpose of the transaction giving rise to the lease was to give the lessee the right to possession and use of the goods.

The term does not include a right to payment arising out of a charter or other contract involving the use or hire of a vessel or a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card;

(12) "collateral" means the property subject to a security interest or agricultural lien and includes:

(A) proceeds to which a security interest attaches;

(B) accounts, chattel paper, payment intangibles and promissory notes that have been sold; and

(C) goods that are the subject of a consignment;

(13) "commercial tort claim" means a claim arising in tort with respect to which:

(A) the claimant is an organization; or

(B) the claimant is an individual and the claim:

(i) arose in the course of the claimant's business or profession; and

(ii) does not include damages arising out of personal injury to or the death of an individual;

(14) "commodity account" means an account maintained by a commodity intermediary in which a commodity contract is carried for a commodity customer;

(15) "commodity contract" means a commodity futures contract, an option on a commodity futures contract, a commodity option or another contract if the contract or option is:

(A) traded on or subject to the rules of a board of trade that has been designated as a contract market for such a contract pursuant to federal commodities laws; or

(B) traded on a foreign commodity board of trade, exchange or market, and is carried on the books of a commodity intermediary for a commodity customer;

(16) "commodity customer" means a person for which a commodity intermediary carries a commodity contract on its books;

(17) "commodity intermediary" means a person that:

(A) is registered as a futures commission merchant under federal commodities law; or

(B) in the ordinary course of its business provides clearance or settlement services for a board of trade that has been designated as a contract market pursuant to federal commodities law;

(18) "communicate" means:

(A) to send a written or other tangible record;

(B) to transmit a record by any means agreed upon by the persons sending and receiving the record; or

(C) in the case of transmission of a record to or by a filing office, to transmit a record by any means prescribed by filing-office rule;

(19) "consignee" means a merchant to which goods are delivered in a consignment;

(20) "consignment" means a transaction, regardless of its form, in which a person delivers goods to a merchant for the purpose of sale and:

(A) the merchant:

(i) deals in goods of that kind under a name other than the name of the person making delivery;

(ii) is not an auctioneer; and

(iii) is not generally known by its creditors to be substantially engaged in selling the goods of others;

(B) with respect to each delivery, the aggregate value of the goods is one thousand dollars (\$1,000) or more at the time of delivery;

(C) the goods are not consumer goods immediately before delivery; and

(D) the transaction does not create a security interest that secures an obligation;

(21) "consignor" means a person that delivers goods to a consignee in a consignment;

(22) "consumer debtor" means a debtor in a consumer transaction;

(23) "consumer goods" means goods that are used or bought for use primarily for personal, family or household purposes;

(24) "consumer-goods transaction" means a consumer transaction in which:

(A) an individual incurs an obligation primarily for personal, family or household purposes; and

(B) a security interest in consumer goods secures the obligation;

(25) "consumer obligor" means an obligor who is an individual and who incurred the obligation as part of a transaction entered into primarily for personal, family or household purposes;

(26) "consumer transaction" means a transaction in which:

(A) an individual incurs an obligation primarily for personal, family or household purposes;

(B) a security interest secures the obligation; and

(C) the collateral is held or acquired primarily for personal, family or household purposes. The term includes consumer-goods transactions;

(27) "continuation statement" means an amendment of a financing statement that:

(A) identifies, by its file number, the initial financing statement to which it relates; and

(B) indicates that it is a continuation statement for, or that it is filed to continue the effectiveness of, the identified financing statement;

(27A) "controllable account" means an account evidenced by a controllable electronic record that provides that the account debtor undertakes to pay the person that has control under Section 55-12-105 NMSA 1978 of the controllable electronic record;

(27B) "controllable payment intangible" means a payment intangible evidenced by a controllable electronic record that provides that the account debtor

undertakes to pay the person that has control under Section 55-12-105 NMSA 1978 of the controllable electronic record;

(28) "debtor" means:

(A) a person having an interest, other than a security interest or other lien, in the collateral, whether or not the person is an obligor;

(B) a seller of accounts, chattel paper, payment intangibles or promissory notes; or

(C) a consignee;

(29) "deposit account" means a demand, time, savings, passbook or similar account maintained with a bank. The term does not include investment property or accounts evidenced by an instrument;

(30) "document" means a document of title or a receipt of the type described in Subsection (b) of Section 55-7-201 NMSA 1978;

(31) [Reserved];

(31A) "electronic money" means money in an electronic form;

(32) "encumbrance" means a right, other than an ownership interest, in real property. The term includes mortgages and other liens on real property;

(33) "equipment" means goods other than inventory, farm products or consumer goods;

(34) "farm products" means goods, other than standing timber, with respect to which the debtor is engaged in a farming operation and that are:

(A) crops grown, growing or to be grown, including:

(i) crops produced on trees, vines and bushes; and

(ii) aquatic goods produced in aquacultural operations;

(B) livestock, born or unborn, including aquatic goods produced in aquacultural operations;

(C) supplies used or produced in a farming operation; or

(D) products of crops or livestock in their unmanufactured states;

(35) "farming operation" means raising, cultivating, propagating, fattening, grazing or any other farming, livestock or aquacultural operation;

(36) "file number" means the number assigned to an initial financing statement pursuant to Subsection (a) of Section 55-9-519 NMSA 1978;

(37) "filing office" means an office designated in Section 55-9-501 NMSA 1978 as the place to file a financing statement;

(38) "filing-office rule" means a rule adopted pursuant to Section 55-9-526 NMSA 1978;

(39) "financing statement" means a record or records composed of an initial financing statement and any filed record relating to the initial financing statement;

(40) "fixture filing" means the filing of a financing statement covering goods that are or are to become fixtures and satisfying Subsections (a) and (b) of Section 55-9-502 NMSA 1978. The term includes the filing of a financing statement covering goods of a transmitting utility that are or are to become fixtures;

(41) "fixtures" means goods that have become so related to particular real property that an interest in them arises under real property law;

(42) "general intangible" means any personal property, including things in action, other than accounts, chattel paper, commercial tort claims, deposit accounts, documents, goods, instruments, investment property, letter-of-credit rights, letters of credit, money and oil, gas or other minerals before extraction. The term includes controllable electronic records, payment intangibles and software;

(43) [Reserved];

(44) "goods" means all things that are movable when a security interest attaches and:

(A) includes:

(i) fixtures;

(ii) standing timber that is to be cut and removed under a conveyance or contract for sale;

(iii) the unborn young of animals;

(iv) crops grown, growing or to be grown, even if the crops are produced on trees, vines or bushes;

(v) manufactured homes; and

(vi) a computer program embedded in goods and any supporting information provided in connection with a transaction relating to the program if the program is associated with the goods in such a manner that it customarily is considered part of the goods, or by becoming the owner of the goods, a person acquires a right to use the program in connection with the goods; but

(B) does not include:

(i) a computer program embedded in goods that consist solely of the medium in which the program is embedded; or

(ii) accounts, chattel paper, commercial tort claims, deposit accounts, documents, general intangibles, instruments, investment property, letter-of-credit rights, letters of credit, money or oil, gas or other minerals before extraction;

(45) "governmental unit" means a subdivision, agency, department, county, parish, municipality or other unit of the government of the United States, a state or a foreign country. The term includes an organization having a separate corporate existence if the organization is eligible to issue debt on which interest is exempt from income taxation under the laws of the United States;

(46) "health-care-insurance receivable" means an interest in or claim under a policy of insurance that is a right to payment of a monetary obligation for health care goods or services provided or to be provided;

(47) "instrument" means a negotiable instrument or any other writing that evidences a right to the payment of a monetary obligation, is not itself a security agreement or lease and is of a type that in ordinary course of business is transferred by delivery with any necessary indorsement or assignment. The term does not include:

(A) investment property;

(B) letters of credit;

(C) writings that evidence a right to payment arising out of the use of a credit or charge card or information contained on or for use with the card; or

(D) writings that evidence chattel paper;

(48) "inventory" means goods, other than farm products, that:

(A) are leased by a person as lessor;

(B) are held by a person for sale or lease or to be furnished under a contract of service;

(C) are furnished by a person under a contract of service; or

(D) consist of raw materials, work in process or materials used or consumed in a business;

(49) "investment property" means a security, whether certificated or uncertificated, security entitlement, securities account, commodity contract or commodity account;

(50) "jurisdiction of organization", with respect to a registered organization, means the jurisdiction under whose law the organization is formed or organized;

(51) "letter-of-credit right" means a right to payment or performance under a letter of credit, whether or not the beneficiary has demanded or is at the time entitled to demand payment or performance. The term does not include the right of a beneficiary to demand payment or performance under a letter of credit;

(52) "lien creditor" means:

(A) a creditor that has acquired a lien on the property involved by attachment, levy or the like;

(B) an assignee for benefit of creditors from the time of assignment;

(C) a trustee in bankruptcy from the date of the filing of the petition; or

(D) a receiver in equity from the time of appointment;

(53) "manufactured home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein. The term includes any structure that meets all of the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the United States secretary of housing and urban development and complies with the standards established under 42 USCA;

(54) "manufactured-home transaction" means a secured transaction:

(A) that creates a purchase-money security interest in a manufactured home, other than a manufactured home held as inventory; or

(B) in which a manufactured home, other than a manufactured home held as inventory, is the primary collateral;

(54A) "money" has the meaning in Paragraph (24) of Subsection (b) of Section 55-1-201 NMSA 1978, but does not include: (i) a deposit account; or (ii) money in an electronic form that cannot be subjected to control under Section 55-9-105A NMSA 1978.

(55) "mortgage" means a consensual interest in real property, including fixtures, that secures payment or performance of an obligation;

(56) "new debtor" means a person that becomes bound as debtor under Subsection (d) of Section 55-9-203 NMSA 1978 by a security agreement previously entered into by another person;

(57) "new value" means:

(A) money;

(B) money's worth in property, services or new credit; or

(C) release by a transferee of an interest in property previously transferred to the transferee. The term does not include an obligation substituted for another obligation;

(58) "noncash proceeds" means proceeds other than cash proceeds;

(59) "obligor" means a person that, with respect to an obligation secured by a security interest in or an agricultural lien on the collateral:

(A) owes payment or other performance of the obligation;

(B) has provided property other than the collateral to secure payment or other performance of the obligation; or

(C) is otherwise accountable in whole or in part for payment or other performance of the obligation. The term does not include issuers or nominated persons under a letter of credit;

(60) "original debtor", except as used in Subsection (c) of Section 55-9-310 NMSA 1978, means a person that, as debtor, entered into a security agreement to which a new debtor has become bound under Subsection (d) of Section 55-9-203 NMSA 1978;

(61) "payment intangible" means a general intangible under which the account debtor's principal obligation is a monetary obligation. The term includes a controllable payment intangible;

(62) "person related to", with respect to an individual, means:

- (A) the spouse of the individual;
- (B) a brother, brother-in-law, sister or sister-in-law of the individual;
- (C) an ancestor or lineal descendant of the individual or the individual's spouse; or
- (D) any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual;

(63) "person related to", with respect to an organization, means:

- (A) a person directly or indirectly controlling, controlled by or under common control with the organization;
- (B) an officer or director of, or a person performing similar functions with respect to, the organization;
- (C) an officer or director of, or a person performing similar functions with respect to, a person described in Subparagraph (A) of this paragraph;
- (D) the spouse of an individual described in Subparagraph (A), (B) or (C) of this paragraph; or
- (E) an individual who is related by blood or marriage to an individual described in Subparagraph (A), (B), (C) or (D) of this paragraph and shares the same home with the individual;

(64) "proceeds", except as used in Subsection (b) of Section 55-9-609 NMSA 1978, means:

- (A) whatever is acquired upon the sale, lease, license, exchange or other disposition of collateral;
- (B) whatever is collected on, or distributed on account of, collateral;
- (C) rights arising out of collateral;

(D) to the extent of the value of collateral, claims arising out of the loss, nonconformity or interference with the use of, defects or infringement of rights in, or damage to, the collateral; or

(E) to the extent of the value of collateral and to the extent payable to the debtor or the secured party, insurance payable by reason of the loss or nonconformity of, defects or infringement of rights in, or damage to, the collateral;

(65) "promissory note" means an instrument that evidences a promise to pay a monetary obligation, does not evidence an order to pay and does not contain an acknowledgment by a bank that the bank has received for deposit a sum of money or funds;

(66) "proposal" means a record signed by a secured party, which record includes the terms on which the secured party is willing to accept collateral in full or partial satisfaction of the obligation it secures pursuant to Sections 55-9-620 through 55-9-622 NMSA 1978;

(67) "public-finance transaction" means a secured transaction in connection with which:

(A) debt securities are issued;

(B) all or a portion of the securities issued have an initial stated maturity of at least twenty years; and

(C) the debtor, obligor, secured party, account debtor or other person obligated on collateral, assignor or assignee of a secured obligation or assignor or assignee of a security interest is a state or a governmental unit of a state;

(68) "public organic record" means a record that is available to the public for inspection and is:

(A) a record consisting of the record initially filed with or issued by a state or the United States to form or organize an organization and any record filed with or issued by the state or the United States that amends or restates the initial record;

(B) an organic record of a business trust consisting of the record initially filed with a state and any record filed with the state that amends or restates the initial record if a statute of the state governing business trusts requires that the record be filed with the state; or

(C) a record consisting of legislation enacted by the legislature of a state or the congress of the United States that forms or organizes an organization;

any record amending the legislation; and any record filed with or issued by the state or the United States that amends or restates the name of the organization;

(69) "pursuant to commitment", with respect to an advance made or other value given by a secured party, means pursuant to the secured party's obligation, whether or not a subsequent event of default or other event not within the secured party's control has relieved or may relieve the secured party from its obligation;

(70) "record", except as used in "for record", "of record", "record or legal title" and "record owner", 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;

(71) "registered organization" means an organization formed or organized solely under the law of a single state or the United States by the filing of a public organic record with, the issuance of a public organic record by or the enactment of legislation by the state or the United States. The term includes a business trust that is formed or organized under the law of a single state if a statute of the state governing business trusts requires that the business trust's organic record be filed with the state;

(72) "secondary obligor" means an obligor to the extent that:

(A) the obligor's obligation is secondary; or

(B) the obligor has a right of recourse with respect to an obligation secured by collateral against the debtor, another obligor or property of either;

(73) "secured party" means:

(A) a person in whose favor a security interest is created or provided for under a security agreement, whether or not any obligation to be secured is outstanding;

(B) a person that holds an agricultural lien;

(C) a consignor;

(D) a person to which accounts, chattel paper, payment intangibles or promissory notes have been sold;

(E) a trustee, indenture trustee, agent, collateral agent or other representative in whose favor a security interest or agricultural lien is created or provided for; or

(F) a person that holds a security interest arising under Section 55-2-401, Section 55-2-505, Subsection (3) of Section 55-2-711, Subsection (5) of Section 55-2A-508, Section 55-4-210 or Section 55-5-118 NMSA 1978;

(74) "security agreement" means an agreement that creates or provides for a security interest;

(75) [Reserved];

(76) "software" means a computer program and any supporting information provided in connection with a transaction relating to the program. The term does not include a computer program that is included in the definition of goods;

(77) "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;

(78) "supporting obligation" means a letter-of-credit right or secondary obligation that supports the payment or performance of an account, chattel paper, a document, a general intangible, an instrument or investment property;

(79) [Reserved];

(79A) "tangible money" means money in a tangible form;

(80) "termination statement" means an amendment of a financing statement that:

(A) identifies, by its file number, the initial financing statement to which it relates; and

(B) indicates either that it is a termination statement or that the identified financing statement is no longer effective; and

(81) "transmitting utility" means an organization primarily engaged in the business of:

(A) operating a railroad, subway, street railway or trolley bus;

(B) transmitting communications electrically, electromagnetically or by light;

(C) transmitting goods by pipeline or sewer; or

(D) transmitting or producing and transmitting electricity, steam, gas or water.

(b) "Control", as provided in Section 55-7-106 NMSA 1978, and the following definitions in other articles apply to this article:

"applicant"	Section 55-5-102 NMSA 1978;
"beneficiary"	Section 55-5-102 NMSA 1978;
"broker"	Section 55-8-102 NMSA 1978;
"certificated security"	Section 55-8-102 NMSA 1978;
"check"	Section 55-3-104 NMSA 1978;
"clearing corporation"	Section 55-8-102 NMSA 1978;
"contract for sale"	Section 55-2-106 NMSA 1978;
"controllable electronic record"	Section 55-12-102 NMSA 1978
"customer"	Section 55-4-104 NMSA 1978;
"entitlement holder"	Section 55-8-102 NMSA 1978;
"financial asset"	Section 55-8-102 NMSA 1978;
"holder in due course".	Section 55-3-302 NMSA 1978;
"issuer" (with respect to a letter of credit or letter-of-credit right)	Section 55-5-102 NMSA 1978;
"issuer" (with respect to a security)	Section 55-8-201 NMSA 1978
"issuer" (with respect to documents of title)	Section 55-7-102 NMSA 1978;
"lease"	Section 55-2A-103 NMSA 1978;
"lease agreement"	Section 55-2A-103 NMSA 1978;
"lease contract"	Section 55-2A-103 NMSA 1978;
"leasehold interest"	Section 55-2A-103 NMSA 1978;
"lessee"	Section 55-2A-103 NMSA 1978;
"lessee in ordinary course of business"	Section 55-2A-103 NMSA 1978;
"lessor"	Section 55-2A-103 NMSA 1978;
"lessor's residual interest"	Section 55-2A-103 NMSA 1978;
"letter of credit"	Section 55-5-102 NMSA 1978;
"merchant"	Section 55-2-104 NMSA 1978;
"negotiable instrument"	Section 55-3-104 NMSA 1978;
"nominated person"	Section 55-5-102 NMSA 1978;
"note"	Section 55-3-104 NMSA 1978;
"proceeds of a letter of credit"	Section 55-5-114 NMSA 1978;
"protected purchaser"	Section 55-8-303 NMSA 1978;
"prove"	Section 55-3-103 NMSA 1978;
"qualifying purchaser"	Section 55-12-102 NMSA 1978;
"sale"	Section 55-2-106 NMSA 1978;
"securities account"	Section 55-8-501 NMSA 1978;
"securities intermediary"	Section 55-8-102 NMSA 1978;
"security"	Section 55-8-102 NMSA 1978;
"security certificate"	Section 55-8-102 NMSA 1978;
"security entitlement"	Section 55-8-102 NMSA 1978;
	and
"uncertificated security"	Section 55-8-102 NMSA 1978.

(c) Chapter 55, Article 1 NMSA 1978 contains general definitions and principles of construction and interpretation applicable throughout Chapter 55, Article 9 NMSA 1978."

## **Chapter 142 Section 44 Laws 2023**

SECTION 44. Section 55-9-104 NMSA 1978 (being Laws 2001, Chapter 139, Section 4) is amended to read:

"55-9-104. CONTROL OF DEPOSIT ACCOUNT.--

(a) A secured party has control of a deposit account if:

- (1) the secured party is the bank with which the deposit account is maintained;
- (2) the debtor, secured party and bank have agreed in a signed record that the bank will comply with instructions originated by the secured party directing disposition of the funds in the deposit account without further consent by the debtor;
- (3) the secured party becomes the bank's customer with respect to the deposit account; or
- (4) another person, other than the debtor:

(A) has control of the deposit account and acknowledges that it has control on behalf of the secured party; or

(B) obtains control of the deposit account after having acknowledged that it will obtain control of the deposit account on behalf of the secured party.

(b) A secured party that has satisfied Subsection (a) of this section has control, even if the debtor retains the right to direct the disposition of funds from the deposit account."

## **Chapter 142 Section 45 Laws 2023**

SECTION 45. Section 55-9-105 NMSA 1978 (being Laws 2001, Chapter 139, Section 5, as amended) is repealed and a new Section 55-9-105 NMSA 1978 is enacted to read:

"55-9-105. CONTROL OF ELECTRONIC COPY OF RECORD EVIDENCING CHATTEL PAPER.--

(a) A purchaser has control of an authoritative electronic copy of a record evidencing chattel paper if a system employed for evidencing the assignment of interests in the chattel paper reliably establishes the purchaser as the person to which the authoritative electronic copy was assigned.

(b) A system satisfies Subsection (a) of this section if the record or records evidencing the chattel paper are created, stored and assigned in a manner that:

(1) a single authoritative copy of the record or records exists that is unique, identifiable and, except as otherwise provided in Paragraphs (4), (5) and (6) of this subsection, unalterable;

(2) the authoritative copy identifies the purchaser as the assignee of the record or records;

(3) the authoritative copy is communicated to and maintained by the purchaser or its designated custodian;

(4) copies or amendments that add or change an identified assignee of the authoritative copy can be made only with the consent of the purchaser;

(5) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(6) any amendment of the authoritative copy is readily identifiable as authorized or unauthorized.

(c) A system satisfies Subsection (a) of this section, and a purchaser has control of an authoritative electronic copy of a record evidencing chattel paper, if the electronic copy, a record attached to or logically associated with the electronic copy or a system in which the electronic copy is recorded:

(1) enables the purchaser readily to identify each electronic copy as either an authoritative copy or a nonauthoritative copy;

(2) enables the purchaser readily to identify itself in any way, including by name, identifying number, cryptographic key, office or account number, as the assignee of the authoritative electronic copy; and

(3) gives the purchaser exclusive power, subject to Subsection (d) of this section, to:

(A) prevent others from adding or changing an identified assignee of the authoritative electronic copy; and

(B) transfer control of the authoritative electronic copy.

(d) Subject to Subsection (e) of this section, a power is exclusive under Subparagraphs (A) and (B) of Paragraph (3) of Subsection (c) of this section even if:

(1) the authoritative electronic copy, a record attached to or logically associated with the authoritative electronic copy or a system in which the authoritative electronic copy is recorded limits the use of the authoritative electronic copy or has a protocol programmed to cause a change, including a transfer or loss of control; or

(2) the power is shared with another person.

(e) A power of a purchaser is not shared with another person under Paragraph (2) of Subsection (d) of this section and the purchaser's power is not exclusive if:

(1) the purchaser can exercise the power only if the power also is exercised by the other person; and

(2) the other person:

(A) can exercise the power without exercise of the power by the purchaser; or

(B) is the transferor to the purchaser of an interest in the chattel paper.

(f) If a purchaser has the powers specified in Subparagraphs (A) and (B) of Paragraph (3) of Subsection (c) of this section, the powers are presumed to be exclusive.

(g) A purchaser has control of an authoritative electronic copy of a record evidencing chattel paper if another person, other than the transferor to the purchaser of an interest in the chattel paper:

(1) has control of the authoritative electronic copy and acknowledges that it has control on behalf of the purchaser; or

(2) obtains control of the authoritative electronic copy after having acknowledged that it will obtain control of the electronic copy on behalf of the purchaser."

## **Chapter 142 Section 46 Laws 2023**

SECTION 46. A new section of the Uniform Commercial Code, Section 55-9-105A NMSA 1978, is enacted to read:

"55-9-105A. CONTROL OF ELECTRONIC MONEY.--

(a) A person has control of electronic money if:

(1) the electronic money, a record attached to or logically associated with the electronic money or a system in which the electronic money is recorded gives the person:

(A) power to avail itself of substantially all the benefit from the electronic money; and

(B) exclusive power, subject to Subsection (b) of this section, to:

(i) prevent others from availing themselves of substantially all the benefit from the electronic money; and

(ii) transfer control of the electronic money to another person or cause another person to obtain control of other electronic money as a result of the transfer of the electronic money; and

(2) the electronic money, a record attached to or logically associated with the electronic money or a system in which the electronic money is recorded enables the person readily to identify itself in any way, including by name, identifying number, cryptographic key, office or account number, as having the powers under Paragraph (1) of this subsection.

(b) Subject to Subsection (c) of this section, a power is exclusive under Items (i) and (ii) of Subparagraph (B) of Paragraph (1) of Subsection (a) of this section even if:

(1) the electronic money, a record attached to or logically associated with the electronic money or a system in which the electronic money is recorded limits the use of the electronic money or has a protocol programmed to cause a change, including a transfer or loss of control; or

(2) the power is shared with another person.

(c) A power of a person is not shared with another person under Paragraph (2) of Subsection (b) of this section and the person's power is not exclusive if:

(1) the person can exercise the power only if the power is also exercised by the other person; and

(2) the other person:

(A) can exercise the power without exercise of the power by the person; or

(B) is the transferor to the person of an interest in the electronic money.

(d) If a person has the powers specified in Items (i) and (ii) of Subparagraph (B) of Paragraph (1) of Subsection (a) of this section, the powers are presumed to be exclusive.

(e) A person has control of electronic money if another person, other than the transferor to the person of an interest in the electronic money:

(1) has control of the electronic money and acknowledges that it has control on behalf of the person; or

(2) obtains control of the electronic money after having acknowledged that it will obtain control of the electronic money on behalf of the person."

### **Chapter 142 Section 47 Laws 2023**

SECTION 47. A new section of the Uniform Commercial Code, Section 55-9-107A NMSA 1978, is enacted to read:

"55-9-107A. CONTROL OF CONTROLLABLE ELECTRONIC RECORD, ACCOUNT OR CONTROLLABLE PAYMENT INTANGIBLE.--

(a) A secured party has control of a controllable electronic record as provided in Section 55-12-105 NMSA 1978.

(b) A secured party has control of a controllable account or controllable payment intangible if the secured party has control of the controllable electronic record that evidences the controllable account or controllable payment intangible."

### **Chapter 142 Section 48 Laws 2023**

SECTION 48. A new section of the Uniform Commercial Code, Section 55-9-107B NMSA 1978, is enacted to read:

"55-9-107B. NO REQUIREMENT TO ACKNOWLEDGE OR CONFIRM--NO DUTIES.--

(a) A person that has control under Section 55-9-104, 55-9-105 or 55-9-105A NMSA 1978 is not required to acknowledge that it has control on behalf of another person.

(b) If a person acknowledges that it has or will obtain control on behalf of another person, unless the person otherwise agrees or law other than this article otherwise provides, the person does not owe any duty to the other person and is not required to confirm the acknowledgment to any other person."

## Chapter 142 Section 49 Laws 2023

SECTION 49. Section 55-9-109 NMSA 1978 (being Laws 2001, Chapter 139, Section 9, as amended) is amended to read:

"55-9-109. SCOPE.--

(a) Except as otherwise provided in Subsections (c) and (d) of this section, Chapter 55, Article 9 NMSA 1978 applies to:

(1) a transaction, regardless of its form, that creates a security interest in personal property or fixtures by contract;

(2) an agricultural lien;

(3) a sale of accounts, chattel paper, payment intangibles or promissory notes;

(4) a consignment;

(5) a security interest arising under Section 55-2-401, 55-2-505, Subsection (3) of Section 55-2-711 or Subsection (5) of Section 55-2A-508 NMSA 1978, as provided in Section 55-9-110 NMSA 1978; and

(6) a security interest arising under Section 55-4-210 or 55-5-118 NMSA 1978.

(b) The application of Chapter 55, Article 9 NMSA 1978 to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this article does not apply.

(c) Chapter 55, Article 9 NMSA 1978 does not apply to the extent that:

(1) a statute, regulation or treaty of the United States preempts the article;

(2) another statute of this state expressly governs the creation, perfection, priority or enforcement of a security interest created by this state or a governmental unit of this state;

(3) a statute of another state, a foreign country or a governmental unit of another state or a foreign country, other than a statute generally applicable to security interests, expressly governs creation, perfection, priority or enforcement of a security interest created by the state, country or governmental unit; or

(4) the rights of a transferee beneficiary or nominated person under a letter of credit are independent and superior under Section 55-5-114 NMSA 1978.

(d) Chapter 55, Article 9 NMSA 1978 does not apply to:

(1) a landlord's lien, other than an agricultural lien;

(2) a lien, other than an agricultural lien, given by statute or other rule of law for services or materials, but Section 55-9-333 NMSA 1978 applies with respect to priority of the lien;

(3) an assignment of a claim for wages, salary or other compensation of an employee;

(4) a sale of accounts, chattel paper, payment intangibles or promissory notes as part of a sale of the business out of which they arose;

(5) an assignment of accounts, chattel paper, payment intangibles or promissory notes which is for the purpose of collection only;

(6) an assignment of a right to payment under a contract to an assignee that is also obligated to perform under the contract;

(7) an assignment of a single account, payment intangible or promissory note to an assignee in full or partial satisfaction of a preexisting indebtedness;

(8) a transfer of an interest in or an assignment of a claim under a policy of insurance, other than an assignment by or to a health-care provider of a health-care-insurance receivable and any subsequent assignment of the right to payment, but Sections 55-9-315 and 55-9-322 NMSA 1978 apply with respect to proceeds and priorities in proceeds;

(9) an assignment of a right represented by a judgment, other than a judgment taken on a right to payment that was collateral;

(10) a right of recoupment or set-off, but:

(A) Section 55-9-340 NMSA 1978 applies with respect to the effectiveness of rights of recoupment or set-off against deposit accounts; and

(B) Section 55-9-404 NMSA 1978 applies with respect to defenses or claims of an account debtor;

(11) the creation or transfer of an interest in or lien on real property, including a lease or rents thereunder, except to the extent that provision is made for:

- NMSA 1978;
- (A) liens on real property in Sections 55-9-203 and 55-9-308
  - (B) fixtures in Section 55-9-334 NMSA 1978;
  - (C) fixture filings in Sections 55-9-501, 55-9-502, 55-9-512, 55-9-516 and 55-9-519 NMSA 1978; and
  - (D) security agreements covering personal and real property in Section 55-9-604 NMSA 1978;
- (12) an assignment of a claim arising in tort, other than a commercial tort claim, but Sections 55-9-315 and 55-9-322 NMSA 1978 apply with respect to proceeds and priorities in proceeds;
- (13) an assignment of a deposit account in a consumer transaction, but Sections 55-9-315 and 55-9-322 NMSA 1978 apply with respect to proceeds and priorities in proceeds; or
- (14) a transfer by this state or a governmental unit of this state other than a security interest created pursuant to the Industrial Revenue Bond Act, County Industrial Revenue Bond Act, Redevelopment Bonding Law, Pollution Control Revenue Bond Act, County Pollution Control Revenue Bond Act or Hospital Equipment Loan Act."

## **Chapter 142 Section 50 Laws 2023**

SECTION 50. Section 55-9-203 NMSA 1978 (being Laws 2001, Chapter 139, Section 13, as amended) is amended to read:

"55-9-203. ATTACHMENT AND ENFORCEABILITY OF SECURITY INTEREST--PROCEEDS--SUPPORTING OBLIGATIONS--FORMAL REQUISITES.--

- (a) A security interest attaches to collateral when it becomes enforceable against the debtor with respect to the collateral, unless an agreement expressly postpones the time of attachment.
- (b) Except as otherwise provided in Subsections (c) through (i) of this section, a security interest is enforceable against the debtor and third parties with respect to the collateral only if:
  - (1) value has been given;
  - (2) the debtor has rights in the collateral or the power to transfer rights in the collateral to a secured party; and
  - (3) one of the following conditions is met:

(A) the debtor has signed a security agreement that provides a description of the collateral and, if the security interest covers timber to be cut, a description of the land concerned;

(B) the collateral is not a certificated security and is in the possession of the secured party under Section 55-9-313 NMSA 1978 pursuant to the debtor's security agreement;

(C) the collateral is a certificated security in registered form and the security certificate has been delivered to the secured party under Section 55-8-301 NMSA 1978 pursuant to the debtor's security agreement;

(D) the collateral is controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, electronic documents, electronic money, investment property or letter-of-credit rights, and the secured party has control under Section 55-7-106, 55-9-104, 55-9-105A, 55-9-106, 55-9-107 or 55-9-107A NMSA 1978 pursuant to the debtor's security agreement; or

(E) the collateral is chattel paper and the secured party has possession and control under Section 55-9-314A NMSA 1978 pursuant to the debtor's security agreement.

(c) Subsection (b) of this section is subject to Section 55-4-210 NMSA 1978 on the security interest of a collecting bank, Section 55-5-118 NMSA 1978 on the security interest of a letter-of-credit issuer or nominated person, Section 55-9-110 NMSA 1978 on a security interest arising under Chapter 55, Article 2 or 2A NMSA 1978 and Section 55-9-206 NMSA 1978 on security interests in investment property.

(d) A person becomes bound as debtor by a security agreement entered into by another person if, by operation of law other than Chapter 55, Article 9 NMSA 1978 or by contract:

(1) the security agreement becomes effective to create a security interest in the person's property; or

(2) the person becomes generally obligated for the obligations of the other person, including the obligation secured under the security agreement, and acquires or succeeds to all or substantially all of the assets of the other person.

(e) If a new debtor becomes bound as debtor by a security agreement entered into by another person:

(1) the agreement satisfies Paragraph (3) of Subsection (b) of this section with respect to existing or after-acquired property of the new debtor to the extent the property is described in the agreement; and

(2) another agreement is not necessary to make a security interest in the property enforceable.

(f) The attachment of a security interest in collateral gives the secured party the rights to proceeds provided by Section 55-9-315 NMSA 1978 and is also attachment of a security interest in a supporting obligation for the collateral.

(g) The attachment of a security interest in a right to payment or performance secured by a security interest or other lien on personal or real property is also attachment of a security interest in the security interest, mortgage or other lien.

(h) The attachment of a security interest in a securities account is also attachment of a security interest in the security entitlements carried in the securities account.

(i) The attachment of a security interest in a commodity account is also attachment of a security interest in the commodity contracts carried in the commodity account."

## **Chapter 142 Section 51 Laws 2023**

SECTION 51. Section 55-9-204 NMSA 1978 (being Laws 2001, Chapter 139, Section 14) is amended to read:

"55-9-204. AFTER-ACQUIRED PROPERTY--FUTURE ADVANCES.--

(a) Except as otherwise provided in Subsection (b) of this section, a security agreement may create or provide for a security interest in after-acquired collateral.

(b) Subject to Subsection (b.1) of this section, security interest does not attach under a term constituting an after-acquired property clause to:

(1) consumer goods, other than an accession when given as additional security, unless the debtor acquires rights in them within ten days after the secured party gives value; or

(2) a commercial tort claim.

(b.1) Subsection (b) of this section does not prevent a security interest from attaching:

(1) to consumer goods as proceeds under Subsection (a) of Section 55-9-315 NMSA 1978 or commingled goods under Subsection (c) of Section 55-9-336 NMSA 1978;

(2) to a commercial tort claim as proceeds under Subsection (a) of Section 55-9-315 NMSA 1978; or

(3) under an after-acquired property clause to property that is proceeds of consumer goods or a commercial tort claim.

(c) A security agreement may provide that collateral secures, or that accounts, chattel paper, payment intangibles or promissory notes are sold in connection with, future advances or other value, whether or not the advances or value are given pursuant to commitment."

## **Chapter 142 Section 52 Laws 2023**

SECTION 52. Section 55-9-207 NMSA 1978 (being Laws 2001, Chapter 139, Section 17, as amended) is amended to read:

"55-9-207. RIGHTS AND DUTIES OF SECURED PARTY HAVING POSSESSION OR CONTROL OF COLLATERAL.--

(a) Except as otherwise provided in Subsection (d) of this section, a secured party shall use reasonable care in the custody and preservation of collateral in the secured party's possession. In the case of chattel paper or an instrument, reasonable care includes taking necessary steps to preserve rights against prior parties unless otherwise agreed.

(b) Except as otherwise provided in Subsection (d) of this section, if a secured party has possession of collateral:

(1) reasonable expenses, including the cost of insurance and payment of taxes or other charges, incurred in the custody, preservation, use or operation of the collateral are chargeable to the debtor and are secured by the collateral;

(2) the risk of accidental loss or damage is on the debtor to the extent of a deficiency in any effective insurance coverage;

(3) the secured party shall keep the collateral identifiable, but fungible collateral may be commingled; and

(4) the secured party may use or operate the collateral:

(A) for the purpose of preserving the collateral or its value;

(B) as permitted by an order of a court having competent jurisdiction; or

(C) except in the case of consumer goods, in the manner and to the extent agreed by the debtor.

(c) Except as otherwise provided in Subsection (d) of this section, a secured party having possession of collateral or control of collateral under Section 55-7-106, 55-9-104, 55-9-105, 55-9-105A, 55-9-106, 55-9-107 or 55-9-107A NMSA 1978:

(1) may hold as additional security any proceeds, except money or funds, received from the collateral;

(2) shall apply money or funds received from the collateral to reduce the secured obligation, unless remitted to the debtor; and

(3) may create a security interest in the collateral.

(d) If the secured party is a buyer of accounts, chattel paper, payment intangibles or promissory notes or is a consignee:

(1) Subsection (a) of this section does not apply unless the secured party is entitled under an agreement:

(A) to charge back uncollected collateral; or

(B) otherwise to full or limited recourse against the debtor or a secondary obligor based on the nonpayment or other default of an account debtor or other obligor on the collateral; and

(2) Subsections (b) and (c) of this section do not apply."

## **Chapter 142 Section 53 Laws 2023**

SECTION 53. Section 55-9-208 NMSA 1978 (being Laws 2001, Chapter 139, Section 18, as amended) is amended to read:

"55-9-208. ADDITIONAL DUTIES OF SECURED PARTY HAVING CONTROL OF COLLATERAL.--

(a) This section applies to cases in which there is no outstanding secured obligation and the secured party is not committed to make advances, incur obligations or otherwise give value.

(b) Within ten days after receiving a signed demand by the debtor:

(1) a secured party having control of a deposit account under Paragraph (2) of Subsection (a) of Section 55-9-104 NMSA 1978 shall send to the bank

with which the deposit account is maintained a signed document that releases the bank from any further obligation to comply with instructions originated by the secured party;

(2) a secured party having control of a deposit account under Paragraph (3) of Subsection (a) of Section 55-9-104 NMSA 1978 shall:

(A) pay the debtor the balance on deposit in the deposit account;  
or

(B) transfer the balance on deposit into a deposit account in the debtor's name;

(3) a secured party, other than a buyer, having control under Section 55-9-105 NMSA 1978 of an authoritative electronic copy of a record evidencing chattel paper shall transfer control of the electronic copy to the debtor or a person designated by the debtor;

(4) a secured party having control of investment property under Paragraph (2) of Subsection (d) of Section 55-8-106 NMSA 1978 or Subsection (b) of Section 55-9-106 NMSA 1978 shall send to the securities intermediary or commodity intermediary with which the security entitlement or commodity contract is maintained a signed record that releases the securities intermediary or commodity intermediary from any further obligation to comply with entitlement orders or directions originated by the secured party;

(5) a secured party having control of a letter-of-credit right under Section 55-9-107 NMSA 1978 shall send to each person having an unfulfilled obligation to pay or deliver proceeds of the letter of credit to the secured party a signed release from any further obligation to pay or deliver proceeds of the letter of credit to the secured party;

(6) a secured party having control under Section 55-7-106 NMSA 1978 of an authoritative electronic copy of an electronic document of title shall transfer control of the electronic copy to the debtor or a person designated by the debtor;

(7) a secured party having control under Section 55-9-105A NMSA 1978 of electronic money shall transfer control of the electronic money to the debtor or a person designated by the debtor; and

(8) a secured party having control under Section 55-12-105 NMSA 1978 of a controllable electronic record, other than a buyer of a controllable account or controllable payment intangible evidenced by the controllable electronic record, shall transfer control of the controllable electronic record to the debtor or a person designated by the debtor."

## **Chapter 142 Section 54 Laws 2023**

SECTION 54. Section 55-9-209 NMSA 1978 (being Laws 2001, Chapter 139, Section 19) is amended to read:

"55-9-209. DUTIES OF SECURED PARTY IF ACCOUNT DEBTOR HAS BEEN NOTIFIED OF ASSIGNMENT.--

(a) Except as otherwise provided in Subsection (c) of this section, this section applies if:

- (1) there is no outstanding secured obligation; and
- (2) the secured party is not committed to make advances, incur obligations or otherwise give value.

(b) Within ten days after receiving a signed demand by the debtor, a secured party shall send to an account debtor that has received notification under Subsection (a) of Section 55-9-406 NMSA 1978 or Subsection (b) of Section 55-12-106 NMSA 1978 of an assignment to the secured party as assignee a signed record that releases the account debtor from any further obligation to the secured party.

(c) This section does not apply to an assignment constituting the sale of an account, chattel paper or payment intangible."

## **Chapter 142 Section 55 Laws 2023**

SECTION 55. Section 55-9-210 NMSA 1978 (being Laws 2001, Chapter 139, Section 20) is amended to read:

"55-9-210. REQUEST FOR ACCOUNTING--REQUEST REGARDING LIST OF COLLATERAL OR STATEMENT OF ACCOUNT.--

(a) In this section:

(1) "request" means a record of a type described in Paragraph (2), (3) or (4) of this subsection;

(2) "request for an accounting" means a record signed by a debtor requesting that the recipient provide an accounting of the unpaid obligations secured by collateral and reasonably identifying the transaction or relationship that is the subject of the request;

(3) "request regarding a list of collateral" means a record signed by a debtor requesting that the recipient approve or correct a list of what the debtor believes

to be the collateral securing an obligation and reasonably identifying the transaction or relationship that is the subject of the request; and

(4) "request regarding a statement of account" means a record signed by a debtor requesting that the recipient approve or correct a statement indicating what the debtor believes to be the aggregate amount of unpaid obligations secured by collateral as of a specified date and reasonably identifying the transaction or relationship that is the subject of the request.

(b) Subject to Subsections (c), (d), (e) and (f) of this section, a secured party, other than a buyer of accounts, chattel paper, payment intangibles or promissory notes or a consignor, shall comply with a request within fourteen days after receipt:

(1) in the case of a request for an accounting, by signing and sending to the debtor an accounting; and

(2) in the case of a request regarding a list of collateral or a request regarding a statement of account, by signing and sending to the debtor an approval or correction.

(c) A secured party that claims a security interest in all of a particular type of collateral owned by the debtor may comply with a request regarding a list of collateral by sending to the debtor a signed record, including a statement to that effect, within fourteen days after receipt.

(d) A person that receives a request regarding a list of collateral, claims no interest in the collateral when it receives the request and claimed an interest in the collateral at an earlier time shall comply with the request within fourteen days after receipt by sending to the debtor a signed record:

(1) disclaiming any interest in the collateral; and

(2) if known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the collateral.

(e) A person that receives a request for an accounting or a request regarding a statement of account, claims no interest in the obligations when it receives the request and claimed an interest in the obligations at an earlier time shall comply with the request within fourteen days after receipt by sending to the debtor a signed record:

(1) disclaiming any interest in the obligations; and

(2) if known to the recipient, providing the name and mailing address of any assignee of or successor to the recipient's interest in the obligations.

(f) A debtor is entitled without charge to one response to a request under this section during any six-month period. The secured party may require payment of a charge not exceeding twenty-five dollars (\$25.00) for each additional response."

## **Chapter 142 Section 56 Laws 2023**

SECTION 56. Section 55-9-301 NMSA 1978 (being Laws 2001, Chapter 139, Section 21, as amended) is amended to read:

"55-9-301. LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS.--Except as otherwise provided in Sections 55-9-303 through 55-9-306B NMSA 1978, the following rules determine the law governing perfection, the effect of perfection or nonperfection and the priority of a security interest in collateral:

(1) except as otherwise provided in this section, while a debtor is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection and the priority of a security interest in collateral;

(2) while collateral is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection and the priority of a possessory security interest in that collateral;

(3) except as otherwise provided in Subsection (4) of this section, while tangible negotiable tangible documents, goods, instruments or tangible money is located in a jurisdiction, the local law of that jurisdiction governs:

(A) perfection of a security interest in the goods by filing a fixture filing;

(B) perfection of a security interest in timber to be cut; and

(C) the effect of perfection or nonperfection and the priority of a nonpossessory security interest in the collateral; and

(4) the local law of the jurisdiction in which the wellhead or minehead is located governs perfection, the effect of perfection or nonperfection and the priority of a security interest in as-extracted collateral."

## **Chapter 142 Section 57 Laws 2023**

SECTION 57. Section 55-9-304 NMSA 1978 (being Laws 2001, Chapter 139, Section 24, as amended) is amended to read:

"55-9-304. LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS IN DEPOSIT ACCOUNTS.--

(a) The local law of a bank's jurisdiction governs perfection, the effect of perfection or nonperfection and the priority of a security interest in a deposit account maintained with that bank even if the transaction does not bear any relation to the bank's jurisdiction.

(b) The following rules determine a bank's jurisdiction for purposes of Sections 55-9-301 through 55-9-342 NMSA 1978:

(1) if an agreement between the bank and its customer governing the deposit account expressly provides that a particular jurisdiction is the bank's jurisdiction for purposes of the Uniform Commercial Code, that jurisdiction is the bank's jurisdiction;

(2) if Paragraph (1) of this subsection does not apply and an agreement between the bank and its customer governing the deposit account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the bank's jurisdiction;

(3) if neither Paragraph (1) nor Paragraph (2) of this subsection applies and an agreement between the bank and its customer governing the deposit account expressly provides that the deposit account is maintained at an office in a particular jurisdiction, that jurisdiction is the bank's jurisdiction;

(4) if none of the preceding paragraphs applies, the bank's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the customer's account is located; and

(5) if none of the preceding paragraphs applies, the bank's jurisdiction is the jurisdiction in which the chief executive office of the bank is located."

## **Chapter 142 Section 58 Laws 2023**

SECTION 58. Section 55-9-305 NMSA 1978 (being Laws 2001, Chapter 139, Section 25) is amended to read:

"55-9-305. LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS IN INVESTMENT PROPERTY.--

(a) Except as otherwise provided in Subsection (c) of this section, the following rules apply:

(1) while a security certificate is located in a jurisdiction, the local law of that jurisdiction governs perfection, the effect of perfection or nonperfection and the priority of a security interest in the certificated security represented thereby;

(2) the local law of the issuer's jurisdiction as specified in Subsection (d) of Section 55-8-110 NMSA 1978 governs perfection, the effect of perfection or nonperfection and the priority of a security interest in an uncertificated security;

(3) the local law of the securities intermediary's jurisdiction as specified in Subsection (e) of Section 55-8-110 NMSA 1978 governs perfection, the effect of perfection or nonperfection and the priority of a security interest in a security entitlement or securities account;

(4) the local law of the commodity intermediary's jurisdiction governs perfection, the effect of perfection or nonperfection and the priority of a security interest in a commodity contract or commodity account; and

(5) Paragraphs (2), (3) and (4) of this subsection apply even if the transaction does not bear any relation to the jurisdiction.

(b) The following rules determine a commodity intermediary's jurisdiction for purposes of Sections 55-9-301 through 55-9-342 NMSA 1978:

(1) if an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that a particular jurisdiction is the commodity intermediary's jurisdiction for purposes of the Uniform Commercial Code, that jurisdiction is the commodity intermediary's jurisdiction;

(2) if Paragraph (1) of this subsection does not apply and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the agreement is governed by the law of a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction;

(3) if neither Paragraph (1) nor Paragraph (2) of this subsection applies and an agreement between the commodity intermediary and commodity customer governing the commodity account expressly provides that the commodity account is maintained at an office in a particular jurisdiction, that jurisdiction is the commodity intermediary's jurisdiction;

(4) if none of the preceding paragraphs applies, the commodity intermediary's jurisdiction is the jurisdiction in which the office identified in an account statement as the office serving the commodity customer's account is located; and

(5) if none of the preceding paragraphs applies, the commodity intermediary's jurisdiction is the jurisdiction in which the chief executive office of the commodity intermediary is located.

(c) The local law of the jurisdiction in which the debtor is located governs:

(1) perfection of a security interest in investment property by filing;

(2) automatic perfection of a security interest in investment property created by a broker or securities intermediary; and

(3) automatic perfection of a security interest in a commodity contract or commodity account created by a commodity intermediary."

## **Chapter 142 Section 59 Laws 2023**

SECTION 59. A new section of the Uniform Commercial Code, Section 55-9-306A NMSA 1978, is enacted to read:

"55-9-306A. LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS IN CHATTEL PAPER.--

(a) Except as provided in Subsection (d) of this section, if chattel paper is evidenced only by an authoritative electronic copy of the chattel paper or is evidenced by an authoritative electronic copy and an authoritative tangible copy, the local law of the chattel paper's jurisdiction governs perfection, the effect of perfection or nonperfection and the priority of a security interest in the chattel paper, even if the transaction does not bear any relation to the chattel paper's jurisdiction.

(b) The following rules determine the chattel paper's jurisdiction under this section:

(1) if the authoritative electronic copy of the record evidencing chattel paper, or a record attached to or logically associated with the electronic copy and readily available for review, expressly provides that a particular jurisdiction is the chattel paper's jurisdiction for purposes of this part or the Uniform Commercial Code, that jurisdiction is the chattel paper's jurisdiction;

(2) if Paragraph (1) of this subsection does not apply and the rules of the system in which the authoritative electronic copy is recorded are readily available for review and expressly provide that a particular jurisdiction is the chattel paper's jurisdiction for purposes of this part or the Uniform Commercial Code, that jurisdiction is the chattel paper's jurisdiction;

(3) if Paragraphs (1) and (2) of this section do not apply and the authoritative electronic copy, or a record attached to or logically associated with the electronic copy and readily available for review, expressly provides that the chattel paper is governed by the law of a particular jurisdiction, that jurisdiction is the chattel paper's jurisdiction;

(4) if Paragraphs (1), (2) and (3) of this subsection do not apply and the rules of the system in which the authoritative electronic copy is recorded are readily available for review and expressly provide that the chattel paper or the system is

governed by the law of a particular jurisdiction, that jurisdiction is the chattel paper's jurisdiction; and

(5) if Paragraphs (1) through (4) of this subsection do not apply, the chattel paper's jurisdiction is the jurisdiction in which the debtor is located.

(c) If an authoritative tangible copy of a record evidences chattel paper and the chattel paper is not evidenced by an authoritative electronic copy, while the authoritative tangible copy of the record evidencing chattel paper is located in a jurisdiction, the local law of that jurisdiction governs:

(1) perfection of a security interest in the chattel paper by possession under Section 55-9-314A NMSA 1978; and

(2) the effect of perfection or nonperfection and the priority of a security interest in the chattel paper.

(d) The local law of the jurisdiction in which the debtor is located governs perfection of a security interest in chattel paper by filing."

## **Chapter 142 Section 60 Laws 2023**

SECTION 60. A new section of the Uniform Commercial Code, Section 55-9-306B NMSA 1978, is enacted to read:

"55-9-306B. LAW GOVERNING PERFECTION AND PRIORITY OF SECURITY INTERESTS IN CONTROLLABLE ACCOUNTS, CONTROLLABLE ELECTRONIC RECORDS AND CONTROLLABLE PAYMENT INTANGIBLES.--

(a) Except as provided in Subsection (b) of this section, the local law of the controllable electronic record's jurisdiction specified in Subsections (c) and (d) of Section 55-12-107 NMSA 1978 governs perfection, the effect of perfection or nonperfection and the priority of a security interest in a controllable electronic record and a security interest in a controllable account or controllable payment intangible evidenced by the controllable electronic record.

(b) The local law of the jurisdiction in which the debtor is located governs:

(1) perfection of a security interest in a controllable account, controllable electronic record or controllable payment intangible by filing; and

(2) automatic perfection of a security interest in a controllable payment intangible created by a sale of the controllable payment intangible."

## Chapter 142 Section 61 Laws 2023

SECTION 61. Section 55-9-310 NMSA 1978 (being Laws 2001, Chapter 139, Section 30, as amended) is amended to read:

"55-9-310. WHEN FILING REQUIRED TO PERFECT SECURITY INTEREST OR AGRICULTURAL LIEN--SECURITY INTERESTS AND AGRICULTURAL LIENS TO WHICH FILING PROVISIONS DO NOT APPLY.--

(a) Except as otherwise provided in Subsection (b) of this section and in Section 55-9-312 NMSA 1978, a financing statement must be filed to perfect all security interests and agricultural liens.

(b) The filing of a financing statement is not necessary to perfect a security interest:

(1) that is perfected under Subsection (d), (e), (f) or (g) of Section 55-9-308 NMSA 1978;

(2) that is perfected under Section 55-9-309 NMSA 1978 when it attaches;

(3) in property subject to a statute, regulation or treaty described in Subsection (a) of Section 55-9-311 NMSA 1978;

(4) in goods in possession of a bailee that is perfected under Paragraph (1) or (2) of Subsection (d) of Section 55-9-312 NMSA 1978;

(5) in certificated securities, documents, goods or instruments that is perfected without filing, control or possession under Subsection (e), (f) or (g) of Section 55-9-312 NMSA 1978;

(6) in collateral in the secured party's possession under Section 55-9-313 NMSA 1978;

(7) in a certificated security that is perfected by delivery of the security certificate to the secured party under Section 55-9-313 NMSA 1978;

(8) in controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, electronic documents, investment property or letter-of-credit rights that is perfected by control under Section 55-9-314 NMSA 1978;

(9) in proceeds that is perfected under Section 55-9-315 NMSA 1978;  
or

(10) that is perfected under Section 55-9-316 NMSA 1978.

(c) If a secured party assigns a perfected security interest or agricultural lien, a filing under Chapter 55, Article 9 NMSA 1978 is not required to continue the perfected status of the security interest against creditors of and transferees from the original debtor."

## **Chapter 142 Section 62 Laws 2023**

SECTION 62. Section 55-9-312 NMSA 1978 (being Laws 2001, Chapter 139, Section 32, as amended) is amended to read:

"55-9-312. PERFECTION OF SECURITY INTERESTS IN CHATTEL PAPER, CONTROLLABLE ACCOUNTS, CONTROLLABLE ELECTRONIC RECORDS, CONTROLLABLE PAYMENT INTANGIBLES, DEPOSIT ACCOUNTS, DOCUMENTS, GOODS COVERED BY DOCUMENTS, INSTRUMENTS, INVESTMENT PROPERTY, LETTER-OF-CREDIT RIGHTS AND MONEY--PERFECTION BY PERMISSIVE FILING--TEMPORARY PERFECTION WITHOUT FILING OR TRANSFER OF POSSESSION.--

(a) A security interest in chattel paper, controllable accounts, controllable electronic records, controllable payment intangibles, instruments, investment property or negotiable documents may be perfected by filing.

(b) Except as otherwise provided in Subsections (c) and (d) of Section 55-9-315 NMSA 1978 for proceeds:

(1) a security interest in a deposit account may be perfected only by control under Section 55-9-314 NMSA 1978;

(2) and except as otherwise provided in Subsection (d) of Section 55-9-308 NMSA 1978, a security interest in a letter-of-credit right may be perfected only by control under Section 55-9-314 NMSA 1978;

(3) a security interest in tangible money may be perfected only by the secured party's taking possession under Section 55-9-313 NMSA 1978; and

(4) a security interest in electronic money may be perfected only by control under Section 55-9-314 NMSA 1978.

(c) While goods are in the possession of a bailee that has issued a negotiable document covering the goods:

(1) a security interest in the goods may be perfected by perfecting a security interest in the document; and

(2) a security interest perfected in the document has priority over any security interest that becomes perfected in the goods by another method during that time.

(d) While goods are in the possession of a bailee that has issued a nonnegotiable document covering the goods, a security interest in the goods may be perfected by:

- (1) issuance of a document in the name of the secured party;
- (2) the bailee's receipt of notification of the secured party's interest; or
- (3) filing as to the goods.

(e) A security interest in certificated securities, negotiable documents or instruments is perfected without filing or the taking of possession or control for a period of twenty days from the time it attaches to the extent that it arises for new value given under a signed security agreement.

(f) A perfected security interest in a negotiable document or goods in possession of a bailee, other than one that has issued a negotiable document for the goods, remains perfected for twenty days without filing if the secured party makes available to the debtor the goods or documents representing the goods for the purpose of:

- (1) ultimate sale or exchange; or
- (2) loading, unloading, storing, shipping, transshipping, manufacturing, processing or otherwise dealing with them in a manner preliminary to their sale or exchange.

(g) A perfected security interest in a certificated security or instrument remains perfected for twenty days without filing if the secured party delivers the security certificate or instrument to the debtor for the purpose of:

- (1) ultimate sale or exchange; or
- (2) presentation, collection, enforcement, renewal or registration of transfer.

(h) After the twenty-day period specified in Subsection (e), (f) or (g) of this section expires, perfection depends upon compliance with Chapter 55, Article 9 NMSA 1978."

## **Chapter 142 Section 63 Laws 2023**

SECTION 63. Section 55-9-313 NMSA 1978 (being Laws 2001, Chapter 139, Section 33, as amended) is amended to read:

"55-9-313. WHEN POSSESSION BY OR DELIVERY TO SECURED PARTY PERFECTS SECURITY INTEREST WITHOUT FILING.--

(a) Except as otherwise provided in Subsection (b) of this section, a secured party may perfect a security interest in goods, instruments, negotiable tangible documents or tangible money by taking possession of the collateral. A secured party may perfect a security interest in certificated securities by taking delivery of the certificated securities under Section 55-8-301 NMSA 1978.

(b) With respect to goods covered by a certificate of title issued by this state, a secured party may perfect a security interest in the goods by taking possession of the goods only in the circumstances described in Subsection (d) of Section 55-9-316 NMSA 1978.

(c) With respect to collateral other than certificated securities and goods covered by a document, a secured party takes possession of collateral in the possession of a person other than the debtor, the secured party or a lessee of the collateral from the debtor in the ordinary course of the debtor's business when:

(1) the person in possession signs a record acknowledging that it holds possession of the collateral for the secured party's benefit; or

(2) the person takes possession of the collateral after having signed a record acknowledging that it will hold possession of the collateral for the secured party's benefit.

(d) If perfection of a security interest depends upon possession of the collateral by a secured party, perfection occurs not earlier than the time the secured party takes possession and continues only while the secured party retains possession.

(e) A security interest in a certificated security in registered form is perfected by delivery when delivery of the certificated security occurs under Section 55-8-301 NMSA 1978 and remains perfected by delivery until the debtor obtains possession of the security certificate.

(f) A person in possession of collateral is not required to acknowledge that it holds possession for a secured party's benefit.

(g) If a person acknowledges that it holds possession for the secured party's benefit:

(1) the acknowledgment is effective under Subsection (c) of this section or Subsection (a) of Section 55-8-301 NMSA 1978, even if the acknowledgment violates the rights of a debtor; and

(2) unless the person otherwise agrees or law other than Chapter 55, Article 9 NMSA 1978 otherwise provides, the person does not owe any duty to the secured party and is not required to confirm the acknowledgment to another person.

(h) A secured party having possession of collateral does not relinquish possession by delivering the collateral to a person other than the debtor or a lessee of the collateral from the debtor in the ordinary course of the debtor's business if the person was instructed before the delivery or is instructed contemporaneously with the delivery:

(1) to hold possession of the collateral for the secured party's benefit;  
or

(2) to redeliver the collateral to the secured party.

(i) A secured party does not relinquish possession, even if a delivery under Subsection (h) of this section violates the rights of a debtor. A person to which collateral is delivered under Subsection (h) of this section does not owe any duty to the secured party and is not required to confirm the delivery to another person unless the person otherwise agrees or law other than Chapter 55, Article 9 NMSA 1978 otherwise provides."

## **Chapter 142 Section 64 Laws 2023**

SECTION 64. Section 55-9-314 NMSA 1978 (being Laws 2001, Chapter 139, Section 34, as amended) is amended to read:

"55-9-314. PERFECTION BY CONTROL.--

(a) A security interest in controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, electronic documents, electronic money, investment property or letter-of-credit rights may be perfected by control of the collateral under Section 55-7-106, 55-9-104, 55-9-105A, 55-9-106, 55-9-107 or 55-9-107A NMSA 1978.

(b) A security interest in controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, electronic documents, electronic money or letter-of-credit rights is perfected by control under Section 55-7-106, 55-9-104, 55-9-105A, 55-9-107 or 55-9-107A NMSA 1978 when the secured party obtains control and remains perfected by control only while the secured party retains control.

(c) A security interest in investment property is perfected by control under Section 55-9-106 NMSA 1978 not earlier than the time the secured party obtains control and remains perfected by control until:

(1) the secured party does not have control; and

(2) one of the following occurs:

(A) if the collateral is a certificated security, the debtor has or acquires possession of the security certificate;

(B) if the collateral is an uncertificated security, the issuer has registered or registers the debtor as the registered owner; or

(C) if the collateral is a security entitlement, the debtor is or becomes the entitlement holder."

## **Chapter 142 Section 65 Laws 2023**

SECTION 65. A new section of the Uniform Commercial Code, Section 55-9-314A NMSA 1978, is enacted to read:

"55-9-314A. PERFECTION BY POSSESSION AND CONTROL OF CHATTEL PAPER.--

(a) A secured party may perfect a security interest in chattel paper by taking possession of each authoritative tangible copy of the record evidencing the chattel paper and obtaining control of each authoritative electronic copy of the electronic record evidencing the chattel paper.

(b) A security interest is perfected under Subsection (a) of this section not earlier than the time the secured party takes possession and obtains control and remains perfected under that subsection only while the secured party retains possession and control.

(c) Subsections (c) and (f) through (i) of Section 55-9-313 NMSA 1978 apply to perfection by possession of an authoritative tangible copy of a record evidencing chattel paper."

## **Chapter 142 Section 66 Laws 2023**

SECTION 66. Section 55-9-316 NMSA 1978 (being Laws 2001, Chapter 139, Section 36, as amended) is amended to read:

"55-9-316. EFFECT OF CHANGE IN GOVERNING LAW.--

(a) A security interest perfected pursuant to the law of the jurisdiction designated in Subsection (1) of Section 55-9-301, Subsection (c) of Section 55-9-305, Subsection (d) of Section 55-9-306A or Subsection (b) of Section 55-9-306B NMSA 1978 remains perfected until the earliest of:

(1) the time perfection would have ceased under the law of that jurisdiction;

(2) the expiration of four months after a change of the debtor's location to another jurisdiction; or

(3) the expiration of one year after a transfer of collateral to a person that thereby becomes a debtor and is located in another jurisdiction.

(b) If a security interest described in Subsection (a) of this section becomes perfected under the law of the other jurisdiction before the earliest time or event described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earliest time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(c) A possessory security interest in collateral, other than goods covered by a certificate of title and as-extracted collateral consisting of goods, remains continuously perfected if:

(1) the collateral is located in one jurisdiction and subject to a security interest perfected under the law of that jurisdiction;

(2) thereafter the collateral is brought into another jurisdiction; and

(3) upon entry into the other jurisdiction, the security interest is perfected under the law of the other jurisdiction.

(d) Except as otherwise provided in Subsection (e) of this section, a security interest in goods covered by a certificate of title that is perfected by any method under the law of another jurisdiction when the goods become covered by a certificate of title from this state remains perfected until the security interest would have become unperfected under the law of the other jurisdiction had the goods not become so covered.

(e) A security interest described in Subsection (d) of this section becomes unperfected as against a purchaser of the goods for value and is deemed never to have been perfected as against a purchaser of the goods for value if the applicable requirements for perfection under Subsection (b) of Section 55-9-311 or Section 55-9-313 NMSA 1978 are not satisfied before the earlier of:

(1) the time the security interest would have become unperfected under the law of the other jurisdiction had the goods not become covered by a certificate of title from this state; or

(2) the expiration of four months after the goods had become so covered.

(f) A security interest in chattel paper, controllable accounts, controllable electronic records, controllable payment intangibles, deposit accounts, letter-of-credit rights or investment property that is perfected under the law of the chattel paper's jurisdiction, the controllable electronic record's jurisdiction, the bank's jurisdiction, the issuer's jurisdiction, a nominated person's jurisdiction, the securities intermediary's jurisdiction or the commodity intermediary's jurisdiction, as applicable, remains perfected until the earlier of:

(1) the time the security interest would have become unperfected under the law of that jurisdiction; or

(2) the expiration of four months after a change of the applicable jurisdiction to another jurisdiction.

(g) If a security interest described in Subsection (f) of this section becomes perfected under the law of the other jurisdiction before the earlier of the time or the end of the period described in that subsection, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier of that time or the end of that period, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(h) The following rules apply to collateral to which a security interest attaches within four months after the debtor changes its location to another jurisdiction:

(1) a financing statement filed before the change pursuant to the law of the jurisdiction designated in Paragraph (1) of Section 55-9-301 or Subsection (c) of Section 55-9-305 NMSA 1978 is effective to perfect a security interest in the collateral if the financing statement would have been effective to perfect a security interest in the collateral had the debtor not changed its location; and

(2) if a security interest perfected by a financing statement that is effective under Paragraph (1) of this subsection becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated in Subsection (1) of Section 55-9-301 or Subsection (c) of Section 55-9-305 NMSA 1978 or the expiration of the four-month period, it remains perfected thereafter. If the security interest does not become perfected under the law of the other jurisdiction before the earlier time or event, it becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value.

(i) If a financing statement naming an original debtor is filed pursuant to the law of the jurisdiction designated in Subsection (1) of Section 55-9-301 or Subsection

(c) of Section 55-9-305 NMSA 1978 and the new debtor is located in another jurisdiction, the following rules apply:

(1) the financing statement is effective to perfect a security interest in collateral acquired by the new debtor before, and within four months after, the new debtor becomes bound under Subsection (d) of Section 55-9-203 NMSA 1978 if the financing statement would have been effective to perfect a security interest in the collateral had the collateral been acquired by the original debtor; and

(2) a security interest perfected by the financing statement that becomes perfected under the law of the other jurisdiction before the earlier of the time the financing statement would have become ineffective under the law of the jurisdiction designated in Subsection (1) of Section 55-9-301 or Subsection (c) of Section 55-9-305 NMSA 1978 or the expiration of the four-month period remains perfected thereafter. A security interest that is perfected by the financing statement but that does not become perfected under the law of the other jurisdiction before the earlier time or event becomes unperfected and is deemed never to have been perfected as against a purchaser of the collateral for value."

## **Chapter 142 Section 67 Laws 2023**

SECTION 67. Section 55-9-317 NMSA 1978 (being Laws 2001, Chapter 139, Section 37, as amended) is amended to read:

"55-9-317. INTERESTS THAT TAKE PRIORITY OVER OR TAKE FREE OF SECURITY INTEREST OR AGRICULTURAL LIEN.--

(a) A security interest or agricultural lien is subordinate to the rights of:

(1) a person entitled to priority under Section 55-9-322 NMSA 1978;  
and

(2) except as otherwise provided in Subsection (e) of this section, a person that becomes a lien creditor before the earlier of the time:

(A) the security interest or agricultural lien is perfected; or

(B) one of the conditions specified in Paragraph (3) of Subsection (b) of Section 55-9-203 NMSA 1978 is met and a financing statement covering the collateral is filed.

(b) Except as otherwise provided in Subsection (e) of this section, a buyer, other than a secured party, of goods, instruments, tangible documents or a security certificate takes free of a security interest or agricultural lien if the buyer gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(c) Except as otherwise provided in Subsection (e) of this section, a lessee of goods takes free of a security interest or agricultural lien if the lessee gives value and receives delivery of the collateral without knowledge of the security interest or agricultural lien and before it is perfected.

(d) Subject to Subsections (f) through (i) of this section, a licensee of a general intangible or a buyer, other than a secured party, of collateral other than electronic money, goods, instruments, tangible documents or a certificated security takes free of a security interest if the licensee or buyer gives value without knowledge of the security interest and before it is perfected.

(e) Except as otherwise provided in Sections 55-9-320 and 55-9-321 NMSA 1978, if a person files a financing statement with respect to a purchase-money security interest before or within twenty days after the debtor receives delivery of the collateral, the security interest takes priority over the rights of a buyer, lessee or lien creditor that arise between the time the security interest attaches and the time of filing.

(f) A buyer, other than a secured party, of chattel paper takes free of a security interest if, without knowledge of the security interest and before it is perfected, the buyer gives value and:

(1) receives delivery of each authoritative tangible copy of the record evidencing the chattel paper; and

(2) if each authoritative electronic copy of the record evidencing the chattel paper can be subjected to control under Section 55-9-105 NMSA 1978, obtains control of each authoritative electronic copy.

(g) A buyer of an electronic document takes free of a security interest if, without knowledge of the security interest and before it is perfected, the buyer gives value and, if each authoritative electronic copy of the document can be subjected to control under Section 55-7-106 NMSA 1978, obtains control of each authoritative electronic copy.

(h) A buyer of a controllable electronic record takes free of a security interest if, without knowledge of the security interest and before it is perfected, the buyer gives value and obtains control of the controllable electronic record.

(i) A buyer, other than a secured party, of a controllable account or a controllable payment intangible takes free of a security interest if, without knowledge of the security interest and before it is perfected, the buyer gives value and obtains control of the controllable account or controllable payment intangible."

## Chapter 142 Section 68 Laws 2023

SECTION 68. Section 55-9-323 NMSA 1978 (being Laws 2001, Chapter 139, Section 43) is amended to read:

"55-9-323. FUTURE ADVANCES.--

(a) Except as otherwise provided in Subsection (c) of this section, for purposes of determining the priority of a perfected security interest under Paragraph (1) of Subsection (a) of Section 55-9-322 NMSA 1978, perfection of the security interest dates from the time an advance is made to the extent that the security interest secures an advance that:

(1) is made while the security interest is perfected only:

(A) under Section 55-9-309 NMSA 1978 when it attaches; or

(B) temporarily under Subsection (e), (f) or (g) of Section 55-9-312 NMSA 1978; and

(2) is not made pursuant to a commitment entered into before or while the security interest is perfected by a method other than under Section 55-9-309 or Subsection (e), (f) or (g) of Section 55-9-312 NMSA 1978.

(b) Except as otherwise provided in Subsection (c) of this section, a security interest is subordinate to the rights of a person that becomes a lien creditor to the extent that the security interest secures an advance made more than forty-five days after the person becomes a lien creditor unless the advance is made:

(1) without knowledge of the lien; or

(2) pursuant to a commitment entered into without knowledge of the lien.

(c) Subsections (a) and (b) of this section do not apply to a security interest held by a secured party that is a buyer of accounts, chattel paper, payment intangibles or promissory notes or a consignor.

(d) Except as otherwise provided in Subsection (e) of this section, a buyer of goods takes free of a security interest to the extent that it secures advances made after the earlier of:

(1) the time the secured party acquires knowledge of the buyer's purchase; or

(2) forty-five days after the purchase.

(e) Subsection (d) of this section does not apply if the advance is made pursuant to a commitment entered into without knowledge of the buyer's purchase and before the expiration of the forty-five-day period.

(f) Except as otherwise provided in Subsection (g) of this section, a lessee of goods, other than a lessee in ordinary course of business, takes the leasehold interest free of a security interest to the extent that it secures advances made after the earlier of:

- (1) the time the secured party acquires knowledge of the lease; or
- (2) forty-five days after the lease contract becomes enforceable.

(g) Subsection (f) of this section does not apply if the advance is made pursuant to a commitment entered into without knowledge of the lease and before the expiration of the forty-five-day period."

## **Chapter 142 Section 69 Laws 2023**

SECTION 69. Section 55-9-324 NMSA 1978 (being Laws 2001, Chapter 139, Section 44) is amended to read:

"55-9-324. PRIORITY OF PURCHASE-MONEY SECURITY INTERESTS.--

(a) Except as otherwise provided in Subsection (g) of this section, a perfected purchase-money security interest in goods other than inventory or livestock has priority over a conflicting security interest in the same goods, and, except as otherwise provided in Section 55-9-327 NMSA 1978, a perfected security interest in its identifiable proceeds also has priority if the purchase-money security interest is perfected when the debtor receives possession of the collateral or within twenty days thereafter.

(b) Subject to Subsection (c) of this section and except as otherwise provided in Subsection (g) of this section, a perfected purchase-money security interest in inventory has priority over a conflicting security interest in the same inventory, has priority over a conflicting security interest in chattel paper or an instrument constituting proceeds of the inventory and in proceeds of the chattel paper, if so provided in Section 55-9-330 NMSA 1978, and, except as otherwise provided in Section 55-9-327 NMSA 1978, also has priority in identifiable cash proceeds of the inventory to the extent the identifiable cash proceeds are received on or before the delivery of the inventory to a buyer, if:

(1) the purchase-money security interest is perfected when the debtor receives possession of the inventory;

(2) the purchase-money secured party sends a signed notification to the holder of the conflicting security interest;

(3) the holder of the conflicting security interest receives the notification within five years before the debtor receives possession of the inventory; and

(4) the notification states that the person sending the notification has or expects to acquire a purchase-money security interest in inventory of the debtor and describes the inventory.

(c) Paragraphs (2) through (4) of Subsection (b) of this section apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of inventory:

(1) if the purchase-money security interest is perfected by filing, before the date of the filing; or

(2) if the purchase-money security interest is temporarily perfected without filing or possession under Subsection (f) of Section 55-9-312 NMSA 1978, before the beginning of the twenty-day period thereunder.

(d) Subject to Subsection (e) of this section and except as otherwise provided in Subsection (g) of this section, a perfected purchase-money security interest in livestock that are farm products has priority over a conflicting security interest in the same livestock, and, except as otherwise provided in Section 55-9-327 NMSA 1978, a perfected security interest in their identifiable proceeds and identifiable products in their unmanufactured states also has priority, if:

(1) the purchase-money security interest is perfected when the debtor receives possession of the livestock;

(2) the purchase-money secured party sends a signed notification to the holder of the conflicting security interest;

(3) the holder of the conflicting security interest receives the notification within six months before the debtor receives possession of the livestock; and

(4) the notification states that the person sending the notification has or expects to acquire a purchase-money security interest in livestock of the debtor and describes the livestock.

(e) Paragraphs (2) through (4) of Subsection (d) of this section apply only if the holder of the conflicting security interest had filed a financing statement covering the same types of livestock:

(1) if the purchase-money security interest is perfected by filing, before the date of the filing; or

(2) if the purchase-money security interest is temporarily perfected without filing or possession under Subsection (f) of Section 55-9-312 NMSA 1978, before the beginning of the twenty-day period thereunder.

(f) Except as otherwise provided in Subsection (g) of this section, a perfected purchase-money security interest in software has priority over a conflicting security interest in the same collateral, and, except as otherwise provided in Section 55-9-327 NMSA 1978, a perfected security interest in its identifiable proceeds also has priority, to the extent that the purchase-money security interest in the goods in which the software was acquired for use has priority in the goods and proceeds of the goods under this section.

(g) If more than one security interest qualifies for priority in the same collateral under Subsection (a), (b), (d) or (f) of this section:

(1) a security interest securing an obligation incurred as all or part of the price of the collateral has priority over a security interest securing an obligation incurred for value given to enable the debtor to acquire rights in or the use of collateral; and

(2) in all other cases, Subsection (a) of Section 55-9-322 NMSA 1978 applies to the qualifying security interests."

## **Chapter 142 Section 70 Laws 2023**

SECTION 70. A new section of the Uniform Commercial Code, Section 55-9-326A NMSA 1978, is enacted to read:

"55-9-326A. PRIORITY OF SECURITY INTEREST IN CONTROLLABLE ACCOUNT, CONTROLLABLE ELECTRONIC RECORD AND CONTROLLABLE PAYMENT INTANGIBLE.--A security interest in a controllable account, controllable electronic record or controllable payment intangible held by a secured party having control of the account, electronic record or payment intangible has priority over a conflicting security interest held by a secured party that does not have control."

## **Chapter 142 Section 71 Laws 2023**

SECTION 71. Section 55-9-330 NMSA 1978 (being Laws 2001, Chapter 139, Section 50) is amended to read:

"55-9-330. PRIORITY OF PURCHASER OF CHATTEL PAPER OR INSTRUMENT.--

(a) A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed merely as proceeds of inventory subject to a security interest if:

(1) in good faith and in the ordinary course of the purchaser's business, the purchaser gives new value, takes possession of each authoritative tangible copy of the record evidencing the chattel paper and obtains control under Section 55-9-105 NMSA 1978 of each authoritative electronic copy of the record evidencing the chattel paper; and

(2) the authoritative copies of the record evidencing the chattel paper do not indicate that the chattel paper has been assigned to an identified assignee other than the purchaser.

(b) A purchaser of chattel paper has priority over a security interest in the chattel paper which is claimed other than merely as proceeds of inventory subject to a security interest if the purchaser gives new value, takes possession of each authoritative tangible copy of the record evidencing the chattel paper and obtains control under Section 55-9-105 NMSA 1978 of each authoritative electronic copy of the record evidencing the chattel paper in good faith, in the ordinary course of the purchaser's business and without knowledge that the purchase violates the rights of the secured party.

(c) Except as otherwise provided in Section 55-9-327 NMSA 1978, a purchaser having priority in chattel paper under Subsection (a) or (b) of this section also has priority in proceeds of the chattel paper to the extent that:

(1) Section 55-9-322 NMSA 1978 provides for priority in the proceeds;  
or

(2) the proceeds consist of the specific goods covered by the chattel paper or cash proceeds of the specific goods, even if the purchaser's security interest in the proceeds is unperfected.

(d) Except as otherwise provided in Subsection (a) of Section 55-9-331 NMSA 1978, a purchaser of an instrument has priority over a security interest in the instrument perfected by a method other than possession if the purchaser gives value and takes possession of the instrument in good faith and without knowledge that the purchase violates the rights of the secured party.

(e) For purposes of Subsections (a) and (b) of this section, the holder of a purchase-money security interest in inventory gives new value for chattel paper constituting proceeds of the inventory.

(f) For purposes of Subsections (b) and (d) of this section, if the authoritative copies of the record evidencing chattel paper or an instrument indicate that the chattel paper or instrument has been assigned to an identified secured party other than the purchaser, a purchaser of the chattel paper or instrument has knowledge that the purchase violates the rights of the secured party."

## **Chapter 142 Section 72 Laws 2023**

SECTION 72. Section 55-9-331 NMSA 1978 (being Laws 2001, Chapter 139, Section 51, as amended) is amended to read:

"55-9-331. PRIORITY OF RIGHTS OF PURCHASERS OF CONTROLLABLE ACCOUNTS, CONTROLLABLE ELECTRONIC RECORDS, CONTROLLABLE PAYMENT INTANGIBLES, DOCUMENTS, INSTRUMENTS AND SECURITIES UNDER OTHER ARTICLES--PRIORITY OF INTERESTS IN FINANCIAL ASSETS AND SECURITY ENTITLEMENTS AND PROTECTION AGAINST ASSERTION OF CLAIM UNDER CHAPTER 55, ARTICLES 8 AND 9 NMSA 1978.--

(a) Chapter 55, Article 9 NMSA 1978 does not limit the rights of a holder in due course of a negotiable instrument, a holder to which a negotiable document of title has been duly negotiated or a protected purchaser of a security or a qualifying purchaser of a controllable account, controllable electronic record or controllable payment intangible. These holders or purchasers take priority over an earlier security interest, even if perfected, to the extent provided in Chapter 55, Articles 3, 7, 8 and 12 NMSA 1978.

(b) Chapter 55, Article 9 NMSA 1978 does not limit the rights of or impose liability on a person to the extent that the person is protected against the assertion of a claim under Chapter 55, Articles 8 and 12 NMSA 1978.

(c) Filing under Chapter 55, Article 9 NMSA 1978 does not constitute notice of a claim or defense to the holders, or purchasers, or persons described in Subsections (a) and (b) of this section."

## **Chapter 142 Section 73 Laws 2023**

SECTION 73. Section 55-9-332 NMSA 1978 (being Laws 2001, Chapter 139, Section 52) is amended to read:

"55-9-332. TRANSFER OF MONEY--TRANSFER OF FUNDS FROM DEPOSIT ACCOUNT.--

(a) A transferee of tangible money takes the money free of a security interest if the transferee receives possession of the money without acting in collusion with the debtor in violating the rights of the secured party.

(b) A transferee of funds from a deposit account takes the funds free of a security interest in the deposit account if the transferee receives the funds without acting in collusion with the debtor in violating the rights of the secured party.

(c) A transferee of electronic money takes the money free of a security interest if the transferee obtains control of the money without acting in collusion with the debtor in violating the rights of the secured party."

## **Chapter 142 Section 74 Laws 2023**

SECTION 74. Section 55-9-334 NMSA 1978 (being Laws 2001, Chapter 139, Section 54) is amended to read:

"55-9-334. PRIORITY OF SECURITY INTERESTS IN FIXTURES.--

(a) A security interest under Chapter 55, Article 9 NMSA 1978 may be created in goods that are fixtures or may continue in goods that become fixtures. A security interest does not exist under this article in ordinary building materials incorporated into an improvement on land.

(b) Chapter 55, Article 9 NMSA 1978 does not prevent creation of an encumbrance upon fixtures under real property law.

(c) In cases not governed by Subsections (d) through (h) of this section, a security interest in fixtures is subordinate to a conflicting interest of an encumbrancer or owner of the related real property other than the debtor.

(d) Except as otherwise provided in Subsection (h) of this section, a perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if the debtor has an interest of record in or is in possession of the real property and:

(1) the security interest is a purchase-money security interest;

(2) the interest of the encumbrancer or owner arises before the goods become fixtures; and

(3) the security interest is perfected by a fixture filing before the goods become fixtures or within twenty days thereafter.

(e) A perfected security interest in fixtures has priority over a conflicting interest of an encumbrancer or owner of the real property if:

(1) the debtor has an interest of record in the real property or is in possession of the real property and the security interest:

(A) is perfected by a fixture filing before the interest of the encumbrancer or owner is of record; and

(B) has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner;

(2) before the goods become fixtures, the security interest is perfected by any method permitted by Chapter 55, Article 9 NMSA 1978, and the fixtures are readily removable:

(A) factory or office machines;

(B) equipment that is not primarily used or leased for use in the operation of the real property; or

(C) replacements of domestic appliances that are consumer goods;

(3) the conflicting interest is a lien on the real property obtained by legal or equitable proceedings after the security interest was perfected by any method permitted by this article; or

(4) the security interest is:

(A) created in a manufactured home in a manufactured-home transaction; and

(B) perfected pursuant to a statute described in Paragraph (2) of Subsection (a) of Section 55-9-311 NMSA 1978.

(f) A security interest in fixtures, whether or not perfected, has priority over a conflicting interest of an encumbrancer or owner of the real property if:

(1) the encumbrancer or owner has, in a signed record, consented to the security interest or disclaimed an interest in the goods as fixtures; or

(2) the debtor has a right to remove the goods as against the encumbrancer or owner.

(g) The priority of the security interest under Paragraph (2) of Subsection (f) of this section continues for a reasonable time if the debtor's right to remove the goods as against the encumbrancer or owner terminates.

(h) A mortgage is a construction mortgage to the extent that it secures an obligation incurred for the construction of an improvement on land, including the acquisition cost of the land, if a recorded record of the mortgage so indicates. Except as otherwise provided in Subsections (e) and (f) of this section, a security interest in fixtures is subordinate to a construction mortgage if a record of the mortgage is recorded before the goods become fixtures and the goods become fixtures before the

completion of the construction. A mortgage has this priority to the same extent as a construction mortgage to the extent that it is given to refinance a construction mortgage."

## **Chapter 142 Section 75 Laws 2023**

SECTION 75. Section 55-9-341 NMSA 1978 (being Laws 2001, Chapter 139, Section 61) is amended to read:

"55-9-341. BANK'S RIGHTS AND DUTIES WITH RESPECT TO DEPOSIT ACCOUNT.--Except as otherwise provided in Subsection (c) of Section 55-9-340 NMSA 1978, and unless the bank otherwise agrees in a signed record, a bank's rights and duties with respect to a deposit account maintained with the bank are not terminated, suspended or modified by:

- (1) the creation, attachment or perfection of a security interest in the deposit account;
- (2) the bank's knowledge of the security interest; or
- (3) the bank's receipt of instructions from the secured party."

## **Chapter 142 Section 76 Laws 2023**

SECTION 76. Section 55-9-404 NMSA 1978 (being Laws 2001, Chapter 139, Section 66) is amended to read:

"55-9-404. RIGHTS ACQUIRED BY ASSIGNEE--CLAIMS AND DEFENSES AGAINST ASSIGNEE.--

(a) Unless an account debtor has made an enforceable agreement not to assert defenses or claims, and subject to Subsections (b) through (e) of this section, the rights of an assignee are subject to:

(1) all terms of the agreement between the account debtor and assignor and any defense or claim in recoupment arising from the transaction that gave rise to the contract; and

(2) any other defense or claim of the account debtor against the assignor which accrues before the account debtor receives a notification of the assignment signed by the assignor or the assignee.

(b) Subject to Subsection (c) of this section and except as otherwise provided in Subsection (d) of this section, the claim of an account debtor against an assignor may be asserted against an assignee under Subsection (a) of this section only to reduce the amount the account debtor owes.

(c) This section is subject to law other than Chapter 55, Article 9 NMSA 1978 which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family or household purposes.

(d) In a consumer transaction, if a record evidences the account debtor's obligation, law other than Chapter 55, Article 9 NMSA 1978 requires that the record include a statement to the effect that the account debtor's recovery against an assignee with respect to claims and defenses against the assignor may not exceed amounts paid by the account debtor under the record, and if the record does not include such a statement, the extent to which a claim of an account debtor against the assignor may be asserted against an assignee is determined as if the record included such a statement.

(e) This section does not apply to an assignment of a health-care-insurance receivable."

## **Chapter 142 Section 77 Laws 2023**

SECTION 77. Section 55-9-406 NMSA 1978 (being Laws 2001, Chapter 139, Section 68, as amended) is amended to read:

"55-9-406. DISCHARGE OF ACCOUNT DEBTOR--NOTIFICATION OF ASSIGNMENT--IDENTIFICATION AND PROOF OF ASSIGNMENT--RESTRICTIONS ON ASSIGNMENT OF ACCOUNTS, CHATTEL PAPER, PAYMENT INTANGIBLES AND PROMISSORY NOTES INEFFECTIVE.--

(a) Subject to Subsections (b) through (i) and (l) of this section, an account debtor on an account, chattel paper or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, signed by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

(b) Subject to Subsections (h) and (l) of this section, notification is ineffective under Subsection (a) of this section:

(1) if it does not reasonably identify the rights assigned;

(2) to the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than Chapter 55, Article 9 NMSA 1978; or

(3) at the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:

(A) only a portion of the account, chattel paper or payment intangible has been assigned to that assignee;

(B) a portion has been assigned to another assignee; or

(C) the account debtor knows that the assignment to that assignee is limited.

(c) Subject to Subsections (h) and (l) of this section, if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under Subsection (a) of this section.

(d) In this subsection, "promissory note" includes a negotiable instrument that evidences chattel paper. Except as otherwise provided in Subsections (e) and (k) of this section and Sections 55-2A-303 and 55-9-407 NMSA 1978, and subject to Subsection (h) of this section, a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:

(1) prohibits, restricts or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection or enforcement of a security interest in, the account, chattel paper, payment intangible or promissory note; or

(2) provides that the assignment or transfer or the creation, attachment, perfection or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination or remedy under the account, chattel paper, payment intangible or promissory note.

(e) Subsection (d) of this section does not apply to the sale of a payment intangible or promissory note, other than a sale pursuant to a disposition under Section 55-9-610 NMSA 1978 or an acceptance of collateral under Section 55-9-620 NMSA 1978.

(f) Except as otherwise provided in Subsection (k) of this section and Sections 55-2A-303 and 55-9-407 NMSA 1978 and subject to Subsections (h) and (i) of this section, a rule of law, statute or regulation that prohibits, restricts or requires the consent of a government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute or regulation:

(1) prohibits, restricts or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection or enforcement of a security interest in the account or chattel paper; or

(2) provides that the assignment or transfer or the creation, attachment, perfection or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination or remedy under the account or chattel paper.

(g) Subject to Subsections (h) and (l) of this section, an account debtor may not waive or vary its option under Paragraph (3) of Subsection (b) of this section.

(h) This section is subject to law other than Chapter 55, Article 9 NMSA 1978 that establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family or household purposes.

(i) This section does not apply to an assignment of a health-care-insurance receivable.

(j) This section is subject to laws other than Chapter 55, Article 9 NMSA 1978 to the extent that those laws prohibit or restrict the assignment, transfer of or creation of a security interest in benefits, compensation, any other account or chattel paper.

(k) Subsections (d), (f) and (j) of this section do not apply to a security interest in an ownership interest in a general partnership, limited liability partnership, limited partnership, limited liability limited partnership or limited liability company.

(l) Subsections (a), (b), (c) and (g) of this section do not apply to a controllable account or controllable payment intangible."

## **Chapter 142 Section 78 Laws 2023**

SECTION 78. Section 55-9-408 NMSA 1978 (being Laws 2001, Chapter 139, Section 70, as amended) is amended to read:

"55-9-408. RESTRICTIONS ON ASSIGNMENT OF PROMISSORY NOTES, HEALTH-CARE-INSURANCE RECEIVABLES AND CERTAIN GENERAL INTANGIBLES INEFFECTIVE.--

(a) Except as otherwise provided in Subsections (b) and (e) of this section, a term in a promissory note or in an agreement between an account debtor and a debtor that relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license or franchise, and that prohibits, restricts or requires the consent of the person obligated on the promissory note or the account debtor to the assignment or transfer of, or creation, attachment or perfection of a security interest in, the promissory note, health-care-insurance receivable or general intangible is ineffective to the extent that the term:

(1) would impair the creation, attachment or perfection of a security interest; or

(2) provides that the assignment or transfer or the creation, attachment or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination or remedy under the promissory note, health-care-insurance receivable or general intangible.

(b) Subsection (a) of this section applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note other than a sale pursuant to a disposition under Section 55-9-610 NMSA 1978 or an acceptance of collateral under Section 55-9-620 NMSA 1978.

(c) Except as otherwise provided in Subsection (e) of this section, a rule of law, statute or regulation that prohibits, restricts or requires the consent of a government, governmental body or official, person obligated on a promissory note or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable or general intangible, including a contract, permit, license or franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute or regulation:

(1) would impair the creation, attachment or perfection of a security interest; or

(2) provides that the assignment or transfer or the creation, attachment or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination or remedy under the promissory note, health-care-insurance receivable or general intangible.

(d) To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor that relates to a health-care-insurance receivable or general intangible or a rule of law, statute or regulation described in Subsection (c) of this section would be effective under law other than Chapter 55, Article 9 NMSA 1978 but is ineffective under Subsection (a) or (c) of this section, the creation, attachment or perfection of a security interest in the promissory note, health-care-insurance receivable or general intangible:

(1) is not enforceable against the person obligated on the promissory note or the account debtor;

(2) does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;

(3) does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party or accept payment or performance from the secured party;

(4) does not entitle the secured party to use or assign the debtor's rights under the promissory note, health-care-insurance receivable or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health-care-insurance receivable or general intangible;

(5) does not entitle the secured party to use, assign, possess or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor; and

(6) does not entitle the secured party to enforce the security interest in the promissory note, health-care-insurance receivable or general intangible. The provisions of this section shall prevail over an inconsistent provision of an existing or future statute or rule of this state, unless the inconsistent provision is set forth in a statute of this state that refers expressly to this section and states that the inconsistent provision shall prevail over the provisions of this section.

(e) This section does not apply to a security interest in an ownership interest in a general partnership, limited liability partnership, limited partnership, limited liability limited partnership or limited liability company.

(f) In this section, "promissory note" includes a negotiable instrument that evidences chattel paper."

## **Chapter 142 Section 79 Laws 2023**

SECTION 79. Section 55-9-509 NMSA 1978 (being Laws 2001, Chapter 139, Section 80) is amended to read:

"55-9-509. PERSONS ENTITLED TO FILE A RECORD.--

(a) A person may file an initial financing statement, amendment that adds collateral covered by a financing statement or amendment that adds a debtor to a financing statement only if:

(1) the debtor authorizes the filing in a signed record or pursuant to Subsection (b) or (c) of this section; or

(2) the person holds an agricultural lien that has become effective at the time of filing and the financing statement covers only collateral in which the person holds an agricultural lien.

(b) By signing or becoming bound as debtor by a security agreement, a debtor or new debtor authorizes the filing of an initial financing statement, and an amendment, covering:

(1) the collateral described in the security agreement; and

(2) property that becomes collateral under Paragraph (2) of Subsection (a) of Section 55-9-315 NMSA 1978, whether or not the security agreement expressly covers proceeds.

(c) By acquiring collateral in which a security interest or agricultural lien continues under Paragraph (1) of Subsection (a) of Section 55-9-315 NMSA 1978, a debtor authorizes the filing of an initial financing statement, and an amendment, covering the collateral and property that becomes collateral under Paragraph (2) of Subsection (a) of Section 55-9-315 NMSA 1978.

(d) A person may file an amendment other than an amendment that adds collateral covered by a financing statement or an amendment that adds a debtor to a financing statement only if:

(1) the secured party of record authorizes the filing; or

(2) the amendment is a termination statement for a financing statement as to which the secured party of record has failed to file or send a termination statement as required by Subsection (a) or (c) of Section 55-9-513 NMSA 1978, the debtor authorizes the filing and the termination statement indicates that the debtor authorized it to be filed.

(e) If there is more than one secured party of record for a financing statement, each secured party of record may authorize the filing of an amendment under Subsection (d) of this section."

## **Chapter 142 Section 80 Laws 2023**

SECTION 80. Section 55-9-513 NMSA 1978 (being Laws 2001, Chapter 139, Section 84) is amended to read:

"55-9-513. TERMINATION STATEMENT.--

(a) A secured party shall cause the secured party of record for a financing statement to file a termination statement for the financing statement if the financing statement covers consumer goods and:

(1) there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation or otherwise give value; or

(2) the debtor did not authorize the filing of the initial financing statement.

(b) To comply with Subsection (a) of this section, a secured party shall cause the secured party of record to file the termination statement:

(1) within one month after there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation or otherwise give value; or

(2) if earlier, within twenty days after the secured party receives a signed demand from a debtor.

(c) In cases not governed by Subsection (a) of this section, within twenty days after a secured party receives a signed demand from a debtor, the secured party shall cause the secured party of record for a financing statement to send to the debtor a termination statement for the financing statement or file the termination statement in the filing office if:

(1) except in the case of a financing statement covering accounts or chattel paper that has been sold or goods that are the subject of a consignment, there is no obligation secured by the collateral covered by the financing statement and no commitment to make an advance, incur an obligation or otherwise give value;

(2) the financing statement covers accounts or chattel paper that has been sold but as to which the account debtor or other person obligated has discharged its obligation;

(3) the financing statement covers goods that were the subject of a consignment to the debtor but are not in the debtor's possession; or

(4) the debtor did not authorize the filing of the initial financing statement.

(d) Except as otherwise provided in Section 55-9-510 NMSA 1978, upon the filing of a termination statement with the filing office, the financing statement to which the termination statement relates ceases to be effective. Except as otherwise provided in Section 55-9-510 NMSA 1978, for purposes of Subsection (c) of Section 55-9-519, Subsection (a) of Section 55-9-522 and Subsection (b) of Section 55-9-523 NMSA 1978, the filing with the filing office of a termination statement relating to a financing statement that indicates that the debtor is a transmitting utility also causes the effectiveness of the financing statement to lapse."

## **Chapter 142 Section 81 Laws 2023**

SECTION 81. Section 55-9-515 NMSA 1978 (being Laws 2001, Chapter 139, Section 86, as amended) is amended to read:

"55-9-515. DURATION AND EFFECTIVENESS OF FINANCING STATEMENT--  
EFFECT OF LAPSED FINANCING STATEMENT.--

(a) Except as otherwise provided in Subsections (b), (e), (f) and (g) of this section, a filed financing statement is effective for a period of five years after the date of filing.

(b) Except as otherwise provided in Subsections (e), (f) and (g) of this section, an initial financing statement filed in connection with a public-finance transaction or manufactured-home transaction is effective for a period of thirty years after the date of filing if it indicates that it is filed in connection with a public-finance transaction or manufactured-home transaction.

(c) The effectiveness of a filed financing statement lapses on the expiration of the period of its effectiveness unless before the lapse a continuation statement is filed pursuant to Subsection (d) of this section. Upon lapse, a financing statement ceases to be effective and any security interest or agricultural lien that was perfected by the financing statement becomes unperfected unless the security interest is perfected otherwise. If the security interest or agricultural lien becomes unperfected upon lapse, it is deemed never to have been perfected as against a purchaser of the collateral for value.

(d) A continuation statement may be filed only within six months before the expiration of the five-year period specified in Subsection (a) of this section or the thirty-year period specified in Subsection (b) of this section, whichever is applicable.

(e) Except as otherwise provided in Section 55-9-510 NMSA 1978, upon timely filing of a continuation statement, the effectiveness of the initial financing statement continues for a period of five years commencing on the day on which the financing statement would have become ineffective in the absence of the filing. Upon the expiration of the five-year period, the financing statement lapses in the same manner as provided in Subsection (c) of this section, unless, before the lapse, another continuation statement is filed pursuant to Subsection (d) of this section. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the initial financing statement.

(f) If a debtor is a transmitting utility and a filed initial financing statement so indicates, the financing statement is effective until a termination statement is filed. The filing officer may require proof of the debtor's authority to operate as a transmitting utility as a condition of filing the financing statement or an amendment.

(g) A record of a mortgage that is effective as a financing statement filed as a fixture filing under Subsection (c) of Section 55-9-502 NMSA 1978 remains effective as a financing statement filed as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real property."

## Chapter 142 Section 82 Laws 2023

SECTION 82. Section 55-9-601 NMSA 1978 (being Laws 2001, Chapter 139, Section 98, as amended) is amended to read:

"55-9-601. RIGHTS AFTER DEFAULT--JUDICIAL ENFORCEMENT--  
CONSIGNOR OR BUYER OF ACCOUNTS, CHATTEL PAPER, PAYMENT  
INTANGIBLES OR PROMISSORY NOTES.--

(a) After default, a secured party has the rights provided in Sections 55-9-601 through 55-9-628 NMSA 1978 and, except as otherwise provided in Section 55-9-602 NMSA 1978, those provided by agreement of the parties. A secured party:

(1) may reduce a claim to judgment, foreclose or otherwise enforce the claim, security interest or agricultural lien by any available judicial procedure; and

(2) if the collateral is documents, may proceed either as to the documents or as to the goods they cover.

(b) A secured party in possession of collateral or control of collateral under Section 55-7-106, 55-9-104, 55-9-105, 55-9-105A, 55-9-106, 55-9-107 or 55-9-107A NMSA 1978 has the rights and duties provided in Section 55-9-207 NMSA 1978.

(c) The rights under Subsections (a) and (b) of this section are cumulative and may be exercised simultaneously.

(d) Except as otherwise provided in Subsection (g) of this section and Section 55-9-605 NMSA 1978, after default, a debtor and an obligor have the rights provided in Sections 55-9-601 through 55-9-628 NMSA 1978 and by agreement of the parties.

(e) If a secured party has reduced its claim to judgment, the lien of any levy that may be made upon the collateral by virtue of an execution based upon the judgment relates back to the earliest of:

(1) the date of perfection of the security interest or agricultural lien in the collateral;

(2) the date of filing a financing statement covering the collateral; or

(3) any date specified in a statute under which the agricultural lien was created.

(f) A sale pursuant to an execution is a foreclosure of the security interest or agricultural lien by judicial procedure within the meaning of this section. A secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of Chapter 55, Article 9 NMSA 1978.

(g) Except as otherwise provided in Subsection (c) of Section 55-9-607 NMSA 1978, this part imposes no duties upon a secured party that is a consignor or is a buyer of accounts, chattel paper, payment intangibles or promissory notes."

## **Chapter 142 Section 83 Laws 2023**

SECTION 83. Section 55-9-605 NMSA 1978 (being Laws 2001, Chapter 139, Section 102) is amended to read:

"55-9-605. UNKNOWN DEBTOR OR SECONDARY OBLIGOR.--

(a) Except as provided in Subsection (b) of this section, a secured party does not owe a duty based on its status as secured party:

(1) to a person that is a debtor or obligor, unless the secured party knows:

- (A) that the person is a debtor or obligor;
- (B) the identity of the person; and
- (C) how to communicate with the person; or

(2) to a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

- (A) that the person is a debtor; and
- (B) the identity of the person.

(b) A secured party owes a duty based on its status as a secured party to a person if, at the time the secured party obtains control of collateral that is a controllable account, controllable electronic record or controllable payment intangible or at the time the security interest attaches to the collateral, whichever is later:

- (1) the person is a debtor or obligor; and
- (2) the secured party knows that the information in Subparagraph (A), (B) or (C) of Paragraph (1) of Subsection (a) of this section relating to the person is not provided by the collateral, a record attached to or logically associated with the collateral or the system in which the collateral is recorded."

## **Chapter 142 Section 84 Laws 2023**

SECTION 84. Section 55-9-608 NMSA 1978 (being Laws 2001, Chapter 139, Section 105) is amended to read:

"55-9-608. APPLICATION OF PROCEEDS OF COLLECTION OR ENFORCEMENT--LIABILITY FOR DEFICIENCY AND RIGHT TO SURPLUS.--

(a) If a security interest or agricultural lien secures payment or performance of an obligation, the following rules apply:

(1) A secured party shall apply or pay over for application the cash proceeds of collection or enforcement under Section 55-9-607 NMSA 1978 in the following order to:

(A) the reasonable expenses of collection and enforcement and, to the extent provided for by agreement and not prohibited by law, reasonable attorney fees and legal expenses incurred by the secured party;

(B) the satisfaction of obligations secured by the security interest or agricultural lien under which the collection or enforcement is made; and

(C) the satisfaction of obligations secured by any subordinate security interest in or other lien on the collateral subject to the security interest or agricultural lien under which the collection or enforcement is made if the secured party receives a signed demand for proceeds before distribution of the proceeds is completed.

(2) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder complies, the secured party need not comply with the holder's demand under Subparagraph (C) of Paragraph (1) of Subsection (a) of this section.

(3) A secured party need not apply or pay over for application noncash proceeds of collection and enforcement under Section 55-9-607 NMSA 1978 unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(4) A secured party shall account to and pay a debtor for any surplus, and the obligor is liable for any deficiency.

(b) If the underlying transaction is a sale of accounts, chattel paper, payment intangibles or promissory notes, the debtor is not entitled to any surplus, and the obligor is not liable for any deficiency."

## **Chapter 142 Section 85 Laws 2023**

SECTION 85. Section 55-9-611 NMSA 1978 (being Laws 2001, Chapter 139, Section 108) is amended to read:

"55-9-611. NOTIFICATION BEFORE DISPOSITION OF COLLATERAL.--

(a) In this section, "notification date" means the earlier of the date on which:

- (1) a secured party sends to the debtor and any secondary obligor a signed notification of disposition; or
- (2) the debtor and any secondary obligor waive the right to notification.

(b) Except as otherwise provided in Subsection (d) of this section, a secured party that disposes of collateral under Section 55-9-610 NMSA 1978 shall send to the persons specified in Subsection (c) of this section a reasonable signed notification of disposition.

(c) To comply with Subsection (b) of this section, the secured party shall send a signed notification of disposition to:

- (1) the debtor;
- (2) any secondary obligor; and
- (3) if the collateral is other than consumer goods:

(A) any other person from which the secured party has received, before the notification date, a signed notification of a claim of an interest in the collateral;

(B) any other secured party or lienholder that, ten days before the notification date, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

- (i) identified the collateral;
- (ii) was indexed under the debtor's name as of that date;

and

(iii) was filed in the office in which to file a financing statement against the debtor covering the collateral as of that date; and

(C) any other secured party that, ten days before the notification date, held a security interest in the collateral perfected by compliance with a statute, regulation or treaty described in Subsection (a) of Section 55-9-311 NMSA 1978.

(d) Subsection (b) of this section does not apply if the collateral is perishable or threatens to decline speedily in value or is of a type customarily sold on a recognized market.

(e) A secured party complies with the requirement for notification prescribed by Subparagraph (B) of Paragraph (3) of Subsection (c) of this section if:

(1) not later than twenty days or earlier than thirty days before the notification date, the secured party requests, in a commercially reasonable manner, information concerning financing statements indexed under the debtor's name in the office indicated in Subparagraph (B) of Paragraph (3) of Subsection (c) of this section; and

(2) before the notification date, the secured party:

(A) did not receive a response to the request for information; or

(B) received a response to the request for information and sent a signed notification of disposition to each secured party or other lienholder named in that response whose financing statement covered the collateral."

## **Chapter 142 Section 86 Laws 2023**

SECTION 86. Section 55-9-613 NMSA 1978 (being Laws 2001, Chapter 139, Section 110) is amended to read:

"55-9-613. CONTENTS AND FORM OF NOTIFICATION BEFORE DISPOSITION OF COLLATERAL--GENERAL.--

(a) Except in a consumer-goods transaction, the following rules apply:

(1) The contents of a notification of disposition are sufficient if the notification:

(A) describes the debtor and the secured party;

(B) describes the collateral that is the subject of the intended disposition;

(C) states the method of intended disposition;

(D) states that the debtor is entitled to an accounting of the unpaid indebtedness and states the charge, if any, for an accounting; and

(E) states the time and place of a public disposition or the time after which any other disposition is to be made.

(2) Whether the contents of a notification that lacks any of the information specified in Paragraph (1) of this subsection are nevertheless sufficient is a question of fact.

(3) The contents of a notification providing substantially the information specified in Paragraph (1) of this subsection are sufficient, even if the notification includes:

- (A) information not specified by that subsection; or
- (B) minor errors that are not seriously misleading.

(4) A particular phrasing of the notification is not required.

(5) The following form of notification and the form appearing in Paragraph (3) of Subsection (a) of Section 55-9-614 NMSA 1978, when completed, each provides sufficient information:

#### "NOTIFICATION OF DISPOSITION OF COLLATERAL

To: (Name of debtor, obligor or other person to which the notification is sent)

From: (Name, address and telephone number of secured)

{1} Name of any debtor that is not an addressee: (*Name of each debtor*)

{2} We will sell (*describe collateral*) (to the highest qualified bidder) at public sale. A sale could include a lease or license. The sale will be held as follows:

(*Date*)

(*Time*)

(*Place*)

{3} We will sell (*describe collateral*) at private sale sometime after (*date*). A sale could include a lease or license.

{4} You are entitled to an accounting of the unpaid indebtedness secured by the property that we intend to sell or, as applicable, lease or license.

{5} If you request an accounting, you must pay a charge of \$ (*amount*).

{6} You may request an accounting by calling us at (*telephone number*)."

(b) The following instructions apply to the form of notification in Paragraph (5) of Subsection (a) of this section:

(1) the instructions in this subsection refer to the numbers in braces before items in the form of notification in Paragraph (5) of Subsection (a) of this section.

Do not include the numbers or braces in the notification. The numbers and braces are used only for the purpose of these instructions;

(2) include and complete Item {1} only if there is a debtor that is not an addressee of the notification and list the name or names;

(3) include and complete either Item {2}, if the notification relates to a public disposition of the collateral, or Item {3}, if the notification relates to a private disposition of the collateral. If Item {2} is included, include the words "to the highest qualified bidder" only if applicable;

(4) include and complete Items {4} and {6}; and

(5) include and complete Item {5} only if the sender will charge the recipient for an accounting."

## **Chapter 142 Section 87 Laws 2023**

SECTION 87. Section 55-9-614 NMSA 1978 (being Laws 2001, Chapter 139, Section 111) is amended to read:

"55-9-614. CONTENTS AND FORM OF NOTIFICATION BEFORE DISPOSITION OF COLLATERAL--CONSUMER-GOODS TRANSACTION.--

(a) In a consumer-goods transaction, the following rules apply:

(1) A notification of disposition must provide the following information:

(A) the information specified in Paragraph (1) of Subsection (a) of Section 55-9-613 NMSA 1978;

(B) a description of any liability for a deficiency of the person to which the notification is sent;

(C) a telephone number from which the amount that must be paid to the secured party to redeem the collateral under Section 55-9-623 NMSA 1978 is available; and

(D) a telephone number or mailing address from which additional information concerning the disposition and the obligation secured is available.

(2) A particular phrasing of the notification is not required.

(3) The following form of notification, when completed in accordance with the instructions in Subsection (b) of this section, provides sufficient information:

"(Name and address of secured party)

(Date)

## NOTICE OF OUR PLAN TO SELL PROPERTY

(Name and address of any obligor who is also a debtor)

Subject: (Identify transaction)

We have your (describe collateral) because you broke promises in our agreement.

{1} We will sell (describe collateral) at public sale. A sale could include a lease or license. The sale will be held as follows:

(Date)

(Time)

(Place)

You may attend the sale and bring bidders if you want.

{2} We will sell (describe collateral) at private sale sometime after (date). A sale could include a lease or license.

{3} The money that we get from the sale, after paying our costs, will reduce the amount you owe. If we get less money than you owe, you (will or will not, as applicable) still owe us the difference. If we get more money than you owe, you will get the extra money, unless we must pay it to someone else.

{4} You can get the property back at any time before we sell it by paying us the full amount you owe, not just the past due payments, including our expenses. To learn the exact amount you must pay, call us at (telephone number).

{5} If you want us to explain to you in (writing) (writing or in (description of electronic record) (description of electronic record) how we have figured the amount that you owe us,

{6} call us at (telephone number) (or) (write us at (secured party's address)) (or contact us by (description of electronic communication method))

{7} and request (a written explanation) (a written explanation or an explanation in (description of electronic record)) (an explanation in (description of electronic record)).

{8} We will charge you \$ (*amount*) for the explanation if we sent you another written explanation of the amount you owe us within the last six months.

{9} If you need more information about the sale, (call us at (*telephone number*)) (or) (write us at (*secured party's address*)) (or contact us by (*description of electronic communication method*)).

{10} We are sending this notice to the following other people who have an interest in (*describe collateral*) or who owe money under your agreement:

(*Names of all other debtors and obligors, if any.*)"

(4) The form of notification provided in Paragraph (3) of this subsection is sufficient even if additional information appears at the end of the form.

(5) The form of notification provided in Paragraph (3) of this subsection is sufficient even if it includes an error regarding information that is not required pursuant to Paragraph (1) of this subsection, unless the error is misleading with respect to rights that arise pursuant to Chapter 55, Article 9 NMSA 1978.

(6) If notification under this section is not in the form provided in Paragraph (3) of this subsection, law other than Chapter 55, Article 9 NMSA 1978 shall determine the effect of including information that is not required pursuant to Paragraph (1) of this subsection.

(b) The following instructions apply to the form of notification in Paragraph (3) of Subsection (a) of this section:

(1) the instructions in this subsection refer to the numbers in braces before items in the form of notification in Paragraph (3) of Subsection (a) of this section. Do not include the numbers or braces in the notification. The numbers and braces are used only for the purpose of these instructions;

(2) include and complete either Item {1}, if the notification relates to a public disposition of the collateral, or Item {2}, if the notification relates to a private disposition of the collateral;

(3) include and complete Items {3}, {4}, {5}, {6} and {7};

(4) in Item {5}, include and complete any one of the three alternative methods for the explanation: writing, writing or electronic record or electronic record;

(5) in Item {6}, include the telephone number. In addition, the sender may include and complete either or both of the two additional alternative methods of communication, those being writing or electronic communication, for the recipient of the

notification to communicate with the sender. Neither of the two additional methods of communication is required to be included;

(6) in Item {7}, include and complete the method or methods for the explanation included in Item {5}: writing, writing or electronic record or electronic record;

(7) include and complete Item {8} only if a written explanation is included in Item {5} as a method for communicating the explanation and the sender will charge the recipient for another written explanation;

(8) in Item {9}, include either the telephone number or the address or both the telephone number and the address. In addition, the sender may include and complete the additional electronic method of communication for the recipient of the notification to communicate with the sender. The additional method of electronic communication is not required to be included; and

(9) if Item {10} does not apply, insert "None" after "agreement:."

## **Chapter 142 Section 88 Laws 2023**

SECTION 88. Section 55-9-615 NMSA 1978 (being Laws 2001, Chapter 139, Section 112) is amended to read:

"55-9-615. APPLICATION OF PROCEEDS OF DISPOSITION--LIABILITY FOR DEFICIENCY AND RIGHT TO SURPLUS.--

(a) A secured party shall apply or pay over for application the cash proceeds of disposition pursuant to Section 55-9-610 NMSA 1978 in the following order to:

(1) the reasonable expenses of retaking, holding, preparing for disposition, processing and disposing, and, to the extent provided for by agreement and not prohibited by law, reasonable attorney fees and legal expenses incurred by the secured party;

(2) the satisfaction of obligations secured by the security interest or agricultural lien under which the disposition is made;

(3) the satisfaction of obligations secured by any subordinate security interest in or other subordinate lien on the collateral if:

(A) the secured party receives from the holder of the subordinate security interest or other lien a signed demand for proceeds before distribution of the proceeds is completed; and

(B) in a case in which a consignor has an interest in the collateral, the subordinate security interest or other lien is senior to the interest of the consignor; and

(4) a secured party that is a consignor of the collateral if the secured party receives from the consignor a signed demand for proceeds before distribution of the proceeds is completed.

(b) If requested by a secured party, a holder of a subordinate security interest or other lien shall furnish reasonable proof of the interest or lien within a reasonable time. Unless the holder does so, the secured party need not comply with the holder's demand under Paragraph (3) of Subsection (a) of this section.

(c) A secured party need not apply or pay over for application noncash proceeds of disposition under Section 55-9-610 NMSA 1978 unless the failure to do so would be commercially unreasonable. A secured party that applies or pays over for application noncash proceeds shall do so in a commercially reasonable manner.

(d) If the security interest under which a disposition is made secures payment or performance of an obligation, after making the payments and applications required by Subsection (a) of this section and permitted by Subsection (c) of this section:

(1) unless Paragraph (4) of Subsection (a) of this section requires the secured party to apply or pay over cash proceeds to a consignor, the secured party shall account to and pay a debtor for any surplus; and

(2) the obligor is liable for any deficiency.

(e) If the underlying transaction is a sale of accounts, chattel paper, payment intangibles or promissory notes:

(1) the debtor is not entitled to any surplus; and

(2) the obligor is not liable for any deficiency.

(f) The surplus or deficiency following a disposition is calculated based on the amount of proceeds that would have been realized in a disposition complying with this part to a transferee other than the secured party, a person related to the secured party or a secondary obligor if:

(1) the transferee in the disposition is the secured party, a person related to the secured party or a secondary obligor; and

(2) the amount of proceeds of the disposition is significantly below the range of proceeds that a complying disposition to a person other than the secured party, a person related to the secured party or a secondary obligor would have brought.

(g) A secured party that receives cash proceeds of a disposition in good faith and without knowledge that the receipt violates the rights of the holder of a security interest or other lien that is not subordinate to the security interest or agricultural lien under which the disposition is made:

- (1) takes the cash proceeds free of the security interest or other lien;
- (2) is not obligated to apply the proceeds of the disposition to the satisfaction of obligations secured by the security interest or other lien; and
- (3) is not obligated to account to or pay the holder of the security interest or other lien for any surplus."

### **Chapter 142 Section 89 Laws 2023**

SECTION 89. Section 55-9-616 NMSA 1978 (being Laws 2001, Chapter 139, Section 113) is amended to read:

#### 55-9-616. EXPLANATION OF CALCULATION OF SURPLUS OR DEFICIENCY.-

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- (a) In this section:
  - (1) "explanation" means a record that:
    - (A) states the amount of the surplus or deficiency;
    - (B) provides an explanation in accordance with Subsection (c) of this section of how the secured party calculated the surplus or deficiency;
    - (C) states, if applicable, that future debits, credits, charges, including additional credit service charges or interest, rebates and expenses may affect the amount of the surplus or deficiency; and
    - (D) provides a telephone number or mailing address from which additional information concerning the transaction is available; and
  - (2) "request" means a record:
    - (A) signed by a debtor or consumer obligor;
    - (B) requesting that the recipient provide an explanation; and
    - (C) sent after disposition of the collateral under Section 55-9-610

NMSA 1978.

(b) In a consumer-goods transaction in which the debtor is entitled to a surplus or a consumer obligor is liable for a deficiency under Section 55-9-615 NMSA 1978, the secured party shall:

(1) send an explanation to the debtor or consumer obligor, as applicable, after the disposition and:

(A) before or when the secured party accounts to the debtor and pays any surplus or first makes demand in a record on the consumer obligor after the disposition for payment of the deficiency; and

(B) within fourteen days after receipt of a request; or

(2) in the case of a consumer obligor who is liable for a deficiency, within fourteen days after receipt of a request, send to the consumer obligor a record waiving the secured party's right to a deficiency.

(c) To comply with Subparagraph (B) of Paragraph (1) of Subsection (a) of this section, an explanation must provide the following information in the following order:

(1) the aggregate amount of obligations secured by the security interest under which the disposition was made and, if the amount reflects a rebate of unearned interest or credit service charge, an indication of that fact, calculated as of a specified date:

(A) if the secured party takes or receives possession of the collateral after default, not more than thirty-five days before the secured party takes or receives possession; or

(B) if the secured party takes or receives possession of the collateral before default or does not take possession of the collateral, not more than thirty-five days before the disposition;

(2) the amount of proceeds of the disposition;

(3) the aggregate amount of the obligations after deducting the amount of proceeds;

(4) the amount, in the aggregate or by type, and types of expenses, including expenses of retaking, holding, preparing for disposition, processing and disposing of the collateral, and attorney fees secured by the collateral which are known to the secured party and relate to the current disposition;

(5) the amount, in the aggregate or by type, and types of credits, including rebates of interest or credit service charges, to which the obligor is known to

be entitled and which are not reflected in the amount in Paragraph (1) of this subsection; and

(6) the amount of the surplus or deficiency.

(d) A particular phrasing of the explanation is not required. An explanation complying substantially with the requirements of Subsection (a) of this section is sufficient, even if it includes minor errors that are not seriously misleading.

(e) A debtor or consumer obligor is entitled without charge to one response to a request under this section during any six-month period in which the secured party did not send to the debtor or consumer obligor an explanation pursuant to Paragraph (1) of Subsection (b) of this section. The secured party may require payment of a charge not exceeding twenty-five dollars (\$25.00) for each additional response."

## **Chapter 142 Section 90 Laws 2023**

SECTION 90. Section 55-9-619 NMSA 1978 (being Laws 2001, Chapter 139, Section 116) is amended to read:

"55-9-619. TRANSFER OF RECORD OR LEGAL TITLE.--

(a) In this section, "transfer statement" means a record signed by a secured party stating:

(1) that the debtor has defaulted in connection with an obligation secured by specified collateral;

(2) that the secured party has exercised its post-default remedies with respect to the collateral;

(3) that, by reason of the exercise, a transferee has acquired the rights of the debtor in the collateral; and

(4) the name and mailing address of the secured party, debtor and transferee.

(b) A transfer statement entitles the transferee to the transfer of record of all rights of the debtor in the collateral specified in the statement in any official filing, recording, registration or certificate-of-title system covering the collateral. If a transfer statement is presented with the applicable fee and request form to the official or office responsible for maintaining the system, the official or office shall:

(1) accept the transfer statement;

(2) promptly amend its records to reflect the transfer; and

(3) if applicable, issue a new appropriate certificate of title in the name of the transferee.

(c) A transfer of the record or legal title to collateral to a secured party under Subsection (b) of this section or otherwise is not of itself a disposition of collateral under Chapter 55, Article 9 NMSA 1978 and does not of itself relieve the secured party of its duties under that article."

## **Chapter 142 Section 91 Laws 2023**

SECTION 91. Section 55-9-620 NMSA 1978 (being Laws 2001, Chapter 139, Section 117, as amended) is amended to read:

"55-9-620. ACCEPTANCE OF COLLATERAL IN FULL OR PARTIAL SATISFACTION OF OBLIGATION--COMPULSORY DISPOSITION OF COLLATERAL.-

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(a) Except as otherwise provided in Subsection (g) of this section, a secured party may accept collateral in full or partial satisfaction of the obligation it secures only if:

(1) the debtor consents to the acceptance under Subsection (c) of this section;

(2) the secured party does not receive, within the time set forth in Subsection (d) of this section, a notification of objection to the proposal signed by:

(A) a person to which the secured party was required to send a proposal under Section 55-9-621 NMSA 1978; or

(B) any other person, other than the debtor, holding an interest in the collateral subordinate to the security interest that is the subject of the proposal;

(3) if the collateral is consumer goods, the collateral is not in the possession of the debtor when the debtor consents to the acceptance; and

(4) Subsection (e) of this section does not require the secured party to dispose of the collateral or the debtor waives the requirement pursuant to Section 55-9-624 NMSA 1978.

(b) A purported or apparent acceptance of collateral under this section is ineffective unless:

(1) the secured party consents to the acceptance in a signed record or sends a proposal to the debtor; and

(2) the conditions of Subsection (a) of this section are met.

(c) For purposes of this section:

(1) a debtor consents to an acceptance of collateral in partial satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record signed after default; and

(2) a debtor consents to an acceptance of collateral in full satisfaction of the obligation it secures only if the debtor agrees to the terms of the acceptance in a record signed after default or the secured party:

(A) sends to the debtor after default a proposal that is unconditional or subject only to a condition that collateral not in the possession of the secured party be preserved or maintained;

(B) in the proposal, proposes to accept collateral in full satisfaction of the obligation it secures; and

(C) does not receive a notification of objection signed by the debtor within twenty days after the proposal is sent.

(d) To be effective under Paragraph (2) of Subsection (a) of this section, a notification of objection must be received by the secured party:

(1) in the case of a person to which the proposal was sent pursuant to Section 55-9-621 NMSA 1978, within twenty days after notification was sent to that person; and

(2) in other cases:

(A) within twenty days after the last notification was sent pursuant to Section 55-9-621 NMSA 1978; or

(B) if a notification was not sent, before the debtor consents to the acceptance under Subsection (c) of this section.

(e) A secured party that has taken possession of collateral shall dispose of the collateral pursuant to Section 55-9-610 NMSA 1978 within the time specified in Subsection (f) of this section if:

(1) sixty percent of the cash price has been paid in the case of a purchase-money security interest in consumer goods; or

(2) sixty percent of the principal amount of the obligation secured has been paid in the case of a non-purchase-money security interest in consumer goods.

(f) To comply with Subsection (e) of this section, the secured party shall dispose of the collateral:

(1) within ninety days after taking possession; or

(2) within any longer period to which the debtor and all secondary obligors have agreed in an agreement to that effect entered into and signed after default.

(g) In a consumer transaction, a secured party may not accept collateral in partial satisfaction of the obligation it secures."

## **Chapter 142 Section 92 Laws 2023**

SECTION 92. Section 55-9-621 NMSA 1978 (being Laws 2001, Chapter 139, Section 118) is amended to read:

"55-9-621. NOTIFICATION OF PROPOSAL TO ACCEPT COLLATERAL.--

(a) A secured party that desires to accept collateral in full or partial satisfaction of the obligation it secures shall send its proposal to:

(1) any person from which the secured party has received, before the debtor consented to the acceptance, a signed notification of a claim of an interest in the collateral;

(2) any other secured party or lienholder that, ten days before the debtor consented to the acceptance, held a security interest in or other lien on the collateral perfected by the filing of a financing statement that:

(A) identified the collateral;

(B) was indexed under the debtor's name as of that date; and

(C) was filed in the office or offices in which to file a financing statement against the debtor covering the collateral as of that date; and

(3) any other secured party that, ten days before the debtor consented to the acceptance, held a security interest in the collateral perfected by compliance with a statute, regulation or treaty described in Subsection (a) of Section 55-9-311 NMSA 1978.

(b) A secured party that desires to accept collateral in partial satisfaction of the obligation it secures shall send its proposal to any secondary obligor in addition to the persons described in Subsection (a) of this section."

## **Chapter 142 Section 93 Laws 2023**

SECTION 93. Section 55-9-624 NMSA 1978 (being Laws 2001, Chapter 139, Section 121) is amended to read:

"55-9-624. WAIVER.--

(a) A debtor or secondary obligor may waive the right to notification of disposition of collateral under Section 55-9-611 NMSA 1978 only by an agreement to that effect entered into and signed after default.

(b) A debtor may waive the right to require disposition of collateral under Subsection (e) of Section 55-9-620 NMSA 1978 only by an agreement to that effect entered into and signed after default.

(c) Except in a consumer-goods transaction, a debtor or secondary obligor may waive the right to redeem collateral under Section 55-9-623 NMSA 1978 only by an agreement to that effect entered into and signed after default."

## **Chapter 142 Section 94 Laws 2023**

SECTION 94. Section 55-9-628 NMSA 1978 (being Laws 2001, Chapter 139, Section 125) is amended to read:

"55-9-628. NONLIABILITY AND LIMITATION ON LIABILITY OF SECURED PARTY--LIABILITY OF SECONDARY OBLIGOR.--

(a) Subject to Subsection (f) of this section, unless a secured party knows that a person is a debtor or obligor, knows the identity of the person and knows how to communicate with the person:

(1) the secured party is not liable to the person, or to a secured party or lienholder that has filed a financing statement against the person, for failure to comply with Chapter 55, Article 9 NMSA 1978; and

(2) the secured party's failure to comply with Chapter 55, Article 9 NMSA 1978 does not affect the liability of the person for a deficiency.

(b) Subject to Subsection (f) of this section, a secured party is not liable because of its status as secured party:

(1) to a person that is a debtor or obligor, unless the secured party knows:

(A) that the person is a debtor or obligor;

- (B) the identity of the person; and
- (C) how to communicate with the person; or

(2) to a secured party or lienholder that has filed a financing statement against a person, unless the secured party knows:

- (A) that the person is a debtor; and
- (B) the identity of the person.

(c) A secured party is not liable to any person, and a person's liability for a deficiency is not affected, because of any act or omission arising out of the secured party's reasonable belief that a transaction is not a consumer-goods transaction or a consumer transaction or that goods are not consumer goods, if the secured party's belief is based on its reasonable reliance on:

(1) a debtor's representation concerning the purpose for which collateral was to be used, acquired or held; or

(2) an obligor's representation concerning the purpose for which a secured obligation was incurred.

(d) A secured party is not liable to any person under Paragraph (2) of Subsection (c) of Section 55-9-625 NMSA 1978 for its failure to comply with Section 55-9-616 NMSA 1978.

(e) A secured party is not liable under Paragraph (2) of Subsection (c) of Section 55-9-625 NMSA 1978 more than once with respect to any one secured obligation.

(f) Subsections (a) and (b) of this section do not apply to limit the liability of a secured party to a person if, at the time the secured party obtains control of collateral that is a controllable account, controllable electronic record or controllable payment intangible or at the time the security interest attaches to the collateral, whichever is later:

(1) the person is a debtor or obligor; and

(2) the secured party knows that the information in Subparagraph (A), (B) or (C) of Paragraph (1) of Subsection (b) of this section relating to the person is not provided by the collateral, a record attached to or logically associated with the collateral or the system in which the collateral is recorded."

## **Chapter 142 Section 95 Laws 2023**

SECTION 95. RECOMPILATION.--Sections 55-12-101 through 55-12-111 NMSA 1978 (being Laws 1985, Chapter 193, Section 39 through 46, Laws 1996, Chapter 47, Section 69 and Laws 2005, Chapter 144, Sections 110 and 111, as amended) are recompiled as Sections 55-11A-101 through 55-11A-111 NMSA 1978.

## **Chapter 142 Section 96 Laws 2023**

SECTION 96. A new section of the Uniform Commercial Code, Section 55-12-101 NMSA 1978, is enacted to read:

"55-12-101. SHORT TITLE.--Chapter 55, Article 12 NMSA 1978 may be cited as "Uniform Commercial Code - Controllable Electronic Records"."

## **Chapter 142 Section 97 Laws 2023**

SECTION 97. A new section of the Uniform Commercial Code, Section 55-12-102 NMSA 1978, is enacted to read:

"55-12-102. DEFINITIONS.--

(a) As used in Chapter 55, Article 12 NMSA 1978:

(1) "controllable electronic record" means a record stored in an electronic medium that can be subjected to control pursuant to Section 55-12-105 NMSA 1978. The term does not include a controllable account, a controllable payment intangible, a deposit account, an electronic copy of a record evidencing chattel paper, an electronic document of title, electronic money, investment property or a transferable record;

(2) "qualifying purchaser" means a purchaser of a controllable electronic record or an interest in a controllable electronic record that obtains control of the controllable electronic record for value, in good faith, and without notice of a claim of a property right in the controllable electronic record;

(3) "transferable record" has the meaning provided for that term in:

(A) Section 201(a)(1) of the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7021(a)(1), as amended; or

(B) Subsection (a) of Section 14-16-16 NMSA 1978; and

(4) "value" has the meaning provided in Subsection (a) of Section 55-3-303 NMSA 1978 as if references in that subsection to an "instrument" were references

to a controllable account, controllable electronic record or controllable payment intangible.

(b) The definitions in Article 9 of the Uniform Commercial Code of "account debtor", "controllable account", "controllable payment intangible", "chattel paper", "deposit account", "electronic money" and "investment property" apply to Sections 55-12-101 through 55-12-106 NMSA 1978.

(c) Article 1 of the Uniform Commercial Code contains general definitions and principles of construction and interpretation applicable throughout Sections 55-12-101 through 55-12-106 NMSA 1978."

### **Chapter 142 Section 98 Laws 2023**

SECTION 98. A new section of the Uniform Commercial Code, Section 55-12-103 NMSA 1978, is enacted to read:

"55-12-103. RELATION TO ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE AND CONSUMER LAWS.--

(a) If there is conflict between Sections 55-12-101 through 55-12-106 NMSA 1978 and Article 9 of the Uniform Commercial Code, Article 9 governs.

(b) A transaction subject to Sections 55-12-101 through 55-12-106 NMSA 1978 is subject to any applicable rule of law that establishes a different rule for consumers and any other statute or regulation that regulates the rates, charges, agreements and practices for loans, credit sales or other extensions of credit, the Unfair Practices Act and any consumer-protection statute or regulation."

### **Chapter 142 Section 99 Laws 2023**

SECTION 99. A new section of the Uniform Commercial Code, Section 55-12-104 NMSA 1978, is enacted to read:

"55-12-104. RIGHTS IN CONTROLLABLE ACCOUNT, CONTROLLABLE ELECTRONIC RECORD AND CONTROLLABLE PAYMENT INTANGIBLE.--

(a) Sections 55-12-101 through 55-12-106 NMSA 1978 apply to the acquisition and purchase of rights in a controllable account or controllable payment intangible, including the rights and benefits pursuant to Subsections (c), (d), (e), (g) and (h) of this section of a purchaser and qualifying purchaser, in the same manner this section applies to a controllable electronic record.

(b) To determine whether a purchaser of a controllable account or a controllable payment intangible is a qualifying purchaser, the purchaser obtains control

of the account or payment intangible if it obtains control of the controllable electronic record that evidences the account or payment intangible.

(c) Except as provided in this section, law other than Sections 55-12-101 through 55-12-106 NMSA 1978 determines whether a person acquires a right in a controllable electronic record and the right the person acquires.

(d) A purchaser of a controllable electronic record acquires all rights in the controllable electronic record that the transferor had or had power to transfer, except that a purchaser of a limited interest in a controllable electronic record acquires rights only to the extent of the interest purchased.

(e) A qualifying purchaser acquires its rights in the controllable electronic record free of a claim of a property right in the controllable electronic record.

(f) Except as provided in Subsections (a) and (e) of this section for a controllable account and a controllable payment intangible or law other than Sections 55-12-101 through 55-12-106 NMSA 1978, a qualifying purchaser takes a right to payment, right to performance or other interest in property evidenced by the controllable electronic record subject to a claim of a property right in the right to payment, right to performance or other interest in property.

(g) An action may not be asserted against a qualifying purchaser based on both a purchase by the qualifying purchaser of a controllable electronic record and a claim of a property right in another controllable electronic record, whether the action is framed in conversion, replevin, constructive trust, equitable lien or other theory.

(h) Filing of a financing statement pursuant to Article 9 of the Uniform Commercial Code is not notice of a claim of a property right in a controllable electronic record."

## **Chapter 142 Section 100 Laws 2023**

SECTION 100. A new section of the Uniform Commercial Code, Section 55-12-105 NMSA 1978, is enacted to read:

"55-12-105. CONTROL OF CONTROLLABLE ELECTRONIC RECORD.--

(a) A person has control of a controllable electronic record if the electronic record, a record attached to or logically associated with the electronic record or a system in which the electronic record is recorded:

(1) gives the person:

(A) power to avail itself of substantially all the benefit from the electronic record; and

(B) exclusive power, subject to Subsection (b) of this section, to:

(i) prevent others from availing themselves of substantially all the benefit from the electronic record; and

(ii) transfer control of the electronic record to another person or cause another person to obtain control of another controllable electronic record as a result of the transfer of the electronic record; and

(2) enables the person readily to identify itself in any way, including by name, identifying number, cryptographic key, office or account number, as having the powers specified in Paragraph (1) of this subsection.

(b) Subject to Subsection (c) of this section, a power is exclusive pursuant to Items (i) and (ii) of Subparagraph (B) of Paragraph (1) of Subsection (a) of this section even if:

(1) the controllable electronic record, a record attached to or logically associated with the electronic record or a system in which the electronic record is recorded limits the use of the electronic record or has a protocol programmed to cause a change, including a transfer or loss of control or a modification of benefits afforded by the electronic record; or

(2) the power is shared with another person.

(c) A power of a person is not shared with another person pursuant to Paragraph (2) of Subsection (b) of this section and the person's power is not exclusive if:

(1) the person can exercise the power only if the power also is exercised by the other person; and

(2) the other person:

(A) can exercise the power without exercise of the power by the person; or

(B) is the transferor to the person of an interest in the controllable electronic record or a controllable account or controllable payment intangible evidenced by the controllable electronic record.

(d) If a person has the powers specified in Items (i) and (ii) of Subparagraph (B) of Paragraph (1) of Subsection (a) of this section, the powers are presumed to be exclusive.

(e) A person has control of a controllable electronic record if another person, other than the transferor to the person of an interest in the controllable electronic record or a controllable account or controllable payment intangible evidenced by the controllable electronic record:

(1) has control of the electronic record and acknowledges that it has control on behalf of the person; or

(2) obtains control of the electronic record after having acknowledged that it will obtain control of the electronic record on behalf of the person.

(f) A person that has control pursuant to this section is not required to acknowledge that it has control on behalf of another person.

(g) If a person acknowledges that it has or will obtain control on behalf of another person, unless the person otherwise agrees or law other than Sections 55-12-101 through 55-12-106 NMSA 1978 or Article 9 of the Uniform Commercial Code otherwise provides, the person does not owe any duty to the other person and is not required to confirm the acknowledgment to any other person."

## **Chapter 142 Section 101 Laws 2023**

SECTION 101. A new section of the Uniform Commercial Code, Section 55-12-106 NMSA 1978, is enacted to read:

"55-12-106. DISCHARGE OF ACCOUNT DEBTOR ON CONTROLLABLE ACCOUNT OR CONTROLLABLE PAYMENT INTANGIBLE.--

(a) An account debtor on a controllable account or controllable payment intangible may discharge its obligation by paying:

(1) the person having control of the controllable electronic record that evidences the controllable account or controllable payment intangible; or

(2) except as provided in Subsection (b) of this section, a person that formerly had control of the controllable electronic record.

(b) Subject to Subsection (d) of this section, the account debtor may not discharge its obligation by paying a person that formerly had control of the controllable electronic record if the account debtor receives a notification that:

(1) is signed by a person that formerly had control or the person to which control was transferred;

(2) reasonably identifies the controllable account or controllable payment intangible;

(3) notifies the account debtor that control of the controllable electronic record that evidences the controllable account or controllable payment intangible was transferred;

(4) identifies the transferee, in any reasonable way, including by name, identifying number, cryptographic key, office or account number; and

(5) provides a commercially reasonable method by which the account debtor is to pay the transferee.

(c) After receipt of a notification that complies with Subsection (b) of this section, the account debtor may discharge its obligation by paying in accordance with the notification and may not discharge the obligation by paying a person that formerly had control.

(d) Subject to Subsection (h) of this section, notification is ineffective pursuant to Subsection (b) of this section:

(1) unless, before the notification is sent, the account debtor and the person that, at that time, had control of the controllable electronic record that evidences the controllable account or controllable payment intangible agree in a signed record to a commercially reasonable method by which a person may furnish reasonable proof that control has been transferred;

(2) to the extent an agreement between the account debtor and seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than Sections 55-12-101 through 55-12-106 NMSA 1978; or

(3) at the option of the account debtor, if the notification notifies the account debtor to:

(A) divide a payment;

(B) make less than the full amount of an installment or other periodic payment; or

(C) pay any part of a payment by more than one method or to more than one person.

(e) Subject to Subsection (h) of this section, if requested by the account debtor, the person giving the notification pursuant to Subsection (b) of this section seasonably shall furnish reasonable proof, using the method in the agreement referred to in Paragraph (1) of Subsection (d) of this section, that control of the controllable electronic record has been transferred. Unless the person complies with the request, the account debtor may discharge its obligation by paying a person that formerly had

control, even if the account debtor has received a notification pursuant to Subsection (b) of this section.

(f) A person furnishes reasonable proof pursuant to Subsection (e) of this section that control has been transferred if the person demonstrates, using the method in the agreement referred to in Paragraph (1) of Subsection (d) of this section, that the transferee has the power to:

(1) avail itself of substantially all the benefit from the controllable electronic record;

(2) prevent others from availing themselves of substantially all the benefit from the controllable electronic record; and

(3) transfer the powers specified in Paragraphs (1) and (2) of this subsection to another person.

(g) Subject to Subsection (h) of this section, an account debtor may not waive or vary its rights pursuant to Paragraph (1) of Subsection (d) and Subsection (e) of this section or its option pursuant to Paragraph (3) of Subsection (d) of this section.

(h) This section is subject to law other than Sections 55-12-101 through 55-12-106 NMSA 1978 that establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family or household purposes."

## **Chapter 142 Section 102 Laws 2023**

SECTION 102. A new section of the Uniform Commercial Code, Section 55-12-107 NMSA 1978, is enacted to read:

"55-12-107. GOVERNING LAW.--

(a) Except as provided in Subsection (b) of this section, the local law of a controllable electronic record's jurisdiction governs a matter covered by Sections 55-12-101 through 55-12-106 NMSA 1978.

(b) For a controllable electronic record that evidences a controllable account or controllable payment intangible, the local law of the controllable electronic record's jurisdiction governs a matter covered by Section 55-12-106 NMSA 1978 unless an effective agreement determines that the local law of another jurisdiction governs.

(c) The following rules determine a controllable electronic record's jurisdiction pursuant to this section:

(1) if the controllable electronic record, or a record attached to or logically associated with the controllable electronic record and readily available for review, expressly provides that a particular jurisdiction is the controllable electronic record's jurisdiction for purposes of Sections 55-12-101 through 55-12-106 NMSA 1978 or the Uniform Commercial Code, that jurisdiction is the controllable electronic record's jurisdiction;

(2) if Paragraph (1) of this subsection does not apply and the rules of the system in which the controllable electronic record is recorded are readily available for review and expressly provide that a particular jurisdiction is the controllable electronic record's jurisdiction for purposes of Sections 55-12-101 through 55-12-106 NMSA 1978 or the Uniform Commercial Code, that jurisdiction is the controllable electronic record's jurisdiction;

(3) if Paragraphs (1) and (2) of this subsection do not apply and the controllable electronic record, or a record attached to or logically associated with the controllable electronic record and readily available for review, expressly provides that the controllable electronic record is governed by the law of a particular jurisdiction, that jurisdiction is the controllable electronic record's jurisdiction;

(4) if Paragraphs (1), (2) and (3) of this subsection do not apply and the rules of the system in which the controllable electronic record is recorded are readily available for review and expressly provide that the controllable electronic record or the system is governed by the law of a particular jurisdiction, that jurisdiction is the controllable electronic record's jurisdiction; and

(5) if Paragraphs (1) through (4) of this subsection do not apply, the controllable electronic record's jurisdiction is the District of Columbia.

(d) If Paragraph (5) of Subsection (c) of this section applies and Article 12 is not in effect in the District of Columbia without material modification, the governing law for a matter covered by Sections 55-12-101 through 55-12-106 NMSA 1978 is the law of the District of Columbia as though those sections were in effect in the District of Columbia without material modification. In this subsection, "Article 12" means Article 12 of Uniform Commercial Code Amendments (2022).

(e) To the extent Subsections (a) and (b) of this section provide that the local law of the controllable electronic record's jurisdiction governs a matter covered by Sections 55-12-101 through 55-12-106 NMSA 1978, that law governs even if the matter or a transaction to which the matter relates does not bear any relation to the controllable electronic record's jurisdiction.

(f) The rights acquired pursuant to Section 55-12-104 NMSA 1978 by a purchaser or qualifying purchaser are governed by the law applicable pursuant to this section at the time of purchase."

ARTICLE 12A

TRANSITIONAL PROVISIONS FOR UNIFORM COMMERCIAL CODE AMENDMENTS  
(2022)

PART 1

GENERAL PROVISIONS AND DEFINITIONS

**Chapter 142 Section 103 Laws 2023**

SECTION 103. A new section of the Uniform Commercial Code, Section 55-12A-101 NMSA 1978, is enacted to read:

"55-12A-101. SHORT TITLE.--Chapter 55, Article 12A NMSA 1978 may be cited as "Transitional Provisions for Uniform Commercial Code Amendments (2022)"."

**Chapter 142 Section 104 Laws 2023**

SECTION 104. A new section of the Uniform Commercial Code, Section 55-12A-102 NMSA 1978, is enacted to read:

"55-12A-102. DEFINITIONS.--

(a) As used in Chapter 55, Article 12A NMSA 1978:

- (1) "adjustment date" means July 1, 2025;
- (2) "Article 12" means Article 12 of the Uniform Commercial Code; and
- (3) "Article 12 property" means a controllable account, controllable electronic record or controllable payment intangible.

(b) The following definitions in other articles of the Uniform Commercial Code apply to this article:

(1) "controllable account", as provided in Section 55-9-102 NMSA 1978;

(2) "controllable electronic record", as provided in Section 55-12-102 NMSA 1978;

(3) "controllable payment intangible", as provided in Section 55-9-102 NMSA 1978;

and (4) "electronic money", as provided in Section 55-9-102 NMSA 1978;

(5) "financing statement", as provided in Section 55-9-102 NMSA 1978.

(c) Article 1 of the Uniform Commercial Code contains general definitions and principles of construction and interpretation applicable throughout this article."

## PART 2

### GENERAL TRANSITIONAL PROVISION

#### **Chapter 142 Section 105 Laws 2023**

SECTION 105. A new section of the Uniform Commercial Code, Section 55-12A-201 NMSA 1978, is enacted to read:

"55-12A-201. SAVING CLAUSE.--Except as provided in Sections 55-12A-301 through 55-12A-306 NMSA 1978, a transaction validly entered into before January 1, 2024 and the rights, duties and interests flowing from the transaction remain valid thereafter and may be terminated, completed, consummated or enforced as required or permitted by law other than the Uniform Commercial Code or, if applicable, the Uniform Commercial Code as though this 2023 act had not taken effect."

## PART 3

### TRANSITIONAL PROVISIONS FOR ARTICLES 9 AND 12

#### **Chapter 142 Section 106 Laws 2023**

SECTION 106. A new section of the Uniform Commercial Code, Section 55-12A-301 NMSA 1978, is enacted to read:

"55-12A-301. SAVING CLAUSE.--

(a) Except as provided in Sections 55-12A-301 through 55-12A-306 NMSA 1978, Article 9 of the Uniform Commercial Code as amended by this 2023 act and Article 12 of the Uniform Commercial Code apply to a transaction, lien or other interest in property, even if the transaction, lien or interest was entered into, created or acquired before January 1, 2024.

(b) Except as provided in Subsection (c) of this section and Sections 55-12A-302 through 55-12A-306 NMSA 1978:

(1) a transaction, lien or interest in property that was validly entered into, created or transferred before January 1, 2024 and was not governed by the

Uniform Commercial Code, but would be subject to Article 9 of the Uniform Commercial Code as amended by this 2023 act or Article 12 of the Uniform Commercial Code if it had been entered into, created or transferred on or after January 1, 2024, including the rights, duties and interests flowing from the transaction, lien or interest, remains valid on and after January 1, 2024; and

(2) the transaction, lien or interest may be terminated, completed, consummated and enforced as required or permitted by this 2023 act or by the law that would apply if this 2023 act had not taken effect.

(c) This 2023 act does not affect an action, case or proceeding commenced before January 1, 2024."

### **Chapter 142 Section 107 Laws 2023**

SECTION 107. A new section of the Uniform Commercial Code, Section 55-12A-302 NMSA 1978, is enacted to read:

"55-12A-302. SECURITY INTEREST PERFECTED BEFORE JANUARY 1, 2024.--

(a) A security interest that is enforceable and perfected immediately before January 1, 2024 is a perfected security interest pursuant to this 2023 act if, on January 1, 2024, the requirements for enforceability and perfection pursuant to this 2023 act are satisfied without further action.

(b) If a security interest is enforceable and perfected immediately before January 1, 2024, but the requirements for enforceability or perfection pursuant to this 2023 act are not satisfied on January 1, 2024, the security interest:

(1) is a perfected security interest until the earlier of the time perfection would have ceased under the law in effect immediately before January 1, 2024 or the adjustment date;

(2) remains enforceable thereafter only if the security interest satisfies the requirements for enforceability pursuant to Section 55-9-203 NMSA 1978, as amended by this 2023 act, before the adjustment date; and

(3) remains perfected thereafter only if the requirements for perfection pursuant to this 2023 act are satisfied before the time specified in Paragraph (1) of this subsection."

### **Chapter 142 Section 108 Laws 2023**

SECTION 108. A new section of the Uniform Commercial Code, Section 55-12A-303 NMSA 1978, is enacted to read:

"55-12A-303. SECURITY INTEREST UNPERFECTED BEFORE JANUARY 1, 2024.--A security interest that is enforceable immediately before January 1, 2024 but is unperfected at that time:

- (1) remains an enforceable security interest until the adjustment date;
- (2) remains enforceable thereafter if the security interest becomes enforceable pursuant to Section 55-9-203 NMSA 1978, as amended by this 2023 act, on January 1, 2024 or before the adjustment date; and
- (3) becomes perfected:
  - (A) without further action on January 1, 2024 if the requirements for perfection pursuant to this 2023 act are satisfied before or at that time; or
  - (B) when the requirements for perfection are satisfied if the requirements are satisfied after that time."

## **Chapter 142 Section 109 Laws 2023**

SECTION 109. A new section of the Uniform Commercial Code, Section 55-12A-304 NMSA 1978, is enacted to read:

"55-12A-304. EFFECTIVENESS OF ACTIONS TAKEN BEFORE JANUARY 1, 2024.--

(a) If action, other than the filing of a financing statement, is taken before January 1, 2024 and the action would have resulted in perfection of the security interest had the security interest become enforceable before January 1, 2024, the action is effective to perfect a security interest that attaches pursuant to this 2023 act before the adjustment date. An attached security interest becomes unperfected on the adjustment date unless the security interest becomes a perfected security interest pursuant to this 2023 act before the adjustment date.

(b) The filing of a financing statement before January 1, 2024 is effective to perfect a security interest on January 1, 2024 to the extent the filing would satisfy the requirements for perfection pursuant to this 2023 act.

(c) The taking of an action before January 1, 2024 is sufficient for the enforceability of a security interest on January 1, 2024 if the action would satisfy the requirements for enforceability pursuant to this 2023 act."

## **Chapter 142 Section 110 Laws 2023**

SECTION 110. A new section of the Uniform Commercial Code, Section 55-12A-305 NMSA 1978, is enacted to read:

"55-12A-305. PRIORITY.--

(a) Subject to Subsections (b) and (c) of this section, this 2023 act determines the priority of conflicting claims to collateral.

(b) Subject to Subsection (c) of this section, if the priorities of claims to collateral were established before January 1, 2024, Article 9 of the Uniform Commercial Code as in effect before January 1, 2024 determines priority.

(c) On the adjustment date, to the extent the priorities determined by Article 9 of the Uniform Commercial Code as amended by this 2023 act modify the priorities established before January 1, 2024, the priorities of claims to Article 12 property and electronic money established before January 1, 2024 cease to apply."

## **Chapter 142 Section 111 Laws 2023**

SECTION 111. A new section of the Uniform Commercial Code, Section 55-12A-306 NMSA 1978, is enacted to read:

"55-12A-306. PRIORITY OF CLAIMS WHEN PRIORITY RULES OF ARTICLE 9 OF THE UNIFORM COMMERCIAL CODE DO NOT APPLY.--

(a) Subject to Subsections (b) and (c) of this section, Article 12 of the Uniform Commercial Code determines the priority of conflicting claims to Article 12 property when the priority rules of Article 9 of the Uniform Commercial Code as amended by this 2023 act do not apply.

(b) Subject to Subsection (c) of this section, when the priority rules of Article 9 of the Uniform Commercial Code as amended by this 2023 act do not apply and the priorities of claims to Article 12 property were established before January 1, 2024, law other than Article 12 of the Uniform Commercial Code determines priority.

(c) When the priority rules of Article 9 of the Uniform Commercial Code as amended by this 2023 act do not apply, to the extent the priorities determined by this 2023 act modify the priorities established before January 1, 2024, the priorities of claims to Article 12 property established before January 1, 2024 cease to apply on the adjustment date."

## **Chapter 142 Section 112 Laws 2023**

SECTION 112. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2024.

# LAWS 2023, CHAPTER 143

**HRDLC/House Bill 160**  
**Approved April 5, 2023**

## AN ACT

RELATING TO STATE PROPERTIES; AMENDING SECTION 67-3-12 NMSA 1978 (BEING LAWS 1929, CHAPTER 110, SECTION 1, AS AMENDED) TO AUTHORIZE THE STATE TRANSPORTATION COMMISSION TO PRESCRIBE CONDITIONS FOR THE INSTALLATION OF BROADBAND INTERNET INFRASTRUCTURE PLACED ALONG, ACROSS, OVER OR UNDER PUBLIC HIGHWAYS OR OTHER PROPERTY UNDER THE JURISDICTION OF THE DEPARTMENT OF TRANSPORTATION; AUTHORIZING THE WAIVER OF FEES OR LEASING COSTS FOR INFRASTRUCTURE THAT IS TO BE USED TO PROVIDE BROADBAND INTERNET SERVICES TO UNSERVED OR UNDERSERVED LOCATIONS AS DEFINED IN THE CONNECT NEW MEXICO ACT.

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

### **Chapter 143 Section 1 Laws 2023**

SECTION 1. Section 67-3-12 NMSA 1978 (being Laws 1929, Chapter 110, Section 1, as amended) is amended to read:

"67-3-12. POWERS AND DUTIES.--In addition to the powers now conferred upon it by law, the state transportation commission:

A. may declare abandoned and close to public traffic all grade crossings of railroads by state highways in cases where grade separations or other adequate crossings are substituted therefor or where such grade crossings become unnecessary to the public convenience by reason of changes in highway locations;

B. may offer and, upon compliance with the conditions of such offer, pay rewards for information leading to the arrest and conviction of offenders in cases of theft, defacement or destruction of markers or highway signs, lights or other warning devices placed upon or along highways of this state under the supervision of the state transportation commission and for information leading to the arrest and conviction of offenders or for the return of property in case of theft or unlawful damaging of property under the control of the commission. All such rewards when paid shall be paid from the state road fund upon voucher drawn by the secretary or other authorized officer or agent of the department;

C. shall prescribe by rule the conditions under which fiber cable lines, conduit, poles, wireless technology or other infrastructure used for broadband internet services, pipelines, telephone, telegraph and electric transmission lines and ditches may be placed along, across, over or under public highways in this state or other property under the jurisdiction of the department and shall forcibly remove or cause to be removed fiber cable lines, conduit, poles, pipelines, telephone, telegraph or electric transmission lines or wireless technology or other infrastructure or ditches that may be placed along, across, over or under such public highways in violation of such rules and regulations;

D. may waive administrative fees and annual fees for infrastructure authorized pursuant to Subsection C of this section that is to be used to provide broadband internet services to unserved or underserved locations, as defined in the Connect New Mexico Act;

E. shall employ an attorney to assist and advise the state transportation commission and the department in the discharge of their duties and to appear and represent the interests of the commission or department in any case before any court or tribunal in which the official duties, powers, rights or privileges of the commission or department may be involved or affected and to pay that attorney the reasonable value of the attorney's services out of the state road fund;

F. shall bring and maintain in the name of the state actions and proceedings deemed necessary by the state transportation commission for the condemnation of rights of way for public highways or for the removal or condemnation of buildings or other improvements that encroach in whole or part upon the rights of way of public highways or for the condemnation of gravel pits or other deposits of materials or supplies suitable for the construction of public highways. The attorney general of New Mexico shall appear in and prosecute all such cases on behalf of the state upon request of the state transportation commission. All such proceedings shall be conducted in the same manner as other cases for the condemnation of real property. The damages assessed in proceedings brought under the provisions of this section shall be paid out of the state road fund from money furnished for that purpose by cooperative agreement between the state, federal government and the county within which the condemned property is situate or any such governmental bodies or out of money furnished for the construction of the highway in connection with which the condemnation is had, by the county in which the condemned property is situate; provided, however, that if no such money is available, the damages shall be advanced on behalf of said counties out of their money in the state road fund and the state treasurer shall thereafter reimburse the state road fund for the money advanced out of the next installment of money from motor vehicle license fees accruing to the road fund of the county for which such funds were so advanced;

G. shall designate in its discretion one of its employees as acting secretary to act at all times when the secretary is absent from the state capital. The acting secretary, when designated, has the right and is hereby given authority at all times when the

secretary is absent from the state capital to sign all federal project statements, federal project agreements and federal vouchers with the same force and effect as if signed by the secretary in person, and the certificate of the acting secretary attached to any federal project statement, federal project agreement or federal voucher to the effect that the secretary was absent from the state capital at the time that the same was so signed by the acting secretary shall be conclusive evidence of the truth of such fact. The acting secretary may also be vested by the state transportation commission with power and authority to act for the secretary in such other matters as the state transportation commission may determine;

H. subject to the provisions of Subsection I of this section, may conduct, permit or authorize commercial enterprises or activities on department- or commission-owned land or land leased to or from the department for the purpose of providing goods and services to the users of the property or facilities on the land, including commercial enterprises or activities, other than commercial enterprises or activities on a controlled-access facility conducted, permitted or authorized pursuant to Section 67-11-9 NMSA 1978. In furtherance of these commercial enterprises or activities, the commission may:

(1) authorize the lease of department- or commission-owned land as it deems necessary, in which case consideration for the lease shall be payments in cash or cash equivalent that shall be deposited into the state road fund; or

(2) authorize the sale or exchange or lease with in-lieu value consideration of department- or commission-owned land; provided that the sale or exchange or lease with in-lieu value shall be subject to the ratification and approval by joint resolution of the state legislature prior to the sale or exchange or lease with in-lieu value becoming effective; and

I. for the purposes of Subsection H of this section shall:

(1) adopt rules necessary to carry out the provisions of Subsection H of this section;

(2) prior to initiating any action to conduct, permit or authorize commercial enterprises or activities, adopt a rule providing a procedure to involve residents of the municipality or county in which the commercial enterprises or activities are proposed to occur in the department's planning and decision-making process for the sole purpose of advising the commission and department on the feasibility and suitability of the proposed commercial enterprises or activities;

(3) comply with the Procurement Code in the acquisition process whenever commercial enterprises or activities result in the commission or department acquiring construction, services or tangible personal property, as those terms are defined in the Procurement Code;

(4) if the commercial enterprises or activities are to be developed or operated by a private entity, direct that private entity to:

(a) create its plans to be not necessarily in compliance but generally compatible with local zoning and land use policies, including affordable housing and historic and architectural standards, if any, and, to the extent the private entity will obtain water or other services from a local authority, negotiate an agreement between relevant parties for those services, the terms and conditions of which shall be no more stringent than the local authority's then current laws, rules and policies; and

(b) submit its plans to the local zoning and land use authority for comment. The local authority shall communicate its recommendations and comments in writing to the department and private entity within thirty days of receiving the plans. The department, commission and private entity shall take no action on the project in reliance on those plans until they have received the local authority's recommendations and comments or until the thirty-day comment period has expired, whichever comes first; provided that the local authority's approval is not required under this section, and this section does not delegate to the local authority power that it does not otherwise have; and

(5) not use the power of eminent domain to acquire land to be developed or operated by a private entity."

## **Chapter 143 Section 2 Laws 2023**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# **LAWS 2023, CHAPTER 144**

**House Bill 161, aa**  
**Approved April 5, 2023**

AN ACT

RELATING TO INDIAN AFFAIRS; MOVING THE INTERTRIBAL CEREMONIAL OFFICE TO THE LOCAL GOVERNMENT DIVISION OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION; RENAMING THE INTERTRIBAL CEREMONIAL OFFICE AS THE INTERTRIBAL INDIAN CEREMONIAL ASSOCIATION; AMENDING AND RECOMPILING SECTIONS OF THE NMSA 1978.

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

## **Chapter 144 Section 1 Laws 2023**

SECTION 1. Section 9-15C-1 NMSA 1978 (being Laws 2005, Chapter 219, Section 1, as amended) is recompiled as Section

12-16-1 NMSA 1978 and is amended to read:

"12-16-1. SHORT TITLE.--Chapter 12, Article 16 NMSA 1978 may be cited as the "Intertribal Indian Ceremonial Act"."

## **Chapter 144 Section 2 Laws 2023**

SECTION 2. Section 9-15C-2 NMSA 1978 (being Laws 2005, Chapter 219, Section 2, as amended) is recompiled as Section

12-16-2 NMSA 1978 and is amended to read:

"12-16-2. DEFINITIONS.--As used in the Intertribal Indian Ceremonial Act:

- A. "association" means the intertribal Indian ceremonial association;
- B. "county" means the governing body of McKinley county;
- C. "director" means the director of the association; and
- D. "fund" means the intertribal Indian ceremonial association fund."

## **Chapter 144 Section 3 Laws 2023**

SECTION 3. Section 9-15C-3 NMSA 1978 (being Laws 2005, Chapter 219, Section 3, as amended) is recompiled as Section

12-16-3 NMSA 1978 and is amended to read:

"12-16-3. INTERTRIBAL INDIAN CEREMONIAL ASSOCIATION CREATED--  
POWERS AND DUTIES--INTERTRIBAL INDIAN CEREMONIAL ASSOCIATION  
BOARD CREATED.--

A. The "intertribal Indian ceremonial association" is created. The association is administratively attached to the local government division of the department of finance and administration.

B. The county shall appoint a director, who shall serve at the pleasure of the county. The director shall hire and terminate other necessary employees, who shall be subject to the provisions of the Personnel Act.

C. The director shall:

(1) work with private, local, state and federal entities to establish steady funding for the intertribal Indian ceremonial;

(2) supervise the activities of the association;

(3) work with the county to promote the intertribal Indian ceremonial;  
and

(4) prepare an annual budget and an annual report on the activities of the association.

D. The association shall:

(1) administer an annual intertribal Indian ceremonial;

(2) cooperate with and assist public and private entities that seek to promote recognition of ceremonies significant to Indian nations, tribes and pueblos;

(3) function as the coordinating association for all services and activities pertaining to the intertribal Indian ceremonial;

(4) adopt rules in accordance with the State Rules Act to carry out the duties of the association;

(5) accept gifts, grants, donations, bequests and devises from any source to be used to carry out its duties;

(6) enter into contracts; and

(7) charge admission, parking and concessions fees, give prizes and premiums, create sponsorships and other forms of advertising, arrange entertainments and do all things the association may consider proper for the conduct of the intertribal Indian ceremonial and not otherwise prohibited by law.

E. The "intertribal Indian ceremonial association board" is created. The board shall consist of nine members, including the director, who shall serve ex officio, and eight members, appointed by the county, who shall serve terms of five years each. All intertribal Indian ceremonial association board members shall be bona fide residents of the county or surrounding counties, and at least a majority of the members shall be Native American. A board member shall not be removed during the term of office except for cause, following notice and an opportunity for a hearing."

## **Chapter 144 Section 4 Laws 2023**

SECTION 4. Section 9-15C-4 NMSA 1978 (being Laws 2005, Chapter 219, Section 4, as amended) is recompiled as Section 12-16-4 NMSA 1978 and is amended to read:

"12-16-4. INTERTRIBAL INDIAN CEREMONIAL ASSOCIATION FUND CREATED--ADMINISTRATION.--The "intertribal Indian ceremonial association fund" is created in the state treasury. Money appropriated to the fund or accruing to it through sales, gifts, grants, fees, penalties, bequests or any other source shall be delivered to the state treasurer and deposited in the fund. Money in the fund is subject to appropriation to the local government division of the department of finance and administration for the purpose of carrying out the intertribal Indian ceremonial. Money in the fund at the end of any fiscal year shall not revert. Interest and earnings from the fund shall be credited to the fund. Disbursements from the fund shall be made on warrant drawn by the secretary of finance and administration pursuant to vouchers signed by the director or the director's authorized representative."

## **Chapter 144 Section 5 Laws 2023**

SECTION 5. TEMPORARY PROVISION--INTERTRIBAL INDIAN CEREMONIAL ASSOCIATION BOARD MEMBERS.--The terms of office of the members serving on the intertribal Indian ceremonial association board on the effective date of this act shall end on July 1, 2023, and new members shall be appointed for a term of office that shall begin on July 2, 2023 according to the provisions of Section 12-16-3 NMSA 1978.

## **Chapter 144 Section 6 Laws 2023**

SECTION 6. TEMPORARY PROVISION--TRANSFER OF FUNCTIONS, PERSONNEL, MONEY, APPROPRIATIONS, PROPERTY, CONTRACTUAL OBLIGATIONS AND STATUTORY REFERENCES.--

A. On the effective date of this act, all functions, personnel, money, appropriations, records, furniture, equipment, supplies and other property of the intertribal ceremonial office of the tourism department are transferred to the local government division of the department of finance and administration.

B. On the effective date of this act, all contractual obligations of the intertribal ceremonial office of the tourism department are binding on the local government division of the department of finance and administration.

C. On the effective date of this act, all references in law to the intertribal ceremonial office of the tourism department shall be deemed to be references to the intertribal Indian ceremonial association of the local government division of the department of finance and administration.

## **Chapter 144 Section 7 Laws 2023**

SECTION 7. TEMPORARY PROVISION--RECOMPILATION INSTRUCTIONS.--Section 9-15C-5 NMSA 1978 (being Laws 2005, Chapter 219, Section 5) is recompiled as Section 12-16-5 NMSA 1978.

## **Chapter 144 Section 8 Laws 2023**

SECTION 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# **LAWS 2023, CHAPTER 145**

**House Bill 181**

**Approved April 5, 2023**

AN ACT

RELATING TO SCHOOL PERSONNEL; PROVIDING FOR PROGRAM UNITS FOR LICENSED SCHOOL EMPLOYEES CERTIFIED BY THE NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS.

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

## **Chapter 145 Section 1 Laws 2023**

SECTION 1. Section 22-8-23.4 NMSA 1978 (being Laws 2003, Chapter 144, Section 2 and Laws 2003, Chapter 152, Section 9, as amended) is amended to read:

"22-8-23.4. NATIONAL BOARD FOR PROFESSIONAL TEACHING STANDARDS--PROGRAM UNITS.--The number of program units for licensed school employees certified by the national board for professional teaching standards is determined by multiplying by one and one-half the number of licensed school employees certified by the national board for professional teaching standards employed by the school district or charter school on or before the first reporting date of the school year and verified by the department. Department approval of these units shall be contingent on verification by the school district or charter school that these licensed school employees hold certification by the national board for professional teaching standards and are receiving a one-time salary differential equal to or greater than the amount generated by the units multiplied by the program unit value during the fiscal year in which the school district or charter school will receive these units."

## **Chapter 145 Section 2 Laws 2023**

SECTION 2. APPLICABILITY.--The provisions of this act apply to the 2023-2024 and subsequent school years.

## **LAWS 2023, CHAPTER 146**

**House Bill 191, aa**  
**Approved April 5, 2023**

AN ACT

RELATING TO PUBLIC FINANCE; INCREASING THE AMOUNT THAT IS ANNUALLY TRANSFERRED TO THE EARLY CHILDHOOD EDUCATION AND CARE PROGRAM FUND.

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

## **Chapter 146 Section 1 Laws 2023**

SECTION 1. Section 9-29A-1 NMSA 1978 (being Laws 2020, Chapter 3, Section 1) is amended to read:

"9-29A-1. EARLY CHILDHOOD EDUCATION AND CARE FUND.--

A. The "early childhood education and care fund" is created within the state treasury. The fund shall consist of distributions, appropriations, gifts, grants and donations. Income from investment of the fund shall be credited to the fund. Money in the fund shall be expended only as provided in this section.

B. The state investment officer, subject to the approval of the state investment council, shall invest money in the early childhood education and care fund:

(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. On July 1 of each year, a distribution shall be made from the early childhood education and care fund to the early childhood education and care program fund in an amount equal to the greater of five percent of the average of the year-end market values of the fund for the immediately preceding three calendar years or one hundred fifty million dollars (\$150,000,000).

E. In addition to the distribution pursuant to Subsection D of this section, money in the early childhood education and care fund may be expended in the event that general fund balances, including all authorized revenues and transfers to the general fund and balances in the general fund operating reserve, the appropriation contingency fund, the tobacco settlement permanent fund, the state-support reserve fund and the tax stabilization reserve, will not meet the level of appropriations authorized from the general fund for a fiscal year. In that event, to avoid an unconstitutional deficit, the legislature may appropriate from the early childhood education and care fund to the general fund only in the amount necessary to meet general fund appropriations for that fiscal year and only if the legislature has authorized transfers from the appropriation contingency fund, the general fund operating reserve, the tax stabilization reserve and the tobacco settlement permanent fund that exhaust those fund balances."

## **Chapter 146 Section 2 Laws 2023**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

## **LAWS 2023, CHAPTER 147**

**House Bill 197**

**Approved April 5, 2023**

AN ACT

RELATING TO FISHING; INCREASING THE TIME FOR FREE FISHING DAYS DESIGNATED BY THE STATE GAME COMMISSION FROM SATURDAYS TO WEEKENDS.

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

## **Chapter 147 Section 1 Laws 2023**

SECTION 1. Section 17-3-17 NMSA 1978 (being Laws 1964 (1st S.S.), Chapter 17, Section 8, as amended) is amended to read:

"17-3-17. FISHING WITHOUT LICENSE--EXCEPTIONS.--

A. It is a misdemeanor for any person, except children who have not reached their twelfth birthday, to take or attempt to take any game fish from any public stream or water in this state without carrying a proper fishing license as provided by law. The presence of any person, except children who have not reached their twelfth birthday, along any public stream or water in this state with fishing rod, hook or line, without carrying a proper fishing license, is prima facie evidence of the violation of this section. The director of the department of game and fish or any conservation officer may require any person along any public stream or water in this state with fishing rod, hook or line to exhibit the person's license.

B. The director, with the approval of the state game commission, may designate no more than two nonconsecutive two-day weekends in each year as free fishing days. During the free fishing days, residents and nonresidents may exercise the privileges of holders of proper fishing licenses without having proper fishing licenses and without payment of any license fees, subject to all limitations, restrictions, conditions, laws, rules and regulations applicable to holders of proper fishing licenses.

C. The director may designate, by special permit, fishing events during which the requirement for a fishing license or permit pursuant to Chapter 17 NMSA 1978 is waived exclusively for designated event participants. During the special permitted events, residents and nonresidents may exercise only the privileges as allowed by the director. The director's special permit shall substitute for the requirement of any license or permit pursuant to Chapter 17 NMSA 1978, and no payment of any license fee is required. The director's special permit shall be for a period of no longer than three days, and all other laws and rules shall apply."

## **LAWS 2023, CHAPTER 148**

**House Bill 199, aa**  
**Approved April 5, 2023**

AN ACT

RELATING TO PUBLIC EDUCATION; INCREASING THE AT-RISK INDEX;  
INCREASING THE FINE ARTS FACTOR; INCREASING THE RESPONSIBILITY  
FACTORS FOR ELEMENTARY, MIDDLE AND HIGH SCHOOL PRINCIPALS AND  
ASSISTANT PRINCIPALS.

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

### **Chapter 148 Section 1 Laws 2023**

SECTION 1. 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:

$$\text{Three-Year Average Total Rate} \times 0.33 = \text{At-Risk Index.}$$

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 148 Section 2 Laws 2023**

SECTION 2. Section 22-8-23.5 NMSA 1978 (being Laws 2003, Chapter 144, Section 3 and Laws 2003, Chapter 152, Section 8) is amended to read:

"22-8-23.5. FINE ARTS EDUCATION PROGRAM UNITS.--The number of fine arts education program units is determined by multiplying the full-time-equivalent MEM in programs implemented in accordance with the provisions of the Fine Arts Education Act by the cost differential factor of 0.055 for fiscal year 2024 and succeeding fiscal years."

## **Chapter 148 Section 3 Laws 2023**

SECTION 3. Section 22-10A-2 NMSA 1978 (being Laws 2019, Chapter 238, Section 1, as amended by Laws 2021, Chapter 92, Section 1 and by Laws 2021, Chapter 94, Section 4) is amended to read:

"22-10A-2. DEFINITIONS.--As used in the School Personnel Act:

A. "child abuse" means a child:

(1) who has suffered or who is at risk of suffering serious harm because of the action or inaction of the child's parent, guardian, custodian or other adult;

(2) who has suffered physical abuse, emotional abuse or psychological abuse inflicted or caused by the child's parent, guardian, custodian or other adult;

(3) who has suffered sexual abuse or sexual exploitation inflicted by the child's parent, guardian, custodian or other adult;

(4) whose parent, guardian, custodian or other adult has knowingly, intentionally or negligently placed the child in a situation that may endanger the child's life or health; or

(5) whose parent, guardian, custodian or other adult has knowingly or intentionally tortured, cruelly confined or cruelly punished the child;

B. "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;

C. "contractor" means an individual who is under contract with a public school and is hired to provide services to the public school, but does not include a general contractor or a building or maintenance contractor who is supervised and has no access to students at the public school;

D. "discharge" means the act of severing the employment relationship with a licensed school employee prior to the expiration of the current employment contract;

E. "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;

F. "ethical misconduct" means the following behavior or conduct by school district personnel, school employees, school volunteers, contractors or contractors' employees:

(1) discriminatory practice based on race, age, color, national origin, ethnicity, sex, pregnancy, sexual orientation, gender identity, mental or physical disability, marital status, religion, citizenship, domestic abuse reporting status or serious medical condition;

(2) sexual misconduct or any sexual offense prohibited by Chapter 30, Article 6A or 9 NMSA 1978 involving an adult or child, regardless of a child's enrollment status;

(3) fondling a child or student, including touching private body parts, such as breasts, buttocks, genitals, inner thighs, groin or anus; or

(4) any other behavior, including licentious, enticing or solicitous behavior, that is reasonably apparent to result in inappropriate sexual contact with a child or student or to induce a child or student into engaging in illegal, immoral or other prohibited behavior;

G. "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;

H. "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;

I. "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;

J. "military service member" means a person who is:

(1) serving in the armed forces of the United States as an active duty member or in an active reserve component of the armed forces of the United States, including the national guard;

(2) the spouse of a person who is serving in the armed forces of the United States as an active duty member or in an active reserve component of the armed forces of the United States, including the national guard; or a surviving spouse of a member who at the time of death was serving on active duty; or

(3) the child of a person who is serving in the armed forces of the United States as an active duty member or in an active reserve component of the armed forces of the United States, including the national guard; provided that child is also a dependent of that person for federal income tax purposes;

K. "moral turpitude" means an act or behavior that gravely violates the accepted standards of moral conduct, justice or honesty and may include ethical misconduct;

L. "public school" means a school district, charter school, constitutional special school, regional education cooperative or the educational program of another state agency;

M. "responsibility factor" means a value of 1.25 for an elementary school principal, 1.45 for a middle school or junior high school principal, 1.65 for a high school principal, 1.15 for an assistant elementary school principal, 1.20 for an assistant middle school or assistant junior high school principal and 1.30 for an assistant high school principal;

N. "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;

O. "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;

P. "school employee" includes licensed and unlicensed employees of a public school;

Q. "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;

R. "school volunteer" means a person, including a relative of a student, who commits to serve on a regular basis at a school district, charter school or other educational entity without compensation;

S. "state agency" means a regional education cooperative or state institution;

T. "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;

U. "substitute teacher" means a person who holds a certificate to substitute for a teacher in the classroom;

V. "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;

W. "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;

X. "terminate" means the act of severing the employment relationship with a school employee;

Y. "unsupervised contact with children or students" means access to or contact with, or the opportunity to have access to or contact with, a child or student for any length of time in the absence of:

- (1) a licensed staff person from the same school or institution;
- (2) a school volunteer who has undergone a background check pursuant to Section 22-10A-5 NMSA 1978; or
- (3) any adult relative or guardian of the child or student;

Z. "veteran" means a person who has received an honorable discharge or separation from military service in the armed forces of the United States or in an active reserve component of the armed forces of the United States, including the national guard; and

AA. "working day" means every school calendar day, excluding Saturdays, Sundays and legal holidays."

## **Chapter 148 Section 4 Laws 2023**

SECTION 4. APPLICABILITY.--The provisions of this act apply to the 2023-2024 school year and subsequent school years.

# **LAWS 2023, CHAPTER 149**

**House Bill 226**

**Approved April 5, 2023**

AN ACT

RELATING TO PROCUREMENT; EXEMPTING CERTAIN PURCHASES OF INSTRUCTIONAL MATERIALS FROM THE PROCUREMENT CODE; EXCLUDING THE PURCHASES OF INSTRUCTIONAL MATERIALS FROM PROCUREMENT THROUGH THE STATE PURCHASING AGENT.

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

## **Chapter 149 Section 1 Laws 2023**

SECTION 1. A new Section 13-1-63.1 NMSA 1978 is enacted to read:

"13-1-63.1. DEFINITION--INSTRUCTIONAL MATERIALS.--"Instructional materials" means school textbooks and other educational media that are used as the

basis for instruction, including combinations of textbooks, learning kits, supplementary materials and electronic media."

## **Chapter 149 Section 2 Laws 2023**

SECTION 2. Section 13-1-98 NMSA 1978 (being Laws 1984, Chapter 65, Section 71, as amended by Laws 2019, Chapter 48, Section 13 and by Laws 2019, Chapter 63, Section 1) 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, instructional materials and training materials in printed, digital or electronic format from the publishers, designated public-education-department-approved instructional material depositories 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 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 149 Section 3 Laws 2023**

SECTION 3. Section 13-1-99 NMSA 1978 (being Laws 1984, Chapter 65, Section 72, as amended) is amended to read:

"13-1-99. EXCLUDED FROM CENTRAL PURCHASING THROUGH THE STATE PURCHASING AGENT.--Excluded from the requirement of procurement through the state purchasing agent but not from the requirements of the Procurement Code are the following:

- A. procurement of professional services;
- B. small purchases having a value not exceeding one thousand five hundred dollars (\$1,500);
- C. emergency procurement;
- D. procurement of highway construction or reconstruction by the department of transportation;
- E. procurement by the judicial branch of state government;
- F. procurement by the legislative branch of state government;
- G. procurement by the boards of regents of state educational institutions named in Article 12, Section 11 of the constitution of New Mexico;
- H. procurement by the state fair commission of tangible personal property, services and construction under twenty thousand dollars (\$20,000);
- I. purchases of instructional materials;
- J. procurement by all local public bodies;
- K. procurement by regional education cooperatives;
- L. procurement by charter schools;

M. procurement by each state health care institution that provides direct patient care and that is, or a part of which is, medicaid certified and participating in the New Mexico medicaid program; and

N. procurement by the public school facilities authority."

## **LAWS 2023, CHAPTER 150**

**HCEDC/House Bill 228**

**Approved April 5, 2023**

### **AN ACT**

RELATING TO LOCAL GOVERNMENT; ENACTING THE IMPROVEMENT SPECIAL ASSESSMENT ACT; AUTHORIZING COUNTIES TO IMPOSE, ADMINISTER AND DISBURSE SPECIAL ASSESSMENTS TO ENCOURAGE THE DEVELOPMENT OF CERTAIN PROPERTY IMPROVEMENTS; REPEALING THE SOLAR ENERGY IMPROVEMENT SPECIAL ASSESSMENT ACT.

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

### **Chapter 150 Section 1 Laws 2023**

SECTION 1. SHORT TITLE.--This act may be cited as the "Improvement Special Assessment Act".

### **Chapter 150 Section 2 Laws 2023**

SECTION 2. DEFINITIONS.--As used in the Improvement Special Assessment Act:

A. "capital provider" means a private entity or its designee, successor or assigns that finances or refinances an eligible improvement pursuant to the Improvement Special Assessment Act;

B. "county" means a county, including an H class county;

C. "county ordinance" means an ordinance adopted by a county pursuant to the Improvement Special Assessment Act to establish a program within a designated region;

D. "department" means the economic development department;

E. "eligible improvement" means a permanently affixed energy efficiency improvement, renewable energy improvement, water conservation improvement or

resiliency improvement installed on eligible property as part of the construction or renovation of the property;

F. "eligible property" means any privately owned commercial, industrial, agricultural or multifamily residential real property with five or more dwelling units, including real property owned by an entity formally recognized as tax exempt pursuant to Internal Revenue Code of 1986, as amended;

G. "energy efficiency improvement" means measures, equipment or devices that result in a decrease in consumption of or demand for electricity or natural gas;

H. "local government" means a municipality, county or other general function governmental unit established by state law;

I. "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;

J. "program" means a special assessment program that utilizes and conforms to the program guidebook and uniform special assessment documents established by the department pursuant to the Improvement Special Assessment Act;

K. "program administrator" means a person designated by a county to administer a program; "program administrator" may be the department, the county or a third party; provided that the administration procedures used conform to the requirements of the Improvement Special Assessment Act;

L. "program guidebook" means a comprehensive document created by the department pursuant to the Improvement Special Assessment Act, including uniform assessment documents, appropriate guidelines, specifications, approval criteria and other standard forms consistent with the administration of a program that are not detailed in the Improvement Special Assessment Act;

M. "project application" means an application submitted to a program administrator to demonstrate that a proposed project qualifies for special assessment financing pursuant to a program;

N. "region" means a geographical area as designated by a county pursuant to the Improvement Special Assessment Act;

O. "renewable energy improvement" means an energy system that generates energy by use of low- or zero-emissions generation technology with substantial long-term production, including solar, wind and geothermal resources, fuel cell equipment using an electrochemical process to generate electricity and heat or biomass resources;

P. "resiliency improvement" means improvements that increase the resilience of a property, including air quality, flood mitigation, storm water management, energy storage and microgrids, alternative vehicle charging infrastructure, fire or wind resistance or inundation adaptation;

Q. "special assessment" means a voluntary assessment imposed on a property pursuant to the Improvement Special Assessment Act for the total amount of special assessment financing together with interest, penalties, fees and charges related thereto;

R. "special assessment agreement" means a voluntary agreement of a property owner to allow a county to place an assessment on the owner's property to repay special assessment financing pursuant to the Improvement Special Assessment Act;

S. "special assessment assignable certificate" means a document assigning a special assessment lien from the county to a capital provider in an amount not to exceed the amount of the special assessment financing for the term of the special assessment lien;

T. "special assessment financing" means the total amount of financing provided by a capital provider pursuant to a special assessment financing agreement, including accrual of interest and penalties, charges, fees and costs of enforcement of a special assessment lien;

U. "special assessment financing agreement" means a contract pursuant to which a property owner agrees to repay a capital provider for special assessment financing and to the terms of the special assessment financing, including the treatment of prepayment and partial payment of a special assessment, servicing arrangements, the payment of any finance charges and fees and accrual of interest and penalties;

V. "special assessment lien" means a lien recorded in all counties in which the eligible property is located to secure the special assessment, which assessment remains on the property until paid in full;

W. "uniform assessment documents" means the forms of county ordinance, special assessment agreement, special assessment lien, special assessment assignable certificate and other model documents prepared by the department pursuant to the Improvement Special Assessment Act for use in the program; provided, however, the department shall not mandate a form of special financing agreement that shall be supplied by a capital provider; and

X. "water conservation improvement" means measures, equipment or devices that decrease the consumption of or demand for water, address safe drinking water or eliminate lead from water used for drinking or cooking.

## **Chapter 150 Section 3 Laws 2023**

SECTION 3. ORDINANCE ESTABLISHING THE PROGRAM.--The board of county commissioners of a county may by county ordinance establish a program. The county ordinance may apply within the boundaries of a municipality in a county if the municipality adopts a resolution or ordinance approving the application of the county's ordinance within the municipality. The county ordinance shall be substantively in the form set forth in the program guidebook and shall:

- A. include a statement that the financing of eligible improvements, repaid by special assessments on eligible property benefited by such improvements, is in the interest of public health, safety and welfare;
- B. designate the region in which owners of eligible property may finance eligible improvements pursuant to the Improvement Special Assessment Act; a county may designate more than one region and if multiple regions are designated, the regions may be separate, overlapping or coterminous;
- C. incorporate by reference the program guidebook, notwithstanding that a county adopting a program pursuant to the Improvement Special Assessment Act may narrow the definition of eligible improvements to be consistent with the county's climate goals;
- D. authorize and direct a county official to enter into special assessment agreements with property owners and capital providers and issue special assessment assignable certificates on behalf of the county to impose special assessments and assign special assessment liens for assessments approved by the program administrator pursuant to this section;
- E. authorize direct financing between an eligible property owner and a capital provider to finance eligible improvements;
- F. designate a program administrator; and
- G. require that the interest rate, delinquent interest, penalties, terms of prepayment and other terms of a special assessment shall be established by a capital provider in the related special assessment financing agreement for such assessment.

## **Chapter 150 Section 4 Laws 2023**

SECTION 4. APPROVAL OF SPECIAL ASSESSMENT.--

- A. Prior to entering into a special assessment agreement, a property owner shall submit a project application to the program administrator in a form consistent with the program guidebook. The application shall include:

(1) for an existing eligible property:

(a) where energy efficiency improvements, water conservation improvements or renewable energy improvements are proposed, certification by a licensed professional engineer or other professional listed in the program guidebook stating that the proposed eligible improvements will either result in more efficient use or conservation of energy or water, the reduction of greenhouse gas emissions or the addition of renewable sources of energy or water; or

(b) where resiliency improvements are proposed, certification by a licensed professional engineer or other professional listed in the program guidebook stating that the qualified improvements will result in improved resilience;

(2) for construction of a new eligible property, certification by a licensed professional engineer or other professional listed in the program guidebook stating that the proposed eligible improvements will enable the property to exceed the energy efficiency, water conservation, renewable energy, renewable water or resilience requirements of the applicable building code;

(3) certification that the property owner requesting the proposed eligible improvements is the owner of record of the property on which the special assessment will be imposed and that there are no delinquent taxes or assessments on the property;

(4) the name of the capital provider providing the special assessment financing and the proposed terms of the special assessment financing agreement, including:

(a) the special assessment financing amount;

(b) the interest rate;

(c) administrative fees paid to the county;

(d) a schedule of the installments of the special assessment;

(e) the number of years the special assessment shall be imposed on the property;

(f) delinquent interest or penalties; and

(g) the conditions by which the property owner may prepay and permanently satisfy the debt owed pursuant to the special assessment financing agreement and remove the special assessment lien from the property; and

(5) written consent from any holder of a lien, mortgage or security interest in the real property that the property may participate in the program and that the

special assessment lien shall have priority superior to all liens, claims and titles except a lien for general ad valorem property taxes or an improvement district lien that is coequal to property taxes.

B. Prior to entering into a special assessment agreement, the county shall receive from the program administrator certification that the proposed eligible improvements, eligible property and property owner qualify for financing pursuant to the program.

## **Chapter 150 Section 5 Laws 2023**

### **SECTION 5. IMPOSITION OF SPECIAL ASSESSMENT--AMOUNT-- COLLECTION--SPECIAL ASSESSMENT LIEN CREATED.--**

A. Upon entering into a special assessment agreement, the county shall record a special assessment lien on the subject property in the real property records of the county in which the property is located.

B. The recording of the lien pursuant to Subsection A of this section shall include:

- (1) the legal description of the property;
- (2) the county assessor's parcel number of the property;
- (3) the grantor's name, which shall be the same as the property owner on the special assessment agreement;
- (4) the grantee's name, which shall be the county in which the property is located;
- (5) the date on which the special assessment lien was created;
- (6) the principal amount of the special assessment lien;
- (7) the terms and length of the special assessment lien; and
- (8) a copy of the special assessment agreement.

C. A special assessment lien shall be effective during the period in which the special assessment is imposed and shall have priority superior to all liens, claims and titles except a lien for general ad valorem property taxes or an improvement district lien that is coequal to property taxes.

D. A special assessment lien runs with the land, and that portion of the special assessment lien that has not yet become due is not accelerated or eliminated by

foreclosure of the special assessment lien or any lien for taxes or assessments imposed by the state, a local government or taxing district against the property on which the special assessment lien is imposed.

E. Upon entering into a special assessment agreement, the county shall execute and record a special assessment assignable certificate from the county to the appropriate capital provider. The special assessment assignable certificate shall convey the special assessment lien including all of the characteristics described in Subsection B of this section. The holder of the special assessment assignable certificate shall be solely responsible for the billing and collection of the related special assessment and for the enforcement of the special assessment lien.

F. When the underlying special assessment financing has been satisfied, the special assessment shall be removed from the property and the county shall record a release of the special assessment lien.

## **Chapter 150 Section 6 Laws 2023**

### **SECTION 6. DELINQUENT SPECIAL ASSESSMENT PAYMENTS-- ENFORCEMENT OF SPECIAL ASSESSMENT LIENS.--**

A. Delinquent payments due on a special assessment incur interest and penalties as specified in the special assessment financing agreement.

B. Delinquent payments due on a special assessment shall be enforced in the event of a nonpayment of the special assessment or installment thereto.

C. Delinquent payments due on a special assessment have the effect of a mortgage and shall be foreclosed and sold in the manner provided by law for the foreclosure of mortgages on real estate.

D. The holder of a special assessment assignable certificate may institute proceedings to foreclose the special assessment lien against the property that is delinquent in the payment of the special assessment or installment of a special assessment for a period of more than one year.

E. The capital provider may sell or assign for consideration any and all special assessment liens received from the county. The capital provider or its assignee shall have and possess the same powers and rights at law or in equity to enforce the special assessment lien in the same manner as described in Subsections C and D of this section.

## **Chapter 150 Section 7 Laws 2023**

### **SECTION 7. SPECIAL ASSESSMENT FINANCING.--**

A. Special assessment financing shall be provided by capital providers and disbursed directly by capital providers to fund eligible improvements subject to a special assessment financing agreement.

B. A county is not liable in any way for the debt of the property owner, is not a third-party obligor and is not pledging or lending its credit to the property owner or the capital provider.

## **Chapter 150 Section 8 Laws 2023**

### **SECTION 8. ELIGIBLE COSTS--ADDITIONAL CRITERIA PROHIBITED.--**

A. Costs capitalized into the special assessment financing principal amount may include:

(1) the cost of materials and labor necessary for installation or modification of an eligible improvement;

(2) permit fees;

(3) inspection fees;

(4) capital provider's fees;

(5) program administrative fees;

(6) project development and engineering fees;

(7) third-party review fees, including verification review fees;

(8) capitalized interest;

(9) interest reserves;

(10) escrow for prepaid property taxes and insurance; and

(11) any other fees or costs that may be incurred by the property owner incident or ancillary to the installation, modification or improvement on a specific or pro rata basis.

B. A property may be eligible for financing if otherwise qualified improvements were completed and operational no more than thirty-six months prior to submission of the application to the local government.

C. A county or program administrator shall not require property owners or capital providers to access administrative services from the county or program administrator other than those provided for in the Improvement Special Assessment Act.

D. Program administrative fees shall reflect the reasonable costs of the county or program administrator to provide administrative services for the program but shall not exceed the lesser of one percent of the principal amount of the special assessment financing or twenty-five thousand dollars (\$25,000).

## **Chapter 150 Section 9 Laws 2023**

### **SECTION 9. PROGRAM GUIDEBOOK--PROGRAM ADMINISTRATOR.--**

A. The department shall develop and make available on its website within ninety days of the effective date of the Improvement Special Assessment Act the program guidebook governing the terms and conditions under which financing for special assessments may be made available through the program. The program guidebook shall include:

- (1) forms for the uniform assessment documents;
- (2) a statement that the term of the special assessment financing agreement shall not exceed thirty years;
- (3) a statement explaining the application process and eligibility requirements for participation in the program, consistent with Section 4 of the Improvement Special Assessment Act;
- (4) a statement explaining the consent requirement provided in Section 4 of the Improvement Special Assessment Act; and
- (5) a statement explaining the engineer certification requirement set forth in Section 4 of the Improvement Special Assessment Act.

B. The department may elect to serve as a program administrator and may contract with a third party to assist with administration. In the event the department or its contracted third party provides administrative services for the program, counties establishing a program pursuant to the Improvement Special Assessment Act shall designate the department or its contracted third party as program administrator in addition to any other program administrator designated by the county.

C. The board of county commissioners may authorize a department or official of the county as program administrator pursuant to the county ordinance and may contract with a third party to assist with the administration of the program.

D. Any combination of counties may agree to jointly administer a program pursuant to a memorandum of understanding. Any combination of counties may also agree to jointly administer a program pursuant to an agreement under the Joint Powers Agreements Act, notwithstanding that the secretary of finance and administration shall not approve more than one joint powers agreement for the administration of a single program.

### **Chapter 150 Section 10 Laws 2023**

SECTION 10. IMMUNITY.--Nothing in the Improvement Special Assessment Act shall be interpreted to pledge, offer or encumber the full faith and credit of a county.

### **Chapter 150 Section 11 Laws 2023**

SECTION 11. REPEAL.--Sections 4-55C-1 through 4-55C-9 NMSA 1978 (being Laws 2009, Chapter 270, Sections 1 through 8 and Laws 2019, Chapter 110, Section 4, as amended) are repealed.

## **LAWS 2023, CHAPTER 151**

**House Bill 229**

**Approved April 5, 2023**

AN ACT

RELATING TO INSURANCE; EXCLUDING CERTAIN ADJUSTERS FROM BONDING PROVISIONS.

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

### **Chapter 151 Section 1 Laws 2023**

SECTION 1. Section 59A-13-5 NMSA 1978 (being Laws 1984, Chapter 127, Section 233, as amended) is amended to read:

"59A-13-5. BOND.--

A. With application for license as a public adjuster, the applicant shall file with the superintendent a surety bond in favor of the superintendent in aggregate amount of not less than ten thousand dollars (\$10,000), conditioned to pay actual damages resulting to the state of New Mexico or any member of the public in New Mexico from violation of law by the licensee while acting as an adjuster. The bond shall be one executed by an authorized surety insurer.

B. The bond shall remain in effect for the duration of the license, or until the surety is released from liability by the superintendent, or until canceled by the surety. Without prejudice to any liability accrued prior to cancellation, the surety may cancel a bond by giving written notice to the superintendent at least thirty days prior to effective date of cancellation."

## **LAWS 2023, CHAPTER 152**

**House Bill 240, aa**  
**Approved April 5, 2023**

### **AN ACT**

RELATING TO MOTOR VEHICLES; PROVIDING FOR A SPECIAL REGISTRATION PLATE TO EXPRESS SUPPORT FOR ACEQUIA AND COMMUNITY DITCH ASSOCIATIONS; ALLOWING FOR CESSATION OF SPECIAL LICENSE PLATE ISSUANCE UNDER CERTAIN CONDITIONS; MAKING AN APPROPRIATION.

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

### **Chapter 152 Section 1 Laws 2023**

SECTION 1. A new section of the Motor Vehicle Code is enacted to read:

"SPECIAL ACEQUIA AND COMMUNITY DITCH ASSOCIATIONS  
REGISTRATION PLATE.--

A. The department shall issue a standardized special registration plate with a logo as specified in Section 66-3-424 NMSA 1978 to express support for acequia and community ditch associations.

B. For an initial fee of thirty dollars (\$30.00), which shall be in addition to the regular motor vehicle registration fees, an owner of a motor vehicle may apply for issuance of a special acequia and community ditch associations registration plate. The owner shall pay a renewal fee of thirty dollars (\$30.00) each year to retain and renew the special acequia and community ditch associations registration plate.

C. Revenue from the fees imposed by Subsection B of this section for a special acequia and community ditch associations registration plate shall be distributed as follows:

(1) twelve dollars (\$12.00) of the initial 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 special registration plates; and

(2) eighteen dollars (\$18.00) of the initial fee and the entire renewal fee collected for each registration plate shall be appropriated to the acequia and community ditch fund.

D. Beginning on July 1, 2027, and on July 1 of each subsequent year, the department shall compare the number of special acequia and community ditch associations registration plates issued and renewed in the previous fiscal year with the average number of such plates issued and renewed in fiscal years 2025 and 2026. If the department determines that the number of special acequia and community ditch associations registration plates issued and renewed in the previous fiscal year is less than fifty percent of the average number of the plates issued and renewed in fiscal year 2025 or 2026, the department may stop issuing special acequia and community ditch associations registration plates."

## **Chapter 152 Section 2 Laws 2023**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2024.

# **LAWS 2023, CHAPTER 153**

**House Bill 250, aa**  
**Approved April 5, 2023**

AN ACT

RELATING TO PROPERTY; AMENDING PROVISIONS THAT AUTHORIZE CORRECTIONS OF MINOR DRAFTING OR CLERICAL ERRORS OR OMISSION IN RECORDED INSTRUMENTS OF REAL PROPERTY.

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

## **Chapter 153 Section 1 Laws 2023**

SECTION 1. Section 47-1-57 NMSA 1978 (being Laws 2016, Chapter 67, Section 1) is amended to read:

"47-1-57. USE OF SCRIVENER'S-ERROR AFFIDAVITS.--

A. As used in this section, "scrivener's-error affidavit" means an affidavit to correct a minor drafting or clerical error or omission in a recorded instrument, including:

- (1) a legal description, such as the omission of one or more words;
- (2) the name of a subdivision;

- (3) the recording information for a plat;
- (4) a metes and bounds description or sectionalized legal description; provided that the description shall reference a recorded instrument reflecting the correct description, if available;
- (5) the spelling of a name;
- (6) a middle initial, if incorrect or missing;
- (7) a grantor's or grantee's address, if omitted in a recorded instrument;
- (8) a party's marital status;
- (9) a missing exhibit or addendum; or
- (10) the legal type or state of domicile of a corporation or other legal entity.

B. A scrivener's-error affidavit shall be executed by only the following:

- (1) for an error or omission on a recorded instrument involving real property:
  - (a) the licensed attorney who prepared the original instrument;
  - (b) the employee of the title insurer or title insurance agent who completed the form of the original instrument;
  - (c) an employee of a title insurer or title insurance agent licensed pursuant to the New Mexico Title Insurance Law;
  - (d) a land professional who is certified or registered by a nationally recognized land professional organization and who filled in the form or provided the description for the original instrument; or
  - (e) a licensed attorney who has examined title to the property and discovered discrepancies in the description in a chain of title that are reasonably apparent to the attorney to be a minor drafting or clerical error or omission; and
- (2) for an error on a power of attorney:
  - (a) a licensed attorney who represents the principal or grantor of the original instrument; or
  - (b) the principal or grantor of the original instrument.

C. A scrivener's-error affidavit shall:

- (1) state that the affiant has actual knowledge of and is competent to testify to the facts in the affidavit and contain an acknowledgment that the affiant is testifying under the penalty of perjury;
- (2) be sworn to and acknowledged by the affiant before a person authorized to administer an oath under New Mexico law;
- (3) conspicuously identify in its title that it is a "scrivener's affidavit" or "scrivener's-error affidavit"; and
- (4) contain the following information concerning the original instrument being corrected:
  - (a) the name of the person who or entity that prepared, completed or was associated with the original instrument;
  - (b) the names and capacities of all parties to the original instrument;
  - (c) the recording information, including the recording date and document, instrument or reception number, if available, of the original instrument;
  - (d) a brief description of each error in the original instrument that the affidavit is designed to correct; and
  - (e) the correct information to be inserted or reflected in or the information to be removed from the original instrument.

D. A scrivener's-error affidavit that substantially complies with this section as to form and execution shall be:

- (1) recorded by the county clerk in the land records of the county in which the real property is located;
- (2) indexed by the county clerk in the general index under the names of the original parties to the instrument as they are identified in the affidavit;
- (3) admissible as evidence to the same extent as a deed or other recorded instrument in an action involving the original instrument to which it relates or the title to the real property affected by the original instrument; and
- (4) effective as of the date of the original instrument being corrected.

E. Nothing contained in this section shall be deemed to:

(1) prohibit any other manner of correcting errors in any writings affecting title to real estate by any other lawful means such as corrective deeds, additional deeds to correct errors or modifications to mortgages or deeds of trust; or

(2) require a change to the records of the county assessor or the county treasurer.

F. A scrivener's-error affidavit shall be prepared in substantially the following form:

"SCRIVENER'S-ERROR AFFIDAVIT

I, \_\_\_\_\_ ("Affiant"), being first duly sworn, state under oath:

1. I am duly authorized to execute this Affidavit, have actual knowledge of the matters set forth within this Affidavit and am competent to testify in a court of law about the facts stated in this Affidavit.

2. I am eligible and qualified under New Mexico law to be the Affiant of this Scrivener's-Error Affidavit because of the following facts:

[Explain qualifications for eligibility]

3. The instrument containing the error that this Affidavit intends to correct is as follows:

"Original Instrument" [Describe the instrument containing the error]

4. The purpose of this Affidavit is to provide notice of the scrivener's error described in this Affidavit and to correct the Original Instrument.

5. The Original Instrument was prepared by, completed by or associated with: \_\_\_\_\_.

6. The names and capacities of the parties to the Original Instrument are:

\_\_\_\_\_  
\_\_\_\_\_

7. The recording information, including the recording date and document, instrument or reception number for the Original Instrument, is as follows: Date of Recording \_\_\_\_\_

Recording information

\_\_\_\_\_, in the real property records of \_\_\_\_\_ County, New Mexico.

8. A brief description of each error in the Original Instrument that this Affidavit is designed to correct:

\_\_\_\_\_  
\_\_\_\_\_

9. The correct information to be inserted or reflected in or the information to be removed from the Original Instrument is as follows:

\_\_\_\_\_  
\_\_\_\_\_

10. This Affidavit is made under penalty of perjury.

FURTHER AFFIANT SAYETH NAUGHT.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_

Name: \_\_\_\_\_

Company Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

This instrument was subscribed, sworn to and acknowledged on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by \_\_\_\_\_, as \_\_\_\_\_ of \_\_\_\_\_.

\_\_\_\_\_  
Notary Public

(Seal)

My commission number: \_\_\_\_\_

My commission expires: \_\_\_\_\_ " . "

# LAWS 2023, CHAPTER 154

House Bill 253, aa  
Approved April 5, 2023

AN ACT

RELATING TO GAMING; CHANGING THE OPERATING HOURS FOR A NONPROFIT ORGANIZATION GAMING OPERATOR LICENSEE; CHANGING THE NET TAKE PERCENTAGE FOR A NONPROFIT ORGANIZATION GAMING OPERATOR LICENSEE.

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

## Chapter 154 Section 1 Laws 2023

SECTION 1. Section 60-2E-28 NMSA 1978 (being Laws 1997, Chapter 190, Section 30, as amended) is amended to read:

"60-2E-28. GAMING OPERATOR LICENSEES--SPECIAL CONDITIONS FOR NONPROFIT ORGANIZATIONS--NUMBER OF GAMING MACHINES--DAYS AND HOURS OF OPERATIONS.--

A. A nonprofit organization may be issued a gaming operator's license to operate licensed gaming machines on its premises to be played only by active and auxiliary members.

B. No more than fifteen gaming machines may be offered for play on the premises of a nonprofit organization gaming operator licensee.

C. A gaming machine on the premises of a nonprofit organization gaming operator licensee may not award a prize that exceeds four thousand dollars (\$4,000).

D. Gaming machines may be played on the premises of a nonprofit organization gaming operator licensee for any consecutive twelve hours per day that the nonprofit chooses."

## Chapter 154 Section 2 Laws 2023

SECTION 2. Section 60-2E-47 NMSA 1978 (being Laws 1997, Chapter 190, Section 49, as amended) is amended to read:

"60-2E-47. GAMING TAX--IMPOSITION--ADMINISTRATION.--

A. An excise tax is imposed on the privilege of engaging in gaming activities in the state. This tax shall be known as the "gaming tax".

B. The gaming tax is an amount equal to ten percent of the gross receipts of manufacturer licensees from the sale, lease or other transfer of gaming devices in or into the state, except receipts of a manufacturer from the sale, lease or other transfer to a licensed distributor for subsequent sale or lease may be excluded from gross receipts; ten percent of the gross receipts of distributor licensees from the sale, lease or other transfer of gaming devices in or into the state; ten percent of the net take of a gaming operator licensee that is a nonprofit organization; and twenty-six percent of the net take of every other gaming operator licensee. For the purposes of this section, "gross receipts" means the total amount of money or the value of other consideration received from selling, leasing or otherwise transferring gaming devices.

C. The gaming tax imposed on a licensee is in lieu of all state and local gross receipts taxes on that portion of the licensee's gross receipts attributable to gaming activities.

D. The gaming tax is to be paid on or before the fifteenth day of the month following the month in which the taxable event occurs. The gaming tax shall be administered and collected by the taxation and revenue department in cooperation with the board. The provisions of the Tax Administration Act apply to the collection and administration of the tax.

E. In addition to the gaming tax, a gaming operator licensee that is a racetrack shall pay twenty percent of its net take to purses to be distributed in accordance with rules adopted by the state racing commission. An amount not to exceed twenty percent of the interest earned on the balance of any fund consisting of money for purses distributed by racetrack gaming operator licensees pursuant to this subsection may be expended for the costs of administering the distributions. A racetrack gaming operator licensee shall spend no less than one-fourth percent of the net take of its gaming machines to fund or support programs for the treatment and assistance of compulsive gamblers.

F. A nonprofit gaming operator licensee shall distribute at least twenty percent of the balance of its net take, after payment of the gaming tax, any income taxes and allowable gaming expenses, for charitable or educational purposes."

## **LAWS 2023, CHAPTER 155**

**HGEIC/House Bill 262, aa**  
**Approved April 5, 2023**

AN ACT

RELATING TO BROADBAND; AMENDING SECTIONS OF THE CONNECT NEW MEXICO ACT; TRANSFERRING IMPLEMENTATION OF THE GRANT PROGRAM FROM THE CONNECT NEW MEXICO COUNCIL TO THE OFFICE OF BROADBAND ACCESS AND EXPANSION; MAKING TECHNICAL CORRECTIONS; PROVIDING DEFINITIONS.

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

## **Chapter 155 Section 1 Laws 2023**

SECTION 1. Section 63-9K-2 NMSA 1978 (being Laws 2021, Chapter 120, Section 2) is amended to read:

"63-9K-2. DEFINITIONS.--As used in the Connect New Mexico Act:

A. "2020 broadband plan" means the *State of New Mexico Broadband Strategic Plan and Rural Broadband Assessment* published by the department of information technology in June 2020;

B. "broadband infrastructure" means any facilities and equipment used to provide internet service, excluding telecommunications equipment owned, controlled or operated by a public or private end-user;

C. "broadband office" means the office of broadband access and expansion;

D. "council" means the connect New Mexico council;

E. "department" means the department of information technology;

F. "digital equity" means information technology needed for civic and cultural participation, employment, education, business and economic development, lifelong learning and access to essential services generally available to residents regardless of their racial grouping, socioeconomic status or cultural identity;

G. "digital inclusion" means access to and the ability to use information technologies;

H. "end-user" means an individual, business, institution or governmental entity that subscribes to an internet service and does not resell that service to other individuals or entities;

I. "federal assistance funding" means federal grant and loan programs that provide full or matching funding for the development or maintenance of broadband infrastructure, training in the use or administration of internet-based services or the purchase of computers or other devices that access the internet;

J. "internet" means a global set of computing and electronic devices interconnected through networking infrastructures to provide data and information sharing and communication facilities;

K. "local government" means the government of a municipality, county or political subdivision of the state or an entity operating pursuant to a joint powers agreement pursuant to the Planning District Act or the Regional Planning Act;

L. "public educational institution" means a public school that receives state funding for its operations, a school district, a public post-secondary educational institution or a state agency that provides administrative services, funding or technical support to public schools, school districts and public post-secondary educational institutions;

M. "quality of service" means the standards for broadband service established by the broadband office that meet or exceed the baseline standards established by the federal communications commission;

N. "statewide broadband plan" means a plan developed by the broadband office that may be an updated revision of the 2020 broadband plan; provided that, upon Senate Bill 93 of the first session of the fifty-fifth legislature becoming law, "statewide broadband plan" means the statewide broadband plan developed pursuant to that law;

O. "tribal government" means the government of a federally or state-recognized Indian nation, pueblo or tribe;

P. "underserved" means an area or property that does not have access to internet service offering speeds greater than one hundred megabits downstream and twenty megabits upstream; and

Q. "unserved" means an area or property that either does not have access to internet service at all or only has access to internet service offering speeds below twenty-five megabits per second downstream or three megabits per second upstream."

## **Chapter 155 Section 2 Laws 2023**

SECTION 2. Section 63-9K-3 NMSA 1978 (being Laws 2021, Chapter 120, Section 3) is amended to read:

"63-9K-3. COUNCIL CREATED--POWERS.--

A. The "connect New Mexico council" is created and administratively attached to the department.

B. The council is composed of the following fifteen members:

- (1) the secretary of transportation or the secretary's designee;
- (2) the secretary of economic development or the secretary's designee;
- (3) the secretary of cultural affairs or the secretary's designee;
- (4) the secretary of information technology or the secretary's designee;
- (5) the executive director of the New Mexico mortgage finance authority or the executive director's designee;
- (6) the secretary of higher education or the secretary's designee;
- (7) the director of the public school facilities authority or the director's designee;
- (8) five members of the public who have experience with broadband access and connectivity challenges for either private business or public institutions, appointed as follows:
  - (a) one member appointed by the speaker of the house of representatives;
  - (b) one member appointed by the minority floor leader of the house of representatives;
  - (c) one member appointed by the president pro tempore of the senate;
  - (d) one member appointed by the minority floor leader of the senate; and
  - (e) one member appointed by the governor; and
- (9) three members appointed by the secretary of Indian affairs: one representative of the Navajo Nation, one representative of Apache tribal governments and one representative of Indian pueblo tribal governments, who are experienced with broadband access and connectivity issues.

C. The chair of the council shall be elected by a quorum of the council members. The council shall meet monthly or at the call of the chair. A majority of members constitutes a quorum for the transaction of business. The affirmative vote of at least a majority of a quorum present shall be necessary for an action to be taken by the council.

D. Each member of the council appointed pursuant to Paragraph (8) or (9) of Subsection B of this section shall be appointed to a four-year term; provided that to provide for staggered terms:

(1) two of the members initially appointed pursuant to Paragraph (8) of Subsection B of this section shall be appointed for a term of two years by lot; and

(2) one member initially appointed pursuant to Paragraph (9) of Subsection B of this section shall be initially appointed for a term of two years by lot.

E. Public members of the council shall be reimbursed for attending meetings of the council as provided for nonsalaried public officers in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

F. Public members of the council are appointed public officials of the state while carrying out their duties and activities under the Connect New Mexico Act.

G. Council members shall be governed by the Governmental Conduct Act.

H. The council shall be staffed by the department."

### **Chapter 155 Section 3 Laws 2023**

SECTION 3. Section 63-9K-4 NMSA 1978 (being Laws 2021, Chapter 120, Section 4) is amended to read:

"63-9K-4. COUNCIL--DUTIES.--The council shall:

A. advise and make recommendations to the broadband office regarding the coordination of broadband programs and broadband projects in accordance with the statewide broadband plan;

B. advise the broadband office concerning the development of a grant program and make recommendations for grant awards from the connect New Mexico fund; and

C. adopt rules regarding the administration of grants from the connect New Mexico fund. The rules shall include the application procedure, the required qualifications for projects and the purposes for which the grants may be used."

### **Chapter 155 Section 4 Laws 2023**

SECTION 4. Section 63-9K-5 NMSA 1978 (being Laws 2021, Chapter 120, Section 5) is amended to read:

"63-9K-5. BROADBAND KNOWLEDGE AND DIGITAL EQUITY ANALYSIS AND PLAN--REPORT--INCLUSION IN STATEWIDE BROADBAND PLAN.--

A. The council shall consult local and tribal governments, public educational institutions and state agencies to develop a digital equity analysis and plan to address:

(1) the challenges to digital inclusion that are posed by the lack of affordable quality service, broadband-enabled devices or the knowledge of how to use the devices effectively in different age, cultural or geographic populations across the state;

(2) the federal and private sector programs that could be applied to by state agencies or local or tribal governments to address the challenges identified in Paragraph (1) of this subsection; and

(3) existing state programs or state programs that could be established that address or could leverage federal and private sector programs to address the challenges identified in Paragraph (1) of this subsection.

B. On or before August 1, 2023, the council shall report on the digital equity analysis and plan to the broadband office and appropriate interim legislative committees.

C. On or before January 1, 2024, the broadband office shall incorporate the digital equity analysis and plan and its recommendations into the statewide broadband plan.

D. The broadband office shall cooperate with and provide relevant broadband-related information it collects or develops with the council."

## **Chapter 155 Section 5 Laws 2023**

SECTION 5. Section 63-9K-6 NMSA 1978 (being Laws 2021, Chapter 120, Section 6) is amended to read:

"63-9K-6. CONNECT NEW MEXICO FUND CREATED.--

A. The "connect New Mexico fund" is created in the state treasury. The fund consists of appropriations, gifts, grants and donations. Money in the fund is subject to appropriation by the legislature to the council for the purpose of administering the broadband grant program. Disbursements from the fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the chair of the council. Any unexpended or unencumbered balance in the fund remaining at the end of any fiscal year shall not revert to the general fund.

B. The broadband office shall implement a grant program to develop and expand broadband infrastructure and services and support digital inclusion; provided that the broadband office shall each year seek to award grants for proposals submitted by the following entities throughout the state:

- (1) local governments;
- (2) state agencies;
- (3) public educational institutions;
- (4) tribal governments;
- (5) entities created by a joint powers agreement pursuant to the Joint Powers Agreements Act; and
- (6) private entities for broadband infrastructure to provide service primarily for residential purposes.

C. When approving grants from the connect New Mexico fund, the broadband office shall give consideration to:

- (1) the extent to which the project connects unserved and underserved populations of New Mexico, with priority given to projects that will connect unserved populations;
- (2) the extent to which the project meets or exceeds the baseline standards established by the federal communications commission;
- (3) the extent to which the project leverages existing infrastructure;
- (4) the extent to which the project complements or coordinates with the statewide broadband plan;
- (5) the extent to which the project leverages regional collaboration;
- (6) the degree to which the project fosters digital inclusion;
- (7) the extent to which the project stimulates in-state economic development, including the creation of jobs and apprenticeships;
- (8) the extent to which the project leverages in-kind or financial support from local agencies or entities, federal assistance funding or federal Coronavirus Aid, Relief, and Economic Security Act, federal Consolidated Appropriations Act, 2021 or federal American Rescue Plan Act of 2021 funding; and

(9) for a grant award to a private entity, the extent to which the grantee contributes matching funds or in-kind support for the project, the number of existing residences to which internet services would be made available as a percentage of the total number of existing locations to which internet services would be made available by the project and the extent to which the project fosters digital equity."

## **Chapter 155 Section 6 Laws 2023**

SECTION 6. Section 63-9K-7 NMSA 1978 (being Laws 2021, Chapter 120, Section 7) is amended to read:

"63-9K-7. DATA COLLECTION--ANNUAL REPORT.--

A. By October 1 of each year, the broadband office, in coordination with the council, shall provide to the appropriate legislative interim committees a report on the access to and quality of service of broadband across the state. Information shall be provided on a county-by-county basis.

B. The report shall contain the following information:

(1) progress achieved toward digital equity and digital inclusion as identified in the digital equity analysis and plan;

(2) progress achieved on implementation of the statewide broadband plan;

(3) identified obstacles to an integrated system of permits, licenses and rules for broadband infrastructure across the state, including an expedited review process for rights of way use applications;

(4) recommended statutory, regulatory or policy changes and budget recommendations for the development and expansion of broadband infrastructure and digital equity and digital inclusion; and

(5) information on the broadband grant program, including:

(a) a list of grant recipients;

(b) the amount and date of each grant;

(c) a description of each project funded; and

(d) a description of how each project contributes to the statewide broadband plan and demonstrates increased access and quality of service for the unserved and underserved populations of New Mexico."

# LAWS 2023, CHAPTER 156

House Bill 304

Approved April 5, 2023

## AN ACT

RELATING TO PUBLIC PENSIONS; ALLOWING A SUPPLEMENTAL NEEDS TRUST TO BE NAMED AS A SURVIVOR OR REFUND BENEFICIARY PURSUANT TO THE PUBLIC EMPLOYEES RETIREMENT ACT, THE JUDICIAL RETIREMENT ACT, THE MAGISTRATE RETIREMENT ACT AND THE EDUCATIONAL RETIREMENT ACT; CLARIFYING CERTAIN DATES OF PAYMENT IN THE EVENT OF THE DEATH OR TERMINATION OF A SURVIVOR BENEFICIARY.

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

### Chapter 156 Section 1 Laws 2023

SECTION 1. Section 10-11-2 NMSA 1978 (being Laws 1987, Chapter 253, Section 2, as amended by Laws 2021, Chapter 36, Section 1 and by Laws 2021, Chapter 38, Section 1) is amended to read:

"10-11-2. DEFINITIONS.--As used in the Public Employees Retirement Act:

A. "accumulated member contributions" means the amounts deducted from the salary of a member and credited to the member's individual account, together with interest, if any, credited to that account;

B. "affiliated public employer" means the state and any public employer affiliated with the association as provided in the Public Employees Retirement Act, but does not include an employer pursuant to the Magistrate Retirement Act, the Judicial Retirement Act or the Educational Retirement Act;

C. "association" means the public employees retirement association established under the Public Employees Retirement Act;

D. "coverage plan funded ratio" means the ratio of the actuarial value of the assets of a coverage plan to the actuarial accrued liability of the association for payments from the coverage plan, as determined by the association's actuaries;

E. "disability retired member" means a retired member who is receiving a pension pursuant to the disability retirement provisions of the Public Employees Retirement Act;

F. "disability retirement pension" means the pension paid pursuant to the disability retirement provisions of the Public Employees Retirement Act;

G. "educational retirement system" means that retirement system provided for in the Educational Retirement Act;

H. "employee" means any employee of an affiliated public employer;

I. "federal social security program" means that program or those programs created and administered pursuant to the act of congress approved August 14, 1935, Chapter 531, 49 Stat. 620, as that act may be amended;

J. "final average salary" means the final average salary calculated in accordance with the provisions of the applicable coverage plan;

K. "form of payment" means the applicable form of payment of a pension provided for in Section 10-11-117 NMSA 1978;

L. "former member" means a person who was previously employed by an affiliated public employer, who has terminated that employment and who has received a refund of member contributions;

M. "fund" means the funds included under the Public Employees Retirement Act;

N. "member" means a currently employed, contributing employee of an affiliated public employer, or a person who has been but is not currently employed by an affiliated public employer, who has not retired and who has not received a refund of member contributions; "member" also includes the following:

(1) "adult correctional officer member" means a member who is employed as an adult correctional officer or an adult correctional officer specialist by a state correctional facility of the corrections department or its successor agency;

(2) "adult probation and parole officer member" means a member who is employed as a probation and parole officer by the corrections department or its successor agency;

(3) "juvenile correctional officer member" means a member who is employed as a juvenile correctional officer by the children, youth and families department or its successor agency;

(4) "juvenile probation and parole officer member" means a member who is employed as a probation and parole officer by the children, youth and families department or its successor agency;

(5) "municipal detention officer member" means a member who is employed by an affiliated public employer other than the state and who has inmate custodial responsibilities at a facility used for the confinement of persons charged with or convicted of a violation of a law or ordinance;

(6) "municipal fire member" means any member who is employed as a full-time nonvolunteer firefighter by an affiliated public employer and who has taken the oath prescribed for firefighters;

(7) "municipal police member" means any member who is employed as a police officer by an affiliated public employer, other than the state, and who has taken the oath prescribed for police officers; and

(8) "state police member" means a member who is an officer of the New Mexico state police division and who has taken the oath prescribed for such officers and shall include a member who is an officer of the New Mexico state police division and who was certified and commissioned in the former motor transportation division or the former special investigations division of the department of public safety;

O. "membership" means membership in the association;

P. "pension" means a series of monthly payments to a retired member or survivor beneficiary as provided in the Public Employees Retirement Act;

Q. "public employer" means the state, any municipality, city, county, metropolitan arroyo flood control authority, economic development district, regional housing authority, soil and water conservation district, entity created pursuant to a joint powers agreement, council of government, conservancy district, irrigation district, water and sanitation district, water district and metropolitan water board, including the boards, departments, bureaus and agencies of a public employer, so long as these entities fall within the meaning of governmental plan as that term is used in Section 414(d) of the Internal Revenue Code of 1986, as amended;

R. "refund beneficiary" means a supplemental needs trust or a natural person designated by the member, in writing, in the form prescribed by the association, as the trust or person that would be refunded the member's accumulated member contributions payable if the member dies and no survivor pension is payable or that would receive the difference between pension paid and accumulated member contributions if the retired member dies before receiving in pension payments the amount of the accumulated member contributions;

S. "retire" means to:

(1) terminate employment with all employers covered by any state system or the educational retirement system; and

(2) receive a pension from a state system or the educational retirement system;

T. "retired member" means a person who has met all requirements for retirement and who is receiving a pension from the fund;

U. "retirement board" means the retirement board provided for in the Public Employees Retirement Act;

V. "salary" means the base salary or wages paid a member, including longevity pay, for personal services rendered an affiliated public employer. "Salary" shall not include overtime pay, unless the overtime payment is required for a regular scheduled tour of duty as set forth in Section 207(k) of Title 29 of the United States Code and is made on the regular payroll for the period represented by that payment, allowances for housing, clothing, equipment or travel, payments for unused sick leave, unless the unused sick leave payment is made through continuation of the member on the regular payroll for the period represented by that payment, and any other form of remuneration not specifically designated by law as included in salary for Public Employees Retirement Act purposes. Salary in excess of the limitations set forth in Section 401(a)(17) of the Internal Revenue Code of 1986, as amended, shall be disregarded. The limitation on compensation for eligible employees shall not be less than the amount that was allowed to be taken into account under the state retirement system acts in effect on July 1, 1993. For purposes of this subsection, "eligible employee" means an individual who was a member of a state system before the first plan year beginning after December 31, 1995;

W. "state system" means the retirement programs provided for in the Public Employees Retirement Act, the Magistrate Retirement Act and the Judicial Retirement Act;

X. "state retirement system acts" means collectively the Public Employees Retirement Act, the Magistrate Retirement Act, the Judicial Retirement Act and the Volunteer Firefighters Retirement Act;

Y. "supplemental needs trust" means a valid third- party irrevocable trust that is authorized by the federal Social Security Act, as amended, for the sole benefit and lifetime of a trust beneficiary who is disabled and is created for the purpose of providing, accounting for or receiving supplemental assets that do not supplant, impair or diminish any benefits or assistance of any federal, state or other government entity for which the beneficiary would otherwise be eligible; and

Z. "survivor beneficiary" means a supplemental needs trust or a natural person that receives a pension or that has been designated to be paid a pension as a result of the death of a member or retired member."

## Chapter 156 Section 2 Laws 2023

SECTION 2. Section 10-11-116 NMSA 1978 (being Laws 1987, Chapter 253, Section 116, as amended) is amended to read:

"10-11-116. ELECTION OF FORM OF PAYMENT OF A PENSION.--

A. Except as otherwise provided in Section 10-11-136 NMSA 1978, a member may elect to have pension payments made under any one of the forms of payment provided in Section 10-11-117 NMSA 1978. The election of form of payment and naming of survivor beneficiary shall be made on a form furnished by and filed with the association prior to the date the first pension payment is made. An election of form of payment may not be changed after the date the first pension payment is made. If the member is married, the association shall obtain the consent of the member's spouse to the election of the form of payment and any designation of survivor beneficiary before the election or designation is effective. Except as provided in Subsection C, D or E of this section, a named survivor beneficiary may not be changed after the date the first pension payment is made if form of payment B or C is elected. Except as otherwise provided in Section 10-11-136 NMSA 1978, payment shall be made:

(1) under form of payment A if the member is not married at the time of retirement and if there is not a timely election of another form of payment; or

(2) under form of payment C with the member's spouse as survivor beneficiary if the member is married at the time of retirement and there is not a timely election of another form of payment.

B. The amount of pension under forms of payment B, C and D shall have the same actuarial present value, computed as of the effective date of the pension, as the amount of pension under form of payment A.

C. A retired member who is being paid a pension under form of payment B or C with the member's spouse as the designated survivor beneficiary may:

(1) exercise a one-time irrevocable option to designate another survivor beneficiary and may select either form of payment B or form of payment C; provided that:

(a) the amount of the pension under the form of payment selected shall be recalculated and have the same actuarial present value, computed on the effective date of the designation, as the amount of pension under form of payment A;

(b) the member's spouse provides a notarized, written statement expressing the spouse's consent to relinquish the designation as a survivor beneficiary; and

(c) the retired member shall pay one hundred dollars (\$100) to the retirement board to defray the cost of determining the new pension amount;

(2) upon becoming divorced from the named spouse and subject to an order of a court as provided for in Section 10-11-136 NMSA 1978, elect to have future payments made under form of payment A; or

(3) upon becoming divorced from the named spouse, exercise a one-time irrevocable option to designate another survivor beneficiary and may select either form of payment B or form of payment C; provided that:

(a) the amount of the pension under the form of payment selected shall be recalculated and have the same actuarial present value, computed on the effective date of the designation, as the amount of pension under form of payment A;

(b) the designation and the amount of the pension shall be subject to a court order as provided for in Section 10-11-136 NMSA 1978; and

(c) the retired member shall pay one hundred dollars (\$100) to the retirement board to defray the cost of determining the new pension amount.

D. A retired member who was previously being paid a pension under form of payment B or C but, because of the death of or divorce from the designated survivor beneficiary or in the event that a supplemental needs trust is the designated survivor beneficiary, the termination of that trust or the death of or divorce from the beneficiary of that trust, is currently receiving a pension under form of payment A may exercise a one-time irrevocable option to designate another survivor beneficiary and may select either form of payment B or form of payment C; provided that:

(1) the amount of the pension under the form of payment selected shall be recalculated and have the same actuarial present value, computed on the effective date of the designation, as the amount of pension under form of payment A;

(2) the designation and the amount of the pension shall be subject to a court order as provided for in Section 10-11-136 NMSA 1978; and

(3) the retired member shall pay one hundred dollars (\$100) to the retirement board to defray the cost of determining the new pension amount.

E. A retired member who is being paid a pension under form of payment B or C with a living or operating designated survivor beneficiary other than the retired member's spouse or former spouse or the supplemental needs trust of 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 survivor beneficiary and may select either form of payment B or form of payment C; provided that:

(a) the amount of the pension 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 pension under form of payment A; and

(b) the retired member shall pay one hundred dollars (\$100) to the retirement board to defray the cost of determining the new pension amount; or

(2) have future payments made under form of payment A."

### **Chapter 156 Section 3 Laws 2023**

SECTION 3. Section 10-11-117 NMSA 1978 (being Laws 1987, Chapter 253, Section 117, as amended) is amended to read:

"10-11-117. FORMS OF PAYMENT OF A PENSION.--

A. Straight life pension is form of payment A. The retired member is paid the pension for life under form of payment A. All payments stop upon the death of the retired member, except as provided by Subsection E of this section. The amount of pension is determined in accordance with the coverage plan applicable to the retired member.

B. Life payments with full continuation to one survivor beneficiary is form of payment B. The retired member is paid a reduced pension for life under form of payment B. When the retired member dies, the designated survivor beneficiary is paid the full amount of the reduced pension until the death of the survivor beneficiary or the death of the beneficiary of a supplemental needs trust or the termination of that trust. If the designated survivor beneficiary or the beneficiary of a supplemental needs trust predeceases the retired member or if the supplemental needs trust terminates while the retired member is living, the amount of pension shall be changed to the amount that would have been payable had the retired member elected form of payment A.

C. Life payment with one-half continuation to one survivor beneficiary is form of payment C. The retired member is paid a reduced pension for life under form of payment C. When the retired member dies, the designated survivor beneficiary is paid one-half the amount of the reduced pension until the death of the survivor beneficiary or the death of the beneficiary of a supplemental needs trust. If the designated survivor beneficiary or the beneficiary of a supplemental needs trust predeceases the retired member or the supplemental needs trust terminates while the retired member is living, the amount of pension shall be changed to the amount that would have been payable had the retired member elected form of payment A.

D. Life payments with temporary survivor benefits for children is form of payment D. The retired member is paid a reduced pension for life under form of payment D. When the retired member dies, each declared eligible child is paid a share of the reduced pension until death or age twenty-five years, whichever occurs first. The share is the share specified in writing and filed with the association by the retired member. If shares are not specified in writing and filed with the association, each declared eligible child is paid an equal share of the reduced pension. A redetermination of shares shall be made when the pension of any child terminates. An eligible child is a natural or adopted child of the retired member who is under age twenty-five years. A declared eligible child is an eligible child whose name has been declared in writing and filed with the association by the retired member at the time of election of form of payment D. The amount of pension shall be changed to the amount of pension that would have been payable had the retired member elected form of payment A upon there ceasing to be a declared eligible child during the lifetime of the retired member.

E. If all pension payments permanently terminate before there is paid an aggregate amount equal to the retired member's accumulated member contributions at the time of retirement, the difference between the amount of accumulated member contributions and the aggregate amount of pension paid shall be paid to the retired member's refund beneficiary. If no refund beneficiary survives the retired member, the difference shall be paid to the estate of the retired member."

## **Chapter 156 Section 4 Laws 2023**

SECTION 4. Section 10-11-124 NMSA 1978 (being Laws 1987, Chapter 253, Section 124, as amended) is amended to read:

"10-11-124. MEMBER CONTRIBUTION FUND.--

A. The member contribution fund is the accounting fund in which shall be accumulated contributions of members and from which shall be made refunds and transfers of accumulated member contributions as provided in the Public Employees Retirement Act. Each affiliated public employer shall cause the member contributions specified by the coverage plan applicable to each of that affiliated public employer's members to be deducted from the salary of each member. Each affiliated public employer shall remit the deducted member contributions to the association in accordance with the procedures and schedules established by the association. The association may assess an interest charge and a penalty charge on any remittance not made by its due date. Each member shall be deemed to consent and agree to the deductions made and provided for in this section by continuing employment with the affiliated public employer. Contributions by members shall be credited to the members' individual accounts in the member contribution fund.

B. A member's accumulated contributions shall be transferred to the retirement reserve fund if a pension becomes payable upon the retirement or death of the member. If a disability retirement pension is terminated for a reason other than the

death of the disability retired member before an amount equal to the disability retired member's accumulated member contributions has been paid, the unexpended balance of the accumulated member contributions shall be transferred from the retirement reserve fund to the former disability retired member's individual account in the member contribution fund.

C. If a member terminates affiliated public employment or is on leave of absence from an affiliated public employer as a consequence of the entry into active duty with the armed forces of the United States, the member may, with the written consent of the member's spouse, if any, withdraw the member's accumulated member contributions, upon making written request in a form prescribed by the association. Upon written request of the member in the form prescribed by the association, a refund of member contributions may be made by a trustee-to-trustee transfer of the contributions from the member contribution fund directly to another qualified plan as allowed by the Internal Revenue Code of 1986. Withdrawal of member contributions shall result in forfeiture of the service credit accrued for the period during which the contributions were made.

D. A member shall, upon commencement of membership, designate a refund beneficiary who shall receive the refund of the member contributions, plus interest if any, if the member dies and no survivor pension is payable. If the member is married at the time of designation, written spousal consent shall be required if the designated refund beneficiary is other than the spouse or a supplemental needs trust to which the spouse is a beneficiary. Marriage subsequent to the designation shall automatically revoke a previous designation, and the spouse shall become the refund beneficiary unless or until another designation is filed with the association. Divorce subsequent to the designation shall automatically revoke designation of the former spouse as refund beneficiary, or the right of the former spouse to be refund beneficiary if no designation has been filed, and the refund shall be paid to the deceased member's estate unless the member filed a designation of refund beneficiary subsequent to the divorce. The refund shall be paid to the refund beneficiary named in the most recent designation of refund beneficiary on file with the association unless that beneficiary is deceased or otherwise terminated. If there is not a living or operating refund beneficiary named in the most recent designation of refund beneficiary on file with the association, the deceased member's accumulated member contributions shall be paid to the estate of the deceased member."

## **Chapter 156 Section 5 Laws 2023**

SECTION 5. Section 10-12B-2 NMSA 1978 (being Laws 1992, Chapter 111, Section 2, as amended) is amended to read:

"10-12B-2. DEFINITIONS.--As used in the Judicial Retirement Act:

A. "association" means the public employees retirement association provided for in the Public Employees Retirement Act;

B. "board" means the retirement board provided for in the Public Employees Retirement Act;

C. "dependent child" means a natural or adopted child who is physically or mentally incapable of financial self-support, regardless of age;

D. "educational retirement system" means the retirement system provided for in the Educational Retirement Act;

E. "effective date of retirement" means the first day of the month following the month in which the member met all requirements for retirement;

F. "final average salary" means the amount that is one-sixtieth of the greatest aggregate amount of salary paid a member for sixty consecutive, but not necessarily continuous, months of service credit;

G. "former member" means a person no longer in office who was previously covered pursuant to the provisions of Sections 10-12-1 through 10-12-18 NMSA 1978, but who has not retired pursuant to the provisions of the Judicial Retirement Act and who has received a refund of member contributions pursuant to the provisions of Sections 10-12B-1 through 10-12B-19 NMSA 1978;

H. "fund" means the judicial retirement fund;

I. "judge" means a judge of the metropolitan court, district court or court of appeals of New Mexico;

J. "justice" means a justice of the supreme court of New Mexico;

K. "member" means any judge or justice who is in office and covered pursuant to the provisions of the Judicial Retirement Act, or any person no longer in office who was previously a judge or justice covered pursuant to the provisions of the Judicial Retirement Act, who has not retired and who has not received a refund of member contributions from the fund;

L. "member contributions" means the amounts deducted from the salary of a member and credited to the member's individual account, together with interest, if any, credited thereto;

M. "minor child" means a natural or adopted child who has not reached his eighteenth birthday and who has not been emancipated by marriage or otherwise;

N. "pension" means a series of monthly payments to a retired member or survivor beneficiary pursuant to the provisions of the Judicial Retirement Act;

O. "refund beneficiary" means a supplemental needs trust or a natural person designated by the member, in writing in the form prescribed by the association, as the trust or person that would be refunded the member's accumulated member contributions payable if the member dies and no survivor pension is payable, or that would receive the difference between pension paid and accumulated member contributions if the retired member dies before receiving in pension payments the amount of the accumulated member contributions;

P. "retire" means to:

(1) terminate employment with all employers covered by any state system or the educational retirement system; and

(2) receive a pension from one state system or the educational retirement system;

Q. "retired member" means a person who has met all requirements for retirement and who is receiving a pension from the fund;

R. "salary" means the base salary or wages paid a member, including longevity pay, for personal services rendered; provided that salary does not include overtime pay; allowances for housing, clothing, equipment or travel; payments for unused sick leave, unless the unused sick leave payment is made through continuation of the member on the regular payroll for the period represented by that payment; and any other form of remuneration not specifically designated by law as included in salary pursuant to the provisions of the Judicial Retirement Act;

S. "state system" means the retirement programs provided pursuant to the provisions of the Public Employees Retirement Act, the Magistrate Retirement Act and the Judicial Retirement Act;

T. "supplemental needs trust" means a valid third-party irrevocable trust that is authorized by the federal Social Security Act, as amended, for the sole benefit and the lifetime of a trust beneficiary who is disabled and is created for the purpose of providing, accounting for or receiving supplemental assets that do not supplant, impair or diminish any benefits or assistance of any federal, state or other government entity for which the beneficiary would otherwise be eligible;

U. "surviving spouse" means the spouse to whom the member was married at the time of the member's death;

V. "survivor beneficiary" means a supplemental needs trust or a natural person that receives a pension or that has been designated to be paid a pension as a result of the death of a member or retired member; and

W. "years of service" means a period of time beginning on the date a person commences to hold office as a judge or justice because of appointment or election and ending on the date a person ceases to hold office as a judge or justice because of expiration of the judge's or justice's term, voluntary resignation, death or disability and shall include any fractions of years of service."

## **Chapter 156 Section 6 Laws 2023**

SECTION 6. Section 10-12B-6 NMSA 1978 (being Laws 1992, Chapter 111, Section 6, as amended) is amended to read:

### "10-12B-6. REFUND OF CONTRIBUTIONS.--

A. If a member leaves office, the member may, with the written consent of the member's spouse, if any, withdraw the member's accumulated member contributions upon making written request in a form prescribed by the association. Upon written request of the member in the form prescribed by the association, a refund of member contributions may be made by a trustee-to-trustee transfer of the contributions from the member contribution fund directly to another qualified plan as allowed by the Internal Revenue Code of 1986. Withdrawal of member contributions shall result in forfeiture of the service credit accrued for the period during which the contributions were made.

B. A member shall, upon commencement of membership, designate a refund beneficiary who shall receive the refund of the member contributions, plus interest, if the member dies and no survivor pension is payable. If the member is married at the time of designation, written spousal consent shall be required if the designated refund beneficiary is a person other than the spouse or a supplemental needs trust to which the spouse is a beneficiary. Marriage subsequent to the designation shall automatically revoke a previous designation, and the spouse shall become the refund beneficiary unless or until another designation is filed with the association. Divorce subsequent to the designation shall automatically revoke designation of the former spouse as refund beneficiary if no designation has been filed, and the refund shall be paid to the deceased member's estate unless the member filed a designation of refund beneficiary subsequent to the divorce. The refund shall be paid to the refund beneficiary named in the most recent designation of refund beneficiary on file with the association unless that beneficiary is deceased or otherwise terminated. If there is not a living or operating refund beneficiary named in the most recent designation of refund beneficiary on file with the association, the deceased member's accumulated member contributions shall be paid to the estate of the deceased member."

## **Chapter 156 Section 7 Laws 2023**

SECTION 7. Section 10-12B-14 NMSA 1978 (being Laws 1992, Chapter 111, Section 14, as amended) is amended to read:

"10-12B-14. SURVIVOR'S PENSION.--For a member whose initial term of office began prior to July 1, 2014:

A. unless that member has designated a survivor beneficiary in accordance with Subsection B of this section, a survivor pension shall be paid for life to a member's or retired member's surviving spouse;

B. the member may designate, in writing in a form prescribed by the association, a survivor beneficiary to receive the survivor's pension described in this section. If the member is married, a designation of survivor beneficiary other than the member's spouse or a supplemental needs trust to which the spouse is a beneficiary may only be made with the written consent of the member's spouse. Marriage subsequent to a designation of survivor beneficiary shall automatically revoke the designation of survivor beneficiary. A designation of survivor beneficiary made pursuant to a court order issued under Section 10-12B-7 NMSA 1978 shall not require the consent of the member's spouse, if any, and shall not be revoked by the subsequent remarriage of the member. A designation of survivor beneficiary may be revoked by the member at any time prior to the member's retirement. If the member is married, a revocation of designation of survivor beneficiary may only be made with the written consent of the member's spouse;

C. if there is no surviving spouse and no designated survivor beneficiary or if the surviving spouse dies while there are still minor and dependent children of the member, the survivor's pension shall be paid to all minor and dependent children, if any, of the member, in equal shares, so long as each child remains a minor or dependent child. As each child ceases to be a minor or dependent child, the number of shares shall be reduced and the amount payable to each remaining child increased proportionately so that the total survivor's pension remains unchanged as long as there is any such child;

D. the survivor's pension is equal to seventy-five percent of the member's pension;

E. survivor beneficiaries shall be eligible for other benefits provided pursuant to the provisions of the Judicial Retirement Act, including cost-of-living adjustments and continuation of group insurance benefits; and

F. if the member dies while receiving a disability retirement pension, the survivor beneficiary shall receive the survivor pension provided pursuant to the provisions of the Judicial Retirement Act."

## **Chapter 156 Section 8 Laws 2023**

SECTION 8. Section 10-12B-14.1 NMSA 1978 (being Laws 2014, Chapter 35, Section 11) is amended to read:

"10-12B-14.1. ELECTION FORM OF PENSION.--For a member whose initial term in office begins on or after July 1, 2014, except as otherwise provided in Section 10-12B-7 NMSA 1978:

A. the member may elect to have pension payments made under any one of the forms of payment provided in Section 10-12B-14.2 NMSA 1978. The election of form of payment and naming of survivor pension beneficiary shall be made on a form furnished by and filed with the association prior to the date the first pension payment is made. An election of form of payment may not be changed after the date the first pension payment is made. If the member is married, the association shall require the consent of the member's spouse to the election of the form of payment and any designation of survivor pension beneficiary before the election or designation is effective. Except as provided in Subsection C, D or E of this section, a named survivor pension beneficiary may not be changed after the date the first pension payment is made if form of payment B or C is elected. Except as otherwise provided in Section 10-12B-7 NMSA 1978, payment shall be made:

(1) under form of payment A if the member is not married at the time of retirement and if there is not a timely election of another form of payment; or

(2) under form of payment C with the member's spouse as survivor pension beneficiary if the member is married at the time of retirement and there is not a timely election of another form of payment;

B. the amount of pension under forms of payment B, C and D shall have the same actuarial present value, computed as of the effective date of the pension, as the amount of pension under form of payment A;

C. if the member is a retired member who is being paid a pension under form of payment B or C with the member's spouse or a supplemental needs trust to which the spouse is a beneficiary as the designated survivor pension beneficiary, the retired member may, upon becoming divorced from the named spouse and subject to an order of a court as provided for in Section 10-12B-7 NMSA 1978, elect to have future payments made under form of payment A;

D. if the member is retired and was previously being paid a pension under form of payment B or C but, because of the death of the designated survivor pension beneficiary or the death of the beneficiary of a supplemental needs trust or the termination of that trust, is currently receiving a pension under form of payment A, the retired member may exercise a one-time irrevocable option to designate another survivor pension beneficiary and may select either form of payment B or form of payment C; provided that:

(1) the amount of the pension under the form of payment selected shall be recalculated and have the same actuarial present value, computed on the effective date of the designation, as the amount of pension under form of payment A;

(2) the designation and the amount of the pension shall be subject to a court order as provided for in Section 10-12B-7 NMSA 1978; and

(3) the retired member shall pay one hundred dollars (\$100) to the board to defray the cost of determining the new pension amount; and

E. if the member is a retired member who is being paid a pension under form of payment B or C with a living or operating designated survivor pension beneficiary other than the retired member's spouse or former spouse or the supplemental needs trust of the retired member's spouse or former spouse, the retired member may exercise a one-time irrevocable option to deselect the designated beneficiary and elect to:

(1) designate another survivor pension 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 pension 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 pension under form of payment A; and

(c) the retired member shall pay one hundred dollars (\$100) to the board to defray the cost of determining the new pension amount; or

(2) have future payments made under form of payment A."

## **Chapter 156 Section 9 Laws 2023**

SECTION 9. Section 10-12B-14.2 NMSA 1978 (being Laws 2014, Chapter 35, Section 12) is amended to read:

"10-12B-14.2. FORM OF PENSION PAYMENT.--

A. Straight life pension is form of payment A. The retired member is paid the pension for life under form of payment A. All payments stop upon the death of the retired member, except as provided in Subsection E of this section. The amount of pension is determined in accordance with the Judicial Retirement Act.

B. Life payments with full continuation to one survivor beneficiary is form of payment B. The retired member is paid a reduced pension for life under form of payment B. When the retired member dies, the designated survivor beneficiary is paid the full amount of the reduced pension until death or in the event that supplemental needs trust is the designated survivor beneficiary, the termination of that trust or the death of the beneficiary of that trust. If the designated survivor beneficiary or the beneficiary of a supplemental needs trust predeceases the retired member or if the

supplemental needs trust terminates while the retired member is living, the amount of pension shall be changed to the amount that would have been payable had the retired member elected form of payment A.

C. Life payment with one-half continuation to one survivor beneficiary is form of payment C. The retired member is paid a reduced pension for life under form of payment C. When the retired member dies, the designated survivor beneficiary is paid one-half the amount of the reduced pension until death or in the event that a supplemental needs trust is the designated survivor beneficiary, the termination of that trust or the death of the beneficiary of that trust. If the designated survivor beneficiary or if the beneficiary of a supplemental needs trust predeceases the retired member or if the supplemental needs trust terminates while the retired member is living, the amount of pension shall be changed to the amount that would have been payable had the retired member elected form of payment A.

D. Life payments with temporary survivor benefits for children is form of payment D. The retired member is paid a reduced pension for life under form of payment D. When the retired member dies, each declared eligible child is paid a share of the reduced pension until death or age twenty-five years, whichever occurs first. The share is the share specified in writing and filed with the association by the retired member. If shares are not specified in writing and filed with the association, each declared eligible child is paid an equal share of the reduced pension. A redetermination of shares shall be made when the pension of any child terminates. An eligible child is a natural or adopted child of the retired member who is under age twenty-five years. A declared eligible child is an eligible child whose name has been declared in writing and filed with the association by the retired member at the time of election of form of payment D. The amount of pension shall be changed to the amount of pension that would have been payable had the retired member elected form of payment A upon there ceasing to be a declared eligible child during the lifetime of the retired member.

E. If all pension payments permanently terminate before there is paid an aggregate amount equal to the retired member's accumulated member contributions at the time of retirement, the difference between the amount of accumulated member contributions and the aggregate amount of pension paid shall be paid to the retired member's refund beneficiary. If no refund beneficiary survives the retired member, the difference shall be paid to the estate of the retired member."

## **Chapter 156 Section 10 Laws 2023**

SECTION 10. Section 10-12B-14.3 NMSA 1978 (being Laws 2014, Chapter 35, Section 13) is amended to read:

"10-12B-14.3. DEATH BEFORE RETIREMENT--SURVIVOR PENSION.--For a member whose initial term in office begins on or after July 1, 2014:

A. a survivor pension may be paid to certain persons related to or designated by a member who dies before normal or disability retirement if a written application for the pension, in the form prescribed by the association, is filed with the association by the potential survivor beneficiary or beneficiaries within one year of the death of the member. Applications may be filed on behalf of the potential survivor beneficiary or beneficiaries or by a person legally authorized to represent them;

B. if there is no designated survivor beneficiary and the board finds the death to have been the natural and proximate result of causes arising solely and exclusively out of and in the course of the member's performance of duty while in office, a survivor pension shall be payable to the eligible surviving spouse. The amount of the survivor pension shall be the greater of:

(1) the amount as calculated pursuant to the Judicial Retirement Act and applicable to the deceased member at the time of death as though the deceased member had retired the day preceding death under form of payment B using the actual amount of service credit attributable to the deceased member at the time of death; or

(2) fifty percent of the deceased member's final average salary;

C. a survivor pension shall also be payable to eligible surviving children if there is no designated survivor beneficiary and the retirement board finds the death to have been the natural and proximate result of causes arising solely and exclusively out of and in the course of the member's performance of duty while in office. The total amount of survivor pension payable for all eligible surviving children shall be either:

(1) fifty percent of the deceased member's final average salary if an eligible surviving spouse is not paid a pension; or

(2) twenty-five percent of the deceased member's final average salary if an eligible surviving spouse is paid a pension.

The total amount of survivor pension shall be divided equally among all eligible surviving children. If there is only one eligible child, the amount of pension shall be twenty-five percent of the deceased member's final average salary;

D. if the member had the applicable minimum number of years of service credit required for normal retirement, but the retirement board did not find the death to have been the natural and proximate result of causes arising solely and exclusively out of and in the course of the member's performance of duty while in office and there is no designated survivor beneficiary, a survivor pension shall be payable to the eligible surviving spouse. The amount of the survivor pension shall be the greater of:

(1) the amount as calculated under the Judicial Retirement Act applicable to the deceased member at the time of death as though the deceased member had retired the day preceding death under form of payment B using the total

amount of actual service credit attributable to the deceased member at the time of death; or

(2) thirty percent of the deceased member's final average salary;

E. if the member had the applicable minimum number of years of service credit required for normal retirement, but the retirement board did not find the death to have been the natural and proximate result of causes arising solely and exclusively out of and in the course of the member's performance of duty while in office and there is no designated survivor beneficiary, and if there is no eligible surviving spouse at the time of death, a survivor pension shall be payable to and divided equally among all eligible surviving children, if any. The total amount of survivor pension payable for all eligible surviving children shall be the greater of:

(1) the amount as calculated under the Judicial Retirement Act applicable to the deceased member at the time of death as though the deceased member had retired the day preceding death under form of payment B with the oldest eligible surviving child as the survivor beneficiary using the total amount of actual service credit attributable to the deceased member at the time of death; or

(2) thirty percent of the deceased member's final average salary;

F. an eligible surviving spouse is the spouse to whom the deceased member was married at the time of death. An eligible surviving child is a child under the age of eighteen years and who is an unmarried, natural or adopted child of the deceased member;

G. an eligible surviving spouse's pension shall terminate upon death. An eligible surviving child's pension shall terminate upon death or marriage or reaching age eighteen years, whichever comes first;

H. if there is no designated survivor beneficiary and there is no eligible surviving child, the eligible surviving spouse may elect to be refunded the deceased member's accumulated member contributions instead of receiving a survivor pension;

I. a member may designate a survivor beneficiary to receive a pre-retirement survivor pension, subject to the following conditions:

(1) a written designation, in the form prescribed by the association, is filed by the member with the association;

(2) if the member is married at the time of designation, the designation shall only be made with the consent of the member's spouse, in the form prescribed by the association;

(3) if the member is married subsequent to the time of designation, any prior designations shall automatically be revoked upon the date of the marriage;

(4) if the member is divorced subsequent to the time of designation, any prior designation of the former spouse or a supplemental needs trust to which the spouse is a beneficiary as survivor beneficiary shall automatically be revoked upon the date of divorce; and

(5) a designation of survivor beneficiary may be changed, with the member's spouse's consent if the member is married, by the member at any time prior to the member's death;

J. if there is a designated survivor beneficiary and the board finds the death to have been the natural and proximate result of causes arising solely and exclusively out of and in the course of the member's performance of duty while in office, a survivor pension shall be payable to the designated survivor beneficiary. The amount of the survivor pension shall be the greater of:

(1) the amount as calculated under the Judicial Retirement Act applicable to the deceased member at the time of death as though the deceased member had retired the day preceding death under form of payment B using the actual amount of service credit attributable to the member at the time of death; or

(2) fifty percent of the deceased member's final average salary;

K. if there is a designated survivor beneficiary, if the member had the applicable minimum number of years of service credit required for normal retirement and if the retirement board did not find the death to have been the natural and proximate result of causes arising solely and exclusively out of and in the course of the member's performance of duty while in office, a survivor pension shall be payable to the designated survivor beneficiary. The amount of the survivor pension shall be the greater of:

(1) the amount as calculated under the Judicial Retirement Act applicable to the deceased member at the time of death as though the deceased member had retired the day preceding death under form of payment B using the actual amount of service credit attributable to the member at the time of death; or

(2) thirty percent of the deceased member's final average salary;

L. if all pension payments permanently terminate before there is paid an aggregate amount equal to the deceased member's accumulated member contributions at time of death, the difference between the amount of accumulated member contributions and the aggregate amount of pension paid shall be paid to the deceased member's refund beneficiary. If no refund beneficiary survives the survivor beneficiary, the difference shall be paid to the estate of the deceased member; and

M. for purposes of this section, "service credit" means only the service credit earned by a member during periods in office as a judge or justice."

## **Chapter 156 Section 11 Laws 2023**

SECTION 11. Section 10-12C-2 NMSA 1978 (being Laws 1992, Chapter 118, Section 2, as amended by Laws 2014, Chapter 39, Section 2 and by Laws 2014, Chapter 43, Section 2) is amended to read:

"10-12C-2. DEFINITIONS.--As used in the Magistrate Retirement Act:

A. "association" means the public employees retirement association provided for in the Public Employees Retirement Act;

B. "board" means the retirement board provided for in the Public Employees Retirement Act;

C. "dependent child" means a natural or adopted child who is physically or mentally incapable of financial self-support, regardless of age;

D. "educational retirement system" means the retirement system provided for in the Educational Retirement Act;

E. "effective date of retirement" means the first day of the month following the month in which the member met all requirements for retirement;

F. "final average salary" means the amount that is one-sixtieth of the greatest aggregate amount of salary paid a member for sixty consecutive, but not necessarily continuous, months of service credit;

G. "former member" means a person no longer in office who was previously covered pursuant to the provisions of Sections 10-12A-1 through 10-12A-13 NMSA 1978, but who has not retired pursuant to the provisions of the Magistrate Retirement Act and who has received a refund of member contributions pursuant to the provisions of Sections 10-12C-1 through 10-12C-18 NMSA 1978;

H. "fund" means the magistrate retirement fund;

I. "magistrate" means a magistrate judge;

J. "member" means any magistrate who is in office and covered pursuant to the provisions of the Magistrate Retirement Act, or any person no longer in office who was previously a magistrate covered pursuant to the provisions of the Magistrate Retirement Act, who has not retired and who has not received a refund of member contributions from the fund;

K. "member contributions" means the amounts deducted from the salary of a member and credited to the member's individual account, together with interest, if any, credited thereto;

L. "minor child" means a natural or adopted child who has not reached the child's eighteenth birthday and who has not been emancipated by marriage or otherwise;

M. "pension" means a series of monthly payments to a retired member or survivor beneficiary pursuant to the provisions of the Magistrate Retirement Act;

N. "refund beneficiary" means a supplemental needs trust or a natural person designated by the member, in writing in the form prescribed by the association, as the trust or person that would be refunded the member's accumulated member contributions payable if the member dies and no survivor pension is payable, or as the trust or person that would receive the difference between pension paid and accumulated member contributions if the retired member dies before receiving in pension payments the amount of the accumulated member contributions;

O. "retire" means to:

(1) terminate employment with all employers covered by any state system or the educational retirement system; and

(2) receive a pension from one state system or the educational retirement system;

P. "retired member" means a person who has met all requirements for retirement and who is receiving a pension from the fund;

Q. "salary" means the base salary or wages paid a member, including longevity pay, for personal services rendered; provided that salary does not include overtime pay; allowances for housing, clothing, equipment or travel; payments for unused sick leave, unless the unused sick leave payment is made through continuation of the member on the regular payroll for the period represented by that payment; and any other form of remuneration not specifically designated by law as included in salary pursuant to the provisions of the Magistrate Retirement Act;

R. "state system" means the retirement programs provided pursuant to the provisions of the Public Employees Retirement Act, the Magistrate Retirement Act and the Judicial Retirement Act;

S. "supplemental needs trust" means a valid third-party irrevocable trust that is authorized by the federal Social Security Act, as amended, for the sole benefit and the lifetime of a trust beneficiary who is disabled and is created for the purpose of providing, accounting for or receiving supplemental assets that do not supplant, impair

or diminish any benefits or assistance of any federal, state or other government entity for which the beneficiary would otherwise be eligible;

T. "surviving spouse" means the spouse to whom the member was married at the time of the member's death;

U. "survivor beneficiary" means a supplemental needs trust or a natural person that receives a pension or that has been designated to be paid a pension as a result of the death of a member or retired member; and

V. "years of service" means a period of time beginning on the date a person commences to hold office as a magistrate because of appointment or election and ending on the date a person ceases to hold office as a magistrate because of expiration of the magistrate's term, voluntary resignation, death or disability and shall include any fractions of years of service."

## **Chapter 156 Section 12 Laws 2023**

SECTION 12. Section 10-12C-6 NMSA 1978 (being Laws 1992, Chapter 118, Section 6, as amended) is amended to read:

### "10-12C-6. REFUND OF CONTRIBUTIONS.--

A. If a member leaves office, the member may, with the written consent of the member's spouse, if any, withdraw the member's accumulated member contributions, upon making written request in a form prescribed by the association. Upon written request of the member in the form prescribed by the association, a refund of member contributions may be made by a trustee-to-trustee transfer of the contributions from the member contribution fund directly to another qualified plan as allowed by the Internal Revenue Code of 1986. Withdrawal of member contributions shall result in forfeiture of the service credit accrued for the period during which the contributions were made.

B. A member shall, upon commencement of membership, designate a refund beneficiary who shall receive the refund of the member contributions, plus interest if any, if the member dies and no survivor pension is payable. If the member is married at the time of designation, written spousal consent shall be required if the designated refund beneficiary is a person other than the spouse or a supplemental needs trust to which the spouse is a beneficiary. Marriage subsequent to the designation shall automatically revoke a previous designation, and the spouse shall become the refund beneficiary unless or until another designation is filed with the association. Divorce subsequent to the designation shall automatically revoke designation of the former spouse as refund beneficiary, or the right of the former spouse to be refund beneficiary if no designation has been filed, and the refund shall be paid to the deceased member's estate unless the member filed a designation of refund beneficiary subsequent to the divorce. The refund shall be paid to the refund beneficiary named in the most recent designation of refund beneficiary on file with the association unless that beneficiary is

deceased or otherwise terminated. If there is not a living or operating refund beneficiary named in the most recent designation of refund beneficiary on file with the association, the deceased member's accumulated member contributions shall be paid to the estate of the deceased member."

## **Chapter 156 Section 13 Laws 2023**

SECTION 13. Section 10-12C-13 NMSA 1978 (being Laws 1992, Chapter 118, Section 13, as amended by Laws 2014, Chapter 39, Section 10 and by Laws 2014, Chapter 43, Section 10) is amended to read:

"10-12C-13. SURVIVOR'S PENSION.--For a member whose initial term in office began prior to July 1, 2014:

A. unless the member has designated a survivor beneficiary in accordance with Subsection B of this section, a survivor pension shall be paid for life to a member's or retired member's surviving spouse;

B. the member may designate, in writing in a form prescribed by the association, a survivor beneficiary to receive the survivor's pension described in this section. If the member is married, a designation of survivor beneficiary other than the member's spouse or a supplemental needs trust to which the spouse is a beneficiary may only be made with the written consent of the member's spouse. Marriage subsequent to a designation of survivor beneficiary shall automatically revoke the designation of survivor beneficiary. A designation of survivor beneficiary made pursuant to a court order issued under Section 10-12C-7 NMSA 1978 shall not require the consent of the member's spouse, if any, and shall not be revoked by the subsequent remarriage of the member. A designation of survivor beneficiary may be revoked by the member at any time prior to the member's retirement. If the member is married, a revocation of designation of survivor beneficiary may only be made with the written consent of the member's spouse;

C. if there is no surviving spouse and no designated survivor beneficiary or if the surviving spouse dies while there are still minor and dependent children of the member, the survivor's pension shall be paid to all minor and dependent children, if any, of the member, in equal shares, so long as each child remains a minor or dependent child. As each child ceases to be a minor or dependent child, the number of shares shall be reduced and the amount payable to each remaining child increased proportionately so that the total survivor's pension remains unchanged as long as there is any such child;

D. the survivor's pension is equal to seventy-five percent of the member's pension;

E. survivor beneficiaries shall be eligible for other benefits provided pursuant to the provisions of the Magistrate Retirement Act, including cost-of-living adjustments and continuation of group insurance benefits; and

F. if a member dies while receiving a disability retirement pension, the survivor beneficiary shall receive the survivor pension provided pursuant to the provisions of the Magistrate Retirement Act."

## **Chapter 156 Section 14 Laws 2023**

SECTION 14. Section 10-12C-13.1 NMSA 1978 (being Laws 2014, Chapter 39, Section 11 and Laws 2014, Chapter 43, Section 11) is amended to read:

"10-12C-13.1. ELECTION FORM OF PENSION.--For a member whose initial term in office begins on or after July 1, 2014, except as otherwise provided in Section 10-12C-7 NMSA 1978:

A. the member may elect to have pension payments made under any one of the forms of payment provided in Section 10-12C-13.2 NMSA 1978. The election of form of payment and naming of survivor pension beneficiary shall be made on a form furnished by and filed with the association prior to the date the first pension payment is made. An election of form of payment may not be changed after the date the first pension payment is made. If the member is married, the association shall require the consent of the member's spouse to the election of the form of payment and any designation of survivor pension beneficiary before the election or designation is effective. Except as provided in Subsection C, D or E of this section, a named survivor pension beneficiary may not be changed after the date the first pension payment is made if form of payment B or C is elected. Except as otherwise provided in Section 10-12C-7 NMSA 1978, payment shall be made:

(1) under form of payment A if the member is not married at the time of retirement and if there is not a timely election of another form of payment; or

(2) under form of payment C with the member's spouse as survivor pension beneficiary if the member is married at the time of retirement and there is not a timely election of another form of payment;

B. the amount of pension under forms of payment B, C and D shall have the same actuarial present value, computed as of the effective date of the pension, as the amount of pension under form of payment A;

C. if the member is a retired member who is being paid a pension under form of payment B or C with the member's spouse or a supplemental needs trust to which the spouse is a beneficiary as the designated survivor pension beneficiary, the retired member may, upon becoming divorced from the named spouse and subject to an order

of a court as provided for in Section 10-12C-7 NMSA 1978, elect to have future payments made under form of payment A;

D. if the member is retired and was previously being paid a pension under form of payment B or C but, because of the death of the designated survivor pension beneficiary or the death of the beneficiary of a supplemental needs trust or the termination of that trust, is currently receiving a pension under form of payment A, the retired member may exercise a one-time irrevocable option to designate another survivor pension beneficiary and may select either form of payment B or form of payment C; provided that:

(1) the amount of the pension under the form of payment selected shall be recalculated and have the same actuarial present value, computed on the effective date of the designation, as the amount of pension under form of payment A;

(2) the designation and the amount of the pension shall be subject to a court order as provided for in Section 10-12C-7 NMSA 1978; and

(3) the retired member shall pay one hundred dollars (\$100) to the board to defray the cost of determining the new pension amount; and

E. if the member is a retired member who is being paid a pension under form of payment B or C with a living or operating designated survivor pension beneficiary other than the retired member's spouse or former spouse or the supplemental needs trust of the retired member's spouse or former spouse, the retired member may exercise a one-time irrevocable option to deselect the designated beneficiary and elect to:

(1) designate another survivor pension 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 pension 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 pension under form of payment A; and

(c) the retired member shall pay one hundred dollars (\$100) to the board to defray the cost of determining the new pension amount; or

(2) have future payments made under form of payment A."

## **Chapter 156 Section 15 Laws 2023**

SECTION 15. Section 10-12C-13.2 NMSA 1978 (being Laws 2014, Chapter 39, Section 12 and Laws 2014, Chapter 43, Section 12) is amended to read:

## "10-12C-13.2. FORM OF PENSION PAYMENT.--

A. Straight life pension is form of payment A. The retired member is paid the pension for life under form of payment A. All payments stop upon the death of the retired member, except as provided by Subsection E of this section. The amount of pension is determined in accordance with the coverage plan applicable to the retired member.

B. Life payments with full continuation to one survivor beneficiary is form of payment B. The retired member is paid a reduced pension for life under form of payment B. When the retired member dies, the designated survivor beneficiary is paid the full amount of the reduced pension until death or in the event that a supplemental needs trust is the designated survivor beneficiary, the termination of that trust or the death of the beneficiary of that trust. If the designated survivor beneficiary or the beneficiary of a supplemental needs trust predeceases the retired member or if the supplemental needs trust terminates while the retired member is living, the amount of pension shall be changed to the amount that would have been payable had the retired member elected form of payment A.

C. Life payment with one-half continuation to one survivor beneficiary is form of payment C. The retired member is paid a reduced pension for life under form of payment C. When the retired member dies, the designated survivor beneficiary is paid one-half the amount of the reduced pension until death or in the event that a supplemental needs trust is the designated survivor beneficiary, the termination of that trust or the death of the beneficiary of that trust. If the designated survivor beneficiary or the beneficiary of a supplemental needs trust predeceases the retired member or if the supplemental needs trust terminates while the retired member is living, the amount of pension shall be changed to the amount that would have been payable had the retired member elected form of payment A.

D. Life payments with temporary survivor benefits for children is form of payment D. The retired member is paid a reduced pension for life under form of payment D. When the retired member dies, each declared eligible child is paid a share of the reduced pension until death or age twenty-five years, whichever occurs first. The share is the share specified in writing and filed with the association by the retired member. If shares are not specified in writing and filed with the association, each declared eligible child is paid an equal share of the reduced pension. A redetermination of shares shall be made when the pension of any child terminates. An eligible child is a natural or adopted child of the retired member who is under age twenty-five years. A declared eligible child is an eligible child whose name has been declared in writing and filed with the association by the retired member at the time of election of form of payment D. The amount of pension shall be changed to the amount of pension that would have been payable had the retired member elected form of payment A upon there ceasing to be a declared eligible child during the lifetime of the retired member.

E. If all pension payments permanently terminate before there is paid an aggregate amount equal to the retired member's accumulated member contributions at the time of retirement, the difference between the amount of accumulated member contributions and the aggregate amount of pension paid shall be paid to the retired member's refund beneficiary. If no refund beneficiary survives the retired member, the difference shall be paid to the estate of the retired member."

## **Chapter 156 Section 16 Laws 2023**

SECTION 16. Section 10-12C-13.3 NMSA 1978 (being Laws 2014, Chapter 39, Section 13 and Laws 2014, Chapter 43, Section 13) is amended to read:

"10-12C-13.3. DEATH BEFORE RETIREMENT--SURVIVOR PENSION.--For a member whose initial term in office begins on or after July 1, 2014:

A. a survivor pension may be paid to certain persons related to or designated by a member who dies before normal or disability retirement if a written application for the pension, in the form prescribed by the association, is filed with the association by the potential survivor beneficiary or beneficiaries within one year of the death of the member. Applications may be filed on behalf of the potential survivor beneficiary or beneficiaries or by a person legally authorized to represent them;

B. if there is no designated survivor beneficiary and the board finds the death to have been the natural and proximate result of causes arising solely and exclusively out of and in the course of the member's performance of duty while in office, a survivor pension shall be payable to the eligible surviving spouse. The amount of the survivor pension shall be the greater of:

(1) the amount as calculated pursuant to the Magistrate Retirement Act and applicable to the deceased member at the time of death as though the deceased member had retired the day preceding death under form of payment B using the actual amount of service credit attributable to the deceased member at the time of death; or

(2) fifty percent of the deceased member's final average salary;

C. a survivor pension shall also be payable to eligible surviving children if there is no designated survivor beneficiary and the board finds the death to have been the natural and proximate result of causes arising solely and exclusively out of and in the course of the member's performance of duty while in office. The total amount of survivor pension payable for all eligible surviving children shall be either:

(1) fifty percent of the deceased member's final average salary if an eligible surviving spouse is not paid a pension; or

(2) twenty-five percent of the deceased member's final average salary if an eligible surviving spouse is paid a pension.

The total amount of survivor pension shall be divided equally among all eligible surviving children. If there is only one eligible child, the amount of pension shall be twenty-five percent of the deceased member's final average salary;

D. if the member had the applicable minimum number of years of service credit required for normal retirement but the board did not find the death to have been the natural and proximate result of causes arising solely and exclusively out of and in the course of the member's performance of duty while in office and there is no designated survivor beneficiary, a survivor pension shall be payable to the eligible surviving spouse. The amount of the survivor pension shall be the greater of:

(1) the amount as calculated under the coverage plan applicable to the deceased member at the time of death as though the deceased member had retired the day preceding death under form of payment B using the total amount of actual service credit attributable to the deceased member at the time of death; or

(2) thirty percent of the deceased member's final average salary;

E. if the member had the applicable minimum number of years of service credit required for normal retirement but the board did not find the death to have been the natural and proximate result of causes arising solely and exclusively out of and in the course of the member's performance of duty while in office and there is no designated survivor beneficiary, and if there is no eligible surviving spouse at the time of death, a survivor pension shall be payable to and divided equally among all eligible surviving children, if any. The total amount of survivor pension payable for all eligible surviving children shall be the greater of:

(1) the amount as calculated under the coverage plan applicable to the deceased member at the time of death as though the deceased member had retired the day preceding death under form of payment B with the oldest eligible surviving child as the survivor beneficiary using the total amount of actual service credit attributable to the deceased member at the time of death; or

(2) thirty percent of the deceased member's final average salary;

F. an eligible surviving spouse is the spouse to whom the deceased member was married at the time of death. An eligible surviving child is a child under the age of eighteen years and who is an unmarried, natural or adopted child of the deceased member;

G. an eligible surviving spouse's pension shall terminate upon death. An eligible surviving child's pension shall terminate upon death or marriage or reaching age eighteen years, whichever comes first;

H. if there is no designated survivor beneficiary and there is no eligible surviving child, the eligible surviving spouse may elect to be refunded the deceased member's accumulated member contributions instead of receiving a survivor pension;

I. a member may designate a survivor beneficiary to receive a pre-retirement survivor pension, subject to the following conditions:

(1) a written designation, in the form prescribed by the association, is filed by the member with the association;

(2) if the member is married at the time of designation, the designation shall only be made with the consent of the member's spouse, in the form prescribed by the association;

(3) if the member is married subsequent to the time of designation, any prior designations shall automatically be revoked upon the date of the marriage;

(4) if the member is divorced subsequent to the time of designation, any prior designation of the former spouse or a supplemental needs trust to which the spouse is a beneficiary as survivor beneficiary shall automatically be revoked upon the date of divorce; and

(5) a designation of survivor beneficiary may be changed, with the member's spouse's consent if the member is married, by the member at any time prior to the member's death;

J. if there is a designated survivor beneficiary and the board finds the death to have been the natural and proximate result of causes arising solely and exclusively out of and in the course of the member's performance of duty while in office, a survivor pension shall be payable to the designated survivor beneficiary. The amount of the survivor pension shall be the greater of:

(1) the amount as calculated under the coverage plan applicable to the deceased member at the time of death as though the deceased member had retired the day preceding death under form of payment B using the actual amount of service credit attributable to the member at the time of death; or

(2) fifty percent of the deceased member's final average salary;

K. if there is a designated survivor beneficiary, if the member had the applicable minimum number of years of service credit required for normal retirement and if the board did not find the death to have been the natural and proximate result of causes arising solely and exclusively out of and in the course of the member's performance of duty while in office, a survivor pension shall be payable to the designated survivor beneficiary. The amount of the survivor pension shall be the greater of:

(1) the amount as calculated under the coverage plan applicable to the deceased member at the time of death as though the deceased member had retired the day preceding death under form of payment B using the actual amount of service credit attributable to the member at the time of death; or

(2) thirty percent of the deceased member's final average salary;

L. if all pension payments permanently terminate before there is paid an aggregate amount equal to the deceased member's accumulated member contributions at time of death, the difference between the amount of accumulated member contributions and the aggregate amount of pension paid shall be paid to the deceased member's refund beneficiary. If no refund beneficiary survives the survivor beneficiary, the difference shall be paid to the estate of the deceased member; and

M. for purposes of this section, "service credit" means only the service credit earned by a member during periods in office as a magistrate."

## **Chapter 156 Section 17 Laws 2023**

SECTION 17. Section 22-11-2 NMSA 1978 (being Laws 1967, Chapter 16, Section 126, as amended) is amended to read:

"22-11-2. DEFINITIONS.--As used in the Educational Retirement Act:

A. "member" means an employee, except for a participant or a retired member, coming within the provisions of the Educational Retirement Act;

B. "regular member" means:

(1) a person regularly employed by a state educational institution, except for:

(a) a participant; or

(b) all employees of a general hospital or outpatient clinics thereof operated by a state educational institution named in Article 12, Section 11 of the constitution of New Mexico;

(2) a person regularly employed by a junior college or community college created pursuant to Chapter 21, Article 13 NMSA 1978, except for a participant;

(3) a person regularly employed by a technical and vocational institute created pursuant to the Technical and Vocational Institute Act, except for a participant;

(4) a person regularly employed by the New Mexico boys' school, the girls' welfare home, the Los Lunas medical center or a school district or as a licensed

school employee of a state institution or agency providing an educational program and holding a license issued by the department, except for a participant;

(5) a person regularly employed by the department holding a license issued by the department at the time of commencement of such employment;

(6) a member classified as a regular member in accordance with the rules of the board;

(7) a person regularly employed by the New Mexico activities association holding a license issued by the department at the time of commencement of such employment; or

(8) a person regularly employed by a regional education cooperative holding a license issued by the department at the time of commencement of such employment;

C. "provisional member" means a person described in Section 22-11-17 NMSA 1978;

D. "local administrative unit" means an employing agency however constituted that is directly responsible for the payment of compensation for the employment of members or participants;

E. "beneficiary" means a supplemental needs trust or a natural person having an insurable interest in the life of a member or a participant designated by written instrument duly executed by the member or participant and filed with the director to receive a benefit pursuant to the Educational Retirement Act that may be received by someone other than the member or participant;

F. "employment" means employment by a local administrative unit that qualifies a person to be a member or participant;

G. "service employment" means employment that qualifies a person to be a regular member;

H. "provisional service employment" means employment that qualifies a person to be a provisional member;

I. "prior employment" means employment performed prior to the effective date of the Educational Retirement Act that would be service employment or provisional service employment if performed thereafter;

J. "service credit" means that period of time with which a member is accredited for the purpose of determining the member's eligibility for and computation of retirement or disability benefits;

K. "earned service credit" means that period of time during which a member was engaged in employment or prior employment with which the member is accredited for the purpose of determining the member's eligibility for retirement or disability benefits;

L. "allowed service credit" means that period of time during which a member has performed certain nonservice employment with which the member may be accredited, as provided in the Educational Retirement Act, for the purpose of computing retirement or disability benefits;

M. "retirement benefit" means an annuity paid monthly to members whose employment has been terminated by reason of their age;

N. "disability benefit" means an annuity paid monthly to members whose employment has been terminated by reason of a disability;

O. "board" means the educational retirement board;

P. "fund" means the educational retirement fund;

Q. "director" means the educational retirement director;

R. "medical authority" means a medical doctor or medical review panel designated or employed by the board to examine medical records and report on the medical condition of applicants for or recipients of disability benefits;

S. "actuary" means a person trained and regularly engaged in the occupation of calculating present and projected monetary assets and liabilities under annuity or insurance programs;

T. "actuarial equivalent" means a sum paid as a current or deferred benefit that is equal in value to a regular benefit, computed upon the basis of interest rates and mortality tables;

U. "contributory employment" means employment for which contributions have been made by both a member and a local administrative unit pursuant to the Educational Retirement Act;

V. "qualifying state educational institution" means the university of New Mexico, New Mexico state university, New Mexico institute of mining and technology, New Mexico highlands university, eastern New Mexico university, western New Mexico university, central New Mexico community college, Clovis community college, Luna community college, Mesalands community college, New Mexico junior college, northern New Mexico state school, San Juan college and Santa Fe community college;

W. "participant" means:

(1) a person regularly employed as a faculty or professional employee of the university of New Mexico, New Mexico state university, New Mexico institute of mining and technology, New Mexico highlands university, eastern New Mexico university or western New Mexico university who first becomes employed with such an educational institution on or after July 1, 1991, or a person regularly employed as a faculty or professional employee of the central New Mexico community college, Clovis community college, Luna community college, Mesalands community college, New Mexico junior college, northern New Mexico state school, San Juan college or Santa Fe community college who is first employed by the institution on or after July 1, 1999 and who elects, pursuant to Section 22-11-47 NMSA 1978, to participate in the alternative retirement plan; and

(2) a person regularly employed who performs research or other services pursuant to a contract between a qualifying state educational institution and the United States government or any of its agencies who elects, pursuant to Section 22-11-47 NMSA 1978, to participate in the alternative retirement plan; provided that the research or other services are performed outside the state;

X. "salary" means the compensation or wages paid to a member or participant by any local administrative unit for services rendered. "Salary" includes payments made for annual or sick leave and payments for additional service provided to related activities, but does not include payments for sick leave not taken unless the payment for the unused sick leave is made through continuation of the member on the regular payroll for the period represented by that payment and does not include allowances or reimbursements for travel, housing, food, equipment or similar items;

Y. "alternative retirement plan" means the retirement plan provided for in Sections 22-11-47 through 22-11-52 NMSA 1978;

Z. "retired member" means a person whose employment has been terminated by reason of age and who is receiving or is eligible to receive retirement benefits; and

AA. "supplemental needs trust" means a valid third-party irrevocable trust that is authorized by the federal Social Security Act, as amended, for the sole benefit and lifetime of a trust beneficiary who is disabled and is created for the purpose of providing, accounting for or receiving supplemental assets that do not supplant, impair or diminish any benefits or assistance of any federal, state or other government entity for which the beneficiary would otherwise be eligible."

## **Chapter 156 Section 18 Laws 2023**

SECTION 18. Section 22-11-15 NMSA 1978 (being Laws 1967, Chapter 16, Section 139, as amended) is amended to read:

"22-11-15. FUND--REFUNDS--PAYMENTS.--

A. After filing written demand with the director, a member is entitled to a refund of the total amount of the member's contributions plus interest at a rate set by the board, reduced by the sum of any disability benefits previously received by the member, if:

(1) the member terminates employment for reasons other than by retirement, disability or death;

(2) the member has been exempted from the Educational Retirement Act; or

(3) the member was not reemployed following a period of disability during which the member received disability benefits.

B. The director may, at the request of a member, make payment on behalf of the member for any or all of the refund to an individual retirement account or a qualified retirement plan that accepts rollovers.

C. If the amount of a deceased member's contribution or residual contribution does not exceed the sum of one thousand dollars (\$1,000) and no written claim is made to the board for it within one year from the date of the member's death, by the member's surviving beneficiary or the member's estate, payment thereof may be made to the named beneficiary or, if none is named, to the person the board determines to be entitled to the contribution under the laws of New Mexico. Any payment made by the board pursuant to this subsection shall be a bar to a claim by any other person or entity.

D. The interest provided for in Subsection A of this section shall apply only to contributions paid to the fund after July 1, 1971 and on deposit in the fund for a period of at least one fiscal year; provided that no such interest shall be allowed on refunds of contributions that were paid into the fund prior to July 1, 1971."

## **Chapter 156 Section 19 Laws 2023**

SECTION 19. 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 or in the event that a supplemental needs trust is the designated beneficiary, the life of the member and the beneficiary of that trust.

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 or the supplemental needs trust terminates while the retired member is living, 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 or the beneficiary of a supplemental needs trust that is the named beneficiary dies or that trust otherwise terminates 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 or the death of the beneficiary of a supplemental needs trust or the termination of that trust may exercise a one-time irrevocable option to designate another 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 or operating designated beneficiary other than the retired member's spouse or former spouse or the supplemental needs trust of 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 or in the event that a supplemental needs trust is the designated survivor beneficiary, the termination of that trust or the death of the beneficiary of that trust 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."

## **Chapter 156 Section 20 Laws 2023**

SECTION 20. Section 22-11-53 NMSA 1978 (being Laws 1998, Chapter 38, Section 2) is amended to read:

"22-11-53. CORRECTION OF ERRORS AND OMISSIONS-- ESTOPPEL.--

A. If an error or omission in an application for retirement or its supporting documents results in an overpayment to a member or the beneficiary of a member, the board shall correct the error or omission and adjust all future payments accordingly. The board shall recover all overpayments that are made.

B. A member or the beneficiary of a member who is paid more than the amount owed because that member or beneficiary provided fraudulent information on the application for retirement shall be liable for the repayment of that amount to the fund, interest on that amount at the rate set by the board and costs of collection, including attorney fees. Recovery of overpayments shall extend back to the date of the first payment that was made based on fraudulent information.

C. The board shall not be estopped from acting in accordance with applicable statutes because of statements of fact or law made by the board or its employees."

## **LAWS 2023, CHAPTER 157**

**House Bill 353, w/ec**  
**Approved April 5, 2023**

### **AN ACT**

RELATING TO FINANCE; AUTHORIZING THE ISSUANCE OF BONDS SECURED BY A STATE GROSS RECEIPTS TAX INCREMENT FOR THE SOUTH CAMPUS TAX INCREMENT DEVELOPMENT DISTRICT; DECLARING AN EMERGENCY.

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

### **Chapter 157 Section 1 Laws 2023**

SECTION 1. AUTHORIZATION OF ISSUANCE OF BONDS.--The legislature authorizes the issuance of bonds not to exceed two hundred sixty-seven million dollars (\$267,000,000) in net proceeds as adjusted for inflation, secured by tax increments authorized pursuant to the Tax Increment for Development Act to be pledged to pay the principal of and interest on the bonds, including a gross receipts tax increment attributed to the imposition of the state gross receipts tax within the south campus tax increment development district, subject to the review and approval by the New Mexico finance authority of:

- A. the master indenture prior to issuance of any bonds; and
- B. any amendments to the master indenture prior to issuance of any bonds after any amendments are made.

### **Chapter 157 Section 2 Laws 2023**

SECTION 2. DURATION OF AUTHORIZATION.--The duration of the authorization for issuance of bonds in this act shall be twenty-five years from the date of issuance of the first series of tax increment bonds of the district, unless and until this act is repealed or modified by the legislature.

### **Chapter 157 Section 3 Laws 2023**

SECTION 3. CERTAIN CAPITAL PROJECTS PROHIBITED.--

- A. The legislature shall not approve or authorize any capital outlay projects within the south campus tax increment development district during the period in which

any bonds issued by the district pursuant to Section 1 of this act are outstanding, except for buildings, facilities or infrastructure that are owned by the state or one of its agencies, institutions or political subdivisions and that are:

- (1) public school buildings or facilities;
- (2) higher education buildings or facilities;
- (3) cultural buildings or facilities;
- (4) buildings, facilities or infrastructure used for public safety; or
- (5) buildings, facilities or infrastructure used for other public purposes.

B. Nothing in this section prohibits the legislature from authorizing expenditures pursuant to law for economic development projects within the south campus tax increment development district during the period in which tax increment development bonds are outstanding.

### **Chapter 157 Section 4 Laws 2023**

SECTION 4. REDUCTION IN STATE GROSS RECEIPTS TAX REVENUE.--  
Once the developer of the south campus tax increment development project has been fully reimbursed, regardless of the source of reimbursement, for the costs of eligible infrastructure, the south campus tax increment development district shall provide to the state board of finance the estimated amount of state gross receipts tax increment revenue required to pay the debt service on the district's outstanding bonds and to meet any required debt-service coverage and reserve requirements specified in the master indenture for any bonds payable from the state gross receipts tax increment. The board shall:

- A. review that estimate;
- B. determine:
  - (1) the reduced amount of state gross receipts tax increment revenue necessary each year to meet those requirements; and
  - (2) the reduction to the percentage of dedicated state gross receipts tax increment revenue corresponding to that reduced amount; and
- C. notify the taxation and revenue department of the amount of that reduction, which shall take effect as soon as practicable after notification.

## **Chapter 157 Section 5 Laws 2023**

SECTION 5. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

## **LAWS 2023, CHAPTER 158**

**House Bill 366**

**Approved April 5, 2023**

AN ACT

RELATING TO MOTOR VEHICLES; AMENDING SECTION 66-3-412 NMSA 1978 (BEING LAWS 1979, CHAPTER 299, SECTION 2, AS AMENDED) TO ALLOW THE ISSUANCE OF ADDITIONAL DISABLED VETERAN SPECIAL VEHICLE REGISTRATION PLATES IN EXCESS OF THE TWO PLATES PROVIDED TO QUALIFIED PERSONS WITHOUT A FEE, PROVIDED THAT THE QUALIFIED PERSON PAYS THE STANDARD PLATE AND REGISTRATION FEES FOR THE ADDITIONAL REGISTRATION PLATES.

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

## **Chapter 158 Section 1 Laws 2023**

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 disabled veteran 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. The department shall issue additional disabled veteran special registration plates in excess of the two plates issued without a fee pursuant to Subsection A of this section to a person who is qualified to receive disabled veteran special registration plates; provided that the person shall pay the standard plate and registration fees for the additional registration plates.

C. 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.

D. A person who violates the provisions of Subsection B of this section is guilty of a misdemeanor.

E. 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."

## **LAWS 2023, CHAPTER 159**

**House Bill 368, aa**  
**Approved April 5, 2023**

### AN ACT

RELATING TO TAXATION; CONVERTING A CERTAIN EXEMPTION TO A CREDIT FOR PASS-THROUGH ENTITIES THAT ELECT TO PAY AN ENTITY-LEVEL TAX; AMENDING THE DEFINITIONS OF "BASE INCOME" AND "NET INCOME" IN THE INCOME TAX ACT.

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

### **Chapter 159 Section 1 Laws 2023**

SECTION 1. Section 7-2-2 NMSA 1978 (being Laws 1986, Chapter 20, Section 26, as amended) is amended to read:

"7-2-2. DEFINITIONS.--For the purpose of the Income Tax Act and unless the context requires otherwise:

A. "adjusted gross income" means adjusted gross income as defined in Section 62 of the Internal Revenue Code, as that section may be amended or renumbered;

B. "base income":

(1) means, for estates and trusts, that part of the estate's or trust's income defined as taxable income and upon which the federal income tax is calculated in the Internal Revenue Code for income tax purposes plus:

(a) for taxable years beginning on or after January 1, 1991, the amount of the net operating loss deduction allowed by Section 172(a) of the Internal Revenue Code, as that section may be amended or renumbered, and taken by the taxpayer for that year; and

(b) for taxable years beginning on or after January 1, 2023, an amount equal to the amount of credit claimed and allowed for that year pursuant to Section 7-3A-10 NMSA 1978 with respect to the distributed net income of a pass-through entity;

(2) means, for taxpayers other than estates or trusts, that part of the taxpayer's income defined as adjusted gross income plus:

(a) for taxable years beginning on or after January 1, 1991, the amount of the net operating loss deduction allowed by Section 172(a) of the Internal Revenue Code, as that section may be amended or renumbered, and taken by the taxpayer for that year; and

(b) for taxable years beginning on or after January 1, 2023, an amount equal to the amount of credit claimed and allowed for that year pursuant to Section 7-3A-10 NMSA 1978 with respect to the distributed net income of a pass-through entity;

(3) includes, for all taxpayers, any other income of the taxpayer not included in adjusted gross income but upon which a federal tax is calculated pursuant to the Internal Revenue Code for income tax purposes, except amounts for which a calculation of tax is made pursuant to Section 55 of the Internal Revenue Code, as that section may be amended or renumbered; "base income" also includes interest received on a state or local bond;

(4) includes, for all taxpayers, an amount deducted pursuant to Section 7-2-32 NMSA 1978 in a prior taxable year if:

(a) such amount is transferred to another qualified tuition program, as defined in Section 529 of the Internal Revenue Code, not authorized in the Education Trust Act; or

(b) a distribution or refund is made for any reason other than: 1) to pay for qualified higher education expenses, as defined pursuant to Section 529 of

the Internal Revenue Code; or 2) upon the beneficiary's death, disability or receipt of a scholarship; and

(5) excludes, for a taxpayer who conducts a lawful business pursuant to the laws of the state, an amount equal to any expenditure that is eligible to be claimed as a federal income tax deduction but is disallowed by Section 280E of the Internal Revenue Code, as that section may be amended or renumbered;

C. "compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services;

D. "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;

E. "fiduciary" means a guardian, trustee, executor, administrator, committee, conservator, receiver, individual or corporation acting in any fiduciary capacity;

F. "filing status" means "married filing joint returns", "married filing separate returns", "head of household", "surviving spouse" and "single", as those terms are generally defined for federal tax purposes;

G. "fiscal year" means any accounting period of twelve months ending on the last day of any month other than December;

H. "head of household" means "head of household" as generally defined for federal income tax purposes;

I. "individual" means a natural person, an estate, a trust or a fiduciary acting for a natural person, trust or estate;

J. "Internal Revenue Code" means the United States Internal Revenue Code of 1986, as amended;

K. "lump-sum amount" means, for the purpose of determining liability for federal income tax, an amount that was not included in adjusted gross income but upon which the five-year-averaging or the ten-year-averaging method of tax computation provided in Section 402 of the Internal Revenue Code, as that section may be amended or renumbered, was applied;

L. "modified gross income" means all income of the taxpayer and, if any, the taxpayer's spouse and dependents, undiminished by losses and from whatever source, including:

(1) compensation;

- (2) net profit from business;
- (3) gains from dealings in property;
- (4) interest;
- (5) net rents;
- (6) royalties;
- (7) dividends;
- (8) alimony and separate maintenance payments;
- (9) annuities;
- (10) income from life insurance and endowment contracts;
- (11) pensions;
- (12) discharge of indebtedness;
- (13) distributive share of partnership income;
- (14) income in respect of a decedent;
- (15) income from an interest in an estate or a trust;
- (16) social security benefits;
- (17) unemployment compensation benefits;
- (18) workers' compensation benefits;
- (19) public assistance and welfare benefits;
- (20) cost-of-living allowances; and
- (21) gifts;

M. "modified gross income" excludes:

- (1) payments for hospital, dental, medical or drug expenses to or on behalf of the taxpayer;

(2) the value of room and board provided by federal, state or local governments or by private individuals or agencies based upon financial need and not as a form of compensation;

(3) payments pursuant to a federal, state or local government program directly or indirectly to a third party on behalf of the taxpayer when identified to a particular use or invoice by the payer; or

(4) payments for credits and rebates pursuant to the Income Tax Act and made for a credit pursuant to Section 7-3-9 NMSA 1978;

N. "net income" means, for estates and trusts, base income adjusted to exclude amounts that the state is prohibited from taxing because of the laws or constitution of this state or the United States and means, for taxpayers other than estates or trusts, base income adjusted to exclude:

(1) an amount equal to the standard deduction allowed the taxpayer for the taxpayer's taxable year by Section 63 of the Internal Revenue Code, as that section may be amended or renumbered;

(2) an amount equal to the itemized deductions defined in Section 63 of the Internal Revenue Code, as that section may be amended or renumbered, allowed the taxpayer for the taxpayer's taxable year less the amount excluded pursuant to Paragraph (1) of this subsection and less the amount of state and local income and sales taxes included in the taxpayer's itemized deductions;

(3) an amount equal to the product of the exemption amount allowed for the taxpayer's taxable year by Section 151 of the Internal Revenue Code, as that section may be amended or renumbered, multiplied by the number of personal exemptions allowed for federal income tax purposes;

(4) income from obligations of the United States of America less expenses incurred to earn that income;

(5) other amounts that the state is prohibited from taxing because of the laws or constitution of this state or the United States;

(6) for taxable years beginning on or after January 1, 2013, an amount equal to the sum of any net operating loss carryover deductions to that year claimed and allowed; provided that the amount of any net operating loss carryover may be excluded only as follows:

(a) in the case of a timely filed return, in the taxable year immediately following the taxable year for which the return is filed; or

(b) in the case of amended returns or original returns not timely filed, in the first taxable year beginning after the date on which the return or amended return establishing the net operating loss is filed; and

(c) in either case, if the net operating loss carryover exceeds the amount of net income exclusive of the net operating loss carryover for the taxable year to which the exclusion first applies, in the next nineteen succeeding taxable years in turn until the net operating loss carryover is exhausted for any net operating loss carryover from a taxable year beginning on or after January 1, 2013; in no event shall a net operating loss carryover from a taxable year beginning: 1) prior to January 1, 2013 be excluded in any taxable year after the fourth taxable year beginning after the taxable year to which the exclusion first applies; and 2) on or after January 1, 2013 be excluded in any taxable year after the nineteenth taxable year beginning after the taxable year to which the exclusion first applies; and

(7) for taxable years beginning on or after January 1, 2011, an amount equal to the amount included in adjusted gross income that represents a refund of state and local income and sales taxes that were deducted for federal tax purposes in taxable years beginning on or after January 1, 2010;

O. "net operating loss" means any net operating loss, as defined by Section 172(c) of the Internal Revenue Code, as that section may be amended or renumbered, for a taxable year as further increased by the income, if any, from obligations of the United States for that year less related expenses;

P. "net operating loss carryover" means the amount, or any portion of the amount, of a net operating loss for any taxable year that, pursuant to Paragraph (6) of Subsection N of this section, may be excluded from base income;

Q. "nonresident" means every individual not a resident of this state;

R. "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;

S. "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, 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 Income Tax Act for periods after that change of abode;

T. "secretary" means the secretary of taxation and revenue or the secretary's delegate;

U. "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 any political subdivision of a foreign country;

V. "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;

W. "surviving spouse" means "surviving spouse" as generally defined for federal income tax purposes;

X. "taxable income" means net income less any lump-sum amount;

Y. "taxable year" means the calendar year or fiscal year upon the basis of which the net income is computed under the Income Tax Act and includes, in the case of the return made for a fractional part of a year under the provisions of the Income Tax Act, the period for which the return is made; and

Z. "taxpayer" means any individual subject to the tax imposed by the Income Tax Act."

## **Chapter 159 Section 2 Laws 2023**

SECTION 2. Section 7-2-13 NMSA 1978 (being Laws 1965, Chapter 202, Section 11, as amended) is amended to read:

### **"7-2-13. CREDIT FOR TAXES PAID OTHER STATES BY RESIDENT INDIVIDUALS.--**

A. When a resident individual is liable to another state for tax upon income derived from sources outside this state but also included in net income under the Income Tax Act as income allocated or apportioned to New Mexico pursuant to Section 7-2-11 NMSA 1978, the individual, upon filing with the secretary satisfactory evidence of the payment of the tax to the other state, shall receive a credit against the tax due this state in the amount of the tax paid the other state with respect to income that is required to be either allocated or apportioned to New Mexico. However, in no case shall the credit exceed the amount of the taxpayer's New Mexico income tax liability on that portion of income that is required to be either allocated or apportioned to New Mexico on which the tax payable to the other state was determined. The credit provided by this section does not apply to or include income taxes paid to any municipality, county or other political subdivision of a state.

B. The credit allowed pursuant to Subsection A of this section shall be calculated without regard to the credit allowed pursuant to Section 7-3A-10 NMSA 1978."

## **Chapter 159 Section 3 Laws 2023**

SECTION 3. Section 7-3A-10 NMSA 1978 (being Laws 2022, Chapter 46, Section 3) is amended to read:

### "7-3A-10. ELECTION OF ENTITY-LEVEL TAX--CREDIT.--

A. A pass-through entity may elect on an annual basis to pay a tax at the entity level for a taxable year. The tax that may elected to be paid pursuant to this section may be referred to as the "entity-level tax".

B. A pass-through entity electing to pay the entity-level tax shall make the election by filing a complete entity-level tax return with the department in the form and manner as prescribed by the department. The election shall be binding on all owners of the electing pass-through entity. The return shall be filed no later than the original or extended due date of the entity's federal partnership or S corporation return for the taxable year. Payment of the entity-level tax shall accompany or precede the filing of the return.

C. The entity-level tax is imposed on the distributed net income of the pass-through entity for the taxable year. The rate of entity-level tax is equal to the higher of the maximum tax rate imposed pursuant to Section 7-2-7 NMSA 1978 or the maximum tax rate imposed pursuant to Section 7-2A-5 NMSA 1978 for the taxable year.

D. Distributed net income of a pass-through entity shall equal the amount allocated and apportioned to New Mexico pursuant to the Uniform Division of Income for Tax Purposes Act from the following:

(1) the total income of the pass-through entity properly reported for federal income tax purposes plus, for partnerships, the amount of guaranteed payments other than premiums for health insurance paid by the partnership on behalf of a partner, less the net income or guaranteed payments properly allocated or made to:

(a) the United States, this state or a political subdivision of either;

(b) a federally recognized Indian nation, tribe or pueblo located wholly or partially in New Mexico, or any political subdivision thereof;

(c) an organization that 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 Internal Revenue Code;

(d) a corporate partner that would properly include the income in the partner's New Mexico tax return as part of the partner's unitary business income; or

(e) a pass-through entity that is an owner of the electing pass-through entity; and

(2) less the amount of net capital gains that may be deducted pursuant to Section 7-2-34 NMSA 1978 and is properly allocated to owners who are subject to tax pursuant to the Income Tax Act.

E. A net operating loss shall not be included in the distributed net income calculated pursuant to Subsection D of this section but may be carried forward until exhausted.

F. Pass-through entities electing to pay the entity-level tax shall make estimated payments of the tax on forms and in the manner as determined by the department. Amounts remitted pursuant to Subsection B of Section 7-3A-3 NMSA 1978 by entities electing to pay the entity-level tax shall be deemed payments of estimated entity-level tax.

G. If, for a taxable year, the sum of the estimated payments of tax made by a pass-through entity pursuant to Subsection F of this section exceeds the amount of entity-level tax owed, the pass-through entity may apply for a refund of the difference. If, for a taxable year, the entity-level tax owed by a pass-through entity exceeds the sum of the estimated payments made by the pass-through entity, the pass-through entity shall remit the difference on or before the date the pass-through entity's entity-level tax is due.

H. An owner of a pass-through entity electing to pay the tax imposed under this section may be allowed a tax credit in an amount equal to the owner's share of the tax; provided that the pass-through entity paid the tax and furnished sufficient information on the pass-through entity's tax return to identify that owner. If the amount of the credit exceeds the amount of the owner's tax liabilities pursuant to the Income Tax Act or the Corporate Income and Franchise Tax Act, the excess shall be refunded to the owner.

I. As used in this section:

(1) "guaranteed payments" means the guaranteed payments described in Section 707(c) of the Internal Revenue Code, as that section may be amended or renumbered;

(2) "net capital gain" means "net capital gain" as defined in Section 1222(11) of the Internal Revenue Code;

(3) "net operating loss" means "net operating loss" as defined in Section 7-2-2 NMSA 1978; and

(4) "pass-through entity" means a partnership or corporation that elects to pass income, losses, deductions and credits through to the entity's owners for federal tax purposes."

### **Chapter 159 Section 4 Laws 2023**

SECTION 4. REPEAL.--Sections 7-2-5.12 and 7-2A-4.1 NMSA 1978 (being Laws 2022, Chapter 46, Sections 1 and 2) are repealed.

### **Chapter 159 Section 5 Laws 2023**

SECTION 5. APPLICABILITY.--The provisions of this act apply to taxable years beginning on or after January 1, 2023.

## **LAWS 2023, CHAPTER 160**

**House Bill 395, aa**  
**Approved April 5, 2023**

### **AN ACT**

RELATING TO LABOR; REQUIRING THE DEPARTMENT OF HEALTH TO COLLECT AND REPORT DEMOGRAPHIC AND COMPENSATION DATA ON DEVELOPMENTAL DISABILITIES DIRECT SUPPORT PROVIDER AGENCY EMPLOYEES; AMENDING A SECTION OF THE DEVELOPMENTAL DISABILITIES ACT REGARDING THE DETERMINATION OF RATES PAID FOR SUPPORT AND SERVICES.

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

### **Chapter 160 Section 1 Laws 2023**

SECTION 1. Section 28-16A-3 NMSA 1978 (being Laws 1993, Chapter 50, Section 3, as amended) is amended to read:

"28-16A-3. DEFINITIONS.--As used in the Developmental Disabilities Act:

A. "assessment" means a process for measuring and determining a person's strengths, needs and preferences to determine eligibility for support and services and to develop or modify an individual support and service plan;

B. "case management" means a process that:

(1) assists a person with a developmental disability to know and understand the person's choices and rights and to obtain support and services that the person is eligible to receive and that are reflected in the individual support and service plan; and

(2) monitors the provision of support and services received by a person with a developmental disability;

C. "comprehensive review and analysis" means the comprehensive review and analysis conducted pursuant to Subsection A of Section 28-16A-7 NMSA 1978;

D. "council" means the developmental disabilities council;

E. "department" means the department of health;

F. "diagnostic evaluation" means an empirical process that determines if, and to what degree, a person has a developmental deficiency and the type of intervention and services that are needed for the person and that person's family;

G. "direct support professional" means a non-administrative employee or subcontractor of a direct support provider agency who spends the majority of the employee's or subcontractor's work hours providing supportive services to individuals with developmental disabilities living and working in the community;

H. "direct support provider agency" means an entity that:

(1) has entered into a medicaid provider participation agreement with the medical assistance division of the human services department and a provider agreement with the department of health;

(2) is reimbursed for services provided to persons through a developmental disabilities medicaid waiver program; and

(3) employs or subcontracts with direct support professionals to provide services to persons with developmental disabilities;

I. "inclusive" means using the same community resources that are used by and available to all citizens and developing relationships with nonpaid caregivers or recipients of support and services for persons with developmental disabilities;

J. "individual support and service plan" means a plan developed by an interdisciplinary team and agreed to by a person with a developmental disability, or by a parent of a minor or a legal guardian, as appropriate, that describes the combination and sequence of special, interdisciplinary or generic care, treatment or other support and services that are needed and desired by a person with a developmental disability;

K. "interdisciplinary team" means a group of persons drawn from or representing professions that are relevant to identifying the needs of a person with a developmental disability and designing a program to meet that person's needs. The team shall include the person with a developmental disability, the parent of a minor child or a legal guardian, as appropriate;

L. "self-determination" means having:

- (1) the ability and opportunity to:
  - (a) communicate and make personal decisions;
  - (b) communicate choices and exercise control over the type and intensity of services, supports and other assistance that an individual receives; and
  - (c) participate in, and contribute to, an individual's community;
- (2) the authority to control resources to obtain needed services, supports and other assistance; and
- (3) support, including financial support, to advocate for oneself and others, develop leadership skills through training in self-advocacy, participate in coalitions, educate policymakers and play a role in the development of public policies that affect individuals with developmental disabilities; and

M. "service provider" means a nonprofit corporation, tribal government or tribal organization, unit of local government or other organization that has entered into a contract or provider agreement with the department for the purpose of providing developmental disabilities support and services."

## **Chapter 160 Section 2 Laws 2023**

SECTION 2. A new section of the Developmental Disabilities Act is enacted to read:

"DATA COLLECTION AND REPORTING.--

A. By April 1, 2024 and annually thereafter, direct support provider agencies shall submit data, in a form approved by the department, from the previous calendar year regarding direct support professionals that includes:

- (1) the number of full- or part-time employees at any time during the year, the percentage of the year that the employees were employed and the total length of time that the employees had been employed as of the end of the year;

(2) disaggregated demographic information, including age, gender, race and ethnicity, education level and work experience;

(3) employee wages paid; and

(4) employee benefits provided.

B. The department shall submit an annual report by September 1, 2024, and on September 1 of each subsequent year to the legislative health and human services committee, the legislative finance committee and the governor regarding the direct support professional workforce, including:

(1) the total number of full- and part-time employees;

(2) a demographic analysis of this workforce;

(3) the highest, lowest and average hourly wage paid by direct support provider agencies;

(4) the average length of employment and vacancy and turnover rates; and

(5) the availability and type of benefits provided by direct support provider agencies."

### **Chapter 160 Section 3 Laws 2023**

SECTION 3. Section 28-16A-16 NMSA 1978 (being Laws 1993, Chapter 50, Section 16) is amended to read:

"28-16A-16. DETERMINATION OF RATES FOR PAYMENT FOR SUPPORT AND SERVICES.--

A. The department shall develop, implement and maintain a provider reimbursement system based on the level of support and services required by a person with a developmental disability.

B. Beginning in 2024, contingent on available funding, the department shall conduct an independent biennial cost study for the purpose of recommending reimbursement rates for all service providers. The cost study shall include all reasonable costs of providing services. Recommended reimbursement rates, based on the cost study, shall include consideration of the following factors:

(1) the additional costs that would be incurred by the direct support provider agency if all direct support professionals were paid at least one hundred fifty percent of the state minimum wage;

(2) recent and projected changes in costs due to factors that include inflation, changes in the applicable minimum wage or newly effective requirements for employers during the period covered by the cost study; and

(3) direct support professional vacancies that affect direct support provider agency costs.

C. The department's budget request for each fiscal year shall include sufficient funding to:

(1) continue to provide supports and services for persons with developmental disabilities currently being served, based on the service provider reimbursement rates recommended by the most recent cost study; and

(2) serve additional persons, who as determined by the department, are eligible for but are not currently receiving services.

D. If sufficient funds have been appropriated to implement the reimbursement rates recommended by the most recent cost study, the department shall implement those rates, subject to approval by the federal centers for medicare and medicaid services. If the level of funding for developmental disabilities services and support is determined to be insufficient to fully implement such rates, the department shall adjust reimbursement rates as favorably as possible based on the level of funding available, subject to approval by the federal centers for medicare and medicaid services.

E. Contractors shall be required to submit records of support and services delivered as determined by the department, subject to monitoring by the department."

## **LAWS 2023, CHAPTER 161**

**House Bill 401**

**Approved April 5, 2023**

AN ACT

RELATING TO PUBLIC EDUCATION; RENAMING THE TECHNOLOGY FOR EDUCATION ACT AS THE DIGITAL EQUITY IN EDUCATION ACT; PROVIDING DEFINITIONS; PROVIDING PUBLIC EDUCATION DEPARTMENT DUTIES; PROVIDING RULEMAKING AUTHORITY; REPEALING THE EDUCATION TECHNOLOGY OPPORTUNITY PROGRAM AND OTHER SECTIONS OF THE NMSA 1978.

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

## **Chapter 161 Section 1 Laws 2023**

SECTION 1. Section 22-15A-1 NMSA 1978 (being Laws 1994, Chapter 96, Section 1, as amended) is amended to read:

"22-15A-1. SHORT TITLE.--Chapter 22, Article 15A NMSA 1978 may be cited as the "Digital Equity in Education Act"."

## **Chapter 161 Section 2 Laws 2023**

SECTION 2. Section 22-15A-2 NMSA 1978 (being Laws 1994, Chapter 96, Section 2) is amended to read:

"22-15A-2. DEFINITIONS.--As used in the Digital Equity in Education Act:

- A. "council" means the council on technology in education;
- B. "digital citizenship" means the safe, ethical, responsible and informed use of technology and encompasses a range of skills and literacies, including internet safety, privacy and security; recognition and reporting of cyberbullying; online reputation management; communication skills; information literacy; and creative credit and copyright;
- C. "digital equity" means a condition in which every learner has the information, support and skills to equitably access affordable, reliable and high-speed internet; adequate internet-enabled devices; digital literacy training; quality technical support; and evidence-based applications and content designed to facilitate both self-sufficient and collaborative learning;
- D. "educational technology" means all applications of technology in the learning process, including internet connectivity, digital information, electronic devices and evidence-based software applications used to facilitate and enhance teaching and learning;
- E. "large school district" means a school district with a membership of twelve thousand or more students, using an average of the membership on the second and third reporting dates of the prior year; and
- F. "small school district" means a school district with a membership of fewer than twelve thousand students, using an average of the membership on the second and third reporting dates of the prior year."

## **Chapter 161 Section 3 Laws 2023**

SECTION 3. Section 22-15A-4 NMSA 1978 (being Laws 1994, Chapter 96, Section 4) is amended to read:

"22-15A-4. DEPARTMENT DUTIES.-- The department shall:

- A. administer the provisions of the Digital Equity in Education Act;
- B. require school districts and charter schools to develop, implement and submit to the department educational technology plans for utilizing educational technology in the school system, which shall include descriptions of:
  - (1) how digital equity is being addressed for students;
  - (2) the replacement and repair process for devices issued to students, teachers and families;
  - (3) internet service connectivity support, including access to internet services for at-risk students;
  - (4) information technology support available to students, teachers and parents;
  - (5) professional development provided to teachers regarding digital citizenship;
  - (6) cybersecurity protection provided for the devices and applications issued to teachers and students; and
  - (7) identity protection provided to teachers and students; and
- C. promulgate rules to establish parameters and procedures for distributions from the educational technology fund."

## **Chapter 161 Section 4 Laws 2023**

SECTION 4. Section 22-15A-5 NMSA 1978 (being Laws 1994, Chapter 96, Section 5) is amended to read:

"22-15A-5. COUNCIL ON TECHNOLOGY IN EDUCATION--CREATED--PURPOSE.--The "council on technology in education" is created. The council shall advise the department regarding the establishment of appropriate educational technology standards, technology-enhanced curricula, instruction, appropriations for educational technology and methods for addressing digital equity in public schools."

## **Chapter 161 Section 5 Laws 2023**

SECTION 5. Section 22-15A-6 NMSA 1978 (being Laws 1994, Chapter 96, Section 6) is amended to read:

"22-15A-6. COUNCIL MEMBERSHIP.--

A. The council shall be composed of thirteen members. Members shall be appointed by the department for terms of four years. As designated by the department at the time of initial appointment, the terms of four members shall expire at the end of two years, the terms of four members shall expire at the end of three years and the terms of five members shall expire at the end of four years.

B. When appointing members, the department shall appoint:

(1) one member from state government who shall have expertise in information technology;

(2) the director of the office of broadband access and expansion of the department of information technology or the director's designee;

(3) two members who shall have expertise in school district administration, one member who shall be from a large school district and one member who shall be from a small school district;

(4) two members who shall have expertise in providing technology-based instruction in elementary or secondary schools;

(5) one member from a large school district who shall have expertise in the education of Native American, English language learner, low-income or special education students;

(6) one member from a small school district who shall have expertise in the education of Native American, English language learner, low-income or special education students;

(7) one member who shall be a parent of a school-age child;

(8) two members who shall be public school secondary students, one member who shall be from a large school district and one member from a small school district; and

(9) two members at large.

C. In making appointments to the council, the department shall give due consideration to gender and ethnicity to achieve a membership representative of the geographic and cultural diversity of New Mexico.

D. Members of the council shall elect a chair from among the membership. The council shall meet at the call of the chair not less than quarterly.

E. Members of the council shall receive per diem and mileage pursuant to the provisions of the Per Diem and Mileage Act, but shall receive no other compensation, perquisite or allowance."

## **Chapter 161 Section 6 Laws 2023**

SECTION 6. Section 22-15A-7 NMSA 1978 (being Laws 1994, Chapter 96, Section 7, as amended by Laws 2007, Chapter 292, Section 8 and by Laws 2007, Chapter 293, Section 8) is amended to read:

"22-15A-7. COUNCIL DUTIES.--The council shall:

A. advise the department on implementation of the provisions of the Digital Equity in Education Act;

B. work with the department to conduct periodic assessments of the need for educational technology in the public school system to support on-site and distance learning and make recommendations to the department on how to meet those needs; and

C. promote the collaborative development and implementation of educational technologies, projects and practices to enhance on-site and distance learning instruction capabilities."

## **Chapter 161 Section 7 Laws 2023**

SECTION 7. Section 22-15A-8 NMSA 1978 (being Laws 1994, Chapter 96, Section 8) is amended to read:

"22-15A-8. EDUCATIONAL TECHNOLOGY FUND--CREATED.--The "educational technology fund" is created in the state treasury. Money in the fund is appropriated to the department for the purpose of implementing the provisions of the Digital Equity in Education Act. Money in the fund shall be distributed by the department for the purposes stated in the Digital Equity in Education Act to school districts and charter schools for educational technology. Money in the fund shall only be expended pursuant to warrants issued by the department of finance and administration pursuant to vouchers signed by the secretary. Money in the fund shall not revert at the end of the fiscal year."

## **Chapter 161 Section 8 Laws 2023**

SECTION 8. REPEAL.--

A. Sections 22-15A-3 and 22-15A-9 through 22-15A-13 NMSA 1978 (being Laws 1994, Chapter 96, Sections 3, 9 and 10, Laws 2005, Chapter 222, Sections 2 and

3, and Laws 2007, Chapter 292, Section 10 and Laws 2007, Chapter 293, Section 10, as amended) are repealed.

B. Sections 22-15B-1 and 22-15B-2 NMSA 1978 (being Laws 1999, Chapter 234, Sections 1 and 2) are repealed.

## **Chapter 161 Section 9 Laws 2023**

SECTION 9. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# **LAWS 2023, CHAPTER 162**

**House Bill 407, aa**  
**Approved April 5, 2023**

## **AN ACT**

RELATING TO THE DISPOSITION OF DEAD BODIES; REQUIRING COUNTIES TO GIVE REASONABLE OPPORTUNITY FOR LEGAL NEXT OF KIN TO TAKE POSSESSION OF AN UNCLAIMED DECEDENT; DEFINING "LEGAL NEXT OF KIN"; ALLOWING FOR COUNTIES TO AUTHORIZE THE DISPOSITION OF UNCLAIMED DEAD BODIES AND SET THE RATE THAT IS PAID FOR BURIAL OR CREMATION; CHANGING THE AMOUNT OF TIME A COUNTY SHALL RETAIN CREMATED REMAINS; REQUIRING THE ESTATE OF AN UNCLAIMED DECEDENT TO REIMBURSE THE COUNTY FOR BURIAL OR CREMATION EXPENSES; MAKING TECHNICAL CHANGES.

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

## **Chapter 162 Section 1 Laws 2023**

SECTION 1. Section 24-12-1 NMSA 1978 (being Laws 1973, Chapter 354, Section 1, as amended) is amended to read:

"24-12-1. NOTIFICATION OF LEGAL NEXT OF KIN OF DECEDENT-- AUTHORIZATION OF PERSON DESIGNATED ON RECORD OF EMERGENCY DATA FORM TO DIRECT BURIAL--UNCLAIMED DECEDENTS.--

A. As used in this section:

(1) "due diligence" means the reasonable steps taken to satisfy the legal requirement relating to the disposition of dead bodies, including attempts to identify the body and locate legal next of kin; and

(2) "legal next of kin" means the following persons in the order listed:

- (a) the surviving spouse;
- (b) a majority of the surviving adult children of the decedent;
- (c) the surviving parents of the decedent;
- (d) a majority of the surviving siblings of the decedent;
- (e) the adult person of the next degree of kinship in the order

named by New Mexico law to inherit the estate of the decedent; or

(f) an adult who has exhibited special care and concern for the decedent and is aware of the decedent's views and desires regarding the disposition of the decedent's body and is willing and able to make a decision about the disposition of the decedent's body.

B. State, county, municipal officials or other person having charge or control of the body of a decedent shall use due diligence to notify the legal next of kin or other claimant of the decedent.

C. If the decedent died while serving in any branch of the United States armed forces, the United States reserve forces or the national guard, during any period of duty when the secretary of the military service concerned can provide for the recovery, care and disposition of remains, and the decedent completed a United States department of defense record of emergency data form or its successor form, the authority to direct the burial of the decedent or to provide other funeral and disposition arrangements for the decedent devolves on the person designated by the decedent pursuant to that form.

D. If no claimant is found who will assume the cost of burial, the official having charge or control of the decedent shall notify the county, stating, when possible, the name, age, sex, legal next of kin and cause of death of the deceased and any other information obtained that the county could use to conduct due diligence. The county may perform additional due diligence if reasonably determined necessary.

E. If reasonable opportunity has been afforded to the legal next of kin and if no other claimant has been found, the decedent may be deemed unclaimed and the legal next of kin deemed to have waived the right to take possession of the body. Unless the medical investigator retains the body in accordance with Section 24-12-2 NMSA 1978, the county shall authorize disposition of the body. As used in this subsection, "reasonable opportunity" means fourteen days after the legal next of kin has been notified at the legal next of kin's last known addresses.

F. The body shall be embalmed, if required, and buried or cremated according to rules of the agency having jurisdiction. After the exercise of due diligence required in Subsection B of this section, the medical investigator shall be provided material data demonstrating due diligence and the fact that no claimant has been found. When the medical investigator has determined that due diligence has been exercised, that reasonable opportunity has been afforded to legal next of kin to claim the body and that the body has not been claimed, the medical investigator shall determine that the remains are unclaimed. In no case shall an unclaimed body be disposed of in less than two weeks from the date of the discovery of the body."

## **Chapter 162 Section 2 Laws 2023**

SECTION 2. Section 24-12-2 NMSA 1978 (being Laws 1973, Chapter 354, Section 2, as amended) is amended to read:

"24-12-2. AUTHORITY OF THE OFFICE OF THE STATE MEDICAL INVESTIGATOR--DISPOSITION OF UNCLAIMED BODY--TRANSMISSION OF RECORDS OF INSTITUTION.--

A. Upon the determination that a body is unclaimed, the medical investigator shall retain the body for use only for medical education or shall certify that the body is unnecessary or unsuited for medical education and release it to the state, county or municipal officials having charge or control of the body for burial. The state, county, municipal officials or other person having charge or control of the body of a decedent shall have the body removed for disposition within three weeks from the date on which the medical investigator notified the appropriate entity.

B. If the unclaimed body is retained for use in medical education, the facility or person receiving the body for that use shall pay the costs of preservation and transportation of the body and shall keep a permanent record of bodies received.

C. If a decedent was an inmate of a public institution, the institution shall transmit, upon request of the medical investigator, a brief medical history of the person for purposes of identification and permanent record. The records shall be open to inspection by any state or county official or district attorney."

## **Chapter 162 Section 3 Laws 2023**

SECTION 3. Section 24-12-3 NMSA 1978 (being Laws 1973, Chapter 354, Section 3) is amended to read:

"24-12-3. PENALTIES.--

A. A person who conducts a post-mortem examination on an unclaimed body without express permission of the medical investigator is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

B. A person who unlawfully disposes of, uses or sells an unclaimed body is guilty of a fourth degree felony and shall be sentenced pursuant to the provisions of Section 31-18-15 NMSA 1978."

## **Chapter 162 Section 4 Laws 2023**

SECTION 4. Section 24-12-4 NMSA 1978 (being Laws 1973, Chapter 354, Section 4, as amended) is amended to read:

"24-12-4. POST-MORTEM EXAMINATIONS AND AUTOPSIES--CONSENT REQUIRED.--

A. An autopsy or post-mortem examination may be performed on the body of a decedent by a physician or surgeon whenever consent to the procedure has been given by:

(1) written authorization signed by the decedent during the person's lifetime;

(2) authorization of a person or on behalf of any person whom the decedent designated in writing during the person's lifetime to take charge of the decedent's body for burial or other purposes;

(3) authorization of the decedent's surviving spouse;

(4) authorization of an adult child, parent or adult brother or sister of the decedent if there is no surviving spouse or if the surviving spouse is unavailable, incompetent or has not claimed the body for burial after notification of the death of the decedent;

(5) authorization of any other relative of the decedent if none of the persons enumerated in Paragraph (4) of this subsection is available or competent to give authorization; or

(6) authorization of the public official, agency or person having custody of the body for burial if none of the persons enumerated in Paragraphs (2) through (5) of this subsection is available or competent to give authorization.

B. An autopsy or post-mortem examination shall not be performed under authorization given pursuant to the provisions of Paragraph (4) of Subsection A of this section by any one of the persons enumerated if, before the procedure is performed, any one of the other persons enumerated objects in writing to the physician or surgeon by whom the procedure is to be performed.

C. An autopsy or post-mortem examination may be performed by a pathologist at the written direction of the district attorney or the district attorney's

authorized representative in any case in which the district attorney is conducting a criminal investigation.

D. An autopsy or post-mortem examination may be performed by a pathologist at the direction of the state, district or deputy medical investigator when the state, district or deputy medical investigator suspects the death was caused by a criminal act or omission or if the cause of death is obscure.

E. For purposes of this section, "autopsy" means a post-mortem dissection of a dead human body in order to determine the cause, seat or nature of disease or injury and includes the retention of tissues customarily removed during the course of autopsy for evidentiary, identification, diagnosis, scientific or therapeutic purposes."

## **Chapter 162 Section 5 Laws 2023**

SECTION 5. Section 24-12A-1 NMSA 1978 (being Laws 1993, Chapter 200, Section 1) is amended to read:

### "24-12A-1. RIGHT TO AUTHORIZE CREMATION--DEFINITIONS.--

A. An adult may authorize the adult's own cremation and the lawful disposition of the cremated remains by:

(1) stating the desire to be cremated in a written statement that is signed by the adult and notarized or witnessed by two persons; or

(2) including an express statement in the will indicating that the testator desired that the remains be cremated upon death.

B. A personal representative acting pursuant to a will or the provisions of Chapter 45, Article 3 NMSA 1978 or a funeral service establishment, a direct disposition establishment or a crematory shall comply with a statement made in conformance with the provisions of Subsection A of this section. The statement is authorization to the personal representative, funeral establishment, direct disposition establishment or crematory that the remains of the decedent are to be cremated. Statements dated prior to April 5, 1993 are to be given effect if they meet the requirements of Subsection A of this section.

C. A personal representative, funeral service establishment, direct disposition establishment or crematory acting in reliance upon a document executed pursuant to the provisions of this section, who has no actual notice of revocation or contrary indication, is presumed to be acting in good faith.

D. A funeral service establishment, direct disposition establishment, crematory or employee of a funeral establishment, direct disposition establishment or crematory or other person that relies in good faith on a statement written pursuant to

this section shall not be subject to liability for cremating the remains in accordance with the express instructions of a decedent. The written document is a complete defense to a cause of action by any person against any other person acting in accordance with the instructions of the decedent.

E. As used in this section:

(1) "cremate" means to reduce a dead human body by direct flame to a residue that may include bone fragments; and

(2) "direct disposition establishment" means an office, premises or place of business that provides for the disposition of a dead human body as quickly as possible, without 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."

## **Chapter 162 Section 6 Laws 2023**

SECTION 6. Section 24-12A-2 NMSA 1978 (being Laws 1993, Chapter 200, Section 2, as amended) is amended to read:

"24-12A-2. NO WRITTEN INSTRUCTIONS--PRIORITY OF OTHERS TO DECIDE DISPOSITION.--

A. Except as provided in Subsection B of this section, if a decedent has left no written instructions regarding the disposition of the decedent's remains, the following persons are legal next of kin, in the order listed, and shall determine the means of disposition, not to be limited to cremation, of the remains of the decedent:

(1) the surviving spouse;

(2) a majority of the surviving adult children of the decedent;

(3) the surviving parents of the decedent;

(4) a majority of the surviving siblings of the decedent;

(5) the adult person of the next degree of kinship in the order named by New Mexico law to inherit the estate of the decedent; or

(6) an adult who has exhibited special care and concern for the decedent and is aware of the decedent's views and desires regarding the disposition of the decedent's body and who is willing and able to make a decision about the disposition of the decedent's body.

B. If a decedent left no written instructions regarding the disposition of the decedent's remains, died while serving in any branch of the United States armed forces, the United States reserve forces or the national guard and completed a United States department of defense record of emergency data form or its successor form, the person authorized by the decedent to determine the means of disposition on a United States department of defense record of emergency data form shall determine the means of disposition, not to be limited to cremation.

C. The state, county, municipality or other person having charge or control of the body of a decedent shall notify or attempt to notify the legal next of kin."

## **Chapter 162 Section 7 Laws 2023**

SECTION 7. Section 24-12A-3 NMSA 1978 (being Laws 1999, Chapter 241, Section 3) is amended to read:

"24-12A-3. UNCLAIMED BODIES--CREMATION PERMITTED.--An unclaimed body, the disposition of which is the responsibility of the county pursuant to the provisions of Chapter 24, Article 13 NMSA 1978, may be cremated upon the order of the county official responsible for ensuring the disposition of the body or upon the order of any other government official authorized to order the cremation. Absent a showing of bad faith or malicious intent, the official ordering the cremation and the person or establishment carrying out the cremation shall be immune from liability related to the cremation."

## **Chapter 162 Section 8 Laws 2023**

SECTION 8. Section 24-13-1 NMSA 1978 (being Laws 1939, Chapter 224, Section 1, as amended) is amended to read:

"24-13-1. BURIAL OR CREMATION OF UNCLAIMED DECEDENTS.--For the purposes of Chapter 24, Article 13 NMSA 1978, a dead body that has not been claimed by a friend, relative or other interested person assuming the responsibility for and expense of disposition shall be considered an unclaimed decedent. It is the duty of each county in this state to authorize interment or cremation of an unclaimed decedent. The county shall ensure that the body is buried or cremated no later than thirty days after a determination has been made that the body has not been claimed, but no less than fourteen days after death or discovery of the body. If the body is cremated, the county shall ensure that the cremated remains are retained and stored for at least two years, or one year for eligible veterans who qualify for veteran burial benefits, in a manner that allows for identification of the remains. After the expiration of two years, or one year for eligible veterans who qualify for veteran burial benefits, the cremated remains may be disposed of; provided the county retains a record of the place and manner of disposition for not less than five years after disposition."

## **Chapter 162 Section 9 Laws 2023**

SECTION 9. Section 24-13-2 NMSA 1978 (being Laws 1939, Chapter 224, Section 2, as amended) is amended to read:

"24-13-2. PERSONS DEEMED INDIGENT.--A decedent shall be considered to be an indigent for purposes of Chapter 24, Article 13 NMSA 1978 if the decedent's estate is insufficient to cover the cost of burial or cremation or if the decedent's body is unclaimed."

## **Chapter 162 Section 10 Laws 2023**

SECTION 10. Section 24-13-3 NMSA 1978 (being Laws 1939, Chapter 224, Section 3, as amended) is amended to read:

"24-13-3. EXPENSES FOR BURIAL OR CREMATION.--If the unclaimed decedent had known assets or property of sufficient value to defray the expenses of cremation or burial, invoices for the expenses shall be forwarded to the executor of the estate of the decedent, and such person shall pay the expenses out of the decedent's estate. To the extent that the decedent is unclaimed and has no estate, the burial or cremation expenses shall be borne by the county of residence of the decedent. If the county of residence of the decedent is not known, the burial or cremation expenses shall be borne by the county in which the decedent was found. The burial or cremation expenses may be paid by the county out of the general fund or the health care assistance fund in the amount of one thousand dollars (\$1,000) for the burial or cremation of the unclaimed decedent."

## **Chapter 162 Section 11 Laws 2023**

SECTION 11. Section 24-13-4 NMSA 1978 (being Laws 1939, Chapter 224, Section 4, as amended) is amended to read:

"24-13-4. BURIAL AFTER INVESTIGATION--COST OF OPENING AND CLOSING GRAVE.--The county after proper investigation shall cause an unclaimed decedent to be decently interred or cremated. The cost to be paid by the county of opening and closing a grave shall not exceed one thousand dollars (\$1,000), which sum shall be in addition to the sums enumerated in Section 24-13-3 NMSA 1978."

## **Chapter 162 Section 12 Laws 2023**

SECTION 12. Section 24-13-5 NMSA 1978 (being Laws 1939, Chapter 224, Section 5, as amended) is amended to read:

"24-13-5. PAYMENT OF BURIAL OR CREMATION EXPENSES-- COMMISSIONERS' LIABILITY.--The board of county commissioners of any county

within this state may authorize payment for the burial or cremation of an unclaimed decedent, as defined in Section 24-13-1 NMSA 1978. All available assets of the deceased may be used to reimburse the county for the cost of burial or cremation. Should the county be required to pay expenses for burial or cremation of an unclaimed decedent who has left an estate, the estate shall reimburse the county for those expenses. The county commissioners may be liable officially to the county they represent in double the amount they have paid toward the burial or cremation of a person other than as authorized by this section."

## **Chapter 162 Section 13 Laws 2023**

SECTION 13. Section 24-13-6 NMSA 1978 (being Laws 1939, Chapter 224, Section 6, as amended) is amended to read:

"24-13-6. MONEY FROM RELATIVES--DUTY OF FUNERAL DIRECTOR.-- Should a funeral director or other person allowed by law to conduct the business of a funeral director accept money from the relatives or friends of a decedent whom the county has determined to be an unclaimed decedent, the funeral director shall immediately notify the county of the payment or offer for payment, and the county shall not pay for the burial or cremation involved, or, if the county has already paid for the burial or cremation, the funeral director shall immediately refund the money paid to the funeral director by the county for the burial or cremation."

## **Chapter 162 Section 14 Laws 2023**

SECTION 14. Section 24-13-7 NMSA 1978 (being Laws 1939, Chapter 224, Section 7, as amended) is amended to read:

"24-13-7. FAILURE TO NOTIFY--FUNERAL DIRECTOR'S LIABILITY.--If a funeral director or other person authorized by law to conduct the business of a funeral director receives or contracts to receive any money or thing of value from relatives or friends of an unclaimed decedent whose burial or cremation expenses are paid or to be paid by the county and fails to notify the county of that fact, the funeral director or other person authorized by law to conduct the business of a funeral director shall be liable to the county in an amount double the amount paid or to be paid by the county."

## **Chapter 162 Section 15 Laws 2023**

SECTION 15. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# **LAWS 2023, CHAPTER 163**

**House Bill 446, aa**  
**Approved April 5, 2023**

AN ACT

RELATING TO LONG-TERM CARE; AMENDING THE LONG-TERM CARE FACILITY DEMENTIA TRAINING ACT TO UPDATE TRAINING PROGRAM REQUIREMENTS.

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

**Chapter 163 Section 1 Laws 2023**

SECTION 1. Section 24-17B-2 NMSA 1978 (being Laws 2021, Chapter 111, Section 2) is amended to read:

"24-17B-2. DEFINITIONS.--As used in the Long-Term Care Facility Dementia Training Act:

- A. "department" means the department of health;
- B. "direct care service" means services provided to long-term care facility residents that maintain or improve the health and quality of life of the residents;
- C. "direct care service staff member" means a person employed by or contracted with a long-term care facility to provide in-person direct care services to long-term care facility residents. "Direct care service staff member" does not include a registered nurse licensed pursuant to the Nursing Practice Act or a physician licensed pursuant to the Medical Practice Act who has received specialized training or education in geriatric care; and
- D. "long-term care facility" means a long-term care facility licensed by the state that is not otherwise required to provide at least four hours of dementia care training under state or federal law. "Long-term care facility" does not include a facility licensed pursuant to the Public Health Act as an intermediate care facility for individuals with intellectual disabilities."

**Chapter 163 Section 2 Laws 2023**

SECTION 2. Section 24-17B-3 NMSA 1978 (being Laws 2021, Chapter 111, Section 3) is amended to read:

"24-17B-3. TRAINING REQUIRED.--

A. Each long-term care facility that is subject to the Long-Term Care Facility Dementia Training Act shall provide at least four hours of dementia training to each direct care service staff member that it employs on:

- (1) recognizing and treating Alzheimer's disease and dementia;

- (2) person-centered care;
  - (3) activities of daily living;
  - (4) an overview of the different types of dementia;
  - (5) strategies to manage the behavior of people who have dementia;
- and
- (6) strategies to effectively communicate with people who have dementia.

B. Training may be online or in-person and shall be a training program of at least four hours. Each long-term care facility shall submit the training program that it uses or proposes to use to the department for review. If the department finds that the training program does not satisfy the purposes of the Long-Term Care Facility Dementia Training Act, it shall require the long-term care facility to submit a new proposed training program.

C. A person designing the training shall have at least two years of work experience related to Alzheimer's disease, dementia, health care, gerontology or other related field.

D. Every direct care service staff member shall complete the requirements for and obtain a training certificate as provided in Subsection E of this section.

E. A direct care service staff member:

- (1) hired after January 1, 2022 shall complete the training required pursuant to this section within ninety days of the start of employment;

- (2) hired prior to January 1, 2022 who has not received training equivalent to the requirements set forth in the Long-Term Care Facility Dementia Training Act shall complete training within sixty days of January 1, 2022;

- (3) hired prior to January 1, 2022 who received training within the past twenty-four months equivalent to the requirements set forth in the Long-Term Care Facility Dementia Training Act shall be issued a training certificate by the long-term care facility that employs the direct care service staff member; and

- (4) who has successfully obtained a training certificate but has had a lapse of dementia-related direct care service employment for twenty-four consecutive months or more shall complete training within ninety days of the start of employment.

F. Any long-term care facility that contracts for the services of a direct care service staff member may include a requirement in the contract that the direct care

service staff member has received dementia care training that satisfies the requirements of the Long-Term Care Facility Dementia Training Act."

### **Chapter 163 Section 3 Laws 2023**

SECTION 3. Section 24-17B-4 NMSA 1978 (being Laws 2021, Chapter 111, Section 4) is amended to read:

"24-17B-4. DEPARTMENT OVERSIGHT AND RULEMAKING.--In consultation with the aging and long-term services department, the department shall:

A. identify, publish a list of and periodically review online or in-person standardized training programs that meet the requirements of the Long-Term Care Facility Dementia Training Act;

B. develop and periodically review required evaluation instruments that demonstrate competency and knowledge gained in training topics;

C. promulgate rules:

(1) for evaluation on the training topics for treatment and care of persons with Alzheimer's disease or dementia;

(2) requiring an hour of dementia care training to be included as part of an annual continuing education training requirement for direct care service staff members at long-term care facilities, unless additional time is necessitated to address changing standards of care; and

(3) as necessary to carry out the Long-Term Care Facility Dementia Training Act;

D. issue interpretative guidance as necessary to ensure compliance with the Long-Term Care Facility Dementia Training Act;

E. review all long-term care facility dementia training programs related to the Long-Term Care Facility Dementia Training Act; and

F. give notice of the requirements of the Long-Term Care Facility Dementia Training Act to long-term care facilities within ninety days of June 18, 2021."

### **Chapter 163 Section 4 Laws 2023**

SECTION 4. Section 24-17B-5 NMSA 1978 (being Laws 2021, Chapter 111, Section 5) is amended to read:

"24-17B-5. DEMENTIA TRAINING CERTIFICATES.--The provider of training conducted pursuant to the Long-Term Care Facility Dementia Training Act shall issue a certificate to staff upon completion of initial training. The certificate shall be valid so long as the certificate holder meets the requirements set forth by the department pursuant to the Long-Term Care Facility Dementia Training Act and the certificate holder has not had a lapse of dementia-related direct care service employment for twenty-four consecutive months or more. The certificate shall be valid among long-term care facilities. Each long-term care facility and long-term care facility contractor that is subject to the Long-Term Care Facility Dementia Training Act shall be responsible for maintaining documentation regarding completed dementia training and evaluation for each direct care service staff member."

### **Chapter 163 Section 5 Laws 2023**

SECTION 5. TEMPORARY PROVISION.--The aging and long-term services department shall give notice of the new requirements of the Long-Term Care Facility Dementia Training Act to long-term care facilities within ninety days of the effective date of this act.

### **Chapter 163 Section 6 Laws 2023**

SECTION 6. APPLICABILITY.--The provisions of Subsection F of Section 24-17B-3 NMSA 1978 apply to agreements, or renewals or extensions of agreements, executed on or after the effective date of this act.

## **LAWS 2023, CHAPTER 164**

**House Bill 466, aa**  
**Approved April 5, 2023**

AN ACT

RELATING TO ETHICS; PROVIDING PROCEDURES FOR DETERMINING PROBABLE CAUSE.

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

### **Chapter 164 Section 1 Laws 2023**

SECTION 1. Section 10-16G-1 NMSA 1978 (being Laws 2019, Chapter 86, Section 1) is amended to read:

"10-16G-1. SHORT TITLE.--Chapter 10, Article 16G NMSA 1978 may be cited as the "State Ethics Commission Act"."

## Chapter 164 Section 2 Laws 2023

SECTION 2. Section 10-16G-10 NMSA 1978 (being Laws 2019, Chapter 86, Section 10, as amended) is amended to read:

"10-16G-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 under oath by the complainant.

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 an independent hearing officer 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. The hearing officer chosen to consider probable cause shall not participate in the adjudication of the complaint.

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."

## **LAWS 2023, CHAPTER 165**

**HEC/House Bill 481**

**Approved April 5, 2023**

## AN ACT

RELATING TO PUBLIC EDUCATION; AMENDING THE READING MATERIALS FUND TO FUND ELEMENTARY LITERACY MATERIALS ALIGNED TO THE SCIENCE OF READING.

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

### **Chapter 165 Section 1 Laws 2023**

SECTION 1. Section 22-15-8.2 NMSA 1978 (being Laws 2006, Chapter 58, Section 1) is amended to read:

"22-15-8.2. READING MATERIALS FUND--CREATED--PURPOSE--APPLICATIONS.--

A. The "reading materials fund" is created in the state treasury. The fund consists of appropriations, gifts, grants and donations. 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 assist public schools that want to change their elementary literacy materials from the current adoption. Money in the fund shall be disbursed on warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary of public education or the secretary's authorized representative.

B. A school district that wants to use a scientific research-based core comprehensive, intervention or supplementary reading program aligned with explicit, systematic, diagnostic, cumulative instruction in phonological and phonemic awareness, phonics, syllable types, morphology, semantics and syntax may apply to the department for money from the reading materials fund to purchase the necessary instructional materials for the selected program; provided that the school district selects no more than two comprehensive published core reading programs and the school district has established a literacy professional development plan that includes a detailed framework for structured literacy training and ongoing support in the effective use of the selected instructional materials. Materials eligible for funding shall be:

(1) core materials that are on the New Mexico kindergarten through eighth grade English language arts, Spanish language arts, English language development and world languages instructional materials adopted list and have received structured literacy recognition from the department; or

(2) intervention or supplemental materials that are on the advisory list of instructional programming created by the Colorado department of education or meet the criteria of the New Mexico structured literacy instructional review rubric."

# LAWS 2023, CHAPTER 166

HHHC/House Bill 527, aa, w/ec  
Approved April 5, 2023

## AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE; CREATING THE OPIOID SETTLEMENT RESTRICTED FUND; CREATING THE OPIOID CRISIS RECOVERY FUND; DECLARING AN EMERGENCY.

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

### Chapter 166 Section 1 Laws 2023

SECTION 1. A new section of Chapter 6, Article 4 NMSA 1978 is enacted to read:

"OPIOID SETTLEMENT RESTRICTED FUND CREATED--ADMINISTRATION--INCOME TO THE FUND.--

A. The "opioid settlement restricted fund" is created as a nonreverting fund in the state treasury, separate and distinct from the general fund. The opioid settlement restricted fund consists of money, other than attorney fees and costs, paid to the state pursuant to the New Mexico opioid allocation agreement and pursuant to:

- (1) the distributor settlement agreement; and
- (2) opioid settlements.

B. The opioid settlement restricted fund also consists of appropriations and donations. Money in the fund shall be invested by the state investment officer in accordance with law. Income from investment of the fund shall be credited to the fund.

C. Opioid funds designated by the New Mexico opioid allocation agreement to be distributed to local governments shall not be deposited into the fund.

D. Appropriations from the opioid settlement restricted fund shall only be made to the opioid crisis recovery fund and shall not be made for any other purpose.

E. On July 1, 2024, a distribution shall be made from the opioid settlement restricted fund to the opioid crisis recovery fund in an amount equal to five percent of the year-end market value of the opioid settlement restricted fund for the immediately preceding fiscal year.

F. On July 1, 2025, a distribution shall be made from the opioid settlement restricted fund to the opioid crisis recovery fund in an amount equal to five percent of the average of the year-end market value of the opioid settlement restricted fund for the immediately preceding two calendar years.

G. On July 1, 2026, and on each July 1 thereafter, a distribution shall be made from the opioid settlement restricted fund to the opioid crisis recovery fund in an amount equal to five percent of the average of the year-end market values of the opioid settlement restricted fund for the immediately preceding three calendar years.

H. For the purposes of this section:

(1) "distributor settlement agreement" means the settlement agreement between the state and participating political subdivisions and opioid distributors, including McKesson corporation, Cardinal health and AmerisourceBergen corporation, dated as of July 21, 2021 and any revision to the agreement;

(2) "local government" means every litigating county and municipality, each county regardless of population and each municipality with a population exceeding ten thousand according to the latest federal decennial census, any special district identified in the distributor settlement agreement and any local government identified in the New Mexico opioid allocation agreement within the geographic boundaries of New Mexico;

(3) "New Mexico opioid allocation agreement" means the agreement entered into between the state and various local governments on March 7, 2022 that relates to the allocation of opioid funds in New Mexico;

(4) "opioid funds" means money obtained through judgments or settlements as arising from the liability of distributors of opioids, manufacturers of opioids, pharmacies for the selling of opioids or the consultants, agents or associates of distributors, manufacturers or pharmacies; and

(5) "opioid settlements" means judgments or settlements arising from the liability of distributors of opioids, manufacturers of opioids, pharmacies for the selling of opioids or the consultants, agents or associates of distributors, manufacturers or pharmacies."

## **Chapter 166 Section 2 Laws 2023**

SECTION 2. A new section of Chapter 6, Article 4 NMSA 1978 is enacted to read:

"OPIOID CRISIS RECOVERY FUND--USE OF FUND MONEY--INCOME TO THE FUND.--

A. The "opioid crisis recovery fund" is created as a nonreverting fund in the state treasury. Money in the fund shall be invested by the state treasurer as provided by law, and income from investment of the fund shall be credited to the fund.

B. Money in the opioid crisis recovery fund may only be expended upon appropriation by the legislature and shall only be opioid remediation expenditures. Priority shall be given to appropriations that support evidence-based statewide and regional programs that seek to abate opioid use disorders and any co-occurring substance use disorders or mental health conditions.

C. The opioid crisis recovery fund consists of distributions made to the fund from the opioid settlement restricted fund, appropriations and donations.

D. In accordance with this section, money in the opioid crisis recovery fund shall be allocated to statewide and regional programs, including programs that use evidence-based strategies to:

(1) treat opioid use disorders and any co-occurring substance use disorders or mental health conditions;

(2) provide connections to care for individuals who have or are at risk of developing opioid use disorders and any co-occurring substance use disorders or mental health conditions;

(3) address the needs of individuals with opioid use disorders and any co-occurring substance use disorders or mental health conditions and who are involved in, at risk of becoming involved in or in transition from the criminal justice system;

(4) address the needs of pregnant or parenting women with opioid use disorders and any co-occurring substance use disorders or mental health conditions and the needs of their families, including babies with neonatal abstinence syndrome;

(5) support efforts to prevent over-prescribing of opioids and ensure appropriate prescribing and dispensing of opioids;

(6) support efforts to discourage or prevent misuse of opioids;

(7) support efforts to prevent or reduce overdose deaths or other opioid-related harms;

(8) educate law enforcement or other first responders regarding appropriate practices and precautions when dealing with users of fentanyl or other opioids; or

(9) provide wellness and support services for first responders and others who experience secondary trauma associated with opioid-related emergency events.

E. In accordance with this section, a portion of the money may be allocated toward research on opioid abatement or evaluations of effectiveness and outcomes reporting for substance use disorder abatement infrastructure, programs, services, supports and resources for which money from the opioid crisis recovery fund was disbursed, such as the impact on access to harm reduction services or treatment for substance use disorders or a reduction in drug-related mortality.

F. For the purposes of this section:

(1) "distributor settlement agreement" means the settlement agreement between the state and participating political subdivisions and opioid distributors, including McKesson corporation, Cardinal health and AmerisourceBergen corporation, dated as of July 21, 2021 and any revision to the agreement;

(2) "evidence-based" means an activity, practice, program, service, support or strategy that meets one of the following evidentiary criteria:

(a) systematic reviews or meta analyses have found the activity, practice, program, service, support or strategy to be effective;

(b) evidence from a scientifically rigorous experimental study, including a randomized controlled trial, demonstrates that the activity, practice, program, service, support or strategy is effective; or

(c) multiple observational studies from locations in the United States indicate that the activity, practice, program, service, support or strategy is effective; and

(3) "opioid remediation expenditure" means expenditures on care, treatment and other programs, including reimbursement for past programs or expenditures, consistent with the distributor settlement agreement and designed to:

(a) address the misuse and abuse of opioid products;

(b) treat or mitigate opioid use disorder or related disorders; or

(c) mitigate other effects of the opioid epidemic."

## **Chapter 166 Section 3 Laws 2023**

SECTION 3. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

## **LAWS 2023, CHAPTER 167**

**SJC/Senate Bill 13**

**Approved April 5, 2023**

AN ACT

RELATING TO HEALTH; PROTECTING THE PRIVACY OF PROVIDERS, RECIPIENTS AND OTHERS ENGAGING IN REPRODUCTIVE AND GENDER-AFFIRMING HEALTH CARE; PROTECTING PROVIDERS, RECIPIENTS AND OTHERS ENGAGING IN REPRODUCTIVE AND GENDER-AFFIRMING HEALTH CARE FROM CERTAIN CIVIL OR CRIMINAL LIABILITY OR PROFESSIONAL DISCIPLINARY ACTION; PROVIDING FOR ENFORCEMENT; IMPOSING PENALTIES; PRESCRIBING RELIEF.

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

## **Chapter 167 Section 1 Laws 2023**

SECTION 1. SHORT TITLE.--Sections 1 through 8 of this act may be cited as the "Reproductive and Gender-Affirming Health Care Protection Act".

## **Chapter 167 Section 2 Laws 2023**

SECTION 2. DEFINITIONS.--As used in the Reproductive and Gender-Affirming Health Care Protection Act:

A. "gender-affirming health care" means psychological, behavioral, surgical, pharmaceutical and medical care, services and supplies provided to support an individual's gender identity;

B. "protected health care activity" means:

(1) seeking, providing or receiving reproductive or gender-affirming health care; or

(2) assisting an individual who is seeking, receiving or providing reproductive or gender-affirming health care, including providing:

- (a) information;
- (b) transportation;
- (c) lodging; or
- (d) material support;

C. "public body" means a state or local government, an advisory board, a commission, an agency or an entity created by the constitution of New Mexico or a branch of government that receives public funding, including political subdivisions, special tax districts, school districts and institutions of higher education; and

D. "reproductive health care" means psychological, behavioral, surgical, pharmaceutical and medical care, services and supplies that relate to the human reproductive system, including services related to:

- (1) preventing a pregnancy;
- (2) abortion;
- (3) managing a pregnancy loss;
- (4) prenatal, birth, perinatal and postpartum health;
- (5) managing perimenopause and menopause;
- (6) managing infertility;
- (7) treating cancers of the reproductive system; or
- (8) preventing sexually transmitted infections.

## **Chapter 167 Section 3 Laws 2023**

### **SECTION 3. PUBLIC BODY--PROHIBITED RELEASE OF INFORMATION RELATED TO A PROTECTED HEALTH CARE ACTIVITY.--**

A. A public body or an individual or entity acting on behalf of or within the scope of the authority of a public body shall not release information or use resources available to it in furtherance of a foreign investigation or proceeding that seeks to impose civil or criminal liability or professional disciplinary action upon an individual or entity for engaging in a protected health care activity.

B. A public body or an individual or entity acting on behalf of or within the scope of the authority of a public body that receives a request for information related to

a protected health care activity shall notify the individual or entity that is the subject of the information request and shall move to modify or quash the subpoena to prevent the release of protected health care activity information. Any request for information related to a protected health care activity shall be made in writing.

C. The provisions of this section shall not apply if the individual or entity that is the subject of the investigation or proceeding provides affirmative written consent to release the requested information.

D. This section shall not apply to an investigation or proceeding in which the conduct subject to potential liability would be subject to liability under the laws of this state.

## **Chapter 167 Section 4 Laws 2023**

### **SECTION 4. FOREIGN SUBPOENAS AND SUMMONSES.--**

A. A party shall not submit a foreign subpoena or summons for discovery or a witness to provide testimony related to an interstate investigation or proceeding that seeks to impose civil or criminal liability or professional disciplinary action related to a protected health care activity unless the requesting party submits an attestation, signed under the penalty of perjury, that the foreign subpoena or summons relates to an out-of-state action for which the same claim exists under the laws of this state.

B. An individual or entity served with a subpoena that is in violation of this section shall notify the issuing court and the moving party of the defect and shall not comply with the subpoena until the defect is cured by order of the issuing court.

C. A party that omits or submits a false attestation pursuant to this section shall be subject to the jurisdiction of the courts of this state in a suit for damages, penalties or both arising out of the omission or false attestation. A court shall assess a statutory penalty of ten thousand dollars (\$10,000) per violation if the court finds the omission or false attestation was made intentionally, knowingly, willingly or recklessly.

## **Chapter 167 Section 5 Laws 2023**

### **SECTION 5. ABUSIVE LITIGATION--INTERFERENCE WITH A PROTECTED HEALTH CARE ACTIVITY--CIVIL ACTIONS.--**

A. For purposes of this section, "abusive litigation" means legal action initiated to deter, prevent, sanction or penalize an individual or entity for engaging in a protected health care activity by initiating a legal action in another state where civil or criminal liability is based on engaging in a protected health care activity in this state or attempting to enforce an order or judgment issued in connection with such legal action.

B. An individual or entity claiming to be aggrieved by abusive litigation may file an action in district court and seek relief pursuant to Section 8 of the Reproductive and Gender-Affirming Health Care Protection Act, as well as the amount of a judgment issued in connection with the abusive litigation.

C. This section shall not apply to a lawsuit or judgment entered in another state that is based on conduct for which a cause of action exists under the laws of New Mexico.

## **Chapter 167 Section 6 Laws 2023**

### **SECTION 6. HEIGHTENED PROTECTION FOR ELECTRONICALLY TRANSMITTED INFORMATION RELATED TO A PROTECTED HEALTH CARE ACTIVITY.--**

A. For purposes of this section, "third party" means an individual or entity who transmits information related to a protected health care activity, in the normal course of business, in an electronic format. "Third party" does not mean a covered entity or business associate as defined by the federal Health Insurance Portability and Accountability Act of 1996 and related regulations.

B. It shall be a violation of the Reproductive and Gender-Affirming Health Care Protection Act to request from a third party, or for a third party to transmit, information related to an individual's or entity's protected health care activity with the intent to:

- (1) harass, humiliate or intimidate that individual or entity;
- (2) incite another to harass, humiliate or intimidate that individual or entity;
- (3) cause that individual to reasonably fear for that individual's own or family members' safety;
- (4) cause that individual to suffer unwanted physical contact or injury;
- (5) cause that individual to suffer substantial emotional distress; or
- (6) deter, prevent, sanction or penalize an individual or entity for engaging in a protected health care activity.

C. This section shall not apply to a lawsuit or judgment entered in another state that is based on conduct for which a cause of action exists under the laws of New Mexico.

## **Chapter 167 Section 7 Laws 2023**

### SECTION 7. ENFORCEMENT--PENALTIES.--

A. The attorney general or a district attorney is authorized to enforce the provisions of the Reproductive and Gender-Affirming Health Care Protection Act.

B. In an action brought under Subsection A of this section, the court may award appropriate relief, including temporary, preliminary or permanent injunctive relief. The court may also assess a civil penalty for a violation of the Reproductive and Gender-Affirming Health Care Protection Act in the amount of ten thousand dollars (\$10,000) or actual damages resulting from each violation, whichever is greater.

## **Chapter 167 Section 8 Laws 2023**

### SECTION 8. PRIVATE RIGHT OF ACTION.--

A. An individual or entity claiming to be aggrieved by a violation of the Reproductive and Gender-Affirming Health Care Protection Act may file an action in district court for appropriate relief, including temporary, preliminary or permanent injunctive relief, compensatory damages or punitive damages, or for the sum of ten thousand dollars (\$10,000) per violation, whichever is greater. Claims may be brought against a public body or third party that intentionally, knowingly, willingly or recklessly released information related to a protected health care activity.

B. In an action brought pursuant to Subsection A of this section, the district court shall award a prevailing plaintiff reasonable attorney fees and costs.

## **Chapter 167 Section 9 Laws 2023**

SECTION 9. Section 31-4-6 NMSA 1978 (being Laws 1937, Chapter 65, Section 6) is amended to read:

"31-4-6. EXTRADITION OF PERSONS NOT PRESENT IN DEMANDING STATE AT TIME OF COMMISSION OF CRIME.--The governor of this state:

A. may also surrender, on demand of the executive authority of any other state, any person in this state charged in such other state in the manner provided in Section 31-4-3 NMSA 1978 with committing an act in this state, or in a third state, intentionally resulting in a crime in the state whose executive authority is making the demand. The provisions of the Uniform Criminal Extradition Act not otherwise inconsistent shall apply to such cases, even though the accused was not in that state at the time of the commission of the crime and has not fled therefrom; and

B. shall not arrest or deliver a person if the charge is based on engaging in a protected health care activity, pursuant to the provisions of the Reproductive and

Gender-Affirming Health Care Protection Act, including a charge based on vicarious, joint or several liability or conspiracy, unless the executive authority of the demanding state alleges in writing that the accused was physically present in the demanding state at the time of the commission of the alleged offense and that thereafter, the accused fled from the demanding state."

## **Chapter 167 Section 10 Laws 2023**

SECTION 10. A new section of the Uniform Licensing Act is enacted to read:

"PROHIBITING CERTAIN ACTIONS BY BOARDS AGAINST LICENSEES OR LICENSE APPLICANTS.--A board shall not take an action pursuant to the Uniform Licensing Act against a license holder or license applicant based solely on a licensee's or license applicant's:

A. provision of, authorization of, recommendation of, assistance in, referral for or other participation in a protected health care activity, as defined in the Reproductive and Gender-Affirming Health Care Protection Act, in accordance with the laws of New Mexico, including the medical standards of care, whether the protected health care activity is provided to a resident of this state or to a resident of another state; or

B. actual or alleged violation of another state's laws prohibiting the provision of, authorization of, recommendation of, assistance in, referral for or other participation in a protected health care activity, as defined in the Reproductive and Gender-Affirming Health Care Protection Act, if the protected health care activity provided would have been in accordance with the laws of New Mexico, including the medical standards of care."

## **LAWS 2023, CHAPTER 168**

**Senate Bill 392**

**Approved April 5, 2023**

AN ACT

RELATING TO OUTDOOR RECREATION; CREATING YOUTH PROGRAMS TO BE ADMINISTERED BY THE DEPARTMENT OF GAME AND FISH; PROVIDING THE OPPORTUNITY FOR A PERSON WHO MAKES A PURCHASE FROM THE DEPARTMENT OF GAME AND FISH TO MAKE A DONATION TO HELP SUPPORT THE YOUTH PROGRAMS.

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

## **Chapter 168 Section 1 Laws 2023**

SECTION 1. A new section of Chapter 17 NMSA 1978 is enacted to read:

"YOUTH PROGRAMS--DONATIONS.--

A. As used in this section, "youth" means a person under the age of eighteen who resides in New Mexico.

B. The director of the department of game and fish shall provide for youth programs in each of the five state game commission districts pursuant to Section 17-1-2 NMSA 1978. The programs shall be open to all youth and provide both educational and entertaining experiences. The director shall coordinate the program locations to provide the greatest breadth of access to New Mexico's youth.

C. The director of the department of game and fish shall provide the opportunity for a person who makes a purchase from the department of game and fish to donate money to the youth programs by rounding up the dollar amount or donating a custom amount. All such donations shall be deposited in the game protection fund to be used for the provision of these youth programs."

## **Chapter 168 Section 2 Laws 2023**

SECTION 2. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# **LAWS 2023, CHAPTER 169**

**SJC/Senate Bill 17**  
**Approved April 5, 2023**

AN ACT

RELATING TO INSURANCE; ENACTING NEW SECTIONS OF THE HEALTH CARE PURCHASING ACT AND THE SHORT-TERM HEALTH PLAN AND EXCEPTED BENEFIT ACT TO ADDRESS ISSUES RELATED TO THE PRIOR AUTHORIZATION PROCESS, COLLECTION OF OVERPAYMENTS, ACCEPTABLE METHODS OF PAYMENT AND NETWORK LEASING.

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

## **Chapter 169 Section 1 Laws 2023**

SECTION 1. A new section of the Health Care Purchasing Act is enacted to read:

"DENTAL COVERAGE--PRIOR AUTHORIZATION.--

A. For purposes of this section, "prior authorization" means a written communication indicating whether a specific service is covered or multiple services are covered and reimbursable at a specific amount, subject to applicable coinsurance and deductibles, and issued in response to a request submitted by a provider using a format prescribed by a dental plan.

B. Group coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act that offers a dental plan shall provide a prior authorization upon the submission of a properly formatted request from the insured.

C. Group coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act that offers a dental plan shall not deny any claim subsequently submitted for services included in a prior authorization unless one of the following circumstances applies for each service denied:

(1) benefit limitations, including annual maximums or frequency limitations, not applicable at the time of the prior authorization, are reached due to the insured's utilization subsequent to issuance of the prior authorization;

(2) the documentation submitted for the claim clearly fails to support the claim as originally authorized;

(3) subsequent to the issuance of a prior authorization, new services are provided to the insured or a change in the insured's condition occurs that would cause prior-authorized services to no longer be medically necessary, based on prevailing standards of care;

(4) subsequent to the issuance of a prior authorization, new services are provided to the insured or a change in the insured's condition occurs such that the prior-authorized procedure would at that time require disapproval pursuant to the terms and conditions for coverage under the insured's plan in effect at the time the request for prior authorizations was made; or

(5) denial of the claim was due to one of the following reasons:

(a) another entity is responsible for payment;

(b) the provider has already been paid for the services identified on the claim;

(c) the claim submitted was fraudulent;

(d) the prior authorization was based on erroneous information provided to the dental plan by the provider, the insured or other person; or

(e) the insured was not eligible for the service on the date it was provided and the provider did not know, or with the exercise of reasonable care, could not have known the insured's eligibility status."

## **Chapter 169 Section 2 Laws 2023**

SECTION 2. A new section of the Health Care Purchasing Act is enacted to read:

"DENTAL COVERAGE--DESIGNATION OF PAYMENT.--

A. Group coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act that offers a dental plan shall provide for the direct payment of covered benefits to a provider, specified by the insured, regardless of the provider's network or contractual status with the dental plan.

B. A dental plan shall provide for the direct payment of covered benefits to a provider, specified by the insured, by including on its claim forms an:

(1) option for the designation of payment from the insured to the provider; and

(2) an attestation to be completed by the insured."

## **Chapter 169 Section 3 Laws 2023**

SECTION 3. A new section of the Health Care Purchasing Act is enacted to read:

"DENTAL COVERAGE--ERRONEOUSLY PAID CLAIMS--RESTRICTIONS ON RECOVERY.--

A. Group coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act that offers a dental plan shall establish policies and procedures for payment recovery, including providing:

(1) notice to the provider that identifies the error made in the processing or payment of the claim;

(2) an explanation of the recovery being sought; and

(3) an opportunity for the provider to appeal the recovery being sought as set forth in Subsection C of this section.

B. Group coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act that offers a dental plan shall not initiate payment recovery procedures more than twenty-four months after the original payment for a claim was made unless the claim was fraudulent or intentionally misrepresented.

C. Group coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act that offers a dental plan shall not attempt to recover an erroneously paid claim by withholding or reducing payment for a different claim unless the plan:

(1) notifies the provider, in writing, within twelve months of the erroneously paid claim; and

(2) advises the provider that an automatic deduction shall occur within forty-five days of receiving notification unless the provider submits a written appeal to the plan pursuant to the grievance rules prescribed by the superintendent of insurance.

D. The provisions of this section shall not apply to duplicate payments."

## **Chapter 169 Section 4 Laws 2023**

SECTION 4. A new section of the Health Care Purchasing Act is enacted to read:

"DENTAL COVERAGE--METHODS OF PAYMENT.--

A. For purposes of this section, "credit card payment" means a type of electronic funds transfer whereby:

(1) an insurer issues a single-use series of numbers associated with the payment of services rendered by the provider and chargeable to a predetermined amount; and

(2) the provider is responsible for processing the payment by using a credit card terminal or internet portal.

B. Group coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act that offers a dental plan shall not place restrictions on a provider regarding acceptable methods of payment, including designating credit card payments as the only acceptable form of payment.

C. When transmitting a payment to a provider using an electronic funds transfer, other than one made through the automated clearinghouse network, an insurer:

(1) shall not charge a fee to the provider solely to transmit a payment without the provider's consent;

(2) shall notify the provider of any other fees associated with transmitting a payment; and

(3) shall provide a provider with a fee-free method of transmitting a payment and provide instructions for utilizing the method."

## **Chapter 169 Section 5 Laws 2023**

SECTION 5. A new section of the Health Care Purchasing Act is enacted to read:

"DENTAL COVERAGE--PROVIDER NETWORK LEASING.--

A. For purposes of this section:

(1) "contracting entity" means any person or entity that enters into direct contracts with a provider for the delivery of services in the ordinary course of business;

(2) "provider" means a person acting within the scope of licensure to provide dental services or supplies;

(3) "provider network contract" means a contract between a contracting entity and a provider specifying the rights and responsibilities of the contracting entity and providing for the delivery of and payment for services to the insured; and

(4) "third party" means a person or entity that enters into a contract with a contracting entity or with another third party to gain access to the services or contractual discounts of a provider network contract.

B. At a time when a contract relevant to granting access to a provider network to a third party is entered into or renewed, or when there are material modifications made, a contracting entity shall not require a provider to participate in third-party access to the provider network contract or contract directly with a third party that acquired the provider network. If a provider opts out, the contracting entity shall not cancel or otherwise end a contractual relationship with the provider. When initially contracting with a provider, a contracting entity must accept a qualified provider even if the provider rejects a network lease provision.

C. A contracting entity shall not grant a third party access to a provider network contract, a provider's services or discounts provided pursuant to a provider network contract unless:

(1) the provider network contract states that the contracting entity may enter into an agreement with a third party, allowing the third party to obtain the insurer's rights and responsibilities as though the third party were the contracting entity;

(2) the third party accessing the provider network contract agrees to comply with all of the terms of the provider network contract; and

(3) the contracting entity:

(a) identifies all third parties with which it contracts in a list on its website that is updated every ninety days;

(b) notifies a provider that a new third party is planning to lease or purchase the provider network contract, at least thirty business days before the lease or purchase takes effect;

(c) requires the third party to identify the source of the discount on all remittances or explanation of benefits under which the discount is taken; and

(d) makes available a copy of the provider network contract relied upon in the adjudication of a claim to a provider within thirty days of the provider's request.

D. A third party's right to a provider's discounted rate shall cease upon the termination date of the provider network contract.

E. The provisions of this section shall not apply if access to a provider network contract is granted to a dental carrier of an entity operating in accordance with the same brand licensee program as the contracting entity or to an entity that is an affiliate of the contracting entity. A list of the contracting entity's affiliates shall be made available to a provider on the contracting entity's website."

## **Chapter 169 Section 6 Laws 2023**

SECTION 6. Section 59A-23G-1 NMSA 1978 (being Laws 2019, Chapter 235, Section 1) is amended to read:

"59A-23G-1. SHORT TITLE.--Chapter 59A, Article 23G NMSA 1978 may be cited as the "Short-Term Health Plan and Excepted Benefit Act"."

## **Chapter 169 Section 7 Laws 2023**

SECTION 7. A new section of the Short-Term Health Plan and Excepted Benefit Act is enacted to read:

"DENTAL PLAN--PRIOR AUTHORIZATION.--

A. For purposes of this section, "prior authorization" means a written communication indicating whether a specific service is covered or multiple services are covered and reimbursable at a specific amount, subject to applicable coinsurance and

deductibles, and issued in response to a request submitted by a provider using a format prescribed by a dental plan.

B. A dental plan shall provide a prior authorization upon the submission of a properly formatted request from a covered person.

C. A dental plan shall not deny any claim subsequently submitted for services included in a prior authorization unless one of the following circumstances applies for each service denied:

(1) benefit limitations, including annual maximums or frequency limitations, not applicable at the time of the prior authorization, are reached due to the covered person's utilization subsequent to issuance of the prior authorization;

(2) the documentation submitted for the claim clearly fails to support the claim as originally authorized;

(3) subsequent to the issuance of a prior authorization, new services are provided to the covered person or a change in the covered person's condition occurs that would cause prior-authorized services to no longer be medically necessary, based on prevailing standards of care;

(4) subsequent to the issuance of a prior authorization, new services are provided to the covered person or a change in the covered person's condition occurs such that the prior-authorized procedure would at that time require disapproval pursuant to the terms and conditions for coverage under the covered person's plan in effect at the time the request for prior authorization was made; or

(5) denial of the claim was due to one of the following reasons:

(a) another entity is responsible for payment;

(b) the provider has already been paid for the services identified on the claim;

(c) the claim submitted was fraudulent;

(d) the prior authorization was based on erroneous information provided to the dental plan by the provider, the covered person or other person; or

(e) the covered person was not eligible for the service on the date it was provided and the provider did not know, or with the exercise of reasonable care, could not have known the covered person's eligibility status."

## **Chapter 169 Section 8 Laws 2023**

SECTION 8. A new section of the Short-Term Health Plan and Excepted Benefit Act is enacted to read:

"DENTAL PLAN--DESIGNATION OF PAYMENT.--

A. A dental plan shall provide for the direct payment of covered benefits to a provider, specified by a covered person, regardless of the provider's network or contractual status with the dental plan.

B. A dental plan shall provide for the direct payment of covered benefits to a provider, specified by a covered person, by including on its claim forms an:

(1) option for the designation of payment from the covered person to the provider; and

(2) an attestation to be completed by the covered person."

## **Chapter 169 Section 9 Laws 2023**

SECTION 9. A new section of the Short-Term Health Plan and Excepted Benefit Act is enacted to read:

"DENTAL PLAN--ERRONEOUSLY PAID CLAIMS--RESTRICTIONS ON RECOVERY.--

A. A dental plan shall establish policies and procedures for payment recovery, including providing:

(1) notice to the provider that identifies the error made in the processing or payment of the claim;

(2) an explanation of the recovery being sought; and

(3) an opportunity for the provider to appeal the recovery being sought as set forth in Subsection C of this section.

B. A dental plan shall not initiate payment recovery procedures more than twenty-four months after the original payment for a claim was made unless the claim was fraudulent or intentionally misrepresented.

C. A dental plan shall not attempt to recover an erroneously paid claim by withholding or reducing payment for a different claim unless the plan:

(1) notifies the provider, in writing, within twelve months of the erroneously paid claim; and

(2) advises the provider that an automatic deduction shall occur within forty-five days of receiving notification unless the provider submits a written appeal to the plan pursuant to the grievance rules prescribed by the superintendent of insurance.

D. The provisions of this section shall not apply to duplicate payments."

## **Chapter 169 Section 10 Laws 2023**

SECTION 10. A new section of the Short-Term Health Plan and Excepted Benefit Act is enacted to read:

### "DENTAL PLAN--METHODS OF PAYMENT.--

A. For purposes of this section, "credit card payment" means a type of electronic funds transfer whereby:

(1) a health insurance carrier issues a single-use series of numbers associated with the payment of services rendered by the provider and chargeable to a predetermined amount; and

(2) the provider is responsible for processing the payment by using a credit card terminal or internet portal.

B. A health insurance carrier shall not place restrictions on a provider regarding acceptable methods of payment, including designating credit card payments as the only acceptable form of payment.

C. When transmitting a payment to a provider using an electronic funds transfer, other than one made through the automated clearinghouse network, a health insurance carrier:

(1) shall not charge a fee to the provider solely to transmit a payment without the provider's consent;

(2) shall notify the provider of any other fees associated with transmitting a payment; and

(3) shall provide a provider with a fee-free method of transmitting a payment and provide instructions for utilizing the method."

## Chapter 169 Section 11 Laws 2023

SECTION 11. A new section of the Short-Term Health Plan and Excepted Benefit Act is enacted to read:

"DENTAL PLAN--PROVIDER NETWORK LEASING.--

A. For purposes of this section:

(1) "contracting entity" means any person or entity that enters into direct contracts with a provider for the delivery of services in the ordinary course of business;

(2) "provider" means a person acting within the scope of licensure to provide dental services or supplies;

(3) "provider network contract" means a contract between a contracting entity and a provider specifying the rights and responsibilities of the contracting entity and providing for the delivery of and payment for services to covered persons; and

(4) "third party" means a person or entity that enters into a contract with a contracting entity or with another third party to gain access to the services or contractual discounts of a provider network contract.

B. At a time when a contract relevant to granting access to a provider network to a third party is entered into or renewed, or when there are material modifications made, a contracting entity shall not require a provider to participate in third-party access to the provider network contract or contract directly with a third party that acquired the provider network. If a provider opts out, the contracting entity shall not cancel or otherwise end a contractual relationship with the provider. When initially contracting with a provider, a contracting entity must accept a qualified provider even if the provider rejects a network lease provision.

C. A contracting entity shall not grant a third party access to a provider network contract, a provider's services or discounts provided pursuant to a provider network contract unless:

(1) the provider network contract states that the contracting entity may enter into an agreement with a third party, allowing the third party to obtain the health insurance carrier's rights and responsibilities as though the third party were the contracting entity;

(2) the third party accessing the provider network contract agrees to comply with all of the terms of the provider network contract; and

(3) the contracting entity:

(a) identifies all third parties with which it contracts in a list on its website that is updated every ninety days;

(b) notifies a provider that a new third party is planning to lease or purchase the provider network contract at least thirty business days before the lease or purchase takes effect;

(c) requires the third party to identify the source of the discount on all remittances or explanation of benefits under which the discount is taken; and

(d) makes available a copy of the provider network contract relied upon in the adjudication of a claim to a provider within thirty days of the provider's request.

D. A third party's right to a provider's discounted rate shall cease upon the termination date of the provider network contract.

E. The provisions of this section shall not apply if access to a provider network contract is granted to a dental carrier of an entity operating in accordance with the same brand licensee program as the contracting entity or to an entity that is an affiliate of the contracting entity. A list of the contracting entity's affiliates shall be made available to a provider on the contracting entity's website."

## **Chapter 169 Section 12 Laws 2023**

SECTION 12. APPLICABILITY.--The provisions of this act apply to dental plans issued for delivery or renewed in this state on or after January 1, 2024.

# **LAWS 2023, CHAPTER 170**

**SCONC/Senate Bill 58**  
**Approved April 5, 2023**

AN ACT

RELATING TO WATER; CHANGING MEMBERSHIP OF THE INTERSTATE STREAM COMMISSION; PROVIDING OTHER TERMS OF HOLDING OFFICE ON THE COMMISSION; REPEALING AND ENACTING A SECTION OF THE NMSA 1978.

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

## Chapter 170 Section 1 Laws 2023

SECTION 1. Section 72-14-1 NMSA 1978 (being Laws 1935, Chapter 25, Section 1, as amended) is repealed and a new Section 72-14-1 NMSA 1978 is enacted to read:

"72-14-1. INTERSTATE STREAM COMMISSION--CREATION--MEMBERSHIP--ORGANIZATION.--

A. The "interstate stream commission" is created, consisting of the following members:

(1) the state engineer; and

(2) eight members appointed by the governor, with the advice and consent of the senate, with the provision that not more than five members of the commission, including the state engineer, shall be from the same political party, at least one of whom shall be a member of a New Mexico Indian nation or tribe and at least one of whom shall be a member of a New Mexico Indian pueblo. Members shall be appointed as follows:

(a) four representatives of irrigation or conservancy districts or sections of the state of New Mexico;

(b) one representative of a New Mexico acequia or community ditch;

(c) one representative of a New Mexico drinking water utility that provides at least five hundred acre-feet of water annually for domestic use;

(d) one member of the water resources research institute or civil or environmental engineering faculty of New Mexico state university or the university of New Mexico; and

(e) one hydrogeologist with expertise in New Mexico ground water resources who is a faculty member of the New Mexico institute of mining and technology or a professional engineer with a New Mexico consulting engineering practice in water resources or water utility engineering.

B. Except for the state engineer:

(1) members of the commission shall have no less than ten years' experience with New Mexico water resources;

(2) no more than two members shall be appointed from the same irrigation or conservancy district or section of the state of New Mexico or the same New Mexico Indian nation, tribe or pueblo;

(3) no more than three members shall be appointed from the same congressional district; and

(4) members shall be appointed from and reside in at least three different state engineer water rights districts.

C. An appointed member of the interstate stream commission shall not have changed party registration in the two years preceding the member's appointment in such a manner that the member's prior party registration would cause one political party to have more than five members. A member of the commission shall not continue to serve on the commission if the member changes party registration after the date of appointment in such a manner as to cause one political party to have more than five members.

D. The appointed members shall serve for staggered terms of four years; provided that of the initial members, two members shall serve for one year, two members shall serve for two years, two members shall serve for three years and two members shall serve for four years. Initial terms shall be decided by drawing lots.

E. An appointed member may be removed from the interstate stream commission by the governor for failure to attend three consecutive meetings or for other cause in the same manner as provided for removal of members of boards of regents pursuant to Article 12, Section 13 of the constitution of New Mexico. A vacancy occurring other than by expiration of the term shall be filled in the same manner as the original appointment for the remainder of the unexpired term.

F. The interstate stream commission shall elect a chair and vice chair as provided by rule, and the state engineer shall be the secretary. A commission member shall not hold any office or employment in a political party.

G. All actions of the interstate stream commission shall be by majority vote, and a majority of members constitutes a quorum for the transaction of business."

## **Chapter 170 Section 2 Laws 2023**

SECTION 2. TEMPORARY PROVISION--INITIAL APPOINTMENTS TO THE INTERSTATE STREAM COMMISSION.--Members of the interstate stream commission serving as of July 1, 2023 shall continue in their positions until their terms have expired and their successors have been appointed and qualified. Current members who meet the qualifications of the positions specified in Section 72-14-1 NMSA 1978 may be appointed for new terms. A member appointed before January 1, 2024 pursuant to this act shall take office immediately, serve the remainder of the year and serve for a term

beginning January 1, 2024 and ending December 31 in the year for that position as determined by lot in accordance with Section 72-14-1 NMSA 1978.

## **Chapter 170 Section 3 Laws 2023**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# **LAWS 2023, CHAPTER 171**

**Senate Bill 71, aa, w/ec**  
**Approved April 5, 2023**

AN ACT

RELATING TO ANATOMICAL GIFTS; PROHIBITING DISCRIMINATION AGAINST ANATOMICAL GIFT RECIPIENTS BASED SOLELY ON PHYSICAL OR MENTAL DISABILITY; PROHIBITING INSURANCE COVERAGE DISCRIMINATION AGAINST PERSONS WITH DISABILITIES RECEIVING ORGAN, EYE OR TISSUE TRANSPLANTS AND ASSOCIATED CARE; DECLARING AN EMERGENCY.

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

## **Chapter 171 Section 1 Laws 2023**

SECTION 1. Section 24-6B-1 NMSA 1978 (being Laws 2007, Chapter 323, Section 1) is amended to read:

"24-6B-1. SHORT TITLE.--Chapter 24, Article 6B NMSA 1978 may be cited as the "Jonathan Spradling Revised Uniform Anatomical Gift Act"."

## **Chapter 171 Section 2 Laws 2023**

SECTION 2. A new section of the Jonathan Spradling Revised Uniform Anatomical Gift Act is enacted to read:

"DISCRIMINATION AGAINST RECIPIENTS BASED ON DISABILITY PROHIBITED--ENFORCEMENT.--

A. As used in this section:

(1) "covered entity" means an organ procurement organization, hospital, transplant hospital, physician, insurance company or plan or health maintenance organization; and

(2) "disability" means a severe chronic physical or mental impairment that results in substantial functional limitations in one or more of the following areas of major life activity:

- (a) self-care;
- (b) receptive and expressive language;
- (c) learning;
- (d) mobility;
- (e) self-determination; and
- (f) capacity for independent living.

B. The provisions of this section apply to all stages of the transplant process.

C. A covered entity shall not discriminate against a person with a disability in the receipt of an anatomical gift and shall not, solely on the basis of a person's disability:

- (1) consider the person ineligible to receive an anatomical gift;
- (2) deny transplantation-related services;
- (3) refuse to refer the person to an organ procurement organization, transplant hospital or other related specialist for the purpose of being evaluated for or receiving an anatomical gift;
- (4) refuse to place an otherwise qualified recipient on an anatomical gift waiting list;
- (5) place an otherwise qualified recipient on an anatomical gift waiting list at a lower priority position than the position at which the recipient would have been placed if the recipient did not have a disability; or
- (6) refuse insurance coverage for any procedures associated with being evaluated for or receiving an anatomical gift, including post-surgical medical care.

D. A covered entity may take a person's disability into account when making treatment recommendations or decisions only to the extent that the disability has been found by a physician to be medically significant to the provision of the anatomical gift after an individualized evaluation of the person. If a person with a disability has the necessary support system to assist the person in complying with post-surgical medical requirements, a covered entity shall not consider the person's inability to independently comply with post-surgical medical requirements to be medically significant.

E. A person affected by a violation of the provisions of this section may commence a civil action in district court.

F. Nothing in this section is intended to limit or replace available remedies under the federal Americans with Disabilities Act of 1990 or other applicable law."

### **Chapter 171 Section 3 Laws 2023**

SECTION 3. A new section of Chapter 59A, Article 22 NMSA 1978 is enacted to read:

"ANATOMICAL GIFT NONDISCRIMINATION.--

A. For purposes of this section:

(1) "covered person" means a policyholder or other person covered by a health benefit plan; and

(2) "organ transplant" includes parts or the whole of organs, eyes or tissue.

B. All individual and group health insurance policies delivered or issued for delivery in this state that provide coverage for organ transplants and associated care shall not:

(1) deny that coverage solely on the basis of a covered person's physical or mental disability;

(2) deny to a covered person with a physical or mental disability eligibility or continued eligibility to enroll or to renew coverage under the terms of the health benefit policy or plan solely for the purpose of avoiding the requirements of this section;

(3) penalize or otherwise reduce or limit the reimbursement or provide monetary or nonmonetary incentives to a health care provider to induce that health care provider not to provide an organ transplant or associated care to a covered person with a physical or mental disability; or

(4) reduce or limit coverage benefits to a covered person with a physical or mental disability for the associated care related to organ transplantation as determined in consultation with the physician and patient."

### **Chapter 171 Section 4 Laws 2023**

SECTION 4. A new section of Chapter 59A, Article 23 NMSA 1978 is enacted to read:

"ANATOMICAL GIFT NONDISCRIMINATION.--

A. For purposes of this section:

(1) "covered person" means a policyholder or other person covered by a health benefit plan; and

(2) "organ transplant" includes parts or the whole of organs, eyes or tissue.

B. All individual and group health insurance policies delivered or issued for delivery in this state that provide coverage for organ transplants or associated care shall not:

(1) deny that coverage solely on the basis of a covered person's physical or mental disability;

(2) deny to a covered person with a physical or mental disability eligibility or continued eligibility to enroll or to renew coverage under the terms of the health benefit policy or plan solely for the purpose of avoiding the requirements of this section;

(3) penalize or otherwise reduce or limit the reimbursement or provide monetary or nonmonetary incentives to a health care provider to induce that health care provider not to provide an organ transplant or associated care to a covered person with a physical or mental disability; or

(4) reduce or limit coverage benefits to a covered person with a physical or mental disability for the associated care related to organ transplantation as determined in consultation with the physician and patient."

## **Chapter 171 Section 5 Laws 2023**

SECTION 5. A new section of the Health Maintenance Organization Law is enacted to read:

"ANATOMICAL GIFT NONDISCRIMINATION.--

A. As used in this section, "organ transplant" includes parts or the whole of organs, eyes or tissue.

B. A health maintenance organization contract that provides coverage for organ transplants or associated care shall not:

(1) deny coverage for organ transplantation or associated care to an enrollee solely on the basis of the enrollee's physical or mental disability;

(2) deny to an enrollee with a physical or mental disability eligibility or continued eligibility to enroll or to renew enrollment under the terms of the health maintenance organization's benefit policy or plan solely for the purpose of avoiding the requirements of this section;

(3) penalize or otherwise reduce or limit the reimbursement or provide monetary or nonmonetary incentives to a health care provider to induce that health care provider not to provide an organ transplant or associated care to an enrollee with a disability; or

(4) reduce or limit benefits to an enrollee with a physical or mental disability for associated care related to organ transplantation as determined in consultation with the physician and patient."

## **Chapter 171 Section 6 Laws 2023**

SECTION 6. A new section of the Nonprofit Health Care Plan Law is enacted to read:

"ANATOMICAL GIFT NONDISCRIMINATION.--

A. For purposes of this section:

(1) "covered person" means a policyholder or other person covered by a health benefit plan; and

(2) "organ transplant" includes parts or the whole of organs, eyes or tissue.

B. All individual and group health insurance policies delivered or issued for delivery in this state that provide coverage for organ transplants or associated care shall not:

(1) deny coverage for organ transplantation or associated care to a covered person solely on the basis of that person's physical or mental disability;

(2) deny to a covered person with a physical or mental disability eligibility or continued eligibility to enroll or to renew coverage under the terms of the health benefit policy or plan solely for the purpose of avoiding the requirements of this section;

(3) penalize or otherwise reduce or limit the reimbursement or provide monetary or nonmonetary incentives to a health care provider to induce that health care provider not to provide an organ transplant or associated care to a covered person with a physical or mental disability; or

(4) reduce or limit coverage benefits to a covered person with a physical or mental disability for associated care related to organ transplantation as determined in consultation with the physician and patient."

## **Chapter 171 Section 7 Laws 2023**

SECTION 7. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

## **LAWS 2023, CHAPTER 172**

**SJC/Senate Bill 107, aa**  
**Approved April 5, 2023**

### **AN ACT**

RELATING TO CHILDREN; REVISING THE CHILDREN'S CODE; EXTENDING THE PERIOD FOR FILING A PETITION AND PROVIDING NOTICE; RESTRICTING THE RETURN OF A CHILD IF TAKEN INTO CUSTODY MORE THAN ONCE IN SIX MONTHS.

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

## **Chapter 172 Section 1 Laws 2023**

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 three days, unless the provisions of Subsection F of Section 32A-4-7 NMSA 1978 apply, in which case the petition shall be filed within five days.

F. When the department files a petition, it shall simultaneously provide to the office of family representation and advocacy, and if a child is an Indian child, to the child's Indian nation, tribe or pueblo:

(1) the petition;

(2) the name, telephone numbers and addresses of each respondent;  
and

(3) the names, dates of birth and placement information for each child who is a subject of the petition, including:

(a) the type of placement; and

(b) the name, telephone number and address for the person or entity that holds the license for each child's placement.

G. If a petition is not filed in a timely manner, the child shall be released to the child's parent, guardian or custodian."

## **Chapter 172 Section 2 Laws 2023**

SECTION 2. Section 32A-4-7 NMSA 1978 (being Laws 1993, Chapter 77, Section 101, as amended) is amended to read:

"32A-4-7. RELEASE OR DELIVERY FROM CUSTODY.--

A. A person taking a child into custody shall, with all reasonable speed:

(1) release the child to the child's parent, guardian or custodian and issue verbal counsel or warning as may be appropriate; or

(2) deliver the child to the department or, in the case of a child who is believed to be suffering from a serious physical or mental condition or illness that

requires prompt treatment or diagnosis, deliver the child to a medical facility. If a law enforcement officer delivers a child to a medical facility, the officer shall immediately notify the department that the child has been placed in the department's legal custody.

B. When an alleged neglected or abused child is delivered to the department, a department caseworker shall review the need for placing the child in custody and shall release the child from custody unless custody is appropriate or has been ordered by the court. When a child is delivered to a medical facility, a department caseworker shall review the need for retention of custody within a reasonable time after delivery of the child to the facility and shall release the child from custody unless custody is appropriate or has been ordered by the court.

C. If a child is placed in the legal custody of the department and is not released to the child's parent, guardian or custodian, the department shall give written notice thereof as soon as possible, and in no case later than twenty-four hours, to the child's parent, guardian or custodian together with a statement of the reason for taking the child into custody.

D. Reasonable efforts shall be made to prevent or eliminate the need for removing the child from the child's home, with the paramount concern being the child's health and safety. In all cases when a child is taken into custody, the child shall be released to the child's parent, guardian or custodian, unless the department files a petition within three days from the date that the child was taken into custody.

E. The department may release the child at any time within the three-day period after the child was taken into custody if it is determined by the department that release is appropriate or if release has been ordered by the court.

F. If a child that has been taken into custody and released to the child's parent, guardian or custodian is taken into custody again within one year of having been taken into custody, the child shall not be released from custody until a department review is conducted, in consultation with the children's court managing attorney, to review the child's case and documents and determine whether the child should be released to the child's parent, guardian or custodian or if it is in the best interest of the child to file a petition alleging neglect or abuse. The department's review shall be conducted by a person above the level of supervisor who has been authorized by the secretary of children, youth and families to review such cases. If the secretary has not authorized anyone to review such cases, the department's review shall be conducted by the director of the protective services division of the department. The three-day deadline for filing the petition pursuant to Subsections D and E of this section is extended to five days when the child's case is reviewed pursuant to this subsection."

## **LAWS 2023, CHAPTER 173**

**Senate Bill 143**

**Approved April 5, 2023**

AN ACT

RELATING TO GAMING CONTROL; INCREASING THE MAXIMUM AWARD OF A GAMING MACHINE ON THE PREMISES OF A NONPROFIT ORGANIZATION GAMING OPERATOR LICENSEE.

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

**Chapter 173 Section 1 Laws 2023**

SECTION 1. Section 60-2E-28 NMSA 1978 (being Laws 1997, Chapter 190, Section 30, as amended) is amended to read:

"60-2E-28. GAMING OPERATOR LICENSEES--SPECIAL CONDITIONS FOR NONPROFIT ORGANIZATIONS--NUMBER OF GAMING MACHINES--DAYS AND HOURS OF OPERATIONS.--

- A. A nonprofit organization may be issued a gaming operator's license to operate licensed gaming machines on its premises to be played only by active and auxiliary members.
- B. No more than fifteen gaming machines may be offered for play on the premises of a nonprofit organization gaming operator licensee.
- C. A gaming machine on the premises of a nonprofit organization gaming operator licensee may not award a prize that exceeds ten thousand dollars (\$10,000).
- D. Gaming machines may be played on the premises of a nonprofit organization gaming operator licensee from 12:00 noon until 12:00 midnight every day."

**LAWS 2023, CHAPTER 174**

**Senate Bill 206**

**Approved April 5, 2023**

AN ACT

RELATING TO PROCUREMENT; PROVIDING AN EXEMPTION FROM THE PROCUREMENT CODE FOR CONTRACTS ENTERED INTO BY THE FORESTRY DIVISION OF THE ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT TO DISTRIBUTE FEDERAL GRANTS TO NONGOVERNMENTAL ENTITIES AND INDIVIDUALS SELECTED BY THE FEDERAL GOVERNMENT FOR PROGRAMS RELATING TO FORESTRY.

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

## Chapter 174 Section 1 Laws 2023

SECTION 1. Section 13-1-98 NMSA 1978 (being Laws 1984, Chapter 65, Section 71, as amended by Laws 2019, Chapter 48, Section 13 and by Laws 2019, Chapter 63, Section 1) 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 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 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;

HH. contracts entered into by the forestry division of the energy, minerals and natural resources department to distribute federal grants to nongovernmental entities and individuals selected through an application process conducted by the United States department of agriculture, the United States department of the interior or any division or bureau thereof for programs for wildfire prevention or protection, urban forestry, forest and watershed restoration and protection, reforestation or economic development projects to advance the use of trees and wood biomass for hazardous fuel reduction; and

II. procurements exempt from the Procurement Code as otherwise provided by law."

## **LAWS 2023, CHAPTER 175**

**Senate Bill 232, aa**  
**Approved April 5, 2023**

### **AN ACT**

RELATING TO HEALTH INSURANCE; REQUIRING THE SUPERINTENDENT OF INSURANCE TO PROMULGATE RULES ESTABLISHING A TIME FRAME FOR INSURERS TO LOAD INFORMATION ON APPROVED PROVIDERS INTO THEIR PROVIDER PAYMENT SYSTEMS; REQUIRING INSURERS TO REIMBURSE APPROVED PROVIDERS IF THE INSURERS FAIL TO LOAD THAT INFORMATION WITHIN THIRTY DAYS OF RECEIVING A COMPLETE CREDENTIALING APPLICATION.

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

### **Chapter 175 Section 1 Laws 2023**

SECTION 1. Section 59A-22-54 NMSA 1978 (being Laws 2015, Chapter 111, Section 1, as amended) is amended to read:

"59A-22-54. PROVIDER CREDENTIALING--REQUIREMENTS--DEADLINE.--

A. The superintendent shall adopt and promulgate rules to provide for a uniform and efficient provider credentialing process. The superintendent shall approve no more than two forms of application to be used for the credentialing of providers.

B. An insurer shall not require a provider to submit information not required by a credentialing application established pursuant to Subsection A of this section.

C. The provisions of this section apply equally to initial credentialing applications and applications for recredentialing.

D. The rules that the superintendent adopts and promulgates shall require primary credential verification no more frequently than every three years and allow provisional credentialing for a period of one year.

E. Nothing in this section shall be construed to require an insurer to credential or provisionally credential a provider.

F. The rules that the superintendent adopts and promulgates shall establish that an insurer or an insurer's agent shall:

(1) assess and verify the qualifications of a provider applying to become a participating provider within thirty calendar days of receipt of a complete credentialing application and issue a decision in writing to the applicant approving or denying the credentialing application;

(2) be permitted to extend the credentialing period to assess and issue a determination by an additional fifteen calendar days if, upon review of a complete application, it is determined that the circumstance presented, including an admission of sanctions by the state licensing board, investigation or felony conviction, revocation of clinical privileges or denial of insurance coverage, requires additional consideration;

(3) within ten working days after receipt of a credentialing application, send a written notification, via United States certified mail, to the applicant requesting any information or supporting documentation that the insurer requires to approve or deny the credentialing application. The notice to the applicant shall include a complete and detailed description of all of the information or supporting documentation required and the name, address and telephone number of a person who serves as the applicant's point of contact for completing the credentialing application process. Any information required pursuant to this section shall be reasonably related to the information in the application; and

(4) no later than thirty calendar days as described in Paragraph (1) of this subsection or an additional fifteen days as described in Paragraph (2) of this subsection, load into the insurer's provider payment system all provider information, including all information needed to correctly reimburse a newly approved provider according to the provider's contract. The insurer or insurer's agent shall add the approved provider's data to the provider directory upon loading the provider's information into the insurer's provider payment system.

G. An insurer shall reimburse a provider for covered health care services for any claims from the provider that the insurer receives with a date of service more than thirty calendar days after the date on which the insurer received a complete credentialing application for that provider if:

(1) the provider:

(a) has submitted a complete credentialing application and any supporting documentation that the insurer has requested in writing within the time frame established in Paragraph (3) of Subsection F of this section;

(b) has no past or current license sanctions or limitations, as reported by the New Mexico medical board or another pertinent licensing and regulatory agency, or by a similar out-of-state licensing and regulatory entity for a provider licensed in another state; and

(c) has professional liability insurance or is covered under the Medical Malpractice Act; and

(2) the insurer:

(a) has approved, or has failed to approve or deny, the applicant's complete credentialing application within the time frame established pursuant to Paragraph (1) or (2) of Subsection F of this section; or

(b) fails to load the approved applicant's information into the insurer's provider payment system in accordance with Paragraph (4) of Subsection F of this section.

H. A provider who, at the time services were rendered, was not employed by a practice or group that has contracted with the insurer to provide services at specified rates of reimbursement shall be paid by the insurer in accordance with the insurer's standard reimbursement rate.

I. A provider who, at the time services were rendered, was employed by a practice or group that has contracted with the insurer to provide services at specified rates of reimbursement shall be paid by the insurer in accordance with the terms of that contract.

J. The superintendent shall adopt and promulgate rules to provide for the resolution of disputes relating to reimbursement and credentialing arising in cases where credentialing is delayed beyond thirty days after application.

K. An insurer shall reimburse a provider pursuant to Subsections G, H and I of this section until the earlier of the following occurs:

(1) the insurer's approval or denial of the provider's complete credentialing application; or

(2) the passage of three years from the date the insurer received the provider's complete credentialing application.

L. As used in this section:

(1) "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; and

(2) "provider" means a physician or other individual licensed or otherwise authorized to furnish health care services in a state."

## **Chapter 175 Section 2 Laws 2023**

SECTION 2. Section 59A-23-14 NMSA 1978 (being Laws 2015, Chapter 111, Section 2, as amended) is amended to read:

"59A-23-14. PROVIDER CREDENTIALING--REQUIREMENTS--DEADLINE.--

A. The superintendent shall adopt and promulgate rules to provide for a uniform and efficient provider credentialing process. The superintendent shall approve no more than two forms of application to be used for the credentialing of providers.

B. An insurer shall not require a provider to submit information not required by a credentialing application established pursuant to Subsection A of this section.

C. The provisions of this section apply equally to initial credentialing applications and applications for recredentialing.

D. The rules that the superintendent adopts and promulgates shall require primary credential verification no more frequently than every three years and allow provisional credentialing for a period of one year.

E. Nothing in this section shall be construed to require an insurer to credential or provisionally credential a provider.

F. The rules that the superintendent adopts and promulgates shall establish that an insurer or an insurer's agent shall:

(1) assess and verify the qualifications of a provider applying to become a participating provider within thirty calendar days of receipt of a complete credentialing application and issue a decision in writing to the applicant approving or denying the credentialing application;

(2) be permitted to extend the credentialing period to assess and issue a determination by an additional fifteen calendar days if, upon review of a complete application, it is determined that the circumstance presented, including an admission of sanctions by the state licensing board, investigation or felony conviction, revocation of clinical privileges or denial of insurance coverage, requires additional consideration;

(3) within ten working days after receipt of a credentialing application, send a written notification, via United States certified mail, to the applicant requesting any information or supporting documentation that the insurer requires to approve or deny the credentialing application. The notice to the applicant shall include a complete and detailed description of all of the information or supporting documentation required and the name, address and telephone number of a person who serves as the applicant's point of contact for completing the credentialing application process. Any information required pursuant to this section shall be reasonably related to the information in the application; and

(4) no later than thirty calendar days as described in Paragraph (1) of this subsection or an additional fifteen days as described in Paragraph (2) of this subsection, load into the insurer's provider payment system all provider information, including all information needed to correctly reimburse a newly approved provider according to the provider's contract. The insurer or insurer's agent shall add the approved provider's data to the provider directory upon loading the provider's information into the insurer's provider payment system.

G. An insurer shall reimburse a provider for covered health care services for any claims from the provider that the insurer receives with a date of service more than thirty calendar days after the date on which the insurer received a complete credentialing application for that provider if:

(1) the provider:

(a) has submitted a complete credentialing application and any supporting documentation that the insurer has requested in writing within the time frame established in Paragraph (3) of Subsection F of this section;

(b) has no past or current license sanctions or limitations, as reported by the New Mexico medical board or another pertinent licensing and regulatory agency, or by a similar out-of-state licensing and regulatory entity for a provider licensed in another state; and

(c) has professional liability insurance or is covered under the Medical Malpractice Act; and

(2) the insurer:

(a) has approved, or has failed to approve or deny, the applicant's complete credentialing application within the time frame established pursuant to Paragraph (1) or (2) of Subsection F of this section; or

(b) fails to load the approved applicant's information into the insurer's provider payment system in accordance with Paragraph (4) of Subsection F of this section.

H. A provider who, at the time services were rendered, was not employed by a practice or group that has contracted with the insurer to provide services at specified rates of reimbursement shall be paid by the insurer in accordance with the insurer's standard reimbursement rate.

I. A provider who, at the time services were rendered, was employed by a practice or group that has contracted with the insurer to provide services at specified rates of reimbursement shall be paid by the insurer in accordance with the terms of that contract.

J. The superintendent shall adopt and promulgate rules to provide for the resolution of disputes relating to reimbursement and credentialing arising in cases where credentialing is delayed beyond thirty days after application.

K. An insurer shall reimburse a provider pursuant to Subsections G, H and I of this section until the earlier of the following occurs:

(1) the insurer's approval or denial of the provider's complete credentialing application; or

(2) the passage of three years from the date the insurer received the provider's complete credentialing application.

L. As used in this section:

(1) "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; and

(2) "provider" means a physician or other individual licensed or otherwise authorized to furnish health care services in the state."

## **Chapter 175 Section 3 Laws 2023**

SECTION 3. Section 59A-46-54 NMSA 1978 (being Laws 2015, Chapter 111, Section 4, as amended) is amended to read:

"59A-46-54. PROVIDER CREDENTIALING--REQUIREMENTS--DEADLINE.--

A. The superintendent shall adopt and promulgate rules to provide for a uniform and efficient provider credentialing process. The superintendent shall approve no more than two forms of application to be used for the credentialing of providers.

B. A carrier shall not require a provider to submit information not required by a credentialing application established pursuant to Subsection A of this section.

C. The provisions of this section apply equally to initial credentialing applications and applications for recredentialing.

D. The rules that the superintendent adopts and promulgates shall require primary credential verification no more frequently than every three years and allow provisional credentialing for a period of one year.

E. Nothing in this section shall be construed to require a carrier to credential or provisionally credential a provider.

F. The rules that the superintendent adopts and promulgates shall establish that a carrier or a carrier's agent shall:

(1) assess and verify the qualifications of a provider applying to become a participating provider within thirty calendar days of receipt of a complete credentialing application and issue a decision in writing to the applicant approving or denying the credentialing application;

(2) be permitted to extend the credentialing period to assess and issue a determination by an additional fifteen calendar days if, upon review of a complete application, it is determined that the circumstance presented, including an admission of sanctions by the state licensing board, investigation or felony conviction, revocation of clinical privileges or denial of insurance coverage, requires additional consideration;

(3) within ten working days after receipt of a credentialing application, send a written notification, via United States certified mail, to the applicant requesting any information or supporting documentation that the carrier requires to approve or deny the credentialing application. The notice to the applicant shall include a complete and detailed description of all of the information or supporting documentation required and the name, address and telephone number of a person who serves as the applicant's point of contact for completing the credentialing application process. Any information required pursuant to this section shall be reasonably related to the information in the application; and

(4) no later than thirty calendar days as described in Paragraph (1) of this subsection or an additional fifteen days as described in Paragraph (2) of this subsection, load into the carrier's provider payment system all provider information, including all information needed to correctly reimburse a newly approved provider according to the provider's contract. The carrier or carrier's agent shall add the approved provider's data to the provider directory upon loading the provider's information into the carrier's provider payment system.

G. A carrier shall reimburse a provider for covered health care services for any claims from the provider that the carrier receives with a date of service more than thirty calendar days after the date on which the carrier received a complete credentialing application for that provider if:

(1) the provider:

(a) has submitted a complete credentialing application and any supporting documentation that the carrier has requested in writing within the time frame established in Paragraph (3) of Subsection F of this section;

(b) has no past or current license sanctions or limitations, as reported by the New Mexico medical board or another pertinent licensing and regulatory agency, or by a similar out-of-state licensing and regulatory entity for a provider licensed in another state; and

(c) has professional liability insurance or is covered under the Medical Malpractice Act; and

(2) the carrier:

(a) has approved, or has failed to approve or deny, the applicant's complete credentialing application within the time frame established pursuant to Paragraph (1) or (2) of Subsection F of this section; or

(b) fails to load the approved applicant's information into the carrier's provider payment system in accordance with Paragraph (4) of Subsection F of this section.

H. A provider who, at the time services were rendered, was not employed by a practice or group that has contracted with the carrier to provide services at specified rates of reimbursement shall be paid by the carrier in accordance with the carrier's standard reimbursement rate.

I. A provider who, at the time services were rendered, was employed by a practice or group that has contracted with the carrier to provide services at specified rates of reimbursement shall be paid by the carrier in accordance with the terms of that contract.

J. The superintendent shall adopt and promulgate rules to provide for the resolution of disputes relating to reimbursement and credentialing arising in cases where credentialing is delayed beyond thirty days after application.

K. A carrier shall reimburse a provider pursuant to Subsections G, H and I of this section until the earlier of the following occurs:

(1) the carrier's approval or denial of the provider's complete credentialing application; or

(2) the passage of three years from the date the carrier received the provider's complete credentialing application."

## Chapter 175 Section 4 Laws 2023

SECTION 4. Section 59A-47-49 NMSA 1978 (being Laws 2015, Chapter 111, Section 6, as amended) is amended to read:

"59A-47-49. PROVIDER CREDENTIALING--REQUIREMENTS--DEADLINE.--

A. The superintendent shall adopt and promulgate rules to provide for a uniform and efficient provider credentialing process. The superintendent shall approve no more than two forms of application to be used for the credentialing of providers.

B. A health care plan shall not require a provider to submit information not required by a credentialing application established pursuant to Subsection A of this section.

C. The provisions of this section apply equally to initial credentialing applications and applications for recredentialing.

D. The rules that the superintendent adopts and promulgates shall require primary credential verification no more frequently than every three years and allow provisional credentialing for a period of one year.

E. Nothing in this section shall be construed to require a health care plan to credential or provisionally credential a provider.

F. The rules that the superintendent adopts and promulgates shall establish that a health care plan or a health care plan's agent shall:

(1) assess and verify the qualifications of a provider applying to become a participating provider within thirty calendar days of receipt of a complete credentialing application and issue a decision in writing to the applicant approving or denying the credentialing application;

(2) be permitted to extend the credentialing period to assess and issue a determination by an additional fifteen calendar days if, upon review of a complete application, it is determined that the circumstance presented, including an admission of sanctions by the state licensing board, investigation or felony conviction, revocation of clinical privileges or denial of insurance coverage, requires additional consideration;

(3) within ten working days after receipt of a credentialing application, send a written notification, via United States certified mail, to the applicant requesting any information or supporting documentation that the insurer requires to approve or deny the credentialing application. The notice to the applicant shall include a complete and detailed description of all of the information or supporting documentation required and the name, address and telephone number of a person who serves as the applicant's point of contact for completing the credentialing application process. Any

information required pursuant to this section shall be reasonably related to the information in the application; and

(4) no later than thirty calendar days as described in Paragraph (1) of this subsection or an additional fifteen days as described in Paragraph (2) of this subsection, load into the health care plan's provider payment system all provider information, including all information needed to correctly reimburse a newly approved provider according to the provider's contract. The health care plan or health care plan's agent shall add the approved provider's data to the provider directory upon loading the provider's information into the health care plan's provider payment system.

G. A health care plan shall reimburse a provider for covered health care services for any claims from the provider that the insurer receives with a date of service more than thirty calendar days after the date on which the health care plan received a complete credentialing application for that provider if:

(1) the provider:

(a) has submitted a complete credentialing application and any supporting documentation that the health care plan has requested in writing within the time frame established in Paragraph (3) of Subsection F of this section;

(b) has no past or current license sanctions or limitations, as reported by the New Mexico medical board or another pertinent licensing and regulatory agency, or by a similar out-of-state licensing and regulatory entity for a provider licensed in another state; and

(c) has professional liability insurance or is covered under the Medical Malpractice Act; and

(2) the health care plan:

(a) has approved, or has failed to approve or deny, the applicant's complete credentialing application within the time frame established pursuant to Paragraph (1) or (2) of Subsection F of this section; or

(b) fails to load the approved applicant's information into the health care plan's provider payment system in accordance with Paragraph (4) of Subsection F of this section.

H. A provider who was not, at the time services were rendered, employed by a practice or group that has contracted with the health care plan to provide services at specified rates of reimbursement shall be paid by the health care plan in accordance with the health care plan's standard reimbursement rate.

I. A provider who was, at the time services were rendered, employed by a practice or group that has contracted with the health care plan to provide services at specified rates of reimbursement shall be paid by the health care plan in accordance with the terms of that contract.

J. The superintendent shall adopt and promulgate rules to provide for the resolution of disputes relating to reimbursement and credentialing arising in cases where credentialing is delayed beyond thirty days after application.

K. A health care plan shall reimburse a provider pursuant to Subsections G, H and I of this section until the earlier of the following occurs:

(1) the insurer's approval or denial of the provider's complete credentialing application; or

(2) the passage of three years from the date the health care plan received the provider's complete credentialing application."

## **LAWS 2023, CHAPTER 176**

### **Senate Bill 351**

**Approved April 5, 2023**

#### **AN ACT**

RELATING TO THE LEGISLATURE; ALLOWING A MEMBER OF THE NEW MEXICO LEGISLATIVE COUNCIL TO SERVE AS A VOTING MEMBER ON AN INTERIM COMMITTEE APPOINTED OR CREATED BY THE NEW MEXICO LEGISLATIVE COUNCIL.

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

### **Chapter 176 Section 1 Laws 2023**

SECTION 1. Section 2-3-3 NMSA 1978 (being Laws 1951, Chapter 182, Section 3, as amended) is amended to read:

"2-3-3. LEGISLATIVE COUNCIL--POWERS--DUTIES.--It is the duty of the New Mexico legislative council to:

A. adopt rules and regulations for the administration of Chapter 2, Article 3 NMSA 1978 in the conduct of the affairs of the legislative council service;

B. formulate policies for the operation and conduct of the business of the legislative council service and generally to supervise all of the activities of the council service;

C. carry out the purposes of the legislative council service as hereafter set forth;

D. create committees of legislators to study major problems during the periods when the legislature is not in session; provided that:

(1) no member of the council shall serve as an officer on an interim committee appointed or created by the council;

(2) all committees created by the council shall terminate on or before December 1 of the year in which they are created unless the council subsequently extends the life of the committee for not more than one month;

(3) the minority party shall be represented on all council-created committees in the proportion the minority party is represented in each house;

(4) the relationship of the size of the house and senate shall be taken into consideration in determining the number of members from each house appointed to an interim committee created by the council; and

(5) members shall be appointed to council-created committees by the same appointing authorities that appoint the council members from each house and subject to the same recommendations. The council shall name committee officers from among the committee members so appointed;

E. adopt rules of procedure for all committees created by the council, including a rule that no action shall be taken by a committee if a majority of the total membership from either house on the committee rejects such action; provided that no member of the legislature shall ever be excluded from any meeting of any committee appointed by the council; and

F. refrain from advocating or opposing the introduction or passage of legislation."

## **LAWS 2023, CHAPTER 177**

**Senate Bill 383, aa**  
**Approved April 5, 2023**

AN ACT

RELATING TO PUBLIC EDUCATION; AMENDING THE PROCESS FOR REQUIRED CRIMINAL HISTORY RECORD CHECKS; REQUIRING CONFIDENTIALITY.

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

## **Chapter 177 Section 1 Laws 2023**

SECTION 1. Section 22-10A-2 NMSA 1978 (being Laws 2019, Chapter 238, Section 1, as amended by Laws 2021, Chapter 92, Section 1 and by Laws 2021, Chapter 94, Section 4) is amended to read:

"22-10A-2. DEFINITIONS.--As used in the School Personnel Act:

- A. "child abuse" means a child:
- (1) who has suffered or who is at risk of suffering serious harm because of the action or inaction of the child's parent, guardian, custodian or other adult;
  - (2) who has suffered physical abuse, emotional abuse or psychological abuse inflicted or caused by the child's parent, guardian, custodian or other adult;
  - (3) who has suffered sexual abuse or sexual exploitation inflicted by the child's parent, guardian, custodian or other adult;
  - (4) whose parent, guardian, custodian or other adult has knowingly, intentionally or negligently placed the child in a situation that may endanger the child's life or health; or
  - (5) whose parent, guardian, custodian or other adult has knowingly or intentionally tortured, cruelly confined or cruelly punished the child;
- B. "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;
- C. "contractor" means an individual who is under contract with a public school and is hired to provide services to the public school, but does not include a general contractor or a building or maintenance contractor who is supervised and has no access to students at the public school;
- D. "discharge" means the act of severing the employment relationship with a licensed school employee prior to the expiration of the current employment contract;

E. "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;

F. "ethical misconduct" means the following behavior or conduct by school district personnel, school employees, school volunteers, contractors or contractors' employees:

(1) discriminatory practice based on race, age, color, national origin, ethnicity, sex, pregnancy, sexual orientation, gender identity, mental or physical disability, marital status, religion, citizenship, domestic abuse reporting status or serious medical condition;

(2) sexual misconduct or any sexual offense prohibited by Chapter 30, Article 6A or 9 NMSA 1978 involving an adult or child, regardless of a child's enrollment status;

(3) fondling a child or student, including touching private body parts, such as breasts, buttocks, genitals, inner thighs, groin or anus; or

(4) any other behavior, including licentious, enticing or solicitous behavior, that is reasonably apparent to result in inappropriate sexual contact with a child or student or to induce a child or student into engaging in illegal, immoral or other prohibited behavior;

G. "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 a state agency that provides educational services to a school-aged person;

H. "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, diagnostician, attendance coach, practical nurse, school health assistant, school business official, rehabilitation counselor, athletic coach, educational alcohol and drug abuse counselor and substance abuse associate;

I. "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;

J. "military service member" means a person who is:

(1) serving in the armed forces of the United States as an active duty member or in an active reserve component of the armed forces of the United States, including the national guard;

(2) the spouse of a person who is serving in the armed forces of the United States as an active duty member or in an active reserve component of the armed forces of the United States, including the national guard; or a surviving spouse of a member who at the time of death was serving on active duty; or

(3) the child of a person who is serving in the armed forces of the United States as an active duty member or in an active reserve component of the armed forces of the United States, including the national guard; provided that child is also a dependent of that person for federal income tax purposes;

K. "moral turpitude" means an act or behavior that gravely violates the accepted standards of moral conduct, justice or honesty and may include ethical misconduct;

L. "public school" means a school district, charter school, constitutional special school, regional education cooperative or the educational program of another state agency;

M. "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;

N. "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;

O. "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;

P. "school employee" includes licensed and unlicensed employees of a public school;

Q. "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;

R. "school volunteer" means a person, including a relative of a student, who commits to serve on a regular basis at a school district, charter school or other educational entity without compensation;

S. "state agency" means a regional education cooperative or state institution;

T. "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;

U. "substitute teacher" means a person who holds a certificate to substitute for a teacher in the classroom;

V. "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;

W. "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;

X. "terminate" means the act of severing the employment relationship with a school employee;

Y. "unsupervised contact with children or students" means access to or contact with, or the opportunity to have access to or contact with, a child or student for any length of time in the absence of:

(1) a licensed staff person from the same school or institution;

(2) a school volunteer who has undergone a background check pursuant to Section 22-10A-5 NMSA 1978; or

(3) any adult relative or guardian of the child or student;

Z. "veteran" means a person who has received an honorable discharge or separation from military service in the armed forces of the United States or in an active reserve component of the armed forces of the United States, including the national guard; and

AA. "working day" means every school calendar day, excluding Saturdays, Sundays and legal holidays."

## **Chapter 177 Section 2 Laws 2023**

SECTION 2. Section 22-10A-3 NMSA 1978 (being Laws 2003, Chapter 153, Section 34, as amended) 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. A person applying for a license or certificate from the department shall undergo a criminal history record check pursuant to Section 22-10A-5 NMSA 1978. The criminal history record check requirement shall apply to the following applicants:

(1) applicants for level one licensure pursuant to Section 22-10A-7 NMSA 1978;

(2) applicants for an alternative level one license pursuant to Section 22-10A-8 NMSA 1978;

(3) applicants for level two licensure pursuant to Section 22-10A-10 NMSA 1978;

(4) applicants for level three licensure pursuant to Section 22-10A-11 NMSA 1978;

(5) applicants for an alternative level two or level three license pursuant to Section 22-10A-11.1 NMSA 1978;

(6) applicants for alternative licensure pursuant to Section 22-10A-11.2 NMSA 1978;

(7) applicants for level three-B provisional licensure pursuant to Section 22-10A-11.3 NMSA 1978;

(8) applicants for level three-B administrator's licensure pursuant to Section 22-10A-11.4 NMSA 1978;

(9) applicants for licenses granted on the basis of reciprocity pursuant to Section 22-10A-12 NMSA 1978;

(10) applicants for expedited licensure pursuant to Section 22-10A-12.1 NMSA 1978;

(11) applicants for Native American and culture certificates pursuant to Section 22-10A-13 NMSA 1978;

(12) applicants for substitute teacher certificates pursuant to Section 22-10A-15 NMSA 1978;

(13) applicants for instructional support provider certificates pursuant to Section 22-10A-17 NMSA 1978;

(14) applicants for educational assistant licensure pursuant to Section 22-10A-17.1 NMSA 1978; and

(15) applicants for alternative level three-B licensure pursuant to Section 22-10A-17.2 NMSA 1978.

B. In the event that the statutory section numbers referring to the licenses and certificates in Subsection A of this section are amended, the licensure and criminal history record check requirement shall remain in effect for the applicants. The department may require a federal bureau of investigation criminal history record check of a current licensee to analyze whether the department has good and just cause for suspension or revocation of a department-issued license. Applicants and current licensees shall pay the cost of obtaining a federal bureau of investigation criminal history record check. The department shall not share criminal history record check information with another entity unless expressly permitted by applicable federal law or federal regulation.

C. Except as provided in Subsection D of this section, 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.

D. No licensing or certificate fee shall be charged for the first three years a license or certificate required by this section is valid if the licensee or certificate holder is a military service member or a veteran.

E. 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.

F. 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 177 Section 3 Laws 2023**

SECTION 3. Section 22-10A-5 NMSA 1978 (being Laws 1997, Chapter 238, Section 1, as amended) is amended to read:

"22-10A-5. CRIMINAL HISTORY RECORD CHECK--KNOWN CONVICTIONS--CONFIDENTIALITY--ALLEGED ETHICAL MISCONDUCT--REPORTING REQUIRED--PENALTY FOR FAILURE TO REPORT.--

A. To investigate the suitability of an applicant for licensure from the department, the department shall have access to criminal history record information furnished by the department of public safety and the federal bureau of investigation, subject to any restrictions imposed by federal law.

B. An applicant for licensure from the department shall undergo a state and federal criminal history record check, and the applicant shall submit two fingerprint cards or the equivalent electronic set of fingerprints to the department of public safety for that purpose. The department of public safety shall conduct a check of state records and forward the fingerprints to the federal bureau of investigation for a national criminal history record check to determine the existence and content of a record of convictions in this state or other law enforcement jurisdictions and to generate a criminal history record check in accordance with rules of the department of public safety and regulations of the federal bureau of investigation. The department of public safety shall review the information obtained from the criminal history record check and shall compile and provide that information to the department. The department shall use the information resulting from the fingerprint-based criminal history record check to inform department

decisions relating to the issuance or continuation of licensure. The applicant for initial licensure shall pay for the cost of obtaining the criminal history record check.

C. Governing authorities shall develop policies and procedures to require criminal history record checks on an applicant who has been offered employment or who applies to be a school volunteer or works for the public school as a contractor or a contractor's employee and who may have unsupervised contact with children or students on school premises. Nothing in this section shall preclude governing authorities from developing and implementing policies or procedures requiring or affecting other or additional background or criminal history record checks of personnel or applicants for employment.

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 department of public safety to obtain the applicant's, school volunteer's, contractor's or contractor's employee's criminal history record check pursuant to Subsection B of this section. The public school shall pay for the criminal history record check for an applicant who has been offered employment. A school volunteer, contractor or contractor's employee may be required to pay for the cost of obtaining a criminal history record check.

E. Convictions of felonies or misdemeanors contained in the criminal history record check shall be used in accordance with the Criminal Offender Employment Act; provided that other information contained in the criminal history record check, if supported by independent evidence, may form the basis for the employment decisions for just cause. The department shall not exclude an otherwise qualified person from licensure on the sole basis that the person has been previously arrested or convicted of a crime, unless that person has a disqualifying criminal conviction, pursuant to Section 61-1-36 NMSA 1978.

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, school volunteer, contractor or contractor's employee who has been offered employment, a school volunteer position or a contract and will have unsupervised contact with children or students on school premises. Criminal history information received from the department of public safety or the federal bureau of investigation shall be confidential and shall not be considered a public record pursuant to the Inspection of Public Records Act. The department shall not authorize the receipt of criminal history information by a private entity pursuant to this section. Nothing in this subsection shall apply to compliance with discovery requests or subpoenas that are issued by a court of competent jurisdiction.

G. A superintendent shall report immediately to the department any known conviction of any felony or misdemeanor involving moral turpitude of school district personnel, a school employee, a school volunteer, a contractor or a contractor's employee.

H. A superintendent may appoint a designated representative to act on the superintendent's behalf. The superintendent or the designated representative shall investigate all allegations of ethical misconduct about any school district personnel, school employee, school volunteer, contractor or contractor's 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 or the superintendent's designated representative 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 the finding of ethical misconduct is sexual misconduct with an adult or child. The superintendent or the superintendent's designated representative shall also report allegations of sexual assault or sexual abuse involving any school district personnel, school employee, school 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.

J. The department shall maintain a list of the names of persons reported to the department, as required by Subsection G of this section, who have been convicted of a felony or misdemeanor involving moral turpitude and, as required by Subsection H of this section and Section 22-10A-5.1 NMSA 1978, who have been found to have committed ethical misconduct. The department shall update that list each month. The department shall provide that list to a governing authority upon request.

K. The secretary may initiate action to suspend, revoke or refuse to renew the license of:

(1) a superintendent who fails to report as required by Subsections G and H of this section or Section 22-10A-5.1 NMSA 1978;

(2) any licensed school district personnel or licensed school employee who fails to report child abuse or neglect pursuant to Section 32A-4-3 NMSA 1978; or

(3) any licensed school district personnel or school employee who fails to report ethical misconduct pursuant to Subsection H of this section or Section 22-10A-5.1 NMSA 1978.

L. As used in this section, "designated representative" means a representative chosen by a superintendent and may include the staff of a regional education cooperative."

## **Chapter 177 Section 4 Laws 2023**

SECTION 4. Section 22-10A-17 NMSA 1978 (being Laws 2003, Chapter 153, Section 48, as amended) is amended to read:

### **"22-10A-17. INSTRUCTIONAL SUPPORT PROVIDER LICENSES.--**

A. The following instructional support providers shall obtain appropriate licensure from the department: educational assistants, school counselors, school social workers, school nurses, speech-language pathologists, psychologists, physical therapists, physical therapy assistants, occupational therapists, occupational therapy assistants, recreational therapists, marriage and family therapists, interpreters for the deaf, diagnosticians, attendance coaches, practical nurses, school health assistants, school business officials, rehabilitation counselors, athletic coaches, educational alcohol and drug abuse counselors and substance abuse associates. The department may provide a professional licensing framework in which licensees can advance in their careers through the demonstration of increased competencies and the undertaking of increased duties.

B. The department shall provide by rule for the licensure requirements for any instructional support providers. If an instructional support provider practices a licensed profession, the provider shall provide evidence satisfactory to the department that the provider holds a current, unsuspended license in the profession for which the provider is applying to provide instructional support services.

C. An instructional support provider licensed by the department shall also hold a valid professional license or certificate issued by the instructional support provider's respective licensing or certifying authority, if applicable, and shall continuously hold such underlying professional licensure or certification for as long as the instructional support provider holds licensure issued by the department.

D. If the underlying professional license or certificate for any reason expires, is suspended, is revoked or is denied, a person seeking or holding an instructional support provider license shall notify the department in writing within fourteen calendar days of such suspension, revocation, denial or expiration.

E. Suspension, revocation, denial or expiration of an underlying professional license or certificate, or failure to notify the department of such, shall constitute just cause for discharge or termination from employment and for suspension, revocation or denial of an instructional support provider license."

## **Chapter 177 Section 5 Laws 2023**

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

## **LAWS 2023, CHAPTER 178**

**Senate Bill 450, aa**  
**Approved April 5, 2023**

AN ACT

RELATING TO PUBLIC SCHOOLS; REQUIRING COACHES EMPLOYED BY SCHOOL DISTRICTS TO BE CERTIFIED IN CARDIOPULMONARY RESUSCITATION AND TRAINED IN THE USE OF AUTOMATED EXTERNAL DEFIBRILLATORS.

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

## **Chapter 178 Section 1 Laws 2023**

SECTION 1. A new section of the Public School Code is enacted to read:

"CERTIFICATION IN CARDIOPULMONARY RESUSCITATION FOR COACHES.--

A. All licensed coaches employed by school districts shall have current certification in cardiopulmonary resuscitation. The department shall promulgate rules regarding the implementation of this section. The certification program shall include training regarding the use of automated external defibrillators.

B. As used in this section, "school districts" includes charter schools."

## **LAWS 2023, CHAPTER 179**

**Senate Bill 468, aa**  
**Approved April 5, 2023**

AN ACT

RELATING TO PUBLIC AFFAIRS; DECLARING APRIL 10 AS "DOLORES HUERTA DAY".

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

## **Chapter 179 Section 1 Laws 2023**

SECTION 1. A new section of Chapter 12, Article 5 NMSA 1978 is enacted to read:

"DOLORES HUERTA DAY.--April 10 of each year shall be set apart and known as "Dolores Huerta Day", in recognition of the contributions made by labor activist Dolores Huerta, who was born in Dawson, New Mexico, in her work to improve social and economic conditions for farm workers. Dolores Huerta Day is designated for the people of New Mexico to organize as a community and undertake efforts and expressions in harmony with the general character of the day."

## **LAWS 2023, CHAPTER 180**

**Senate Bill 474, aa, w/ec**  
**Approved April 5, 2023**

AN ACT

RELATING TO INDUSTRIAL REVENUE BONDS; AMENDING THE INDUSTRIAL REVENUE BOND ACT AND THE COUNTY INDUSTRIAL REVENUE BOND ACT REGARDING HOW CERTAIN PAYMENT-IN-LIEU-OF-TAXES PAYMENTS ARE SHARED AMONG SCHOOL DISTRICTS; DECLARING AN EMERGENCY.

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

## **Chapter 180 Section 1 Laws 2023**

SECTION 1. Section 3-32-6 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-31-3, as amended) is amended to read:

"3-32-6. ADDITIONAL POWERS CONFERRED ON MUNICIPALITIES.--In addition to any other powers that it may now have, a municipality shall have the following powers:

A. to acquire, whether by construction, purchase, gift or lease, one or more projects that shall be located within this state and may be located within or without the municipality or partially within or partially without the municipality, but which shall not be located more than fifteen miles outside of the corporate limits of the municipality; provided that:

(1) urban transit buses qualifying as a project pursuant to Subsection B of Section 3-32-3 NMSA 1978 need not be continuously located within this state, but the commercial enterprise using the urban transit buses for leasing shall meet the location requirement of this subsection; and

(2) a municipality shall not acquire any electricity generation or transmission facility project unless the school districts within the municipality in which the project is located receive annual in-lieu tax payments; provided that the annual in-lieu tax payments required by this paragraph shall be:

(a) payable to the school districts for the period the municipality owns and leases the project;

(b) in an aggregate amount equal to the amount received by the municipality multiplied by the percentage determined by dividing the average of mills imposed by the school districts within the municipality plus state debt service mills as of the date of issuance of the bonds by the average of the mills imposed by all entities levying taxes on property in the municipality as of such date;

(c) divided among the school districts located within the municipality, if there is more than one school district in such municipality, and the in-lieu payment shall be allocated as follows: 1) fifty percent allocated equally among all school districts in which the project is located; 2) forty percent allocated to the school districts within the municipality in proportion to the area of each school district within the municipality; and 3) ten percent allocated to the school districts in proportion to the average of each school district's student membership pursuant to the Public School Code reported on the second and third reporting dates for the most recent school year for which data is available as of the date of issuance of the bonds; and

(d) for each individual school district located within the municipality, no less than the amount due to the school district in the tax year immediately preceding the issuance of the bonds from the property included in a project, had such project not been created;

B. to sell or lease or otherwise dispose of any or all of its projects upon such terms and conditions as the governing body may deem advisable and as shall not conflict with the provisions of the Industrial Revenue Bond Act;

C. to issue revenue bonds for the purpose of defraying the cost of acquiring by construction and purchase, or either, any project and to secure the payment of such bonds, all as provided in the Industrial Revenue Bond Act. No municipality shall have the power to operate any project as a business or in any manner except as lessor;

D. to refinance one or more hospital or 501(c)(3) corporation projects and to acquire any such hospital or 501(c)(3) corporation project whether by construction, purchase, gift or lease, which hospital or 501(c)(3) corporation project shall be located within this state and may be located within or without the municipality or partially within or partially without the municipality, but which shall not be located more than fifteen miles outside of the corporate limits of the municipality, and to issue revenue bonds to refinance and acquire a hospital or 501(c)(3) corporation project and to secure the payment of such bonds, all as provided in the Industrial Revenue Bond Act. A

municipality shall not have the power to operate a hospital or 501(c)(3) corporation project as a business or in any manner except as lessor; and

E. to refinance one or more projects of any private institution of higher education and to acquire any such project, whether by construction, purchase, gift or lease; provided that the project shall be located within this state and may be located within or without the municipality or partially within or partially without the municipality, but the project shall not be located more than fifteen miles outside of the corporate limits of the municipality, and to issue revenue bonds to refinance and acquire any project of any private institution of higher education and to secure the payment of such bonds. A municipality shall not have the power to operate a project of a private institution of higher education as a business or in any manner except as lessor."

## **Chapter 180 Section 2 Laws 2023**

SECTION 2. Section 4-59-4 NMSA 1978 (being Laws 1975, Chapter 286, Section 4, as amended) is amended to read:

"4-59-4. ADDITIONAL POWERS CONFERRED ON COUNTIES.--In addition to any other powers that it may now have, each county shall have the following powers:

A. to acquire, whether by construction, purchase, gift or lease, one or more projects, which shall be located within this state and shall be located within the county outside the boundaries of any incorporated municipality; provided, however, that:

(1) a class A county with a population of more than three hundred thousand may acquire projects located anywhere in the county; and

(2) a county shall not acquire any electricity generation or transmission facility project unless the school districts within the county in which the project is located receive annual in-lieu tax payments; provided that the annual in-lieu tax payments required by this paragraph shall be:

(a) payable to the school districts for the period the county owns and leases the project;

(b) in an aggregate amount equal to the amount received by the county multiplied by the percentage determined by dividing the average of all of the mills imposed by the school districts in the county, including the operating, capital improvement, building improvement, education technology and bond mills imposed by the school districts in the county plus state debt service mills as of the date of issuance of the bonds by the average of the mills imposed by all entities levying taxes on property in the county as of such date;

(c) divided among the school districts located within the county, and if there is more than one school district in such county, the in-lieu payment shall be

allocated as follows: 1) fifty percent allocated equally among all school districts in which the project is located; 2) forty percent allocated to the school districts within the county in proportion to the area of each school district within the county; and 3) ten percent allocated to the school districts in proportion to the average of each school district's student membership pursuant to the Public School Code reported on the second and third reporting dates for the most recent school year for which data is available as of the date of issuance of the bonds; and

(d) for each individual school district located within the county, no less than the amount due to the school district in the tax year immediately preceding the issuance of the bonds from the property included in a project, had such project not been created;

B. to sell or lease or otherwise dispose of any or all of its projects upon such terms and conditions as the commission may deem advisable and as shall not conflict with the provisions of the County Industrial Revenue Bond Act; and

C. to issue revenue bonds for the purpose of defraying the cost of acquiring, by construction and purchase or either, any project and to secure the payment of such bonds, all as provided in the County Industrial Revenue Bond Act. No county shall have the power to operate any project as a business or in any manner except as lessor thereof."

## **Chapter 180 Section 3 Laws 2023**

SECTION 3. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

# **LAWS 2023, CHAPTER 181**

**SHPAC/Senate Bill 485**  
**Approved April 5, 2023**

AN ACT

RELATING TO TRANSPORTATION; AMENDING AND ENACTING SECTIONS OF THE TRANSPORTATION NETWORK COMPANY SERVICES ACT; PROVIDING FOR THE FACILITATION AND PROVISION OF NON-EMERGENCY MEDICAL TRANSPORTATION SERVICES BY TRANSPORTATION NETWORK COMPANY DRIVERS; ESTABLISHING CONDITIONS; PROVIDING DEFINITIONS.

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

## Chapter 181 Section 1 Laws 2023

SECTION 1. A new section of the Transportation Network Company Services Act is enacted to read:

### "PROVISION OF NON-EMERGENCY MEDICAL TRANSPORTATION.--

A. A transportation network company may connect a driver to a rider for the purpose of providing non-emergency medical transportation services, including providing non-emergency medical transportation services under the state's medicaid program.

B. The medical assistance division of the human services department shall promulgate rules necessary for the implementation of this section as soon as practicable. Except as provided in Subsection C of this section and as may otherwise be necessary to conform to applicable federal requirements for the provision of transportation benefits to persons receiving benefits from the state's medicaid program, the requirements imposed by the medical assistance division of the human services department for transportation network companies and drivers to facilitate or provide non-emergency medical transportation for medicaid recipients, including requirements for enrollment and vehicle specifications, shall not exceed those imposed by the Transportation Network Company Services Act.

C. A transportation network company driver shall not provide a non-emergency medical transportation service to a medicaid recipient through a transportation network company's digital network prior to completion by the transportation network company of a:

(1) criminal background check of the driver pursuant to Section 65-7-12 NMSA 1978;

(2) review of whether the driver is listed as excluded from participation in the federal medicare, medicaid and other health care programs by the United States department of health and human services inspector general; and

(3) review of whether the driver is excluded from federal contracts, grants or other agreements by the United States general services administration as either a known fraudulent actor or as a fraud risk.

D. The medical assistance division of the human services department may require that, prior to facilitating non-emergency medical transportation services for a medicaid recipient of the state's medicaid program, a transportation network company be under contract with a transportation broker.

E. Prior to the adoption of rules promulgated pursuant to Subsection B of this section, a transportation network company operating under a valid permit issued

pursuant to Section 65-7-4 NMSA 1978 that contracts with a transportation broker may facilitate non-emergency medical transportation services for medicaid recipients of the state's medicaid program.

F. The provisions of Section 65-7-18 NMSA 1978 shall extend to the regulation of companies, drivers and vehicles facilitating or providing non-emergency medical transportation services as authorized in this section.

G. Nothing in this section shall be construed to:

(1) authorize a company or a driver to provide ambulance services, as defined in Section 65-2A-3 NMSA 1978; or

(2) abridge the application of the provisions of the Transportation Network Company Services Act to, or the services provided by, a transportation network company or a driver."

## **Chapter 181 Section 2 Laws 2023**

SECTION 2. Section 65-7-2 NMSA 1978 (being Laws 2016, Chapter 80, Section 2, as amended) is amended to read:

"65-7-2. DEFINITIONS.--As used in the Transportation Network Company Services Act:

A. "digital network" means an internet-supported application, software, program, website or system offered or utilized by a transportation network company that enables the prearrangement of transportation by passengers with transportation network company drivers;

B. "facilitate" means the connection of a driver to a passenger by a transportation network company for the provision of a prearranged ride;

C. "personal vehicle" means a vehicle that is used by a transportation network company driver and is:

(1) owned, leased or otherwise authorized for use by a transportation network company driver; and

(2) not a taxicab or other vehicle for hire;

D. "prearranged ride" means transportation provided by a transportation network company driver, which shall be deemed to commence when a driver accepts a transportation request through a digital network and continue until all passengers have exited from the personal vehicle at the destination requested by the rider. "Prearranged ride" does not include shared-expense vanpool or carpool arrangements or

transportation provided using a taxicab, limousine or other vehicle for hire pursuant to the Motor Carrier Act;

E. "state's medicaid program" means a state program acting to leverage federal benefits for state residents pursuant to Title 19 or Title 20 of the federal Social Security Act;

F. "transportation broker" means an entity under contract with the medical assistance division of the human services department or a managed care organization that manages transportation benefits under the state's medicaid program;

G. "transportation network company" means a corporation, partnership, sole proprietorship or other entity that is licensed pursuant to the Transportation Network Company Services Act and lawfully operating in New Mexico that uses a digital network, but which shall not:

(1) be deemed to control, direct or manage the personal vehicles or transportation network company drivers that connect to its digital network except where agreed to by written contract; or

(2) include any entity receiving funding to supplement transportation services through Title III B of the federal Older Americans Act of 1965, including any driver for such an entity, but only when the driver is providing those services;

H. "transportation network company driver" or "driver" means an individual who:

(1) accepts a prearranged ride requested through a digital network and for a fee paid by a transportation network company rider to the transportation network company; and

(2) uses a personal vehicle to provide a prearranged ride through a digital network;

I. "transportation network company insurance" means a liability insurance policy that specifically covers a transportation network company driver's use of a transportation network company digital network; and

J. "transportation network company rider" or "rider" means a person who uses a digital network for a prearranged ride."

## **Chapter 181 Section 3 Laws 2023**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# LAWS 2023, CHAPTER 182

**Senate Bill 491**

**Approved April 5, 2023**

AN ACT

RELATING TO LAW ENFORCEMENT; INCLUDING RECEIPTS ATTRIBUTABLE TO THE PREMIUM TAX ON HEALTH INSURANCE BUSINESS IN A DISTRIBUTION OF THAT TAX TO THE LAW ENFORCEMENT PROTECTION FUND; INCLUDING A PORTION OF MONEY FOR FEES FROM HEALTH INSURANCE BUSINESS TO BE CREDITED TO THE LAW ENFORCEMENT PROTECTION FUND; PROVIDING THAT A CERTAIN AMOUNT IN THE LAW ENFORCEMENT PROTECTION FUND SHALL BE TRANSFERRED TO THE LAW ENFORCEMENT RETENTION FUND.

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

## **Chapter 182 Section 1 Laws 2023**

SECTION 1. Section 7-1-6.62 NMSA 1978 (being Laws 2019, Chapter 47, Section 2) is amended to read:

"7-1-6.62. 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, health, 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 182 Section 2 Laws 2023**

SECTION 2. Section 29-13-3 NMSA 1978 (being Laws 1983, Chapter 289, Section 3, as amended) is amended to read:

"29-13-3. DISTRIBUTION OF CERTAIN INSURANCE COLLECTIONS--LAW ENFORCEMENT PROTECTION FUND CREATED.--There is created in the state treasury the "law enforcement protection fund". Ten percent of all money received for fees, licenses and penalties from life, health, general casualty and title insurance business pursuant to the New Mexico Insurance Code shall be paid monthly to the state treasurer and credited to the fund. On or before June 30 of each year, the state treasurer shall transfer to the law enforcement retention fund any balance in the law

enforcement protection fund in excess of one hundred thousand dollars (\$100,000) that is not obligated for expenses in that current fiscal year."

## **Chapter 182 Section 3 Laws 2023**

SECTION 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# **LAWS 2023, CHAPTER 183**

**House Bill 8, aa**  
**Approved April 5, 2023**

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; CREATING THE CREATIVE INDUSTRIES DIVISION IN THE ECONOMIC DEVELOPMENT DEPARTMENT; CREATING THE CREATIVE INDUSTRIES FUND; MAKING AN APPROPRIATION.

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

## **Chapter 183 Section 1 Laws 2023**

SECTION 1. Section 9-15-3 NMSA 1978 (being Laws 1983, Chapter 297, Section 3, as amended) is amended to read:

"9-15-3. DEFINITIONS.--As used in the Economic Development Department Act:

- A. "commission" means the economic development commission;
- B. "creative industry" means a business, organization or person engaged in creative enterprises, including performing, visual and literary arts; entertainment, media, information and broadcasting; applied arts and design, including architecture, landscape architecture, museum and gallery professions; promotion, marketing, graphics and industrial design; technology and computer system design, software design, coding and digital media; and crafts and artisan professions, including metal, wood, glass, ceramics, paper, printing, textile and culinary arts; "creative industry" does not mean a business, organization or person engaged in creative enterprises involving film;
- C. "department" means the economic development department;
- D. "film" means filming activity supported by the New Mexico film division of the department; and
- E. "secretary" means the secretary of economic development."

## **Chapter 183 Section 2 Laws 2023**

SECTION 2. Section 9-15-4 NMSA 1978 (being Laws 1983, Chapter 297, Section 4, as amended) is amended to read:

"9-15-4. DEPARTMENT ESTABLISHED.--The "economic development department" is created in the executive branch. The department shall be a cabinet department and shall consist of, but not be limited to, seven 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;
- F. the New Mexico outdoor recreation division; and
- G. the creative industries division."

## **Chapter 183 Section 3 Laws 2023**

SECTION 3. A new section of the Economic Development Department Act is enacted to read:

"CREATIVE INDUSTRIES DIVISION--PURPOSE--DUTIES.--

- A. The creative industries division shall:
  - (1) increase and advance creative industry-based economic development in New Mexico;
  - (2) support entrepreneurs and small businesses in creative industries;
  - (3) assist organizations that support creative industry companies and workers;
  - (4) support educational and workforce training initiatives that facilitate creative industry growth and success;
  - (5) identify and help establish public infrastructure to support creative industries;

(6) serve as an information clearinghouse by providing resources and opportunities to creative industry stakeholders; and

(7) act as a liaison between creative-industries-related businesses and organizations.

B. The creative industries division shall work with the department, the cultural affairs department, the Indian affairs department, the higher education department, the public education department, the tourism department and the workforce solutions department to support the division's duties as they relate to the purposes of the respective departments."

## **Chapter 183 Section 4 Laws 2023**

SECTION 4. A new section of the Economic Development Department Act is enacted to read:

"CREATIVE INDUSTRIES FUND--CREATED.--

A. The "creative industries 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 department, and expenditures from the fund shall be by warrants signed by the secretary of finance and administration pursuant to vouchers signed by the secretary of economic development.

B. Money in the creative industries fund is appropriated to the department for administration by the creative industries division to provide for grants for projects or programs that promote the growth of creative industries pursuant to the criteria listed in Subsection C of this section; provided that fifty percent of the money from the fund shall be awarded to projects or programs in rural or underserved communities as defined by the division by rule.

C. Grants from the creative industries fund shall be awarded through a competitive process in which the project or program demonstrates the potential to stimulate community or economic development through creative industries and demonstrates or supports one or more of the following:

(1) broad local support, including in-kind or financial support from local governments and surrounding communities or neighborhoods;

(2) assistance to small businesses with fewer than ten employees;

(3) expansion of existing creative industries; or

(4) the promotion of inclusion and diversity.

D. Grants may be awarded to a county, municipality or other political subdivision of the state; an Indian nation, tribe or pueblo; and for-profit and nonprofit organizations."

## **Chapter 183 Section 5 Laws 2023**

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# **LAWS 2023, CHAPTER 184**

**HJC/House Bill 139, aa**  
**Approved April 5, 2023**

## **AN ACT**

RELATING TO COURTS; ELIMINATING COURT FEES; PROVIDING ADDITIONAL WAYS OF SERVING COMMUNITY SERVICE TO PAY FINES, FEES OR COSTS; REDUCING IMPRISONMENT FOR NONPAYMENT OF FINES OR COSTS; AMENDING JAIL FOR NONPAYMENT OF FINES OR COSTS; REPEALING SECTIONS 31-12-6 THROUGH 31-12-8, 31-12-11, 31-12-13, 35-14-11 AND 66-8-116.3 NMSA 1978 (BEING LAWS 1858-1859, P. 30; LAWS 1981, CHAPTER 367, SECTIONS 1 AND 2; LAWS 2003, CHAPTER 387, SECTION 1; LAWS 2015, CHAPTER 10, SECTION 3; LAWS 1983, CHAPTER 134, SECTION 6; AND LAWS 1989, CHAPTER 318, SECTION 35, AS AMENDED).

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

## **Chapter 184 Section 1 Laws 2023**

SECTION 1. Section 31-12-3 NMSA 1978 (being Laws 1971, Chapter 236, Section 1, as amended) is amended to read:

"31-12-3. PAYING FINES, FEES OR COSTS IN INSTALLMENTS--COMMUNITY SERVICE OPTION.--

A. Any person sentenced to pay a fine or to pay fees and costs in any criminal proceeding against the person, either in addition to or without a term of imprisonment, shall be allowed to pay such fine, fees or costs in installments of such amounts, at such times and upon such conditions as the court may fix.

B. The defendant may also be required to serve a period of time in labor to be known as "community service" in lieu of all or part of the fine, fees or costs. The labor shall be meaningful, shall not be suspended or deferred and shall be of a type that benefits the public at large or any public, charitable or educational entity or institution, including enrollment in job training or an academic or vocational program or participation in social service or rehabilitation programs, and is consistent with Article 9, Section 14 of the constitution of New Mexico. Any person performing community service pursuant to court order shall be immune from civil liability arising out of the community service other than for gross negligence, shall not be entitled to wages or considered an employee for any purpose and shall not be entitled to workers' compensation, unemployment or any other benefits otherwise provided by law. Instead, a person who performs community service shall receive credit toward the fine, fees or costs at twice the rate of the prevailing state hourly minimum wage. Unless otherwise provided, however, the total fine, fees and costs shall be payable forthwith.

C. The court may at any time revise, modify, reduce or enlarge the amount of the installment or the time and conditions fixed for payment of it.

D. When a defendant sentenced to pay a fine in installments or ordered to pay fees or costs defaults in payment, the court, upon motion of the prosecutor or upon its own motion, may require the defendant to show cause why the defendant's default should not be treated as contumacious and may issue a summons or a warrant of arrest for the defendant's appearance. It shall be a defense that the defendant did not willfully refuse to obey the order of the court or that the defendant made a good faith effort to obtain the funds required for the payment. If the defendant's default was contumacious, the court may order the defendant committed until the fine or a specified part of it or the fees or costs are paid. A defendant who is ordered to a period of confinement under this subsection shall receive credit toward the fine, fees or costs at twenty-four times the rate of the state minimum wage for each day or portion of a day of incarceration. A defendant shall receive credit at the same rate for all pre-sentence confinement served. The maximum term of imprisonment for such contumacious nonpayment shall be specified in the order of commitment.

E. If it appears that a defendant's default in the payment of a fine, fees or costs is not contumacious, the court may allow the defendant additional time for payment, reduce the amount of the fine or of each installment, revoke the fine or the unpaid portion in whole or in part or require the defendant to perform community service in lieu of the fine, fees or costs."

## **Chapter 184 Section 2 Laws 2023**

SECTION 2. Section 31-12-9 NMSA 1978 (being Laws 1981, Chapter 367, Section 3, as amended) is amended to read:

"31-12-9. CRIME LABORATORY FUND CREATED--APPROPRIATION.--There is created in the state treasury the "crime laboratory fund". The fund consists of gifts,

grants, donations, appropriations and distributions to the fund made pursuant to the Tax Administration Act. All balances in the crime laboratory fund are appropriated to the traffic safety bureau of the department of transportation to provide funds to approved comprehensive community programs for the prevention of driving while under the influence of alcohol or drugs and for other traffic safety purposes. Payment out of the crime laboratory fund shall be made on vouchers issued and signed by the chief of the traffic safety bureau upon warrants drawn by the department of finance and administration."

## **Chapter 184 Section 3 Laws 2023**

SECTION 3. Section 31-12-12 NMSA 1978 (being Laws 2003, Chapter 387, Section 2, as amended) is amended to read:

"31-12-12. DOMESTIC VIOLENCE OFFENDER TREATMENT OR INTERVENTION FUND CREATED--APPROPRIATION--PROGRAM REQUIREMENTS.--

A. The "domestic violence offender treatment or intervention fund" is created in the state treasury. The fund consists of gifts, grants, donations, appropriations and distributions to the fund made pursuant to the Tax Administration Act.

B. Balances in the domestic violence offender treatment or intervention fund are appropriated to the children, youth and families department to provide funds to domestic violence offender treatment or intervention programs to defray the cost of providing treatment or intervention to domestic violence offenders. Unexpended or unencumbered balances remaining in the fund at the end of any fiscal year shall not revert to the general fund.

C. Payment out of the domestic violence offender treatment or intervention fund shall be made on vouchers issued and signed by the secretary of children, youth and families upon warrants drawn by the department of finance and administration.

D. In order to be eligible for money from the domestic violence offender treatment or intervention fund, a domestic violence offender treatment or intervention program shall include the following components in its program:

(1) an initial assessment to determine if a domestic violence offender will benefit from participation in the program;

(2) a written contract, which must be signed by the domestic violence offender, that sets forth:

(a) attendance and participation requirements;

- (b) consequences for failure to attend or participate in the program; and
- (c) a confidentiality clause that prohibits disclosure of information revealed during treatment or intervention sessions;
- (3) strategies to hold domestic violence offenders accountable for their violent behavior;
- (4) a requirement that group discussions are limited to members of the same gender;
- (5) an education component that:
  - (a) defines physical, emotional, sexual, economic and verbal abuse and techniques for stopping those forms of abuse; and
  - (b) examines gender roles, socialization, the nature of violence, the dynamics of power and control and the effects of domestic violence on children;
- (6) a requirement that a domestic violence offender not be under the influence of alcohol or drugs during a treatment or intervention session;
- (7) a requirement, except with respect to a domestic violence offender who is a voluntary participant in the program, that the program provide monthly written reports to the presiding judge or the domestic violence offender's probation or parole officer regarding:
  - (a) proof of the domestic violence offender's enrollment in the program;
  - (b) progress reports that address the domestic violence offender's attendance, fee payments and compliance with other program requirements; and
  - (c) evaluations of progress made by the domestic violence offender and recommendations as to whether or not to require the offender's further participation in the program; and
- (8) a requirement that the term of the program be at least fifty-two weeks.

E. Counseling for couples shall not be a component of a domestic violence offender treatment or intervention program.

F. As used in this section, "domestic violence offender" means a person:

(1) convicted for an offense pursuant to the provisions of the Crimes Against Household Members Act;

(2) convicted for violating an order of protection granted by a court pursuant to the provisions of the Family Violence Protection Act;

(3) referred to a domestic violence offender treatment or intervention program by a judge, a domestic violence special commissioner or the parole board; or

(4) who voluntarily participates in a domestic violence offender treatment or intervention program."

### **Chapter 184 Section 4 Laws 2023**

SECTION 4. A new section of Chapter 31, Article 12 NMSA 1978 is enacted to read:

"RELIEF OF COURT DEBT FOR FEES OR COSTS.--The court, by its own motion or by defendant petition, may waive fees or costs assessed prior to July 1, 2024."

### **Chapter 184 Section 5 Laws 2023**

SECTION 5. Section 33-2-40 NMSA 1978 (being Laws 1913, Chapter 50, Section 2, as amended) is amended to read:

"33-2-40. FINES AND COSTS--SERVICE FOR.--All convicts sentenced to the penitentiary of New Mexico who have a fine or costs or both attached to the sentence shall not be required to serve more than fifteen days for the fine or costs."

### **Chapter 184 Section 6 Laws 2023**

SECTION 6. Section 33-3-11 NMSA 1978 (being Laws 1889, Chapter 9, Section 1, as amended) is amended to read:

"33-3-11. JAIL FOR NONPAYMENT OF FINE OR COSTS.--

A. Whenever any person is committed to jail for nonpayment of any fine or costs or both, the person shall be credited with twenty-four times the state hourly minimum wage a day in reduction thereof for each day or portion of a day of incarceration. When the person has remained incarcerated a sufficient length of time to extinguish the fine or cost or both, computed at this rate, or has paid to the sentencing court the amount of the fine or costs or both, remaining after deducting credit allowed by this section and obtaining from the court an order of release from commitment, the officer having the prisoner in custody shall discharge the prisoner from custody under commitment.

B. If the person in custody makes an affidavit that the person has no property out of which the person can pay the fine and costs, either or any part, the prisoner shall not be retained in custody longer than fifteen days even though the fine and costs or either exceeds the amount credited toward repayment during those fifteen days. The affidavit shall be delivered to the sheriff or jail administrator as defined in Section 4-44-19 NMSA 1978 having custody of the prisoner."

## **Chapter 184 Section 7 Laws 2023**

SECTION 7. Section 33-3-25 NMSA 1978 (being Laws 1983, Chapter 134, Section 1, as amended) is amended to read:

"33-3-25. LOCAL GOVERNMENT CORRECTIONS FUND CREATED--  
ADMINISTRATION--DISTRIBUTION.--

A. There is created in the state treasury the "local government corrections fund" to be administered by the local government division of the department of finance and administration. The fund consists of gifts, grants, donations, appropriations and distributions to the fund made pursuant to the Tax Administration Act.

B. All balances in the local government corrections fund are appropriated to the local government division of the department of finance and administration for payment to counties for county jailer or juvenile detention officer training; for the construction planning, construction, maintenance and operation of the county detention facility, jail or juvenile detention facility; for paying the cost of housing county prisoners or juveniles in any detention facility in the state; for alternatives to incarceration; or for complying with match or contribution requirements for the receipt of federal funds relating to detention facilities, jails or juvenile detention facilities.

C. Payments from the local government corrections fund shall be made upon vouchers issued and signed by the local government division of the department of finance and administration upon warrants drawn by the secretary of finance and administration.

D. All money received by a county pursuant to this section shall be deposited in a special fund in the county treasury and shall be used solely for:

- (1) county jailer or juvenile detention officer training;
- (2) the construction planning, construction, maintenance and operation of the county detention facility, jail or juvenile detention facility;
- (3) paying the cost of housing county prisoners or juveniles in any detention facility in the state;
- (4) alternatives to incarceration; or

(5) complying with match or contribution requirements for the receipt of federal funds relating to detention facilities, jails or juvenile detention facilities."

## **Chapter 184 Section 8 Laws 2023**

SECTION 8. Section 34-8A-12 NMSA 1978 (being Laws 1993, Chapter 261, Section 5) is amended to read:

"34-8A-12. METROPOLITAN COURT WARRANT ENFORCEMENT FUND--ADMINISTRATION--USE OF MONEY IN FUND.--

A. There is created in the state treasury the "metropolitan court warrant enforcement fund" to be administered by the Bernalillo county metropolitan court. The fund consists of gifts, grants, donations, appropriations and distributions to the fund made pursuant to the Tax Administration Act.

B. All balances in the metropolitan court warrant enforcement fund are appropriated to the Bernalillo county metropolitan court for the primary purpose of employing personnel and promoting compliance with court orders. After satisfaction of the primary purpose, any money remaining in the fund may, to the extent deemed necessary by the court, be used for the secondary purpose of partially reimbursing law enforcement agencies for the expense of serving bench warrants issued by the court, pursuant to an intergovernmental agreement entered into between the law enforcement agency and the court.

C. Payments from the metropolitan court warrant enforcement fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers issued and signed by the Bernalillo county metropolitan court administrator.

D. Any balance remaining in the metropolitan court warrant enforcement fund at the end of a fiscal year shall not revert to the state general fund."

## **Chapter 184 Section 9 Laws 2023**

SECTION 9. Section 34-9-14 NMSA 1978 (being Laws 1998 (1st S.S.), Chapter 6, Section 7, as amended) is amended to read:

"34-9-14. COURT FACILITIES FUND CREATED--ADMINISTRATION--DISTRIBUTION.--

A. The "court facilities fund" is created in the state treasury and shall be administered by the administrative office of the courts. The fund shall consist of court fees and lease and rental revenues transferred to or deposited in the fund, gifts, grants, donations, appropriations and distributions to the fund made pursuant to the Tax Administration Act.

B. All court facilities fees and other revenues deposited in the fund shall be distributed monthly to the New Mexico finance authority for deposit in a special bond fund or account of the authority. The New Mexico finance authority may pledge irrevocably all of these distributions to the authority for the payment of principal, interest and any other expenses or obligations related to the bonds issued by the authority for financing the acquisition of real property and for the design, construction, furnishing and equipping of a new court building for the Bernalillo county metropolitan court in Albuquerque and of a parking facility adjacent to the court building.

C. Distributions from the court facilities fund to the New Mexico finance authority shall be made upon vouchers issued and signed by the director of the administrative office of the courts upon warrants drawn by the secretary of finance and administration.

D. Upon certification by the New Mexico finance authority that all payments of principal, interest and any other expenses or obligations related to the bonds issued by the authority for financing the acquisition of real property and for the design, construction, furnishing and equipping of a new court building for the Bernalillo county metropolitan court in Albuquerque and of a parking facility adjacent to the court building have been satisfied, the court facilities fee shall be eliminated."

## **Chapter 184 Section 10 Laws 2023**

SECTION 10. Section 34-13-1 NMSA 1978 (being Laws 1993, Chapter 273, Section 1) is amended to read:

"34-13-1. JUDICIAL EDUCATION FUND CREATED--ADMINISTRATION--INCOME TO THE FUND.--

A. The "judicial education fund" is created in the state treasury and shall be administered by the administrative office of the courts. Money in the fund shall be invested by the state treasurer as provided by law and earnings of the fund shall be credited to the fund. Unexpended or unencumbered balances remaining in the fund at the end of any fiscal year shall not revert.

B. Money from the fund may only be expended upon appropriation by the legislature.

C. The judicial education fund consists of gifts, grants, donations, appropriations to the fund and distributions to the fund made pursuant to the Tax Administration Act."

## **Chapter 184 Section 11 Laws 2023**

SECTION 11. Section 34-16-1 NMSA 1978 (being Laws 2009, Chapter 244, Section 2) is amended to read:

"34-16-1. JUVENILE ADJUDICATION FUND CREATED.--The "juvenile adjudication fund" is created in the state treasury to provide an alternative procedure of adjudication for juveniles charged with misdemeanor offenses to help alleviate the docket of the juvenile judicial system. The fund consists of gifts, grants, donations, appropriations and distributions to the fund made pursuant to the Tax Administration Act. Money in the fund at the end of a fiscal year shall not revert to any other fund. The department of finance and administration shall administer the fund, and money in the fund is appropriated to the department of finance and administration to administer the fund and to provide an alternative adjudication process for juveniles charged with traffic offenses and other misdemeanors. Money expended to administer the fund shall not exceed five percent of the money credited to the fund in each fiscal year. Disbursements from the fund shall be made by warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary or the secretary's authorized representative."

### **Chapter 184 Section 12 Laws 2023**

SECTION 12. Section 35-6-1 NMSA 1978 (being Laws 1968, Chapter 62, Section 92, as amended) is amended to read:

"35-6-1. MAGISTRATE COSTS--SCHEDULE.--

A. Magistrate judges, including metropolitan court judges, shall assess and collect and shall not waive, defer or suspend the following costs:

docket fee, twenty dollars (\$20.00) of which shall be deposited in the court automation fund and fifteen dollars (\$15.00) of which shall be deposited in the civil legal services fund, to be collected prior to docketing any civil action, except as provided in Subsection A of Section 35-6-3 NMSA 1978 72.00; and jury fee, to be collected from the party demanding trial by jury in any civil action at the time the demand is filed or made . . . . .25.00.

copying fee, for making and certifying copies of any records in the court, for each page copied by photographic process . . . . . 0.50.  
Proceeds from this copying fee shall be transferred to the administrative office of the courts for deposit in the court facilities fund; and

copying fee, for computer-generated or electronically transferred copies, per page. . . . . 1.00.  
Proceeds from this copying fee shall be transferred to the administrative office of the courts for deposit in the court automation fund.

Except as otherwise specifically provided by law, docket fees shall be paid into the court facilities fund.

B. Except as otherwise provided by law, no other costs or fees shall be charged or collected in the magistrate or metropolitan court.

C. The magistrate or metropolitan court may grant free process to any party in any civil proceeding or special statutory proceeding upon a proper showing of indigency. The magistrate or metropolitan court may deny free process if it finds that the complaint on its face does not state a cause of action.

D. Metropolitan court judges shall assess and collect and shall not waive, defer or suspend as costs a mediation fee not to exceed five dollars (\$5.00) for the docketing of small claims and criminal actions specified by metropolitan court rule. Proceeds of the mediation fee shall be deposited into the metropolitan court mediation fund."

### **Chapter 184 Section 13 Laws 2023**

SECTION 13. Section 35-6-3 NMSA 1978 (being Laws 1968, Chapter 62, Section 94, as amended) is amended to read:

"35-6-3. MAGISTRATE COSTS--ADVANCE PAYMENT.--Except for parties granted free process because of indigency, any party filing any civil action or requesting services from the magistrate court shall pay in advance the costs required by law to be collected by magistrates."

### **Chapter 184 Section 14 Laws 2023**

SECTION 14. Section 35-6-4 NMSA 1978 (being Laws 1968, Chapter 62, Section 95, as amended) is amended to read:

"35-6-4. MAGISTRATE COSTS--WITNESS FEES--REIMBURSEMENT.--If the plaintiff prevails in a civil action in the magistrate court, the amount of costs collected by the magistrate in the action shall be added to the judgment entered against the defendant. Fees actually paid by the prevailing party in a civil action in the magistrate court for service of the complaint and summons and for service of subpoenas shall be taxed against the losing party. Witness fees as provided by law for proceedings in the district courts shall be taxed against the losing party in the action, subject to the limitations of the Rules of Civil Procedure for the Magistrate Courts."

### **Chapter 184 Section 15 Laws 2023**

SECTION 15. Section 35-6-5 NMSA 1978 (being Laws 1993, Chapter 261, Section 7) is amended to read:

"35-6-5. MAGISTRATE COURT WARRANT ENFORCEMENT FUND--ADMINISTRATION--USE OF MONEY IN FUND.--"

A. There is created in the state treasury the "magistrate court warrant enforcement fund" to be administered by the administrative office of the courts. The fund consists of gifts, grants, donations, appropriations and distributions to the fund made pursuant to the Tax Administration Act.

B. All balances in the magistrate court warrant enforcement fund are appropriated to the administrative office of the courts for the primary purpose of employing personnel and promoting compliance with court orders. After satisfaction of the primary purpose, any money remaining in the fund may, to the extent deemed necessary by the director of the administrative office of the courts, be used for the secondary purpose of partially reimbursing law enforcement agencies for the expense of serving bench warrants issued by the magistrate courts, pursuant to an intergovernmental agreement entered into between the law enforcement agency and the administrative office of the courts.

C. Payments from the magistrate court warrant enforcement fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers issued and signed by the director of the administrative office of the courts.

D. Any balance remaining in the magistrate court warrant enforcement fund at the end of a fiscal year shall not revert to the state general fund."

## **Chapter 184 Section 16 Laws 2023**

SECTION 16. Section 35-7-4 NMSA 1978 (being Laws 1968, Chapter 62, Section 99, as amended) is amended to read:

"35-7-4. MAGISTRATE ADMINISTRATION--MONTHLY REMITTANCES.--Each magistrate court shall pay to the administrative office of the courts, not later than the date each month established by regulation of the director of the administrative office, the amount of all fines, forfeitures and costs collected by the court during the previous month, except for amounts disbursed in accordance with law. The administrative office shall return to each magistrate court a written receipt itemizing all money received. The administrative office shall deposit the amount of all fines and forfeitures with the state treasurer for credit to the current school fund. The administrative office shall deposit the amount of all costs assessed prior to July 1, 2024 and collected on or after July 1, 2024, except all costs collected pursuant to Subsection E of Section 35-6-1 NMSA 1978, for credit to the general fund. The amount of all costs collected pursuant to Subsection E of Section 35-6-1 NMSA 1978 shall be credited to the metropolitan court mediation fund."

## **Chapter 184 Section 17 Laws 2023**

SECTION 17. 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; and

(2) impose no fine or sentence greater than that permitted for municipalities.

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.

H. After July 1, 2024, no court shall assess post-adjudication fees previously authorized by statute and now repealed."

## **Chapter 184 Section 18 Laws 2023**

SECTION 18. Section 66-8-119 NMSA 1978 (being Laws 1968, Chapter 62, Section 159, as amended) is amended to read:

"66-8-119. PENALTY ASSESSMENT REVENUE--DISPOSITION.--

A. The division shall remit all penalty assessment receipts to the state treasurer for credit to the general fund.

B. The division shall remit all penalty assessment fee receipts assessed prior to July 1, 2024 and collected on or after July 1, 2024 to the state treasurer for credit to the general fund."

## **Chapter 184 Section 19 Laws 2023**

SECTION 19. REPEAL.--Sections 31-12-6 through 31-12-8, 31-12-11, 31-12-13, 35-14-11 and 66-8-116.3 NMSA 1978 (being Laws 1858-1859, p. 30; Laws 1981, Chapter 367, Sections 1 and 2; Laws 2003, Chapter 387, Section 1; Laws 2015, Chapter 10, Section 3; Laws 1983, Chapter 134, Section 6; and Laws 1989, Chapter 318, Section 35, as amended) are repealed.

## **Chapter 184 Section 20 Laws 2023**

SECTION 20. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1, 5 and 6 of this act is June 16, 2023.

B. The effective date of the provisions of Sections 2 through 4 and 7 through 19 of this act is July 1, 2024.

# **LAWS 2023, CHAPTER 185**

**HENRC/House Bill 142, aa, w/cc**  
**Approved April 5, 2023**

AN ACT

RELATING TO THE ENVIRONMENT; ENACTING THE SAN JUAN GENERATING STATION FACILITY AND MINE REMEDIATION AND RESTORATION STUDY ACT; REQUIRING THE ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT AND THE DEPARTMENT OF ENVIRONMENT TO INVESTIGATE REMEDIATION AND RESTORATION OPTIONS FOR THE SAN JUAN GENERATING STATION FACILITY AND MINE; PROVIDING REPORTING REQUIREMENTS; AUTHORIZING THE

ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT AND THE DEPARTMENT OF ENVIRONMENT TO CONTRACT WITH OUTSIDE PROFESSIONALS TO ASSIST IN THE STUDY OF REMEDIATION AND RESTORATION OPTIONS FOR THE SAN JUAN GENERATING STATION FACILITY AND MINE.

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

### **Chapter 185 Section 1 Laws 2023**

SECTION 1. SHORT TITLE.--This act may be cited as the "San Juan Generating Station Facility and Mine Remediation and Restoration Study Act".

### **Chapter 185 Section 2 Laws 2023**

SECTION 2. DEFINITIONS.--As used in the San Juan Generating Station Facility and Mine Remediation and Restoration Study Act:

A. "generating facility" means the abandoned coal-fired San Juan generating station in New Mexico;

B. "mine" means the mine associated with the generating facility;

C. "reclamation" means the rehabilitation of the generating facility and mine to make the generating facility and mine acceptable for post-mining purposes that protect the natural resources and aesthetic value of adjoining areas;

D. "remediation" means the process of reversing or stopping environmental damage;

E. "restoration" means the process of restoring site conditions to the state they were in before generating facility and mining disturbances; and

F. "toxic metal contaminants" means the federal environmental protection agency's twenty-one identified constituents of concern in coal ash residue leachate, for which the federal environmental protection agency requires ground water monitoring. These constituents include boron, calcium, chloride, pH, sulfate, total dissolved solids, antimony, arsenic, barium, beryllium, cadmium, chromium, cobalt, fluoride, lead, lithium, mercury, molybdenum, selenium, thallium and radium 226 and 228.

### **Chapter 185 Section 3 Laws 2023**

SECTION 3. STUDY AND DOCUMENTATION--DISSEMINATION OF STUDY--STUDY CONTENTS--REPORTING REQUIREMENTS.--

A. The energy, minerals and natural resources department and the department of environment shall coordinate efforts to:

(1) contract for a comprehensive study of the generating facility and mine to determine if there has been any environmental contamination of the lands and waters on or adjacent to the generating facility and mine, including the presence of toxic metal contaminants; and

(2) develop an independent reclamation and restoration plan that addresses protecting the environment from contamination for human and ecosystem health and ground and surface water quality and prevents the migration of toxic metal contaminants and off-site pollution.

B. The energy, minerals and natural resources department and the department of environment shall make the remediation and restoration study available to the public on an accessible internet website and shall summarize the results of any inspections and data analysis in an executive summary.

C. No later than July 1, 2025, the energy, minerals and natural resources department and the department of environment shall provide a copy of the remediation and restoration study to the legislature and present specific measurable steps, informed by input from impacted communities, to oversee and enforce full remediation and restoration plans, including, to the extent possible, the cleanup of the generating facility and mine and prioritizing for employment workers who were previously employed at the generating facility and mine and workers residing in New Mexico. A presentation of the study shall occur at a meeting of the legislative interim committee dealing with water and natural resources and shall detail how the energy, minerals and natural resources department and the department of environment shall ensure timely environmental compliance with the owners of the generating facility and mine to protect public health and welfare.

D. The energy, minerals and natural resources department and the department of environment shall provide annual updates to the legislature about the progress of remediation and restoration efforts pursuant to the San Juan Generating Station Facility and Mine Remediation and Restoration Study Act.

E. To the extent allowed by applicable laws, the energy, minerals and natural resources department and the department of environment are authorized to consider the results of this study in any permitting actions related to the generating facility or mine.

F. The independent restoration and remediation plan shall not be considered a rule or standard for purposes of the Water Quality Act but shall be considered a planning document. Planning documents are not rules or standards under the Water Quality Act.

G. As used in this section, "planning document" means a document that is used to guide future actions and strategies to meet water quality rules or standards. Planning documents may include remediation plans, restoration plans and total maximum daily loads.

## **Chapter 185 Section 4 Laws 2023**

SECTION 4. AUTHORIZATION TO CONTRACT WITH OUTSIDE PROFESSIONALS TO ASSIST IN THE REMEDIATION AND RESTORATION STUDY.-  
-The energy, minerals and natural resources department and the department of environment are authorized to contract with environmental engineers, hydrologists, geochemists and other professionals or consultants as needed to perform a rigorous study of the generating facility and mine to:

- A. investigate and determine the extent of any environmental contamination;
- B. create an independent restoration and remediation plan to remediate and prevent environmental contamination and impacts to ground water with long-term, measurable cleanup and performance standards; and
- C. address the probability of adverse effects to human health and community resilience, particularly resulting from ground water contamination.

## **Chapter 185 Section 5 Laws 2023**

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# **LAWS 2023, CHAPTER 186**

**House Bill 170**  
**Approved April 5, 2023**

AN ACT

RELATING TO TELECOMMUNICATIONS; AMENDING THE CRAMMING AND SLAMMING ACT; CLARIFYING THE DEFINITION OF "CRAMMING".

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

## **Chapter 186 Section 1 Laws 2023**

SECTION 1. Section 63-9G-2 NMSA 1978 (being Laws 1999, Chapter 138, Section 2) is amended to read:

"63-9G-2. DEFINITIONS.--As used in the Cramming and Slamming Act:

A. "billing aggregator" means a person that bills customers for goods or services provided by others and that uses a local exchange company as a billing agent;

B. "commission" means the public regulation commission;

C. "cramming" means:

(1) charging a customer for telecommunications services that were not authorized by the customer;

(2) charging a customer for goods or services that are not telecommunications services and were not authorized by the customer; or

(3) using a sweepstakes, contest or drawing entry form as authorization to change or add telecommunications services to a customer's telephone bill;

D. "customer" means the person whose name appears on the telephone bill or the person responsible for payment of the telephone bill;

E. "local exchange company" means a provider that provides local exchange services;

F. "local exchange services" means the transmission of two-way interactive communications within a local exchange area described in maps, tariffs or rate schedules filed with the commission where local exchange rates apply;

G. "provider" means a telephone company, transmission company, telecommunications common carrier, telecommunications company, cellular or other wireless telecommunications service company, cable television service, telecommunications reseller, billing aggregator or other person that bills directly or has a billing contract with a local exchange company;

H. "slamming" means:

(1) changing a customer's provider without the customer's authorization; or

(2) using a sweepstakes, contest or drawing entry form as authorization to change a customer's provider; and

I. "telecommunications service" means the transmission of signs, signals, writings, images, sounds, messages, data or other information of any nature by wire, radio, lightwaves or other electromagnetic means or goods and services related to the transmission of information that are provided by the provider; provided that a good or

service that does not meet the definition of "telecommunications service" does not become a telecommunications service merely because it is bundled with a telecommunications service for marketing or billing purposes."

## **LAWS 2023, CHAPTER 187**

**House Bill 182**

**Approved April 5, 2023**

AN ACT

RELATING TO LEGAL NOTICES; ADDING THE *CAMINO REAL* NEWSPAPER TO THE LIST OF OFFICIAL SPANISH NEWSPAPERS.

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

### **Chapter 187 Section 1 Laws 2023**

SECTION 1. Section 14-11-13 NMSA 1978 (being Laws 1965, Chapter 254, Section 1, as amended) is amended to read:

"14-11-13. OFFICIAL SPANISH NEWSPAPERS.--For the purpose of publishing legal notices in Spanish as required by law for any agencies of the state, the *Santa Rosa News* published at Santa Rosa, the *Santa Fe New Mexican* and the *Santa Fe News*, both published at Santa Fe, *El Hispano* and *El Semanario de Nuevo Mexico*, both published at Albuquerque, the *Alpha News* published at Las Vegas, the *Rio Grande Sun* published at Espanola, the *Taos News* published at Taos, the *Camino Real* published at Santa Fe and *Mas New Mexico* published at Santa Fe and Albuquerque are recognized as official Spanish language newspapers of this state."

## **LAWS 2023, CHAPTER 188**

**HAFC/HJC/House Bill 357**

**Approved April 5, 2023**

AN ACT

RELATING TO CRIMINAL JUSTICE; CREATING THE LAW ENFORCEMENT WORKFORCE CAPACITY BUILDING FUND; CREATING THE PUBLIC ATTORNEY WORKFORCE CAPACITY BUILDING FUND; CREATING THE DETENTION AND CORRECTIONS WORKFORCE CAPACITY BUILDING FUND; PROVIDING FUNDING FOR THE RECRUITMENT AND RETENTION OF LAW ENFORCEMENT OFFICERS, DETENTION OFFICERS, PUBLIC DEFENDERS AND PROSECUTORS.

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

## Chapter 188 Section 1 Laws 2023

SECTION 1. A new Section 9-6-17 NMSA 1978 is enacted to read:

"9-6-17. LAW ENFORCEMENT WORKFORCE CAPACITY BUILDING FUND--  
LAW ENFORCEMENT WORKFORCE CAPACITY BUILDING FUND COMMITTEE--  
ADMINISTRATION--DISTRIBUTION OF FUNDS--GRANT CRITERIA.--

A. The "law enforcement workforce capacity building fund" is created in the state treasury to support efforts to increase the available workforce of law enforcement officers, including initiatives to recruit and retain high-quality law enforcement officers. The fund consists of appropriations, gifts, grants and donations. Money in the fund is subject to appropriation by the legislature. Any unexpended or unencumbered balance remaining in the fund at the end of a fiscal year shall revert to the general fund unless an appropriation provides a different period for expenditure.

B. The department of finance and administration shall administer the fund to:

(1) provide grant disbursements pursuant to Subsection J of this section; and

(2) fund administrative costs necessary to carry out the provisions of this section, including such administrative costs that are necessary to evaluate the efficacy of initiatives implemented by grantees to increase the available workforce of law enforcement officers and such administrative costs that are determined, in consultation with the committee, to be necessary to conduct workload studies, the results of which shall be used by the committee to improve the structure and criteria of the provisions of this section and to develop recommendations from the committee for policy or program measures to be considered by the legislature; provided that the amount expended for administrative costs shall not exceed three percent of the total appropriations to the fund.

C. Disbursements from the fund shall be made on warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the chair of the committee.

D. The "law enforcement workforce capacity building fund committee" is created and is administratively attached to the department of finance and administration. The committee consists of the following four voting members:

(1) one member who is employed by the department of public safety, to be appointed by the secretary of public safety;

(2) one member who is employed by a municipal police department in the state, to be appointed by the New Mexico municipal league;

(3) one member who is employed by a county sheriff's office in the state, to be appointed by the New Mexico association of counties; and

(4) one member who is employed by the department of finance and administration, to be appointed by the secretary of finance and administration.

E. The committee shall elect a chair from among its membership.

F. The committee shall:

(1) conduct meetings once per year or more often as necessary to carry out its duties at the times and locations that the committee designates;

(2) develop criteria for the awarding of grants as provided in Subsection N of this section;

(3) periodically review the award criteria and recommend any amendments to the criteria based on the results of any workload studies or evaluations of grantee initiatives;

(4) award grants to law enforcement agencies as provided in Subsections J through M of this section;

(5) collect information about initiative expenditures from grantees as provided in Subsection Q of this section;

(6) report applicant and grantee information as provided in Subsection R of this section; and

(7) disseminate information regarding the program and application process to all eligible entities.

G. A majority of the members of the committee constitutes a quorum for the transaction of business.

H. A member of the committee shall not review or vote on a proposal made by an applicant with whom the member is employed. An employee of the department of public safety who is not employed by the New Mexico state police division of that department is not considered an employee of the New Mexico state police division of that department for purposes of this subsection.

I. Administrative and other necessary support shall be provided to the committee by the department of finance and administration.

J. The committee may allocate:

(1) up to twenty-five percent of the money in the fund, less administrative costs as provided in Paragraph (2) of Subsection B of this section, for grants awarded to entities whose primary jurisdiction is within a county with a population of at least five hundred thousand according to the most recent federal decennial census;

(2) up to thirty-five percent of the money in the fund, less administrative costs as provided in Paragraph (2) of Subsection B of this section, for grants awarded to entities whose primary jurisdiction is within a county with a population of at least one hundred thousand but less than five hundred thousand according to the most recent federal decennial census; and

(3) any amount of available money remaining in the fund for grants awarded to entities whose primary jurisdiction is within a county with a population of less than one hundred thousand according to the most recent federal decennial census.

K. For purposes of Subsection J of this section, if applicants whose primary jurisdictions are within different counties apply jointly for a grant, the applicants, if awarded a grant, would each receive an award amount based on that individual applicant's county.

L. Any local law enforcement agency is eligible to apply for a grant; provided that the agency is in compliance with applicable statutory reporting requirements, including those described in Subsection C of Section 29-3-11 NMSA 1978 and Sections 29-7-7.2, 29-7C-7 and 29-7C-8 NMSA 1978.

M. The New Mexico state police division of the department of public safety and all of its offices are eligible to apply for a grant; provided that:

(1) the application for a grant proposes to undertake initiatives in collaboration with a local law enforcement agency;

(2) the New Mexico state police division of the department of public safety is in compliance with applicable statutory reporting requirements, including those described in Subsection C of Section 29-3-11 NMSA 1978 and Sections 29-7-7.2, 29-7C-7 and 29-7C-8 NMSA 1978; and

(3) for purposes of Subsection J of this section, the primary jurisdiction of the New Mexico state police division of the department of public safety shall be based on the primary jurisdiction of the local law enforcement agency with which the division or the division's office has proposed to collaborate.

N. The committee shall develop grant criteria to guide its determination for the awarding of a grant, and the criteria shall:

(1) take into consideration an applicant's law enforcement officer vacancy rate;

(2) take into consideration cost of living and comparable market compensation for an applicant's locality;

(3) take into consideration crime rates in an applicant's locality;

(4) prioritize, in its consideration, an applicant's proposal for initiatives that target the recruitment of candidates who are experienced law enforcement officers not currently employed by a law enforcement agency within the state;

(5) prioritize, in its consideration, an applicant's proposal for initiatives to be undertaken in collaboration between local law enforcement agencies with overlapping jurisdiction;

(6) prioritize, in its consideration, law enforcement agency applicants that use or intend to use community-oriented policing or other evidence-based forms of policing; and

(7) prioritize, in its consideration, initiatives intended to increase agency investigative capacity, including initiatives to recruit or retain investigative personnel and initiatives to train existing personnel to serve as investigators.

O. A grantee may use a grant award to:

(1) provide a recruitment differential disbursement to newly hired law enforcement officers, including a recruitment differential disbursement for relocation expenses; provided that the law enforcement officer remains employed as a law enforcement officer with that same law enforcement agency for one additional year;

(2) provide a retention differential disbursement to law enforcement officers already employed by the applicant for the purpose of retention; provided that the law enforcement officer remains employed as a law enforcement officer with that same law enforcement agency for one additional year;

(3) implement professional development initiatives designed to recruit, train and retain law enforcement officers, including training in community-oriented policing or other evidence-based forms of policing; and

(4) implement campaigns to recruit in-state and out-of-state candidates.

P. A grantee shall not use a grant:

(1) for recurring initiatives, except the grantee may use a grant for a recurring initiative if the grantee has provided a plan to replace nonrecurring funds with recurring funds to fund that initiative; or

(2) to create new law enforcement officer positions or fund the base salary of existing law enforcement officer positions.

Q. A grantee shall provide to the committee within ninety days of receiving a grant, and then every ninety days thereafter until the earliest of either the completion of the grantee's initiative or all funds are expended, a report of the grantee's expenditures for the grantee's initiative. Any unexpended money remaining after the completion of the grantee's initiative shall revert to the fund within sixty days of completion of the initiative.

R. The committee shall provide at least one annual report by November 1 of each fiscal year to the department of finance and administration and the legislative finance committee that contains:

(1) applicant information, including information about the applicant agency, the grant amount requested and the title and description of the applicant's proposed initiative;

(2) individual grantee information, including information about the grantee's agency, the grant amount awarded and the title and description of the grantee's initiative;

(3) data collected and evaluations made by the department of finance and administration about the efficacy of the initiatives of prior award recipients; and

(4) the status of any ongoing workload studies and the results of any workload studies completed since the time of the prior report.

S. As used in this section:

(1) "committee" means the law enforcement workforce capacity building fund committee;

(2) "fund" means the law enforcement workforce capacity building fund;

(3) "law enforcement agency" means a municipal police department, a county sheriff's office or the New Mexico state police division of the department of public safety;

(4) "law enforcement officer" means a certified full- or part-time salaried public employee of a municipal police department, a county sheriff's office or the New Mexico state police division of the department of public safety; and

(5) "local law enforcement agency" means a municipal police department or county sheriff's office."

## **Chapter 188 Section 2 Laws 2023**

SECTION 2. A new Section 9-6-18 NMSA 1978 is enacted to read:

"9-6-18. PUBLIC ATTORNEY WORKFORCE CAPACITY BUILDING FUND  
CREATED--PUBLIC ATTORNEY WORKFORCE CAPACITY BUILDING FUND  
COMMITTEE--ADMINISTRATION--GRANT CRITERIA.--

A. The "public attorney workforce capacity building fund" is created in the state treasury to support efforts to increase the available workforce of public defenders and prosecutors, including initiatives to recruit and retain public defenders and prosecutors. The fund consists of appropriations, gifts, grants and donations. Money in the fund is subject to appropriation by the legislature. Any unexpended or unencumbered balance remaining in the fund at the end of a fiscal year shall revert to the general fund unless an appropriation provides a different period for expenditure.

B. The department of finance and administration shall administer the fund to:

(1) provide grant disbursements pursuant to Subsection I of this section;

(2) fund administrative costs necessary to carry out the provisions of this section, including such administrative costs that are necessary to evaluate the efficacy of initiatives implemented by grantees to increase the available workforce of public defenders and prosecutors; provided that the amount expended for administrative costs shall not exceed three percent of the total appropriations to the fund; and

(3) fund statewide initiatives to increase the available workforce of public defenders and prosecutors undertaken by the public defender department or the administrative office of the district attorneys or in collaboration between both agencies, as approved by the committee, including conducting workload studies, the results of which shall be used by the committee to improve the structure and criteria of the provisions of this section and to develop recommendations from the committee for policy or program measures to be considered by the legislature; provided that the amount expended shall not exceed six percent of the total appropriations to the fund.

C. Disbursements from the fund shall be made on warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the chair of the committee.

D. The "public attorney workforce capacity building fund committee" is created and is administratively attached to the department of finance and administration. The committee consists of the following four voting members:

(1) two members who are employed by the administrative division of the public defender department, to be appointed by the chief public defender; and

(2) two members who are employed by the administrative office of the district attorneys, to be appointed by the director of the administrative office of the district attorneys.

E. The committee shall elect a chair from among its membership.

F. The committee shall:

(1) conduct meetings once per year or more often as necessary to carry out its duties at the times and locations that the committee designates;

(2) develop criteria for the awarding of grants as provided in Subsection K of this section;

(3) periodically review the award criteria and recommend any amendments to the criteria based on the results of any workload studies or evaluations of grantee initiatives;

(4) award grants to local offices of the public defender and local district attorney offices as provided in Subsection I of this section;

(5) review and approve proposals for statewide initiatives as provided in Paragraph (3) of Subsection B of this section;

(6) collect information about initiative expenditures from grantees as provided in Subsection N of this section;

(7) report applicant and grantee information as provided in Subsection O of this section; and

(8) disseminate information regarding the program and application process to all eligible entities.

G. A majority of the members of the committee constitutes a quorum for the transaction of business.

H. Administrative and other necessary support shall be provided to the committee by the department of finance and administration.

I. The committee may allocate:

(1) up to twenty-five percent of the money in the fund, less administrative costs as provided in Paragraph (2) of Subsection B of this section and

funds expended for statewide initiatives as provided in Paragraph (3) of Subsection B of this section, for grants awarded to entities whose primary jurisdiction is within a judicial district having a population of at least five hundred thousand according to the most recent federal decennial census;

(2) up to twenty-six percent of the money in the fund, less administrative costs as provided in Paragraph (2) of Subsection B of this section and funds expended for statewide initiatives as provided in Paragraph (3) of Subsection B of this section, for grants awarded to entities whose primary jurisdiction is within a judicial district having a population of at least two hundred fifteen thousand but less than five hundred thousand according to the most recent federal decennial census; and

(3) any amount of available money remaining in the fund for grants awarded to entities whose primary jurisdiction is within a judicial district having a population of less than two hundred fifteen thousand according to the most recent federal decennial census.

J. For purposes of Subsection I of this section, if applicants whose primary jurisdictions are within different judicial districts apply jointly for a grant, the applicants, if awarded a grant, would each receive an award amount based on that individual applicant's judicial district.

K. The committee shall develop grant criteria to guide its determination for the awarding of a grant, and the criteria shall:

(1) take into consideration an applicant's attorney vacancy rate;

(2) take into consideration an applicant's attorney caseload;

(3) take into consideration cost of living and comparable market compensation for an applicant's locality;

(4) take into consideration crime rates in an applicant's locality;

(5) take into consideration the number of attorneys employed by an applicant;

(6) prioritize, in its consideration, an applicant's proposal for initiatives that target the recruitment of candidates who are law school students, attorneys who are not currently employed or contracted by the state or attorneys who are not currently employed in New Mexico;

(7) prioritize, in its consideration, an applicant's proposal for initiatives that include collaboration among public defender offices, district attorney offices and other criminal justice entities; and

(8) prioritize, in its consideration, an applicant's proposal for initiatives that will take place within a judicial district having existing pre-prosecution diversion programs or a plan to implement those programs within two fiscal years.

L. A grantee may use a grant award to:

(1) provide a recruitment differential disbursement to newly hired attorneys, including a recruitment differential disbursement for relocation expenses; provided that the attorney remains employed as an attorney with that same agency for one additional year;

(2) provide a retention differential disbursement to attorneys already employed by the applicant; provided that the attorney remains employed as an attorney with that same agency for one additional year;

(3) implement professional development initiatives designed to recruit, train and retain attorneys; and

(4) implement campaigns to recruit in-state and out-of-state candidates.

M. A grantee shall not use a grant:

(1) for recurring initiatives, except the grantee may use a grant for a recurring initiative if the grantee has provided a plan to replace nonrecurring funds with recurring funds to fund that initiative;

(2) to create new attorney positions or fund the base salary of existing attorney positions; or

(3) to contract with private attorneys for prosecution or defense services, except if the initiative is focused on increasing the number or capacity of private attorneys available to provide prosecution or defense services in a county or judicial district.

N. A grantee shall provide to the committee within ninety days of receiving a grant, and then every ninety days thereafter until the earliest of either the completion of the grantee's initiative or all funds are expended, a report of the grantee's expenditures for the grantee's initiative. Any unexpended money remaining after the completion of the grantee's initiative shall revert to the fund within sixty days of completion of the initiative.

O. The committee shall provide at least one annual report by November 1 of each fiscal year to the department of finance and administration and the legislative finance committee that contains:

(1) applicant information, including information about the applicant agency, the grant amount requested and the title and description of the applicant's proposed initiative;

(2) individual grantee information, including information about the grantee's judicial district location, the grant amount awarded and the title and description of the grantee's initiative;

(3) data collected and evaluations made by the department of finance and administration about the efficacy of the initiatives of prior award recipients; and

(4) the status of any ongoing workload studies and the results of any workload studies completed since the time of the prior report.

P. As used in this section:

(1) "committee" means the public attorney workforce capacity building fund committee; and

(2) "fund" means the public attorney workforce capacity building fund."

## **Chapter 188 Section 3 Laws 2023**

SECTION 3. A new Section 9-6-19 NMSA 1978 is enacted to read:

"9-6-19. DETENTION AND CORRECTIONS WORKFORCE CAPACITY BUILDING FUND--DETENTION AND CORRECTIONS WORKFORCE CAPACITY BUILDING FUND COMMITTEE--ADMINISTRATION--DISTRIBUTION OF FUNDS--GRANT CRITERIA.--

A. The "detention and corrections workforce capacity building fund" is created in the state treasury to support efforts to increase the available workforce of detention officers, including initiatives to recruit and retain high-quality detention officers. The fund consists of appropriations, gifts, grants and donations. Money in the fund is subject to appropriation by the legislature. Any unexpended or unencumbered balance remaining in the fund at the end of a fiscal year shall revert to the general fund unless an appropriation provides a different period for expenditure.

B. The department of finance and administration shall administer the fund to:

(1) provide grant disbursements pursuant to Subsection J of this section; and

(2) fund administrative costs necessary to carry out the provisions of this section, including such administrative costs that are necessary to evaluate the efficacy of initiatives implemented by grantees to increase the available workforce of

detention officers and such administrative costs that are determined, in consultation with the committee, to be necessary to conduct workload studies, including studies of retention and hiring challenges, the results of which shall be used by the committee to improve the structure and criteria of the provisions of this section and to develop recommendations from the committee for policy or program measures to be considered by the legislature; provided that the amount expended for administrative costs shall not exceed three percent of the total appropriations to the fund.

C. Disbursements from the fund shall be made on warrants drawn by the secretary of finance and administration pursuant to vouchers signed by the chair of the committee.

D. The "detention and corrections workforce capacity building fund committee" is created and is administratively attached to the department of finance and administration. The committee consists of the following four voting members:

(1) one member who is employed by the corrections department, to be appointed by the secretary of corrections;

(2) one member who is employed by a local jail in the state, to be appointed by the New Mexico association of counties;

(3) one member who is the county manager of a county government in the state that operates a local jail, to be appointed by the New Mexico association of counties; and

(4) one member who is employed by the department of finance and administration, to be appointed by the secretary of finance and administration.

E. The committee shall elect a chair from among its membership.

F. The committee shall:

(1) conduct meetings once per year or more often as necessary to carry out its duties at the times and locations that the committee designates;

(2) develop criteria for the awarding of grants as provided in Subsection N of this section;

(3) periodically review the award criteria and recommend any amendments to the criteria based on the results of any workload studies or evaluations of grantee initiatives;

(4) award grants to detention facilities as provided in Subsections J through M of this section;

(5) collect information about initiative expenditures from grantees as provided in Subsection Q of this section;

(6) report applicant and grantee information as provided in Subsection R of this section; and

(7) disseminate information regarding the program and application process to all eligible entities.

G. A majority of the members of the committee constitutes a quorum for the transaction of business.

H. A member of the committee shall not review or vote on a proposal made by an applicant with whom the member is employed.

I. Administrative and other necessary support shall be provided to the committee by the department of finance and administration.

J. The committee may allocate:

(1) up to twenty-eight percent of the money in the fund, less administrative costs as provided in Paragraph (2) of Subsection B of this section, for grants awarded to entities located within a county with a population of at least five hundred thousand according to the most recent federal decennial census; and

(2) any amount of available money remaining in the fund for grants awarded to entities located within a county with a population of less than five hundred thousand according to the most recent federal decennial census.

K. For purposes of Subsection J of this section, if applicants located within different counties apply jointly for a grant, the applicants, if awarded a grant, would each receive an award amount based on that individual applicant's county.

L. Any local jail is eligible to apply for a grant; provided that the local jail is in compliance with applicable statutory reporting requirements, including those described in Sections 33-3-4 and 33-16-5 NMSA 1978.

M. The corrections department and all of its corrections facilities are eligible to apply for a grant; provided that:

(1) the application for a grant proposes to undertake initiatives in collaboration with a local jail;

(2) the corrections department is in compliance with applicable statutory reporting requirements, including those described in Subsection F of Section 31-20-2 NMSA 1978, Subsection C of Section 33-15-3 NMSA 1978 and Sections 9-3-9,

33-9-10 and 33-16-5 NMSA 1978, and all reporting requirements for appropriations that have not been fully expended by the department and have not reverted to the general fund or any other fund; and

(3) for purposes of Subsection J of this section, the primary jurisdiction of the corrections department or corrections facility shall be based on the primary jurisdiction of the local jail with which the department or the corrections facility has proposed to collaborate.

N. The committee shall develop grant criteria to guide its determination for the awarding of a grant, and the criteria shall:

(1) take into consideration an applicant's detention officer vacancy rate;

(2) take into consideration cost of living and comparable market compensation for an applicant's locality;

(3) take into consideration an applicant's average daily inmate population over the most recent fiscal year;

(4) take into consideration the ratio of an applicant's number of employed detention officers to the average daily inmate population over the most recent fiscal year;

(5) prioritize, in its consideration, an applicant's proposal for initiatives that target the recruitment of candidates who are experienced detention officers not currently employed by a local jail within the state or the corrections department;

(6) prioritize, in its consideration, an applicant's proposal for initiatives to be undertaken in collaboration between local jails and between one or more local jails and the corrections department; and

(7) prioritize, in its consideration, an applicant that provides detention services to two or more counties.

O. A grantee may use a grant award to:

(1) provide a recruitment differential disbursement to newly hired detention officers, including a recruitment differential disbursement for relocation expenses; provided that the detention officer remains employed as a detention officer with that same local jail or the corrections department for one additional year;

(2) provide a retention differential disbursement to detention officers already employed by the applicant for the purpose of retention; provided that the detention officer remains employed as a detention officer with that same local jail or the corrections department for one additional year;

(3) implement professional development initiatives designed to recruit, train and retain detention officers, including tuition reimbursement and developing and conducting a core training academy for detention officers employed by local jails in collaboration with the corrections department or the department of public safety; and

(4) implement campaigns to recruit in-state and out-of-state candidates.

P. A grantee shall not use a grant:

(1) for recurring initiatives, except the grantee may use a grant for a recurring initiative if the grantee has provided a plan to replace nonrecurring funds with recurring funds to fund that initiative; or

(2) to create new detention officer positions or fund the base salary of existing detention officer positions.

Q. A grantee shall provide to the committee within ninety days of receiving a grant, and then every ninety days thereafter until the earliest of either the completion of the grantee's initiative or all funds are expended, a report of the grantee's expenditures for the grantee's initiative. Any unexpended money remaining after the completion of the grantee's initiative shall revert to the fund within sixty days of completion of the initiative.

R. The committee shall provide at least one annual report by November 1 of each fiscal year to the department of finance and administration and the legislative finance committee that contains:

(1) applicant information, including information about the applicant detention facility, the grant amount requested and the title and description of the applicant's proposed initiative;

(2) individual grantee information, including information about the grantee's detention facility, the grant amount awarded and the title and description of the grantee's initiative;

(3) data collected and evaluations made by the department of finance and administration about the efficacy of the initiatives of prior award recipients; and

(4) the status of any ongoing workload studies and the results of any workload studies completed since the time of the prior report.

S. As used in this section:

(1) "committee" means the detention and corrections workforce capacity building fund committee;

(2) "corrections facility" means any facility or program controlled or operated by the state or any of its agencies or departments and supported wholly or in part by state funds for the correctional care of persons, including the penitentiary of New Mexico, which consists of the penitentiary of Santa Fe and other places in the state designated by the secretary of corrections, but not including a facility operated by a private independent contractor pursuant to an agreement with the corrections department;

(3) "detention facility" means a local jail or corrections facility;

(4) "detention officer" means any employee of the corrections department or a local jail who has inmate custodial responsibilities;

(5) "fund" means the detention and corrections workforce capacity building fund; and

(6) "local jail" means a facility operated by a county, municipality or combination of such local governments and used for the confinement of persons charged with or convicted of a violation of a law or ordinance, but does not include a facility operated by a private independent contractor pursuant to an agreement with a county, municipality or combination of such local governments."

## **Chapter 188 Section 4 Laws 2023**

SECTION 4. REPEAL.--Section 9-6-5.3 NMSA 1978 (being Laws 2022, Chapter 56, Section 1) is repealed.

## **LAWS 2023, CHAPTER 189**

**House Bill 379, aa**  
**Approved April 5, 2023**

AN ACT

RELATING TO REFRIGERANTS; PROVIDING THAT MUNICIPALITIES AND COUNTIES SHALL ALLOW THE USE OF CERTAIN REFRIGERANTS AND THE INSTALLATION AND LISTING OF EQUIPMENT THAT CONTAINS CERTAIN REFRIGERANTS.

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

## **Chapter 189 Section 1 Laws 2023**

SECTION 1. REGULATION OF REFRIGERANTS.--The governing body of a municipality, county or other governmental entity shall allow:

A. the use of a refrigerant that is designated as an acceptable alternative or substitute for a class 1 or class 2 substance by the United States environmental protection agency; or

B. the installation or listing of equipment that contains a refrigerant designated as acceptable pursuant to Subsection A of this section and meets nationally recognized standards for the safe design, construction, installation and operation of refrigeration systems and the appropriate listing standard.

## **Chapter 189 Section 2 Laws 2023**

SECTION 2. DELAYED REPEAL.--Section 1 of this act is repealed effective June 16, 2033.

# **LAWS 2023, CHAPTER 190**

**HGEIC/HGEIC/House Bill 384**  
**Approved April 5, 2023**

## **AN ACT**

RELATING TO LICENSURE; ADDING AND CLARIFYING DEFINITIONS AND PROVISIONS OF THE UNIFORM LICENSING ACT; CLARIFYING PROVISIONS RELATED TO INCOMPLETE APPLICATIONS, HEARINGS AND EXPEDITED LICENSURE; ALLOWING VIRTUAL REMOTE HEARINGS AND RECORDING BY DIGITAL TECHNOLOGY; CHANGING DATES FOR ACTIONS RELATED TO HEARINGS AND DECISIONS; ALLOWING FOR SUMMARY SUSPENSION OF A LICENSE OR PROBATION OF A LICENSEE IN CERTAIN CASES AND REQUIRING A COURT TO ISSUE A PRELIMINARY INJUNCTION IN OTHER CASES; ALLOWING FOR APPEAL OF SUMMARY SUSPENSION AS A FINAL AGENCY ACTION; CHANGING ADMINISTRATION OF THE INTERIOR DESIGNERS ACT TO THE REGULATION AND LICENSING DEPARTMENT; CHANGING REQUIREMENTS FOR INTERIOR DESIGN LICENSURE AND THE RENEWAL, DENIAL, SUSPENSION AND REVOCATION OF LICENSES; TRANSFERRING APPROPRIATIONS, RECORDS AND CONTRACTS OF THE INTERIOR DESIGN BOARD TO THE REGULATION AND LICENSING DEPARTMENT; PROVIDING FOR EXPEDITED LICENSURE OF LICENSED PHYSICIANS, VETERINARIANS AND ALL LICENSE LEVELS OF SOCIAL WORKERS; AMENDING THE PRIVATE INVESTIGATIONS ACT; REQUIRING REGISTRATION FOR INSTRUCTORS AND PRIVATE PATROL EMPLOYEES; REQUIRING COURSEWORK TO PROVIDE TRAFFIC CRASH RECONSTRUCTION SERVICES; SPECIFYING LIMITATIONS ON UNLICENSED PERSONS; PROVIDING FOR LICENSE FEES AND BIENNIAL RENEWAL; CHANGING THE SUNSET DATE FOR THE PRIVATE INVESTIGATIONS ADVISORY BOARD; CHANGING AND

INCREASING PENALTIES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE NMSA 1978.

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

## **Chapter 190 Section 1 Laws 2023**

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

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

A. "board" means:

(1) the construction industries commission, the construction industries division and the electrical bureau, mechanical bureau and general construction bureau of the construction industries division of the regulation and licensing department;

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

(3) the crane operators licensure examining council;

(4) a board, commission or agency that administers a profession or occupation licensed pursuant to Chapter 61 NMSA 1978; and

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

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

C. "expedited license", whether by examination, endorsement, credential or reciprocity, means a license issued to a person in this state based on licensure in another state or territory of the United States, the District of Columbia or a foreign country, as applicable;

D. "initial license" means the first regular license received from a board for a person who has not been previously licensed;

E. "license" means a certificate, permit or other authorization to engage in a profession or occupation regulated by a board;

F. "licensing jurisdiction" means another state or territory of the United States, the District of Columbia or a foreign country, as applicable;

G. "party" means a respondent licensee, applicant or unlicensed person who is the subject of a disciplinary proceeding or the civil administrative prosecutor representing the state and the board;

H. "probation" means to allow, for a stated period of time, the conduct authorized by a license, subject to conditions or other restrictions that are reasonably related to the grounds for probation;

I. "regular license" means a license that is not issued as a temporary or provisional license;

J. "revocation" means to prohibit the conduct authorized by the license for an indefinite period of time; and

K. "suspension" means to prohibit, for a stated period of time, the conduct authorized by the license."

## **Chapter 190 Section 2 Laws 2023**

SECTION 2. Section 61-1-3 NMSA 1978 (being Laws 1957, Chapter 247, Section 3, as amended) is amended to read:

"61-1-3. OPPORTUNITY FOR LICENSEE OR APPLICANT TO HAVE HEARING.--Every licensee or applicant shall be afforded notice and an opportunity to be heard before the board has authority to take any action that would result in:

A. denial of permission to take an examination for licensing for which a complete application has been properly made as required by board rule;

B. denial of a license after examination for any cause other than failure to pass an examination;

C. denial of a license for which a complete application has been properly made as required by board rule on the basis of expedited licensure, reciprocity or endorsement or acceptance of a national certificate of qualification;

D. withholding the renewal of a license for which a complete application has been properly made for any cause other than:

(1) failure to pay any required renewal fee;

(2) failure to meet continuing education requirements; or

(3) issuance of a temporary license extension if authorized by statute;

E. suspension of a license;

- F. revocation of a license;
- G. probation of a license, including restrictions or limitations on the scope of a practice;
- H. the requirement that the applicant complete a program of remedial education or treatment;
- I. monitoring of the practice by a supervisor approved by the board, excluding supervision required for initial licensure;
- J. the censure or reprimand of the licensee or applicant, including an action that constitutes formal discipline or is subject to reporting to a state or national organization;
- K. compliance with conditions of probation or suspension for a specific period of time;
- L. payment of a fine;
- M. corrective action, as specified by the board; or
- N. a refund to the consumer of fees that were billed to and collected from the consumer by the licensee."

### **Chapter 190 Section 3 Laws 2023**

SECTION 3. Section 61-1-3.1 NMSA 1978 (being Laws 1981, Chapter 349, Section 3, as amended) is amended to read:

#### "61-1-3.1. LIMITATIONS.--

A. An action that would have any of the effects specified in Subsections D through N of Section 61-1-3 NMSA 1978 or an action related to unlicensed activity shall not be initiated by a board later than two years after the discovery by the board of the conduct that would be the basis for the action, except as provided in this section or otherwise provided by law. Discovery by the board is considered the date on which a complaint or other information that would reasonably connect the allegations to the person was received by a board or board staff.

B. The time limitation contained in Subsection A of this section shall be tolled by any civil or criminal litigation in which the licensee or applicant is a party arising from substantially the same facts, conduct or transactions that would be the basis for the board's action.

C. The New Mexico state board of psychologist examiners shall not initiate an action that would result in any of the actions specified in Subsections D through N of Section 61-1-3 NMSA 1978 later than five years after the conduct of the psychologist or psychologist associate that is the basis for the action. However, if the conduct that is the basis for the action involves a minor or a person adjudicated incompetent, the action shall be initiated, in the case of a minor, no later than one year after the minor's eighteenth birthday or five years after the conduct, whichever is last and, in the case of a person adjudicated incompetent, one year after the adjudication of incompetence is terminated or five years after the conduct, whichever is last.

D. The New Mexico public accountancy board shall not initiate an action under the 1999 Public Accountancy Act that would result in any of the actions specified in Subsections D through N of Section 61-1-3 NMSA 1978 later than two years following the discovery by the board of a violation of that act."

## **Chapter 190 Section 4 Laws 2023**

SECTION 4. Section 61-1-3.2 NMSA 1978 (being Laws 2003, Chapter 334, Section 3) is amended to read:

"61-1-3.2. UNLICENSED ACTIVITY--DISCIPLINARY PROCEEDINGS--CIVIL PENALTY.--

A. A person who is not licensed to engage in a profession or occupation regulated by a board is subject to disciplinary proceedings by the board.

B. A board may impose a civil penalty in an amount not to exceed ten thousand dollars (\$10,000) for each violation against a person who, without an active license, engages in a profession or occupation regulated by the board."

## **Chapter 190 Section 5 Laws 2023**

SECTION 5. Section 61-1-3.4 NMSA 1978 (being Laws 2019, Chapter 209, Section 4) is amended to read:

"61-1-3.4. 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 by law or rule of the board."

## **Chapter 190 Section 6 Laws 2023**

SECTION 6. Section 61-1-3.5 NMSA 1978 (being Laws 2022, Chapter 39, Section 3) is amended to read:

"61-1-3.5. INCOMPLETE APPLICATION--NOTICE--EXPIRATION.--An application for licensure is considered incomplete if it is submitted on an application form missing required information or without providing required supporting documentation. If a board or a board's designee deems an application for licensure incomplete, the board or designee shall notify the applicant within thirty days from the date the application was received by the board or designee and include how the application is incomplete and what is needed to complete the application. An incomplete application expires one year from the date the application was first received by the board."

## **Chapter 190 Section 7 Laws 2023**

SECTION 7. Section 61-1-4 NMSA 1978 (being Laws 1957, Chapter 247, Section 4, as amended) is amended to read:

"61-1-4. NOTICE OF CONTEMPLATED BOARD ACTION--REQUEST FOR HEARING--NOTICE OF HEARING.--

A. When investigating complaints against licensees, applicants or unlicensed persons, a board may issue civil investigative subpoenas prior to the issuance of a notice of contemplated action as provided in this section. The authority to issue a specific civil investigative subpoena under this section may be delegated by the board to staff.

B. When a board contemplates taking an action of a type specified in Subsection A, B or C of Section 61-1-3 NMSA 1978, it shall serve upon the applicant a written notice containing a statement:

(1) that the applicant has failed to satisfy the board of the applicant's qualifications to be examined or to be issued a license, as the case may be;

(2) indicating in what respects the applicant has failed to satisfy the board;

(3) that the applicant may secure a hearing before the board by depositing in the mail within twenty days after service of the notice a certified return receipt requested letter addressed to the board and containing a request for a hearing; and

(4) calling the applicant's attention to the applicant's rights under Section 61-1-8 NMSA 1978.

C. In a board proceeding to take an action of a type specified in Subsection A, B or C of Section 61-1-3 NMSA 1978, the burden of satisfying the board of the applicant's qualifications shall be upon the applicant.

D. When a board contemplates taking an action of a type specified in Subsections D through N of Section 61-1-3 NMSA 1978 or Section 61-1-3.2 NMSA 1978, it shall serve upon the licensee, applicant or unlicensed person a written notice containing a statement:

(1) that the board has sufficient evidence that, if not rebutted or explained, may justify the board in taking the contemplated action;

(2) indicating the general nature of the evidence and allegations, including specific laws or rules that are alleged to have been violated;

(3) that unless the licensee, applicant or unlicensed person within twenty days after service of the notice deposits in the mail a certified return receipt requested letter addressed to the board and containing a request for a hearing, the board may take the contemplated action; and

(4) calling the licensee's, applicant's or unlicensed person's attention to the rights provided in Section 61-1-8 NMSA 1978.

E. Except as provided in Section 61-1-15 NMSA 1978, if the licensee, applicant or unlicensed person does not mail a request for a hearing within the time and in the manner required by this section, the board may take the action contemplated in the notice and such action shall be final and not subject to judicial review as a matter of right.

F. If the licensee, applicant or unlicensed person does mail a request for a hearing as required by this section, the board shall, within twenty days of receipt of the request, notify the licensee, applicant or unlicensed person of the time and place of hearing, the name of the person who shall conduct the hearing for the board and the statutes and rules authorizing the board to take the contemplated action. The hearing shall be held not more than sixty nor less than fifteen days from the date the notice of hearing is deposited in the mail, certified return receipt requested, or the date of personal service.

G. All fines collected by a board shall be deposited to the credit of the current school fund as provided in Article 12, Section 4 of the constitution of New Mexico."

## **Chapter 190 Section 8 Laws 2023**

SECTION 8. Section 61-1-5 NMSA 1978 (being Laws 1957, Chapter 247, Section 5, as amended) is amended to read:

"61-1-5. METHOD OF SERVICE.--Any notice required to be served by Section 61-1-4 or 61-1-21 NMSA 1978 and any decision required to be served by Section 61-1-14 or 61-1-21 NMSA 1978 may be served either personally or by certified mail, return receipt requested, directed to the licensee, applicant or unlicensed person at the last

known address as shown by the records of the board. Unlicensed persons with no address on record with the board shall receive notice by personal service. If the notice or decision is served personally, service shall be made in the same manner as is provided for service by the Rules of Civil Procedure for the District Courts. Where the notice or decision is served by certified mail, it shall be deemed to have been served on the date borne by the return receipt showing delivery or the last attempted delivery of the notice or decision to the addressee or refusal of the addressee to accept delivery of the notice or decision. Service of correspondence sent by a licensee, applicant or unlicensed person through other methods, including electronic mail or physical mail, should be reasonably accepted and processed by the board."

## **Chapter 190 Section 9 Laws 2023**

SECTION 9. Section 61-1-6 NMSA 1978 (being Laws 1957, Chapter 247, Section 6) is amended to read:

"61-1-6. VENUE OF HEARING.--Board hearings held pursuant to provisions of the Uniform Licensing Act shall be conducted at the election of the board in the county in which the licensee, applicant or unlicensed person maintains residence or in a county in which the act complained of occurred; except that in cases involving initial licensing, hearings shall be held in the county where the board maintains its office. In any case, however, the person whose license or application is involved or the person who performed the unlicensed act and the board may agree that the hearing is to be held in some other county or by virtual remote means."

## **Chapter 190 Section 10 Laws 2023**

SECTION 10. Section 61-1-7 NMSA 1978 (being Laws 1957, Chapter 247, Section 7, as amended) is amended to read:

"61-1-7. HEARING OFFICERS--HEARINGS--PUBLIC--EXCEPTION--EXCUSAL--PROTECTION OF WITNESS AND INFORMATION.--

A. All hearings held pursuant to provisions of the Uniform Licensing Act shall be conducted either by the board or, at the election of the board, by a hearing officer who may be a member or employee of the board or any other person designated by the board in its discretion. A hearing officer shall, within thirty days after a hearing, submit to the board a report setting forth the hearing officer's findings of fact and recommendations.

B. All hearings held pursuant to provisions of the Uniform Licensing Act shall be open to the public; provided that in cases in which a constitutional right of privacy of a licensee, applicant or unlicensed person may be irreparably damaged, a board or hearing officer may hold a closed hearing if the board or hearing officer so desires and states the reasons for this decision in the record. The licensee, applicant or unlicensed

person may, for good cause shown, request a board or hearing officer to hold either a public or a closed hearing.

C. Each party may peremptorily excuse one board member or a hearing officer by filing with the board a notice of peremptory excusal at least twenty days prior to the date of the hearing, but this privilege of peremptory excusal may not be exercised in any case in which its exercise would result in less than a quorum of the board being able to hear or decide the matter. Any party may request that the board excuse a board member or a hearing officer for good cause by filing with the board a motion of excusal for cause at least twenty days prior to the date of the hearing. In any case in which a combination of peremptory excusals and excusals for good cause would result in less than a quorum of the board being able to hear or decide the matter, the peremptory excusals that would result in removing the member of the board necessary for a quorum shall not be effective.

D. In any case in which excusals for cause result in less than a quorum of the board being able to hear or decide the matter, the governor shall, upon request by the board, appoint as many temporary board members as are necessary for a quorum to hear or decide the matter. These temporary members shall have all of the qualifications required for permanent members of the board.

E. In any case in which excusals result in less than a quorum of the board being able to hear or decide the matter, the board, including any board members who have been excused, may designate a hearing officer to conduct the entire hearing.

F. Each board shall have power where a proceeding has been dismissed, either on the merits or otherwise, to relieve the licensee, applicant or unlicensed person from any possible odium that may attach by reason of the proceeding, by such public exoneration as it sees fit to make, if requested by the licensee, applicant or unlicensed person to do so.

G. There shall be no liability on the part of and no action for damages against a person who provides information to a board in good faith and without malice in the reasonable belief that such information is accurate. A party who directly or through an agent intimidates, threatens, injures or takes adverse action against a person for providing information to a board shall be subject to disciplinary action."

## **Chapter 190 Section 11 Laws 2023**

SECTION 11. Section 61-1-8 NMSA 1978 (being Laws 1957, Chapter 247, Section 8, as amended) is amended to read:

"61-1-8. RIGHTS OF PARTY ENTITLED TO HEARING.--

A. A party entitled to be heard pursuant to the provisions of the Uniform Licensing Act shall have the right to be represented by counsel; to present all relevant

evidence by means of witnesses, books, papers, documents and other evidence; to examine all opposing witnesses who appear on a matter relevant to the issues; and to have subpoenas and subpoenas duces tecum issued as of right prior to the commencement of the hearing to compel discovery and the attendance of witnesses and the production of relevant books, papers, documents and other evidence upon making written request for them to the board or hearing officer. The issuance of such subpoenas after the commencement of the hearing rests in the discretion of the board or the hearing officer. All notices issued pursuant to Section 61-1-4 NMSA 1978 shall contain a statement of these rights.

B. Upon written request to another party, any party is entitled to:

(1) obtain the names and addresses of witnesses who will or may be called by the other party to testify at the hearing; and

(2) inspect and copy documents or items that the other party will or may introduce in evidence at the hearing.

C. The party to whom a request is made shall comply with the request within ten days after the service or delivery of the request. No request shall be made less than fifteen days before the hearing.

D. A party may take depositions after service of notice in accordance with the Rules of Civil Procedure for the District Courts. Depositions may be used as in proceedings governed by those rules."

## **Chapter 190 Section 12 Laws 2023**

SECTION 12. Section 61-1-9 NMSA 1978 (being Laws 1957, Chapter 247, Section 9, as amended) is amended to read:

"61-1-9. POWERS OF BOARD OR HEARING OFFICER IN CONNECTION WITH HEARINGS.--

A. In connection with any hearing held under the Uniform Licensing Act, the board or hearing officer shall have power to have counsel to develop the case; to subpoena, for purposes of discovery and of the hearing, witnesses and relevant books, papers, documents and other evidence; to administer oaths or affirmations to witnesses called to testify; to take testimony; to examine witnesses; and to direct a continuance of any case. Boards or hearing officers may also hold conferences before or during the hearing for the settlement or simplification of the issues, but such settlement or simplification shall only be with the consent of the party.

B. Geographical limits upon the subpoena power shall be the same as if the board or hearing officer were a district court sitting at the location at which the hearing or discovery proceeding is to take place. The method of service, including tendering of

witness and mileage fees, shall be the same as that under the Rules of Civil Procedure for the District Courts, except that those rules requiring the tender of fees in advance shall not apply to the state.

C. The board or hearing officer may impose any appropriate evidentiary sanction against a party or other person who fails to provide discovery or to comply with a subpoena."

### **Chapter 190 Section 13 Laws 2023**

SECTION 13. Section 61-1-12 NMSA 1978 (being Laws 1957, Chapter 247, Section 12, as amended) is amended to read:

"61-1-12. RECORD.--In all hearings conducted pursuant to the Uniform Licensing Act, a complete record shall be made of all evidence received during the course of the hearing. The record shall be preserved by any stenographic method in use in the district courts of this state or, in the discretion of the board, by digital recording technology. The board shall observe any standards pertaining to digital recordings established for the district courts of this state."

### **Chapter 190 Section 14 Laws 2023**

SECTION 14. Section 61-1-13 NMSA 1978 (being Laws 1957, Chapter 247, Section 13, as amended) is amended to read:

"61-1-13. DECISION.--

A. After a hearing has been completed, the members of the board shall proceed to consider the case and as soon as practicable shall render their decision, provided that the decision shall be rendered by a quorum of the board. In cases in which the hearing is conducted by a hearing officer, all members who were not present throughout the hearing shall familiarize themselves with the record, including the hearing officer's report, before participating in the decision. In cases in which the hearing is conducted by the board, all members who were not present throughout the hearing shall thoroughly familiarize themselves with the entire record, including all evidence taken at the hearing, before participating in the decision.

B. A final decision and order based on the hearing shall be made by a quorum of the board and signed and executed by the person designated by the board within ninety days after the hearing is closed by the board."

### **Chapter 190 Section 15 Laws 2023**

SECTION 15. Section 61-1-14 NMSA 1978 (being Laws 1957, Chapter 247, Section 14, as amended) is amended to read:

"61-1-14. SERVICE OF DECISION.--Within fifteen days after the decision is signed and executed, the board shall serve upon the parties a copy of the written decision."

## **Chapter 190 Section 16 Laws 2023**

SECTION 16. Section 61-1-15 NMSA 1978 (being Laws 1957, Chapter 247, Section 15, as amended) is amended to read:

"61-1-15. PROCEDURE WHERE PERSON FAILS TO REQUEST OR APPEAR FOR HEARING.--If a person who has requested a hearing does not appear and no continuance has been granted, the board or hearing officer may hear the evidence of such witnesses as may have appeared, and the board may proceed to consider the matter and dispose of it on the basis of the weight of the evidence before it in the manner required by Section 61-1-13 NMSA 1978. Where, because of accident, sickness or other extraordinary cause, a person fails to request a hearing or fails to appear for a hearing that the person has requested, the person may within a reasonable time apply to the board to reopen the proceeding, and the board upon finding such cause sufficient shall immediately fix a time and place for hearing and give the person notice as required by Sections 61-1-4 and 61-1-5 NMSA 1978. At the time and place fixed, a hearing shall be held in the same manner as would have been employed if the person had appeared in response to the original notice of hearing."

## **Chapter 190 Section 17 Laws 2023**

SECTION 17. Section 61-1-16 NMSA 1978 (being Laws 1957, Chapter 247, Section 16, as amended) is amended to read:

"61-1-16. CONTENTS OF DECISION.--The final decision and order of the board shall contain findings of fact made by the board, conclusions of law reached by the board, the order of the board based upon these findings of fact and conclusions of law and a statement informing the applicant or licensee of the applicant's or licensee's right to judicial review and the time within which such review shall be sought."

## **Chapter 190 Section 18 Laws 2023**

SECTION 18. Section 61-1-17 NMSA 1978 (being Laws 1957, Chapter 247, Section 17, as amended) is amended to read:

"61-1-17. PETITION FOR REVIEW.--A party entitled to a hearing provided for in the Uniform Licensing Act, who is aggrieved by an adverse decision of a board issued after hearing, may obtain a review of the decision in the district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978."

## **Chapter 190 Section 19 Laws 2023**

SECTION 19. Section 61-1-19 NMSA 1978 (being Laws 1957, Chapter 247, Section 19, as amended) is amended to read:

"61-1-19. STAY.--At any time before or during the review proceeding pursuant to Section 61-1-17 NMSA 1978, the aggrieved party may apply to the board or file a motion in accordance with the Rules of Civil Procedure for the District Courts in the reviewing court for an order staying the operation of the board decision pending the outcome of the review. The board or court may grant or deny the stay in its discretion. No order granting or denying a stay shall be reviewable."

## **Chapter 190 Section 20 Laws 2023**

SECTION 20. Section 61-1-21 NMSA 1978 (being Laws 1957, Chapter 247, Section 21, as amended) is amended to read:

"61-1-21. POWER OF BOARD TO REOPEN THE CASE.--

A. At any time after the hearing and prior to the filing of a petition for review, the party aggrieved may request the board to reopen the case to receive additional evidence or for other cause.

B. The board need not reconvene and may be polled about whether to grant or refuse a request to reopen the case. The board shall grant or refuse the request in writing, and that decision and the request shall be made a part of the record. The decision to grant or refuse a request to reopen the case shall be made, signed by the person designated by the board within fifteen days after the board receives the request and served upon the parties.

C. The granting or refusing of a request to reopen the case shall be within the board's discretion. The board may reopen the case on its own motion at any time before petition for review is filed; thereafter, it may do so only with the permission of the reviewing court. If the board reopens the case, it shall provide notice and a hearing to the applicant or licensee. The notice of the hearing shall be served upon the applicant or licensee within fifteen days after service of the decision to reopen the case. The hearing shall be held within forty-five days after service of the notice, and a decision shall be rendered, signed and served upon the applicant or licensee within thirty days after the hearing.

D. The board's decision to refuse a request to reopen the case shall not be reviewable except for an abuse of discretion."

## Chapter 190 Section 21 Laws 2023

SECTION 21. A new section of the Uniform Licensing Act, Section 61-1-25.1 NMSA 1978, is enacted to read:

### "61-1-25.1. PRELIMINARY INJUNCTION AND HEARING--SUMMARY SUSPENSION OR PROBATION.--

A. When a board finds that evidence in its possession indicates that a licensee poses a clear and immediate danger to the public health and safety if the licensee continues to practice, the board may seek a preliminary injunction from the district court in the county in which the principal office of the licensee is located or, if the principal office is not in New Mexico, in the district court for Santa Fe county. If the injunction is granted, the board shall hold an expedited hearing for the suspension of the license or probation of the licensee. The board shall follow the hearing procedures of the Uniform Licensing Act, but times shall be shortened in accordance with the injunction or at the request of the licensee.

B. A board may summarily suspend a license issued by the board or place a licensee on probation without a hearing, simultaneously with or at any time after the initiation of proceedings for a hearing provided pursuant to the Uniform Licensing Act, if the board finds that evidence in its possession indicates that the licensee:

(1) has been adjudged mentally incompetent by a final order or adjudication by a court of competent jurisdiction; or

(2) has pled guilty to or been found guilty of any offense directly related to the practice of the respective license.

C. A licensee is not required to comply with a summary action until service has been made or the licensee has actual knowledge of the order, whichever occurs first. The licensee may appeal the summary suspension as a final agency action as provided in Section 39-3-1.1 NMSA 1978.

D. When a board takes action to summarily suspend a license or place a licensee on probation pursuant to this section, it shall serve upon the licensee a written notice containing a statement:

(1) that the board has sufficient evidence to justify the board in issuing the summary suspension or probation;

(2) indicating the general nature of the evidence and allegations, including specific laws or rules that are alleged to have been violated;

(3) that unless the licensee within thirty days after service of the notice deposits in the mail a certified return receipt requested letter addressed to the board

and containing a request for a hearing, the summary suspension or probation shall be final; and

(4) that the licensee is entitled to a hearing by the board pursuant to the Uniform Licensing Act within fifteen days from the date a request for hearing is received by the board from the licensee."

## **Chapter 190 Section 22 Laws 2023**

SECTION 22. Section 61-1-31.1 NMSA 1978 (being Laws 2016, Chapter 19, Section 1, as amended) is amended to read:

"61-1-31.1. EXPEDITED LICENSURE--ISSUANCE.--

A. A board that issues an occupational or professional license shall, as soon as practicable but no later than thirty days after an out-of-state licensee files a complete application for an expedited license accompanied by any required fees:

(1) process the completed application; and

(2) issue a license to the qualified applicant who submits satisfactory evidence that the applicant:

(a) holds a license that is current and in good standing issued by another licensing jurisdiction;

(b) has practiced and held an active license in the profession or occupation for which expedited licensure is sought for a period required by New Mexico law; and

(c) provides fingerprints and other information necessary for a state or national criminal background check or both if required by law or rule of the board.

B. An expedited license is a one-year provisional license that confers the same rights, privileges and responsibilities as regular licenses issued by a board; provided that a board may allow for the initial term of an expedited license to be greater than one year by board rule or may extend an expedited license upon a showing of extenuating circumstances.

C. Before the end of the expedited license term and upon application, a board shall issue a regular license through its license renewal process. If a board requires a state or national examination for initial licensure that was not required when the out-of-state applicant was licensed in the other licensing jurisdiction, the board shall issue the expedited license and may require the license holder to pass the required examination prior to renewing the license.

D. A board by rule shall determine those states and territories of the United States and the District of Columbia from which the board will not accept an applicant for expedited licensure and determine any foreign countries from which the board will accept an applicant for expedited licensure. The list of those licensing jurisdictions shall be posted on the board's website. The list of disapproved licensing jurisdictions shall include the specific reasons for disapproval. The lists shall be reviewed by the board annually to determine if amendments to the rule are warranted."

## **Chapter 190 Section 23 Laws 2023**

SECTION 23. Section 61-1-31.2 NMSA 1978 (being Laws 2022, Chapter 39, Section 8) is amended to read:

"61-1-31.2. TEMPORARY OR PROVISIONAL LICENSE--EVIDENCE OF INSURANCE.--A board may issue a temporary or other provisional license, including an expedited license, to a person licensed in another licensing jurisdiction, which may be limited as to time, practice or other condition of a regular license. If a board requires licensees to carry professional or occupational liability or other insurance, the board shall require the applicant for a temporary or provisional license to show evidence of having required insurance that will cover the person in New Mexico during the term of the temporary or provisional license. Each board shall provide information on the board's website that describes the insurance requirements for practice in New Mexico, if applicable."

## **Chapter 190 Section 24 Laws 2023**

SECTION 24. Section 61-1-34 NMSA 1978 (being Laws 2013, Chapter 33, Section 1, as amended) is amended to read:

"61-1-34. EXPEDITED LICENSURE--MILITARY SERVICE MEMBERS, INCLUDING SPOUSES AND DEPENDENTS, AND VETERANS--WAIVER OF FEES.--

A. A board that issues an occupational or professional license pursuant to Chapter 61 NMSA 1978 shall, as soon as practicable but no later than thirty days after a military service member or a veteran files a complete application, and provides a background check if required:

- (1) process the application; and
- (2) issue a license prima facie to a qualified applicant who submits satisfactory evidence that the applicant holds a license that is current and in good standing, issued by another jurisdiction, including a branch of the armed forces of the United States.

B. A license issued pursuant to this section is a provisional license but shall confer the same rights, privileges and responsibilities as a regular license. If the military

service member or veteran was licensed in a licensing jurisdiction that did not require examination, a board may require the military service member or veteran to take a board-required examination prior to renewing the license.

C. A military service member or a veteran who is issued a license pursuant to this section shall not be charged an initial or renewal licensing fee for the first three years of licensure.

D. Each board that issues a license to practice a trade or profession shall, upon the conclusion of the state fiscal year, prepare a report on the number and type of licenses that were issued during the fiscal year under this section. The report shall be provided to the director of the office of military base planning and support not later than ninety days after the end of the fiscal year.

E. As used in this section:

(1) "licensing fee" means a fee charged at the time an initial or renewal application for a professional or occupational license is submitted to the state agency, board or commission and any fee charged for the processing of the application for such license; "licensing fee" does not include a fee for an annual inspection or examination of a licensee, a late fee or a fee charged for copies of documents, replacement licenses or other expenses related to a professional or occupational license;

(2) "military service member" means a person who is:

(a) serving in the armed forces of the United States as an active duty member, or in an active reserve component of the armed forces of the United States, including the national guard;

(b) the spouse of a person who is serving in the armed forces of the United States or in an active reserve component of the armed forces of the United States, including the national guard, or a surviving spouse of a member who at the time of the member's death was serving on active duty; or

(c) the child of a military service member if the child is also a dependent of that person for federal income tax purposes; and

(3) "veteran" means a person who has received an honorable discharge or separation from military service."

## **Chapter 190 Section 25 Laws 2023**

SECTION 25. Section 61-1-36 NMSA 1978 (being Laws 2021 (1st S.S.), Chapter 3, Section 8) is amended to read:

"61-1-36. CRIMINAL CONVICTIONS--EXCLUSION FROM LICENSURE--  
DISCLOSURE REQUIREMENT.--

A. A board shall not exclude from licensure a person who is otherwise qualified on the sole basis that the person has been previously arrested for or convicted of a crime, unless the person has a disqualifying criminal conviction.

B. By December 31, 2021, each board shall promulgate and post on the board's website rules relating to licensing requirements to list the specific criminal convictions that could disqualify an applicant from receiving a license on the basis of a previous felony conviction. Rules relating to licensing requirements promulgated by a board shall not use the terms "moral turpitude" or "good character". A board shall only list potentially disqualifying criminal convictions.

C. In an administrative hearing or agency appeal, a board shall carry the burden of proof on the question of whether the exclusion from occupational or professional licensure is based upon a potentially disqualifying criminal conviction.

D. No later than October 31 of each year, while ensuring the confidentiality of individual applicants, a board shall make available to the public an annual report for the prior fiscal year containing the following information:

(1) the number of applicants for licensure and, of that number, the number granted a license;

(2) the number of applicants for licensure or license renewal with a potential disqualifying criminal conviction who received notice of potential disqualification;

(3) the number of applicants for licensure or license renewal with a potential disqualifying criminal conviction who provided a written justification with evidence of mitigation or rehabilitation; and

(4) the number of applicants for licensure or license renewal with a potential disqualifying criminal conviction who were granted a license, denied a license for any reason or denied a license because of the conviction.

E. As used in this section, "disqualifying criminal conviction" means a conviction for a crime that is job-related for the position in question and consistent with business necessity."

## **Chapter 190 Section 26 Laws 2023**

SECTION 26. Section 61-1-37 NMSA 1978 (being Laws 2022, Chapter 39, Section 2) is amended to read:

"61-1-37. RESIDENCY IN NEW MEXICO NOT A REQUIREMENT FOR LICENSURE.--A person who otherwise meets the requirements for a professional or occupational license shall not be denied licensure or license renewal because the person does not live in New Mexico."

## **Chapter 190 Section 27 Laws 2023**

SECTION 27. Section 61-6-11.1 NMSA 1978 (being Laws 2001, Chapter 96, Section 10, as amended) is amended to read:

"61-6-11.1. TELEMEDICINE LICENSE.--

A. The board shall issue a licensed physician a telemedicine license to allow the practice of medicine across state lines to an applicant who holds a full and unrestricted license to practice medicine in another state or territory of the United States. The board shall establish by rule the requirements for licensure; provided that the requirements shall not be more restrictive than those required for expedited licensure.

B. A telemedicine license shall be issued for a period not to exceed three years and may be renewed upon application, payment of fees as provided in Section 61-6-19 NMSA 1978 and compliance with other requirements established by rule of the board."

## **Chapter 190 Section 28 Laws 2023**

SECTION 28. Section 61-6-13 NMSA 1978 (being Laws 1989, Chapter 269, Section 9, as amended by Laws 2021, Chapter 54, Section 32 and by Laws 2021, Chapter 70, Section 8) is amended to read:

"61-6-13. PHYSICIAN EXPEDITED LICENSURE.--

A. The board may grant an expedited license to a qualified applicant licensed in another state or territory of the United States, the District of Columbia or a foreign country as provided in Section 61-1-31.1 NMSA 1978. The board shall process the application as soon as practicable but no later than thirty days after the out-of-state medical or osteopathic physician files an application for expedited licensure accompanied by any required fee if the applicant:

(1) holds a license that is current and in good standing issued by another licensing jurisdiction approved by the board; and

(2) has practiced medicine or osteopathy as a licensed physician for at least three years.

B. If the board issues an expedited license to a person whose prior licensing jurisdiction did not require examination, the board may require a person to pass an examination before applying for license renewal.

C. The board by rule shall determine those states and territories of the United States and the District of Columbia from which it will not accept an applicant for expedited licensure and shall determine any foreign countries from which it will accept an applicant for expedited licensure. The board shall post the lists of disapproved and approved licensing jurisdictions on the board's website. The list of disapproved licensing jurisdictions shall include the specific reasons for disapproval. The lists shall be reviewed annually to determine if amendments to the rule are warranted. The board may require fingerprints and other information necessary for a state and national criminal background check."

## **Chapter 190 Section 29 Laws 2023**

SECTION 29. Section 61-14-10 NMSA 1978 (being Laws 1967, Chapter 62, Section 7, as amended) is amended to read:

"61-14-10. EXPEDITED AND TEMPORARY LICENSE.--

A. The board shall issue an expedited license to a qualified applicant licensed in another state or territory of the United States, the District of Columbia or a foreign country as provided in Section 61-1-31.1 NMSA 1978. The board shall process the application as soon as practicable but no later than thirty days after the out-of-state veterinarian files an application for expedited licensure accompanied by any required fee if the applicant:

(1) holds a license that is current and in good standing issued by another licensing jurisdiction approved by the board; and

(2) has practiced veterinary medicine for at least five years.

B. If the board issues an expedited license to a person whose prior licensing jurisdiction did not require examination, the board may require the person to pass an examination before applying for license renewal.

C. The board by rule shall determine those states and territories of the United States and the District of Columbia from which it will not accept an applicant for expedited licensure and shall determine any foreign countries from which it will accept an applicant for expedited licensure. The board shall post the lists of disapproved and approved licensing jurisdictions on the board's website. The list of disapproved licensing jurisdictions shall include the specific reasons for disapproval. The lists shall be reviewed annually to determine if amendments to the rule are warranted.

D. The board may issue without examination a temporary permit to practice veterinary medicine to:

(1) a qualified applicant for a license pending examination, provided the applicant is a graduate veterinarian and employed by and working under the direct supervision of a licensed veterinarian; provided that:

(a) the temporary permit shall expire the day after the notice of results of the first examination given after the permit is issued;

(b) a qualified applicant for a license pending examination may, at the board's discretion, be exempted from the requirement of working under the direct supervision of a licensed veterinarian, provided the applicant submits a written request for such exemption; and

(c) no additional temporary permit shall be issued to an applicant who has failed the required components of the New Mexico examination in this or any other state or any other territory, district or commonwealth of the United States; or

(2) a nonresident veterinarian validly licensed and in good standing with the licensing authority in another state or territory of the United States, the District of Columbia or a foreign country if the nonresident veterinarian is employed by or has a contract with the state, a municipality or a county to provide veterinary services at a nationally accredited zoo or aquarium located in New Mexico; provided that the temporary permit shall be issued for a period lasting no more than six months and no more than two consecutive six-month temporary permits shall be issued to any one veterinarian.

E. A temporary permit to practice veterinary medicine may be summarily revoked by a majority vote of the board without a hearing."

## **Chapter 190 Section 30 Laws 2023**

SECTION 30. Section 61-24C-3 NMSA 1978 (being Laws 1989, Chapter 53, Section 3, as amended) is amended to read:

"61-24C-3. DEFINITIONS.--As used in the Interior Designers Act:

A. "applicant" means a person applying to the department for an interior designer license;

B. "department" means the regulation and licensing department;

C. "interior design" means services that do not necessarily require performance by an architect, such as administering contracts for fabrication, procurement or installation in the implementation of designs, drawings and

specifications for any interior design project and consultations, studies, drawings and specifications in connection with reflected ceiling plans, space utilization, furnishings or the fabrication of nonstructural elements within and surrounding interior spaces of buildings, but specifically excluding mechanical and electrical systems, except for specifications of fixtures and their location within interior spaces; and

D. "licensed interior designer" or "licensed designer" means a person licensed pursuant to the Interior Designers Act."

## **Chapter 190 Section 31 Laws 2023**

SECTION 31. Section 61-24C-5 NMSA 1978 (being Laws 1989, Chapter 53, Section 5, as amended) is amended to read:

"61-24C-5. POWERS AND DUTIES OF THE DEPARTMENT.--The department:

A. shall administer, coordinate and enforce the provisions of the Interior Designers Act. The department may investigate allegations of violations of the provisions of the Interior Designers Act;

B. shall adopt rules to carry out the purposes and policies of the Interior Designers Act, including rules relating to professional conduct, standards of professional examination and licensure, and reasonable license, application, renewal and late fees;

C. shall require a licensee, as a condition of the renewal of the license, to undergo continuing education requirements pursuant to the Interior Designers Act;

D. shall maintain an official roster showing the name, address and license number of each interior designer licensed pursuant to the Interior Designers Act;

E. may adopt a common seal for use by licensed interior designers; and

F. shall do all other things reasonable and necessary to carry out the provisions of the Interior Designers Act."

## **Chapter 190 Section 32 Laws 2023**

SECTION 32. Section 61-24C-8 NMSA 1978 (being Laws 1989, Chapter 53, Section 8) is amended to read:

"61-24C-8. REQUIREMENTS FOR LICENSURE.--Each applicant for licensure shall apply to the department. Except as otherwise provided in the Interior Designers Act, each applicant shall take and pass the national council for interior design qualification examination or another nationally recognized examination approved by the

department and have an active certification from the national council for interior design qualification or another nationally recognized certification."

### **Chapter 190 Section 33 Laws 2023**

SECTION 33. Section 61-24C-9 NMSA 1978 (being Laws 1989, Chapter 53, Section 9) is amended to read:

"61-24C-9. LICENSE WITHOUT EXAMINATION.--If a person applies for licensure but does not satisfy the requirements of Section 61-24C-8 NMSA 1978, the department may on a case-by-case basis review and issue a license to an applicant who provides evidence to the department that the applicant:

A. has active licensure in another state or country where the qualifications are equal to or exceed those required by the Interior Designers Act and the applicant complies with all other requirements of the Interior Designers Act; or

B. has apprenticed for at least eight years under a licensed interior designer who passed the national council for interior design qualification examination or another nationally recognized examination approved by the department."

### **Chapter 190 Section 34 Laws 2023**

SECTION 34. Section 61-24C-10 NMSA 1978 (being Laws 1989, Chapter 53, Section 10, as amended) is amended to read:

"61-24C-10. LICENSE--ISSUANCE--RENEWAL--DENIAL, SUSPENSION OR REVOCATION.--

A. A license shall be issued to every person who presents satisfactory evidence of possessing the qualifications of education, experience and, as appropriate, the examination performance required by the provisions of the Interior Designers Act; provided that the applicant has reached the age of majority and, except as provided in Section 61-1-34 NMSA 1978, pays the required fees.

B. Each original license shall authorize the holder to use the title of and be known as a licensed interior designer from the date of issuance to the next renewal date unless the license is suspended or revoked.

C. All licenses shall expire four years after the date of issuance and shall be renewed by submitting a completed renewal application, and except as provided in Section 61-1-34 NMSA 1978, accompanied by the required fees.

D. A license may not be renewed until the licensee submits satisfactory evidence to the department that, since the initial issuance or last renewal if the license has been renewed, the licensee has participated in not less than twenty hours of

continuing education approved by the department. The department may make exceptions from this continuing education requirement in cases that the licensee provides evidence of an emergency or hardship.

E. The holder of a license that has expired through failure to renew may renew the license, upon approval of the department.

F. In accordance with the provisions of the Uniform Licensing Act, the department may deny, refuse to renew, suspend or revoke a license or impose probationary conditions when the licensee has:

(1) obtained the license by means of fraud, misrepresentation or concealment of material facts;

(2) committed an act of fraud or deceit in professional conduct;

(3) made any representation as being a licensed interior designer prior to being issued a license, except as authorized under the provisions of the Interior Designers Act;

(4) been found by the department to have aided or abetted an unlicensed person in violating the provisions of the Interior Designers Act; or

(5) failed to comply with the provisions of the Interior Designers Act or rules adopted pursuant to that act."

## **Chapter 190 Section 35 Laws 2023**

SECTION 35. Section 61-24C-11 NMSA 1978 (being Laws 1989, Chapter 53, Section 11, as amended) is amended to read:

"61-24C-11. LICENSE REQUIRED--PENALTY.--

A. A person shall not knowingly:

(1) use the name or title of licensed interior designer when the person is not the holder of a current, valid license issued pursuant to the Interior Designers Act;

(2) use or present as the person's own the license of another;

(3) give false or forged evidence to the department or a department employee for the purpose of obtaining a license;

(4) use or attempt to use an interior design license that has been suspended, revoked or placed on inactive status; or

(5) conceal information relative to violations of the Interior Designers Act.

B. A person who violates a provision of this section shall be penalized pursuant to the provisions of the Uniform Licensing Act; provided that a licensee or applicant shall be afforded notice and an opportunity to be heard before the department has authority to take any action that would result in a penalty or fine, including suspension, revocation, denial or withholding of a license or other corrective action."

### **Chapter 190 Section 36 Laws 2023**

SECTION 36. Section 61-24C-14 NMSA 1978 (being Laws 1989, Chapter 53, Section 14, as amended) is amended to read:

"61-24C-14. LICENSE FEES.--Except as provided in Section 61-1-34 NMSA 1978, any fees for an original license or renewal of license, late charges or any other fees authorized by the provisions of the Interior Designers Act shall be set by rule of the department. The fee for initial licensure shall not exceed two hundred dollars (\$200)."

### **Chapter 190 Section 37 Laws 2023**

SECTION 37. Section 61-24C-16 NMSA 1978 (being Laws 1989, Chapter 53, Section 16, as amended) is amended to read:

"61-24C-16. FUND ESTABLISHED--DISPOSITION--METHOD OF PAYMENT.--

- A. There is created the "interior design fund".
- B. All money collected under the Interior Designers Act shall be deposited with the state treasurer. The state treasurer shall credit the money to the interior design fund.
- C. Payments out of the interior design fund shall be on vouchers issued by the superintendent of regulation and licensing upon warrants drawn by the department of finance and administration in accordance with the budget approved by that department.
- D. All amounts paid to the interior design fund are subject to appropriation by the legislature and shall be used only for meeting necessary expenses incurred in executing the provisions and duties of the Interior Designers Act and for promoting interior design education and standards in the state. All money unused at the end of any fiscal year shall remain in the interior design fund for use in accordance with the provisions of the Interior Designers Act."

## **Chapter 190 Section 38 Laws 2023**

SECTION 38. Section 61-27B-3 NMSA 1978 (being Laws 1993, Chapter 212, Section 3, as amended) is amended to read:

"61-27B-3. LICENSE OR REGISTRATION REQUIRED.--It is unlawful for an individual to:

A. act as a private investigator, private patrol operator, security guard, private investigations employee, private investigations manager or private patrol operations manager or to make any representation as being a licensee or registrant unless the individual is licensed by the department pursuant to the Private Investigations Act;

B. render physical protection for remuneration as a bodyguard unless the individual is licensed as a private investigator or a private patrol operator;

C. continue to act as a private investigator, private patrol operator, security guard, private investigations employee, private investigations manager or private patrol operations manager if the individual's license issued pursuant to the Private Investigations Act has expired;

D. falsely represent that the individual is employed by a licensee;

E. practice polygraphy for any remuneration without a license issued by the department in accordance with the Private Investigations Act; or

F. provide instruction to individuals to qualify for licensure as security guards or any other person who is required to have professional training to be licensed, certified or registered pursuant to the Private Investigations Act without a registration in good standing issued by the department in accordance with the Private Investigations Act."

## **Chapter 190 Section 39 Laws 2023**

SECTION 39. Section 61-27B-4 NMSA 1978 (being Laws 1993, Chapter 212, Section 4, as amended) is amended to read:

"61-27B-4. PERSONS EXEMPTED--LIMITATIONS ON UNLICENSED ACTIVITIES.--

A. As used in this section, "temporary" means a period of time not to exceed the duration of one private event or one school or nonprofit organization event, as described in Paragraphs (2) and (3) of Subsection B of this section.

B. The Private Investigations Act does not apply to:

(1) an individual employed exclusively and regularly by one employer in connection with the affairs of that employer, provided that the individual patrols or provides security only on the premises of the employer as limited by the employer;

(2) an individual employed exclusively to provide temporary security at a private event that is not open to the public;

(3) individuals providing temporary security at athletic or other youth events and where the events occur under the auspices of a public or private school or a nonprofit organization;

(4) an attorney licensed in New Mexico, or the attorney's employee working under the direct supervision of the attorney, conducting private investigations while engaged in the practice of law;

(5) an officer or employee of the United States or this state or a political subdivision of the United States or this state while that officer or employee is engaged in the performance of the officer's or employee's official duties;

(6) a person engaged exclusively in the business of obtaining and furnishing information concerning the financial rating of persons;

(7) a charitable philanthropic society or association duly incorporated under the laws of this state that is organized and maintained for the public good and not for private profit;

(8) a licensed collection agency or an employee of the agency while acting within the scope of employment while making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or the debtor's property;

(9) admitted insurers, adjusters, agents and insurance brokers licensed by the state performing duties in connection with insurance transactions by them; or

(10) an institution subject to the jurisdiction of the director of the financial institutions division of the department or the comptroller of currency of the United States.

C. A private investigator licensed in New Mexico shall not offer or provide traffic crash reconstruction in New Mexico unless the private investigator has successfully completed a traffic crash reconstruction course approved by rule of the department. A person, other than a certified and commissioned law enforcement officer or a New Mexico professional engineer, who wishes to offer or provide traffic crash reconstruction in New Mexico must be licensed as a private investigator and meet the requirements of this subsection.

- D. Skip tracing in New Mexico shall be offered or provided only by:
- (1) an employee of a New Mexico state or local law enforcement agency;
  - (2) a private investigator; or
  - (3) an attorney licensed to practice in New Mexico or the attorney's employee working under the direct supervision of the attorney."

## **Chapter 190 Section 40 Laws 2023**

SECTION 40. Section 61-27B-5 NMSA 1978 (being Laws 1993, Chapter 212, Section 5, as amended) is amended to read:

"61-27B-5. ADMINISTRATION OF ACT--RULES.--

A. The department shall enforce and administer the provisions of the Private Investigations Act in accordance with the Uniform Licensing Act.

B. The department shall keep a record of each individual licensee.

C. The department shall promulgate rules in accordance with the State Rules Act and enforce those rules necessary to carry out the provisions of the Private Investigations Act, including establishing professional ethical standards.

D. The department shall promulgate rules regarding:

(1) licensing private investigators, private investigations managers, private investigation companies, private patrol operators, private patrol operations managers, private patrol employees and polygraph examiners;

(2) registering private investigations employees, security guards, private patrol employees and instructors;

(3) establishing minimum training and educational standards for licensure and registration;

(4) establishing continuing education requirements;

(5) establishing and operating a branch office;

(6) creating a policy on reciprocity with other licensing jurisdictions of the United States;

(7) providing permits for security guards for special events; and

(8) conducting background investigations."

## **Chapter 190 Section 41 Laws 2023**

SECTION 41. Section 61-27B-7 NMSA 1978 (being Laws 1993, Chapter 212, Section 6, as amended) is amended to read:

"61-27B-7. REQUIREMENTS FOR PRIVATE INVESTIGATOR LICENSURE.--

A. The department shall issue a license as a private investigator to an individual who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant has met all requirements set forth by the department in rule, including that the applicant:

(1) is at least twenty-one years of age;

(2) has successfully passed an examination as required by department rule;

(3) has not been convicted of a felony offense, an offense involving dishonesty or an offense involving an intentional violent act or the illegal use or possession of a deadly weapon and has not been found to have violated professional ethical standards as defined by the department; and

(4) has at least three years' experience that has been acquired within the five years preceding the filing of the application with the department of actual work performed in:

(a) investigation for the purpose of obtaining information with reference to a crime or wrongs done or threatened against the United States;

(b) investigation of persons;

(c) the location, disposition or recovery of lost or stolen property;

(d) the cause or responsibility for fire, losses, motor vehicle or other accidents or damage or injury to persons or property; or

(e) securing evidence to be used before a court, administrative tribunal, board or investigating committee or for a law enforcement officer.

B. Years of qualifying experience and the precise nature of that experience shall be substantiated by written certification from employers and shall be subject to independent verification by the department as it deems warranted. The burden of proving necessary experience is on the applicant."

## Chapter 190 Section 42 Laws 2023

SECTION 42. A new section of the Private Investigations Act is enacted to read:

"REQUIREMENTS FOR REGISTRATION AS INSTRUCTOR--CURRICULUM APPROVAL--FIREARMS TRAINING.--

A. Every individual seeking to register as an instructor shall complete an application on a form provided by the department and submit the required application fee. The application shall include:

(1) fingerprints and other information for a state and federal criminal history background check submitted in accordance with rules of the department;

(2) proof of instructor certification issued by a law enforcement academy, federal government entity, the military or the federal law enforcement training centers or one year of verifiable training experience or the equivalent to be reviewed and recommended by the private investigations advisory board and approved by the department;

(3) proof of further qualifying training specific to advanced levels of training the instructor is applying for as provided by rule of the department; and

(4) any other information sought by the department.

B. The department shall register each successful instructor applicant.

C. A level two or level three registered instructor may teach individuals who are seeking licensure as a level one security guard. A registered instructor shall not teach above the instructor's registration level. The department may suspend, revoke or refuse to renew the registration of an instructor who teaches above the instructor's registration level.

D. If a level three instructor offers firearms certification, the instructor shall provide proof of the instructor's current firearms certification to the department.

E. The department shall approve the curriculum for level one, two and three security guard training. The private investigations advisory board shall review curricula submitted for approval and make recommendations to the department for final action.

F. The registration of an instructor registered with the department on the effective date of this section shall remain in effect until renewal unless the department suspends, revokes or refuses to renew the registration."

## Chapter 190 Section 43 Laws 2023

SECTION 43. Section 61-27B-8 NMSA 1978 (being Laws 2007, Chapter 115, Section 8) is amended to read:

"61-27B-8. PRIVATE INVESTIGATION COMPANY--REQUIREMENTS FOR LICENSURE.--

A. The department shall issue a license for a private investigation company to a person that files a completed application accompanied by the required fees and that submits satisfactory evidence that the applicant:

(1) if an individual, has not been convicted of a felony offense, an offense involving dishonesty, an offense involving an intentional violent act or the illegal use or possession of a deadly weapon and has not been found to have violated professional ethical standards; or if a legal business entity, the owners, officers or directors of the entity, either singly or collectively, have not been convicted of a felony offense or an offense involving intentional violent acts or the illegal use or possession of deadly weapons and have not been found to have violated professional ethical standards;

(2) has an owner or a licensed private investigations manager who is licensed as a private investigator and who manages the daily operations of the private investigation company;

(3) maintains a physical location in New Mexico where records are maintained and made available for department inspection;

(4) maintains a New Mexico registered agent if the applicant is a private investigation company located outside of New Mexico; and

(5) meets all other requirements set forth in the rules of the department.

B. A private investigation company shall maintain a general liability certificate of insurance in an amount required by the department. The department shall suspend the license issued pursuant to this section of a private investigation company that fails to maintain an effective general liability certificate of insurance as required. The department shall not reinstate the license of a private investigation company that has had its license suspended pursuant to this subsection until an application is submitted to the department with the necessary fees and a copy of the private investigation company's general liability certificate of insurance in effect. The department may deny an application for reinstatement of a private investigation company's license, notwithstanding the applicant's compliance with this subsection for:

(1) a reason that would justify a denial to issue a new private investigation company license or that would be cause for a suspension or revocation of a private investigation company's license; or

(2) the performance by the applicant of an act requiring a license issued pursuant to the Private Investigations Act while the applicant's license is under suspension for failure to maintain the applicant's general liability certificate of insurance in effect."

## **Chapter 190 Section 44 Laws 2023**

SECTION 44. Section 61-27B-14 NMSA 1978 (being Laws 2007, Chapter 115, Section 14) is amended to read:

"61-27B-14. PRIVATE INVESTIGATIONS OR PRIVATE PATROL EMPLOYEE--REGISTRATION--REQUIREMENTS.--

A. Every individual who seeks employment or is currently employed as a private investigations employee or who provides services on a contract basis to a private investigation company shall file an application for registration as a private investigations employee with the department.

B. Every individual who seeks employment as or is currently employed as a private patrol employee or who provides services on a contract basis to a private patrol company shall file an application for registration as a private patrol employee with the department.

C. The department shall issue a registration for a private investigations or private patrol employee to an individual who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

- (1) is at least twenty-one years of age;
- (2) possesses a high school diploma or its equivalent;
- (3) has successfully completed an examination as required by department rule;
- (4) has not been convicted of a felony involving an intentional violent act or the illegal use or possession of a deadly weapon and has not been found to have violated professional ethical standards;
- (5) shall be employed by, or shall contract with a private investigation company to provide investigation services for, a private investigation company, under the direct control and supervision of a private investigator or shall be employed by, or shall contract with a private patrol company to provide private patrol services for, a

private patrol company under the direct control and supervision of a private patrol operations manager or a level three security guard, as applicable; and

(6) meets other requirements set forth in rules of the department.

D. If the contract or employment of a private investigations employee with a private investigation company or a private patrol employee with a private patrol company terminates for any reason, the registration of the individual as a private investigations employee or private patrol employee immediately terminates. The private investigations employee or private patrol employee shall turn over the employee's registration to the private investigation company or private patrol company upon ceasing employment with that company.

E. A private investigation company or private patrol company shall notify the department within thirty days from the date of termination of employment of a private investigations employee or private patrol employee, as applicable, of the employment termination and return the employee's registration to the department."

## **Chapter 190 Section 45 Laws 2023**

SECTION 45. Section 61-27B-18 NMSA 1978 (being Laws 2007, Chapter 115, Section 18) is amended to read:

"61-27B-18. SECURITY GUARD--LEVEL THREE--REGISTRATION--REQUIREMENTS.--

A. Every individual seeking employment or employed as a level three security guard shall file an application for registration with the department.

B. The department shall issue a registration for a level three security guard to an individual who files a completed application accompanied by the required fees and who submits satisfactory evidence that the applicant:

(1) is at least twenty-one years of age;

(2) meets the requirements to be granted registration as a level two security guard and maintains in good standing a current registration as a level two security guard;

(3) has successfully completed an examination as required by department rule;

(4) possesses a high school diploma or its equivalent;

(5) in addition to the training required to be registered as a level two security guard and before the applicant shall be placed for the first time at a guard post

as a level three security guard, has completed a curriculum approved by the department consisting of the minimum training for firearm certification prescribed by the department; provided that the additional training required by the department is provided by:

- (a) a public educational institution in New Mexico or an educational institution licensed by the higher education department pursuant to the Post-Secondary Educational Institution Act;
  - (b) an in-house training program provided by a licensed private patrol company using a curriculum approved by the department;
  - (c) the New Mexico law enforcement academy; or
  - (d) any other department-approved educational institution using a curriculum approved by the department and complying with department standards set forth in department rules;
- (6) is firearm certified by the New Mexico law enforcement academy or the national rifle association;
- (7) is employed by a private patrol company under the direct supervision of a licensed private patrol operator, another level three security guard or a private patrol operations manager; and
- (8) meets other requirements set forth in department rules.

C. A private patrol company shall notify the department within thirty days from the date of termination of a level two security guard of the employment termination."

## **Chapter 190 Section 46 Laws 2023**

SECTION 46. Section 61-27B-20 NMSA 1978 (being Laws 2007, Chapter 115, Section 20, as amended) is amended to read:

"61-27B-20. FEES.--Except as provided in Section 61-1-34 NMSA 1978, the department shall establish a schedule of reasonable fees as follows:

- A. private investigator fees:
  - (1) application fee, not to exceed one hundred dollars (\$100);
  - (2) initial private investigator's license fee or license renewal fee, not to exceed three hundred dollars (\$300); and
  - (3) initial private investigations manager license fee or license renewal fee, not to exceed two hundred dollars (\$200);

- B. private patrol operator fees:
  - (1) application fee, not to exceed one hundred dollars (\$100);
  - (2) initial private patrol operator's license fee or license renewal fee, not to exceed three hundred dollars (\$300); and
  - (3) initial private patrol operations manager license fee or license renewal fee, not to exceed two hundred dollars (\$200);
- C. private investigations employee or private patrol employee, initial registration fee or registration renewal fee, not to exceed one hundred dollars (\$100);
- D. private investigation company or private patrol company, initial license fee or renewal license fee, not to exceed three hundred dollars (\$300);
- E. security guard fees:
  - (1) level one or level two security guard registration fee or registration renewal fee, not to exceed fifty dollars (\$50.00); and
  - (2) level three security guard registration fee or registration renewal fee, not to exceed seventy-five dollars (\$75.00);
- F. polygraph examiners:
  - (1) application fee, not to exceed one hundred dollars (\$100);
  - (2) initial polygraph examiner's license fee or license renewal fee, not to exceed four hundred dollars (\$400); and
  - (3) examination fee, not to exceed one hundred dollars (\$100);
- G. instructors:
  - (1) application fee, not to exceed one hundred dollars (\$100); and
  - (2) initial registration or registration renewal, not to exceed one hundred dollars (\$100); and
- H. other fees applying to private investigators, private patrol operators, polygraph examiners and instructors:
  - (1) change in license fee, not to exceed two hundred dollars (\$200);

(2) late fee on license or registration renewals, not to exceed one hundred dollars (\$100);

(3) special event permit fee, not to exceed one hundred dollars (\$100);  
and

(4) special event license fee for a private patrol company, not to exceed fifty dollars (\$50.00)."

## **Chapter 190 Section 47 Laws 2023**

SECTION 47. Section 61-27B-21 NMSA 1978 (being Laws 2007, Chapter 115, Section 21) is amended to read:

"61-27B-21. LICENSE AND REGISTRATION RENEWAL.--

A. A license or registration granted pursuant to the provisions of the Private Investigations Act shall be renewed by the department biennially unless the term of the license is set by the department in rule to be a longer period.

B. A licensee or registrant with an expired license or registration shall not perform an activity for which a license or registration is required pursuant to the Private Investigations Act until the license or registration has been renewed or reinstated.

C. The department may require proof of continuing education credits or other proof of competency as a requirement of renewal or reinstatement of a license or registration.

D. A license or registration issued to a person pursuant to the Private Investigations Act shall not be transferred or assigned."

## **Chapter 190 Section 48 Laws 2023**

SECTION 48. Section 61-27B-24 NMSA 1978 (being Laws 1993, Chapter 212, Section 11, as amended) is amended to read:

"61-27B-24. LIABILITY INSURANCE.--

A private investigation company or a private patrol company shall maintain a general liability certificate of insurance in an amount required by the department."

## **Chapter 190 Section 49 Laws 2023**

SECTION 49. Section 61-27B-31 NMSA 1978 (being Laws 2007, Chapter 115, Section 31) is amended to read:

"61-27B-31. FIREARMS.--A private investigator, a private patrol operator, a private investigations employee, a level three security guard or a private patrol employee may carry a firearm upon successful completion of mandatory firearm training required by rules of the department and successfully passing a psychological evaluation prescribed by the department to determine suitability for carrying a firearm."

### **Chapter 190 Section 50 Laws 2023**

SECTION 50. Section 61-27B-36 NMSA 1978 (being Laws 2007, Chapter 115, Section 35, as amended) is amended to read:

"61-27B-36. TERMINATION OF AGENCY LIFE--DELAYED REPEAL.--The private investigations advisory board is terminated on July 1, 2029 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Private Investigations Act until July 1, 2030. Effective July 1, 2030, Chapter 61, Article 27B NMSA 1978 is repealed."

### **Chapter 190 Section 51 Laws 2023**

SECTION 51. Section 61-31-13 NMSA 1978 (being Laws 1989, Chapter 51, Section 13, as amended) is amended to read:

"61-31-13. EXPEDITED LICENSURE.--

A. Upon application of an out-of-state licensed social worker, the board shall license a qualified applicant for the licensure level sought as provided in Section 61-1-31.1 NMSA 1978.

B. The board shall process the application as soon as practicable but no later than thirty days after the out-of-state social worker submits a complete application for expedited licensure accompanied by any required fee.

C. If the board issues an expedited license to a person whose prior licensing jurisdiction did not require examination, the board may require the person to pass an examination before applying for license renewal.

D. The board by rule shall determine those states and territories of the United States and the District of Columbia from which it will not accept an applicant for expedited licensure and shall determine any foreign countries from which it will accept an applicant for expedited licensure. The board shall post the lists of disapproved and approved licensing jurisdictions on the board's website. The list of disapproved licensing jurisdictions shall include the specific reasons for disapproval. The lists shall be reviewed annually to determine if amendments to the rule are warranted."

## **Chapter 190 Section 52 Laws 2023**

SECTION 52. TEMPORARY PROVISION--TRANSFER OF APPROPRIATIONS, RECORDS AND CONTRACTS TO THE REGULATION AND LICENSING DEPARTMENT.--On the effective date of this act:

A. all functions, appropriations, money, records and files of the interior design board relating to the Interior Designers Act shall be transferred to the regulation and licensing department;

B. all contractual obligations of the interior design board relating to the Interior Designers Act shall be binding on the regulation and licensing department; and

C. the rules, orders and decisions of the interior design board relating to the Interior Designers Act shall remain in effect until repealed or amended.

## **Chapter 190 Section 53 Laws 2023**

SECTION 53. REPEAL.--Sections 61-24C-4, 61-24C-6, 61-24C-7, 61-24C-12, 61-24C-17 and 61-27B-35 NMSA 1978 (being Laws 1989, Chapter 53, Sections 4, 6, 7 and 12, Laws 1993, Chapter 83, Section 5 and Laws 2007, Chapter 115, Section 36, as amended) are repealed.

## **Chapter 190 Section 54 Laws 2023**

SECTION 54. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# **LAWS 2023, CHAPTER 191**

**House Bill 459**

**Approved April 5, 2023**

AN ACT

RELATING TO HORSE RACING; REVISING THE DISTRIBUTION OF FUNDS PAID TO HORSE BREEDERS.

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

## **Chapter 191 Section 1 Laws 2023**

SECTION 1. Section 60-1A-24 NMSA 1978 (being Laws 2007, Chapter 39, Section 24, as amended) 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) twelve 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."

## **LAWS 2023, CHAPTER 192**

**House Bill 462, aa**  
**Approved April 5, 2023**

AN ACT

RELATING TO MUNICIPALITIES; AMENDING PROCEDURES AND PENALTIES FOR NUISANCES.

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

### **Chapter 192 Section 1 Laws 2023**

SECTION 1. Section 3-18-17 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-17-14, as amended) is amended to read:

"3-18-17. NUISANCES AND OFFENSES--REGULATION OR PROHIBITION.--A municipality, including a home rule municipality that has adopted a charter pursuant to Article 10, Section 6 of the constitution of New Mexico, may by ordinance:

A. define a nuisance, abate a nuisance and impose penalties upon a person who creates or allows a nuisance to exist; provided that:

(1) the total amount of assessed penalties and fines imposed by an ordinance for failure to obey a traffic sign or signal, including a red light offense or violation, or for a speeding offense or violation shall not exceed one hundred dollars (\$100), provided that the total for unlawful parking in a space or for blocking an access intended for persons with significant mobility limitation shall not be less than or exceed the fines provided in Section 66-7-352.5 NMSA 1978;

(2) no fees or costs shall be imposed pursuant to this subsection;

(3) in a municipality with a population of two hundred thousand or greater as of the last federal decennial census, the penalties, fines and procedures

imposed for failure to obey a traffic sign or signal, including a red light offense or violation, or for a speeding offense or violation shall be subject to the following:

(a) each month, or other period set by contract, the municipality shall retain from the gross total amount of penalties and fines assessed and collected that month or period an amount subject to audit that is equal to the sum of the setup, maintenance, support and processing services fees charged to the municipality for that month or period pursuant to contractual terms by a vendor providing systems and services that assist the municipality in imposing penalties or fines as provided in Paragraph (1) of this subsection;

(b) less the retention authorized in Subparagraph (a) of this paragraph: 1) one-half of the net total amount assessed and collected by the municipality pursuant to this section shall be remitted to the state treasurer and distributed to the general fund; and 2) one-half shall be retained by the municipality for municipal traffic safety programs and to offset the municipality's reasonable costs directly related to administering a program as provided in Paragraph (1) of this subsection;

(c) the municipality shall cause an audit of the program and contract described in Subparagraph (a) of this paragraph to be conducted by the state auditor or an independent auditor selected by the state auditor;

(d) if in the audit conducted pursuant to Subparagraph (c) of this paragraph it is determined that any amount retained by the municipality pursuant to this paragraph is in excess of the amount the municipality is authorized to retain, the municipality shall remit, when the audit is finalized, the amount in excess to the state treasurer to be distributed and transferred as provided in Item 1) of Subparagraph (b) of this paragraph; and

(e) a respondent may select a hearing to contest a nuisance ordinance offense or violation that shall either be conducted by a hearing officer appointed by the presiding judge of the civil division of the district court with jurisdiction over the municipality and in accordance with the rules of evidence and rules of civil procedure for the district courts or that shall be conducted by a mail-in form alternative. The notice of violation shall clearly explain the process for requesting a hearing, the hearing options, the deadline to request a hearing and where the request shall be submitted. The burden of proof for violations is on the municipality and is a preponderance of the evidence. A determination by the hearing officer shall not impose a total amount of penalties or fines in excess of that provided in the nuisance ordinance; and

(4) in a municipality other than a municipality with a population of two hundred thousand or greater as of the last federal decennial census, the penalties, fines and procedure imposed for failure to obey a traffic sign or signal, including a red light

offense or violation, or for a speeding offense or violation shall be subject to the following:

(a) each month, or other period set by contract, the municipality shall retain from the gross total amount of penalties and fines assessed and collected that month or period an amount subject to audit that is equal to the sum of the setup, maintenance, support and processing services fees charged to the municipality for that month or period pursuant to contractual terms by a vendor providing systems and services that assist the municipality in imposing penalties or fines as provided in Paragraph (1) of this subsection;

(b) less the retention authorized in Subparagraph (a) of this paragraph: 1) one-half of the net total amount assessed and collected by the municipality pursuant to this section shall be remitted to the state treasurer and distributed to the general fund; and 2) one-half shall be retained by the municipality for municipal traffic safety programs and to offset the municipality's reasonable costs directly related to administering a program as provided in Paragraph (1) of this subsection;

(c) the municipality shall cause an audit of the program and contract described in Subparagraph (a) of this paragraph to be conducted by the state auditor or an independent auditor selected by the state auditor;

(d) if in the audit conducted pursuant to Subparagraph (c) of this paragraph it is determined that any amount retained by the municipality pursuant to this paragraph is in excess of the amount the municipality is authorized to retain, the municipality shall remit, when the audit is finalized, the amount in excess to the state treasurer to be distributed and transferred as provided in Item 1) of Subparagraph (b) of this paragraph; and

(e) a hearing provided for a contested nuisance ordinance offense or violation shall be conducted by a hearing officer appointed by the presiding judge of the civil division of the district court with jurisdiction over the municipality and in accordance with the rules of evidence and rules of civil procedure for the district courts. If offered by the municipality, a respondent may select a hearing conducted by a mail-in form alternative. The notice of violation shall clearly explain the process for requesting a hearing, the hearing options, the deadline to request a hearing and where the request shall be submitted. The burden of proof for violations is on the municipality and is a preponderance of the evidence. A determination by the hearing officer shall not impose a total amount of penalties or fines in excess of that provided in the nuisance ordinance;

B. regulate or prohibit any amusement or practice that tends to annoy persons on a street or public ground; and

C. prohibit and suppress:

- (1) gambling and the use of fraudulent devices or practices for the purpose of obtaining money or property;
- (2) the sale, possession or exhibition of obscene or immoral publications, prints, pictures or illustrations;
- (3) public intoxication;
- (4) disorderly conduct; and
- (5) riots, noises, disturbances or disorderly assemblies in any public or private place."

## **LAWS 2023, CHAPTER 193**

**SJC/Senate Bill 133, aa**  
**Approved April 6, 2023**

### AN ACT

RELATING TO RECYCLED METALS; REQUIRING A SECONDHAND METAL DEALER PURCHASING OR OTHERWISE RECEIVING A CATALYTIC CONVERTER TO MAKE A RECORD OF THE TRANSACTION THAT INCLUDES THE SELLER'S OR OFFEROR'S INFORMATION AND A PHOTOCOPY OR IMAGE OF THE SELLER'S OR OFFEROR'S PERSONAL IDENTIFICATION DOCUMENT, LEGAL DOCUMENT DEMONSTRATING OWNERSHIP AND CATALYTIC CONVERTER; ALLOWING A LOCAL GOVERNMENT ENTITY TO IMPOSE REPORTING REQUIREMENTS ON SECONDHAND METAL DEALERS REGARDING THE PURCHASE OR ACQUISITION OF CATALYTIC CONVERTERS.

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

### **Chapter 193 Section 1 Laws 2023**

SECTION 1. Section 57-30-2.4 NMSA 1978 (being Laws 2012, Chapter 29, Section 16 and Laws 2012, Chapter 33, Section 16, as amended) is amended to read:

"57-30-2.4. RESTRICTED TRANSACTIONS--ADDITIONAL DOCUMENTATION REQUIRED--REQUIRED RECORD FOR CATALYTIC CONVERTERS.--

A. A secondhand metal dealer shall not knowingly purchase or otherwise receive any of the following without written documentation indicating that the seller or offeror is the rightful owner or has permission from the rightful owner and that the material was otherwise lawfully obtained:

(1) infrastructure grade regulated material that has been burned to remove insulation, unless the seller can produce written proof that the regulated material was lawfully burned;

(2) regulated material where the manufacturer's make, model, serial or personal identification number or other identifying marks engraved or etched upon the material have been conspicuously removed or altered;

(3) regulated material marked with the name, initials or otherwise identified as the property of an electrical company, a telephone company, a cable company, a water company or other utility company, a railroad or a governmental entity;

(4) a utility access cover;

(5) a water meter cover;

(6) a road or bridge guard rail;

(7) a highway or street sign;

(8) a traffic directional or control sign or signal;

(9) a metal beer keg that is clearly marked as being the property of the beer manufacturer; or

(10) a catalytic converter that is not part of an entire motor vehicle.

B. The department shall promulgate rules that more specifically describe the type of documentation required before a secondhand metal dealer may engage in a transaction described in this section.

C. A secondhand metal dealer shall not purchase or otherwise receive any regulated material that the secondhand metal dealer knows is not lawfully possessed by the person offering to sell or provide the regulated material.

D. A secondhand metal dealer shall not knowingly purchase or otherwise receive a catalytic converter unless:

(1) the seller or offeror presents a personal identification document;  
and

(2) the secondhand metal dealer makes a record of the transaction, to be maintained for at least three years from the date of the transaction, that shall include:

(a) a photocopy or digital image of the seller's or offeror's personal identification document;

- (b) the date and time of the transaction;
- (c) the name, address, telephone number and signature of the seller or offeror;
- (d) the license plate number and vehicle identification number of the vehicle used to transport the catalytic converter to the secondhand metal dealer, if applicable;
- (e) a photocopy or digital image of the legal document or affidavit demonstrating ownership by the seller or offeror; and
- (f) photographs of the catalytic converter."

## **Chapter 193 Section 2 Laws 2023**

SECTION 2. Section 57-30-8 NMSA 1978 (being Laws 2008, Chapter 29, Section 8, as amended by Laws 2012, Chapter 29, Section 7 and by Laws 2012, Chapter 33, Section 7) is amended to read:

"57-30-8. FURNISHING OF REPORT TO DEPARTMENT.--

A. As of January 1, 2014, a secondhand metal dealer shall, not later than the second business day after the date of the purchase or other acquisition of regulated material for which a record is required pursuant to Section 57-30-5 NMSA 1978, upload to the database maintained by the department a report containing the information required to be recorded pursuant to that section.

B. A local governmental entity may impose reporting requirements on secondhand metal dealers regarding the purchase or acquisition of catalytic converters but not other regulated material as long as the reporting requirements are no more stringent than the reporting requirements for regulated material pursuant to the provisions of the Sale of Recycled Metals Act."

## **LAWS 2023, CHAPTER 194**

**HJC/House Bill 234, aa**  
**Approved April 6, 2023**

AN ACT

RELATING TO CRIME; AMENDING THE ELEMENTS OF SHOPLIFTING; CREATING THE CRIME OF AGGRAVATED SHOPLIFTING; CREATING THE CRIME OF ORGANIZED RETAIL CRIME; IMPOSING PENALTIES.

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

## Chapter 194 Section 1 Laws 2023

SECTION 1. Section 30-16-20 NMSA 1978 (being Laws 1965, Chapter 5, Section 2, as amended) is amended to read:

"30-16-20. SHOPLIFTING--AGGRAVATED SHOPLIFTING.--

A. Shoplifting consists of one or more of the following acts:

(1) willfully taking possession of merchandise with the intention of converting it without paying for it;

(2) willfully concealing merchandise with the intention of converting it without paying for it;

(3) willfully altering a label, price tag or marking upon merchandise with the intention of depriving the retailer of all or some part of the value of it; or

(4) willfully transferring merchandise from the container in or on which it is displayed to another container with the intention of depriving the retailer of all or some part of the value of it.

B. Whoever commits shoplifting when the value of the merchandise shoplifted:

(1) is two hundred fifty dollars (\$250) or less is guilty of a petty misdemeanor;

(2) is more than two hundred fifty dollars (\$250) but not more than five hundred dollars (\$500) is guilty of a misdemeanor;

(3) is more than five hundred dollars (\$500) but not more than two thousand five hundred dollars (\$2,500) is guilty of a fourth degree felony;

(4) is more than two thousand five hundred dollars (\$2,500) but not more than twenty thousand dollars (\$20,000) is guilty of a third degree felony; or

(5) is more than twenty thousand dollars (\$20,000) is guilty of a second degree felony.

C. Charges under this section shall be based on the aggregated retail market value of merchandise shoplifted from a single retailer at a single location in an amount specified in Subsection B of this section. Conduct that may form the basis for a charge under this section may be used or considered for an organized retail crime offense pursuant to Section 2 of this 2023 act; provided that an individual charged with both a

violation of this section and organized retail crime shall not be punished for both offenses.

D. When an individual has engaged in shoplifting more than once over a ninety-day period, whether committed at one or more retailers, the prosecution may charge the individual under this section based on either the aggregated retail market value of merchandise shoplifted from a single retailer at a single location or in a single charge based on the aggregated retail market value of merchandise shoplifted. Venue for prosecutions based on an aggregated retail market value of merchandise stolen shall be proper in any county in which merchandise was shoplifted.

E. Aggravated shoplifting consists of unlawfully assaulting or striking at another with a deadly weapon immediately after an act of shoplifting in order to retain possession of stolen property or to effect an escape from the scene of an act of shoplifting. Whoever commits aggravated shoplifting is guilty of a third degree felony.

F. As used in this section:

(1) "aggregated retail market value" means the total combined value of all merchandise involved at the price at which the merchandise would ordinarily be sold by the retailer with the legitimate sale or distribution of the item; and

(2) "retailer" means a person or business that sells or facilitates the sale of merchandise to the public for use or consumption rather than for resale."

## **Chapter 194 Section 2 Laws 2023**

SECTION 2. A new section of Chapter 30, Article 16 NMSA 1978 is enacted to read:

"ORGANIZED RETAIL CRIME--PENALTIES.--

A. A person who commits any of the following acts is guilty of organized retail crime:

(1) acts in concert with one or more persons to steal merchandise with an aggregated retail market value of two thousand five hundred dollars (\$2,500) or more from one or more retailers over the span of one year with the intent to sell, exchange or return the merchandise for value;

(2) acts in concert with one or more persons to receive, purchase or possess merchandise with an aggregated retail market value of two thousand five hundred dollars (\$2,500) or more over the span of one year, knowing or believing it to have been stolen;

(3) acts as an agent of another individual or group of individuals to steal merchandise with an aggregated retail market value of two thousand five hundred dollars (\$2,500) or more from one or more retailers over the span of one year as part of an organized plan to commit theft; or

(4) recruits, coordinates, organizes, supervises, directs, manages or finances another to undertake any of the acts described in this section or any other statute defining theft of merchandise.

B. Venue shall be proper in any county in which merchandise is stolen.

C. Whoever commits organized retail crime is guilty of a second degree felony.

D. As used in this section:

(1) "aggregated retail market value" means the total combined value of all merchandise involved at the price at which the merchandise would ordinarily be sold by the retailer with the legitimate sale or distribution of the item; and

(2) "retailer" means a person or business that sells or facilitates the sale of merchandise to the public for use or consumption rather than for resale."

## **LAWS 2023, CHAPTER 195**

**HJC/HCPAC/House Bill 306**

**Approved April 6, 2023**

AN ACT

RELATING TO CRIME; PROHIBITING THE UNLAWFUL PURCHASE OR TRANSFER OF A FIREARM FOR ANOTHER.

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

### **Chapter 195 Section 1 Laws 2023**

SECTION 1. UNLAWFUL PURCHASE OR TRANSFER OF A FIREARM FOR ANOTHER.--

A. Unlawful purchase or transfer of a firearm for another consists of a person who knowingly purchases, transfers or conspires to purchase or transfer any firearm for, on behalf of or at the request or demand of another person, knowing that the other person:

(1) is a felon; or

(2) intends to use, carry, possess, sell or otherwise transfer possession of the firearm in furtherance of any felony or misdemeanor involving a firearm.

B. Prosecution pursuant to this section shall not prevent prosecution pursuant to any other section of the Criminal Code.

C. Whoever commits unlawful purchase or transfer of a firearm for another is guilty of a fourth degree felony and shall be sentenced in accordance with the provisions of the Criminal Sentencing Act.

D. As used in this section, "felon" means a person convicted of a felony offense by a court of the United States or any state or political subdivision, and:

(1) less than ten years have passed since the person completed serving a sentence or period of probation for the felony conviction, whichever is later;

(2) the person has not been pardoned for the felony conviction by the proper authority; and

(3) the person has not received a deferred sentence.

## **LAWS 2023, CHAPTER 196**

**HFL/House Bill 131**

**Approved April 6, 2023**

### **AN ACT**

RELATING TO HEALTH CARE COVERAGE; ENACTING NEW SECTIONS OF THE HEALTH CARE PURCHASING ACT AND THE NEW MEXICO INSURANCE CODE TO REQUIRE COVERAGE FOR EXPENSES RELATED TO PROSTHETICS AND CUSTOM ORTHOTIC DEVICES; PROHIBITING UNFAIR TRADE PRACTICE ON THE BASIS OF DISABILITY.

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

### **Chapter 196 Section 1 Laws 2023**

SECTION 1. A new section of the Health Care Purchasing Act is enacted to read:

"PROSTHETIC DEVICES--CUSTOM ORTHOTIC DEVICES--MINIMUM COVERAGE.--

A. Group health coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act shall provide coverage for

prosthetics and custom orthotics that is at least equivalent to that coverage currently provided by the federal medicare program and no less favorable than the terms and conditions that the group health plan offers for medical and surgical benefits.

B. A group health plan shall cover the most appropriate prosthetic or custom orthotic device determined to be medically necessary by the enrollee's treating physician and associated medical providers to restore or maintain the ability to complete activities of daily living or essential job-related activities and that is not solely for the comfort or convenience of the enrollee. This coverage shall include all services and supplies necessary for the effective use of a prosthetic or custom orthotic device, including:

- (1) formulation of its design, fabrication, material and component selection, measurements, fittings and static and dynamic alignments;
- (2) all materials and components necessary to use it;
- (3) instructing the enrollee in the use of it; and
- (4) the repair and replacement of it.

C. A group health plan shall cover a prosthetic or custom orthotic device determined by the enrollee's provider to be the most appropriate model that meets the medical needs of the enrollee for performing physical activities, including running, biking and swimming and to maximize the enrollee's upper limb function. This coverage shall include all services and supplies necessary for the effective use of a prosthetic or custom orthotic device, including:

- (1) formulation of its design, fabrication, material and component selection, measurements, fittings and static and dynamic alignments;
- (2) all materials and components necessary to use it;
- (3) instructing the enrollee in the use of it; and
- (4) the repair and replacement of it.

D. A group health plan's reimbursement rate for prosthetic and custom orthotic devices shall be at least equivalent to that currently provided by the federal medicare program and no more restrictive than other coverage under the group health plan.

E. Prosthetic and custom orthotic device coverage shall be comparable to coverage for other medical and surgical benefits under the group health plan, including restorative internal devices such as internal prosthetic devices, and shall not be subject to spending limits or lifetime restrictions.

F. Prosthetic and custom orthotic device coverage shall not be subject to separate financial requirements that are applicable only with respect to that coverage. A group health plan may impose cost sharing on prosthetic or custom orthotic devices; provided that any cost-sharing requirements shall not be more restrictive than the cost-sharing requirements applicable to the plan's medical and surgical benefits, including those for internal devices.

G. A group health plan may limit the coverage for, or alter the cost-sharing requirements for, out-of-network coverage of prosthetic and custom orthotic devices; provided that the restrictions and cost-sharing requirements applicable to prosthetic or custom orthotic devices shall not be more restrictive than the restrictions and requirements applicable to the out-of-network coverage for a group health plan's medical and surgical coverage.

H. In the event that medically necessary covered orthotics and prosthetics are not available from an in-network provider, the insurer shall provide processes to refer a member to an out-of-network provider and shall fully reimburse the out-of-network provider at a mutually agreed upon rate less member cost sharing determined on an in-network basis.

I. A group health plan shall not impose any annual or lifetime dollar maximum on coverage for prosthetic or custom orthotic devices, other than an annual or lifetime dollar maximum that applies in the aggregate to all terms and services covered under the group health plan.

J. If coverage is provided through a managed care plan, an enrollee shall have access to medically necessary clinical care and to prosthetic and custom orthotic devices and technology from not less than two distinct prosthetic and custom orthotic providers in the managed care plan's provider network located in the state.

K. Coverage for prosthetic and custom orthotic devices shall be considered habilitative or rehabilitative benefits for purposes of any state or federal requirement for coverage of essential health benefits, including habilitative and rehabilitative benefits.

L. If coverage for prosthetic or custom orthotic devices is provided, payment shall be made for the replacement of a prosthetic or custom orthotic device or for the replacement of any part of such devices, without regard to continuous use or useful lifetime restrictions, if an ordering health care provider determines that the provision of a replacement device, or a replacement part of such a device, is necessary because of any of the following:

- (1) a change in the physiological condition of the patient;
- (2) an irreparable change in the condition of the device or in a part of the device; or

(3) the condition of the device, or the part of the device, requires repairs and the cost of such repairs would be more than sixty percent of the cost of a replacement device or of the part being replaced.

M. Confirmation from a prescribing health care provider may be required if the prosthetic or custom orthotic device or part being replaced is less than three years old.

N. A group health plan subject to the Health Care Purchasing Act shall not discriminate against individuals based on disability, including limb loss, absence or malformation."

## **Chapter 196 Section 2 Laws 2023**

SECTION 2. A new section of Chapter 59A, Article 16 NMSA 1978 is enacted to read:

### **"UNFAIR TRADE PRACTICES ON THE BASIS OF DISABILITY PROHIBITED.--**

A. Any of the following practices with respect to a health benefits plan are defined as unfair and deceptive practices and are prohibited:

(1) canceling or changing the premiums, benefits or conditions of a health benefits plan on the basis of an insured's actual or perceived disability;

(2) denying a prosthetic or orthotic benefit for an individual with limb loss or absence that would otherwise be covered for a non-disabled person seeking medical or surgical intervention to restore or maintain the ability to perform the same physical activity;

(3) failure to apply the most recent version of treatment and fit criteria developed by the professional association with the most relevant clinical specialty when performing a utilization review for a request for coverage of prosthetic or orthotic benefits; and

(4) failure to apply medical necessity review standards developed by the professional association with the most relevant clinical specialty when conducting utilization management review or processing appeals regarding benefit denial.

B. For purposes of this section, "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 the costs of health care services; provided that "health benefits plan" does not include 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."

### **Chapter 196 Section 3 Laws 2023**

SECTION 3. A new section of Chapter 59A, Article 22 NMSA 1978 is enacted to read:

#### **"MEDICAL NECESSITY AND NONDISCRIMINATION STANDARDS FOR COVERAGE OF PROSTHETICS OR ORTHOTICS.--**

A. An individual health plan that is delivered, issued for delivery or renewed in this state that offers coverage for prosthetic and custom orthotic devices shall consider these benefits habilitative or rehabilitative benefits for purposes of any state or federal requirement for coverage of essential health benefits.

B. When performing a utilization review for a request for coverage of prosthetic or orthotic benefits, an insurer shall apply the most recent version of evidence-based treatment and fit criteria as recognized by relevant clinical specialists or their organizations. Such standards may be named by the superintendent in rule.

C. An insurer shall render utilization review determinations in a nondiscriminatory manner and shall not deny coverage for habilitative or rehabilitative

benefits, including prosthetics or orthotics, solely on the basis of an insured's actual or perceived disability.

D. An insurer shall not deny a prosthetic or orthotic benefit for an individual with limb loss or absence that would otherwise be covered for a non-disabled person seeking medical or surgical intervention to restore or maintain the ability to perform the same physical activity.

E. A health benefits plan that is delivered, issued for delivery or renewed in this state that offers coverage for prosthetics and custom orthotic devices shall include language describing an insured's rights pursuant to Subsections C and D of this section in its evidence of coverage and any benefit denial letters.

F. Prosthetic and custom orthotic device coverage shall not be subject to separate financial requirements that are applicable only with respect to that coverage. An individual health plan may impose cost sharing on prosthetic or custom orthotic devices; provided that any cost-sharing requirements shall not be more restrictive than the cost-sharing requirements applicable to the plan's coverage for inpatient physician and surgical services.

G. A health plan that provides coverage for prosthetic or orthotic services shall ensure access to medically necessary clinical care and to prosthetic and custom orthotic devices and technology from not less than two distinct prosthetic and custom orthotic providers in the managed care plan's provider network located in the state. In the event that medically necessary covered orthotics and prosthetics are not available from an in-network provider, the insurer shall provide processes to refer a member to an out-of-network provider and shall fully reimburse the out-of-network provider at a mutually agreed upon rate less member cost sharing determined on an in-network basis.

H. If coverage for prosthetic or custom orthotic devices is provided, payment shall be made for the replacement of a prosthetic or custom orthotic device or for the replacement of any part of such devices, without regard to continuous use or useful lifetime restrictions, if an ordering health care provider determines that the provision of a replacement device, or a replacement part of such a device, is necessary because of any of the following:

- (1) a change in the physiological condition of the patient;
- (2) an irreparable change in the condition of the device or in a part of the device; or
- (3) the condition of the device, or the part of the device, requires repairs and the cost of such repairs would be more than sixty percent of the cost of a replacement device or of the part being replaced.

I. Confirmation from a prescribing health care provider may be required if the prosthetic or custom orthotic device or part being replaced is less than three years old.

J. The provisions of this section do not apply to excepted benefits plans subject to the Short-Term Health Plan and Excepted Benefit Act."

## **Chapter 196 Section 4 Laws 2023**

SECTION 4. A new section of Chapter 59A, Article 23 NMSA 1978 is enacted to read:

### **"MEDICAL NECESSITY AND NONDISCRIMINATION STANDARDS FOR COVERAGE OF PROSTHETICS AND ORTHOTICS.--**

A. A group health plan that is delivered, issued for delivery or renewed in this state that covers essential health benefits or covers prosthetic and custom orthotic devices shall consider these benefits habilitative or rehabilitative benefits for purposes of state or federal requirements on essential health benefits coverage.

B. When performing a utilization review for a request for coverage of prosthetic or orthotic benefits, an insurer shall apply the most recent version of evidence-based treatment and fit criteria as recognized by relevant clinical specialists or their organizations. Such standards may be named by the superintendent in rule.

C. An insurer shall render utilization review determinations in a nondiscriminatory manner and shall not deny coverage for habilitative or rehabilitative benefits, including prosthetics or orthotics, solely based on an insured's actual or perceived disability.

D. An insurer shall not deny a prosthetic or orthotic benefit for an individual with limb loss or absence that would otherwise be covered for a non-disabled person seeking medical or surgical intervention to restore or maintain the ability to perform the same physical activity.

E. A health benefits plan that is delivered, issued for delivery or renewed in this state that offers coverage for prosthetics and custom orthotic devices shall include language describing an insured's rights pursuant to Subsections C and D of this section in its evidence of coverage and any benefit denial letters.

F. Prosthetic and custom orthotic device coverage shall not be subject to separate financial requirements that are applicable only with respect to that coverage. A group health plan may impose cost sharing on prosthetic or custom orthotic devices; provided that any cost-sharing requirements shall not be more restrictive than the cost-sharing requirements applicable to the plan's coverage for inpatient physician and surgical services.

G. A group health plan that provides coverage for prosthetic or orthotic services shall ensure access to medically necessary clinical care and to prosthetic and custom orthotic devices and technology from not less than two distinct prosthetic and custom orthotic providers in the managed care plan's provider network located in the state. In the event that medically necessary covered orthotics and prosthetics are not available from an in-network provider, the insurer shall provide processes to refer a member to an out-of-network provider and shall fully reimburse the out-of-network provider at a mutually agreed upon rate less member cost sharing determined on an in-network basis.

H. If coverage for prosthetic or custom orthotic devices is provided, payment shall be made for the replacement of a prosthetic or custom orthotic device or for the replacement of any part of such devices, without regard to continuous use or useful lifetime restrictions, if an ordering health care provider determines that the provision of a replacement device, or a replacement part of such a device, is necessary because of any of the following:

- (1) a change in the physiological condition of the patient;
- (2) an irreparable change in the condition of the device or in a part of the device; or
- (3) the condition of the device, or the part of the device, requires repairs and the cost of such repairs would be more than sixty percent of the cost of a replacement device or of the part being replaced.

I. Confirmation from a prescribing health care provider may be required if the prosthetic or custom orthotic device or part being replaced is less than three years old.

J. The provisions of this section do not apply to excepted benefits plans subject to the Short-Term Health Plan and Excepted Benefit Act."

## **Chapter 196 Section 5 Laws 2023**

SECTION 5. A new section of the Health Maintenance Organization Law is enacted to read:

"MEDICAL NECESSITY AND NONDISCRIMINATION STANDARDS FOR COVERAGE OF PROSTHETICS AND ORTHOTICS.--

A. An individual or group health maintenance organization contract that is delivered, issued for delivery or renewed in this state that covers essential health benefits and covers prosthetic and custom orthotic devices shall consider these benefits habilitative or rehabilitative benefits for purposes of state or federal requirements on essential health benefits coverage.

B. When performing a utilization review for a request for coverage of prosthetic or orthotic benefits, an insurer shall apply the most recent version of evidence-based treatment and fit criteria as recognized by relevant clinical specialists or their organizations. Such standards may be named by the superintendent in rule.

C. An insurer shall render utilization review determinations in a nondiscriminatory manner and shall not deny coverage for habilitative or rehabilitative benefits, including prosthetics or orthotics, solely based on an insured's actual or perceived disability.

D. An insurer shall not deny a prosthetic or orthotic benefit for an individual with limb loss or absence that would otherwise be covered for a non-disabled person seeking medical or surgical intervention to restore or maintain the ability to perform the same physical activity.

E. A health benefits plan that is delivered, issued for delivery or renewed in this state that offers coverage for prosthetics and custom orthotic devices shall include language describing an insured's rights pursuant to Subsections C and D of this section in its evidence of coverage and any benefit denial letters.

F. Prosthetic and custom orthotic device coverage shall not be subject to separate financial requirements that are applicable only with respect to that coverage. An individual or group health plan may impose cost sharing on prosthetic or custom orthotic devices; provided that any cost-sharing requirements shall not be more restrictive than the cost-sharing requirements applicable to the plan's coverage for inpatient physician and surgical services.

G. An individual or group health plan that provides coverage for prosthetic or orthotic services shall ensure access to medically necessary clinical care and to prosthetic and custom orthotic devices and technology from not less than two distinct prosthetic and custom orthotic providers in the managed care plan's provider network located in the state. In the event that medically necessary covered orthotics and prosthetics are not available from an in-network provider, the insurer shall provide processes to refer a member to an out-of-network provider and shall fully reimburse the out-of-network provider at a mutually agreed upon rate less member cost sharing determined on an in-network basis.

H. If coverage for prosthetic or custom orthotic devices is provided, payment shall be made for the replacement of a prosthetic or custom orthotic device or for the replacement of any part of such devices, without regard to continuous use or useful lifetime restrictions, if an ordering health care provider determines that the provision of a replacement device, or a replacement part of such a device, is necessary because of any of the following:

- (1) a change in the physiological condition of the patient;

(2) an irreparable change in the condition of the device or in a part of the device; or

(3) the condition of the device, or the part of the device, requires repairs and the cost of such repairs would be more than sixty percent of the cost of a replacement device or of the part being replaced.

I. Confirmation from a prescribing health care provider may be required if the prosthetic or custom orthotic device or part being replaced is less than three years old.

J. The provisions of this section do not apply to excepted benefits plans subject to the Short-Term Health Plan and Excepted Benefit Act."

## **Chapter 196 Section 6 Laws 2023**

SECTION 6. A new section of the Nonprofit Health Care Plan Law is enacted to read:

"MEDICAL NECESSITY AND NONDISCRIMINATION STANDARDS FOR COVERAGE OF PROSTHETICS AND ORTHOTICS.--

A. An individual or group health care plan that is delivered, issued for delivery or renewed in this state that covers essential health benefits and covers prosthetic and custom orthotic devices shall consider these benefits habilitative or rehabilitative benefits for purposes of state or federal requirements on essential health benefits coverage.

B. When performing a utilization review for a request for coverage of prosthetic or orthotic benefits, an insurer shall apply the most recent version of evidence-based treatment and fit criteria as recognized by relevant clinical specialists or their organizations. Such standards may be named by the superintendent in rule.

C. An insurer shall render utilization review determinations in a nondiscriminatory manner and shall not deny coverage for habilitative or rehabilitative benefits, including prosthetics or orthotics, solely based on an insured's actual or perceived disability.

D. An insurer shall not deny a prosthetic or orthotic benefit for an individual with limb loss or absence that would otherwise be covered for a non-disabled person seeking medical or surgical intervention to restore or maintain the ability to perform the same physical activity.

E. A health benefits plan that is delivered, issued for delivery or renewed in this state that offers coverage for prosthetics and custom orthotic devices shall include language describing an insured's rights pursuant to Subsections C and D of this section in its evidence of coverage and any benefit denial letters.

F. Prosthetic and custom orthotic device coverage shall not be subject to separate financial requirements that are applicable only with respect to that coverage. An individual or group health care plan may impose cost sharing on prosthetic or custom orthotic devices; provided that any cost-sharing requirements shall not be more restrictive than the cost-sharing requirements applicable to the plan's coverage for inpatient physician and surgical services.

G. An individual or group health plan that provides coverage for prosthetic or orthotic services shall ensure access to medically necessary clinical care and to prosthetic and custom orthotic devices and technology from not less than two distinct prosthetic and custom orthotic providers in the managed care plan's provider network located in the state. In the event that medically necessary covered orthotics and prosthetics are not available from an in-network provider, the insurer shall provide processes to refer a member to an out-of-network provider and shall fully reimburse the out-of-network provider at a mutually agreed upon rate less member cost sharing determined on an in-network basis.

H. If coverage for prosthetic or custom orthotic devices is provided, payment shall be made for the replacement of a prosthetic or custom orthotic device or for the replacement of any part of such devices, without regard to continuous use or useful lifetime restrictions, if an ordering health care provider determines that the provision of a replacement device, or a replacement part of such a device, is necessary because of any of the following:

- (1) a change in the physiological condition of the patient;
- (2) an irreparable change in the condition of the device or in a part of the device; or
- (3) the condition of the device, or the part of the device, requires repairs and the cost of such repairs would be more than sixty percent of the cost of a replacement device or of the part being replaced.

I. Confirmation from a prescribing health care provider may be required if the prosthetic or custom orthotic device or part being replaced is less than three years old.

J. The provisions of this section do not apply to excepted benefits plans subject to the Short-Term Health Plan and Excepted Benefit Act."

## **Chapter 196 Section 7 Laws 2023**

SECTION 7. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2024.

# LAWS 2023, CHAPTER 197

HLVMC/House Bill 299, aa  
Approved April 6, 2023

AN ACT

RELATING TO CONSTRUCTION INDUSTRIES; ENACTING THE ELEVATOR SAFETY ACT; PROVIDING FOR INSPECTION AND REGISTRATION OF ELEVATORS.

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

## Chapter 197 Section 1 Laws 2023

SECTION 1. SHORT TITLE.--This act may be cited as the "Elevator Safety Act".

## Chapter 197 Section 2 Laws 2023

SECTION 2. DEFINITIONS.--As used in the Elevator Safety Act:

A. "apprentice" means an individual who is learning a trade from a licensed employer and participates in a registered apprenticeship program;

B. "certificate of operation" means a document issued by the division that indicates the conveyance has passed the required safety inspection and tests and fees have been paid as set forth in the Elevator Safety Act;

C. "contractor" means a person that:

(1) is engaged in the trade of erecting, constructing, installing, altering, servicing, testing, repairing, maintaining, removing or dismantling conveyances contained within a building or structure;

(2) is properly licensed as a contractor by the division pursuant to the Elevator Safety Act; and

(3) employs mechanics and apprentices pursuant to the Elevator Safety Act;

D. "conveyance" means:

(1) a hoisting and lowering mechanism equipped with a car or platform that moves between two or more landings, including elevators, escalators, moving sidewalks, platform lifts or stairway chair lifts for carrying persons between landings; and

(2) a hoisting and lowering mechanism that is equipped with a car, that serves two or more landings and that is restricted to carrying materials by its limited size and limited access;

E. "director" means the director of the division;

F. "division" means the construction industries division of the regulation and licensing department;

G. "inspector" means a person certified by the division in the trade of elevator safety to conduct inspections and ensure that work performed by a contractor complies with applicable standards and codes and is employed by the division or a county, municipality or other political subdivision;

H. "mechanic" means an individual who:

(1) possesses a journeyman elevator mechanic's certificate pursuant to the provisions of the Elevator Safety Act; and

(2) is engaged in erecting, constructing, installing, altering, servicing, testing, repairing, maintaining, removing or dismantling conveyances covered by the Elevator Safety Act;

I. "standards" means national standards developed for the installation, use or maintenance of conveyances and adopted by division rule; and

J. "temporarily dormant" means a conveyance that is placed out of service as specified in the Elevator Safety Act.

## **Chapter 197 Section 3 Laws 2023**

SECTION 3. EXEMPTIONS.--The following are exempted from the provisions of the Elevator Safety Act:

A. material hoists;

B. boom lifts;

C. mobile scaffolds, towers and platforms;

D. powered platforms and equipment for exterior and interior maintenance;

E. conveyors and related equipment;

F. cranes, derricks, hoists, hooks, jacks and slings;

- G. industrial trucks;
- H. portable equipment, except for portable escalators that are covered by the standards;
- I. tiering or piling machines that are used to move materials to and from storage and that are located and operating entirely within one story;
- J. equipment for feeding or positioning materials at machine tools, printing presses and similar equipment;
- K. furnace hoists;
- L. skips or hoists subject to the regulation of the United States department of labor's mine safety and health administration;
- M. wharf ramps;
- N. railroad car lifts or dumpers;
- O. line jacks, false cars, shafters, moving platforms and similar equipment used for installing a conveyance by a contractor licensed in this state;
- P. conveyances within a single family dwelling; and
- Q. services provided by a person who is licensed as an architect or engineer in the state.

## **Chapter 197 Section 4 Laws 2023**

SECTION 4. DIVISION POWERS--RULES.--The division shall:

- A. enforce and administer the provisions of the Elevator Safety Act in accordance with the Uniform Licensing Act; and
- B. adopt rules in accordance with the State Rules Act to enforce and administer the Elevator Safety Act.

## **Chapter 197 Section 5 Laws 2023**

SECTION 5. ELEVATOR MECHANICS, CONTRACTORS AND INSPECTORS--REQUIREMENTS.--

- A. A person shall not erect, construct, install, service, test, repair, alter, maintain, remove or dismantle any conveyance contained within a building or structure unless the person is a contractor licensed by the division to perform such work. A

contractor shall not allow a person to perform work in connection with the erection, construction, repair, alteration, installation, service, testing, maintaining, removing or dismantling of a conveyance contained within a building or structure unless that person is a mechanic or an apprentice working under the supervision of a mechanic.

B. A licensed contractor and a permit are required for removing or dismantling a conveyance that is destroyed as a result of a complete demolition of a secured building or structure or where the hoistway or wellway is demolished back to the basic support structure and for safety reasons no access is permitted therein.

C. A person shall not inspect a conveyance within a building or structure unless the person is an inspector certified by the division pursuant to the Elevator Safety Act.

## **Chapter 197 Section 6 Laws 2023**

### **SECTION 6. CONTRACTOR LICENSING--MECHANIC'S AND INSPECTOR'S CERTIFICATIONS.--**

A. A person wishing to engage in the trade of installing, altering, servicing, repairing, testing, erecting, maintaining, removing or dismantling a conveyance contained within a building or structure shall apply for the appropriate license with the division on forms established by the division.

B. A journeyman elevator mechanic shall:

(1) demonstrate a combination of documented experience and education credits and complete a written examination approved by the division on the most recent standards;

(2) provide a certificate of completion of and successful passing of the mechanic's examination of a nationally recognized training program for the elevator industry, such as the national elevator industry educational program or its equivalent as approved by the division;

(3) provide a certificate of completion of a United States department of labor-approved apprenticeship program for the elevator industry approved by the United States department of labor or the workforce solutions department; or

(4) hold a valid journeyman elevator mechanic's license or certification from another state having standards substantially equal to those of the Elevator Safety Act.

C. A journeyman elevator mechanic may receive a journeyman elevator mechanic certification without examination if the journeyman elevator mechanic furnishes the division, before January 1, 2026, with an acceptable combination of

documented experience and education credits, including not less than four years of work experience in the elevator industry in construction, maintenance, service or repair, as verified by current and previous employers, and:

- (1) the work was performed without direct and immediate supervision;
- (2) the work was for a contractor; and
- (3) three of the four years of the work were performed after July 1, 2022.

D. An inspector shall:

- (1) possess a certification from a nationally recognized professional association for mechanical engineering as a qualified elevator inspector; and
- (2) hold a valid journeyman elevator mechanic's certification as approved by the division.

## **Chapter 197 Section 7 Laws 2023**

**SECTION 7. ISSUANCE AND RENEWAL OF LICENSES AND CERTIFICATES--FEES--CONTINUING EDUCATION.--**

A. The division may issue a license or certificate pursuant to the Elevator Safety Act that is valid for up to four years.

B. The renewal of a journeyman elevator mechanic's certificate shall consist of not less than eight hours of continuing education instruction.

C. The courses shall be taught through continuing education providers that are approved by the division and may include association seminars and labor training programs.

## **Chapter 197 Section 8 Laws 2023**

**SECTION 8. REGISTRATION OF EXISTING CONVEYANCES.--**By January 1, 2026, the owner or lessee of every existing conveyance shall register with the division a conveyance owned and operated by the owner or lessee and provide the type of conveyance, its rated load and speed, the name of the manufacturer, its location, the purpose for which it is used and any additional information that the division requires. The division shall inspect the conveyance and issue, within ninety days, a certificate of operation or a written inspection report detailing all code violations. The owner or lessee of the conveyance shall have sixty days from the date of the inspection report to remedy any violations set forth in the inspection report. After January 1, 2026, all conveyances

shall be registered at the time they are completed and issued a certificate of operation before being placed in service.

## **Chapter 197 Section 9 Laws 2023**

SECTION 9. COMPLIANCE WITH STATE FIRE PREVENTION AND BUILDING CODES.--

A. A contractor licensed pursuant to the Elevator Safety Act shall ensure that installation or service and maintenance of conveyances are performed in compliance with all laws, ordinances and rules, including fire and building codes.

B. All electrical work performed pursuant to the Elevator Safety Act shall be performed pursuant to the Construction Industries Licensing Act.

## **Chapter 197 Section 10 Laws 2023**

SECTION 10. PERMITS.--A person shall not erect, construct, service, test, repair, maintain, install, alter, remove or dismantle a conveyance within a building or structure unless a permit has been obtained from the division before the work is commenced. The conveyance, and any alteration thereto, shall conform to all applicable standards. The division shall issue permits to contractors properly licensed pursuant to the Elevator Safety Act. A copy of the permit shall be kept at the construction site at all times while the work is in progress.

## **Chapter 197 Section 11 Laws 2023**

SECTION 11. INSPECTIONS--CERTIFICATES OF OPERATION--REGISTRATIONS.--

A. A certified elevator mechanic shall perform all work required for inspections and the associated tests of a conveyance. A certified elevator inspector shall be physically present to witness the tests and verify the test results.

B. New conveyance installations shall be performed by a contractor properly licensed pursuant to the Elevator Safety Act. Prior to a conveyance being used, a property owner or lessee shall obtain an inspection and a report certifying that the conveyance has been installed in compliance with all applicable codes and standards. An inspector who is certified by the division pursuant to the Elevator Safety Act shall conduct the inspection and write the report. A property owner or lessee, prior to any new conveyance being used, shall obtain a certificate of operation from the division.

C. A certificate of operation shall be renewed annually. The owner or lessee of a new or existing conveyance located in a building or structure shall have the conveyance inspected annually by an inspector certified by the division pursuant to the Elevator Safety Act. Subsequent to inspection, the inspector shall supply a property

owner or lessee and the division with a written inspection report detailing all code violations, if any. It shall be the responsibility of the division to enforce code compliance. Property owners or lessees shall have sixty days from the date of the published inspection report to remedy any violations set forth in the inspection report. The division shall not renew a certificate of operation without a receipt of a report from a certified inspector indicating that no code violations exist or that all code violations have been remedied.

D. The owner or lessee of a conveyance shall:

- (1) ensure that the required tests are performed at intervals in compliance with standards and codes;
- (2) have all tests performed by a properly certified mechanic; and
- (3) have a properly certified inspector present to physically witness all testing.

E. If an inspector finds that a conveyance is in a dangerous condition, there is an immediate hazard to those riding or using the conveyance or the design or the method of operation in combination with the devices used is inherently dangerous, the division shall notify the owner or lessee of the condition, order alterations or additions that are necessary to eliminate the dangerous condition and direct that the conveyance may not be used until the dangerous condition has been remedied.

F. Any order for alterations or additions or direction that the conveyance not be used until the dangerous condition is remedied shall be considered a final decision of the division subject to appeal pursuant to Section 39-3-1.1 NMSA 1978.

## **Chapter 197 Section 12 Laws 2023**

### SECTION 12. TEMPORARILY DORMANT CONVEYANCES.--

A. A conveyance shall be put into temporarily dormant status by:

- (1) disconnecting the conveyance from the power supply by removing the fuses;
- (2) placing a padlock on the mainline disconnect switch that has been set to the off position; and
- (3) having a certified inspector install a wire seal on the mainline disconnect switch.

B. A temporarily dormant conveyance shall not be used until it has been put in safe running order. Temporarily dormant status may be renewable on an annual basis and shall not exceed five years.

## **Chapter 197 Section 13 Laws 2023**

### SECTION 13. FEES.--

A. The division shall establish, charge and collect:

(1) an initial license or renewal fee for a four-year contractor license, not to exceed one thousand dollars (\$1,000);

(2) an inspection fee per inspection of an elevator, not to exceed three hundred dollars (\$300); and

(3) an elevator permit fee per permit per elevator, not to exceed one thousand dollars (\$1,000).

B. All money collected by the division under the Elevator Safety Act shall be deposited in the construction industries division publications revolving fund.

## **Chapter 197 Section 14 Laws 2023**

SECTION 14. ENFORCEMENT.--The director or the director's designee may enforce by injunction in district court the laws relating to conveyances and rules adopted by the division.

## **Chapter 197 Section 15 Laws 2023**

SECTION 15. APPRENTICESHIP TRAINING PROGRAM.--An apprenticeship training program for an elevator mechanic shall be registered with and approved by the United States department of labor or the workforce solutions department for providing education and skills training in the conveyance industry.

## **Chapter 197 Section 16 Laws 2023**

SECTION 16. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2025.

# **LAWS 2023, CHAPTER 198**

**H AFC/House Bill 400, aa**  
**Approved April 6, 2023**

AN ACT

RELATING TO HEALTH CARE; REQUIRING A STUDY ON THE FEASIBILITY OF CREATING AND IMPLEMENTING A STATE-ADMINISTERED HEALTH COVERAGE PLAN; REQUIRING REPORTING.

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

**Chapter 198 Section 1 Laws 2023**

SECTION 1. Section 27-2-2 NMSA 1978 (being Laws 1973, Chapter 376, Section 2, as amended) is amended to read:

"27-2-2. DEFINITIONS.--As used in the Public Assistance Act:

- A. "department" means the human services department;
- B. "board" means the human services department;
- C. "director" means the secretary of human services;
- D. "local office" means the county or district office of the human services department;
- E. "medicaid advisory committee" means the body, established by federal law, that advises the New Mexico medicaid program on policy development and program administration;
- F. "medicaid forward plan" means a health care coverage plan that leverages the medicaid program to provide a state-administered health care coverage option;
- G. "public welfare" or "public assistance" means any aid or relief granted to or on behalf of an eligible person under the Public Assistance Act and regulations issued pursuant to that act;
- H. "applicant" means a person who has applied for assistance or services under the Public Assistance Act;
- I. "recipient" means a person who is receiving assistance or services under the Public Assistance Act;
- J. "federal act" means the federal Social Security Act, as may be amended from time to time, and regulations issued pursuant to that act; and
- K. "secretary" means the secretary of human services."

## Chapter 198 Section 2 Laws 2023

SECTION 2. A new section of the Public Assistance Act is enacted to read:

"STUDY OF THE MEDICAID FORWARD PLAN.--

A. The secretary, in coordination with the superintendent of insurance and in consultation with the medicaid advisory committee, other stakeholders identified by the secretary and representatives of Indian nations, tribes and pueblos that are located wholly or partially in New Mexico, shall study the following operational needs for and effects of implementing the medicaid forward plan and amending the New Mexico medicaid state plan, pursuant to the federal act to provide medical assistance to residents who are under age sixty-five, are not otherwise eligible for and enrolled in mandatory coverage under the New Mexico medicaid state plan and have a household income that exceeds one hundred thirty-three percent of the federal poverty level:

(1) the effects on the individual, group and self-insured health insurance markets, including the New Mexico health insurance exchange and the health benefits programs provided to state or local public employees or public school employees, of providing mandatory or optional medicaid coverage to individuals who would otherwise be eligible for health insurance through those markets;

(2) the effects on health care providers and health care facilities, including reimbursement rates needed to maximize access to health care services;

(3) the operational needs for administering the medicaid forward plan, including staffing and technical needs for enrollment and collection of premiums or cost-sharing;

(4) the funding plan, including necessary expenditures and total revenue generated;

(5) the fiscal effects on recurring and nonrecurring spending in the state budget; and

(6) the financial sustainability, including steps necessary for the department and the superintendent of insurance to apply for federal waivers to maximize federal funding and leverage those waivers to ensure affordability for enrollees in the medicaid forward plan.

B. The secretary's proposed program design for the medicaid forward plan shall be contingent on the results of the study and shall include:

(1) a financing plan, which shall include recommended appropriation of state funds, projected federal funds, savings directly or indirectly attributable to the program design, a sliding scale for premiums and cost-sharing based on household

income for individuals eligible to enroll in the medicaid forward plan and other potential cost offsets;

(2) information about recommended reimbursement rates to maximize access to health care services under the medicaid forward plan;

(3) details about the department's operational needs for administering the medicaid forward plan; and

(4) information about federal waivers needed to maximize federal funding and ensure affordability and choice for enrollees.

C. By October 1, 2024, the secretary shall submit a report to the legislative finance committee and the legislative health and human services committee detailing the secretary's study of, and proposed program design for, the medicaid forward plan."

## **LAWS 2023, CHAPTER 199**

**HTRC/House Bill 505, aa, w/o ec, w/cc, partial veto  
Approved April 6, 2023**

### **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); PROVIDING FOR THE ISSUANCE OF SUPPLEMENTAL SEVERANCE TAX BONDS AND APPROPRIATION OF SUPPLEMENTAL SEVERANCE TAX BOND PROCEEDS AS PROVIDED BY SECTION 7-27-12.2 NMSA 1978 (BEING LAWS 2001, CHAPTER 338, SECTION 2, AS AMENDED); ESTABLISHING CONDITIONS FOR THE REVERSION OF UNEXPENDED BALANCES; MAKING APPROPRIATIONS.

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

### **Chapter 199 Section 1 Laws 2023**

SECTION 1. GENERAL FUND APPROPRIATIONS--LIMITATIONS--REVERSIONS.--

A. Except as otherwise specifically provided by law, the unexpended balance of an appropriation made in this act from the general fund shall revert:

(1) no later than September 30 following:

(a) the end of fiscal year 2024 if the project for which an appropriation was made has less than five percent of the project's total appropriation amount subject to a binding written agreement with a third party on that date;

(b) the end of fiscal year 2025 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; or

(c) the end of fiscal year 2027 for a project for which an appropriation was made related to an inclusive construction or renovation project; or

(2) within six months of completion of the project for any other project for which an appropriation was made, but no later than the end of fiscal year 2027.

B. Except for appropriations to the capital program fund, money from appropriations made in this act shall not be used to pay indirect project costs.

C. Money that is appropriated from the general fund pursuant to this act shall not be subject to a binding written agreement with a third party prior to the authorized state agency's approval to enter into that agreement.

D. For the purposes of this section, "unexpended balance" means the remainder of an appropriation after reserving for unpaid costs and expenses subject to a binding written agreement with a third party.

## **Chapter 199 Section 2 Laws 2023**

### **SECTION 2. FUND APPROPRIATIONS OTHER THAN GENERAL FUND-- LIMITATIONS--REVERSIONS.--**

A. Except as otherwise specifically provided by law:

(1) the unexpended balance of an appropriation from a fund other than the general fund 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 2027; 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. Except for appropriations to the capital program fund, money from appropriations made in this act shall not be used to pay indirect project costs.

C. Money that is appropriated from a fund other than the general fund pursuant to this act shall not be subject to a binding written agreement with a third party prior to the authorized state agency's approval to enter into that agreement.

D. For the purposes of this section, "unexpended balance" means the remainder of an appropriation after reserving for unpaid costs and expenses subject to a binding written agreement with a third party.

## **Chapter 199 Section 3 Laws 2023**

SECTION 3. 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 2023 through 2027, unless otherwise provided in Section 1 of this act, for the following purposes:

1. two million five hundred thousand dollars (\$2,500,000) to plan, design, construct, furnish and equip a magistrate court in Grants in Cibola county;

2. fourteen million dollars (\$14,000,000) to design, construct, renovate, furnish and equip a magistrate court in Clovis in Curry county; and

3. twenty million dollars (\$20,000,000) to plan, design, construct, renovate, furnish and equip district court improvements statewide, contingent upon county match of at least fifty percent of project costs, and requiring the administrative office of the courts to prioritize projects based on critical need and county financial capacity.

## Chapter 199 Section 4 Laws 2023

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 2023 through 2027, unless otherwise provided in Section 1 of this act, for the following purposes:

1. fifty-five thousand dollars (\$55,000) to purchase and install meals equipment and other equipment for the Barelas senior center in Albuquerque in Bernalillo county;
2. three hundred thousand dollars (\$300,000) to purchase and install meals equipment and other equipment for the city of Albuquerque senior affairs nutrition and transportation program in Albuquerque in Bernalillo county;
3. five hundred sixty thousand dollars (\$560,000) for renovations to the Highland senior center in Albuquerque in Bernalillo county;
4. twenty-five thousand dollars (\$25,000) to plan, design, construct, renovate, furnish and equip program space at Highland senior center in Albuquerque in Bernalillo county;
5. two hundred fifty thousand dollars (\$250,000) to purchase equipment and to plan, design, construct and renovate Los Volcanes senior center, including flooring, touchless accessible doors, grease traps and improvements to the grounds and parking lots, in Albuquerque in Bernalillo county;
6. sixty-five thousand dollars (\$65,000) to purchase and install meals equipment and other equipment for the North Domingo Baca multigenerational center in Albuquerque in Bernalillo county;
7. two hundred thousand dollars (\$200,000) for renovations to the North Valley senior center in Albuquerque in Bernalillo county;
8. three million dollars (\$3,000,000) for renovations to the Palo Duro senior center in Albuquerque in Bernalillo county;
9. two hundred thousand dollars (\$200,000) to plan, design, construct, furnish and equip senior care facilities for the Pueblo of Laguna in Cibola county;
10. one hundred five thousand dollars (\$105,000) to purchase and equip vehicles for the Raton senior center in Raton in Colfax county;

11. six hundred thirty-three thousand eight hundred ninety-one dollars (\$633,891) to purchase and install meals equipment and other equipment for the Hillcrest senior center in Clovis in Curry county;
12. thirty-three thousand five hundred sixty dollars (\$33,560) for renovations and to purchase and install meals equipment and other equipment for the Grady senior center in Curry county;
13. one million three hundred eleven thousand seven hundred fifty dollars (\$1,311,750) to plan, design, construct, equip and furnish the Fort Sumner senior center in Fort Sumner in De Baca county;
14. one hundred twenty-seven thousand five hundred dollars (\$127,500) for renovations to the Benavidez senior center in Las Cruces in Dona Ana county;
15. two hundred thousand dollars (\$200,000) to purchase and equip vehicles for senior centers in Las Cruces in Dona Ana county;
16. one million six hundred thirty-six thousand two hundred dollars (\$1,636,200) to plan, design, construct, equip and furnish the Robert P. Munson senior center in Las Cruces in Dona Ana county;
17. seventy-two thousand two hundred fifty-eight dollars (\$72,258) to purchase and install meals equipment and other equipment for the Alejandro Ruiz senior center in Carlsbad in Eddy county;
18. four hundred two thousand three hundred six dollars (\$402,306) for renovations to the Alejandro Ruiz senior center in Carlsbad in Eddy county;
19. four hundred thirty-one thousand twenty-one dollars (\$431,021) for renovations to the North Mesa senior recreation center in Carlsbad in Eddy county;
20. thirty-eight thousand six hundred twenty-six dollars (\$38,626) to purchase and equip vehicles for the Mimbres senior center in Grant county;
21. fifty thousand dollars (\$50,000) to purchase and equip vehicles for the Campos senior center in Santa Rosa in Guadalupe county;
22. thirty-five thousand dollars (\$35,000) to purchase and equip vehicles for the Roy senior center in Roy in Harding county;
23. one hundred nineteen thousand six hundred fifty-one dollars (\$119,651) to purchase and equip vehicles for the Lovington senior center in Lea county;
24. fifty thousand dollars (\$50,000) to purchase and equip vans for the senior center in Tatum in Lea county;

25. two hundred seventy-eight thousand eight hundred twenty-six dollars (\$278,826) for renovations to the Ruidoso community center in Ruidoso in Lincoln county;
26. seventeen thousand six hundred dollars (\$17,600) to purchase and install meals equipment and other equipment for the Deming senior center in Deming in Luna county;
27. five hundred twenty-five thousand dollars (\$525,000) for renovations to the Breadsprings senior center in the Navajo Nation in McKinley county;
28. seven million four hundred eighty-seven thousand nine hundred seventy-four dollars (\$7,487,974) to plan, design, construct, equip and furnish the Gallup senior center in Gallup in McKinley county;
29. sixty-six thousand seventeen dollars (\$66,017) to purchase and equip vehicles for the Ramah senior center in McKinley county;
30. five hundred fifty thousand dollars (\$550,000) for renovations to the Thoreau senior center in McKinley county;
31. sixty-six thousand seventeen dollars (\$66,017) to purchase and equip vehicles for the Thoreau senior center in McKinley county;
32. one hundred thousand dollars (\$100,000) for renovations to the Mora senior center in Mora county;
33. fifty-five thousand five hundred seventy-five dollars (\$55,575) to purchase and equip vehicles for the Alamogordo senior center in Alamogordo in Otero county;
34. forty thousand dollars (\$40,000) to purchase and install meals equipment and ~~[other equipment or to purchase and equip vehicles]~~ for the Beatrice Martinez senior center in Espanola in Rio Arriba county; *LINE ITEM VETO*
35. one hundred five thousand dollars (\$105,000) for renovations to the Aztec senior center in Aztec in San Juan county;
36. fifty-four thousand dollars (\$54,000) to purchase and install meals equipment and other equipment for the Blanco senior center in San Juan county;
37. fifty-three thousand six hundred eighty-five dollars (\$53,685) to purchase and equip vehicles for the Blanco senior center in San Juan county;
38. one hundred one thousand two hundred seventy-one dollars (\$101,271) to purchase and equip vehicles for the Bloomfield senior center in Bloomfield in San Juan county;

39. eighty thousand dollars (\$80,000) for renovations to the Bonnie Dallas senior center in Farmington in San Juan county;
40. seventy-five thousand dollars (\$75,000) to purchase and equip vehicles for the Bonnie Dallas senior center in Farmington in San Juan county;
41. forty-six thousand dollars (\$46,000) to purchase and install meals equipment and other equipment for the Lower Valley senior center in San Juan county;
42. forty thousand one hundred fifty dollars (\$40,150) for renovations to the Lower Valley senior center in San Juan county;
43. seventy-five thousand dollars (\$75,000) to acquire easements and to plan, design, construct, furnish and equip a senior center in the Gadii'ahi/To'koi chapter of the Navajo Nation in San Juan county;
44. fifty thousand dollars (\$50,000) to purchase and install equipment, including accessible entry doors, an ice machine, floor buffer, washer and dryer, for the Las Vegas senior center in Las Vegas in San Miguel county;
45. fifty-two thousand dollars (\$52,000) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Bernalillo senior center in Sandoval county;
46. three hundred nineteen thousand six hundred twenty-three dollars (\$319,623) to purchase and equip transportation, food delivery and fully accessible vehicles for the Bernalillo senior center in Sandoval county;
47. one hundred forty-eight thousand five hundred eighty-four dollars (\$148,584) to purchase and equip transportation and fully accessible vehicles for the Corrales senior center in Sandoval county;
48. sixty-three thousand sixty-four dollars (\$63,064) to purchase and equip vehicles for the Cuba senior center in Sandoval county;
49. two hundred thirty-eight thousand dollars (\$238,000) for improvements to the facility to address code compliance issues and for the purchase and installation of equipment and building systems at the Placitas senior center in Sandoval county;
50. eight hundred sixty-two thousand eight hundred twelve dollars (\$862,812) to plan, design, construct, equip and furnish the Santa Ana Pueblo senior center in the Pueblo of Santa Ana in Sandoval county;
51. seventy-five thousand six hundred dollars (\$75,600) for renovations to the Broadmoor senior center in Rio Rancho in Sandoval county;

52. one hundred thirty thousand dollars (\$130,000) to purchase and equip vehicles for the Santo Domingo senior center in the Pueblo of Santo Domingo in Sandoval county;
53. three hundred thousand dollars (\$300,000) for renovations to the Chimayo Benny J. Chavez senior center in Chimayo in Santa Fe county;
54. seventy-five thousand dollars (\$75,000) to purchase and equip vehicles for the Pojoaque Pueblo senior center in the Pueblo of Pojoaque in Santa Fe county;
55. eighteen thousand five hundred dollars (\$18,500) to plan, design, construct, equip and furnish the San Ildefonso senior center in the Pueblo of San Ildefonso in Santa Fe county;
56. eighty thousand four hundred nine dollars (\$80,409) to purchase and equip vehicles for the Tesuque Pueblo senior center in the Pueblo of Tesuque in Santa Fe county;
57. seventy-five thousand dollars (\$75,000) to purchase and equip vehicles for the San Ildefonso senior center in the Pueblo of San Ildefonso in Santa Fe county;
58. seven hundred fifty thousand dollars (\$750,000) for renovations to the Santa Cruz senior center in Santa Fe county;
59. thirty-one thousand six hundred seventeen dollars (\$31,617) to purchase and equip vehicles for the Ken James senior center in Truth or Consequences in Sierra county;
60. thirty-three thousand three hundred dollars (\$33,300) to plan, design, construct, equip and furnish the Magdalena senior center in Socorro county;
61. one hundred eight thousand dollars (\$108,000) to purchase and install meals equipment and other equipment for the Magdalena senior center in Socorro county;
62. one hundred fifteen thousand dollars (\$115,000) to purchase and install meals equipment and other equipment for the Socorro senior center in Socorro in Socorro county;
63. twenty-three thousand two hundred eighty dollars (\$23,280) to purchase and equip vehicles for the Socorro senior center in Socorro in Socorro county;
64. one hundred six thousand dollars (\$106,000) to purchase and install meals equipment and other equipment for the Veguita senior center in Socorro county;

65. three million dollars (\$3,000,000) for emergency requests to plan, design, renovate, improve, equip and furnish senior centers, including delivery and installation of building systems and the purchase and installation of meals equipment, and to purchase and equip vehicles for senior centers statewide;

66. sixty-five thousand dollars (\$65,000) to purchase, replace and install combination walk-in freezer-cooler units at county senior centers in Taos in Taos county;

67. thirty-one thousand dollars (\$31,000) to purchase and equip vehicles for the Estancia senior center in Estancia in Torrance county;

68. thirty-one thousand dollars (\$31,000) to purchase and equip vehicles for the Moriarty senior center in Torrance county;

69. seventy-six thousand fifty dollars (\$76,050) for renovations to the Mountainair senior center in Mountainair in Torrance county;

70. thirty-one thousand dollars (\$31,000) to purchase and equip vehicles for the Mountainair senior center in Mountainair in Torrance county;

71. twenty-five thousand dollars (\$25,000) for renovations to the Des Moines senior center in Des Moines in Union county;

72. one hundred three thousand dollars (\$103,000) to purchase and equip vehicles for the Des Moines senior center in Des Moines in Union county;

73. one hundred eighty thousand dollars (\$180,000) to purchase and equip vehicles for the Belen senior center in Valencia county; and

74. six hundred thousand dollars (\$600,000) for renovations to the Del Rio senior center in Rio Communities in Valencia county.

## **Chapter 199 Section 5 Laws 2023**

SECTION 5. BERNALILLO COUNTY METROPOLITAN COURT PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the Bernalillo county metropolitan court for expenditure in fiscal years 2023 through 2027, unless otherwise provided in Section 1 of this act, for the following purposes:

1. five hundred fifty thousand dollars (\$550,000) to design, purchase, equip and install heating, ventilation and air conditioning controller systems and related information technology at the Bernalillo county metropolitan court in Albuquerque in Bernalillo county; and

2. two hundred thirty-one thousand one hundred dollars (\$231,100) to design, purchase, install and equip a lighting control system at the Bernalillo county metropolitan court in Albuquerque in Bernalillo county.

## **Chapter 199 Section 6 Laws 2023**

SECTION 6. BORDER AUTHORITY PROJECT--GENERAL FUND.--Two million dollars (\$2,000,000) is appropriated from the general fund to the border authority for expenditure in fiscal years 2023 through 2027, unless otherwise provided in Section 1 of this act, for a feasibility study to improve connectivity in transportation corridors between southern New Mexico and the Texas state line.

## **Chapter 199 Section 7 Laws 2023**

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 2023 through 2027, unless otherwise provided in Section 1 of this act, for the following purposes:

1. two million dollars (\$2,000,000) to plan, design, renovate, construct, furnish and equip improvements to the Charles S. Gara public safety center in Albuquerque in Bernalillo county;

2. five million five hundred thousand dollars (\$5,500,000) to purchase, plan, design, renovate, construct, furnish and equip a building for the general services department to consolidate state health and human services agencies direct service provider offices in Roswell in Chaves county;

3. seven hundred eighty thousand dollars (\$780,000) to plan, design, acquire, construct, furnish and equip a state police facility in Grants in Cibola county;

4. one million five hundred thousand dollars (\$1,500,000) to purchase, plan, design, renovate, construct, furnish and equip a building to house state offices in Los Alamos in Los Alamos county;

5. sixty-eight million dollars (\$68,000,000) to plan, design, construct, furnish and equip a new forensics unit at the New Mexico behavioral health institute in Las Vegas in San Miguel county;

6. two million dollars (\$2,000,000) to plan, design, construct, furnish and equip improvements to the department of public safety statewide training facility to support compliance with training standards set for law enforcement agencies in Santa Fe in Santa Fe county;

7. two million five hundred thousand dollars (\$2,500,000) to purchase the educational retirement board building in Santa Fe in Santa Fe county, contingent on

passage of Senate Bill 144 or similar legislation of the first session of the fifty-sixth legislature, and to plan, design, renovate, construct, furnish and equip improvements to the building for use by the public regulation commission;

8. one million four hundred forty-nine thousand dollars (\$1,449,000) to plan, design, renovate, construct, furnish and equip the information technology division office of the taxation and revenue department in Santa Fe in Santa Fe county;

9. three hundred thousand dollars (\$300,000) to plan, design, construct, renovate, furnish and equip commission for the blind facilities statewide;

10. twenty million dollars (\$20,000,000) to purchase and install equipment and to plan, design, construct, renovate, furnish and improve infrastructure at corrections department facilities statewide, including ~~[up to seven hundred fifty thousand dollars (\$750,000) for]~~ a facilities master plan; *LINE ITEM VETO*

11. two million three hundred thousand dollars (\$2,300,000) to plan, design, construct, improve, renovate, furnish and equip facilities for the children, youth and families department statewide;

12. five million dollars (\$5,000,000) to plan, design, construct, furnish and equip improvements to department of health facilities statewide ~~[to protect patient health and safety and to address deferred maintenance]~~; *LINE ITEM VETO*

13. three million dollars (\$3,000,000) to plan, design, construct, renovate and upgrade technology and infrastructure, including roads and parking lots, at department of public safety facilities statewide;

14. twelve million dollars (\$12,000,000) to plan, design, construct, renovate, remediate, furnish and equip facilities at state-owned facilities statewide;

15. one million five hundred thousand dollars (\$1,500,000) to plan, design, construct, repair, furnish, equip and make other improvements to veterans' cemeteries and memorials statewide; and

16. one million two hundred thousand dollars (\$1,200,000) to plan, design, renovate, replace, construct and improve facilities and infrastructure for the workforce solutions department statewide.

## **Chapter 199 Section 8 Laws 2023**

SECTION 8. 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 2023 through 2027, unless otherwise provided in Section 1 of this act, for the following purposes:

1. seven hundred thousand dollars (\$700,000) to plan, design, construct, repair and improve exhibits and facilities at the national Hispanic cultural center in Bernalillo county;
2. one million one hundred forty-seven thousand three hundred eighty-eight dollars (\$1,147,388) to plan, design, construct, repair, upgrade and improve exhibits and facilities at the New Mexico museum of natural history and science in Albuquerque in Bernalillo county;
3. fifty thousand dollars (\$50,000) to plan, design, construct, repair, upgrade and improve exhibits and facilities at the Bosque Redondo memorial and Fort Sumner historic site in Fort Sumner in De Baca county;
4. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, repair, upgrade and improve exhibits and facilities at the farm and ranch heritage museum near Las Cruces in Dona Ana county;
5. one hundred forty-five thousand dollars (\$145,000) to plan, design, construct, repair, upgrade and improve exhibits and facilities at the Fort Selden historic site in Dona Ana county;
6. seven hundred ninety-five thousand dollars (\$795,000) to plan, design, construct, repair, upgrade and improve exhibits and facilities at the Taylor Reynolds Barela Mesilla historic site in Mesilla in Dona Ana county;
7. three hundred fifty-five thousand dollars (\$355,000) to plan, design, construct, repair, upgrade and improve exhibits and facilities at the Fort Stanton historic site in Fort Stanton in Lincoln county;
8. one hundred seventy thousand dollars (\$170,000) to plan, design, construct, repair, upgrade and improve exhibits and facilities at the Lincoln historic site in Lincoln county;
9. two hundred forty-five thousand dollars (\$245,000) to plan, design, construct, repair, upgrade and improve exhibits and facilities at the Coronado historic site in Sandoval county;
10. one hundred forty-five thousand dollars (\$145,000) to plan, design, construct, repair, upgrade and improve exhibits and facilities at the Jemez historic site in Sandoval county;
11. six hundred thousand dollars (\$600,000) to acquire easements and rights of way and to plan, design, construct and equip restrooms, including a sewer line extension, on and near property owned by the cultural affairs department for the Santa Fe botanical garden in Santa Fe in Santa Fe county;

12. six hundred thousand dollars (\$600,000) to plan, design and construct improvements to the center for contemporary arts of Santa Fe, including safety and security upgrades, accessibility and code compliance, in Santa Fe in Santa Fe county;

13. one hundred forty thousand dollars (\$140,000) to plan, design, construct, repair, upgrade and improve exhibits and facilities at the museum of Indian arts and culture in Santa Fe county;

14. seven hundred twenty-five thousand dollars (\$725,000) to plan, design, construct, repair, upgrade and improve exhibits and facilities at the museum of international folk art in Santa Fe county;

15. four hundred sixty thousand dollars (\$460,000) to plan, design, construct, repair, upgrade and improve exhibits and facilities at the New Mexico history museum in Santa Fe county;

16. three hundred fifty thousand dollars (\$350,000) to plan, design and construct improvements, including bathrooms, windows, walkways, entrances and accessibility upgrades, to the buildings and grounds at the Santa Fe children's museum in Santa Fe in Santa Fe county;

17. seventy thousand dollars (\$70,000) to plan, design and construct a memorial sculpture to New Mexico miners at the New Mexico institute of mining and technology in Socorro in Socorro county; and

18. two million eight hundred fifty-five thousand five hundred dollars (\$2,855,500) to plan, design, construct, repair, renovate, furnish, equip and make other improvements to sites, facilities and exhibits at museums, monuments, historic sites and cultural facilities statewide.

## **Chapter 199 Section 9 Laws 2023**

SECTION 9. CUMBRES AND TOLTEC SCENIC RAILROAD COMMISSION PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the Cumbres and Toltec scenic railroad commission for expenditure in fiscal years 2023 through 2027, unless otherwise provided in Section 1 of this act, for the following purposes:

1. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, renovate and repair the historic 1898 Cumbres and Toltec scenic railroad roundhouse in Chama in Rio Arriba county; and

2. one million one hundred thousand dollars (\$1,100,000) 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 199 Section 10 Laws 2023**

SECTION 10. 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 2023 through 2027, unless otherwise provided in Section 1 of this act, to plan, design, renovate and construct site improvements for safe campus access and emergency evacuation and egress at the New Mexico school for the deaf in Santa Fe in Santa Fe county.

### **Chapter 199 Section 11 Laws 2023**

SECTION 11. DISTRICT ATTORNEY OF THE FIRST JUDICIAL DISTRICT PROJECT--GENERAL FUND.--Two hundred twenty thousand dollars (\$220,000) is appropriated from the general fund to the district attorney of the first judicial district for expenditure in fiscal years 2023 through 2027, unless otherwise provided in Section 1 of this act, to plan, design, construct, purchase, equip and install information technology and related equipment for the office of the first judicial district attorney in Santa Fe county.

### **Chapter 199 Section 12 Laws 2023**

SECTION 12. DISTRICT ATTORNEY OF THE FOURTH JUDICIAL DISTRICT PROJECT--GENERAL FUND.--Eighty-five thousand dollars (\$85,000) is appropriated from the general fund to the district attorney of the fourth judicial district for expenditure in fiscal years 2023 through 2027, unless otherwise provided in Section 1 of this act, to purchase and equip a vehicle for the investigation unit of the fourth judicial district attorney's office in San Miguel county.

### **Chapter 199 Section 13 Laws 2023**

SECTION 13. THIRD JUDICIAL DISTRICT COURT PROJECT--GENERAL FUND.--One million six hundred fifty-one thousand dollars (\$1,651,000) is appropriated from the general fund to the third judicial district court for expenditure in fiscal years 2023 through 2027, unless otherwise provided in Section 1 of this act, to plan, design, construct and equip an addition to the third judicial district court facility in Dona Ana county.

### **Chapter 199 Section 14 Laws 2023**

SECTION 14. ECONOMIC DEVELOPMENT DEPARTMENT PROJECT--GENERAL FUND.--Ten million dollars (\$10,000,000) is appropriated from the general

fund to the economic development department for expenditure in fiscal years 2023 through 2027, unless otherwise provided in Section 1 of this act, to plan, design, construct, furnish and equip improvements to downtown mainstreet and arts and cultural districts statewide.

## **Chapter 199 Section 15 Laws 2023**

**SECTION 15. 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 2023 through 2027, unless otherwise provided in Section 1 of this act, for the following purposes:

1. eight hundred fifty thousand dollars (\$850,000) to plan, design and renovate the advanced technology center at central New Mexico community college in Albuquerque in Bernalillo county;
2. four hundred sixty-two thousand seven hundred seventy-eight dollars (\$462,778) to plan, design, construct, furnish, equip and improve student services facilities, including information technology and infrastructure, at central New Mexico community college campuses in Albuquerque in Bernalillo county;
3. seven million three hundred thousand dollars (\$7,300,000) to plan, design, construct, furnish and equip a trades and applied technologies facility at central New Mexico community college in Albuquerque in Bernalillo county;
4. three hundred forty thousand dollars (\$340,000) to plan, design, construct, furnish, equip and install improvements, including information technology and related infrastructure, for the trades and applied technologies facilities at central New Mexico community college campuses in Bernalillo county;
5. five hundred thousand dollars (\$500,000) to plan, design, construct and equip campus safety improvements at southwestern Indian polytechnic institute in Albuquerque in Bernalillo county;
6. two hundred eighty thousand dollars (\$280,000) to plan, design, construct and renovate restrooms at Clovis community college in Clovis in Curry county;
7. five hundred twenty-three thousand eighty-six dollars (\$523,086) to plan, design, construct and renovate infrastructure improvements at Clovis community college in Clovis in Curry county;
8. eight hundred thousand dollars (\$800,000) to replace the heating, ventilation and air conditioning systems campuswide at southeast New Mexico college in Carlsbad in Eddy county;

9. one million one hundred twenty-five thousand dollars (\$1,125,000) to plan, design, construct and equip infrastructure upgrades, including replacement of the heating, ventilation and air conditioning systems, at the Bob and Bonnie Moran hall and Panell library at New Mexico junior college in Hobbs in Lea county;

10. one million dollars (\$1,000,000) to plan, design, construct, install and replace roofing at Bob and Bonnie Moran hall and the Ben Alexander student learning center at New Mexico junior college in Hobbs in Lea county;

11. one million seven hundred thousand dollars (\$1,700,000) to plan, design, construct and install safety, accessibility and security improvements at Navajo technical university in Crownpoint in McKinley county;

12. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, furnish, equip and improve renewal and replacement projects, including information technology and infrastructure, at the main, Montoya and Rio Rancho campuses of central New Mexico community college in Albuquerque and Rio Rancho in Bernalillo and Sandoval counties;

13. six hundred ten thousand four hundred seventy-four dollars (\$610,474) to plan, design, renovate and replace the roof of the child and family development center and education services buildings at San Juan college in Farmington in San Juan county;

14. one million six hundred fifty thousand dollars (\$1,650,000) to plan, design, renovate and replace the roof at the Henderson fine arts center at San Juan college in Farmington in San Juan county;

15. one million one hundred twenty-five thousand dollars (\$1,125,000) to plan, design, construct, renovate and improve the south campus at San Juan college in Farmington in San Juan county;

16. one million dollars (\$1,000,000) to plan, design and construct phase 1 of the mathematics and science building at the south campus of Dine college in Shiprock in San Juan county;

17. one hundred ninety-three thousand dollars (\$193,000) to purchase and equip furniture, fixtures and equipment for the math and science building at the Shiprock branch campus of Dine college in San Juan county;

18. eight hundred thousand dollars (\$800,000) to plan, design and construct a supplemental water supply system for fire suppression for the agriculture multipurpose center at the Shiprock branch campus of Dine college in San Juan county;

19. fifty thousand dollars (\$50,000) to plan, design and construct a student services center on the south campus of Dine college in Shiprock in San Juan county;

20. seven hundred fifty thousand dollars (\$750,000) to plan, design, construct, renovate, furnish and equip the allied health building at Luna community college in Las Vegas in San Miguel county;

21. two hundred twenty-five thousand dollars (\$225,000) to purchase and equip a mobile medical classroom for the department of allied health and public service at Luna community college in Las Vegas in San Miguel county;

22. one million eighty-two thousand dollars (\$1,082,000) to plan, design, construct, install, furnish and equip a building for the applied technology program, including information technology and related infrastructure, at central New Mexico community college in Sandoval county;

23. one hundred thousand dollars (\$100,000) to plan, design, construct, install and equip awnings for the emergency medical services institute at Santa Fe community college in Santa Fe county;

24. five hundred twenty-three thousand three hundred two dollars (\$523,302) to plan, design, construct, furnish and equip electronic door access controls at the institute of American Indian arts in Santa Fe in Santa Fe county;

25. one million ninety-five thousand three hundred thirty-eight dollars (\$1,095,338) to plan, design, construct and equip infrastructure improvements and upgrades to loop road and emergency evacuation routes at Santa Fe community college in Santa Fe county;

26. four hundred thousand dollars (\$400,000) to plan, design, construct, furnish, equip and install a microgrid energy system at Santa Fe community college in Santa Fe in Santa Fe county; and

27. twenty thousand dollars (\$20,000) to purchase and equip a passenger van for Santa Fe community college in Santa Fe in Santa Fe county.

## **Chapter 199 Section 16 Laws 2023**

SECTION 16. 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 2023 through 2027, unless otherwise provided in Section 1 of this act, for the following purposes:

1. four hundred forty thousand dollars (\$440,000) to acquire land for an expansion of the campus and to plan, design, construct, furnish, renovate and equip improvements to buildings and grounds at the Twenty-First Century public academy, including fencing, information technology, security infrastructure and installation of related equipment, in Albuquerque in Bernalillo county;

2. three hundred thousand dollars (\$300,000) to plan, design, construct, furnish and equip improvements to buildings and grounds at ACE Leadership high school, including fencing, information technology, security infrastructure and installation of related equipment, in the Albuquerque public school district in Bernalillo county;

3. one hundred thousand dollars (\$100,000) to purchase school equipment, including classroom furniture and technology, and to install information technology and related equipment, furniture and infrastructure for science, technology, engineering and mathematics education at ACES technical charter school in Albuquerque in Bernalillo county;

4. three hundred fifty-five thousand dollars (\$355,000) to purchase and equip activity buses, including wheelchair lifts, for the Albuquerque sign language academy charter school in Bernalillo county;

5. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, furnish and equip improvements to buildings and grounds at the Albuquerque School of Excellence charter school, including fencing, information technology, security infrastructure, outdoor learning spaces and installation of related equipment, in Albuquerque in Bernalillo county;

6. one hundred thousand dollars (\$100,000) to plan, design, construct, furnish, equip, purchase and install improvements to buildings and grounds, including fencing, information technology and related equipment, furniture and infrastructure, a playground and related equipment, at the Albuquerque Collegiate charter school in Albuquerque in Bernalillo county;

7. two hundred twenty thousand dollars (\$220,000) to plan, design, construct, purchase and equip playground improvements at Alice King community school, including landscaping, field turf and drainage, in the Albuquerque public school district in Bernalillo county;

8. twenty thousand dollars (\$20,000) to plan, design, construct, furnish and equip improvements to buildings and grounds at Altura preparatory school, including fencing, information technology, security infrastructure and installation of related equipment, in Albuquerque in Bernalillo county;

9. ninety-five thousand dollars (\$95,000) to plan, design, construct, furnish and equip improvements to buildings and grounds at Cesar Chavez community school, including fencing, information technology, security infrastructure and installation of related equipment, in Albuquerque in Bernalillo county;

10. three hundred ninety-five thousand dollars (\$395,000) to plan, design, construct, furnish, renovate and equip improvements to buildings and grounds at the Cien Aguas international school, including fencing, information technology, security

infrastructure, a playground and installation of related equipment, in the Albuquerque public school district in Bernalillo county;

11. ninety-five thousand dollars (\$95,000) to plan, design, construct, renovate, furnish and equip improvements to buildings and grounds at the Coral community charter school, including fencing, information technology, security infrastructure, a science, technology, engineering, arts and mathematics learning space and installation of related equipment, in Albuquerque in Bernalillo county;

12. one hundred eighty-two thousand seven hundred seventy-eight dollars (\$182,778) to plan, design, construct, furnish, renovate and equip improvements to buildings and grounds at the Cottonwood Classical preparatory school, including fencing, information technology, security infrastructure, heating, ventilation and air conditioning systems and installation of related equipment, in Albuquerque in Bernalillo county;

13. three hundred twenty thousand dollars (\$320,000) to plan, design, construct, furnish, renovate, equip, install and improve buildings and grounds at Health Leadership charter high school, including fencing, information technology, security infrastructure and related equipment, in the Albuquerque public school district in Bernalillo county;

14. two hundred thousand dollars (\$200,000) to plan, design, construct, furnish and equip buildings and grounds at Mission Achievement and Success charter school, including fencing, information technology, security infrastructure and installation of related equipment, in Albuquerque in Bernalillo county;

15. two hundred seventy-five thousand dollars (\$275,000) to plan, design, construct, furnish, equip and improve buildings and grounds at the New Mexico academy for the Media Arts charter school, including fencing, information technology, security infrastructure and an outdoor green space, in Albuquerque in Bernalillo county;

16. five hundred seventy thousand dollars (\$570,000) to plan, design, construct, furnish, renovate and equip improvements to buildings and grounds at Robert F. Kennedy charter school, including fencing, information technology, security infrastructure, purchase of an activities vehicle and installation of related equipment, in the Albuquerque public school district in Bernalillo county;

17. four hundred thousand dollars (\$400,000) to plan, design, construct, furnish and equip improvements to buildings and grounds at the South Valley academy charter school, including fencing, information technology, security infrastructure and installation of related equipment, in the Albuquerque public school district in Bernalillo county;

18. four hundred thirty-two thousand dollars (\$432,000) to plan, design, construct, purchase, equip and improve facilities for the South Valley preparatory school in Albuquerque in Bernalillo county;

19. one hundred ninety-five thousand dollars (\$195,000) to plan, design, construct, furnish, equip, purchase and install improvements to buildings and grounds, including fencing, information technology and related equipment, furniture and infrastructure, security infrastructure and related equipment, for Solare Collegiate charter school in Albuquerque in Bernalillo county;

20. twenty-five thousand dollars (\$25,000) to plan, design, construct, purchase, renovate, expand, furnish and equip classrooms, a multipurpose area and early childhood facilities at South Valley preparatory school in Albuquerque in Bernalillo county;

21. two hundred seventy-five thousand dollars (\$275,000) to plan, design, construct, furnish and equip improvements to buildings and grounds at the Southwest Secondary learning center, including fencing, restrooms, information technology, security infrastructure and installation of related equipment, in Albuquerque in Bernalillo county;

22. two hundred thousand dollars (\$200,000) to plan, design, construct, furnish and equip improvements to buildings and grounds at the Southwest Aeronautics, Mathematics and Science academy charter school, including fencing, information technology, security infrastructure and installation of related equipment, in Albuquerque in Bernalillo county;

23. one hundred thousand dollars (\$100,000) to plan, design, construct, furnish, renovate and equip improvements to buildings and grounds at the International school at Mesa del Sol charter school, including fencing, information technology, security infrastructure and installation of related equipment, in the Albuquerque public school district in Bernalillo county;

24. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, equip and furnish outdoor benches and shade structures at Adobe Acres elementary school in the Albuquerque public school district in Bernalillo county;

25. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, purchase, equip and furnish outdoor benches and shade structures at Alamosa elementary school in the Albuquerque public school district in Bernalillo county;

26. one hundred thousand dollars (\$100,000) to plan, design, construct and improve the ~~[Our Youth mural painting at the]~~ Albuquerque high school cafeteria in the Albuquerque public school district in Bernalillo county; *LINE ITEM VETO*

27. one hundred twenty-five thousand dollars (\$125,000) to purchase and equip vehicles for the district police department in the Albuquerque public school district in Bernalillo county;

28. one hundred sixteen thousand four hundred ninety dollars (\$116,490) to plan, design, construct, equip, purchase and furnish infrastructure, shade structures, benches and landscaping for outdoor learning spaces, including equipment and infrastructure to improve wi-fi connectivity, at the Albuquerque public school district Title I McKinney-Vento program in the Albuquerque public school district in Bernalillo county;

29. ninety-nine thousand five hundred dollars (\$99,500) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing, at Armijo elementary school in the Albuquerque public school district in Bernalillo county;

30. ninety thousand dollars (\$90,000) to plan, design, construct and renovate fields, track areas, gymnasium floors and tennis courts, including the purchase and installation of weight room and sports equipment, fencing, bleachers, track resurfacing, paving and landscaping, at Arroyo del Oso elementary school in the Albuquerque public school district in Bernalillo county;

31. seventy-five thousand dollars (\$75,000) to plan, design, improve, construct, renovate, equip and install site improvements and information technology, including the purchase and installation of career technical equipment, infrastructure, furniture and fixtures, at Atrisco elementary school in the Albuquerque public school district in Bernalillo county;

32. two hundred thousand dollars (\$200,000) to plan, design, construct and renovate fields, track areas, gymnasium floors and tennis courts, including the purchase and installation of weight room and sports equipment, fencing, bleachers, track resurfacing, paving and landscaping, at Atrisco Heritage academy high school in the Albuquerque public school district in Bernalillo county;

33. forty thousand dollars (\$40,000) to purchase, install, furnish and improve library equipment, furniture, fixtures, bookshelves, books, information technology and infrastructure for libraries and bookrooms at Bellehaven elementary school in the Albuquerque public school district in Bernalillo county;

34. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing, at Carlos Rey elementary school in the Albuquerque public school district in Bernalillo county;

35. one hundred five thousand dollars (\$105,000) to plan, design, construct, renovate, equip and provide improvements to fine art facilities, art rooms, performing art

buildings and music classes, 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 Chamiza elementary school in the Albuquerque public school district in Bernalillo county;

36. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, equip and furnish outdoor benches and shade structures at Chaparral elementary school in the Albuquerque public school district in Bernalillo county;

37. two hundred twelve thousand nine hundred fifty dollars (\$212,950) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing, at Chelwood elementary school in the Albuquerque public school district in Bernalillo county;

38. one hundred fifty thousand dollars (\$150,000) to plan, design, construct and renovate fields, track areas, gymnasium floors and tennis courts, including the purchase and installation of weight room and sports equipment, fencing, bleachers, track resurfacing, paving and landscaping, at Cibola high school in the Albuquerque public school district in Bernalillo county;

39. ninety thousand dollars (\$90,000) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing, at Collet Park elementary school in the Albuquerque public school district in Bernalillo county;

40. one hundred seventy-one thousand dollars (\$171,000) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing, at Corrales elementary school in the Albuquerque public school district in Bernalillo county;

41. ninety-five thousand dollars (\$95,000) to plan, design, build, purchase, equip, furnish and install fixtures, furniture, flooring, carpet, window coverings and related equipment for student wellness rooms at Del Norte high school in the Albuquerque public school district in Bernalillo county;

42. fifty thousand dollars (\$50,000) to plan, design, construct, upgrade and renovate school facilities to improve energy efficiency and water conservation, including lighting, turf, solar panels, window coverings and xeriscaping, at Dennis Chavez elementary school in the Albuquerque public school district in Bernalillo county;

43. one hundred thousand dollars (\$100,000) to plan, design, construct, furnish, renovate, equip and install buildings and grounds, including information technology and related equipment, furniture and infrastructure, security infrastructure

and equipment and fencing, at the Digital Arts and Technology academy charter school in the Albuquerque public school district in Bernalillo county;

44. four hundred two thousand dollars (\$402,000) to plan, design and construct accessibility improvements, including for exterior stairways, at East Mountain high school in the Albuquerque public school district in Bernalillo county;

45. one hundred thousand dollars (\$100,000) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing, at east San Jose elementary school in the Albuquerque public school district in Bernalillo county;

46. seventy-five thousand dollars (\$75,000) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing, at Edmund G. Ross elementary school in the Albuquerque public school district in Bernalillo county;

47. seventy thousand dollars (\$70,000) to plan, design, construct and renovate fields, track areas, gymnasium floors and tennis courts, including the purchase and installation of weight room and sports equipment, fencing, bleachers, track resurfacing, paving and landscaping, at Edward Gonzales elementary school in the Albuquerque public school district in Bernalillo county;

48. eighty-five thousand dollars (\$85,000) to purchase, install, furnish and improve library equipment, furniture, fixtures, bookshelves, books, information technology and infrastructure for libraries and bookrooms at Eisenhower middle school in the Albuquerque public school district in Bernalillo county;

49. fifty thousand dollars (\$50,000) to plan, design, construct, renovate, furnish, equip, purchase and install improvements, including buildings and grounds, fencing, information technology and related furniture, equipment and infrastructure, security infrastructure and a science laboratory and related equipment, for El Camino Real academy charter school in the Albuquerque public school district in Bernalillo county;

50. one hundred forty thousand dollars (\$140,000) to plan, design, construct and renovate fields, track areas, gymnasium floors and tennis courts, including the purchase and installation of weight room and sports equipment, fencing, bleachers, track resurfacing, paving and landscaping, at Eldorado high school in the Albuquerque public school district in Bernalillo county;

51. one hundred seventy-six thousand dollars (\$176,000) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing,

at Emerson elementary school in the Albuquerque public school district in Bernalillo county;

52. twenty-five thousand dollars (\$25,000) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing, at Eugene Field elementary school in the Albuquerque public school district in Bernalillo county;

53. one hundred eighty-seven thousand five hundred dollars (\$187,500) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing, at Garfield science, technology, engineering and math magnet and community school in the Albuquerque public school district in Bernalillo county;

54. fifteen thousand dollars (\$15,000) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing, at Georgia O'Keeffe elementary school in the Albuquerque public school district in Bernalillo county;

55. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, furnish, renovate and equip buildings and grounds, fencing, security infrastructure and information technology and related furniture, equipment and infrastructure, including the purchase and installation of outdoor learning spaces and related equipment, for the Gilbert L. Sena charter high school in the Albuquerque public school district in Bernalillo county;

56. four hundred one thousand four hundred ninety dollars (\$401,490) to plan, design, construct and expand Gordon Bernell charter school, including a career development center for formerly incarcerated high school and adult education students, in the Albuquerque public school district in Bernalillo county;

57. two hundred twenty-five thousand dollars (\$225,000) to plan, design, construct and renovate fields, track areas, gymnasium floors and tennis courts, including the purchase and installation of weight room and sports equipment, fencing, bleachers, track resurfacing, paving and landscaping, at Grant middle school in the Albuquerque public school district in Bernalillo county;

58. one hundred thousand dollars (\$100,000) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing, at Griegos elementary school in the Albuquerque public school district in Bernalillo county;

59. two hundred thousand dollars (\$200,000) to plan, design, build, purchase, equip, furnish and install fixtures, furniture, flooring, carpet, window coverings and related equipment for student wellness rooms at Harrison middle school in the Albuquerque public school district in Bernalillo county;

60. one hundred seventy-five thousand eight hundred dollars (\$175,800) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing, at Hawthorne elementary school in the Albuquerque public school district in Bernalillo county;

61. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, purchase, equip and furnish outdoor benches and shade structures at Hayes middle school in the Albuquerque public school district in Bernalillo county;

62. one hundred thousand dollars (\$100,000) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing, at Helen Cordero elementary school in the Albuquerque public school district in Bernalillo county;

63. one hundred thirty-three thousand dollars (\$133,000) to purchase, acquire, furnish, improve or install library equipment, furniture, fixtures, bookshelves, books, information technology and infrastructure for the improvements for libraries and bookrooms at Highland high school in the Albuquerque public school district in Bernalillo county;

64. sixty-five thousand dollars (\$65,000) to plan, design, construct and renovate fields, track areas, gymnasium floors and tennis courts, including the purchase and installation of weight room and sports equipment, fencing, bleachers, track resurfacing, paving and landscaping, at Hoover middle school in the Albuquerque public school district in Bernalillo county;

65. seventy-five thousand dollars (\$75,000) to purchase, install, furnish and improve library equipment, furniture, fixtures, bookshelves, books, information technology and infrastructure for libraries and bookrooms at Hubert H. Humphrey elementary school in the Albuquerque public school district in Bernalillo county;

66. seventy-five thousand dollars (\$75,000) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing, at Inez elementary school in the Albuquerque public school district in Bernalillo county;

67. two hundred twenty-five thousand dollars (\$225,000) to plan, design, construct and renovate fields, track areas, gymnasium floors and tennis courts, including the purchase and installation of weight room and sports equipment, fencing, bleachers, track resurfacing, paving and landscaping, at Jackson middle school in the Albuquerque public school district in Bernalillo county;

68. fifty thousand dollars (\$50,000) to plan, design, construct, equip, purchase and furnish infrastructure, shade structures, benches and landscaping for outdoor learning spaces, including equipment and infrastructure to improve wireless internet

connectivity, at Janet Kahn school of integrated arts in the Albuquerque public school district in Bernalillo county;

69. seventy-five thousand dollars (\$75,000) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing, at Jefferson middle school in the Albuquerque public school district in Bernalillo county;

70. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, equip and furnish outdoor benches and shade structures at Jimmy Carter middle school in the Albuquerque public school district in Bernalillo county;

71. one hundred fifty thousand dollars (\$150,000) to plan, design, construct and renovate fields, track areas, gymnasium floors and tennis courts, including the purchase and installation of weight room and sports equipment, fencing, bleachers, track resurfacing, paving and landscaping, at John Adams middle school in the Albuquerque public school district in Bernalillo county;

72. sixty-five thousand dollars (\$65,000) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing, at John Baker elementary school in the Albuquerque public school district in Bernalillo county;

73. one hundred fifty thousand dollars (\$150,000) to plan, design, construct and renovate fields, track areas, gymnasium floors and tennis courts, including the purchase and installation of weight room and sports equipment, fencing, bleachers, track resurfacing, paving and landscaping, at Kennedy middle school in the Albuquerque public school district in Bernalillo county;

74. one hundred thousand dollars (\$100,000) to plan, design, construct and renovate fields, track areas, gymnasium floors and tennis courts, including the purchase and installation of weight room and sports equipment, fencing, bleachers, track resurfacing, paving and landscaping, at Kit Carson elementary school in the Albuquerque public school district in Bernalillo county;

75. three hundred fifty thousand dollars (\$350,000) to plan, design, construct, furnish, renovate and equip buildings and grounds, fencing, information technology and related equipment, furniture and infrastructure and security infrastructure, including the purchase and installation of portable buildings and related equipment, at La Academia de Esperanza charter school in the Albuquerque public school district in Bernalillo county;

76. ninety thousand dollars (\$90,000) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing, at La Cueva high school in the Albuquerque public school district in Bernalillo county;

77. one hundred two thousand dollars (\$102,000) to purchase and install information technology, including related equipment, furniture and infrastructure, digital touch screens and classroom presentation boards, at La Mesa elementary school in the Albuquerque public school district in Bernalillo county;

78. two hundred twenty-five thousand eight hundred fifty dollars (\$225,850) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing, at Lyndon B. Johnson middle school in the Albuquerque public school district in Bernalillo county;

79. fifty thousand dollars (\$50,000) to plan, design, construct, equip, purchase and furnish infrastructure, shade structures, benches and landscaping for outdoor learning spaces, including equipment and infrastructure to improve wireless internet connectivity, at Lew Wallace elementary school in the Albuquerque public school district in Bernalillo county;

80. fifty thousand dollars (\$50,000) to plan, design, construct, purchase, equip and furnish outdoor benches and shade structures at Longfellow elementary school in the Albuquerque public school district in Bernalillo county;

81. one hundred thousand dollars (\$100,000) to plan, design, construct, equip, purchase and furnish infrastructure, shade structures, benches and landscaping for outdoor learning spaces, including equipment and infrastructure to improve wireless internet connectivity, at Los Padillas elementary school in the Albuquerque public school district in Bernalillo county;

82. one hundred thousand dollars (\$100,000) to plan, design, construct, furnish, renovate and equip buildings and grounds, including fencing, information technology and related equipment, furniture, infrastructure, security infrastructure and related equipment, for Los Puentes charter school in the Albuquerque public school district in Bernalillo county;

83. one hundred twenty thousand dollars (\$120,000) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing, at Los Ranchos elementary school in the Albuquerque public school district in Bernalillo county;

84. one hundred seventy thousand dollars (\$170,000) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing, at MacArthur elementary school in the Albuquerque public school district in Bernalillo county;

85. seventy-five thousand dollars (\$75,000) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing, at Madison middle school in the Albuquerque public school district in Bernalillo county;

86. two hundred thousand dollars (\$200,000) to plan, design, improve, construct, renovate, equip and install site improvements and information technology, including the purchase and installation of career technical equipment, infrastructure, furniture and fixtures, at Manzano high school in the Albuquerque public school district in Bernalillo county;

87. two hundred fifty thousand dollars (\$250,000) to plan, design, build, purchase, equip, furnish and install fixtures, furniture, flooring, carpet, window coverings and related equipment for student wellness rooms at Marie Hughes elementary school in the Albuquerque public school district in Bernalillo county;

88. five hundred twenty-five thousand dollars (\$525,000) to plan, design, construct, purchase, improve, renovate and equip facilities at Mark Armijo academy in the Albuquerque public school district in Bernalillo county;

89. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing, at Mary Ann Binford elementary school in the Albuquerque public school district in Bernalillo county;

90. one hundred twenty thousand dollars (\$120,000) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing, at Mission Avenue elementary school in the Albuquerque public school district in Bernalillo county;

91. fifty thousand dollars (\$50,000) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing, at Monte Vista elementary school in the Albuquerque public school district in Bernalillo county;

92. fifty thousand dollars (\$50,000) to plan, design, construct and improve the grounds, including the purchase and installation of fencing, turf, drainage improvements, landscaping and related equipment, at Montessori of the Rio Grande charter school in the Albuquerque public school district in Bernalillo county;

93. forty thousand dollars (\$40,000) to plan, design, construct, purchase, equip and furnish outdoor benches and shade structures at Montezuma elementary school in the Albuquerque public school district in Bernalillo county;

94. one hundred thousand dollars (\$100,000) to plan, design, construct, equip, purchase and furnish infrastructure, shade structures, benches and landscaping for outdoor learning spaces, including equipment and infrastructure to improve wireless internet connectivity, at Mountain View elementary school in the Albuquerque public school district in Bernalillo county;

95. seventy-five thousand dollars (\$75,000) to plan, design, construct and renovate fields, track areas, gymnasium floors and tennis courts, including the purchase and installation of weight room and sports equipment, fencing, bleachers, track resurfacing, paving and landscaping, at Navajo elementary school in the Albuquerque public school district in Bernalillo county;

96. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, equip and furnish outdoor benches and shade structures at Nex+Gen academy in the Albuquerque public school district in Bernalillo county;

97. fifty thousand dollars (\$50,000) to plan, design, construct and renovate fields, track areas, gymnasium floors and tennis courts, including the purchase and installation of weight room and sports equipment, fencing, bleachers, track resurfacing, paving and landscaping, at North Star elementary school in the Albuquerque public school district in Bernalillo county;

98. seventy-five thousand dollars (\$75,000) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing, at Onate elementary school in the Albuquerque public school district in Bernalillo county;

99. ninety thousand dollars (\$90,000) to plan, design, construct and renovate fields, track areas, gymnasium floors and tennis courts, including the purchase and installation of weight room and sports equipment, fencing, bleachers, track resurfacing, paving and landscaping, at Osuna elementary school in the Albuquerque public school district in Bernalillo county;

100. one hundred thousand dollars (\$100,000) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing, at Pajarito elementary school in the Albuquerque public school district in Bernalillo county;

101. one hundred three thousand nine hundred three dollars (\$103,903) to plan, design, construct and renovate fields, track areas, gymnasium floors and tennis courts, including the purchase and installation of weight room and sports equipment, fencing, bleachers, track resurfacing, paving and landscaping, at Petroglyph elementary school in the Albuquerque public school district in Bernalillo county;

102. fifty thousand dollars (\$50,000) to plan, design, construct and renovate fields, track areas, gymnasium floors and tennis courts, including the purchase and

installation of weight room and sports equipment, fencing, bleachers, track resurfacing, paving and landscaping, at Reginald Chavez elementary school in the Albuquerque public school district in Bernalillo county;

103. six hundred thousand dollars (\$600,000) to plan, design, construct, purchase, renovate, equip and improve the grounds and parking lots, including fencing, resurfacing, striping, drainage, traffic signs and landscaping, at Rio Grande high school in the Albuquerque public school district in Bernalillo county;

104. one hundred twenty thousand dollars (\$120,000) to plan, design, construct and renovate fields, track areas, gymnasium floors and tennis courts, including the purchase and installation of weight room and sports equipment, fencing, bleachers, track resurfacing, paving and landscaping, at Rio Grande high school in the Albuquerque public school district in Bernalillo county;

105. forty thousand dollars (\$40,000) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing, at Rudolfo Anaya elementary school in the Albuquerque public school district in Bernalillo county;

106. sixty-five thousand dollars (\$65,000) to purchase, install, furnish and improve library equipment, furniture, fixtures, bookshelves, books, information technology and infrastructure for libraries and bookrooms at S.Y. Jackson elementary school in the Albuquerque public school district in Bernalillo county;

107. six hundred thousand dollars (\$600,000) to plan, design, construct and renovate fields, track areas, gymnasium floors and tennis courts, including the purchase and installation of weight room and sports equipment, fencing, bleachers, track resurfacing, paving and landscaping, at Sandia high school in the Albuquerque public school district in Bernalillo county;

108. one hundred two thousand two hundred seventy-eight dollars (\$102,278) to plan, design, construct, equip, purchase and furnish infrastructure, shade structures, benches and landscaping for outdoor learning spaces, including equipment and infrastructure to improve wireless internet connectivity, at Sandia mountain natural history center in the Albuquerque public school district in Bernalillo county;

109. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, furnish, renovate and equip buildings and grounds, including fencing, information technology and related equipment, furnishings and infrastructure, security infrastructure and installation of related equipment, for the Siembra Leadership high school in the Albuquerque public school district in Bernalillo county;

110. one hundred seventy-five thousand eight hundred fifty dollars (\$175,850) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways

and fencing, at Sierra Vista elementary school in the Albuquerque public school district in Bernalillo county;

111. fifty thousand dollars (\$50,000) to plan, design, construct, equip, purchase and furnish infrastructure, shade structures, benches and landscaping for outdoor learning spaces, including equipment and infrastructure to improve wireless internet connectivity, at Sombra del Monte elementary school in the Albuquerque public school district in Bernalillo county;

112. fifty-three thousand three hundred eighty-eight dollars (\$53,388) to plan, design, construct, upgrade and renovate school facilities to improve energy efficiency and water conservation, including lighting, turf, solar panels, window coverings and xeriscaping, at Sunset View elementary school in the Albuquerque public school district in Bernalillo county;

113. one hundred seventy-five thousand eight hundred fifty dollars (\$175,850) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing, at Susie Rayos Marmon elementary school in the Albuquerque public school district in Bernalillo county;

114. one hundred twenty thousand dollars (\$120,000) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing, at Taft middle school in the Albuquerque public school district in Bernalillo county;

115. one hundred eighty-one thousand three hundred sixty-seven dollars (\$181,367) to plan, design, construct, equip, purchase and furnish infrastructure, shade structures, benches and landscaping for outdoor learning spaces, including equipment and infrastructure to improve wireless internet connectivity, at Taylor middle school in the Albuquerque public school district in Bernalillo county;

116. one hundred seventy-five thousand eight hundred fifty dollars (\$175,850) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing, at Tierra Antigua elementary school in the Albuquerque public school district in Bernalillo county;

117. one hundred seventy-five thousand dollars (\$175,000) to plan, design, construct, renovate, purchase, equip and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing, at Tomasita elementary school in the Albuquerque public school district in Bernalillo county;

118. one hundred thirty-eight thousand nine hundred eighty dollars (\$138,980) to plan, design, construct, upgrade and renovate school facilities to improve energy

efficiency and water conservation, including lighting, turf, solar panels, window coverings and xeriscaping, at Tony Hillerman middle school in the Albuquerque public school district in Bernalillo county;

119. one hundred fifty thousand dollars (\$150,000) to plan, design, construct and renovate fields, track areas, gymnasium floors and tennis courts, including the purchase and installation of weight room and sports equipment, fencing, bleachers, track resurfacing, paving and landscaping, at Tres Volcanes community collaborative school in the Albuquerque public school district in Bernalillo county;

120. one hundred seventy-five thousand dollars (\$175,000) to plan, design, construct, purchase, equip and furnish outdoor benches and shade structures at Truman middle school in the Albuquerque public school district in Bernalillo county;

121. three hundred twenty-two thousand five hundred dollars (\$322,500) to plan, design, construct and renovate fields, track areas, gymnasium floors and tennis courts, including the purchase and installation of weight room and sports equipment, fencing, bleachers, track resurfacing, paving and landscaping, at Valley high school in the Albuquerque public school district in Bernalillo county;

122. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, renovate, equip and improve the buildings and grounds, including the purchase and installation of a marquee, exterior lighting and electrical systems, at Van Buren middle school in the Albuquerque public school district in Bernalillo county;

123. one hundred five thousand dollars (\$105,000) to purchase and install information technology, including related equipment, furniture and infrastructure, digital touch screens and classroom presentation boards, at Van Buren middle school in the Albuquerque public school district in Bernalillo county;

124. one hundred twenty-five thousand dollars (\$125,000) to plan, design, improve, construct, renovate, equip and install site improvements and information technology, including the purchase and installation of career technical equipment, infrastructure, furniture and fixtures, at Ventana Ranch elementary school in the Albuquerque public school district in Bernalillo county;

125. seventy thousand dollars (\$70,000) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing, at Vision Quest alternative middle school in the Albuquerque public school district in Bernalillo county;

126. three hundred twenty-one thousand one hundred ninety dollars (\$321,190) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing, at Volcano Vista high school in the Albuquerque public school district in Bernalillo county;

127. fifty-five thousand dollars (\$55,000) to plan, design, construct, renovate, equip and provide improvements to fine art facilities, art rooms, performing art buildings and music classes, 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 Washington middle school in the Albuquerque public school district in Bernalillo county;

128. one hundred seventy-five thousand eight hundred fifty dollars (\$175,850) to plan, design, construct, renovate, purchase and improve security systems, including upgrades to technology and facilities, the purchase and installation of secure entryways and fencing, at West Mesa high school in the Albuquerque public school district in Bernalillo county;

129. fifty thousand dollars (\$50,000) to plan, design, build, purchase, equip, furnish and install fixtures, furniture, flooring, carpet, window coverings and related equipment for student wellness rooms at Whittier elementary in the Albuquerque public school district in Bernalillo county;

130. one hundred fifty-five thousand dollars (\$155,000) to plan, design, construct, renovate, equip and provide improvements to fine art facilities, art rooms, performing art buildings and music classes, 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 Wilson middle school in the Albuquerque public school district in Bernalillo county;

131. one hundred fifty-two thousand two hundred seventy-eight dollars (\$152,278) to plan, design, construct, equip, purchase and furnish infrastructure, shade structures, benches and landscaping for outdoor learning spaces, including equipment and infrastructure to improve wireless internet connectivity, at Wilson middle school in the Albuquerque public school district in Bernalillo county;

132. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, improve and equip bathrooms at Lake Arthur high school in the Lake Arthur municipal school district in Chaves county;

133. two hundred twenty-five thousand dollars (\$225,000) to plan, design, construct and repair the roof at Lake Arthur middle school in the Lake Arthur municipal school district in Chaves county;

134. two hundred ten thousand dollars (\$210,000) to purchase and equip an activity bus for the Melrose municipal school district in Curry county;

135. one hundred thousand dollars (\$100,000) to purchase, install and equip a controlled environment vertical garden unit at Hatch Valley high school in the Hatch Valley public school district in Dona Ana county;

136. seventy-five thousand dollars (\$75,000) to plan, design, construct and renovate an employee assistance and staff wellness center in the Las Cruces public school district in Dona Ana county;

137. two hundred thousand dollars (\$200,000) to plan, design, construct, furnish, renovate and equip buildings and grounds, including fencing, information technology and related equipment, furniture and infrastructure, security infrastructure and installation of related equipment, and to purchase and equip activities vehicles for the New America school in Las Cruces in Dona Ana county;

138. one hundred ninety-seven thousand one hundred forty-seven dollars (\$197,147) to plan, design, construct and renovate the front area of the school as a plaza mercado to showcase student work from the career and technical education programs at the Rio Grande preparatory institute in the Las Cruces public school district in Dona Ana county;

139. eight hundred thousand dollars (\$800,000) to plan, design, construct, renovate, equip and improve the running track at the Bulldog bowl for the Artesia public school district in Eddy county;

140. five hundred thousand dollars (\$500,000) to plan, design, construct, purchase, equip and improve the career technical education facilities for the Artesia public school district in Eddy county;

141. fifty thousand dollars (\$50,000) to plan, design, construct, equip and furnish improvements to the schools in Cliff in the Silver consolidated school district in Grant county;

142. one hundred eighty-five thousand dollars (\$185,000) to plan, design, construct, improve, purchase and install information technology and security systems, including related infrastructure, equipment, furniture and cameras, for the Cobre consolidated school district in Grant county;

143. five hundred thousand dollars (\$500,000) to plan, design, construct, equip and furnish improvements to athletic complexes at the Cobre consolidated school district in Grant county;

144. one hundred sixty thousand dollars (\$160,000) to purchase and equip activity vehicles for Aldo Leopold charter school in Silver City in Grant county;

145. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, furnish and equip improvements to Aldo Leopold charter school in Silver City in Grant county;

146. seventy-five thousand dollars (\$75,000) to plan, design, construct, furnish and equip improvements to outdoor classrooms at Aldo Leopold charter school in Silver City in Grant county;

147. three hundred thirty thousand dollars (\$330,000) to purchase and equip activity buses for the Silver consolidated school district in Silver City in Grant county;

148. one hundred fifteen thousand dollars (\$115,000) to purchase and equip an activity bus for the Santa Rosa consolidated school district in Guadalupe county;

149. seventy-five thousand dollars (\$75,000) to purchase and equip a maintenance service truck with utility box and utility dump trailer for the Animas public school district in Hidalgo county;

150. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, replace and install security system cameras for the Lordsburg municipal school district in Hidalgo county;

151. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, install and equip a security system for Ben Alexander elementary school, including playground fencing, a main entrance security gate, cameras, card access equipment and integration into the district security systems, in the Lovington municipal school district in Lea county;

152. fifty thousand dollars (\$50,000) to plan, design, construct, purchase, install and equip a main entrance security system for Jefferson elementary school, including cameras and card access equipment and integration into the district security systems, in the Lovington municipal school district in Lea county;

153. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, purchase, install and equip two main entrance security systems for Llano elementary school, including cameras and card access equipment and integration into the district security systems, in the Lovington municipal school district in Lea county;

154. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, install and equip a main entrance security gate from the student parking lot to the main campus, including cameras and access controls, and to purchase and install one-way view film on classroom windows at Lovington high school in the Lovington municipal school district in Lea county;

155. seventy-five thousand dollars (\$75,000) to plan, design, construct, purchase, install and equip a main entrance security system for Sixth Grade academy, including cameras and card access equipment and integration into the district security systems, in the Lovington municipal school district in Lea county;

156. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, install and equip security systems, fencing and gates, including access control equipment, cameras and integration into district security systems, for classroom wings at Yarbrow elementary school in the Lovington municipal school district in Lea county;

157. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct and improve roofing in the Hondo Valley public school district in Lincoln county;

158. seven hundred sixty thousand dollars (\$760,000) to plan, design, purchase and construct a water tank for the Hondo Valley public school district in Lincoln county;

159. one hundred seventy-five thousand dollars (\$175,000) to plan, design, construct, furnish and equip a security system, including secure entrances, at an early childhood complex for the region 9 education cooperative in Ruidoso in Lincoln county;

160. fifty thousand dollars (\$50,000) to plan, design, construct and equip improvements to the region 9 education cooperative main offices, including a conference room and an elevator and bathrooms that meet accessibility requirements, in Ruidoso in Lincoln county;

161. thirty-four thousand five hundred dollars (\$34,500) to purchase, equip and install exterior doors at the region 9 education cooperative main offices in Ruidoso in Lincoln county;

162. twenty-five thousand dollars (\$25,000) to plan, design, construct and upgrade electrical fixtures and infrastructure at the main offices of the region 9 education cooperative in Ruidoso in Lincoln county;

163. three hundred two thousand dollars (\$302,000) to plan, design, construct and replace a roof at the region 9 education cooperative main offices in Ruidoso in Lincoln county;

164. fifty thousand dollars (\$50,000) to purchase, equip and install security fencing at Mora high school and Holman elementary school in the Mora independent school district in Mora county;

165. three hundred twenty-five thousand dollars (\$325,000) to plan, design, construct, furnish, equip and improve a building for use as a recreation and emergency evacuation facility in the Mora independent school district in Mora county;

166. fifty thousand dollars (\$50,000) to plan, design, construct, replace and install fire panels for the elementary and high schools in the Wagon Mound public school district in Mora county;

167. one hundred fifteen thousand dollars (\$115,000) to purchase and equip an activity bus for the Wagon Mound public school district in Mora county;

168. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to Tierra Amarilla elementary school, including structural repair, mold remediation and sidewalk repair for accessibility and code compliance, in the Chama Valley independent school district in Rio Arriba county;

169. forty thousand dollars (\$40,000) to purchase and equip a utility terrain vehicle for security staff at Espanola valley high school in the Espanola public school district in Rio Arriba county;

170. two hundred ten thousand dollars (\$210,000) to plan, design, install and construct security system improvements, including perimeter fencing, cameras, vape detectors and supporting technology, for the McCurdy charter school in Espanola in Rio Arriba county;

171. two hundred six thousand two hundred twenty-two dollars (\$206,222) to plan, design and construct an all-season turf playground at El Rito elementary school and to plan, design, construct, improve and replace heating, ventilation and air conditioning systems at El Rito elementary school and Ojo Caliente elementary school in the Mesa Vista consolidated school district in Rio Arriba county;

172. three hundred twenty-five thousand dollars (\$325,000) to purchase and equip an activity bus, including addition of the school logo and colors, for the Elida municipal school district in Roosevelt county;

173. one hundred ten thousand dollars (\$110,000) to plan, design, construct, replace and improve flooring in the gymnasium lobby, elementary school hallways and high school hallways in the Elida municipal school district in Roosevelt county;

174. one hundred seventy-five thousand dollars (\$175,000) to plan, design, construct, replace and improve floors in a gymnasium and a multipurpose room in the Floyd municipal school district in Roosevelt county;

175. one hundred thousand dollars (\$100,000) to plan, design, construct, furnish and equip a science laboratory, including plumbing, electrical, heating, ventilation and air conditioning systems and safety equipment, for Memorial middle school in the Las Vegas city public school district in San Miguel county;

176. one hundred thousand dollars (\$100,000) to plan, design, construct and replace bleachers in the Michael Marr gymnasium at Robertson high school in the Las Vegas city public school district in San Miguel county;

177. two hundred thousand dollars (\$200,000) to plan, design, construct, furnish and equip a greenhouse at the West Las Vegas high school in the West Las Vegas public school district in San Miguel county;

178. one hundred thousand dollars (\$100,000) to purchase and equip sound systems for the West Las Vegas public school district in San Miguel county;

179. one hundred thousand dollars (\$100,000) to plan, design, construct and equip a health and wellness center at West Las Vegas high school in the West Las Vegas public school district in San Miguel county;

180. forty thousand dollars (\$40,000) to purchase and install water filtration systems for the Las Vegas city public school district in San Miguel county;

181. fifty thousand dollars (\$50,000) to plan, design, construct, improve and replace a water system, including water treatment facilities, wells, ventilation and drainage, for Mike Mateo Sena elementary school in the Las Vegas city public school district in San Miguel county;

182. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase and install gutters, downspouts and related piping and drains for two buildings on the Robertson high school campus in the Las Vegas city public school district in San Miguel county;

183. one hundred sixty thousand dollars (\$160,000) to plan, design, construct, renovate and equip the media arts center at Robertson high school, including cameras, a studio laboratory and audio equipment, in the Las Vegas city public school district in San Miguel county;

184. two hundred thousand dollars (\$200,000) to plan, design, construct, furnish and equip a multicultural center for the Cochiti elementary and middle schools, including training spaces and language and innovation classrooms, in the Bernalillo public school district in Sandoval county;

185. three hundred ten thousand dollars (\$310,000) to plan, design, construct, furnish, equip and renovate areas within a school building for use as a health facility, including fencing, information technology and related furnishings, equipment and infrastructure, security infrastructure and purchase and installation of related equipment, for the Cuba independent school district in Sandoval county;

186. sixty thousand dollars (\$60,000) to plan, design and replace the baseball scoreboards for Rio Rancho high school and V. Sue Cleveland high school in the Rio Rancho public school district in Sandoval county;

187. fifteen thousand dollars (\$15,000) to purchase and equip a public address sound system for the Rio Rancho high school gymnasium in the Rio Rancho public school district in Sandoval county;

188. three hundred thousand dollars (\$300,000) to plan, design, purchase and install an access control system for the career technical education center in the Rio Rancho public school district in Sandoval county;

189. three hundred thousand dollars (\$300,000) to plan, design, purchase and install a security camera system for the career technical education center in the Rio Rancho public school district in Sandoval county;

190. two hundred thousand dollars (\$200,000) to plan, design, purchase and install a gunshot detection system for the career technical education center in the Rio Rancho public school district in Sandoval county;

191. two hundred thousand dollars (\$200,000) to plan, design, construct, furnish, renovate and equip buildings and grounds, including fencing, information technology and related equipment, furniture and infrastructure, security infrastructure and related equipment, at the Sandoval academy of bilingual education in Rio Rancho in Sandoval county;

192. nine hundred eighty-seven thousand dollars (\$987,000) to plan, design, construct, furnish and equip improvements to buildings and grounds at the ASK Academy charter school, including fencing, information technology, security infrastructure and installation of related equipment, in Rio Rancho in Sandoval county;

193. one million dollars (\$1,000,000) to plan, design, purchase and install a fire protection system for Enchanted Hills elementary school in the Rio Rancho public school district in Sandoval county;

194. five hundred thousand dollars (\$500,000) to plan, design, purchase and install a fire protection system for Rio Rancho elementary school in the Rio Rancho public school district in Sandoval county;

195. two hundred fifty thousand dollars (\$250,000) to purchase and install intercom equipment to meet code requirements for fire alarm integration at campuses throughout the Rio Rancho public school district in Sandoval county;

196. one hundred thousand dollars (\$100,000) to plan, design, purchase and install security cameras for middle schools throughout the Rio Rancho public school district in Sandoval county;

197. four hundred fifty thousand dollars (\$450,000) to plan, design, purchase and install wireless network access points and cabling infrastructure for campuses throughout the Rio Rancho public school district in Sandoval county;

198. two hundred thirty-five thousand dollars (\$235,000) to plan, design, construct, replace and renovate an elementary school playground at the Turquoise Trail charter school in Santa Fe county;

199. six hundred eighty-five thousand dollars (\$685,000) to plan, design, construct, equip and furnish the final phase of a student dormitory for the New Mexico school for the arts in Santa Fe in Santa Fe county;

200. one hundred forty thousand dollars (\$140,000) to plan, design, construct and replace water lines and infrastructure, including demolition, removal and replacement of concrete, building foundations, flooring and soil, at Ortiz middle school in the Santa Fe public school district in Santa Fe county;

201. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, furnish and equip a track and field sports facility, including parking, concessions, restrooms, a storage building, field lighting, drainage, fencing, bleachers and related furnishings, for the academy for Technology and the Classics charter school in the Santa Fe public school district in Santa Fe county;

202. two hundred thousand dollars (\$200,000) to plan, design, construct, furnish, renovate and equip buildings and grounds, including fencing, information technology and related equipment, furniture and infrastructure, security infrastructure and related equipment, at the Thrive community charter school in Santa Fe in Santa Fe county;

203. eight hundred fifteen thousand dollars (\$815,000) to plan, design and construct affordable housing for lease to district staff on property owned by the Santa Fe public school district in Santa Fe county;

204. two hundred thousand dollars (\$200,000) to plan, design, construct, improve and repair buildings and grounds at the Roots and Wings community school in Taos county;

205. two hundred seventy-five thousand dollars (\$275,000) to plan, design, construct and equip a security system for district schools, including cameras, security gates, security doors and technology and equipment to operate the system, in the Questa independent school district in Taos county;

206. four hundred thousand dollars (\$400,000) to plan, design, construct and equip facilities, including parking lots, fencing and playground equipment, for the Red River Valley charter school in Red River in Taos county;

207. one hundred thousand dollars (\$100,000) to plan, design, construct and equip a career technical education facility for Taos academy charter school in Taos in Taos county;

208. one hundred ten thousand dollars (\$110,000) to plan, design, construct, purchase and equip a portable building and a modular building for a middle school at Vista Grande charter high school in Taos in Taos county;

209. three hundred thousand dollars (\$300,000) to plan, design and construct a building and to construct and improve facilities, including a secure covered entry portal and upgrades to electrical, plumbing, technology and security systems, at the Anansi charter school in the Taos municipal school district in Taos county;

210. three million five hundred ten thousand dollars (\$3,510,000) to plan, design, construct, furnish and equip an auxiliary multipurpose gym for the Taos municipal school district in Taos county;

211. one hundred twenty-five thousand dollars (\$125,000) to purchase and equip an activity bus with wheelchair lift capabilities for the Mountainair public school district in Tarrant county;

212. one hundred thousand dollars (\$100,000) to plan, design and construct parking lot and traffic flow improvements at the New Mexico International school in the Albuquerque public school district in Bernalillo county; and

213. two hundred fifty thousand dollars (\$250,000) to plan, design and construct parking lot improvements, including entrance and exit roads and paving, sealing and striping, in the Animas public school district in Hidalgo county.

## **Chapter 199 Section 17 Laws 2023**

SECTION 17. STATE PARKS DIVISION OF THE ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT PROJECT--GENERAL FUND.--One million six hundred thousand dollars (\$1,600,000) is appropriated from the general fund to the state parks division of the energy, minerals and natural resources department for expenditure in fiscal years 2023 through 2027, unless otherwise provided in Section 1 of this act, to plan, design, construct and equip improvements to water and wastewater infrastructure in state parks statewide.

## **Chapter 199 Section 18 Laws 2023**

SECTION 18. 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 2023 through 2027, unless otherwise provided in Section 1 of this act, for the following purposes:

1. two hundred ten thousand dollars (\$210,000) to plan, design, construct and extend three phase power from the River's Edge 1 subdivision to the Corrales siphon outfall for the operation of electrical pumps for the middle Rio Grande conservancy district in Bernalillo and Sandoval counties;

2. one hundred thirty thousand dollars (\$130,000) for the middle Rio Grande conservancy district to plan, design, construct, purchase and install improvements for the Alamos de Los Gallegos acequia association in Bernalillo county;
3. two hundred thousand dollars (\$200,000) to plan, design, purchase, construct, equip and replace a turbine and pump for the Fort Sumner irrigation district in Fort Sumner in De Baca county;
4. one million two hundred thousand dollars (\$1,200,000) to plan, design, construct and equip the Brahman diversion channel flood control structure to convey surface water runoff to Isaack lake in Dona Ana county;
5. one million two hundred thousand dollars (\$1,200,000) to acquire easements and to plan, design and construct a flume at road 4599 in the area of Blanco in San Juan county;
6. two million dollars (\$2,000,000) to plan, design, construct and improve water reservoir 1 in Aztec in San Juan county;
7. eight million dollars (\$8,000,000) for the rehabilitation of Peterson Dam for Las Vegas in San Miguel county;
8. seven hundred fifty thousand dollars (\$750,000) to plan, design and construct improvements to storm water transmission facilities, including the Sunset channel, for the southern Sandoval county arroyo flood control authority in Sandoval county;
9. five million dollars (\$5,000,000) for dam rehabilitation, including up to one hundred fifty thousand dollars (\$150,000) for administrative costs, statewide;
10. thirty million dollars (\$30,000,000) to acquire land and water rights and to plan, design, construct and equip infrastructure and land improvements to restore aquifers in the lower Rio Grande basin and to comply with settlement terms related to Rio Grande Compact litigation;
11. ten million dollars (\$10,000,000) to plan, design and construct river channel maintenance, habitat restoration and flood control projects in the middle Rio Grande basin;
12. two million dollars (\$2,000,000) to purchase, construct, install, map and calibrate surface and ground water measurement structures, equipment and related information technology statewide;
13. one hundred thousand dollars (\$100,000) to plan, design and construct flood mitigation improvements in Estancia in Tarrant county; and

14. two hundred fifty thousand dollars (\$250,000) to plan, design and construct irrigation water measurement structures for the middle Rio Grande conservancy district in irrigation canals in Valencia county.

## **Chapter 199 Section 19 Laws 2023**

SECTION 19. 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 2023 through 2027, unless otherwise provided in Section 1 of this act, for the following purposes:

1. one hundred forty thousand dollars (\$140,000) to acquire rights of way and easements and to plan, design, construct and equip an aquifer storage and recovery facility for the Albuquerque-Bernalillo county water utility authority in Bernalillo county;

2. one hundred fifteen thousand dollars (\$115,000) to plan, design, construct and equip an arsenic treatment plant and associated infrastructure for the Albuquerque-Bernalillo county water utility authority in Bernalillo county;

3. three hundred thousand dollars (\$300,000) to plan, design, construct, furnish and equip a non-potable water reuse treatment system, including reuse water distribution pipelines and pumping facilities, for the Albuquerque-Bernalillo county water utility authority in Bernalillo county;

4. three hundred thousand dollars (\$300,000) to plan, design, construct and equip wastewater system improvements, including wastewater collection systems and sewer service extensions to Carnuel, for the Albuquerque-Bernalillo county water utility authority in Bernalillo county;

5. five hundred twenty-six thousand four hundred ninety dollars (\$526,490) to plan, design, drill, construct and equip ground water monitoring wells, including siting, to measure ground water contamination in supply wells of the Albuquerque-Bernalillo county water utility authority in Bernalillo county;

6. three hundred eighteen thousand five hundred fifty dollars (\$318,550) to plan, design, construct, improve and equip a realignment of the southside water reclamation plant outfall, including bosque habitat, trails, riparian vegetation improvements and rootwad revetments, for the Albuquerque-Bernalillo county water utility authority in Bernalillo county;

7. five million fifty thousand dollars (\$5,050,000) to plan, design, construct and equip a wastewater reuse system for the Albuquerque-Bernalillo county water utility authority to provide reclaimed water to the Winrock site and public parks in Albuquerque in Bernalillo county;

8. one hundred thousand dollars (\$100,000) to plan, design, construct and equip improvements to the Paakweree Village mutual domestic water consumers association, including connection to the Albuquerque-Bernalillo county water utility authority, in Bernalillo county;
9. one hundred thousand dollars (\$100,000) to purchase and equip an automated water meter reading system for the Sierra Vista mutual domestic association in Bernalillo county;
10. one hundred thousand dollars (\$100,000) to acquire property for and to plan, design, construct and equip infrastructure for flood mitigation, including storm drain facilities and bioswales, in the Pueblo Alto area in Albuquerque in Bernalillo county;
11. two hundred thousand dollars (\$200,000) to plan, design and construct a water well for the Tijeras community water system in Tijeras in Bernalillo county;
12. three hundred thirty-two thousand dollars (\$332,000) to purchase and equip pipe for a water well transmission line for the Entranosa water and wastewater association in Tijeras in Bernalillo county;
13. one hundred thousand dollars (\$100,000) to plan, design and construct a municipal sewer system for Tijeras in Bernalillo county;
14. two hundred thirty-five thousand dollars (\$235,000) to acquire property, easements and rights of way and to plan, design, construct and improve the water system, including replacement of a water line, for the Fambrough mutual domestic water consumers association in Chaves county;
15. five hundred thousand dollars (\$500,000) to plan, design, construct and improve the sewer and water systems in Hagerman in Chaves county;
16. two hundred fifty thousand dollars (\$250,000) to plan, design and construct wastewater system improvements, including upgrading manholes and pumps, in Lake Arthur in Chaves county;
17. three hundred thousand dollars (\$300,000) to plan, design and construct water system improvements, including replacement lines and valves, in Roswell in Chaves county;
18. two hundred thousand dollars (\$200,000) to plan, design, purchase, construct, replace and equip gate valves for the Bluewater Acres domestic water users association in Cibola county;
19. two hundred thousand dollars (\$200,000) to plan, design, construct and improve a lagoon for the San Rafael water and sanitation district in Cibola county;

20. one hundred thousand dollars (\$100,000) to plan, design, construct and improve the water system, including treatment plant upgrades and the replacement of wastewater lines, for Cimarron in Colfax county;
21. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to the water distribution system in Maxwell in Colfax county;
22. three hundred seventy-five thousand dollars (\$375,000) to purchase and equip a front loading trash collection truck for the county solid waste facility in De Baca county;
23. one hundred thousand dollars (\$100,000) to plan, design, construct and replace water well 8A for the Camino Real regional utility authority in Dona Ana county;
24. one hundred thousand dollars (\$100,000) to purchase backhoe equipment for the Garfield mutual domestic water consumers' and mutual sewage works association in Dona Ana county;
25. one hundred fifty thousand dollars (\$150,000) to purchase and equip a vacuum trailer and portable generator for the Garfield mutual domestic water consumers' and mutual sewage works association in Dona Ana county;
26. three hundred thousand dollars (\$300,000) to plan, design, construct, purchase, install and equip a solar system, including security cameras, for La Union mutual domestic sewer and water association in Dona Ana county;
27. fifty thousand dollars (\$50,000) to purchase and equip a trailer-mounted vacuum system for the Leasburg mutual domestic water consumers association in Dona Ana county;
28. one hundred ten thousand dollars (\$110,000) to plan, design, construct, purchase, install and equip water meters, including associated meter reading hardware, software and locking meter boxes, for the Leasburg mutual domestic water consumers association in Dona Ana county;
29. two hundred seventy-seven thousand five hundred fourteen dollars (\$277,514) to acquire easements and rights of way and to plan, design, construct, purchase and equip water line extensions and connections to the La Mesa area for the lower Rio Grande public water works authority in Dona Ana county;
30. three hundred fifty thousand dollars (\$350,000) to plan, design, construct, furnish and equip a central operations facility, including a driveway with turn lanes, for the lower Rio Grande public water works authority in Dona Ana county;
31. two hundred fifty thousand dollars (\$250,000) to acquire easements and rights of way and to plan, design and construct water line extensions for the lower Rio

Grande public water works authority in the South Valley service area in Dona Ana county;

32. fifty thousand dollars (\$50,000) to purchase and install radio read meters and related equipment for the Talavera mutual domestic water consumers association in Dona Ana county;

33. three hundred thousand dollars (\$300,000) to acquire easements, rights of way and land and to plan, design, construct, furnish and equip a solid waste transfer station in Anthony in Dona Ana county;

34. five hundred eighty thousand dollars (\$580,000) to acquire land for and to plan, design, construct and equip flood control improvements in Chaparral in Dona Ana county;

35. seven hundred thousand dollars (\$700,000) to acquire land for and to plan, design, construct and equip drainage and flood control improvements in multiple locations in the community of Dona Ana in Dona Ana county;

36. two hundred thousand dollars (\$200,000) to acquire land for and to plan, design, construct and equip improvements to drainage systems in La Union in Dona Ana county;

37. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct and purchase equipment for a solid waste transfer and recycling facility for the south central solid waste authority in Las Cruces in Dona Ana county;

38. seventy-five thousand dollars (\$75,000) to plan, design, construct and improve a recycling center for the south central solid waste authority in Las Cruces in Dona Ana county;

39. one hundred thousand dollars (\$100,000) to plan, design, construct, install and improve water lines in Mesilla in Dona Ana county;

40. one hundred fifty thousand dollars (\$150,000) to plan, design, construct and replace pressure relief valves in an elevated tower for the Otis mutual domestic water consumers and sewage works association in Eddy county;

41. five hundred thousand dollars (\$500,000) to plan, design and construct water system improvements, including replacement of a potable water line, for the Otis mutual domestic water consumers and sewage works association in Eddy county;

42. five hundred thousand dollars (\$500,000) to purchase, equip and install an automated water meter reading system in Carlsbad in Eddy county;

43. nine hundred ten thousand dollars (\$910,000) to plan, design, construct and make improvements to a sewer system and sewer line for National Parks highway, including sewer interceptors, manholes, fittings and attachments, in Carlsbad in Eddy county;
44. one million dollars (\$1,000,000) to plan, design, construct and equip a second sewer wet well for the primary sewer lift station in Carlsbad in Eddy county;
45. two hundred eighty thousand dollars (\$280,000) to plan, design, construct, improve and replace water systems for the Malaga mutual domestic water consumers and sewage works association in Eddy county;
46. one hundred ten thousand dollars (\$110,000) to plan, design, construct and improve the water system for the Hanover mutual domestic water consumer's association in Grant county;
47. fifty thousand dollars (\$50,000) to plan, design, construct and improve a wastewater system for the Tyrone water and wastewater association in Grant county;
48. ninety thousand dollars (\$90,000) to purchase and install litter fencing for the main Southwest solid waste authority landfill in Grant county;
49. one hundred thousand dollars (\$100,000) to purchase and equip a backhoe for the Casas Adobes mutual domestic water consumers association in Grant county;
50. fifty thousand dollars (\$50,000) to plan, design, construct, improve and equip the sewer system for Santa Clara in Grant county;
51. one hundred twenty-five thousand dollars (\$125,000) to purchase and equip a backhoe for the Southwest solid waste authority in Silver City in Grant county;
52. seventy thousand dollars (\$70,000) to plan, design and construct water system improvements, including water line installation, for the Puerto de Luna mutual domestic water consumers association in Guadalupe county;
53. three hundred fifty thousand dollars (\$350,000) to purchase and equip vacuum trucks for the water department in Santa Rosa in Guadalupe county;
54. three hundred seventy-five thousand dollars (\$375,000) to plan, design, construct, purchase and install water meters, including meter reading systems, in Vaughn in Guadalupe county;
55. two million dollars (\$2,000,000) to plan, design and construct sewer system improvements, including replacing main sewer lines and street restoration along Central drive, Joe Harvey boulevard and north Grimes street, in Hobbs in Lea county;

56. five hundred thousand dollars (\$500,000) to plan, design, construct, improve and replace a sewer lift station for Tatum in Lea county;
57. one hundred seventy-five thousand dollars (\$175,000) to plan, design, construct and equip a supplemental well for the Cedar Creek mutual domestic water consumers association in Lincoln county;
58. fifty thousand dollars (\$50,000) to purchase and equip a grapple truck and green waste collection system for the Greentree solid waste authority in Lincoln county;
59. four hundred thousand dollars (\$400,000) to design, purchase, construct and replace fire hydrants in Carrizozo in Lincoln county;
60. fifty thousand dollars (\$50,000) to plan, design and construct water system improvements and to renovate a water filter plant for Carrizozo in Lincoln county;
61. seven million dollars (\$7,000,000) to plan, design and construct a water pipeline to the Pajarito reservoir pursuant to phase 2 of the Jemez mountain fire protection project in Los Alamos county;
62. two hundred thousand dollars (\$200,000) to plan, design, construct, equip and furnish water system improvements for Columbus in Luna county;
63. fifty thousand dollars (\$50,000) to purchase, install, replace and equip gate valves for the Gameraco water and sanitation district service area in McKinley county;
64. two hundred thousand dollars (\$200,000) to plan, design and construct wastewater system improvements for the Yah-Ta-Hey water and sanitation district in McKinley county;
65. five hundred thousand dollars (\$500,000) to plan, design, construct and replace cast iron water and wastewater lines in Gallup in McKinley county;
66. one hundred thousand dollars (\$100,000) to plan, design and construct water system improvements for the Agua Pura mutual domestic water consumers and mutual sewage works association in Mora county;
67. one hundred fifty thousand dollars (\$150,000) to plan, design and construct water system improvements, including replacement of water lines, for the Buena Vista mutual domestic water consumers' and sewage works association in Mora county;
68. fifty thousand dollars (\$50,000) to plan, design, construct and replace a water storage tank for the Watrous mutual domestic water consumers association in Mora county;

69. fifty thousand dollars (\$50,000) to plan, design, construct, install and replace the chlorination system that services wells for the greater Chimayo mutual domestic water consumers association in Rio Arriba and Santa Fe counties;

70. one hundred thousand dollars (\$100,000) to plan, design, construct and improve a water system for the Regina mutual domestic water consumers association in Sandoval and Rio Arriba counties;

71. four hundred twenty thousand dollars (\$420,000) to plan, design, construct, improve and replace water lines, a water storage tank and a well for the Chippeway park water association in Otero county;

72. one million five hundred thousand dollars (\$1,500,000) to plan, design and construct water system improvements in Tularosa in Otero county;

73. one million dollars (\$1,000,000) to plan, design and construct wastewater system improvements in Tularosa in Otero county;

74. fifty thousand dollars (\$50,000) to purchase and equip heavy equipment, including a diesel tractor with a bucket, a backhoe and a large capacity dump trailer, for the Abiquiu mutual domestic water consumers association and mutual sewage works association in Rio Arriba county;

75. fifty thousand dollars (\$50,000) to plan, design and construct improvements to the wastewater treatment system for the Abiquiu mutual domestic water consumers association and mutual sewage works association in Rio Arriba county;

76. two hundred thousand dollars (\$200,000) to plan, design, construct, purchase, install and equip an automatic meter reading system, including data readers and software support, for the Alcalde mutual domestic water consumers' and mutual sewage works association in Rio Arriba county;

77. one hundred thousand dollars (\$100,000) to plan, design, construct and improve the Canjilon mutual domestic water consumers' and mutual sewage works association water system, including replacement of water lines, gate valves, pressure reducing valves, air relief valves, fire hydrants and all appurtenances and rehabilitation of two water storage tanks, in Rio Arriba county;

78. one hundred thousand dollars (\$100,000) to plan, design and construct water system improvements, including interconnection, for the Chamita mutual domestic water consumers and sewage works association and the Agua Sana water users association in Rio Arriba county;

79. two hundred thousand dollars (\$200,000) to plan, design and construct water line extensions from county road 101 to county road 98 and drive 1427 for the

greater Chimayo mutual domestic water consumers association in Chimayo in Rio Arriba county;

80. one hundred thousand dollars (\$100,000) to plan, design and construct tank site improvements, including fencing, backup electrical generators and altitude control valve replacements, for la asociacion de agua de Los Brazos in Rio Arriba county;

81. one hundred eighty thousand dollars (\$180,000) to plan, design and construct water system improvements, including water lines, for the Lybrook mutual domestic water consumers association in Rio Arriba county;

82. one hundred fifty thousand dollars (\$150,000) to purchase, equip and install automated meter reading systems, including information technology and infrastructure and replacement of meters, for the Truchas mutual domestic water consumers' and mutual sewage works association in Rio Arriba county;

83. forty thousand dollars (\$40,000) to purchase, equip and install a supervisory control and data acquisition system for water treatment in Chama in Rio Arriba county;

84. one million dollars (\$1,000,000) to purchase, equip and install water meters and implementation systems in Chama in Rio Arriba county;

85. five hundred thousand dollars (\$500,000) to plan, design, construct and equip a water treatment plant and water system in Chama in Rio Arriba county;

86. nine hundred thousand dollars (\$900,000) to plan, design, and construct improvements to a wastewater treatment facility in Chama in Rio Arriba county;

87. fifty thousand dollars (\$50,000) to plan, design and construct water system improvements and to install and replace the booster pump skid at the pump station on county road 101 for the greater Chimayo mutual domestic water consumers association in Rio Arriba county;

88. three million eight hundred thousand dollars (\$3,800,000) to plan, design and construct water system improvements, including replacing water lines, along old Aztec highway and county road 3520 for the Flora Vista mutual domestic water association in San Juan county;

89. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct and acquire rights of way to replace force mains for the Valley water and sanitation district in San Juan county;

90. two million nine hundred thousand dollars (\$2,900,000) to plan, design and construct water system improvements, including a water line expansion from pump

station 2 to tank 2, for the Upper La Plata domestic water consumers and mutual sewage works cooperative in San Juan county;

91. one hundred thousand dollars (\$100,000) to plan, design and construct wastewater system improvements, including a connection for the East Pecos sewer system, for the East Pecos mutual domestic water consumers' association in San Miguel county;

92. one hundred forty thousand dollars (\$140,000) to plan, design, construct, equip and improve water and wastewater systems, including closure of a lagoon, in Pecos in San Miguel county;

93. one hundred twenty-five thousand dollars (\$125,000) to plan, design and construct water and sewer lines in Pecos in San Miguel county;

94. two hundred fifty thousand dollars (\$250,000) to plan, design and construct water line replacements for the Jemez Springs domestic water association in Sandoval county;

95. two hundred thousand dollars (\$200,000) to plan, design and construct water system improvements, including water line replacement, for the Pena Blanca water and sanitation district in Sandoval county;

96. five hundred thousand dollars (\$500,000) to purchase, install and equip a glass-fused-to-steel water storage tank, including a concrete pad, water mains, valves and fittings, for the Ponderosa mutual domestic water consumers' association and sewage works association in Sandoval county;

97. two hundred thousand dollars (\$200,000) to acquire water rights, to purchase and equip a backhoe and to plan, design, construct and improve the water system and related infrastructure for the San Luis-Cabezon mutual domestic water association in the San Luis, Cabezon, Casa Salazar and Guadalupe communities in Sandoval county;

98. two hundred fifty thousand dollars (\$250,000) to plan, design and construct the Riparia pond for the southern Sandoval county arroyo flood control authority in Sandoval county;

99. one hundred fifty thousand dollars (\$150,000) to plan, design and construct a storm water quality and sediment management facility on the Venada arroyo for the southern Sandoval county arroyo flood control authority in Sandoval county;

100. two hundred thousand dollars (\$200,000) to purchase easements and rights of way and to plan, design and construct water system improvements for Bernalillo in Sandoval county;

101. two hundred fifty thousand dollars (\$250,000) to plan, design and construct improvements to the wastewater treatment plant in Bernalillo in Sandoval county;
102. fifty thousand dollars (\$50,000) to plan, design and construct a membrane bioreactor for wastewater treatment for irrigation usage on municipal property in Corrales in Sandoval county;
103. five hundred thousand dollars (\$500,000) to purchase property for and to plan, design and construct water system improvements, including a potable water storage tank, in Cuba in Sandoval county;
104. three hundred thousand dollars (\$300,000) to purchase and equip a sewer jetter for the Pueblo of Jemez in Sandoval county;
105. three hundred thirty thousand dollars (\$330,000) to plan, design, construct, purchase and improve operational equipment for the wastewater plant in Jemez Springs in Sandoval county;
106. two hundred fifty thousand dollars (\$250,000) to plan, design and construct a flood control and storm water quality facility along the Venada arroyo for the southern Sandoval county arroyo flood control authority in Sandoval county;
107. two hundred thousand dollars (\$200,000) to acquire water rights, including applications and transfers, and to plan, design and construct improvements to water distribution systems, including wells and water line extensions, for the Agua Fria community water system association in Santa Fe county;
108. three hundred sixty-five thousand dollars (\$365,000) to plan, design, construct, purchase, equip and install water system improvements, including rehabilitation of a water storage tank and replacement of residential water meters, for the Canada de los Alamos mutual domestic water consumers' and mutual sewage works association in Santa Fe county;
109. one hundred thousand dollars (\$100,000) to plan, design and construct a supplemental irrigation well and domestic water well for La Bajada community ditch and mutual domestic water association in Santa Fe county;
110. one hundred thousand dollars (\$100,000) to purchase, construct and install water system improvements, including digital radio reading meters, information technology and related equipment, for La Cienega mutual domestic water consumers and mutual sewage works in Santa Fe county;
111. one million one hundred thousand dollars (\$1,100,000) to plan, design, construct and expand the Agua Fria village utility sewer system in Santa Fe county;

112. five million dollars (\$5,000,000) to plan, design and construct a replacement county wastewater treatment system and fresh water holding tanks at the Santa Fe opera site in Santa Fe county;

113. four hundred thousand dollars (\$400,000) to plan, design, construct, purchase and install sewer pipes in Glorieta in Santa Fe county;

114. two hundred one thousand eight hundred twelve dollars (\$201,812) to plan, design, construct and improve erosion control structures, including replacing water line covers with engineered fill and concrete, for the Polvadera mutual domestic water consumers association in Socorro county;

115. one hundred thirty thousand dollars (\$130,000) to purchase and equip a backhoe loader for the San Antonio mutual domestic water consumers association in Socorro county;

116. two hundred fifty thousand dollars (\$250,000) to purchase optical gas imaging equipment to monitor environmental compliance statewide;

117. one million five hundred thousand dollars (\$1,500,000) to plan, design and construct projects to improve surface water quality and river habitat statewide;

118. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, install, furnish and equip a water system, including replacement of water meters and a main water line and related infrastructure, for the Chamisal mutual domestic water consumers association in Taos county;

119. one hundred thousand dollars (\$100,000) to plan, design, construct and equip improvements to wells, including electrical controls, roofing, pump replacement, security fencing, purchase and installation of backup generators, refurbishing of an observation well and well house, plumbing for a monitor well and installation of a building, for El Prado water and sanitation district in Taos county;

120. two million two hundred seventy-five thousand dollars (\$2,275,000) to plan, design, construct, improve, purchase and equip water system infrastructure, including high-voltage electrical lines, water lines, pump controls, well buildings and equipment, access roads and culverts and security systems, for El Prado water and sanitation district in Taos county;

121. one hundred fifty thousand dollars (\$150,000) to plan, design and construct a lateral sewer line, including an inline manhole, drop manholes and sewer sub-outs, for El Valle de los Ranchos water and sanitation district in Taos county;

122. one hundred thousand dollars (\$100,000) to plan, design and construct a sewer main, including an inline manhole, drop manholes and sewer sub-outs, for El Valle de los Ranchos water and sanitation district in Taos county;

123. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to a water storage tank, including sand blasting and interior painting, for the Llano Quemado mutual domestic water consumers association in Taos county;

124. one hundred thousand dollars (\$100,000) to plan, design and construct water system improvements, including a supplemental well and transmission water line, for the Rodarte mutual domestic water consumers association in Taos county;

125. thirty thousand dollars (\$30,000) to purchase, install and equip water meter billing system equipment and software for the Trampas domestic water consumers' and mutual sewage works association in Taos county;

126. fifteen thousand dollars (\$15,000) to plan, design and construct water system improvements, including inspection, cleaning and repair of water storage tanks, for the Trampas domestic water consumers' and mutual sewage works association in Taos county;

127. fifty thousand dollars (\$50,000) to plan, design and construct water system improvements, including transmission and distribution water line installation, water storage tank and rehabilitation of wells, for the Union del Llano mutual domestic water consumers association in Taos county;

128. one million seven hundred thousand dollars (\$1,700,000) to plan, design and construct improvements to the Taos ski valley water system, including repair of water line leaks in the Kachina basin and system-wide, in Taos Ski Valley in Taos county;

129. fifty thousand dollars (\$50,000) to plan, design, construct and equip water system improvements in the Duran area in Torrance county;

130. one hundred thousand dollars (\$100,000) to plan, design and construct water improvements, including installing water valves, in Moriarty in Torrance county;

131. three hundred thousand dollars (\$300,000) to plan, design and construct improvements to the effluent wastewater plant in Moriarty in Torrance county;

132. two hundred thousand dollars (\$200,000) to plan, design and construct a wastewater treatment plant in Mountainair in Torrance county;

133. three hundred fifty thousand dollars (\$350,000) to plan, design and construct an upstream portion of phase 1 of a storm water and drainage infrastructure system for Rio Communities in Valencia county;

134. two million dollars (\$2,000,000) to plan, design and construct improvements to the wastewater treatment plant in Belen in Valencia county;

135. four hundred thousand dollars (\$400,000) to plan, design, construct and equip an arsenic removal system for the water system in Bosque Farms in Valencia county; and

136. three hundred sixty thousand dollars (\$360,000) to plan, design, construct, furnish and equip a centralized document repository and records management system in Albuquerque in Bernalillo county and in Santa Fe in Santa Fe county.

## **Chapter 199 Section 20 Laws 2023**

SECTION 20. STATE FAIR COMMISSION PROJECT--GENERAL FUND.--Six million dollars (\$6,000,000) is appropriated from the general fund to the state fair commission for expenditure in fiscal years 2023 through 2027, unless otherwise provided in Section 1 of this act, to plan, design, construct, furnish and equip infrastructure projects, including electrical system improvements, at the New Mexico state fairgrounds in Albuquerque in Bernalillo county.

## **Chapter 199 Section 21 Laws 2023**

SECTION 21. 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 2023 through 2027, unless otherwise provided in Section 1 of this act, for the following purposes:

1. ten million dollars (\$10,000,000) to plan, design and construct a reproductive health clinic in Dona Ana county;
2. seven million dollars (\$7,000,000) for housing projects in Bernalillo and Santa Fe counties;
3. twenty million dollars (\$20,000,000) to plan, design, construct, renovate, furnish and equip public school kitchen infrastructure improvements to support meal quality improvements statewide; and
4. five million fifty thousand dollars (\$5,050,000) to plan, design, construct, improve and equip acequias statewide.

## **Chapter 199 Section 22 Laws 2023**

SECTION 22. GENERAL SERVICES DEPARTMENT PROJECT--GENERAL FUND.--Nine million dollars (\$9,000,000) is appropriated from the general fund to the general services department for expenditure in fiscal years 2023 through 2027, unless otherwise provided in Section 1 of this act, to plan, design, construct, purchase and equip an airplane and hangar for use by the transportation services division of the general services department.

## **Chapter 199 Section 23 Laws 2023**

SECTION 23. DEPARTMENT OF HEALTH PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the department of health for expenditure in fiscal years 2023 through 2027, unless otherwise provided in Section 1 of this act, for the following purposes:

1. two million dollars (\$2,000,000) to purchase breath alcohol testing instruments and simulators statewide; and
2. nine hundred ten thousand dollars (\$910,000) to purchase and equip mobile health units for on-site mobile emergency mental health response, intervention and crisis stabilization statewide.

## **Chapter 199 Section 24 Laws 2023**

SECTION 24. HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT PROJECT--GENERAL FUND.--One million eight hundred thousand dollars (\$1,800,000) is appropriated from the general fund to the homeland security and emergency management department for expenditure in fiscal years 2023 through 2027, unless otherwise provided in Section 1 of this act, to plan, design and construct improvements to flood-damaged roads, bridges and infrastructure, including sewer systems, in Ruidoso in Lincoln county.

## **Chapter 199 Section 25 Laws 2023**

SECTION 25. 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 2023 through 2027, unless otherwise provided in Section 1 of this act, for the following purposes:

1. three hundred eighty thousand dollars (\$380,000) to plan, design, construct, renovate, repair and equip the Indian Pueblo cultural center courtyard area in Albuquerque in Bernalillo county;
2. two million eight hundred thirty thousand dollars (\$2,830,000) to plan, design, construct, furnish and equip an early childhood development center at the Indian Pueblo cultural center in Albuquerque in Bernalillo county;
3. four hundred thousand dollars (\$400,000) to plan, design and construct a new well, including an elevated tank, in the Los Padillas area of the Pueblo of Isleta in Bernalillo county;
4. eight hundred twenty-five thousand dollars (\$825,000) to plan, design and construct improvements to the solid waste transfer facility at the Pueblo of Isleta in Bernalillo county;

5. four hundred thousand dollars (\$400,000) to purchase and equip a vacuum truck for the Pueblo of Isleta in Bernalillo county;
6. one million dollars (\$1,000,000) to plan, design and construct a water supply system from Albuquerque to the To'hajiilee chapter of the Navajo Nation in Bernalillo county;
7. two hundred seventy-five thousand dollars (\$275,000) to purchase and equip transport ambulances for the Pueblo of Acoma in Cibola county;
8. one hundred thousand dollars (\$100,000) to plan, design and construct gutters for the Haak'u learning center in the Pueblo of Acoma in Cibola county;
9. two hundred thousand dollars (\$200,000) to plan, design and construct ramps and entrance areas for the Haak'u learning center in the Pueblo of Acoma in Cibola county;
10. two million nine hundred thousand dollars (\$2,900,000) to plan, design, construct and improve a wastewater system for the Pueblo of Acoma in Cibola county;
11. two million seven hundred thousand dollars (\$2,700,000) to plan, design, construct and equip a fire station in the Pueblo of Laguna in Cibola county;
12. fifty thousand dollars (\$50,000) to plan, design, construct and equip a multipurpose community center in the Pueblo of Laguna in Cibola county;
13. one hundred ninety-five thousand dollars (\$195,000) to plan, design, construct, replace and equip the Silver Dollar well in the Pueblo of Laguna in Cibola county;
14. two hundred thousand dollars (\$200,000) to purchase and equip a road grader for the Ramah chapter of the Navajo Nation in Cibola county;
15. four hundred thousand dollars (\$400,000) to plan, design and construct a water well and water storage tank in unit 1 in the Ramah chapter of the Navajo Nation in Cibola county;
16. three hundred thousand dollars (\$300,000) to plan, design and construct a water well in unit 5 in the Ramah chapter of the Navajo Nation in Cibola county;
17. three hundred thousand dollars (\$300,000) to plan, design, construct and equip a fire station for the Fort Sill Apache tribe in Luna county;
18. six million four hundred thousand dollars (\$6,400,000) to plan, design, construct, furnish and equip a Navajo code talkers museum in the Tse Bonito area of the Navajo Nation in McKinley county;

19. two hundred thousand dollars (\$200,000) to plan, design, construct, equip and furnish a maintenance yard for regional use in the Whitehorse Lake chapter in McKinley county;
20. one hundred seventy-five thousand dollars (\$175,000) to purchase, equip and install fencing for the cemetery in the Baahaali chapter of the Navajo Nation in McKinley county;
21. two hundred fifty thousand dollars (\$250,000) to plan, design, construct and install heating, ventilation and air conditioning systems for the chapter house in the Baahaali chapter of the Navajo Nation in McKinley county;
22. one hundred sixty thousand dollars (\$160,000) to purchase, install and equip a trash compactor for the transfer station in the Baahaali chapter of the Navajo Nation in McKinley county;
23. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to the rodeo arena for the Baahaali chapter of the Navajo Nation in McKinley county;
24. one million three hundred thousand dollars (\$1,300,000) to acquire rights of way and to plan, design and construct water line extensions in the Baca/Prewitt chapter of the Navajo Nation in McKinley county;
25. seventy-five thousand dollars (\$75,000) to plan, design, construct, renovate and equip a multipurpose building in the Becenti chapter of the Navajo Nation in McKinley county;
26. six hundred thousand dollars (\$600,000) to plan, design, construct, equip and furnish a veterans center in the Becenti chapter in the Navajo Nation in McKinley county;
27. three hundred thousand dollars (\$300,000) to plan, design and construct a cemetery in the Casamero Lake and Little Water chapters of the Navajo Nation in McKinley county;
28. two hundred twenty-nine thousand dollars (\$229,000) to plan, design and construct bathroom additions in the Chichiltah chapter of the Navajo Nation in McKinley county;
29. two million eight hundred thousand dollars (\$2,800,000) to plan, design, construct, furnish and equip a head start classroom and daycare center in the Chichiltah chapter in the Navajo Nation in McKinley county;

30. five hundred ten thousand dollars (\$510,000) to purchase and equip heavy equipment, including a motor grader, for the Church Rock chapter in the Navajo Nation in McKinley county;

31. two hundred seventy-five thousand dollars (\$275,000) to plan, design and construct improvements to the eastside interceptor sewer line in the Church Rock chapter of the Navajo Nation in McKinley county;

32. nine hundred thousand dollars (\$900,000) to acquire land, easements and rights of way for and to plan, design and construct water lines for the Coyote Canyon chapter in the Navajo Nation in McKinley county;

33. seven hundred thousand dollars (\$700,000) to plan, design, purchase, construct, equip and furnish modular buildings for head start units in the Crownpoint chapter of the Navajo Nation in McKinley county;

34. one hundred thousand dollars (\$100,000) to plan, design, construct, furnish and equip a land office in the Crownpoint chapter of the Navajo Nation in McKinley county;

35. fifty thousand dollars (\$50,000) to plan, design, construct, purchase, install and equip an emergency notification siren system for the Crownpoint chapter of the Navajo Nation in McKinley county;

36. seventy-five thousand dollars (\$75,000) to plan, design, construct, purchase and improve the chapter watering point, including community collection areas, water truck modifications, water pipe housing, water token machine, electrical rewiring, insulation, piping and plumbing in the Crownpoint chapter in the Navajo Nation in McKinley county;

37. one hundred fifty thousand dollars (\$150,000) to acquire easements and rights of way and to plan, design and construct scattered power lines for the Fort Defiance chapter of Navajo Nation in McKinley county;

38. five hundred seventy thousand dollars (\$570,000) to plan, design and construct scattered water lines for the New Mexico portion of the Fort Defiance chapter of the Navajo Nation in McKinley county;

39. five hundred thousand dollars (\$500,000) to acquire rights of way and to plan, design, construct and improve water systems in the Iyanbito chapter of the Navajo Nation in McKinley county;

40. five hundred thousand dollars (\$500,000) to plan, design, construct, furnish and equip bathroom additions for the Little Water chapter of Navajo Nation in McKinley county;

41. eighty thousand dollars (\$80,000) to purchase and equip a heavy duty truck for the Manuelito chapter in the Navajo Nation in McKinley county;

42. five hundred thousand dollars (\$500,000) to plan, design and construct improvements to the sewage lagoon in the Manuelito chapter in the Navajo Nation in McKinley county;

43. two hundred thousand dollars (\$200,000) to plan, design, construct, equip and improve the intergovernmental administration building in the Mexican Springs chapter in the Navajo Nation in McKinley county;

44. sixty thousand dollars (\$60,000) to plan, design, construct, improve, purchase and install heating, ventilation and air conditioning systems for the Nahodishgish chapter house in the Nahodishgish chapter of the Navajo Nation in McKinley county;

45. one hundred thousand dollars (\$100,000) to plan, design and construct fencing for the Nahodishgish chapter compound in the Nahodishgish chapter of the Navajo Nation in McKinley county;

46. four hundred fifty thousand dollars (\$450,000) to plan, design and construct a heavy equipment and storage warehouse for the Ojo Encino chapter of the Navajo Nation in McKinley county;

47. one million dollars (\$1,000,000) to plan, design, construct, renovate and furnish bathroom additions for the Pinedale chapter in the Navajo Nation in McKinley county;

48. one hundred thousand dollars (\$100,000) to purchase and equip a motor grader for the Pinedale chapter in the Navajo Nation in McKinley county;

49. one million four hundred seventy-five thousand dollars (\$1,475,000) to plan, design and construct power line extensions in the Pueblo Pintado chapter of the Navajo Nation in McKinley county;

50. five hundred thousand dollars (\$500,000) to plan, design, construct, furnish and equip a chapter house and administrative office complex in the Red Lake chapter in the Navajo Nation in McKinley county;

51. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, furnish and equip an administration building in the Red Rock chapter of the Navajo Nation in McKinley county;

52. two hundred thousand dollars (\$200,000) to plan, design, construct, furnish and equip improvements to the Naazbah veterans center in the Smith Lake chapter of the Navajo Nation in McKinley county;

53. five hundred thousand dollars (\$500,000) to plan, design and construct water system improvements in the Smith Lake chapter of the Navajo Nation in McKinley county;

54. five hundred thousand dollars (\$500,000) to plan, design, construct, furnish and equip a chapter house for the Thoreau chapter of the Navajo Nation in McKinley county;

55. six hundred thousand dollars (\$600,000) to plan, design and construct a warehouse for the Thoreau chapter of the Navajo Nation in McKinley county;

56. one million dollars (\$1,000,000) to plan, design, construct, furnish and equip a public safety complex in the Tohatchi chapter of the Navajo Nation in McKinley county;

57. nine hundred thousand dollars (\$900,000) to plan, design and construct a warehouse for the Tohatchi chapter of the Navajo Nation in McKinley county;

58. nine hundred thousand dollars (\$900,000) to plan, design, construct, furnish and equip a chapter house for the Tsayatoh chapter of the Navajo Nation in McKinley county;

59. two hundred seventy thousand dollars (\$270,000) to plan, design and construct a heavy equipment maintenance yard, including grading, surfacing and tract site security fencing, in the Tse'ii'ahi' chapter of the Navajo Nation in McKinley county;

60. one hundred thousand dollars (\$100,000) to acquire land and rights of way and to plan, design, construct and extend water lines in the Tse'ii'ahi chapter of the Navajo Nation in McKinley county;

61. one hundred thousand dollars (\$100,000) to plan, design, construct, furnish and equip a warehouse in the Bahastl'ah chapter of the Navajo Nation in McKinley county;

62. three hundred forty thousand dollars (\$340,000) to plan, design and construct water system improvements, including water line extensions and repairs, in the Bahastl'ah chapter of the Navajo Nation in McKinley county;

63. one hundred thousand dollars (\$100,000) to demolish a chapter house in the Bahastl'ah chapter of the Navajo Nation in McKinley county;

64. five hundred thousand dollars (\$500,000) to plan, design and construct a veterans memorial for the Whitehorse Lake chapter of the Navajo Nation in McKinley county;

65. thirty thousand dollars (\$30,000) to plan, design, construct, furnish and equip an audiology and optical services facility in the Pueblo of Zuni in McKinley county;

66. four hundred thousand dollars (\$400,000) to plan, design, construct, furnish and equip a fire and emergency medical services station in the Pueblo of Zuni in McKinley county;

67. one million ten thousand dollars (\$1,010,000) to plan, design, construct, furnish and equip a tribal administration building in the Pueblo of Zuni in McKinley county;

68. four hundred sixty thousand dollars (\$460,000) to plan, design, construct, furnish and equip a visitor center at the Zuni veterans' memorial park in the Pueblo of Zuni in McKinley county;

69. eight hundred fifty thousand dollars (\$850,000) to plan, design, construct, furnish and equip a fair building in the Pueblo of Zuni in McKinley county;

70. seven hundred thousand dollars (\$700,000) to plan, design, construct and equip bathroom additions in the Crystal chapter of the Navajo Nation in McKinley and San Juan counties;

71. two hundred thousand dollars (\$200,000) to plan, design, construct, equip and furnish improvements to the administration building number 3 facility for the Rock Springs chapter of the Navajo Nation in McKinley and San Juan counties;

72. two hundred thousand dollars (\$200,000) to plan, design, construct, furnish and equip a new multipurpose building, including a veterans' center, in the Rock Springs chapter of the Navajo Nation in McKinley and San Juan counties;

73. eight hundred seventy-five thousand five hundred dollars (\$875,500) to plan, design, construct and purchase equipment for veterans parks and for playgrounds for the Mescalero Apache Tribe in Otero county;

74. two million eight hundred fifteen thousand dollars (\$2,815,000) to plan, design, construct and equip improvements, including roads, water and electrical lines and a new well and tank, to the Windy Point III subdivision for the Mescalero Apache Tribe in Otero county;

75. twenty-six thousand eight hundred eighty-six dollars (\$26,886) to purchase and equip chest compression systems for ambulances and emergency medical services in the Jicarilla Apache Nation in Rio Arriba county;

76. three hundred twenty thousand dollars (\$320,000) to plan, design, construct, replace, equip and install fire hydrants for the community water system in the Dulce area in the Jicarilla Apache Nation in Rio Arriba county;

77. sixty thousand dollars (\$60,000) to purchase an accessible vehicle and equipment for a community health and fitness center in the Jicarilla Apache Nation in Rio Arriba county;

78. twenty-three thousand dollars (\$23,000) to purchase and equip a baler, compactor and other equipment for the Jicarilla supermarket in the Jicarilla Apache Nation in Rio Arriba county;

79. one million one hundred eighty thousand dollars (\$1,180,000) to plan, design, construct, equip and improve the water and wastewater systems for the Jicarilla Apache Nation in Rio Arriba county;

80. two hundred twenty-six thousand dollars (\$226,000) to plan, design, construct and replace main water line valves in the Dulce area in the Jicarilla Apache Nation in Rio Arriba county;

81. one hundred fifty thousand dollars (\$150,000) to purchase and equip vehicles and equipment for workforce innovation opportunity students in the Jicarilla Apache Nation in Rio Arriba county;

82. three hundred fifty-seven thousand dollars (\$357,000) to plan, design, construct and replace water meters throughout the Dulce area on the Jicarilla Apache Nation in Rio Arriba county;

83. six hundred thousand dollars (\$600,000) to plan, design, construct and improve the language and opportunity center in Ohkay Owingeh in Rio Arriba county;

84. eight hundred fifty thousand dollars (\$850,000) to plan, design and construct phase 2 of a storm water control system at Ohkay Owingeh in Rio Arriba county;

85. one million five hundred thousand dollars (\$1,500,000) to plan, design and construct a tribal administration complex in the Pueblo of Santa Clara in Rio Arriba county;

86. one million dollars (\$1,000,000) to plan, design, construct, furnish and equip a tribal cultural heritage and visitors' center in the Pueblo of Santa Clara in Rio Arriba county;

87. one million dollars (\$1,000,000) to plan, design, construct and equip a wellness center for the Pueblo of Santa Clara in Rio Arriba county;

88. three hundred thousand dollars (\$300,000) to plan, design, construct and equip a multipurpose complex in the Beclabito chapter of the Navajo Nation in San Juan county;

89. one hundred thousand dollars (\$100,000) to acquire easements and rights of way and to plan, design, construct and equip a solid waste transfer station in the Beclabito chapter of the Navajo Nation in San Juan county;

90. one hundred thousand dollars (\$100,000) to plan, design, construct and equip a heavy equipment warehouse in the Crystal chapter of the Navajo Nation in McKinley county;

91. two million dollars (\$2,000,000) to plan, design, construct, renovate, furnish and equip a student housing facility at the Navajo preparatory school in Farmington in San Juan county;

92. eighty-seven thousand five hundred dollars (\$87,500) to plan, design, construct, demolish, renovate, furnish and equip a cultural and indigenous performing arts facility at the Navajo preparatory school in Farmington in San Juan county;

93. three hundred thousand dollars (\$300,000) to plan, design, construct, purchase, install and equip improvements to buildings, infrastructure, security systems and information technology at the Navajo preparatory school in Farmington in San Juan county;

94. five hundred thirty thousand dollars (\$530,000) to plan, design, construct and realign the main water line in the Gadii'ahi/To'Koi chapter of the Navajo Nation in San Juan county;

95. four hundred thousand dollars (\$400,000) to purchase and equip heavy equipment, including a road grader, for the Lake Valley chapter of the Navajo Nation in San Juan county;

96. one million two hundred thousand dollars (\$1,200,000) to plan, design and construct scattered power lines in the Naschitti chapter of the Navajo Nation in San Juan county;

97. seven hundred thousand dollars (\$700,000) to plan, design, construct and improve the electrical power lines, including an extension to a shopping center site, in the Newcomb chapter in the Navajo Nation in San Juan county;

98. one hundred thousand dollars (\$100,000) to acquire easements and rights of way and to plan, design and construct a supermarket in the Newcomb chapter of the Navajo Nation in San Juan county;

99. three hundred thousand dollars (\$300,000) to plan, design and construct scattered power lines in the Mitten Rock area of the Red Valley chapter of the Navajo Nation in San Juan county;

100. seventy-five thousand dollars (\$75,000) to plan, design, construct, purchase, furnish and equip a transfer station for the Red Valley chapter of the Navajo Nation in San Juan county;

101. one hundred thousand dollars (\$100,000) to plan, design and construct a helicopter pad in the Tse Alnaozti'i' chapter in the Navajo Nation in San Juan county;

102. nine hundred thousand dollars (\$900,000) to acquire easements and rights of way and to plan, design and construct water line extensions in the Tse Alnaozti'i' chapter of the Navajo Nation in San Juan county;

103. one hundred seventy-five thousand dollars (\$175,000) to plan, design, construct and expand the veterans' cemetery area, including renovation of the ceremonial ground, in Shiprock in the Navajo Nation in San Juan county;

104. fifty-four thousand dollars (\$54,000) to plan, design and construct a multipurpose veterans' center in Shiprock for the Navajo Nation in San Juan county;

105. eight million six hundred thousand dollars (\$8,600,000) to plan, design, construct and equip the Shiprock incident command center in the Shiprock chapter of the Navajo Nation in San Juan county;

106. fifty thousand dollars (\$50,000) to acquire easements for and to plan, design and construct a wastewater line from the Navajo tribal utility authority system to the Shiprock veterans center in the Shiprock chapter in the Navajo Nation in San Juan county;

107. three hundred thousand dollars (\$300,000) to purchase and equip a motor grader for the Tooh Haltsooi (Sheep Springs) chapter of the Navajo Nation in San Juan county;

108. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and furnish a multipurpose building in the Tooh Haltsooi (Sheep Springs) chapter of the Navajo Nation in San Juan county;

109. five hundred seventy-five thousand dollars (\$575,000) to plan, design, construct, demolish, replace and equip improvements to the Hogback pumping station, including pumps, settling ponds, electrical systems, infrastructure, lighting and fencing, in the Tse'Daa'Kaan chapter of the Navajo Nation in San Juan county;

110. one million fifty thousand dollars (\$1,050,000) to plan, design, construct, renovate, improve and equip chapter building 8 for the Toadlena/Two Grey Hills chapter of the Navajo Nation in San Juan county;

111. two hundred thousand dollars (\$200,000) to plan, design and construct utility infrastructure for the economic development tract of the Toadlena/Two Grey Hills chapter of the Navajo Nation in San Juan county;

112. three hundred twenty-five thousand dollars (\$325,000) to plan, design and construct a community cemetery in the Upper Fruitland chapter of the Navajo Nation in San Juan county;

113. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, equip and improve the main irrigation canal system in the Upper Fruitland chapter of the Navajo Nation in San Juan county;

114. seven hundred thousand dollars (\$700,000) to plan, design and construct phase 2 bathroom additions south and north in the White Rock chapter of the Navajo Nation in San Juan county;

115. five hundred fifty-eight thousand dollars (\$558,000) to purchase and install home solar energy storage units in the Counselor chapter of the Navajo Nation in Sandoval county;

116. five hundred fifty thousand dollars (\$550,000) to plan, design, construct, furnish and equip a rural broadband system for the Pueblo of Jemez in Sandoval county;

117. five hundred sixty-nine thousand five hundred dollars (\$569,500) to plan, design and construct traditional housing in the Pueblo of San Felipe in Sandoval county;

118. fifty thousand dollars (\$50,000) to plan, design, construct, furnish and equip an education complex, including a library, for the Pueblo of Santa Ana in Sandoval county;

119. one million four hundred thousand dollars (\$1,400,000) to plan, design, construct and equip an underground electrical grid system and appurtenances at the traditional village of Tamaya in the Pueblo of Santa Ana in Sandoval county;

120. six hundred fifty thousand dollars (\$650,000) to plan, design, construct, renovate, furnish and equip the Cochiti multi-use facility, including renovation of the administration building, in the Pueblo of Cochiti in Sandoval county;

121. nine hundred seventy-five thousand dollars (\$975,000) to plan, design, construct, furnish and equip emergency housing for the Pueblo of Cochiti in Sandoval county;

122. two hundred twenty-five thousand dollars (\$225,000) to purchase and equip vehicles and machinery, including mowers and aerators, for a public golf course in the Pueblo of Cochiti in Sandoval county;

123. one million five hundred twenty-five thousand dollars (\$1,525,000) to plan, design, construct, improve, furnish and equip the Cochiti head start building in the Pueblo of Cochiti in Sandoval county;

124. two hundred thousand dollars (\$200,000) to plan, design, construct, renovate, equip and purchase equipment for a ballpark complex for the Pueblo of Jemez in Sandoval county;

125. two hundred seventy-five thousand dollars (\$275,000) to purchase and equip vehicles and machinery, including a tractor-trailer, bulldozer, motor grader, excavator and loader, for the Pueblo of Jemez in Sandoval county;

126. eight hundred fifty thousand dollars (\$850,000) to plan, design, construct, replace and equip underground storage fuel tanks for a convenience store in the Pueblo of Jemez in Sandoval county;

127. fifty thousand dollars (\$50,000) to purchase, equip and install a global positioning system unit for the Pueblo of Jemez in Sandoval county;

128. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, renovate, furnish and equip an expansion of the tribal administrative services complex in the Pueblo of Jemez in Sandoval county;

129. one hundred twenty thousand dollars (\$120,000) to purchase and equip vehicles and machinery, including a roll-off dumpster truck, a backhoe, a loader and waste containers, for the Pueblo of Jemez in Sandoval county;

130. six hundred thousand dollars (\$600,000) to plan, design, construct and improve the irrigation ditch system in the Pueblo of San Felipe in Sandoval county;

131. five hundred thousand dollars (\$500,000) to plan, design, construct and improve the wastewater treatment plant in the Pueblo of San Felipe in Sandoval county;

132. four million four hundred thousand dollars (\$4,400,000) to plan, design, construct, furnish and equip an emergency medical services and fire facility in the Pueblo of Sandia in Sandoval county;

133. two hundred thousand dollars (\$200,000) to plan, design, construct, expand and equip a health care facility for the Pueblo of Sandia in Sandoval county;

134. two million dollars (\$2,000,000) to plan, design, construct, furnish and equip a public safety, judicial and social services complex for the Pueblo of Santa Ana in Sandoval county;

135. two million five hundred thousand dollars (\$2,500,000) to plan, design, construct, equip, renovate, improve and furnish tribal housing in the Pueblo of Santo Domingo in Sandoval county;

136. three hundred twenty-five thousand dollars (\$325,000) to purchase and equip a refuse truck for the Pueblo of Santo Domingo in Sandoval county;

137. one million dollars (\$1,000,000) to plan, design and construct a wastewater system for the Pueblo of Santo Domingo in Sandoval county;

138. four hundred forty-five thousand nine hundred sixty dollars (\$445,960) to plan, design, construct, furnish and equip an emergency medical services building in the Torreon/Star Lake chapter of the Navajo Nation in Sandoval county;

139. one hundred thousand dollars (\$100,000) to plan, design, construct, furnish and equip a library and family learning center in the Torreon/Star Lake chapter of the Navajo Nation in Sandoval county;

140. two hundred thousand dollars (\$200,000) to purchase and equip an agriculture tractor with attachments for the Pueblo of Zia in Sandoval county;

141. three hundred fifty thousand dollars (\$350,000) to purchase and equip a tractor trailer for the Pueblo of Zia in Sandoval county;

142. two million dollars (\$2,000,000) to plan, design, construct and equip a health and wellness center for the Pueblo of Zia in Sandoval county;

143. three hundred ten thousand dollars (\$310,000) to purchase and equip vehicles for the police department in the Pueblo of Zia in Sandoval county;

144. two hundred thousand dollars (\$200,000) to purchase and equip a dump truck for the Pueblo of Zia in Sandoval county;

145. seven hundred thousand dollars (\$700,000) to plan, design, construct and equip an administration building for the economic development corporation in the Pueblo of Nambe in Santa Fe county;

146. one million dollars (\$1,000,000) to plan, design, construct and equip phase 2 of a community water system improvement project in the Pueblo of Nambe in Santa Fe county;

147. six hundred fifty thousand dollars (\$650,000) to plan, design and construct phase 2 of a community wastewater system improvement project in the Pueblo of Nambe in Santa Fe county;

148. nine hundred thousand dollars (\$900,000) to plan, design, construct, purchase and install improvements to tribal facilities for the Pueblo of Pojoaque in Santa Fe county;

149. one hundred twenty-five thousand dollars (\$125,000) to purchase, equip and install playground equipment for a club for boys and girls at the Pueblo of Pojoaque in Santa Fe county;

150. fifty thousand dollars (\$50,000) to purchase and install playground equipment in the Pueblo of Pojoaque in Santa Fe county;

151. three million one hundred seventy-five thousand dollars (\$3,175,000) to plan, design, construct, furnish and equip tribal homes, including pad sites, for the Pueblo of Pojoaque in Santa Fe county;

152. two hundred seventy-five thousand dollars (\$275,000) to plan, design, construct, renovate and equip a head start facility in the Pueblo of San Ildefonso in Santa Fe county;

153. seven hundred fifty thousand dollars (\$750,000) to plan, design, construct, furnish and equip an administration building in the Pueblo of San Ildefonso in Santa Fe county;

154. seven hundred thousand dollars (\$700,000) to plan, design, construct, renovate, furnish and equip an addition to a wellness and community center in the Pueblo of San Ildefonso in Santa Fe county;

155. one million seven hundred thousand dollars (\$1,700,000) to plan, design, construct and expand a wastewater system for the Pueblo of San Ildefonso in Santa Fe county;

156. five hundred thousand dollars (\$500,000) to plan, design, construct and improve infrastructure, including entry boundary fencing and storm water drainage and mitigation, at the Santa Fe Indian school in Santa Fe in Santa Fe county;

157. eighty thousand dollars (\$80,000) to plan, design and construct a department of environment and natural resources building for the Pueblo of Tesuque in Santa Fe county;

158. one hundred thousand dollars (\$100,000) to plan, design and construct flood control dams and erosion control structures for the Pueblo of Tesuque in Santa Fe county;

159. fifty-five thousand dollars (\$55,000) to plan, design and construct residential housing and cultural buildings within the traditional plaza area in the Pueblo of Tesuque in Santa Fe county;

160. three hundred fifty thousand dollars (\$350,000) to plan, design and construct a multipurpose law enforcement complex in the Pueblo of Tesuque in Santa Fe county;

161. one million three hundred thirty thousand dollars (\$1,330,000) to plan, design and construct a complex for the utility authority in the Pueblo of Tesuque in Santa Fe county;

162. two hundred fifty-five thousand dollars (\$255,000) to purchase and equip a water truck for the utility authority of the Pueblo of Tesuque in Santa Fe county;

163. two hundred fifty thousand dollars (\$250,000) to purchase and equip a sewer maintenance vehicle and to plan, design, construct, purchase and install a wastewater treatment plant and equipment, including a fine screen at the treatment headworks, in the Pueblo of Tesuque in Santa Fe county;

164. one hundred twenty-five thousand dollars (\$125,000) to purchase and equip a dump truck for the Alamo chapter of the Navajo Nation in Socorro county;

165. one hundred fifty thousand dollars (\$150,000) to purchase and equip a sewage pump truck for the Alamo chapter of the Navajo Nation in Socorro county;

166. one million one hundred eighty-eight thousand forty dollars (\$1,188,040) to provide urgent or emergency funding for infrastructure and equipment needs statewide;

167. four hundred thousand dollars (\$400,000) to plan, design, construct and equip three-phase electrical improvements to buildings and facilities in the Pueblo of Picuris in Taos county;

168. two million dollars (\$2,000,000) to plan, design, construct, furnish and equip a police department facility in the Pueblo of Picuris in Taos county;

169. four hundred fifteen thousand dollars (\$415,000) to purchase and equip road maintenance utility equipment for the Pueblo of Picuris in Taos county;

170. fifty thousand dollars (\$50,000) to purchase and equip a trash compactor for the Pueblo of Picuris in Taos county;

171. seven hundred fifty thousand dollars (\$750,000) to plan, design, construct, repair, improve and restore the historic upper plaza in the Pueblo of Picuris in Taos county;

172. one hundred twenty-five thousand dollars (\$125,000) to purchase and equip water tank trucks for the Pueblo of Picuris in Taos county;

173. four hundred thousand dollars (\$400,000) to purchase and equip a wildland fire truck for the Pueblo of Picuris in Taos county;

174. nine hundred seventy-five thousand dollars (\$975,000) to plan, design, construct, restore and improve a cultural village in the Pueblo of Taos in Taos county;

175. seven hundred seventy-five thousand dollars (\$775,000) to plan, design and construct a water main loop in the Goat Springs road area for the Pueblo of Taos in Taos county; and

176. one million two hundred thousand dollars (\$1,200,000) to plan, design and construct a law enforcement building for the Pueblo of Taos in Taos county.

## **Chapter 199 Section 26 Laws 2023**

SECTION 26. DEPARTMENT OF INFORMATION TECHNOLOGY PROJECT--GENERAL FUND.--Twenty-six million dollars (\$26,000,000) is appropriated from the general fund to the department of information technology for expenditure in fiscal years 2023 through 2027, unless otherwise provided in Section 1 of this act, to plan, design, purchase, install and implement related infrastructure to stabilize and modernize public safety radio communications systems statewide.

## **Chapter 199 Section 27 Laws 2023**

SECTION 27. 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 2023 through 2027, unless otherwise provided in Section 1 of this act, for the following purposes:

1. one hundred twenty-five thousand dollars (\$125,000) to plan, design and construct phase 1 improvements to implement the Atrisco acequia Madre plan for Bernalillo county in partnership with Albuquerque, the Albuquerque-Bernalillo county water utility authority and the middle Rio Grande conservancy district in Bernalillo county;

2. one hundred thousand dollars (\$100,000) to plan, design and construct improvements for the Pleasanton eastside ditch association in Catron county;

3. fifty thousand dollars (\$50,000) to plan, design, construct and equip ditch improvements for the Fort West irrigation association in Grant county;

4. fifty thousand dollars (\$50,000) to plan, design, construct and equip ditch improvements for the Gila Farm irrigation association in Grant county;

5. fifty thousand dollars (\$50,000) to plan, design, construct and equip ditch improvements for the Grialva ditch association in Grant county;

6. fifty thousand dollars (\$50,000) to plan, design, construct and equip ditch improvements for the Heredia community ditch association in Grant county;
7. fifty thousand dollars (\$50,000) to plan, design, construct and equip improvements for the Llano community acequia Rio Mimbres in Grant county;
8. fifty thousand dollars (\$50,000) to plan, design, construct and equip ditch improvements for the upper Gila irrigation association in Grant county;
9. one hundred thousand dollars (\$100,000) to plan, design, construct and improve the east Puerto de Luna acequia, including the installation of pipe line, a concrete lining, headwalls, sluice gates and flush gates, in Guadalupe county;
10. ten thousand dollars (\$10,000) to purchase and equip a mini-excavator and trailer for acequia de Encinal and la acequia del Canoncito association in Mora county;
11. ten thousand dollars (\$10,000) to plan, design, construct and equip infrastructure improvements, including monitoring wells and related equipment, to acequia de la Isla and Morphy lake dam in Mora county;
12. ten thousand dollars (\$10,000) to plan, design and construct improvements to the acequia del Alto al Norte in Mora county;
13. ten thousand dollars (\$10,000) to purchase and equip a mini-excavator for sediment and debris removal in la acequia del Canoncito in Mora county;
14. ten thousand dollars (\$10,000) to purchase and equip equipment, including a backhoe and excavator, for the acequia Madre de Holman in Mora county;
15. ten thousand dollars (\$10,000) to plan, design and construct improvements to the acequia Madre de Holman, including disaster recovery repair, in Mora county;
16. one hundred ten thousand dollars (\$110,000) to purchase equipment and to plan, design and construct improvements to the acequia Sierra de Holman in Mora county;
17. two hundred sixty thousand dollars (\$260,000) to plan, design and construct improvements to the Cassidy Mill ditch in Mora county;
18. three hundred thousand dollars (\$300,000) to plan, design and construct improvements to the acequia de Las Colonias in Mora county;
19. ten thousand dollars (\$10,000) to plan, design and construct improvements to the acequia de Encinal de San Antonio in Cleveland in Mora county;

20. eighty-one thousand dollars (\$81,000) to plan, design and construct a pipeline for La Mesilla community ditch in Santa Fe and Rio Arriba counties;
21. one hundred ten thousand dollars (\$110,000) to plan, design and construct improvements to the acequia de Alcalde in Rio Arriba county;
22. ninety thousand dollars (\$90,000) to plan, design and construct improvements to the acequia de Arriba de Canones in Rio Arriba county;
23. sixty thousand dollars (\$60,000) to plan, design and construct improvements to the acequia de Chamita in Rio Arriba county;
24. one hundred thousand dollars (\$100,000) to plan, design, construct, improve and repair the acequia de el Pueblo de Abiquiu in Rio Arriba county;
25. ninety-five thousand dollars (\$95,000) to plan, design and construct improvements to acequia de la Plaza de Dixon sites, including lower Lebeo Martinez to Alfredo Martinez, la Boca to the arroyo de la Placita and west el arroyo de la Mina, in Rio Arriba county;
26. ten thousand dollars (\$10,000) to plan, design and construct improvements to the acequia de las Canovas in Rio Arriba county;
27. seventeen thousand five hundred dollars (\$17,500) to plan, design and construct improvements to the acequia de los Chicos in Rio Arriba county;
28. ten thousand dollars (\$10,000) to plan, design and construct improvements to the acequia de Los Espinosas in Rio Arriba county;
29. thirty-five thousand dollars (\$35,000) to plan, design and construct improvements to the acequia de Rio Chama in Rio Arriba county;
30. sixty thousand dollars (\$60,000) to plan, design and construct improvements, including a new presa, to the acequia del Bosque in Rio Arriba county;
31. one hundred fifty-five thousand dollars (\$155,000) to plan, design, construct and improve the acequia del Llano in Rio Arriba county;
32. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements to the acequia del Molino in Rio Arriba county;
33. thirty-five thousand dollars (\$35,000) to plan, design and construct improvements to the acequia San Rafael de Guique in Rio Arriba county;

34. fifty-five thousand dollars (\$55,000) to plan, design and construct improvements, including a diversion to the headgate, for La Madera ditch association in Rio Arriba county;

35. one hundred thirty thousand dollars (\$130,000) to plan, design and construct improvements to the Polvadera ditch number 1 in Rio Arriba county;

36. one hundred thirty thousand dollars (\$130,000) to plan, design and construct improvements to the Rio Puerco community ditch in Rio Arriba county;

37. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to the lower Animas community ditch in San Juan county;

38. one hundred fifty thousand dollars (\$150,000) to plan, design and construct improvements, including piping, to the Farmer's mutual community ditch in Kirtland in San Juan county;

39. one hundred thirty-five thousand dollars (\$135,000) to purchase and equip piping for the acequia Madre de el Cerrito in San Miguel county;

40. one million one hundred ten thousand dollars (\$1,110,000) to plan, design and construct improvements to the acequia Madre de Las Vegas in San Miguel county;

41. fifty thousand dollars (\$50,000) to plan, design and construct improvements for the La Fragua Puertecito y Saiz acequia association in San Miguel county;

42. thirty-five thousand dollars (\$35,000) to plan, design and construct improvements and repairs for the acequia Madre de Los Romeros in San Miguel county;

43. one hundred fifty thousand dollars (\$150,000) to plan, design and construct improvements to the acequia de La Jara, including head gates and rehabilitation of ditch banks, in Sandoval county;

44. one hundred thirty thousand dollars (\$130,000) to plan, design and construct improvements to the acequia de los Pinos in Sandoval county;

45. one hundred seventy-five thousand dollars (\$175,000) to plan, design and construct improvements for the Ponderosa community ditch association in Sandoval county;

46. one hundred fifty thousand dollars (\$150,000) to plan, design and construct improvements to the acequia de la Capilla in Santa Fe county;

47. one hundred thousand dollars (\$100,000) to plan, design, construct, improve and equip a reservoir and supplemental well for the acequia de La Cienega in Santa Fe county;

48. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements, including headgates, main valve and culverts, for the acequia de Los Fresquez in Santa Fe county;

49. ninety-five thousand dollars (\$95,000) to purchase equipment and to plan, design and construct improvements, including replacement of piping and concrete lining, for the acequia de Los Herreras in Santa Fe county;

50. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to the acequias de Los Chupaderos in Santa Fe county;

51. fifty thousand dollars (\$50,000) to plan, design and construct improvements for the Monticello community ditch association in Sierra county;

52. one hundred sixty-five thousand dollars (\$165,000) to plan, design, construct and install phase 1 of a pipeline for the San Miguel community ditch in Sierra county;

53. ten thousand dollars (\$10,000) to plan, design and construct improvements to the acequia del Llano de San Miguel, including construction of culverts, in Taos county;

54. thirty-five thousand seven hundred seventy-five dollars (\$35,775) to plan, design, construct, replace, improve and equip the Cabresto community ditch and the Llano irrigation community ditch, including diversion dams and water control and measuring structures, in Taos county;

55. ten thousand dollars (\$10,000) to plan, design and construct improvements and to purchase and equip an excavator for las acequias de Las Trampas in Taos county; and

56. two hundred fifty thousand dollars (\$250,000) to plan, design and construct improvements for the Rio Costilla ditch association in Taos county.

## **Chapter 199 Section 28 Laws 2023**

SECTION 28. 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 2023 through 2027, unless otherwise provided in Section 1 of this act, for the following purposes:

1. six hundred thousand dollars (\$600,000) to plan, design, construct, improve, furnish and equip the Altamont little league park, including artificial turf infields, irrigation systems, lighting, a playground, a tournament field, parking and improvements to the upper field, in Bernalillo county;
2. one million two hundred forty-one thousand four hundred ninety dollars (\$1,241,490) to purchase land and buildings and to plan, design, construct, renovate, furnish and equip facilities for community and family services to break the intergenerational cycle of incarceration in Bernalillo county;
3. two million one hundred ten thousand dollars (\$2,110,000) to purchase and equip a helicopter for the sheriff's office in Bernalillo county;
4. one hundred ninety thousand dollars (\$190,000) to plan, design, construct, purchase, install and equip a reality-based training simulator for the sheriff's office in Bernalillo county;
5. two hundred sixty-one thousand four hundred ninety dollars (\$261,490) to plan, design, construct and purchase equipment and infrastructure for a shot spotting system for the sheriff's office in Bernalillo county;
6. three hundred thousand dollars (\$300,000) to plan, design, construct, renovate, furnish and equip the fields and facilities used by the East Mountain little league, including drainage improvements between the fields and parking area entrance improvements, in Bernalillo county;
7. ninety thousand dollars (\$90,000) to plan, design, construct, renovate, purchase, deliver, install, furnish and equip a modular building for an education and workforce development center in Bernalillo county;
8. three hundred thousand dollars (\$300,000) to acquire land for and to plan, design, construct, furnish and equip phase 4 improvements at the Edward C. Sandoval north valley little league complex in Bernalillo county;
9. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, furnish and equip fire station 36 in the vicinity of Osuna road and Edith boulevard in Bernalillo county;
10. forty thousand dollars (\$40,000) to plan, design, construct, furnish, purchase and equip a food pantry facility, including walk-in cooler and freezer areas with shelving and interior-accessible doors, adjustable shelving, work spaces and food delivery and food monitoring equipment, in Bernalillo county;
11. four hundred fifty thousand dollars (\$450,000) to plan, design, construct and improve road and storm drainage and water and sewer utility infrastructure for the

YES housing project at Second street SW and Rio Bravo boulevard SW in Bernalillo county;

12. two hundred thousand dollars (\$200,000) to plan, design and construct a handball/basketball court, perimeter fencing for the pool, parking, landscaping and related site improvements at Los Padillas community center in Bernalillo county;

13. three hundred seventy-four thousand two hundred sixty-seven dollars (\$374,267) to purchase and install information technology, including related infrastructure, equipment and furniture, and to purchase cooking equipment for a homebound and special needs meal delivery program in Bernalillo county;

14. one million two hundred fifty-one thousand four hundred ninety dollars (\$1,251,490) to purchase land for and to plan, design, construct, furnish and equip a center for culturally appropriate mental health and suicide prevention family services in Bernalillo county;

15. one hundred thousand dollars (\$100,000) to plan, design, construct, furnish and equip phased improvements, including playing fields and associated infrastructure, to the Mesa del Sol regional outdoor sports complex in Bernalillo county;

16. one hundred fifty thousand dollars (\$150,000) to purchase and equip vehicles for an outdoor education program in Bernalillo county;

17. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, furnish and equip improvements to facilities used by the Paradise Hills little league, including parking lot improvements, landscaping, outdoor lighting, shade structures and artificial turf, in Bernalillo county;

18. five hundred fifty-one thousand four hundred ninety dollars (\$551,490) to plan, design, construct, furnish and equip a recovery support center for behavioral health, mental health and addiction treatment services in Bernalillo county;

19. four hundred fifty thousand dollars (\$450,000) to plan, design and construct a regional law enforcement training academy building, including training rooms and a secure vehicle storage area, for the sheriff's department in Bernalillo county;

20. five hundred twelve thousand five hundred dollars (\$512,500) to plan, design, construct, furnish and equip improvements, including drainage, for Rio Bravo park and other facilities used by the South Valley little league in Bernalillo county;

21. three hundred thirty thousand dollars (\$330,000) to purchase and equip law enforcement vehicles, including sport utility vehicles and light duty trucks, for the sheriff's department in Bernalillo county;

22. fifty thousand dollars (\$50,000) to plan, design, construct, purchase and equip a helicopter hangar for the sheriff's office metro air support unit in Bernalillo county;
23. one million three hundred seventy-five thousand dollars (\$1,375,000) to demolish an existing building and to plan, design and construct a facility to provide family services in the South Valley in Bernalillo county;
24. twenty-five thousand dollars (\$25,000) to purchase and replace furniture at the South Valley library in Bernalillo county;
25. fifty thousand dollars (\$50,000) to plan, design, construct and improve the access road for Tom Tenorio park in Bernalillo county;
26. nine hundred six thousand four hundred ninety dollars (\$906,490) to purchase portable buildings and to plan, design, construct, demolish, renovate, remove and replace buildings and to purchase and install infrastructure, including security systems, cameras and access controls, fire suppression systems, landscaping and parking lot paving, for a youth recovery services and transitional living center in Bernalillo county;
27. five hundred one thousand four hundred ninety dollars (\$501,490) to plan, design, construct, renovate, furnish and equip improvements to the youth services center in Bernalillo county;
28. three million dollars (\$3,000,000) to plan, design, construct, equip, purchase, install and improve landing sites for Balloon Fiesta park in Albuquerque in Bernalillo county;
29. three hundred eleven thousand four hundred ninety dollars (\$311,490) to purchase and equip vehicles and to plan, design, construct, furnish and equip a facility to support employment and job creation for disadvantaged populations in Albuquerque in Bernalillo county;
30. one million sixty thousand eight hundred ten dollars (\$1,060,810) to acquire land and property for and to plan, design, construct and improve affordable housing in Albuquerque in Bernalillo county;
31. two hundred fifty thousand dollars (\$250,000) to plan, design and construct affordable housing units, including live-work and commercial spaces, in the area of 4th street NW and Fitzgerald road NW in Albuquerque in Bernalillo county;
32. one hundred twenty-six thousand four hundred ninety dollars (\$126,490) to acquire property and to plan, design, construct, renovate and equip improvements at the African American museum and cultural center of New Mexico, including exhibit, meeting, office and archival spaces, in Albuquerque in Bernalillo county;

33. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, renovate and improve public housing and affordable housing rental units for the housing authority in Albuquerque in Bernalillo county;

34. four hundred twenty-five thousand dollars (\$425,000) to plan, design, construct, renovate, furnish, equip and improve facilities used by the Alameda little league in Albuquerque in Bernalillo county;

35. three million dollars (\$3,000,000) to acquire land and rights of way and to develop, plan, design, construct, equip, install and improve a pedestrian and bicycle trail from Alameda boulevard to interstate 40 in Albuquerque in Bernalillo county;

36. four hundred fifty thousand dollars (\$450,000) to plan, design, construct, purchase, equip and install lighting for Alamosa park in Albuquerque in Bernalillo county;

37. three hundred forty-two thousand seven hundred seventy-seven dollars (\$342,777) to plan, design, construct, expand, purchase, furnish and equip the Albuquerque police academy, including gunshot detection systems, cell-site simulation and a real-time crime center, in Albuquerque in Bernalillo county;

38. six hundred seventeen thousand seven hundred seventy-eight dollars (\$617,778) to purchase and equip a helicopter for the Albuquerque police department in Bernalillo county;

39. two hundred thousand dollars (\$200,000) to purchase and equip vehicles for the police department in Albuquerque in Bernalillo county;

40. two hundred thousand dollars (\$200,000) to acquire land for and to plan, design and construct an Asian and Pacific island community resource center in Albuquerque in Bernalillo county;

~~41. two hundred thousand dollars (\$200,000) to plan, design, construct, equip, install, furnish, expand, renovate and improve the assistance league of Albuquerque retail and office space in Albuquerque in Bernalillo county;~~ *LINE ITEM VETO*

42. four million three hundred fifteen thousand dollars (\$4,315,000) to plan, design, construct, equip, purchase, install and improve Balloon Fiesta park in Albuquerque in Bernalillo county;

43. eighty thousand dollars (\$80,000) to plan, design, construct and repair fields used by the Eastdale little league in area B at Balloon Fiesta park in Albuquerque in Bernalillo county;

44. seventy thousand dollars (\$70,000) to plan, design, construct, improve and equip scoreboards in area B used by the Eastdale little league at Balloon Fiesta park in Albuquerque in Bernalillo county;

45. thirty thousand dollars (\$30,000) to plan, design, construct and improve turf in area B used by the Eastdale little league at Balloon Fiesta park in Albuquerque in Bernalillo county;

46. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, furnish, equip, install and improve Barelvas park in Albuquerque in Bernalillo county;

47. six hundred thousand two hundred seventy-eight dollars (\$600,278) to plan, design, demolish, construct and improve facilities, including indoor and outdoor recreation, education and gathering spaces, at the BioPark aquarium in Albuquerque in Bernalillo county;

48. three hundred ten thousand dollars (\$310,000) to plan, design, construct, purchase, equip, restore and improve the Candelaria nature preserve and associated areas, including implementation of the resource management plan, in Albuquerque in Bernalillo county;

49. ninety-four thousand dollars (\$94,000) to plan, design, construct, purchase, install and equip public safety fencing in the Central avenue and Tramway boulevard area in Albuquerque in Bernalillo county;

50. two hundred thousand dollars (\$200,000) to plan, design, construct, furnish and equip improvements, including security cameras, wiring and hardware, at the Central and Unser public library in Albuquerque in Bernalillo county;

51. nine hundred thousand dollars (\$900,000) to acquire rights of way and to plan, design, construct, furnish and equip phase 1 of a multigenerational facility near the Cibola loop area in Albuquerque in Bernalillo county;

52. one hundred thousand dollars (\$100,000) to plan, design and construct a park in the Clayton Heights neighborhood, including landscaping, walking trails, amenities and educational elements, in Albuquerque in Bernalillo county;

53. five million two hundred twenty-five thousand dollars (\$5,225,000) to plan, design, construct, furnish and equip a fire rescue training and response facility at Coronado park in Albuquerque in Bernalillo county;

54. three hundred twenty-five thousand dollars (\$325,000) to plan, design, construct, purchase and install improvements to Cutler park, including irrigation, accessibility, turf, landscaping and playgrounds, in Albuquerque in Bernalillo county;

55. seventy thousand dollars (\$70,000) to acquire land and rights of way and to plan, design, construct, renovate, equip and furnish Desert Hills as affordable housing in Albuquerque in Bernalillo county;

56. one hundred one thousand four hundred ninety dollars (\$101,490) to purchase equipment and vehicles to provide transportation and meal services to displaced persons and families experiencing homelessness in the international district in Albuquerque in Bernalillo county;

57. four hundred forty-one thousand four hundred ninety dollars (\$441,490) to acquire property, including a building in which domestic violence counselors can work with victims, in Albuquerque in Bernalillo county;

58. one hundred fifteen thousand dollars (\$115,000) to plan, design, construct, renovate, equip and otherwise improve the Eisenhower swimming pool facilities in Albuquerque in Bernalillo county;

59. thirty thousand dollars (\$30,000) to plan, design, purchase, construct, improve and equip El Oso Grande park, including tables, benches, trash cans, playgrounds and playground equipment, shade structures, sanitation and lighting, in Albuquerque in Bernalillo county;

60. one hundred forty-five thousand dollars (\$145,000) to purchase and equip tractors, trailers, forklifts, forklift batteries and pallet jacks and racking for emergency food storage and distribution for Albuquerque in Bernalillo county;

61. one hundred fifty thousand dollars (\$150,000) to plan, design, construct and renovate the Erna Fergusson library, including roofing, carpeting, furniture, interior finishes, bathrooms and upgrades to security and heating, ventilation and air conditioning systems, in Albuquerque in Bernalillo county;

62. one hundred thousand dollars (\$100,000) to plan, design, construct, replace and restore the Ernie Pyle library, including a wood shingle roof, windows and historically appropriate heating, ventilation and air conditioning systems, in Albuquerque in Bernalillo county;

63. two million two hundred twenty-three thousand one hundred fourteen dollars (\$2,223,114) to plan, design, construct, equip and furnish the cradle to career learning center, the Brillante early learning center, exhibits, equipment and information technology, including the purchase and installation of furniture, for the [Explora] science center and children's museum in Albuquerque in Bernalillo county; *LINE ITEM VETO*

64. one million three hundred fifty-six thousand four hundred ninety dollars (\$1,356,490) to plan, design, construct, furnish and equip a preschool facility for children and families experiencing homelessness in Albuquerque in Bernalillo county;

65. four hundred forty thousand dollars (\$440,000) to purchase and equip emergency medical response equipment, including chest compression system devices, gurneys and extrication equipment, in Albuquerque in Bernalillo county;

66. one hundred thousand dollars (\$100,000) to purchase and equip a water rescue task force vehicle for Albuquerque fire rescue in Albuquerque in Bernalillo county;

67. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, purchase, repair, renovate, furnish and equip fire station 14 in the southwest mesa in Albuquerque in Bernalillo county;

68. nine million nine hundred twenty-six thousand four hundred ninety dollars (\$9,926,490) to plan, design, construct, purchase, install, equip, furnish, renovate and improve a medical treatment and care facility for the Gateway center, including a medical respite facility, sobering center and first responder drop-off, in Albuquerque in Bernalillo county;

69. one hundred seventy-five thousand dollars (\$175,000) to acquire property for and to plan, design, construct, improve, purchase and install exhibits, furnishings and equipment, including information technology equipment, for a museum and education center for genocide and the Holocaust in Albuquerque in Bernalillo county;

70. fifty thousand dollars (\$50,000) to plan, design, renovate, construct, equip, furnish and improve health and social service centers in Albuquerque in Bernalillo county;

71. two hundred thousand dollars (\$200,000) to plan, design and construct the Mesa del Sol lift station and infrastructure for fire stations, police stations and schools in Albuquerque in Bernalillo county;

72. six hundred ten thousand dollars (\$610,000) to plan, design, construct, improve and equip the museum entry and visitor engagement areas, facility and exhibit technology and exhibits at the Anderson Abruzzo Albuquerque international balloon museum in Albuquerque in Bernalillo county;

73. three hundred fifty-one thousand four hundred ninety dollars (\$351,490) to plan, design, construct, purchase, furnish, install and equip a park at the International district library in Albuquerque in Bernalillo county;

74. one million nine hundred sixty-five thousand dollars (\$1,965,000) to acquire land and property for and to plan, design, construct, equip and improve the central/highland/upper Nob Hill metropolitan development area, including infrastructure and facilities, in Albuquerque in Bernalillo county;

75. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, equip and install improvements to the [~~Rio Grande credit union~~] field at Isotopes park in Albuquerque in Bernalillo county; *LINE ITEM VETO*

76. two hundred thousand dollars (\$200,000) to plan, design, construct, renovate, purchase and equip improvements to the Jack Candelaria community center, including boxing facilities, in Albuquerque in Bernalillo county;

77. two hundred thousand dollars (\$200,000) to plan, design, construct, equip, furnish and improve the Joan Jones community center, including security systems, technology upgrades and a gymnasium, in Albuquerque in Bernalillo county;

78. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, landscape, furnish and equip phase 3 of Juan Tabo Hills park in Albuquerque in Bernalillo county;

79. fifty thousand dollars (\$50,000) to plan, design, construct, repair and restore a mural on the grounds of Kirtland park and the Thomas Bell community center in Albuquerque in Bernalillo county;

80. ninety-two thousand seven hundred seventy-eight dollars (\$92,778) to purchase, equip and replace ladder trucks for Albuquerque fire rescue station 7 in Albuquerque in Bernalillo county;

81. two hundred thousand dollars (\$200,000) to plan, design, construct and equip improvements at the Ladera golf course in Albuquerque in Bernalillo county;

82. one hundred eighty thousand dollars (\$180,000) to plan, design, construct, renovate, furnish, equip and improve the tennis courts at Lauren C. Boles park in Albuquerque in Bernalillo county;

83. three hundred thousand dollars (\$300,000) to plan, design, construct, renovate, purchase, equip, furnish and improve the Loma Linda community center, including security and technology upgrades, in Albuquerque in Bernalillo county;

84. five hundred twenty-five thousand dollars (\$525,000) to plan, design, construct, purchase and install renovations at the Lomas Tramway library, including carpets, shelves, heating, ventilation and air conditioning systems and furniture, in Albuquerque in Bernalillo county;

85. nine hundred fifty thousand dollars (\$950,000) to plan, design, construct, purchase and install improvements to Los Altos park, including irrigation, landscaping, lighting and fencing, in Albuquerque in Bernalillo county;

86. fifty thousand dollars (\$50,000) to plan, design, construct, replace and improve the landscaping, irrigation system, carpeting, furniture, equipment and fire and

burglary security systems at the Los Griegos public library in Albuquerque in Bernalillo county;

87. one hundred thousand dollars (\$100,000) to plan, design, construct and renovate the electrical, security and heating, ventilation and air conditioning systems and to replace furniture and carpeting at the main library in Albuquerque in Bernalillo county;

88. six hundred ninety-five thousand seven hundred seventy-two dollars (\$695,772) to plan, design and construct pickle ball courts at Manzano Mesa multigenerational center in Albuquerque in Bernalillo county;

89. twenty-five thousand dollars (\$25,000) to plan, design, construct, upgrade, purchase and install security systems and security system improvements and equipment for the Manzano Mesa multigenerational center in Albuquerque in Bernalillo county;

90. one hundred fifty-one thousand four hundred ninety dollars (\$151,490) to plan, design, construct, furnish, equip and improve Marion L. Fox memorial park, including play areas, shade structures, site furnishings, courts and landscaping, in Albuquerque in Bernalillo county;

91. one hundred eighty-five thousand dollars (\$185,000) to plan, design, construct, renovate, equip and improve Mariposa Basin park, including fish ponds, irrigation, lighting and park amenities, in Albuquerque in Bernalillo county;

92. one hundred thousand dollars (\$100,000) to acquire property for and to plan, design, construct, furnish and equip a multigenerational center and swimming pool in the Martineztown-Santa Barbara neighborhood in Albuquerque in Bernalillo county;

93. two hundred twenty thousand dollars (\$220,000) to plan, design, construct, equip, install and furnish a community garden in the Martineztown-Santa Barbara area of Albuquerque in Bernalillo county;

94. three hundred seventy thousand dollars (\$370,000) to plan, design, construct, furnish and equip improvements to facilities used by the Mile High little league in Albuquerque in Bernalillo county;

95. twenty-five thousand dollars (\$25,000) to plan, design, construct, renovate, purchase, equip, install and improve the Montgomery pool in Albuquerque in Bernalillo county;

96. two hundred fifty thousand dollars (\$250,000) to plan, design and construct improvements to Morningside park in Albuquerque in Bernalillo county;

97. one million four hundred forty thousand dollars (\$1,440,000) to plan, design, construct, purchase, renovate, repair, equip, install and improve the Albuquerque museum, including the museum education center, educational spaces, offices, heating, ventilation and air conditioning systems, fire suppression systems, restrooms, a parking lot and a sculpture garden, in Albuquerque in Bernalillo county;

98. six million one hundred sixty-five thousand dollars (\$6,165,000) to acquire rights of way and land for and to plan, design, construct, furnish, install and equip an aquatic center at north Domingo Baca park in Albuquerque in Bernalillo county;

99. two hundred thousand dollars (\$200,000) to plan, design, construct, renovate, furnish and improve the northeast area command police substation in Albuquerque in Bernalillo county;

100. fifty thousand dollars (\$50,000) to acquire property for and to plan, design, construct and improve the Paseo de las Montanas trail in Albuquerque in Bernalillo county;

101. two million nine hundred thousand dollars (\$2,900,000) to plan, design, construct, purchase, furnish and equip a building and grounds for a performing and visual arts education center, including fencing and the purchase and installation of related equipment, in Albuquerque in Bernalillo county;

102. one hundred forty thousand dollars (\$140,000) to plan, design and construct improvements to fields used by the Petroglyph little league at Mariposa Basin park in Albuquerque in Bernalillo county;

103. one hundred twenty-seven thousand six hundred ninety dollars (\$127,690) to plan, design, construct, purchase, install, equip, furnish and improve Phil Chacon park in Albuquerque in Bernalillo county;

104. five hundred sixty thousand dollars (\$560,000) to plan, design, construct, purchase, install, equip and improve shade structures in parks, including Barstow, Desert Ridge trails and Rancho de Palomas, in Albuquerque in Bernalillo county;

105. one hundred eighty thousand dollars (\$180,000) to purchase, equip, upgrade and install mobile command station units for the police department in Albuquerque in Bernalillo county;

106. two million four hundred fifty thousand dollars (\$2,450,000) to plan, design, construct, furnish and equip a proton beam cancer treatment facility in Albuquerque in Bernalillo county;

107. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, install, furnish and equip improvements to Quigley park, including landscaping and playgrounds, in Albuquerque in Bernalillo county;

108. twenty-five thousand dollars (\$25,000) to acquire land and rights of way and to plan, design, develop, construct, purchase, equip and improve a rail trail in the downtown Albuquerque area in Bernalillo county;

109. fifty thousand dollars (\$50,000) to plan, design, demolish, construct, improve and equip the Albuquerque rail yards and related infrastructure projects in the rail corridor, including the abatement of environmental contaminants, in Albuquerque in Bernalillo county;

110. four hundred seventy-five thousand dollars (\$475,000) to plan, design, construct, repair and improve railroad infrastructure, including the turntable, at the Albuquerque rail yards in Albuquerque in Bernalillo county;

111. two hundred twenty-five thousand dollars (\$225,000) to rehabilitate and repair railroad tracks at the Wheels museum in Albuquerque in Bernalillo county;

112. one hundred seventy thousand dollars (\$170,000) to plan, design, demolish, construct, renovate and equip bathrooms and the facilities used by the West Mesa little league at Redlands park in Albuquerque in Bernalillo county;

113. twenty-five thousand dollars (\$25,000) to purchase, equip and replace rescue vehicles for Albuquerque fire rescue station 4 in Albuquerque in Bernalillo county;

114. one hundred fifteen thousand dollars (\$115,000) to plan, design, construct, replace and improve facilities near Hahn park, including bathrooms, artificial turf and light-emitting diode lights and poles, on the fields used by the Roadrunner little league in Albuquerque in Bernalillo county;

115. fifty thousand dollars (\$50,000) to plan, design, construct, purchase, equip and improve Ross Enchanted park, including the installation of outdoor tables, benches, trash cans, playground equipment, shade structures, sanitation facilities and lighting, in Albuquerque in Bernalillo county;

116. two hundred forty-five thousand dollars (\$245,000) to plan, design, construct, improve, purchase, install and expand the route 66 visitor center, including signage, exhibits, site improvements, a pedestrian overlook bridge and a multi-use trail along west Central avenue, in Albuquerque in Bernalillo county;

117. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, furnish and equip improvements to south San Jose park, including tables, benches, trash cans, playgrounds, shade structures, lighting and park expansion, in Albuquerque in Bernalillo county;

118. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, purchase, install, equip and improve the San Antonio Oxbow open space in Albuquerque in Bernalillo county;

119. one hundred fifty-one thousand four hundred ninety dollars (\$151,490) to plan, design, construct and equip renovations, including carpets, roofing, electrical, security and heating, ventilation and air conditioning systems, at the San Pedro public library in Albuquerque in Bernalillo county;

~~[120. fifty thousand dollars (\$50,000) to purchase and install information technology and related equipment, furniture and infrastructure, including accessibility improvements, at facilities used by the Sawmill community land trust in Albuquerque in Bernalillo county;] LINE ITEM VETO~~

121. one million five hundred thousand dollars (\$1,500,000) to acquire land and rights of way and to plan, design, construct, purchase, furnish, equip and improve police department facilities in southeast Albuquerque in Bernalillo county;

122. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, equip, install, furnish and improve Shooting Range park in Albuquerque in Bernalillo county;

123. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, furnish and equip improvements to Singing Arrow park, including playgrounds, shade structures, outdoor furniture, trash cans, sanitation and lighting, in Albuquerque in Bernalillo county;

124. two hundred nine thousand dollars (\$209,000) to plan, design, construct and renovate the South Broadway public library, including heating, ventilation and air conditioning systems, roofing and the purchase of furniture, in Albuquerque in Bernalillo county;

125. two million nine hundred eighty-five thousand dollars (\$2,985,000) to plan, design, construct, equip, and furnish a southwest public safety facility for Albuquerque in Bernalillo county;

126. two hundred twenty-five thousand dollars (\$225,000) to plan, design and construct a memorial for victims of suicide in Albuquerque in Bernalillo county;

127. twenty thousand dollars (\$20,000) to acquire property for and to plan, design, construct, renovate, purchase, install and equip southwest mesa area parks in Albuquerque in Bernalillo county;

128. five hundred twenty-three thousand eight hundred dollars (\$523,800) to plan, design, purchase, construct and renovate the Taylor Ranch library, including

security systems and cameras, carpeting and furniture, in Albuquerque in Bernalillo county;

129. four hundred twenty-five thousand dollars (\$425,000) to plan, design, construct, renovate and improve teen centers, including gymnasiums, kitchens, digital arts studios and activity and multipurpose spaces, in Albuquerque in Bernalillo county;

130. five hundred ten thousand dollars (\$510,000) to plan, design, construct, renovate, purchase, furnish and equip a scenic studio and workforce development center for the performing arts, including information technology and related furniture, equipment and infrastructure, theatrical audio and lighting equipment, machinery and vehicles, in Albuquerque in Bernalillo county;

131. one hundred thousand dollars (\$100,000) to purchase and install security systems, including fire and burglary systems and cameras, at the Tony Hillerman library in Albuquerque in Bernalillo county;

132. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct and improve landscaping, including the removal of invasive plant species that pose a fire threat to homes along the east and west side of Tramway boulevard between Montgomery boulevard and Candelaria road, in Albuquerque in Bernalillo county;

133. four hundred fifty thousand dollars (\$450,000) to plan, design, construct, furnish and equip the Unser museum in the area of Central avenue and Unser boulevard in Albuquerque in Bernalillo county;

134. fifty thousand dollars (\$50,000) to plan, design, construct, purchase, equip and install a section of the USS Albuquerque in an Albuquerque park in Bernalillo county;

135. two hundred thousand dollars (\$200,000) to plan, design, construct, purchase, install, equip and furnish improvements to USS Bullhead memorial park in Albuquerque in Bernalillo county;

136. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, renovate, repair, furnish and otherwise improve the valley area command police station in Albuquerque in Bernalillo county;

137. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, install, furnish, equip and otherwise improve Vista del Norte park, including the nearby bicycle pathway, bicycle trails, a dog park, restrooms, a nature play area and a group shelter, in Albuquerque in Bernalillo county;

138. three hundred thousand dollars (\$300,000) to plan, design, construct, improve, furnish and equip an indoor sports complex at the Jennifer Riordan spark kindness sports complex in northwest Albuquerque in Bernalillo county;

139. two hundred sixty thousand dollars (\$260,000) to plan, design, construct, furnish and equip the Westgate community center, including the purchase of information technology and related equipment, in Albuquerque in Bernalillo county;

140. one million four hundred eighty thousand one dollars (\$1,480,001) to plan, design, construct, improve, expand and equip the Westside and Eastside animal shelters, including kennels, support facilities, offices, public areas and veterinary clinics, in Albuquerque in Bernalillo county;

141. three hundred fifty-five thousand dollars (\$355,000) to plan, design, construct, improve and expand the Westside animal shelter, including kennels, associated support facilities, offices, public areas and a veterinary clinic, in Albuquerque in Bernalillo county;

142. one hundred ninety-seven thousand four hundred fifty dollars (\$197,450) to plan, design, construct, renovate and improve the Wheels museum, including accessibility and code-compliance improvements, in Albuquerque in Bernalillo county;

143. ninety thousand dollars (\$90,000) to match federal funding to purchase and equip wildland firefighting equipment and personal protective gear in Albuquerque in Bernalillo county;

144. one million ninety-one thousand four hundred ninety dollars (\$1,091,490) to plan, design, construct, renovate and equip the gymnasium and the science and education activity room at a facility for boys' and girls' programs in Albuquerque in Bernalillo county;

145. one million five hundred fifty-eight thousand four hundred ninety dollars (\$1,558,490) to acquire rights of way and property and to plan, design, construct, purchase, furnish and equip a shelter for homeless or at-risk youth in Albuquerque in Bernalillo county;

146. seven hundred sixty-six thousand four hundred ninety dollars (\$766,490) to plan, design, construct, furnish, renovate and equip buildings and grounds for a youth services and transitional living facility, including fencing, information technology, security infrastructure and installation of related equipment, in Bernalillo county;

147. eighty thousand dollars (\$80,000) to plan, design, construct, improve and equip the park and recreational facilities used by the Zia little league in Albuquerque in Bernalillo county;

148. five hundred fifty-eight thousand seven hundred seventy-seven dollars (\$558,777) to plan, design, construct, furnish and equip the Albuquerque metropolitan arroyo flood control authority office building in Albuquerque in Bernalillo county;

149. nine hundred one thousand four hundred ninety dollars (\$901,490) to plan, design, construct, equip and furnish facility improvements to the New Mexico Bernalillo county coronavirus disease 2019 memorial located at the Swede Scholer regional recreation complex in Albuquerque in Bernalillo county;

150. two hundred seventy thousand dollars (\$270,000) to plan, design, construct, purchase and install improvements, including portable lighting and sound systems, information technology systems, indoor and outdoor lighting and related infrastructure and the purchase of musical instruments, for a flamenco studio in Albuquerque in Bernalillo county;

~~[151. ten thousand dollars (\$10,000) to purchase and equip passenger vans and other vehicles for a flamenco studio in Albuquerque in Bernalillo county;]~~ *LINE ITEM VETO*

152. four hundred fifty-one thousand four hundred ninety dollars (\$451,490) to plan, design, construct, improve and install security systems for the Hiland theater in Albuquerque in Bernalillo county;

153. one hundred ninety-one thousand four hundred ninety dollars (\$191,490) to plan, design, construct, purchase and install water reclamation infrastructure, irrigation systems, greenhouses and storage units for a neighborhood food hub garden in Albuquerque in Bernalillo county;

154. three hundred ninety thousand dollars (\$390,000) to plan, design, construct, furnish and equip improvements to buildings and grounds at the South Valley economic development center, including fencing, information technology, security infrastructure and installation of related equipment, in Albuquerque in Bernalillo county;

155. one million four hundred nineteen thousand two hundred sixty-eight dollars (\$1,419,268) to purchase and install furnishings and equipment for transitional housing at the veterans integration centers in Albuquerque in Bernalillo county;

156. three hundred twenty-five thousand dollars (\$325,000) to plan, design, construct, furnish and equip an expansion to the Westside community center, including martial arts, wrestling, boxing and group exercise spaces, in Albuquerque in Bernalillo county;

157. two hundred thousand dollars (\$200,000) to plan, design and construct fencing, irrigation systems and safety improvements and to purchase and install playground equipment at Edgewood park in Los Ranchos de Albuquerque in Bernalillo county;

158. five hundred twenty-five thousand dollars (\$525,000) to acquire property, open space and agricultural land for Los Ranchos de Albuquerque in Bernalillo county;

159. five hundred thousand dollars (\$500,000) to plan, design, construct and improve the Vista Grande community center in Sandia Park in Bernalillo county;

160. three hundred thousand dollars (\$300,000) to plan, design and construct a maintenance building for Tijeras in Bernalillo county;

161. two hundred fifty thousand dollars (\$250,000) to purchase and install upgraded security equipment in Tijeras in Bernalillo county;

162. three hundred thousand dollars (\$300,000) to plan, design, construct and improve community centers in Catron county;

163. two hundred ten thousand dollars (\$210,000) to purchase and equip law enforcement vehicles for the sheriff's department in Catron county;

164. seven hundred forty thousand dollars (\$740,000) to purchase and equip ambulances for Reserve in Catron county;

165. two hundred thousand dollars (\$200,000) to plan, design, construct, expand, equip and furnish improvements to fire department facilities in Reserve in Catron county;

166. eight hundred eighty-five thousand dollars (\$885,000) to plan, design, construct, renovate, upgrade, furnish and equip space in the county administrative complex, including replacement of communications equipment and infrastructure, for the Pecos Valley regional communications center in Chaves county;

167. one hundred ninety thousand dollars (\$190,000) to plan, design, and construct, repair and renovate parking facilities at the St. Mary's complex in Chaves county;

168. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, renovate, furnish and equip St. Mary's complex, including suite D, in Chaves county;

169. one million four hundred thousand dollars (\$1,400,000) to purchase land and water rights for Dexter in Chaves county;

170. one hundred thirty thousand dollars (\$130,000) to purchase and equip police vehicles, including police markings, four-wheel drive, remote keyless entry, trailer towing package and window tinting, for the police department in Dexter in Chaves county;

171. five hundred thousand dollars (\$500,000) to purchase and equip an ambulance for Hagerman in Chaves county;

172. three hundred thousand dollars (\$300,000) to plan, design, construct, furnish and equip improvements to the Lake Arthur cemetery, including well rehabilitation, in Lake Arthur in Chaves county;

173. fifty thousand dollars (\$50,000) to purchase and equip a tractor mower for Lake Arthur in Chaves county;

174. eight hundred thousand dollars (\$800,000) to plan, design, construct, purchase and install replacement windows in the historic Chaves county courthouse in Roswell in Chaves county;

175. one hundred fifty thousand dollars (\$150,000) to plan, design, construct and equip a health department facility and campus, including site and accessibility improvements, in Chaves county;

176. two million dollars (\$2,000,000) to plan, design, construct and expand the air center terminal building in Roswell in Chaves county;

177. two hundred thousand dollars (\$200,000) to plan, design and construct an all-inclusive park, including the purchase and installation of accessible playground equipment, shade structures and outdoor furniture, in the Cielo Grande area in Roswell in Chaves county;

178. six hundred fifty thousand dollars (\$650,000) to plan, design, purchase, equip and install above-ground storage tanks for public service operations in Cibola county;

179. one hundred twenty-one thousand dollars (\$121,000) to purchase a ladder truck in Grants in Cibola county;

180. two hundred seventy-five thousand dollars (\$275,000) to purchase and equip skid steer loaders for Grants in Cibola county;

181. two million five hundred sixty thousand dollars (\$2,560,000) to plan, design, construct and improve a swimming pool in Milan in Cibola county;

182. fifty thousand dollars (\$50,000) to purchase, equip, repair and replace law enforcement and emergency services dispatch repeater equipment for the Touch Me Not area in Colfax county;

183. one hundred thousand dollars (\$100,000) to purchase and equip a maintenance truck for the road department in Colfax county;

184. five hundred sixty-four thousand dollars (\$564,000) to purchase the Bartlett mesa ranch for Raton in Colfax county;
185. one hundred thousand dollars (\$100,000) to purchase and equip a motor grader in Eagle Nest in Colfax county;
186. one hundred fifty thousand dollars (\$150,000) to purchase and equip a tractor trailer for the road department in Colfax county;
187. sixty thousand dollars (\$60,000) to purchase vehicles and public works maintenance equipment, including a tractor mower, a multi-tool skid steer, a culvert jetter, a brush chipper and snow removal equipment, in Raton in Colfax county;
188. one hundred thousand dollars (\$100,000) to purchase, equip and install upgrades to electric meter reading systems in Springer in Colfax county;
189. one hundred eighty thousand dollars (\$180,000) to purchase and equip police vehicles in Springer in Colfax county;
190. one hundred thousand dollars (\$100,000) to purchase and equip vehicles for the public works department in Springer in Colfax county;
191. one hundred thousand dollars (\$100,000) to plan, design, construct, and furnish museum improvements in Springer in Colfax county;
192. two hundred seventy-eight thousand dollars (\$278,000) to plan, design and construct a recreation and sports complex in Curry county;
193. ten million dollars (\$10,000,000) to acquire property for and to plan, design, construct, furnish and equip a behavioral health facility in Clovis in Curry county;
194. two hundred fifty thousand dollars (\$250,000) to plan, design, demolish, construct, furnish and equip improvements to the historic Railroad district in Clovis in Curry county;
195. three hundred thousand dollars (\$300,000) to plan, design, construct, equip and improve parks in Clovis in Curry county;
196. eight hundred forty thousand dollars (\$840,000) to plan, design, construct, improve and replace the roof and the heating, ventilation and air conditioning systems at the Roy Walker recreation center in Clovis in Curry county;
197. one million twenty-four thousand dollars (\$1,024,000) to plan, design, demolish, construct, furnish and equip a multipurpose livestock pavilion for the county fairgrounds in Clovis in Curry county;

198. one hundred thousand dollars (\$100,000) to plan, design, construct, renovate, furnish and equip improvements to the eastern plains council of governments office building in Clovis in Curry county;

199. two hundred thousand dollars (\$200,000) to purchase and equip vehicles for the sheriff's office in De Baca county;

200. two hundred seventy-five thousand dollars (\$275,000) to purchase and equip vehicles and equipment for the water and street departments in Fort Sumner in De Baca county;

201. one hundred fifty-seven thousand five hundred ten dollars (\$157,510) to plan, design, construct, purchase, furnish and equip improvements to Dallas park in Fort Sumner in De Baca county;

202. five hundred thousand dollars (\$500,000) to acquire land for and to plan, design, construct, improve, furnish and equip a building, including building relocation, for the Alto de las Flores mutual domestic water consumers association in Dona Ana county;

203. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and improve a produce processing room and irrigation system [~~at the farmers' market youth center facility~~] for the Anthony water and sanitation district in Dona Ana county;  
*LINE ITEM VETO*

204. eight hundred thousand seven hundred forty-three dollars (\$800,743) to plan, design and construct a community complex, including an office and meeting space, common space, kitchen, storage area, gymnasium, restrooms, janitorial room, parking, sidewalks and a playground, for the Chamberino mutual domestic water consumer and sewer association in Dona Ana county;

205. one hundred thousand dollars (\$100,000) to plan, design, purchase, install and construct improvements to the Butterfield park and ballpark in Dona Ana county;

206. three hundred thousand dollars (\$300,000) to purchase equipment and furniture and to plan, design, construct, renovate, furnish and equip the Colquitt community center, including site improvements, in Dona Ana county;

207. two hundred thousand dollars (\$200,000) to plan, design, construct, purchase and install improvements at East Mesa park in Dona Ana county;

208. five hundred sixty thousand dollars (\$560,000) to plan, design, construct, furnish and equip an emergency operations center and office of emergency management facility for Dona Ana county;

209. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, repair, install and make improvements to the structures and grounds at the county fairgrounds in Dona Ana county;

210. two hundred thousand dollars (\$200,000) to plan, design, construct, furnish and equip improvements to La Mesa community center in Dona Ana county;

211. two hundred thousand dollars (\$200,000) to plan, design, construct, purchase, install and equip improvements to the Mesquite ballpark, including lighting, in Dona Ana county;

212. six hundred thirty-three thousand five hundred dollars (\$633,500) to purchase, equip and install communications equipment, including analog vehicle repeaters, in law enforcement vehicles in Dona Ana county;

213. four hundred thirty-seven thousand five hundred dollars (\$437,500) to plan, design, construct, renovate, furnish and equip South Valley fire station 13 in Dona Ana county;

214. one hundred fifty thousand dollars (\$150,000) to plan, design, purchase, install and construct a playground, park structures and landscaping at the Vado Del Cerro community park in Dona Ana county;

215. one million seven hundred fifty thousand dollars (\$1,750,000) to acquire easements and rights of way and to plan, design, construct, furnish and equip a health and wellness center in Anthony in Dona Ana county;

216. one million dollars (\$1,000,000) to plan, design, construct, renovate, furnish and equip a multipurpose facility, including space for fire protection and law enforcement services, in Anthony in Dona Ana county;

217. one hundred twenty-five thousand dollars (\$125,000) to purchase and equip vehicles in Anthony in Dona Ana county;

218. five hundred eighty thousand dollars (\$580,000) to plan, design, construct, renovate, furnish and equip fire station 10 in Chaparral in Dona Ana county;

219. one hundred seventy-five thousand dollars (\$175,000) to purchase equipment and to plan, design and renovate a building for a food pantry in Hatch in Dona Ana county;

220. four hundred twenty thousand dollars (\$420,000) to acquire land for and to plan, design, construct, furnish and equip a library, including a parking lot, in Hatch in Dona Ana county;

221. fifty thousand dollars (\$50,000) to plan, design, construct, furnish and equip improvements to the Dona Ana boxing club in Las Cruces in Dona Ana county;

222. one million fifty thousand dollars (\$1,050,000) to acquire and to plan, design, equip, construct and furnish an office and warehouse facility for the Dona Ana county elections bureau and the recording and filing departments in Las Cruces in Dona Ana county;

223. one hundred sixty-five thousand dollars (\$165,000) to plan, design, construct, demolish, equip, install and improve the Branigan cultural center, including repair of woodwork and stucco, windows, fire suppression systems, heating, ventilation and air conditioning systems, abatement of hazardous materials, structural stabilization and exterior painting and repair, in Las Cruces in Dona Ana county;

224. eight hundred fifty thousand dollars (\$850,000) to plan, design, construct, renovate and equip an economic and workforce development facility, including a commercially licensed and certified shared-use community kitchen, in Las Cruces in Dona Ana county;

225. one million twenty-five thousand dollars (\$1,025,000) to plan, design, construct, equip, purchase and install improvements and infrastructure [~~at El Caldite soup kitchen~~] in Las Cruces in Dona Ana county; *LINE ITEM VETO*

226. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and improve fire station 2, including demolition and construction of walls, cement flooring, bay doors, drains and electrical system improvements, in Las Cruces in Dona Ana county;

227. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and improve fire station 5, including parking lot improvements, purchase and installation of a generator and removal and replacement of bay doors, in Las Cruces in Dona Ana county;

228. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and improve fire station 6, including building repairs and remodeling of restroom facilities, in Las Cruces in Dona Ana county;

229. two hundred fifty thousand dollars (\$250,000) to plan, design and construct, repair and replace a roof on the building [~~currently housing Jardin de los Niños~~] on the Mesilla Valley community of hope campus in Las Cruces in Dona Ana county; *LINE ITEM VETO*

230. two hundred ten thousand dollars (\$210,000) to plan, design, construct, improve, install, furnish and equip Klein park, including paths, walkways, sidewalks, play and shade structures, stages, lighting, landscaping, irrigation, picnic areas, bus stops and infrastructure, in Las Cruces in Dona Ana county;

231. one million fifty thousand dollars (\$1,050,000) to plan, design, construct, renovate, purchase, furnish and equip infrastructure improvements, including utilities, for the Las Cruces international airport in Las Cruces in Dona Ana county;

232. one million one hundred fifty thousand dollars (\$1,150,000) to plan, design, construct, renovate, purchase, equip, furnish and install improvements to a section of the building [~~currently housing Casa de Peregrinos~~] for the Mesilla Valley community of hope offices in Las Cruces in Dona Ana county; *LINE ITEM VETO*

233. one million twenty-five thousand dollars (\$1,025,000) to acquire rights of way and to plan, design, construct, improve and equip the Mesquite historic district, including lighting, signage, entryways, landscaping and infrastructure, in Las Cruces in Dona Ana county;

234. fifty thousand dollars (\$50,000) to plan, design, construct, furnish, equip, install and improve the museum of nature and science, including electrical and data cabling, ports and related infrastructure, sales area, adjacent structures and atrium entrance, in Las Cruces in Dona Ana county;

235. six hundred sixty thousand dollars (\$660,000) to plan, design, construct, demolish, replace, renovate and equip a gazebo, park lighting, concrete foundations, walkways, seating, electrical systems and other park improvements at Pioneer women's park in Las Cruces in Dona Ana county;

236. three hundred thousand dollars (\$300,000) to plan, design, construct, furnish, equip and improve park facilities, including parking, accessibility and code compliance and repairs and renovations to address safety, structural, aesthetic and maintenance issues, in Las Cruces in Dona Ana county;

237. three hundred thousand dollars (\$300,000) to purchase and equip a bulldozer, including landfill guarding equipment, for use at the Corralitos landfill for the south central solid waste authority in Las Cruces in Dona Ana county;

238. fifty thousand dollars (\$50,000) to purchase and equip electric vehicles and charging stations for the south central solid waste authority in Las Cruces in Dona Ana county;

239. one hundred thousand dollars (\$100,000) to plan, design, construct, improve, install, repair and equip trails, multi-use trails and paths, including trail surfacing and infrastructure, erosion control, safety features, signage, access controls, fencing, lighting and electrical systems, in Las Cruces in Dona Ana county;

240. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, install, furnish and equip improvements to Veterans memorial park, including the memorial walkway and construction of a visitor center with restrooms and related infrastructure, in Las Cruces in Dona Ana county;

241. one hundred fifty thousand dollars (\$150,000) to purchase and equip vehicles for the marshal's department in Mesilla in Dona Ana county;

242. three hundred six thousand dollars (\$306,000) to purchase and equip a street sweeper for Mesilla in Dona Ana county;

243. two hundred thousand dollars (\$200,000) to plan, design, construct and install improvements to the building and grounds at the Mesquite community center in Dona Ana county;

244. three hundred thousand dollars (\$300,000) to plan, design and construct sidewalks in the Mesquite area of Dona Ana county;

245. two hundred thousand dollars (\$200,000) to plan, design, construct, purchase, furnish and equip a skate park in Mesquite in Dona Ana county;

246. one hundred thousand dollars (\$100,000) to plan, design, construct, renovate, expand and furnish areas of the emergency and hazardous-materials response facility, including restrooms, in Santa Teresa in Dona Ana county;

247. three hundred thousand dollars (\$300,000) to acquire land and an administrative and maintenance building and to purchase electric buses and electric charging stations for the south central regional transit district in Sunland Park in Dona Ana county;

248. one million three hundred sixty-five thousand dollars (\$1,365,000) to acquire land and to plan, design, construct, renovate, furnish and equip municipal complexes and plazas, including a food pantry facility, in Sunland Park in Dona Ana county;

249. two hundred thousand dollars (\$200,000) to purchase and equip vehicles and equipment for the police department in Sunland Park in Dona Ana county;

250. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, renovate and improve Happy Valley park, including landscaping, park structures and the purchase and installation of recreation equipment, in Eddy county;

251. one hundred fifty thousand dollars (\$150,000) to purchase and equip a youth fire prevention training interactive trailer for county fire services in Eddy county;

252. one hundred fifty thousand dollars (\$150,000) to purchase and equip a backhoe for the Malaga mutual domestic water consumers and sewage works association in Eddy county;

253. three hundred sixty thousand dollars (\$360,000) to plan, design, construct, renovate, equip and improve Jaycee park, including lighting, electrical systems and landscaping, in Artesia in Eddy county;

254. eight hundred ten thousand dollars (\$810,000) to plan, design, construct, furnish and equip a recreation and community center, including parking, in Artesia in Eddy county;

255. three hundred seventy-five thousand dollars (\$375,000) to plan, design, construct, furnish and equip a splash pad, including plumbing and landscaping, in Artesia in Eddy county;

256. nine hundred fifty-five thousand dollars (\$955,000) to purchase, install and calibrate magnetic resonance imaging equipment and to plan, design, construct, renovate and expand areas of Artesia general hospital, including the magnetic resonance imaging and bone-density scanning units, in the Artesia special hospital district in Eddy county;

257. seven hundred fifty thousand dollars (\$750,000) to plan, design, construct, furnish, equip and install improvements to the Riverwalk recreation center in Carlsbad in Eddy county;

258. three hundred thousand dollars (\$300,000) to plan, design and construct improvements to city hall, including drop ceilings, insulation, electrical systems, lighting, heating, ventilation and air conditioning systems, wall reinforcement and carpeting, in Hope in Eddy county;

259. four hundred thousand dollars (\$400,000) to plan, design and construct a metal-frame storage building and to purchase and install equipment, including an air compressor, drill press, table saw, work bench, floor jack and welding equipment, for the public works department in Hope in Eddy county;

260. one hundred seventy-five thousand dollars (\$175,000) to plan, design, construct and equip a youth recreation center in Loving in Eddy county;

261. one million dollars (\$1,000,000) to plan, design, construct, furnish and equip a crisis intervention facility in Grant county;

262. seventy-five thousand dollars (\$75,000) to plan, design, construct and equip improvements to the county fairgrounds in Grant county;

263. five hundred thousand dollars (\$500,000) to purchase, equip and replace law enforcement vehicles and to plan, design, construct, purchase and install security systems for the sheriff's office in Grant county;

264. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, extend, equip and furnish a path for pedestrians and bicycles for Santa Clara in Grant county;

265. four hundred thousand dollars (\$400,000) to purchase and equip a sewer vacuum truck for Bayard in Grant county;

266. three hundred twenty-five thousand dollars (\$325,000) to plan, design, construct, furnish and equip a community center in Gila in Grant county;

267. three hundred thirty thousand dollars (\$330,000) to plan, design, construct, improve, furnish and equip the Chino general office building in Hurley in Grant county;

268. fifty thousand dollars (\$50,000) to plan, design, construct, equip, purchase and install recreational improvements in Hurley in Grant county;

269. fifty thousand dollars (\$50,000) to plan, design, construct, improve and equip the city hall in Santa Clara in Grant county;

270. fifty thousand dollars (\$50,000) to plan, design, construct, furnish and equip improvements to Fort Bayard properties and grounds for Santa Clara in Grant county;

271. fifty thousand dollars (\$50,000) to plan, design, construct, furnish and equip improvements to the Fort Bayard theater in Santa Clara in Grant county;

272. four hundred fifty thousand dollars (\$450,000) to plan, design, construct, improve and replace telecommunications equipment for the Gila regional medical center in Silver City in Grant county;

273. three hundred fifty thousand dollars (\$350,000) to plan, design, construct, renovate, furnish and equip the city hall annex in Silver City in Grant county;

274. fifty thousand dollars (\$50,000) to plan, design, construct, renovate, furnish, equip and improve a public park, including the purchase and installation of playground equipment and outdoor furniture, in the Anton Chico land grant-merced in Guadalupe county;

275. five hundred thousand dollars (\$500,000) to plan, design and construct a communications tower for emergency communications in the Puerto de Luna area in Guadalupe county;

276. eighty-five thousand dollars (\$85,000) to purchase and equip public safety equipment for Guadalupe county;

277. one hundred fifty thousand dollars (\$150,000) to purchase and equip an ambulance in Guadalupe county;

278. one hundred fifty thousand dollars (\$150,000) to purchase and equip an ambulance in Santa Rosa in Guadalupe county;

279. three hundred eighty-four thousand eight hundred ninety dollars (\$384,890) to plan, design, construct, improve, purchase and install bathrooms, landscaping, parking facilities and equipment at parks in Santa Rosa in Guadalupe county;

280. five hundred thousand dollars (\$500,000) to plan, design, construct and develop housing for employees and community members in Harding county;

281. four hundred eighty thousand dollars (\$480,000) to plan, design, construct, furnish and equip an emergency services building in Mosquero in Harding county;

282. five hundred thousand dollars (\$500,000) to plan, design, construct, furnish and equip a fire station in Mosquero in Harding county;

283. three hundred seventy-five thousand dollars (\$375,000) to plan, design and construct improvements to the Harding county fairgrounds in Roy in Harding county;

284. fifty thousand dollars (\$50,000) to plan, design, construct, renovate, furnish and equip bathroom improvements, including utilities, at Roy village park in Roy in Harding county;

285. three hundred thousand dollars (\$300,000) to purchase and equip an ambulance for Hidalgo county;

286. six hundred fifty thousand dollars (\$650,000) to expand an ambulance station in Hidalgo county;

287. one hundred twenty thousand dollars (\$120,000) to purchase and equip road equipment, including an oil distributor, a chip spreader and a trailer, for Hidalgo county;

288. one hundred seventy thousand dollars (\$170,000) to purchase and equip police vehicles for Lordsburg in Hidalgo county;

289. two hundred thousand dollars (\$200,000) to plan, design, construct, improve, equip and furnish a special events center in Lordsburg in Hidalgo county;

290. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and furnish a heritage park and multipurpose center in Virden in Hidalgo county;

291. nine hundred ninety thousand dollars (\$990,000) to plan, design, construct, furnish and equip a rodeo arena at the Stephens lake property in Eunice in Lea county;

292. one million dollars (\$1,000,000) to plan, design, construct, replace and equip roofs and heating, ventilation and air conditioning units at the police department, police department annex and municipal court buildings in Hobbs in Lea county;

293. one million five hundred thousand dollars (\$1,500,000) to purchase and equip public safety vehicles for Hobbs in Lea county;

294. one million one hundred thousand dollars (\$1,100,000) to plan, design, construct and equip an emergency medical services facility, including offices and a garage, in Jal in Lea county;

295. eight hundred thousand dollars (\$800,000) to plan, design, construct, equip and furnish the historic Lea county courthouse in Lovington in Lea county;

296. three hundred thousand dollars (\$300,000) to purchase and equip a brush truck for Lovington in Lea county;

297. two hundred fifty thousand dollars (\$250,000) to purchase and install information technology and security networks, including related equipment, infrastructure and furniture, for municipal buildings in Lovington in Lea county;

298. three hundred fifty thousand dollars (\$350,000) to plan, design, construct, renovate, furnish and equip a public safety facility for the Lovington police and fire departments in Lovington in Lea county;

299. three hundred seventy-two thousand dollars (\$372,000) to purchase and equip emergency and public safety vehicles for Lovington in Lea county;

300. six hundred forty thousand dollars (\$640,000) to purchase and equip heavy equipment for public works departments in Lovington in Lea county;

301. three hundred fifteen thousand dollars (\$315,000) to purchase and equip vehicles and equipment and to plan, design, renovate, equip and furnish agricultural and educational facilities, residential facilities and camp infrastructure at a veterans' educational facility near Fort Stanton for Capitan in Lincoln county;

302. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, furnish and equip a metal building for the water department in Capitan in Lincoln county;

303. one hundred twenty thousand dollars (\$120,000) to plan, design and construct a roof for the library and police station in Carrizozo in Lincoln county;

304. two hundred thousand dollars (\$200,000) to purchase and equip trucks for Carrizozo in Lincoln county;

305. eight hundred thousand dollars (\$800,000) to plan, design, construct and equip improvements to the Lincoln county courthouse, including doors, ramps and other accessibility improvements, in Carrizozo in Lincoln county;

306. fifty thousand dollars (\$50,000) to plan, design, construct, purchase, install and equip a security surveillance system, including cameras, for the Lincoln county detention center in Carrizozo in Lincoln county;

307. five hundred thousand dollars (\$500,000) to plan, design, construct, purchase, furnish and equip outdoor recreation infrastructure in Ruidoso in Lincoln county;

308. fifty thousand dollars (\$50,000) to purchase and install crime scene equipment for the police department in Ruidoso in Lincoln county;

309. six hundred seventy thousand five hundred dollars (\$670,500) to plan, design, construct, furnish and equip a city hall facility in Ruidoso Downs in Lincoln county;

310. two million dollars (\$2,000,000) to plan, design and construct a fire station for Los Alamos in Los Alamos county;

311. one million five hundred thousand dollars (\$1,500,000) to plan, design, construct, equip and furnish an emergency operations center in Luna county;

312. two hundred thousand dollars (\$200,000) to purchase and equip heavy road machinery in Luna county;

313. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, furnish, equip and install publicly accessible electric vehicle charging stations in Deming in Luna county;

314. nine hundred thousand dollars (\$900,000) to plan, design, construct, furnish, equip and install a live fire training facility for the fire department in Deming in Luna county;

315. three hundred thousand dollars (\$300,000) to plan, design, construct, furnish and equip a training facility for the police department in Deming in Luna county;

316. two hundred thousand dollars (\$200,000) to plan, design, construct, improve, expand, furnish and equip the Mimbres Valley learning center in Deming in Luna county;

317. one million seven hundred thousand dollars (\$1,700,000) to plan, design, construct, furnish and equip a domestic violence emergency shelter for McKinley county;

318. one hundred thousand dollars (\$100,000) to plan and design a comprehensive engineering master plan for economic development for the Fort Wingate army depot in McKinley county;

319. one hundred fifty thousand dollars (\$150,000) to plan, design and construct walking trails [~~utilizing a former soccer field in the Mentmore neighborhood~~] in Gallup in McKinley county; *LINE ITEM VETO*

320. six hundred eighty thousand dollars (\$680,000) to plan, design, construct and replace artificial turf fields, including drainage infrastructure, at Ford Canyon park and the Gallup sports complex in Gallup in McKinley county;

321. three hundred thousand dollars (\$300,000) to purchase and equip police vehicles for Gallup in McKinley county;

322. four hundred thousand dollars (\$400,000) to plan, design, construct, furnish and equip a new regional animal shelter in Gallup in McKinley county;

323. one hundred thousand dollars (\$100,000) to plan, design, construct, and equip roof and heating, ventilation and air conditioning improvements to a community service center in Gallup in McKinley county;

324. two million dollars (\$2,000,000) to plan, design, construct, renovate and improve Red Rock park and recreational vehicle campground in Gallup in McKinley county;

325. five million eight hundred fifty thousand dollars (\$5,850,000) to plan, design and construct infrastructure and energy efficiency improvements to the Rehoboth McKinley Christian hospital in McKinley county;

326. three hundred thousand dollars (\$300,000) to plan, design, construct, renovate, repair and equip improvements to facilities at the bi-county fair and Prewitt rodeo grounds in McKinley county;

327. one hundred thousand dollars (\$100,000) to acquire land for and to plan, design and construct a maintenance shop for the road department in Mora county;

328. seventy-five thousand dollars (\$75,000) to purchase and equip equipment for the road department in Mora county;

329. one million dollars (\$1,000,000) to purchase and equip equipment for the emergency management services and sheriff's departments in Mora county;

330. seventy-five thousand dollars (\$75,000) to plan, design, construct, landscape, furnish and equip improvements to the rodeo grounds complex in Wagon Mound in Mora county;

331. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and install a public safety radio tower and a facility for housing equipment, including electronic components and a very high frequency radio repeater system, for the police and fire departments in Angel Fire and surrounding areas in Colfax and Mora counties;

332. three hundred fifty-five thousand dollars (\$355,000) to purchase and equip transit buses for the north central regional transit district in Rio Arriba, Santa Fe, Los Alamos and Taos counties;

333. fifty thousand dollars (\$50,000) to purchase and equip a skid steer, including [~~land management~~] attachments, for La Merced del Pueblo de Chilili in Bernalillo and Tarrant counties; *LINE ITEM VETO*

334. three hundred twenty-three thousand dollars (\$323,000) to purchase and equip vehicles for the sheriff's office in Otero county;

335. two hundred sixty-two thousand dollars (\$262,000) to purchase and install equipment, including shade structures, picnic tables and benches, at Alameda park in Alamogordo in Otero county;

336. two hundred thousand dollars (\$200,000) to plan, design, construct and equip duck pond renovations at Alameda park zoo in Alamogordo in Otero county;

337. seven hundred seventy-five thousand dollars (\$775,000) to plan, design and construct perimeter and exhibit fencing at the Alameda park zoo in Alamogordo in Otero county;

338. nine hundred thousand dollars (\$900,000) to plan, design and construct an irrigation system for the Desert Lakes golf course in Alamogordo in Otero county;

339. five hundred thousand dollars (\$500,000) to purchase and install an accessibility-compliant stairlift elevator at the police department facility in Alamogordo in Otero county;

340. three hundred thousand dollars (\$300,000) to purchase and equip vehicles for the police department in Alamogordo in Otero county;

341. three hundred thirty thousand dollars (\$330,000) to purchase and equip heavy equipment, including a bucket truck, a grapple truck and a walk-behind trench compactor, for Cloudcroft in Otero county;

342. two hundred twenty-five thousand dollars (\$225,000) to purchase and equip maintenance trucks for Tularosa in Otero county;

343. three hundred thousand dollars (\$300,000) to purchase, equip and replace fire and emergency medical services radio equipment and information technology for the dispatch center and emergency departments in Quay county;

344. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, replace, upgrade and repair the Logan civic center, including flooring, lighting, ceilings, appliances and bathrooms, in Logan in Quay county;

345. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, equip and replace a heating and cooling unit for the community center in San Jon in Quay county;

346. seventy-five thousand dollars (\$75,000) to plan, design, construct and renovate a concession stand, including roofing and plumbing, for the fairgrounds arena in Quay county;

347. three hundred thousand dollars (\$300,000) to purchase and equip police vehicles for Tucumcari in Quay county;

348. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, renovate and improve the Princess theatre in Tucumcari in Quay county;

349. three hundred fifty thousand dollars (\$350,000) to purchase and equip a sanitation truck for Tucumcari in Quay county;

350. fifty thousand dollars (\$50,000) to plan, design, construct, improve, furnish and equip a community playground, including the purchase and installation of playground equipment and outdoor furniture, for the Abiquiu land grant-merced in Rio Arriba county;

351. one hundred thousand dollars (\$100,000) to plan, design, construct, furnish, equip and improve fire stations, including roofing, video surveillance cameras and shorelines for fire apparatuses, in Canjilon and Cebolla in Rio Arriba county;

352. two million three hundred twenty-five thousand dollars (\$2,325,000) to plan, design, construct, equip, renovate and improve the adult detention facility in Rio Arriba county;

353. one hundred fifty-five thousand dollars (\$155,000) to purchase and equip public safety vehicles for the sheriff's office, animal control department and adult detention facility in Rio Arriba county;

354. ninety-five thousand two hundred forty-five dollars (\$95,245) to purchase and equip a vehicle for [~~Redi-Net in~~] Rio Arriba county; *LINE ITEM VETO*

355. one million dollars (\$1,000,000) to plan, design, construct, improve and equip facility upgrades, including trash trucks and compactors, for a regional solid waste collection facility in Rio Arriba county;

356. one hundred fifty thousand dollars (\$150,000) to acquire land and water rights within the exterior boundaries of the land grant-merced de los Pueblos de Tierra Amarilla in Rio Arriba county;

357. three hundred fifty thousand dollars (\$350,000) to plan, design and construct improvements to the Chamita volunteer fire station in Rio Arriba county;

358. fifty thousand dollars (\$50,000) to plan, design, construct, renovate and improve the Richard Lucero recreation center, including the building exterior, roofing and heating, ventilation and air conditioning, in Espanola in Rio Arriba county;

359. one hundred twenty-eight thousand five hundred dollars (\$128,500) to plan, design and construct a regional park and ride facility at the Jim West regional transit center for the north central regional transit district in Espanola in Rio Arriba county;

360. seventy-five thousand dollars (\$75,000) to purchase property and to plan, design, construct, furnish and equip a community center in Ojo Caliente in Rio Arriba county;

361. one hundred thousand dollars (\$100,000) to purchase, replace and equip trucks for Elida in Roosevelt county;

362. two hundred fifty thousand dollars (\$250,000) to purchase and equip a chip spreader for the street works department in Portales in Roosevelt county;

363. one hundred thousand dollars (\$100,000) to purchase, install and equip emulsion tanks for the street works department in Portales in Roosevelt county;

364. one hundred thousand dollars (\$100,000) to purchase and equip heavy equipment for the road department in Portales in Roosevelt county;

365. one million six hundred twenty-five thousand dollars (\$1,625,000) to plan, design, construct, furnish and equip an intensive care unit at Roosevelt general hospital in Portales in Roosevelt county;

366. one million six hundred twelve thousand dollars (\$1,612,000) to plan, design, construct, and equip a rabbit and poultry barn and to purchase and install a

public address system and lighting for the outdoor arena at the McGee park fairgrounds in San Juan county;

367. fifty thousand dollars (\$50,000) to purchase and equip a fire apparatus vehicle for San Juan county;

368. one hundred ninety thousand dollars (\$190,000) to plan, design, purchase and construct an emergency generator for the city hall server room in Bloomfield in San Juan county;

369. six hundred seventy-eight thousand dollars (\$678,000) to purchase and equip a sewer jetting truck for Bloomfield in San Juan county;

370. one million nine hundred ninety thousand dollars (\$1,990,000) to purchase and equip fire engines for the fire department in Farmington in San Juan county;

371. one hundred thousand dollars (\$100,000) to purchase and equip a hazardous materials response truck for the fire department in Farmington in San Juan county;

372. four hundred twenty-one thousand dollars (\$421,000) to purchase and equip vehicles for the police department in Farmington in San Juan county;

373. seventy-five thousand dollars (\$75,000) to plan, design, replace and construct a cooling tower for the center plant at the San Juan regional medical center in Farmington in San Juan county;

374. eight hundred sixty-five thousand dollars (\$865,000) to plan, design and construct a replacement roof for the west wing of the main hospital building at the San Juan regional medical center in Farmington in San Juan county;

375. one million five hundred thousand dollars (\$1,500,000) to plan, design, construct and equip a recirculating splash pad system, including earthworks, utilities, equipment vaults, paving and play equipment, at the town park in Kirtland in San Juan county;

376. one hundred thousand dollars (\$100,000) to purchase and install fixtures, furniture and equipment at a drug treatment facility in San Miguel county;

377. one hundred thousand dollars (\$100,000) to plan, design, construct and equip information technology improvements for government facilities in San Miguel county;

378. seven hundred forty-five thousand dollars (\$745,000) to purchase and equip radio systems for the sheriff's office in San Miguel county;

379. fifty thousand dollars (\$50,000) to plan, design and construct a volunteer fire station for the Tecolotito area in San Miguel county;

380. one hundred thousand dollars (\$100,000) to purchase and equip vehicles for San Miguel county;

381. fifty thousand dollars (\$50,000) to plan, design, purchase, equip and upgrade information technology systems for the human resources department, including purchase and installation of computers, scanners, printers and file conversion document systems, in Las Vegas in San Miguel county;

382. fifty thousand dollars (\$50,000) to plan, design, construct, furnish, equip and improve information technology systems for municipal offices in Las Vegas in San Miguel county;

383. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, equip and upgrade the police department's mobile data communications system and related infrastructure in Las Vegas in San Miguel county;

384. six hundred thousand dollars (\$600,000) to purchase and equip police vehicles for Las Vegas in San Miguel county;

385. two million five hundred thousand dollars (\$2,500,000) to plan, design, construct, renovate and equip Rodriguez park as a sports complex, including softball and soccer fields, a skate park, a motorcross area, recreation trails, a parks department building and a security entrance booth, in Las Vegas in San Miguel county;

386. one hundred sixty thousand dollars (\$160,000) to purchase and equip road maintenance equipment in Las Vegas in San Miguel county;

387. eighty-five thousand dollars (\$85,000) to purchase and equip laptops for the emergency operations center in the office of emergency management in San Miguel county;

388. one hundred thousand dollars (\$100,000) to purchase and equip passenger vans for after-school and summer programs in Las Vegas in San Miguel county;

389. fifty thousand dollars (\$50,000) to plan, design, construct and improve a public works administration building in San Miguel county;

390. seventy-five thousand dollars (\$75,000) to purchase and equip vehicles and geographic information system mapping equipment for the water and wastewater systems in Pecos in San Miguel county;

391. forty thousand dollars (\$40,000) to plan, design, construct, purchase and install solar panels and to purchase and equip emergency vehicles and equipment for Pecos in San Miguel county;

392. ninety thousand dollars (\$90,000) to demolish, remove and abate a hazardous structure and materials and to plan, design, construct, repair, replace and equip phase 2 improvements to El Valle community center and library in Villanueva in San Miguel county;

393. one hundred thousand dollars (\$100,000) to acquire land and buildings to plan, design, construct, furnish and equip acquired properties for the San Antonio de las Huertas land grant-merced in Sandoval county;

394. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, furnish and equip improvements to the El Campo del Oso outdoor recreation and camping area in the San Antonio de las Huertas land grant-merced in Placitas in Sandoval county;

395. two hundred forty-nine thousand dollars (\$249,000) to acquire property for and to plan, design, construct, furnish and equip an addition to the thirteenth judicial district complex in Sandoval county;

396. one hundred thousand dollars (\$100,000) to plan, design, construct and furnish a county administration building in Sandoval county;

397. four hundred thirty-five thousand dollars (\$435,000) to purchase and equip vehicles, including lighting, communications and safety equipment, for the sheriff's office in Sandoval county;

398. one million five hundred thousand dollars (\$1,500,000) to plan, design and construct a fire station for Bernalillo in Sandoval county;

399. five hundred fifty-one thousand seven hundred twenty-three dollars (\$551,723) to purchase and equip law enforcement vehicles and equipment, including tasers, in Bernalillo in Sandoval county;

400. two hundred seventy-five thousand five hundred dollars (\$275,500) to purchase and equip firefighting and search and rescue equipment and vehicles for Cochiti Lake in Sandoval county;

401. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, repair, renovate, equip and improve the casa San Ysidro, including infrastructure, security lighting, flooring, windows, doors, bathrooms, plumbing, stucco, roofs and landscaping, in Corrales in Sandoval county;

402. three hundred thousand dollars (\$300,000) to plan, design, purchase, construct and equip a fire suppression line and water holding tank on Angel hill in Corrales in Sandoval county;
403. one hundred thousand dollars (\$100,000) to plan, design, construct and equip public electric vehicle charging stations in Corrales in Sandoval county;
404. one million six hundred fifty thousand dollars (\$1,650,000) to plan, design, construct and equip water lines and water distribution systems for fire suppression in Corrales in Sandoval county;
405. fifty thousand dollars (\$50,000) to purchase, equip and improve broadband access for the fire substation in Corrales in Sandoval county;
406. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, purchase and equip a fire training facility and a trench training prop at the fire substation 2 in Corrales in Sandoval county;
407. one hundred ninety-five thousand dollars (\$195,000) to purchase and equip vehicles and equipment, including ballistic vests and tasers, for the police department in Corrales in Sandoval county;
408. three hundred fifty thousand dollars (\$350,000) to purchase and equip a pumper fire truck in Corrales in Sandoval county;
409. one hundred fifty-five thousand dollars (\$155,000) to plan, design, construct, repair and improve the roofs at a therapeutic riding facility for children and adults with disabilities in Corrales in Sandoval county;
410. one hundred thousand dollars (\$100,000) to plan, design, construct, improve, repair, purchase and equip police department facilities, including parking lots, surveillance systems and code compliance, in Cuba in Sandoval county;
411. sixty thousand dollars (\$60,000) to purchase and equip vehicles for the police department in Cuba in Sandoval county;
412. seventy-five thousand dollars (\$75,000) to plan, design, construct, furnish and equip an administration building at Jemez Springs community park in Jemez Springs in Sandoval county;
413. fifty thousand dollars (\$50,000) to purchase and equip police vehicles for Jemez Springs in Sandoval county;
414. one hundred thousand dollars (\$100,000) to plan, design, construct, furnish and equip a river walk park for Jemez Springs in Sandoval county;

415. twenty-one thousand dollars (\$21,000) to purchase and equip all-terrain vehicles for the police department in Rio Rancho in Sandoval county;
416. three hundred fifty thousand dollars (\$350,000) to purchase and equip an ambulance for Rio Rancho in Sandoval county;
417. three hundred fifty thousand dollars (\$350,000) to plan, design and construct City Center Campus park in Rio Rancho in Sandoval county;
418. one hundred sixty-five thousand dollars (\$165,000) to purchase and equip vehicles, including trucks and sport utility vehicles, for the fire marshal's office in Rio Rancho in Sandoval county;
419. two hundred twenty-five thousand dollars (\$225,000) to purchase and equip self-contained breathing apparatuses, including face masks and regulators, for the fire and rescue department in Rio Rancho in Sandoval county;
420. one hundred thousand dollars (\$100,000) to plan, design, construct and replace the roof at the Loma Colorado main library in Rio Rancho in Sandoval county;
421. one hundred one thousand dollars (\$101,000) to purchase and equip motorcycles for the police department in Rio Rancho in Sandoval county;
422. one hundred eighty-three thousand dollars (\$183,000) to purchase and equip vehicles for the police department in Rio Rancho in Sandoval county;
423. one hundred thirty-four thousand dollars (\$134,000) to plan, design, construct, replace, renovate and equip the Rainbow pool facility, including the water slide, the filter and pump systems and the concession stand, in Rio Rancho in Sandoval county;
424. three hundred twenty-seven thousand dollars (\$327,000) to replace the playground and surfacing and to purchase and install shade structures and to improve parking lot access at the Rio Rancho sports complex in Sandoval county;
425. two hundred fifty thousand dollars (\$250,000) to plan, design, construct and improve parking lots at the Rio Rancho sports complex in Sandoval county;
426. three hundred eighty-seven thousand dollars (\$387,000) to plan, design, construct, furnish and equip the Edith Murray community center, including parking, accessibility and code compliance, in San Ysidro in Sandoval county;
427. one hundred thousand dollars (\$100,000) to plan, design, construct, improve, connect and renovate Agua Fria community water association water board offices and facilities in Santa Fe county;

428. four hundred fifty thousand dollars (\$450,000) to plan, design and construct a solar canopy over the maintenance vehicle parking lot at the district administration building for the Eldorado area water and sanitation district in Santa Fe county;

429. three hundred twenty thousand dollars (\$320,000) to plan, design, construct, purchase, equip, furnish and renovate an office building for the north central council of governments of the north central New Mexico economic development district in Santa Fe county;

430. five hundred ten thousand dollars (\$510,000) to plan, design, construct, improve and renovate an animal shelter in Santa Fe county;

431. six hundred thousand dollars (\$600,000) to purchase and equip police mobile camera license plate readers, including fixed and mobile systems and related technology, for the county sheriff in Santa Fe county;

432. one million two hundred twenty-three thousand dollars (\$1,223,000) to plan, design, construct and furnish recreational facilities at Venus park, including soccer fields, baseball fields, parking, trails, a pedestrian bridge and bathrooms, in Edgewood in Santa Fe county;

433. four hundred thousand dollars (\$400,000) to acquire easements and rights of way and to plan, design and construct hiking and biking trails in Eldorado in Santa Fe county;

434. six hundred thousand dollars (\$600,000) to plan, design, purchase, install, construct and renovate housing units and site infrastructure at the Santa Cruz public housing development in Espanola in Santa Fe county;

435. seven hundred ten thousand dollars (\$710,000) to plan, design, construct, renovate, expand, repair and equip a recovery and transitional housing facility, including infrastructure, in Espanola in Santa Fe county;

436. one hundred fifty thousand dollars (\$150,000) to acquire easements and rights of way and to plan, design and construct an accessible pedestrian safety corridor connecting the public parking lot, public park, playground and ballpark to cultural and historical sites in Madrid in Santa Fe county;

437. fifty thousand dollars (\$50,000) to plan, design, construct and equip improvements to the Oscar Huber memorial ballpark in Madrid in Santa Fe county;

438. ninety-five thousand dollars (\$95,000) to plan, design, construct, purchase, equip, furnish and install improvements to a recreation yard for special management status inmates at the adult correctional facility, including a high-security steel pod, exercise equipment, security locks and doors, shade structures, concrete, security chain

link fencing, electrical systems and renovation of a guard office, in Santa Fe in Santa Fe county;

439. fifty thousand dollars (\$50,000) to purchase and equip a ballot extraction machine for the county clerk in Santa Fe in Santa Fe county;

440. fifty thousand dollars (\$50,000) to purchase and equip vehicles for the office of the county clerk in Santa Fe in Santa Fe county;

441. eight hundred five thousand dollars (\$805,000) to plan, design, construct, renovate and equip an area at the juvenile detention center for use as a storage facility for voting machines, elections equipment and vital records by the county clerk's office, including security, technology, broadband, heating, ventilation, air conditioning and fire suppression systems, in Santa Fe in Santa Fe county;

442. one hundred thousand dollars (\$100,000) to plan, design, construct, renovate, furnish and equip facilities for a domestic violence shelter in Santa Fe in Santa Fe county;

443. two hundred thousand dollars (\$200,000) to plan, design, construct and equip solar panels at a county-owned site of a family medical center in Santa Fe in Santa Fe county;

444. eight hundred fifty thousand dollars (\$850,000) to purchase land and buildings and to plan, design, construct, renovate, furnish and equip a Santa Fe recovery center facility in Santa Fe in Santa Fe county;

445. one hundred fifty thousand dollars (\$150,000) to purchase, equip and install a security system at the Steve Herrera judicial complex in Santa Fe in Santa Fe county;

446. two hundred ten thousand dollars (\$210,000) to plan, design, construct, furnish, equip and install improvements, including roofing, lighting, heating, ventilation and air conditioning systems and interior and exterior modifications for improved accessibility, to a building and grounds [~~used by El Museo Cultural~~] in Santa Fe in Santa Fe county; *LINE ITEM VETO*

447. three million nine hundred ninety-five thousand dollars (\$3,995,000) to plan, design, construct, furnish and equip fire station 2, including infrastructure, for Santa Fe in Santa Fe county;

448. two hundred thousand dollars (\$200,000) to plan, design, construct, equip, renovate and improve facilities, including heating, ventilation and air conditioning systems, used by a meals program serving homebound and special needs individuals in Santa Fe in Santa Fe county;

449. four million nine hundred thousand dollars (\$4,900,000) to plan, design, construct and improve infrastructure to support redevelopment of the midtown Santa Fe property in Santa Fe in Santa Fe county;

450. fifty thousand dollars (\$50,000) to plan, design and construct multipurpose artificial turf fields, including lighting and site improvements, for a municipal recreational sports complex in Santa Fe in Santa Fe county;

451. six hundred fifty thousand dollars (\$650,000) to plan, design and construct pickleball courts at Fort Marcy park in Santa Fe in Santa Fe county;

452. two million four hundred thousand dollars (\$2,400,000) to plan, design, construct and furnish phase 2 improvements for the Southwest Activity Node park in Santa Fe in Santa Fe county;

453. three hundred fifty thousand dollars (\$350,000) to plan, design and construct improvements to the Water History park in Santa Fe in Santa Fe county;

454. two hundred thousand dollars (\$200,000) to purchase and equip law enforcement vehicles for the sheriff's department in Sierra county;

455. three hundred fifty thousand dollars (\$350,000) to plan, design, construct, renovate and equip the baseball field and recreational complex in Arrey in Sierra county;

456. three hundred thousand dollars (\$300,000) to plan, design and construct a fire station in Elephant Butte in Sierra county;

457. two hundred thousand dollars (\$200,000) to purchase and equip street maintenance equipment, including backhoes and dump trucks, in Elephant Butte in Sierra county;

458. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, replace and renovate the Hillsboro community center, including heating, ventilation and air conditioning systems, doors and windows, in Hillsboro in Sierra county;

459. twenty thousand dollars (\$20,000) to plan, design, construct, furnish and equip a kennel building for the animal shelter in Truth or Consequences in Sierra county;

460. four hundred fifty thousand dollars (\$450,000) to plan, design, construct, furnish and equip a kennel building for the animal shelter in Truth or Consequences in Sierra county;

461. two hundred thousand dollars (\$200,000) to purchase and equip a tractor and fleet vehicles and to plan, design, construct, renovate and equip improvements to

municipal facilities, including roofing, flooring, insulation, storage structures and security systems, in Williamsburg in Sierra county;

462. five hundred ten thousand dollars (\$510,000) to plan, design, construct, renovate, furnish, equip and install energy-efficient improvements to the county courthouse in Socorro county;

463. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, replace, renovate and equip improvements, including electrical systems, water systems and safety lighting, at the rodeo grounds in Magdalena in Socorro county;

464. one hundred thousand dollars (\$100,000) to plan, design, construct, improve and replace windows at the Socorro county courthouse to meet historic building compliance standards in Socorro in Socorro county;

465. one million dollars (\$1,000,000) to plan, design, construct, improve, furnish and equip a recreational complex and community center in Socorro in Socorro county;

466. one hundred thousand dollars (\$100,000) to plan, design and construct a turf baseball field and a water plaza and to upgrade and improve the tennis courts and swimming pool at Sedillo park in Socorro in Socorro county;

467. four million four hundred twenty-eight thousand five hundred dollars (\$4,428,500) to provide urgent or emergency funding for infrastructure and equipment needs statewide;

468. one hundred thousand dollars (\$100,000) to purchase and equip patrol vehicles for the sheriff's department in Taos county;

469. one hundred fifty thousand dollars (\$150,000) to plan, design, construct and improve the community center and library in the community of Talpa in Taos county;

470. seventy-five thousand dollars (\$75,000) to purchase and equip vehicles and equipment for the public works department in Questa in Taos county;

471. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct, improve, furnish and equip a public library and parking lot in Questa in Taos county;

472. forty thousand dollars (\$40,000) to plan, design, construct and equip a skate park and pump track for Questa in Taos county;

473. three million four hundred seventy thousand dollars (\$3,470,000) to plan, design, construct and equip a veterans cemetery in Ranchos de Taos in Taos county;

474. two million two hundred fifty thousand dollars (\$2,250,000) to plan, design, construct and equip a multipurpose facility for the fire administration office and emergency medical services and to house public safety equipment, including firefighting, water, wastewater and solid waste equipment, in Red River in Taos county;

475. one hundred twenty-five thousand dollars (\$125,000) to purchase and equip a wood processor and trailer for the Santo Tomas Apostol del Rio de las Trampas land grant-merced in Taos county;

476. two million nine hundred thousand dollars (\$2,900,000) to plan, design and construct affordable workforce housing in Taos in Taos county;

477. one hundred fifty thousand dollars (\$150,000) to acquire land and to plan, design, purchase, acquire, construct, renovate, repair, furnish and equip a multipurpose community center for La Merced del Manzano land grant-merced in Torrance county;

478. one hundred fifty thousand dollars (\$150,000) to plan, design and construct parking for the Town of Tajique land grant-merced community center and cemetery in Torrance county;

479. two hundred fifty thousand dollars (\$250,000) to plan, design and construct a shop and fenced yard for the road department in Torrance county;

480. one hundred thousand dollars (\$100,000) to plan, design, construct and replace windows in the administrative building in Encino in Torrance county;

481. fifty thousand dollars (\$50,000) to plan, design and construct a regional animal shelter in Estancia in Torrance county;

482. one hundred thousand dollars (\$100,000) to plan, design, construct, furnish, install and equip improvements to Arthur park, including the lake, pond and aquatic center, in Estancia in Torrance county;

483. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and furnish an administration building in Estancia in Torrance county;

484. one million fifty thousand dollars (\$1,050,000) to plan, design, construct, furnish and equip improvements to the fairgrounds in Estancia in Torrance county;

485. four hundred thousand dollars (\$400,000) to purchase and equip an ambulance for the Moriarty police and fire departments in Moriarty in Torrance county;

486. one hundred thousand dollars (\$100,000) to purchase and equip police vehicles in Moriarty in Torrance county;

487. one hundred twenty-five thousand dollars (\$125,000) to purchase, equip, upgrade and replace communications equipment, including repeaters, analog equipment and infrastructure, for emergency services in Union county;

488. eight hundred fifty-seven thousand dollars (\$857,000) to plan, design, construct and renovate a civic center, including replacement of the roof and the heating, ventilation and air conditioning systems, in Clayton in Union county;

489. two hundred fifty thousand dollars (\$250,000) to purchase and equip a semi-trailer truck for the road department in Union county;

490. two hundred fifty thousand dollars (\$250,000) to plan, design, construct and furnish a community center in Folsom in Union county;

491. one hundred fifty thousand dollars (\$150,000) to plan, design and construct improvements to the Folsom fire department in Folsom in Union county;

492. seven hundred thousand dollars (\$700,000) to purchase and equip radio communications systems for the police and fire departments in Belen in Valencia county;

493. three hundred twenty-five thousand dollars (\$325,000) to purchase and equip a pumper fire truck for Belen in Valencia county;

494. eight hundred sixty-six thousand dollars (\$866,000) to plan, design and construct shade structures, restrooms and playground equipment, including improvements to the veterans' memorial site, at Eagle park in Belen in Valencia county;

495. two hundred sixty thousand dollars (\$260,000) to plan, design, construct, renovate, equip and furnish an addition to the police department facility in Bosque Farms in Valencia county;

496. five hundred thirty-five thousand dollars (\$535,000) to plan, design and construct improvements to Daniel Fernandez memorial park in Los Lunas in Valencia county;

497. one hundred twenty thousand dollars (\$120,000) to purchase and equip activity vans for the parks and recreation department in Los Lunas in Valencia county;

498. three hundred forty-five thousand dollars (\$345,000) to purchase and equip vehicles, including sport utility vehicles, for the police department in Los Lunas in Valencia county;

499. one hundred fifty thousand dollars (\$150,000) to purchase, equip and install interoperable communications equipment for the sheriff's office in Valencia county;

500. four hundred thousand dollars (\$400,000) to plan, design, construct, furnish and equip a park for Peralta in Valencia county;

501. two hundred fifty thousand dollars (\$250,000) to plan, design and construct improvements for fire stations in Peralta in Valencia county;

502. six hundred thousand dollars (\$600,000) to plan, design, demolish, renovate, furnish and equip the city hall multipurpose complex in Rio Communities in Valencia county;

503. five hundred fifty thousand dollars (\$550,000) to acquire property and to plan, design, construct, renovate, equip and furnish buildings and grounds, including an historic jail site and structures, within the patented boundaries of the Town of Tome land grant-merced in Valencia county;

504. one hundred forty thousand dollars (\$140,000) to plan, design, construct, renovate, purchase, install, repair, furnish and improve the [~~Anderson-Abruzzo~~ Albuquerque] international balloon museum, including roof repair, entry upgrades and an outdoor playscape, in Albuquerque in Bernalillo county; *LINE ITEM VETO*

505. one hundred sixty-five thousand dollars (\$165,000) to plan, design, construct, purchase, install, equip and improve the Maloof memorial air park, including runways, a drone training area and spectator facilities, in Albuquerque in Bernalillo county; and

506. five million dollars (\$5,000,000) to acquire land for and to plan, design and construct phase 1 of a sports and cultural center in Albuquerque in Bernalillo county.

## **Chapter 199 Section 29 Laws 2023**

SECTION 29. DEPARTMENT OF MILITARY AFFAIRS PROJECT--GENERAL FUND.--Five million dollars (\$5,000,000) is appropriated from the general fund to the department of military affairs for expenditure in fiscal years 2023 through 2027, unless otherwise provided in Section 1 of this act, to plan, design, construct, repair, improve and equip infrastructure and facilities, including parking lots and roads, at the youth challenge building in Roswell and at department of military affairs readiness centers statewide.

## **Chapter 199 Section 30 Laws 2023**

SECTION 30. DEPARTMENT OF PUBLIC SAFETY PROJECT--GENERAL FUND.--Seven million dollars (\$7,000,000) is appropriated from the general fund to the department of public safety for expenditure in fiscal years 2023 through 2027, unless otherwise provided in Section 1 of this act, to purchase and equip law enforcement vehicles for the department of public safety statewide.

## **Chapter 199 Section 31 Laws 2023**

SECTION 31. SECRETARY OF STATE PROJECTS--GENERAL FUND.--The following amounts are appropriated from the general fund to the office of the secretary of state for expenditure in fiscal years 2023 through 2027, unless otherwise provided in Section 1 of this act, for the following purposes:

1. three hundred thousand dollars (\$300,000) to plan, design, equip, purchase and install ballot boxes statewide;
2. three hundred fifty thousand dollars (\$350,000) to plan, design, equip, purchase and install tablet kiosks statewide; and
3. one million two hundred thousand dollars (\$1,200,000) to plan, design, equip, purchase and install tabulator servers and vote tabulation systems statewide.

## **Chapter 199 Section 32 Laws 2023**

SECTION 32. SUPREME COURT PROJECT--GENERAL FUND.--Two million dollars (\$2,000,000) is appropriated from the general fund to the supreme court for expenditure in fiscal years 2023 through 2027, unless otherwise provided in Section 1 of this act, to plan, design, renovate, construct, repair, furnish and equip improvements to the basement of the supreme court building in Santa Fe in Santa Fe county.

## **Chapter 199 Section 33 Laws 2023**

SECTION 33. 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 2023 through 2027, unless otherwise provided in Section 1 of this act, for the following purposes:

1. two hundred thousand dollars (\$200,000) to plan, design, construct and improve an access easement off Atrisco drive SW, including curb and gutter, drainage and sidewalks, in Bernalillo county;
2. one hundred seventy thousand dollars (\$170,000) to acquire rights of way and to plan, design and construct road improvements, including realignment of Atrisco Vista boulevard from Double Eagle airport to Paseo del Norte boulevard and realignment of the intersection of Atrisco Vista and Paseo del Norte boulevards, in Bernalillo county;
3. two hundred thousand dollars (\$200,000) to plan, design and construct drainage and road improvements for Barcelona road and side streets from the Armijo drain to the Isleta drain in Bernalillo county;

4. three hundred fifty thousand dollars (\$350,000) to acquire rights of way and to plan, design, construct and improve county roads in Bernalillo county;
5. seventy-six thousand four hundred ninety dollars (\$76,490) to plan, design, construct, improve, purchase, equip and install street lighting in Bernalillo county;
6. one hundred thousand dollars (\$100,000) to plan, design, construct, improve, purchase and install traffic calming devices in Bernalillo county;
7. two hundred thousand dollars (\$200,000) to acquire rights of way and to plan, design and construct drainage improvements on Blake road in Bernalillo county;
8. two hundred fifty thousand dollars (\$250,000) to plan, design, construct and equip pedestrian improvements along east Central avenue between Eubank boulevard and Tramway boulevard in Bernalillo county;
9. two hundred thousand dollars (\$200,000) to plan, design and construct improvements to Escarpment road, including drainage, traffic control, signage and striping, in the southwest mesa area in Bernalillo county;
10. two hundred sixty thousand dollars (\$260,000) to acquire rights of way and to plan, design and construct road and storm drainage improvements along Foothill court SW in the Atrisco community in Bernalillo county;
11. three hundred thousand dollars (\$300,000) to acquire rights of way and to plan, design and construct road and storm drainage improvements along Foothill road SW in the Atrisco community in Bernalillo county;
12. eight hundred thousand dollars (\$800,000) to acquire rights of way and to plan, design and construct road and storm drainage improvements along Gatewood avenue SW between Bridge boulevard and Five Points road SW in the Atrisco community in Bernalillo county;
13. one hundred thousand dollars (\$100,000) to acquire rights of way and to plan, design and construct road and storm drainage improvements along Gonzales road SW between Atrisco drive and Sunset road in the Atrisco community in Bernalillo county;
14. four hundred sixty-three thousand dollars (\$463,000) to acquire rights of way and to plan, design and construct road and storm drainage improvements on Greenwich road SW in the Atrisco community in Bernalillo county;
15. one hundred twenty thousand dollars (\$120,000) to acquire rights of way and to plan, design and construct road and storm drainage improvements along Hardy court SW in the Atrisco community in Bernalillo county;

16. fifty thousand dollars (\$50,000) to plan, design and construct safety improvements for Isleta boulevard near the intersection of Lopez road in Bernalillo county;
17. five hundred thousand dollars (\$500,000) to acquire rights of way and to plan, design and construct storm drainage improvements in the Mountain View community in Bernalillo county;
18. three hundred thousand dollars (\$300,000) to acquire rights of way and to plan, design and construct road and storm drainage improvements on Sunset road SW between Gonzales road and Neetsie drive in the Atrisco community in Bernalillo county;
19. two hundred sixty-three thousand dollars (\$263,000) to plan, design, construct, relocate and replace water lines of the Entranosa water and wastewater association to accommodate department of transportation construction on New Mexico highway 14 in Bernalillo county;
20. two hundred fifty thousand dollars (\$250,000) to plan, design, construct, furnish, landscape and improve 12th street from Bellamah avenue to interstate 40, including lighting and multimodal improvements to the intersection of 12th street and Bellamah avenue, in Albuquerque in Bernalillo county;
21. three hundred thousand dollars (\$300,000) to plan, design, construct, furnish, install and equip improvements, including pedestrian safety, traffic calming, streetscaping, lighting and signage, on 4th street between Coal avenue SW and Barelas road SW in Albuquerque in Bernalillo county;
22. one hundred twenty-five thousand dollars (\$125,000) to plan, design, construct and improve storm water drainage facilities along Juan Tabo boulevard in southeastern Albuquerque in Bernalillo county;
23. three hundred thousand dollars (\$300,000) to plan, design, construct and improve medians in the northeast area, including Lomas boulevard NE and Candelaria road NE, in Albuquerque in Bernalillo county;
24. seventy-five thousand dollars (\$75,000) to plan, design, construct and improve streets, including installation of medians, trails, bikeways, walkways and sidewalks, in the Princess Jeanne area in Albuquerque in Bernalillo county;
25. fifty thousand dollars (\$50,000) to plan, design, construct, purchase, equip and install improvements to historic route 66, including roadwork, signage, historic preservation and educational exhibits, in preparation for the national route 66 centennial celebration in Albuquerque in Bernalillo county;
26. one hundred thousand dollars (\$100,000) to plan, design and construct a sound wall in the San Jose neighborhood in Albuquerque in Bernalillo county;

27. five hundred twenty-five thousand dollars (\$525,000) to acquire land and rights of way and to plan, design, construct, demolish, equip and improve pedestrian safety in the Sawmill and Old Town areas, including traffic calming and traffic management, in Albuquerque in Bernalillo county;
28. fifty thousand dollars (\$50,000) to plan, design and construct improvements to the median landscaping on southwest mesa roads in Albuquerque in Bernalillo county;
29. fifty thousand dollars (\$50,000) to plan, design, construct, equip and install street lights in the southwest mesa area in Albuquerque in Bernalillo county;
30. fifty thousand dollars (\$50,000) to acquire land for and to plan, design, construct and improve Broadway boulevard NE between Lomas boulevard and Martin Luther King, Jr avenue, including medians, a multi-use path and a protected signalized pedestrian crossing, in Albuquerque in Bernalillo county;
31. one hundred thousand dollars (\$100,000) to acquire rights of way and to plan, design, construct and improve sidewalks, including missing sidewalks, on Coors boulevard NW in Albuquerque in Bernalillo county;
32. two hundred thousand dollars (\$200,000) to plan, design, construct and improve street lighting on east Central avenue in Albuquerque in Bernalillo county;
33. two hundred seventy-five thousand dollars (\$275,000) to plan, design, construct and improve Girard boulevard NE, including landscaping, lighting and mutlimodal improvements, between Indian School road and Hannett avenue in Albuquerque in Bernalillo county;
34. five hundred seventy-six thousand four hundred ninety dollars (\$576,490) to plan, design, construct and improve Lead avenue SE and Coal avenue SE in Albuquerque in Bernalillo county;
35. fifty thousand dollars (\$50,000) to acquire land for and to plan, design, construct and improve Mountain road NE between Edith boulevard and Broadway boulevard, including traffic calming, pedestrian, lighting and multimodal improvements and construction and landscaping of a roundabout at the intersection of Mountain road and Edith boulevard, in Albuquerque in Bernalillo county;
36. five hundred thousand dollars (\$500,000) to plan, design and construct safety improvements on Palomas avenue between Louisiana boulevard and San Pedro drive in Albuquerque in Bernalillo county;
37. four million four hundred thirty-five thousand dollars (\$4,435,000) to acquire rights of way and to plan, design, construct and expand Paseo del Norte

boulevard NW to four lanes between Unser boulevard and Universe boulevard in Albuquerque in Bernalillo county;

38. seventy-five thousand dollars (\$75,000) to plan, design, construct and improve the intersection of Yale boulevard and Redondo drive at the university of New Mexico in Albuquerque in Bernalillo county;

39. five hundred thousand dollars (\$500,000) to acquire rights of way and to plan, design, construct and improve 4th street in Los Ranchos de Albuquerque in Bernalillo county;

40. four hundred fifty thousand dollars (\$450,000) to plan, design and construct improvements to roads, drainage infrastructure, pavement and pedestrian facilities in Tijeras in Bernalillo county;

41. nine hundred thousand dollars (\$900,000) to plan, design, construct and make improvements to Pine Lodge road from Old Clovis highway to Bitter Lake national wildlife refuge in Chaves county;

42. three hundred thousand dollars (\$300,000) to plan, design and construct street improvements in Roswell in Chaves county;

43. eight hundred thousand dollars (\$800,000) to plan, design, construct and equip storm drainage improvements on Brasher road in Roswell in Chaves county;

44. three hundred thousand dollars (\$300,000) to plan, design, construct and improve Davis street and Gunderson road in Grants in Cibola county;

45. one hundred seventy-five thousand dollars (\$175,000) to plan, design, construct and improve Second street in Eagle Nest in Colfax county;

46. one hundred sixty-two thousand dollars (\$162,000) to plan, design, construct and improve county roads, including county roads 14, 16, 21 and 23 in the J.R. Shumate subdivision and county road AM, in Curry county;

47. five hundred thousand dollars (\$500,000) to plan, design, construct and install street lighting for the downtown area in Clovis in Curry county;

48. two hundred thousand dollars (\$200,000) to plan, design, construct and improve residential street lighting in Clovis in Curry county;

49. five hundred sixty thousand dollars (\$560,000) to acquire land for and to plan, design and construct a storm water retention pond near the interstate 25 and Fort Seldon off-ramp near Radium Springs in Dona Ana county;

50. two hundred seventy-five thousand dollars (\$275,000) to acquire rights of way and to plan, design and construct road, drainage and utility improvements along Westmoreland avenue in Dona Ana county;

51. two hundred thousand dollars (\$200,000) to plan, design and improve El Camino Real road in Dona Ana county;

52. five hundred thousand dollars (\$500,000) to plan, design and construct street improvements citywide, including drainage and sidewalks, in Anthony in Dona Ana county;

53. three hundred thousand dollars (\$300,000) to acquire rights of way and to plan, design, construct and improve Desert Wind way in Las Cruces in Dona Ana county;

54. seven hundred seventy-five thousand dollars (\$775,000) to acquire land for and to plan, design, construct and equip a drainage facility for Moongate road in the East Mesa area of Dona Ana county;

55. five hundred fifty thousand dollars (\$550,000) to acquire rights of way and to plan, design, construct and improve east Mesa avenue, including pavement replacement, curb and gutter, sidewalks, accessibility and code compliance, drainage, lighting, signage, striping and related infrastructure and utilities, in Las Cruces in Dona Ana county;

56. five hundred sixty thousand dollars (\$560,000) to plan, design, construct and improve runways, including crack seal, surface seal, pavement pulverizing and overlay processes, at the Las Cruces international airport in Las Cruces in Dona Ana county;

57. five hundred ninety-five thousand dollars (\$595,000) to acquire rights of way and to plan, design, construct and install street improvements, including pavement replacement, curb and gutter, sidewalks, accessibility and code compliance, drainage, street lights, signage, striping and related infrastructure and utilities, within the Lift Up area boundaries in Las Cruces in Dona Ana county;

58. two hundred fifty thousand dollars (\$250,000) to acquire rights of way and to plan, design, construct and install improvements to the intersection of Telshor boulevard and Spruce avenue, including associated infrastructure and utilities, in Las Cruces in Dona Ana county;

59. five hundred twenty thousand dollars (\$520,000) to acquire rights of way and to plan, design, construct and improve University avenue and connecting streets, including lighting, landscaping, wayfinding, bicycle and pedestrian improvements, accessibility and code compliance, transit stops and shelters and associated infrastructure, in Las Cruces in Dona Ana county;

60. one hundred ninety thousand dollars (\$190,000) to plan, design, construct and improve roads in Mesilla in Dona Ana county;

61. fifty thousand dollars (\$50,000) to plan, design, construct, extend, improve and equip a walking path on Fort Selden road in Radium Springs in Dona Ana county;

62. seven hundred thousand dollars (\$700,000) to plan, design, construct and equip a retention pond, including a principal outlet and emergency spillway, to collect runoff generated north of Salem and downstream along Grande avenue in Salem in Dona Ana county;

63. two hundred thousand dollars (\$200,000) to plan, design, construct and equip lighting, road safety and speed reduction improvements in Tortugas in Dona Ana county;

64. six hundred twenty-eight thousand dollars (\$628,000) to acquire land for and to plan, design and construct phase 3 of the southeast loop bypass road around Carlsbad in Eddy county;

65. seven hundred thousand dollars (\$700,000) to plan, design and construct improvements on south Sixth street from west Cedar street to west Cottonwood street in Loving in Eddy county;

66. two hundred thousand dollars (\$200,000) to plan, design, construct, purchase and equip road improvements, including pavement rehabilitation and flood and drainage control, in Corona in Lincoln county;

67. one hundred thousand dollars (\$100,000) to plan, design, construct and install solar street lighting in the Thoreau chapter of the Navajo Nation in McKinley county;

68. one hundred thousand dollars (\$100,000) to plan, design, construct and equip solar street and sidewalk lighting for the Crownpoint chapter of the Navajo Nation in McKinley county;

69. two hundred fifty thousand dollars (\$250,000) to acquire easements and rights of way and to plan, design and construct improvements to roads in the Iyanbito chapter of the Navajo Nation in McKinley county;

70. two hundred thousand dollars (\$200,000) to plan, design, construct and improve lighting at the junction of Navajo route 30 and United States highway 491 in the Mexican Springs chapter in the Navajo Nation in McKinley county;

71. one hundred thousand dollars (\$100,000) to plan, design and construct improvements to Navajo route 46 in the Pueblo Pintado chapter of the Navajo Nation in McKinley county;

72. one hundred fifty thousand dollars (\$150,000) to plan, design and construct street and bridge improvements, including drainage, along Cedar avenue and Lone Pine drive in the Red Lake chapter of the Navajo Nation in McKinley county;

73. six hundred thousand dollars (\$600,000) to plan, design, construct and equip storm water and flood control improvements along streets in Cloudcroft in Otero county;

74. three hundred nineteen thousand dollars (\$319,000) to plan, design and construct road and street improvements in Tucumcari in Quay county;

75. two hundred twenty-five thousand dollars (\$225,000) to plan, design, construct, improve and replace Camino Miramontes, including curb and gutter and sidewalks, in Espanola in Rio Arriba county;

76. four hundred seventy-five thousand dollars (\$475,000) to plan, design and construct safety improvements on Fairview lane in Espanola in Rio Arriba county;

77. four hundred eighty thousand dollars (\$480,000) to plan, design, construct and expand Silkey way, including utility infrastructure, in Espanola in Rio Arriba county;

78. four hundred thousand dollars (\$400,000) to plan, design and construct road improvements in Roosevelt county;

79. one hundred forty-two thousand dollars (\$142,000) to plan, design, construct and equip solar street lighting at the junction of United States highway 64 and Navajo route 5031 in the Tse'Daa'Kaan chapter of the Navajo Nation in San Juan county;

80. seventy-five thousand dollars (\$75,000) to plan, design and construct a helipad and access road in the Beclabito chapter of the Navajo Nation in San Juan county;

81. one hundred thousand dollars (\$100,000) to plan, design, construct and install traffic lights along United States highways 64 and 491 for the Shiprock chapter of the Navajo Nation in San Juan county;

82. fifty thousand dollars (\$50,000) to plan, design and construct a storm water retention wall on Grant street in Las Vegas in San Miguel county;

83. one million forty-eight thousand dollars (\$1,048,000) to plan, design and construct paseo del Volcan from Unser boulevard to Rainbow boulevard in Sandoval county;

84. fifty thousand dollars (\$50,000) to plan, design, construct and improve calle del Bosque, Bosque loop and Guadalupe road in Bernalillo in Sandoval county;

85. two million five hundred thousand dollars (\$2,500,000) to acquire rights of way and to plan, design, and construct improvements to New Mexico highway 165 and Frontage road in Bernalillo in Sandoval county;

86. three hundred seventy-five thousand two hundred seventy-seven dollars (\$375,277) to plan, design, construct and improve Grande boulevard in Rio Rancho in Sandoval county;

87. eight hundred fifty thousand dollars (\$850,000) to plan, design and construct an access point for traffic entering and exiting Rio Rancho public school district facilities at Zenith court NE and New Mexico state road 528 in Sandoval county;

88. two million four hundred thousand dollars (\$2,400,000) to plan, design, construct and improve the main entry roads to the Pueblo of San Felipe in Sandoval county;

89. one hundred fifty thousand dollars (\$150,000) to plan, design and construct improvements to Fin del Sendero, including surfacing and construction of bicycle lanes, in Santa Fe county;

90. fifty thousand dollars (\$50,000) to plan, design and construct an all-weather crossing on Los Pinos road in the Arroyo Hondo area in Santa Fe county;

91. one hundred thousand dollars (\$100,000) to develop a transportation safety and emergency access route study and report on major county-maintained roads, including Double Arrow road and La Barbaria road, in Santa Fe county;

92. six hundred fifty thousand dollars (\$650,000) to plan, design and construct road improvements in the Eldorado area in Santa Fe county;

93. two hundred ten thousand dollars (\$210,000) to acquire rights of way and to plan, design, construct and improve Governor Miles road from Richards avenue to Nizhoni drive in Santa Fe in Santa Fe county;

94. three hundred fifty thousand dollars (\$350,000) to acquire rights of way and to plan, design and construct bicycle and pedestrian improvements along Pacheco street between west San Mateo road and Alta Vista street in Santa Fe in Santa Fe county;

95. two hundred fifty thousand dollars (\$250,000) to plan, design, construct and improve streets, including paving, chip sealing, slurry sealing and surface and shoulder enhancements, in Elephant Butte in Sierra county;

96. one hundred thousand dollars (\$100,000) to plan, design, construct and improve Sunset Ridge road in Elephant Butte in Sierra county;

97. three hundred fifty thousand dollars (\$350,000) to acquire easements and rights of way and to plan, design, construct, purchase, install and equip street, drainage and utility improvements, including sidewalks, rehabilitation and replacement of water and sewer lines, accessibility improvements and lighting, to Doris avenue in Williamsburg in Sierra county;

98. two hundred fifty thousand dollars (\$250,000) to acquire easements and rights of way and to plan, design, construct and equip street, drainage and utility improvements, including curb, gutter, sidewalks and street repair and replacement, in Williamsburg in Sierra county;

99. six hundred thousand dollars (\$600,000) to plan, design, construct and improve Leroy place, Walkway, Cassity place and Mary place in Socorro in Socorro county;

100. two hundred fifty thousand dollars (\$250,000) to plan, design and construct road and drainage improvements to county roads in Union county;

101. one million one hundred thousand dollars (\$1,100,000) to plan, design and construct a westward connection to the north interstate 25 interchange in Belen in Valencia county;

102. seven hundred fifty thousand dollars (\$750,000) to acquire rights of way and to plan, design and construct a sound barrier wall along New Mexico highway 6 in the Jubilee subdivision of Los Lunas in Valencia county;

103. nine hundred fifty thousand dollars (\$950,000) to plan, design and construct improvements to the Sun Ranch Village road and Desert Willow road intersections in Los Lunas in Valencia county; and

104. one hundred twenty-one thousand five hundred seventy-one dollars (\$121,571) to plan, design, construct and equip street lights along Horner street in Rio Communities in Valencia county.

## **Chapter 199 Section 34 Laws 2023**

SECTION 34. 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 2023 through 2027, unless otherwise provided in Section 1 of this act, for the following purposes:

1. three hundred fifty thousand dollars (\$350,000) to purchase and install information technology infrastructure equipment for the Roswell branch campus of eastern New Mexico university in Chaves county;

2. seventy-five thousand dollars (\$75,000) to purchase outdoor solar student workstations for the Roswell branch campus of eastern New Mexico university in Chaves county;
3. one million two hundred fifty thousand dollars (\$1,250,000) to plan, design and construct infrastructure improvements, including parking lots, at the Roswell branch campus of eastern New Mexico university in Chaves county;
4. two hundred thousand dollars (\$200,000) to purchase and equip a mobile science, technology, engineering and mathematics laboratory for the Roswell branch campus of eastern New Mexico university in Chaves county;
5. one hundred sixty-three thousand dollars (\$163,000) to plan, design, construct, renovate and equip sewer line improvements campuswide, including restroom renovations, at the Roswell branch campus of eastern New Mexico university in Chaves county;
6. one hundred fifty thousand dollars (\$150,000) to purchase and install equipment and training materials for the technical education program at the Roswell branch campus of eastern New Mexico university in Chaves county;
7. two hundred eighty-one thousand two hundred fifty dollars (\$281,250) to plan, design and construct exterior improvements to buildings at the Ruidoso branch campus of eastern New Mexico university in Lincoln county;
8. two hundred thirty-seven thousand five hundred dollars (\$237,500) to purchase, install and equip a backup generator and associated infrastructure at the Ruidoso branch campus of eastern New Mexico university in Lincoln county;
9. one hundred fifty thousand dollars (\$150,000) to plan, design, construct and equip safety, accessibility and security upgrades at the Ruidoso branch campus of eastern New Mexico university in Lincoln county;
10. five hundred thousand dollars (\$500,000) to plan, design, construct, furnish and equip electronic door access controls at eastern New Mexico university in Portales in Roosevelt county;
11. twenty-five thousand dollars (\$25,000) to plan, design and construct improvements to the Greyhound stadium soccer field, including artificial turf, at eastern New Mexico university in Portales in Roosevelt county;
12. four hundred seventy-two thousand dollars (\$472,000) to purchase and equip a nuclear magnetic resonance spectroscope and x-ray diffraction machine for science, technology, engineering and mathematics education research and laboratory measurements and analysis at eastern New Mexico university in Portales in Roosevelt county;

13. five million dollars (\$5,000,000) to plan, design, construct, furnish and equip the Roosevelt science center at eastern New Mexico university in Portales in Roosevelt county;

14. four hundred thousand dollars (\$400,000) to plan, design, purchase, install and equip transmitters and broadcasting equipment and to implement a broadcasting area expansion for public television and radio at eastern New Mexico university in Portales in Roosevelt county;

15. four hundred ninety thousand dollars (\$490,000) to purchase television production equipment and to plan, design, construct and equip studio upgrades for student training and broadcast-level production at eastern New Mexico university in Portales in Roosevelt county; and

16. five hundred thousand dollars (\$500,000) to purchase, equip and install a video board for the Greyhound arena at eastern New Mexico university in Portales in Roosevelt county.

## **Chapter 199 Section 35 Laws 2023**

SECTION 35. 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 2023 through 2027, unless otherwise provided in Section 1 of this act, for the following purposes:

1. one hundred thousand dollars (\$100,000) to plan, design, construct, renovate, furnish and equip a campus space for a student counseling program at New Mexico highlands university in Las Vegas in San Miguel county;

2. one hundred thousand dollars (\$100,000) to purchase and equip police vehicles for New Mexico highlands university in Las Vegas in San Miguel county;

3. fifty thousand dollars (\$50,000) to plan, design, construct, renovate, purchase, furnish and equip campuswide security system improvements at New Mexico highlands university, including a campus alert siren system and video surveillance cameras, in Las Vegas in San Miguel county;

4. four million five hundred thousand dollars (\$4,500,000) to plan, design, construct, renovate and equip Sininger hall at New Mexico highlands university in Las Vegas in San Miguel county; and

5. one million twenty-five thousand dollars (\$1,025,000) to plan, design, construct, renovate, furnish and equip a student wellness center at New Mexico highlands university in Las Vegas in San Miguel county.

## **Chapter 199 Section 36 Laws 2023**

SECTION 36. 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 expenditure in fiscal years 2023 through 2027, unless otherwise provided in Section 1 of this act, for the following purposes:

1. five million dollars (\$5,000,000) to plan, design, construct, renovate and equip improvements to the barracks sink rooms at the New Mexico military institute in Roswell in Chaves county;
2. one hundred twenty thousand dollars (\$120,000) to plan, design and construct a flag pole for the New Mexico military institute in Roswell in Chaves county; and
3. five hundred thousand dollars (\$500,000) to plan, design, construct, furnish and equip safety and security upgrades, including perimeter fencing, at the New Mexico military institute in Roswell in Chaves county.

## **Chapter 199 Section 37 Laws 2023**

SECTION 37. 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 the New Mexico institute of mining and technology for expenditure in fiscal years 2023 through 2027, unless otherwise provided in Section 1 of this act, for the following purposes:

1. four hundred ten thousand dollars (\$410,000) to purchase and equip vehicles and heavy equipment for the Playas research and training center of the New Mexico institute of mining and technology in Hidalgo county;
2. one million seven hundred seventy-one thousand five hundred seventy dollars (\$1,771,570) to plan, design, construct and equip data center infrastructure at the New Mexico institute of mining and technology in Socorro in Socorro county;
3. eight hundred seventy-five thousand dollars (\$875,000) to purchase and equip vehicles and heavy equipment for the energetic materials research and testing center at the New Mexico institute of mining and technology in Socorro county;
4. two hundred thousand dollars (\$200,000) to plan, design, construct, equip, purchase and install information technology, equipment and infrastructure, including computer clusters, at the New Mexico institute of mining and technology in Socorro in Socorro county;

5. five hundred fifty-two thousand dollars (\$552,000) to plan, design, construct and equip an electronic door lock system campuswide at the New Mexico institute of mining and technology in Socorro in Socorro county;

6. six hundred fifty thousand dollars (\$650,000) to plan, design, demolish, construct, improve and equip an unmanned aerial system field laboratory, including site improvements, for the New Mexico institute of mining and technology in Socorro in Socorro county; and

7. six hundred thirty thousand dollars (\$630,000) to plan, design, construct and replace water and gas lines at the New Mexico institute of mining and technology in Socorro in Socorro county.

### **Chapter 199 Section 38 Laws 2023**

SECTION 38. 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 2023 through 2027, unless otherwise provided in Section 1 of this act, for the following purposes:

1. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, renovate, equip and improve energy systems for Martinez hall and campuswide, including mechanical equipment and associated components, at the Grants branch campus of New Mexico state university in Cibola county;

2. one million six hundred thousand dollars (\$1,600,000) to plan, design and construct exterior renovations to Martinez hall at the Grants branch campus of New Mexico state university in Cibola county;

3. fifty thousand five hundred dollars (\$50,500) to purchase and equip a metal storage building, an all-terrain vehicle, a prairie dog eradication machine and a rodent control exhaust fumigator for the Colfax soil and water conservation district in Colfax county;

4. five hundred thousand dollars (\$500,000) to plan, design, construct, renovate and equip and to purchase and install equipment to modernize the biomedical research building for phase 2 of an agricultural modernization project at New Mexico state university in Las Cruces in Dona Ana county;

5. one million two hundred thousand dollars (\$1,200,000) to plan, design, renovate and replace the roof of the Gadsden center at the Dona Ana branch community college of New Mexico state university in Anthony in Dona Ana county;

6. ten million nine hundred thousand dollars (\$10,900,000) to plan, design, construct, renovate, furnish and equip a building, including abatement and removal of

hazardous materials and demolition, for the New Mexico department of agriculture at New Mexico state university in Las Cruces in Dona Ana county;

7. one hundred thousand dollars (\$100,000) to plan, design, construct, renovate, furnish and equip basketball facilities and equipment at New Mexico state university in Las Cruces in Dona Ana county;

8. four million eight hundred thousand dollars (\$4,800,000) to plan, design, construct and equip a biomedical research building at New Mexico state university in Las Cruces in Dona Ana county;

9. six million nine hundred seventy-seven thousand five hundred thirteen dollars (\$6,977,513) to plan, design, construct, furnish and equip heating, ventilation and air conditioning upgrades to the chemistry building at New Mexico state university in Las Cruces in Dona Ana county;

10. six hundred seventy thousand seven hundred forty-three dollars (\$670,743) to plan, design, construct, renovate, furnish and equip recreation and wellness improvements for the James B. Delamater activity center at New Mexico state university in Las Cruces in Dona Ana county;

11. one hundred forty thousand dollars (\$140,000) to purchase equipment for the Fabian Garcia science center at New Mexico state university in Las Cruces in Dona Ana county;

12. five hundred fifty thousand dollars (\$550,000) to plan, design, construct, renovate, furnish and equip football facilities and equipment at New Mexico state university in Las Cruces in Dona Ana county;

13. two million two hundred thousand dollars (\$2,200,000) to plan, design, construct, replace, renovate, furnish and equip football stadium facilities at Aggie memorial stadium at New Mexico state university in Las Cruces in Dona Ana county;

14. one hundred thousand dollars (\$100,000) to plan, design, construct, furnish, equip and improve the golf course driving range building and learning center at New Mexico state university in Las Cruces in Dona Ana county;

15. one hundred thousand dollars (\$100,000) to plan, design, construct, renovate, furnish and equip improvements to O'Donnell hall, including an addition to the health and social services building and expansion of a nursing laboratory, at New Mexico state university in Las Cruces in Dona Ana county;

16. one hundred thousand dollars (\$100,000) to plan, design, construct, renovate, furnish and equip volleyball locker rooms, including finishes and locker replacement, at New Mexico state university in Las Cruces in Dona Ana county;

17. two hundred thousand dollars (\$200,000) to plan, design, construct, renovate, furnish and equip women's basketball locker rooms at New Mexico state university in Las Cruces in Dona Ana county;
18. six hundred fifteen thousand dollars (\$615,000) to plan, design, renovate and replace the roof of the east mesa digital media building at the Dona Ana branch community college of New Mexico state university in Las Cruces in Dona Ana county;
19. seventy-five thousand dollars (\$75,000) to purchase and equip agricultural equipment, including a harvester, grain drill and tractor, for the New Mexico state university agricultural science center in Artesia in Eddy county;
20. seventy-two thousand six hundred dollars (\$72,600) to purchase and equip a skid loader, including maintenance accessibility features, for the Guadalupe soil and water conservation district in Santa Rosa in Guadalupe county;
21. sixty thousand dollars (\$60,000) to plan, design and construct perimeter fencing and fencing for a chemical storage building and to renovate an office building deck for the Upper Hondo soil and water conservation district in Lincoln county;
22. one hundred twenty-six thousand dollars (\$126,000) to purchase equipment and vehicles for the New Mexico state university Corona range and livestock research center in Lincoln and Torrance counties;
23. fifty thousand dollars (\$50,000) to purchase, construct and install dam barriers at Santa Cruz high-hazard flood-control dams in the Santa Fe-Pojoaque soil and water conservation district in Rio Arriba and Santa Fe counties;
24. three hundred thousand dollars (\$300,000) to plan, design, construct, restore and improve the infrastructure sustainability of flood control structures in the upper Penasco watershed for the Otero soil and water conservation district in Otero county;
25. five hundred thousand dollars (\$500,000) to plan, design, construct, renovate, furnish and equip improvements to mechanical systems campuswide, including replacement of boilers and chillers, for the community college branch of New Mexico state university in Alamogordo in Otero county;
26. five hundred thousand dollars (\$500,000) to plan, design, construct, renovate and equip improvements campuswide, including exterior envelope improvements at Townsend library, at the Alamogordo branch community college of New Mexico state university in Otero county;
27. two hundred thousand dollars (\$200,000) to plan, design, renovate and construct improvements to the reservoirs in the Coronado soil and water conservation district, including the reservoirs for las acequias de Placitas, in Sandoval county;

28. five million dollars (\$5,000,000) to plan, design, construct, renovate and equip infrastructure improvements at the New Mexico state university agricultural science centers statewide;

29. one hundred thousand dollars (\$100,000) to purchase and equip heavy equipment, including a skid steer with attachments and a trailer, for the Claunch-Pinto soil and water conservation district in Torrance county;

30. four hundred sixty-nine thousand five hundred dollars (\$469,500) to purchase and equip a tractor, hay grinder, irrigation system components and other equipment for the New Mexico state university Clayton livestock research center in Clayton in Union county;

31. five hundred eighty-five thousand dollars (\$585,000) to plan, design, construct, renovate, furnish and equip phase 2 of the Whitfield wildlife conservation area building, including administrative offices, meeting rooms and storage areas, for the Valencia soil and water conservation district in Valencia county; and

32. one hundred fifty thousand dollars (\$150,000) to plan, design, construct, improve and replace a well and to purchase equipment, including a tractor, for the New Mexico state university agricultural science center in Los Lunas in Valencia county.

### **Chapter 199 Section 39 Laws 2023**

SECTION 39. 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 expenditure in fiscal years 2023 through 2027, unless otherwise provided in Section 1 of this act, for the following purposes:

1. one hundred thousand dollars (\$100,000) to plan and create a campus beautification study to address development and environmental issues at the Espanola campus of northern New Mexico state school in Rio Arriba county;

2. five hundred thousand dollars (\$500,000) to plan, design, construct and improve the Espanola branch campus of northern New Mexico state school in Rio Arriba county; and

3. five hundred thousand dollars (\$500,000) to plan, design, renovate, furnish and equip offices and classrooms at the Espanola branch campus of northern New Mexico state school in Rio Arriba county.

### **Chapter 199 Section 40 Laws 2023**

SECTION 40. 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 2023 through 2027, unless otherwise provided in Section 1 of this act, for the following purposes:

1. three hundred thousand dollars (\$300,000) to plan, design, construct, purchase and equip improvements to athletic facilities at the university of New Mexico in Albuquerque in Bernalillo county;
2. three hundred fifty thousand dollars (\$350,000) to plan, design, construct, renovate, purchase and equip improvements to the men's and women's basketball practice facilities and training rooms at the university of New Mexico in Albuquerque in Bernalillo county;
3. two hundred fifteen thousand dollars (\$215,000) to purchase, equip and install brain therapy equipment at the university of New Mexico in Albuquerque in Bernalillo county;
4. four million nine hundred thousand dollars (\$4,900,000) to plan, design, construct, renovate, furnish and equip infrastructure improvements at the university of New Mexico in Albuquerque in Bernalillo county;
5. fifty thousand twenty-two dollars (\$50,022) to plan, design, construct, renovate, equip and install safety infrastructure, including accessibility improvements, at the university of New Mexico in Albuquerque in Bernalillo county;
6. five hundred seventy-five thousand dollars (\$575,000) to plan, design, construct, renovate, furnish and equip a dermatology facility at the university of New Mexico in Albuquerque in Bernalillo county;
7. twenty-five thousand dollars (\$25,000) to plan, design, construct, equip and improve golf practice facilities at the university of New Mexico in Albuquerque in Bernalillo county;
8. five million dollars (\$5,000,000) to plan, design and construct a comprehensive cancer center at the health sciences center at the university of New Mexico in Albuquerque in Bernalillo county;
9. three million two hundred thousand dollars (\$3,200,000) to purchase, install, program and equip research centers, including up to eight hundred thousand dollars (\$800,000) for neurosurgery equipment, within the health sciences center at the university of New Mexico in Albuquerque in Bernalillo county;
10. two million eight hundred fifty thousand dollars (\$2,850,000) to plan, design, construct, renovate and equip the library at the health sciences center at the university of New Mexico in Albuquerque in Bernalillo county;

11. five million dollars (\$5,000,000) to plan, design, construct, renovate and equip upgrades to the interprofessional healthcare simulation center at the university of New Mexico in Albuquerque in Bernalillo county;

12. two hundred thousand dollars (\$200,000) to plan, design, construct, purchase, install and equip improvements to Keller hall at the university of New Mexico in Albuquerque in Bernalillo county;

13. one hundred thousand dollars (\$100,000) to plan, design, construct, equip and install safety and security improvements, including lighting, at the university of New Mexico in Albuquerque in Bernalillo county;

14. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase and equip improvements to the McKinnon Family tennis center at the university of New Mexico in Albuquerque in Bernalillo county;

15. seventy-five thousand dollars (\$75,000) to plan, design, construct, renovate, purchase and equip improvements to the nursing and pharmacy building at the university of New Mexico in Albuquerque in Bernalillo county;

16. fifty thousand dollars (\$50,000) to plan, design, construct, renovate, purchase and equip a physical therapy program space, including faculty offices and student learning spaces, at the university of New Mexico in Albuquerque in Bernalillo county;

17. one million one hundred seventy-five thousand dollars (\$1,175,000) to plan, design, construct, renovate and equip improvements to Popejoy hall at the university of New Mexico in Albuquerque in Bernalillo county;

18. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, renovate, install, furnish and equip improvements to the Predock center for design and research, including restrooms, accessibility and code compliance, at the university of New Mexico in Albuquerque in Bernalillo county;

19. eight hundred fifty-five thousand dollars (\$855,000) to plan, design, construct, purchase and equip a reserve officer training corps track and training field at the university of New Mexico in Albuquerque in Bernalillo county;

20. one million four hundred thousand dollars (\$1,400,000) to plan, design, construct, renovate and equip infrastructure improvements campuswide, including key card systems, security cameras and accessibility upgrades, at the university of New Mexico in Albuquerque in Bernalillo county;

21. one million five hundred fifty thousand dollars (\$1,550,000) to plan, design and construct a public health building at the university of New Mexico in Albuquerque in Bernalillo county;

22. seventy thousand dollars (\$70,000) to plan, design, construct, purchase and equip improvements to the soccer and track complex video board at the university of New Mexico in Albuquerque in Bernalillo county;
23. one hundred thousand dollars (\$100,000) to purchase and equip equipment for the student escort safety program at the university of New Mexico in Albuquerque in Bernalillo county;
24. forty thousand dollars (\$40,000) to plan, design, construct, purchase, furnish and equip the student success and services center, including athletics administrative offices and meeting spaces, at the university of New Mexico in Albuquerque in Bernalillo county;
25. fifty thousand dollars (\$50,000) to plan, design, construct, purchase and equip solar panels for the student union building at the university of New Mexico in Albuquerque in Bernalillo county;
26. three million nine hundred sixty-five thousand dollars (\$3,965,000) to plan, design, construct, purchase, renovate and equip student athlete spaces, including a room for the football team, in the Tow Diehm athletic facility at the university of New Mexico in Albuquerque in Bernalillo county;
27. two million dollars (\$2,000,000) to plan, design, construct, renovate, purchase and equip improvements to University arena at the university of New Mexico in Albuquerque in Bernalillo county;
28. one hundred fifty-three thousand three hundred dollars (\$153,300) to plan, design, construct, renovate, purchase and equip improvements to University stadium at the university of New Mexico in Albuquerque in Bernalillo county;
29. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase, repair and replace the roof on building 6 at the Los Alamos branch campus of the university of New Mexico in Los Alamos county;
30. one million one hundred thirty-one thousand seven hundred fifty dollars (\$1,131,750) to plan, design, construct and renovate infrastructure improvements at the Los Alamos branch campus of the university of New Mexico in Los Alamos county;
31. one hundred thousand dollars (\$100,000) to plan, design, construct, purchase and repair the exterior of Calvin hall, including stucco repairs, at the Gallup branch campus of the university of New Mexico in McKinley county;
32. one million eight hundred thousand dollars (\$1,800,000) to plan, design, construct and equip renovations to the center for career technology and education at the Gallup branch campus of the university of New Mexico in McKinley county;

33. one million dollars (\$1,000,000) to plan, design, construct and renovate infrastructure improvements at the Gallup branch campus of the university of New Mexico in McKinley county;

34. ninety thousand dollars (\$90,000) to purchase, equip and install information technology equipment for a computer laboratory at the university of New Mexico health sciences center in Rio Rancho in Sandoval county;

35. one million nine hundred eighty thousand dollars (\$1,980,000) to plan, design, construct and equip heating, ventilation and air conditioning system upgrades and exterior stucco renovations at the Taos branch campus of the university of New Mexico in Taos county;

36. two hundred thousand dollars (\$200,000) to plan, design, construct, purchase, equip and replace boilers at the Harwood museum at the Taos branch campus of the university of New Mexico in Taos county;

37. fifty thousand dollars (\$50,000) to plan, design, construct, purchase, repair, equip and replace the heating, ventilation and air conditioning systems at the Harwood museum at the Taos branch campus of the university of New Mexico in Taos county;

38. four hundred twenty-three thousand two hundred twenty-five dollars (\$423,225) to plan, design, construct, furnish and equip an observatory building at the Taos branch campus of the university of New Mexico in Taos county;

39. five hundred ninety-five thousand dollars (\$595,000) to plan, design, construct, purchase, equip and install solar array banks at the Valencia branch campus of the university of New Mexico in Valencia county; and

40. nine hundred thousand dollars (\$900,000) to plan, design, construct, renovate and equip critical infrastructure improvements within the business and technology classrooms and laboratories at the Valencia branch campus of the university of New Mexico in Los Lunas in Valencia county.

## **Chapter 199 Section 41 Laws 2023**

SECTION 41. 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 2023 through 2027, unless otherwise provided in Section 1 of this act, for the following purposes:

1. four hundred thousand dollars (\$400,000) to plan, design, demolish, construct and improve renewable energy and road systems for a carbon-neutral campus, including electric vehicle charging stations, landscaping and associated infrastructure, at western New Mexico university in Silver City in Grant county;

2. five million dollars (\$5,000,000) to plan, design, construct and equip an early childhood development center building at western New Mexico university in Silver City in Grant county; and

3. four hundred thousand dollars (\$400,000) to plan, design, construct and improve security systems for western New Mexico university in Silver City in Grant county.

## **Chapter 199 Section 42 Laws 2023**

SECTION 42. 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 2023 through 2027, unless otherwise provided in Section 1 of this act, for the following purposes:

1. one million three hundred thousand dollars (\$1,300,000) to plan, design, construct and replace roofs and infrastructure improvements, including perimeter fencing, at the New Mexico school for the blind and visually impaired in Alamogordo in Otero county;

2. three hundred fifty thousand dollars (\$350,000) to plan, design, construct and equip playgrounds and related equipment at the New Mexico school for the blind and visually impaired in Alamogordo in Otero county; and

3. two hundred twenty thousand dollars (\$220,000) to purchase vehicles to transport residential students from their home communities statewide to the residential campus of the New Mexico school for the blind and visually impaired in Alamogordo in Otero county.

## **Chapter 199 Section 43 Laws 2023**

SECTION 43. WORKERS' COMPENSATION ADMINISTRATION PROJECT-- APPROPRIATION FROM THE WORKERS' COMPENSATION ADMINISTRATION FUND.--One hundred fifteen thousand dollars (\$115,000) is appropriated from the workers' compensation administration fund to the capital program fund for expenditure in fiscal years 2023 through 2027, unless otherwise provided in Section 2 of this act, to repair and renovate the workers' compensation administration main office parking lot in Albuquerque in Bernalillo county.

## **Chapter 199 Section 44 Laws 2023**

SECTION 44. PUBLIC EDUCATION DEPARTMENT PROJECTS-- APPROPRIATIONS FROM THE PUBLIC SCHOOL CAPITAL OUTLAY FUND.--The following amounts are appropriated from the public school capital outlay fund to the

public education department for expenditure in fiscal years 2023 through 2027, unless otherwise provided in Section 2 of this act, for the following purposes:

1. three hundred fifteen thousand dollars (\$315,000) to purchase cameras for newly purchased to-and-from buses;
2. sixteen million seven hundred thousand dollars (\$16,700,000) to purchase district-owned, to-and-from school buses statewide; and
3. twenty million dollars (\$20,000,000) to plan, design, construct, renovate, furnish and equip tribal libraries statewide, including for facilities in the Pueblo of Jemez, the Pueblo of Santa Clara, the Pueblo of Santo Domingo and the Mescalero Apache Nation, with award amounts to be determined by the department based on submission of cost estimates from a qualified professional and documentation of readiness to proceed.

## **Chapter 199 Section 45 Laws 2023**

**SECTION 45. 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 the following purposes:

1. sixty-five million dollars (\$65,000,000) to make a distribution to each school district in fiscal year 2024 for career-technical educational facilities and pre-kindergarten facilities or for the maintenance and repair of public school buildings in fiscal year 2024 and subsequent fiscal years. The public school facilities authority shall make the distribution to each school district in a manner such that each school district receives the greater of one hundred thousand dollars (\$100,000) or a percentage of the total appropriation equal to the percentage attributable to that school district from the total distributions made to school districts for fiscal year 2024 pursuant to the Public School Capital Improvements Act. A distribution provided to a school district pursuant to the appropriation made in this section is not subject to any local match or offset otherwise required pursuant to the Public School Capital Outlay Act; and
2. thirty-five million dollars (\$35,000,000) to make a distribution to each school district in fiscal year 2024 for school security infrastructure in public school buildings in fiscal year 2024 and subsequent fiscal years. The public school facilities authority shall make the distribution to each school district in a manner such that each school district receives the greater of fifty thousand dollars (\$50,000) or a percentage of the total appropriation equal to the percentage attributable to that school district from the total distributions made to school districts for fiscal year 2024 pursuant to the Public School Capital Improvements Act. A distribution provided to a school district pursuant to the appropriation made in this section is not subject to any local match or offset otherwise required pursuant to the Public School Capital Outlay Act.

## **Chapter 199 Section 46 Laws 2023**

SECTION 46. PUBLIC SCHOOL FACILITIES AUTHORITY PROJECT-- APPROPRIATION FROM THE PUBLIC SCHOOL CAPITAL OUTLAY FUND.--Five million dollars (\$5,000,000) is appropriated from the public school capital outlay fund to the public school facilities authority for expenditure in fiscal years 2023 through 2027, unless otherwise provided in Section 2 of this act, to plan, design, construct, renovate and equip infrastructure improvements and classrooms for pre-kindergarten facilities statewide.

## **Chapter 199 Section 47 Laws 2023**

SECTION 47. MINERS' HOSPITAL PROJECTS--APPROPRIATIONS FROM THE MINERS' TRUST FUND.--The following amounts are appropriated from the miners' trust fund to the miners' Colfax medical center for expenditure in fiscal years 2023 through 2027, unless otherwise provided in Section 2 of this act, for the following purposes:

1. one million dollars (\$1,000,000) to purchase medical and other equipment for the miners' Colfax medical center hospital and long-term care facility in Raton in Colfax county; and
2. five hundred thousand dollars (\$500,000) to design and renovate the hospital at the miners' Colfax medical center in Raton in Colfax county.

## **Chapter 199 Section 48 Laws 2023**

SECTION 48. DEPARTMENT OF GAME AND FISH PROJECT-- APPROPRIATION FROM THE SIKES ACT ACCOUNT OF THE GAME PROTECTION FUND.--One million dollars (\$1,000,000) is appropriated from the Sikes Act account of the game protection fund to the department of game and fish for expenditure in fiscal years 2023 through 2027, unless otherwise provided in Section 2 of this act, for wildlife and riparian habitat restoration and for improvements at properties owned by the state game commission statewide.

## **Chapter 199 Section 49 Laws 2023**

SECTION 49. DEPARTMENT OF GAME AND FISH PROJECT-- APPROPRIATION FROM THE GAME AND FISH BOND RETIREMENT FUND.--Five hundred thousand dollars (\$500,000) is appropriated from the game and fish bond retirement fund to the department of game and fish for expenditure in fiscal years 2023 through 2027, unless otherwise provided in Section 2 of this act, to plan, design, construct, renovate and equip infrastructure improvements to facilities owned by the state game commission statewide.

## **Chapter 199 Section 50 Laws 2023**

SECTION 50. HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT PROJECTS--APPROPRIATIONS FROM THE FIRE PROTECTION FUND.--Notwithstanding the provisions of the Fire Protection Fund Law to the contrary, the following amounts are appropriated from the fire protection fund to the capital program fund for expenditure in fiscal years 2023 through 2027, unless otherwise provided in Section 2 of this act, for the following purposes:

1. four hundred thousand dollars (\$400,000) for a master plan for improvements to the homeland security and emergency management department firefighter training academy in Socorro in Socorro county; and
2. five hundred thousand dollars (\$500,000) to plan, design, repair and upgrade the homeland security and emergency management department firefighter training academy building in Socorro in Socorro county.

## **Chapter 199 Section 51 Laws 2023**

SECTION 51. ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT PROJECT--APPROPRIATION FROM THE FOREST LAND PROTECTION REVOLVING FUND.--Ten million dollars (\$10,000,000) is appropriated from the forest land protection revolving fund to the energy, minerals and natural resources department for expenditure in fiscal years 2023 through 2027, unless otherwise provided in Section 2 of this act, to plan, design and construct watershed restoration and community wildfire protection improvements, including forest thinning, statewide.

## **Chapter 199 Section 52 Laws 2023**

SECTION 52. EDUCATIONAL RETIREMENT BOARD PROJECT--APPROPRIATION FROM THE EDUCATIONAL RETIREMENT FUND.--Four million five hundred thousand dollars (\$4,500,000) is appropriated from the educational retirement fund to the educational retirement board for expenditure in fiscal years 2023 through 2027, unless otherwise provided in Section 2 of this act, to purchase and install equipment and to construct and furnish an administrative facilities building, including site work, for the educational retirement board in Santa Fe in Santa Fe county.

## **Chapter 199 Section 53 Laws 2023**

SECTION 53. ISSUANCE OF SEVERANCE TAX BONDS AND APPROPRIATIONS FOR PROJECTS PREVIOUSLY AUTHORIZED BY LAW.--

- A. As provided in Laws 2021, Chapter 138, the state board of finance may issue and sell severance tax bonds in an amount not to exceed two million five hundred

twenty-eight thousand dollars (\$2,528,000) 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 2022, Chapter 53, the state board of finance may issue and sell severance tax bonds in an amount not to exceed thirty-five million one hundred ninety-five thousand dollars (\$35,195,000) 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 2021, Chapter 138 and Laws 2022, Chapter 53.

### **Chapter 199 Section 54 Laws 2023**

SECTION 54. 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 13, 2023 and made by the state board of finance on behalf of the department of finance and administration.

### **Chapter 199 Section 55 Laws 2023**

SECTION 55. ISSUANCE OF SUPPLEMENTAL SEVERANCE TAX BONDS AND APPROPRIATION OF BOND PROCEEDS.--Notwithstanding any provisions of Section 7-27-10 or 7-27-14 NMSA 1978 to the contrary, for fiscal year 2023 the state board of finance shall issue and sell supplemental severance tax bonds in an amount not to exceed six hundred eighty-two million two hundred thirteen thousand dollars (\$682,213,000) when the public school capital outlay council certifies the need for the supplemental severance tax bonds. The supplemental severance tax bonds issued pursuant to this section may have terms that extend or that do not extend beyond the fiscal year in which they are issued. Proceeds from the supplemental severance tax bonds issued as provided in this section are appropriated as provided pursuant to Section 7-27-12.2 NMSA 1978.

### **Chapter 199 Section 56 Laws 2023**

SECTION 56. 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 199 Section 57 Laws 2023**

SECTION 57. 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.

## **LAWS 2023, CHAPTER 200**

**SJC/Senate Bill 50, aa**  
**Approved April 6, 2023**

AN ACT

RELATING TO CONSTRUCTION; ENACTING THE RIGHT TO REPAIR ACT.

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

### **Chapter 200 Section 1 Laws 2023**

SECTION 1. SHORT TITLE.--This act may be cited as the "Right to Repair Act".

### **Chapter 200 Section 2 Laws 2023**

SECTION 2. DEFINITIONS.--As used in the Right to Repair Act:

A. "construction defect" means a deficiency in the construction of a dwelling that is the result of a failure to exercise that degree of skill a reasonably prudent person skilled in such work would exercise in such circumstances;

B. "construction professional" means a contractor or subcontractor performing the construction of a dwelling;

C. "dwelling" means a newly constructed single family housing unit designed for residential use. "Dwelling" includes the systems and other components and improvements that are part of a single family housing unit at the time of construction;

D. "dwelling action" means a complaint in court or the mechanism for dispute resolution in the construction contract between the purchaser and seller involving an alleged construction defect brought by a purchaser against the seller of a dwelling arising out of or related to the construction of the dwelling;

E. "purchaser" means a person or entity who was the original purchaser or subsequent owner of a dwelling;

F. "reasonable detail" includes all of the following:

- (1) an itemized list that describes each alleged construction defect; and
  - (2) the street address of the dwelling where the alleged construction defect is observed and the location in the dwelling that is the subject of the notice; and
- G. "seller" means the party responsible for construction of the dwelling.

## **Chapter 200 Section 3 Laws 2023**

### **SECTION 3. NOTICE AND RIGHT TO REPAIR.--**

A. Except with respect to claims for alleged construction defects involving an immediate threat to the life or safety of persons occupying a dwelling, rendering a dwelling uninhabitable or in which the seller, after notice from the purchaser pursuant to this subsection, refused to make a repair under any applicable express warranty, a purchaser shall first comply with the provisions of this section before filing a dwelling action. A purchaser shall give written notice by the United States postal service with delivery confirmation or electronic means, to the seller specifying the reasonable detail of each alleged defect. A seller who receives notice pursuant to this subsection shall promptly forward a copy of the notice to the last known address of each construction professional that the seller reasonably believes is responsible for an alleged defect specified in the notice. The seller's notice to each construction professional may be delivered by electronic means.

B. Once a seller receives notice pursuant to this section, the notice does not constitute notice of a claim or occurrence as defined by the New Mexico Insurance Code or an insurance policy to trigger notice requirements to the seller's liability carrier, as the notice is intended to allow the purchaser and seller an opportunity to amicably resolve any claimed defect issues without the need for formal arbitration or legal proceedings.

C. After receipt of the notice described in Subsection A of this section, the seller and the seller's construction professional may inspect the dwelling to determine the nature and cause of each alleged construction defect and the nature and extent of any repairs or replacements necessary to remedy each alleged construction defect. The purchaser shall ensure the dwelling is made available for inspection during normal working hours not later than ten days after the purchaser receives the seller's and the seller's construction professional's request for an inspection. The seller and the seller's construction professional shall provide reasonable notice to the purchaser before conducting the inspection. The inspection shall be conducted at a reasonable time. The seller and the seller's construction professional may use reasonable measures, including testing, to determine the nature and cause of each alleged construction defect and the nature and extent of any repairs or replacements necessary to remedy each alleged construction defect. The seller's construction professional shall restore the dwelling within sixty days of the testing.

D. Within sixty days after receipt of the notice provided for in Subsection A of this section, the seller shall send to the purchaser, by certified mail, return receipt requested, a written response to the purchaser's notice. The response may:

(1) offer to repair or replace each alleged construction defect or to have each alleged construction defect repaired or replaced by another construction professional chosen by the seller at the seller's or seller's construction professional's expense;

(2) offer to provide monetary compensation to the purchaser; or

(3) invoke any remedies provided in the construction contract between the seller and the purchaser.

E. A written offer to repair or replace pursuant to Paragraph (1) of Subsection D of this section shall describe in reasonable detail all repairs or replacements that the seller and the seller's construction professional intend to make or provide to the dwelling and a reasonable estimate of the date by which the repairs or replacements will be made. This subsection does not prohibit the seller from offering monetary compensation or other consideration instead of or in addition to a repair or replacement.

F. The purchaser shall allow the seller or the seller's construction professional the opportunity to make repairs or replacements of each alleged construction defect unless the purchaser has rejected in writing or by electronic means the seller's offer to repair or replace. If the purchaser reasonably rejects the seller's offer, the purchaser has complied with the requirements of this section and may initiate a dwelling action.

G. The purchaser and seller may negotiate for a release of claims regarding the noticed construction defect if an offer involving monetary compensation or other consideration is accepted or the purchaser is satisfied with the repairs or replacements.

H. If the response provided pursuant to Subsection D of this section includes a notice of intent to repair or replace each alleged construction defect, and such offer to repair or replace has not been rejected by the purchaser, the purchaser shall allow the seller and the seller's construction professional a reasonable opportunity to repair or replace each alleged construction defect or cause each alleged construction defect to be repaired or replaced as follows:

(1) the purchaser and the seller or the seller's construction professional shall coordinate repairs or replacements within thirty days after the seller's notice of intent to repair or replace was sent pursuant to Subsection D of this section. A construction professional that was not involved in the construction of the dwelling resulting in each alleged construction defect and that performs any repair or replacement of the alleged construction defect pursuant to this section is liable to the

seller or purchaser who contracted for the contractor's or subcontractor's services only for that construction professional's scope of work;

(2) repairs or replacements shall begin as agreed by the purchaser and the seller or the seller's construction professional, with reasonable efforts to begin repairs or replacements within thirty days after the seller's notice of intent to repair or replace was sent pursuant to Subsection D of this section. If a permit is required to perform the repair or replacement, reasonable efforts shall be made to begin repairs or replacements within ten days after receipt of the permit or thirty days after the seller's notice of intent to repair or replace was sent pursuant to Subsection D of this section, whichever is later;

(3) all repairs or replacements shall be completed using reasonable care under the circumstances and within a commercially reasonable time frame considering the nature of the repair or replacement, any access issues or unforeseen events that are not caused by the seller or the seller's construction professional;

(4) the purchaser shall provide reasonable access during normal working hours for the repairs or replacements;

(5) the purchaser and seller may negotiate a release or waiver upon the satisfaction of the purchaser or in exchange for monetary compensation or other consideration in lieu of repair; and

(6) at the conclusion of any repairs or replacements, the purchaser may reinstate the process set forth in this section regarding any claim for inadequate repair or replacement.

I. A purchaser may send a new notice pursuant to Subsection A of this section to include each alleged construction defect identified after submission of the original notice. The seller and the seller's construction professional shall have a reasonable period of time to conduct an inspection, if requested, and thereafter the parties shall comply with the requirements of Subsections B through H of this section for each additional alleged construction defect identified in reasonable detail in the notice.

J. The time periods provided for in this section shall be reasonably extended for delays that are beyond the control of seller and otherwise by written agreement of the seller and purchaser.

K. If the seller does not comply with the requirements of this section and the failure is not due to any fault of the purchaser or a result of delays that are beyond the control of seller, including weather conditions or government delay, the purchaser shall follow any remedy provided for in the construction contract or file a complaint in court if no dispute resolution mechanism is provided for in the contract with the seller.

L. Nothing in the Right to Repair Act negates or supersedes the existence of any remedy provided for in the construction contract.

M. The statute of repose pursuant to Section 37-1-27 NMSA 1978 or other applicable statute of limitation shall be tolled during the repair and replacement process for items specified in the notice.

## **Chapter 200 Section 4 Laws 2023**

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

# **LAWS 2023, CHAPTER 201**

**Senate Bill 307, aa**  
**Approved April 6, 2023**

AN ACT

RELATING TO HIGHER EDUCATION; EXPANDING THE ELIGIBILITY OF THE TEACHER PREPARATION AFFORDABILITY ACT TO INCLUDE LICENSED TEACHERS; REMOVING THE REQUIREMENT THAT AN ELIGIBLE STUDENT BE ENROLLED AT LEAST HALF-TIME; PROVIDING TECHNICAL CLEANUP.

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

## **Chapter 201 Section 1 Laws 2023**

SECTION 1. Section 21-210-1 NMSA 1978 (being Laws 2019, Chapter 193, Section 7) is amended to read:

"21-210-1. SHORT TITLE.-- Chapter 21, Article 210 NMSA 1978 may be cited as the "Teacher Preparation Affordability Act"."

## **Chapter 201 Section 2 Laws 2023**

SECTION 2. Section 21-210-2 NMSA 1978 (being Laws 2019, Chapter 193, Section 8) is amended to read:

"21-210-2. 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 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 or is a licensed teacher and is pursuing a graduate degree in education or related to their teaching speciality;

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 higher learning commission."

### **Chapter 201 Section 3 Laws 2023**

SECTION 3. Section 21-210-3 NMSA 1978 (being Laws 2019, Chapter 193, Section 9) is amended to read:

"21-210-3. 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 or is a licensed teacher and is pursuing a graduate degree;

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 201 Section 4 Laws 2023**

SECTION 4. Section 21-210-6 NMSA 1978 (being Laws 2019, Chapter 193, Section 12) is amended to read:

"21-210-6. 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;

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 201 Section 5 Laws 2023**

SECTION 5. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.

## **LAWS 2023, CHAPTER 202**

**Senate Bill 389**

**Approved April 6, 2023**

AN ACT

RELATING TO SPORTS; REINSTITUTING THE SPORTS AUTHORITY DIVISION OF THE TOURISM DEPARTMENT; CHANGING THE MEMBERSHIP OF THE SPORTS ADVISORY COMMITTEE.

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

## **Chapter 202 Section 1 Laws 2023**

SECTION 1. Section 9-15A-10 NMSA 1978 (being Laws 2007, Chapter 286, Section 2 and Laws 2007, Chapter 287, Section 2) is amended to read:

"9-15A-10. DUTIES OF THE SPORTS AUTHORITY DIVISION.-- The sports authority division of the department shall:

- A. develop an overall strategic plan for recruiting and retaining various forms of professional and amateur sporting events;
- B. identify existing infrastructure for sporting activities, identify and propose future infrastructure and locations and identify opportunities for private and public partnerships on infrastructure;
- C. inventory all high school and college sports venues, including the date of the venue's original construction and the venue's seating capacity;
- D. inventory all public and private sports venues, including little league fields, soccer fields, indoor basketball courts and ice rinks;
- E. foster relationships between sporting event organizers and event sponsors;
- F. foster relationships among state and local agencies and provide advice and direction needed to increase the number and quality of sporting events held in New Mexico; and

G. make recommendations to the legislature to enhance sports opportunities for students and young athletes."

## **Chapter 202 Section 2 Laws 2023**

SECTION 2. Section 9-15A-11 NMSA 1978 (being Laws 2007, Chapter 286, Section 3 and Laws 2007, Chapter 287, Section 3) is amended to read:

"9-15A-11. SPORTS ADVISORY COMMITTEE.--

A. The "sports advisory committee" is created to advise and support the sports authority division of the department.

B. The sports advisory committee consists of the lieutenant governor or the lieutenant governor's designee, who shall serve as chair of the committee, and ten members of the public appointed by the governor.

C. Members shall be appointed for four-year terms expiring on January 1 and shall serve at the pleasure of the governor. Members serve until their successors have been appointed and qualified. The governor may fill any vacancies on the committee for the remainder of an unexpired term.

D. The committee may elect such other officers as it deems necessary to carry out its duties.

E. Public members of the committee are entitled to receive per diem and mileage as provided for nonsalaried public officers in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

F. Representation on the committee shall resemble the demographics of New Mexico. No more than five public members shall be members of the same political party at the time of their appointments."

## **LAWS 2023, CHAPTER 203**

**SFC/Senate Bill 309, a, w/ec, w/cc, partial veto  
Approved April 6, 2023**

### **AN ACT**

**RELATING TO CAPITAL EXPENDITURES; REAUTHORIZING OR REAPPROPRIATING BALANCES, EXPANDING OR CHANGING PURPOSES, EXTENDING EXPENDITURE PERIODS, CHANGING AGENCIES, CLARIFYING LOCATIONS 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 203 Section 1 Laws 2023**

### 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 203 Section 2 Laws 2023**

### 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 203 Section 3 Laws 2023**

SECTION 3. ACEQUIA DE LOS GARCIAS Y DURANES DAM IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the interstate stream commission project in Subsection 26 of Section 33 of Chapter 277 of Laws 2019 to plan, design and construct diversion dam improvements for the acequia de los Garcias y Duranes in the Medanales area in Rio Arriba county is extended through fiscal year 2025.

### **Chapter 203 Section 4 Laws 2023**

SECTION 4. ACEQUIA DE ANTON CHICO, ACEQUIA DE TECOLOTO AND ACEQUIA DE LOS RANCHITOS IMPROVEMENT--EXTEND TIME--GENERAL FUND.-  
-The time of expenditure for the interstate stream commission project in Subsection 15 of Section 33 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

### **Chapter 203 Section 5 Laws 2023**

SECTION 5. PASEO DEL VOLCAN CONSTRUCTION IN BERNALILLO AND SANDOVAL COUNTIES--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 106 of Section 40 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

## **Chapter 203 Section 6 Laws 2023**

SECTION 6. ATRISCO DRIVE CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 5 of Section 40 of Chapter 277 of Laws 2019 to acquire rights of way and to plan, design and construct a road, including drainage, off Atrisco drive between Rosendo Garcia road and San Ygnacio road in Bernalillo county is extended through fiscal year 2025.

## **Chapter 203 Section 7 Laws 2023**

SECTION 7. ALBUQUERQUE ENCUESTRO CENTER RENOVATION--CHANGE TO PURCHASE, RENOVATE AND INSTALL A MODULAR BUILDING--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 43 of Section 29 of Chapter 138 of Laws 2021 to plan, design, construct, renovate and equip an educational and service facility in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to plan, design, construct, purchase, deliver, renovate, furnish, equip and install a modular building for an education and workforce development center in Bernalillo county.

## **Chapter 203 Section 8 Laws 2023**

SECTION 8. ALBUQUERQUE ENCUESTRO CENTER RENOVATION--CHANGE TO PURCHASE, RENOVATE AND INSTALL A MODULAR BUILDING--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 60 of Section 30 of Chapter 53 of Laws 2022 to plan, design, construct, renovate, equip and furnish an education and workforce development center for low-income Spanish speakers in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to plan, design, construct, purchase, deliver, renovate, furnish, equip and install a modular building for an education and workforce development center in Bernalillo county.

## **Chapter 203 Section 9 Laws 2023**

SECTION 9. BERNALILLO COUNTY FAMILY SERVICES FACILITIES CONSTRUCTION--CHANGE TO RENOVATE A FAMILY SERVICES FACILITY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 4 of Section 29 of Chapter 138 of Laws 2021 to demolish an existing building and to plan, design and construct a child development and family services facility in the south valley in Bernalillo county shall not be expended for the original purpose but is changed to plan, design, construct, renovate, furnish, equip and landscape a family services facility in the south valley in Bernalillo county.

## **Chapter 203 Section 10 Laws 2023**

SECTION 10. BERNALILLO COUNTY FAMILY SERVICES FACILITIES CONSTRUCTION--CHANGE TO RENOVATE FACILITY--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 12 of Section 30 of Chapter 53 of Laws 2022 to demolish an existing building and to plan, design and construct a child development and family services facility in the south valley in Bernalillo county shall not be expended for the original purpose but is changed to plan, design, construct, renovate, furnish, equip and landscape a child development and family services facility in the south valley in Bernalillo county.

## **Chapter 203 Section 11 Laws 2023**

SECTION 11. ALBUQUERQUE NATIONAL FLAMENCO INSTITUTE EQUIPMENT PURCHASE--CHANGE TO IMPROVE BERNALILLO COUNTY FLAMENCO FACILITY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 97 of Section 30 of Chapter 53 of Laws 2022 to equip and furnish education and performance spaces, sound and lighting, storage and video computer technology for performance capture and archives for the national institute of Flamenco arts and education in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to purchase equipment, appliances and information technology and to plan, design, construct, purchase, furnish, equip and improve buildings, infrastructure and outdoor education, arts and performance spaces at a flamenco facility in Bernalillo county. The time of expenditure is extended through fiscal year 2025.

## **Chapter 203 Section 12 Laws 2023**

SECTION 12. ALBUQUERQUE NATIONAL INSTITUTE OF FLAMENCO IMPROVEMENTS--CHANGE TO IMPROVE BERNALILLO COUNTY FLAMENCO BUILDING AND PERFORMANCE SPACES--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 75 of Section 29 of Chapter 138 of Laws 2021 to plan, design, construct, improve, equip and furnish buildings and infrastructure, including a café, reception space, studio, outdoor area, information technology, audio equipment and furniture, at a flamenco studio in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to purchase equipment, appliances and information technology and to plan, design, construct, purchase, furnish, equip and improve buildings, infrastructure and outdoor education, arts and performance spaces at a flamenco facility in Bernalillo county.

## **Chapter 203 Section 13 Laws 2023**

SECTION 13. ALBUQUERQUE MEAL DELIVERY PROGRAM EQUIPMENT PURCHASE--CHANGE TO PURCHASE BERNALILLO COUNTY MEAL DELIVERY

PROGRAM EQUIPMENT--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 68 of Section 29 of Chapter 138 of Laws 2021 to purchase and install equipment, including freezers, ovens, a blast chiller, information technology and related equipment and infrastructure, for a homebound and special needs meal delivery program in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to purchase and install equipment, including information technology and related equipment and infrastructure, cooking equipment, white goods, appliances and storage equipment, for a homebound and special needs meal delivery program in Bernalillo county.

### **Chapter 203 Section 14 Laws 2023**

SECTION 14. BERNALILLO COUNTY MOUNTAINVIEW SIDEWALKS AND DRAINAGE INFRASTRUCTURE--EXPAND PURPOSE--EXTEND TIME--GENERAL FUND.--The department of transportation project in Subsection 7 of Section 40 of Chapter 277 of Laws 2019 to plan, design and construct sidewalks and drainage infrastructure in the Mountainview area, including Prince street and Prosperity avenue, in Bernalillo county may include the acquisition of rights of way. The time of expenditure is extended through fiscal year 2025.

### **Chapter 203 Section 15 Laws 2023**

SECTION 15. SOUTH VALLEY FAMILY SERVICES BUILDINGS REDEVELOPMENT--CHANGE TO RENOVATE A SOUTH VALLEY FAMILY SERVICES FACILITY--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 22 of Section 34 of Chapter 277 of Laws 2019 to plan, design, demolish and construct a phased development and replacement of buildings and facilities for a family services program in the south valley in Bernalillo county shall not be expended for the original purpose but is changed to plan, design, construct, renovate, furnish, equip and landscape a family services facility in the south valley. The time of expenditure for the project is extended through fiscal year 2025.

### **Chapter 203 Section 16 Laws 2023**

SECTION 16. BERNALILLO COUNTY STREET LIGHTS DISTRICT 2--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 8 of Section 40 of Chapter 277 of Laws 2019 to plan, design, construct and install street lights in county commission district 2 in Bernalillo county is extended through fiscal year 2025.

### **Chapter 203 Section 17 Laws 2023**

SECTION 17. BERNALILLO COUNTY WEST CENTRAL FIRE STATION CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the local government division project in Subsection 15 of Section 34 of Chapter 277 of Laws

2019 to acquire land for and to plan, design, construct and equip a fire station on the west side of Bernalillo county is extended through fiscal year 2025.

### **Chapter 203 Section 18 Laws 2023**

SECTION 18. BERNALILLO COUNTY WHISPERING PINES SENIOR MEAL SITE VEHICLE PURCHASE--EXTEND TIME--GENERAL FUND.--The time of expenditure for the aging and long-term services department project in Subsection 1 of Section 4 of

Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

### **Chapter 203 Section 19 Laws 2023**

SECTION 19. BRIDGE BOULEVARD PHASE 2 BUS SHELTERS AND MEDIAN ART IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 9 of Section 40 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

### **Chapter 203 Section 20 Laws 2023**

SECTION 20. DENNIS CHAVEZ BOULEVARD AND CONDELSHIRE DRIVE SW INTERSECTION STREET LIGHTS--CLARIFYING LOCATION--EXTEND TIME--SEVERANCE TAX BONDS.--The location for the department of transportation project in Subsection 10 of Section 38 of Chapter 81 of Laws 2020 to plan, design, construct, equip and install street lights at the intersection of Dennis Chavez boulevard and Condershire drive SW in Albuquerque in Bernalillo county is Bernalillo county. The time of expenditure is extended through fiscal year 2025.

### **Chapter 203 Section 21 Laws 2023**

SECTION 21. ESCARPMENT ROAD PAVING AND IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 10 of Section 40 of Chapter 277 of Laws 2019 to plan, design and construct paving and other improvements on Escarpment road on the southwest mesa in Bernalillo county is extended through fiscal year 2025.

## **Chapter 203 Section 22 Laws 2023**

SECTION 22. ISLETA BOULEVARD REHABILITATION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 12 of Section 40 of Chapter 277 of Laws 2019 to plan, design and construct the rehabilitation of Isleta boulevard SW from Muniz road to interstate highway 25 in Bernalillo county is extended through fiscal year 2025.

## **Chapter 203 Section 23 Laws 2023**

SECTION 23. MOONLIGHT DRIVE PUEBLO OF ISLETA EXTENSION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 39 of Section 40 of Chapter 277 of Laws 2019 to plan, design, construct and extend Moonlight drive, including arroyo stabilization and a retention pond, in the Pueblo of Isleta in Bernalillo county is extended through fiscal year 2025.

## **Chapter 203 Section 24 Laws 2023**

SECTION 24. NEW MEXICO HIGHWAY 333 AND TABLAZON ROAD INTERSECTION IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 15 of Section 40 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

## **Chapter 203 Section 25 Laws 2023**

SECTION 25. NEW MEXICO HIGHWAYS 314, 45 AND 317 REALIGNMENT PROJECT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 14 of Section 40 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

## **Chapter 203 Section 26 Laws 2023**

SECTION 26. SOUTH VALLEY DITCH ACCESS GATES IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the interstate stream commission project originally authorized in Subsection 1 of Section 34 of Chapter 81 of Laws 2020 and reauthorized to the local government division in Laws 2021, Chapter 139, Section 8 to purchase, deliver and install materials and equipment and to plan, design, construct, improve and equip existing and new access control gates

for ditches and acequias in the south valley area of Bernalillo county is extended through fiscal year 2025.

### **Chapter 203 Section 27 Laws 2023**

SECTION 27. SOUTH VALLEY DITCH CONTROL ACCESS GATES EQUIPMENT AND IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the project originally appropriated to the local government division in Subsection 20 of Section 34 of Chapter 277 of Laws 2019 and reauthorized in Laws 2021, Chapter 139, Section 9 to purchase, deliver and install materials and equipment and to plan, design, construct, improve and equip existing and new access control gates for ditches and acequias in the south valley area of Bernalillo county is extended through fiscal year 2025.

### **Chapter 203 Section 28 Laws 2023**

SECTION 28. SECOND STREET SOUTHWEST ROAD AND DRAIN IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 3 of Section 40 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

### **Chapter 203 Section 29 Laws 2023**

SECTION 29. FOURTH STREET NW IMPROVEMENTS--EXPAND PURPOSE--EXTEND TIME--GENERAL FUND.--The department of transportation project in Subsection 18 of Section 40 of Chapter 277 of Laws 2019 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 may include the acquisition of rights of way. The time of expenditure is extended through fiscal year 2025.

### **Chapter 203 Section 30 Laws 2023**

SECTION 30. FOURTH STREET SW IMPROVEMENTS--CHANGE TO ACQUIRE RIGHTS OF WAY AND TO IMPROVE FOURTH STREET SW AND SIDEWALKS--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the department of transportation in Subsection 19 of Section 40 of Chapter 277 of Laws 2019 to plan, design and construct street and sidewalk improvements on Fourth street SW in the Barelás neighborhood of Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to acquire rights of way and to plan, design and construct street and sidewalk improvements, including sidewalk infill, accessibility features and demolition of retaining walls, on Fourth street SW in Albuquerque in Bernalillo county. The time of expenditure is extended through fiscal year 2025.

## **Chapter 203 Section 31 Laws 2023**

SECTION 31. ALBUQUERQUE WEST SIDE SPORTS COMPLEX CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the local government division project in Subsection 121 of Section 34 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

## **Chapter 203 Section 32 Laws 2023**

SECTION 32. ALBUQUERQUE DAY SHELTER AND BEHAVIORAL HEALTH SERVICES CENTER PURCHASE AND CONSTRUCTION--CHANGE TO CONSTRUCT A DAY SHELTER AND HEALTH CENTER IN THE GIBSON HEALTH HUB--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 45 of Section 34 of Chapter 277 of Laws 2019 to plan, design, purchase and construct a day shelter and behavioral health services center in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to plan, design, purchase, construct, equip and furnish a day shelter and behavioral health services center in the Gibson health hub in Albuquerque. The time of expenditure is extended through fiscal year 2025.

## **Chapter 203 Section 33 Laws 2023**

SECTION 33. ALBUQUERQUE EMERGENCY FOOD DISTRIBUTION PROGRAM PURCHASE OF VEHICLES AND EQUIPMENT--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 42 of Section 29 of Chapter 138 of Laws 2021 to purchase vehicles and equipment for use by a food bank emergency food distribution program in Albuquerque in Bernalillo county is extended through fiscal year 2025.

## **Chapter 203 Section 34 Laws 2023**

SECTION 34. ALBUQUERQUE FIRE DEPARTMENT VEHICLE PURCHASE--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 50 of Section 29 of Chapter 138 of Laws 2021 to purchase and equip fire department vehicles for Albuquerque in Bernalillo county is extended through fiscal year 2025.

## **Chapter 203 Section 35 Laws 2023**

SECTION 35. ALBUQUERQUE FIRE STATION 23 CONSTRUCTION--CHANGE TO CONSTRUCT A FIRE STATION--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 49 of Section 29 of Chapter 138 of Laws 2021 to plan, design and construct fire station 23 on

the northwest mesa in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to plan, design and construct a fire station on the northwest mesa in Albuquerque in Bernalillo county.

### **Chapter 203 Section 36 Laws 2023**

SECTION 36. ALBUQUERQUE FOOD BUSINESS INCUBATOR AND KITCHEN CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the local government division project in Subsection 63 of Section 34 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

### **Chapter 203 Section 37 Laws 2023**

SECTION 37. ALBUQUERQUE HOLOCAUST AND INTOLERANCE MUSEUM--EXTEND TIME--GENERAL FUND.--The time of expenditure for the local government division project in Subsection 66 of Section 34 of Chapter 277 of Laws 2019 to plan, design, construct and renovate a facility for the Holocaust and Intolerance museum in Albuquerque in Bernalillo county is extended through fiscal year 2025.

### **Chapter 203 Section 38 Laws 2023**

SECTION 38. ALBUQUERQUE ASIAN AND PACIFIC ISLANDER COMMUNITY CENTER CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the local government division project originally authorized in Subsection 31 of Section 34 of Chapter 277 of Laws 2019 and reauthorized in Laws 2020, Chapter 82, Section 12 to plan, design and construct a city-owned community center inclusive of the cultural needs of the Asian and Pacific Islander population in Albuquerque in Bernalillo county is extended through fiscal year 2025.

### **Chapter 203 Section 39 Laws 2023**

SECTION 39. ALBUQUERQUE ROUTE 66 SIGNAGE CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the local government division project in Subsection 107 of Section 34 of Chapter 277 of Laws 2019 to plan, design, construct and install route 66 signage at the Central avenue and Lomas boulevard intersection area in Albuquerque in Bernalillo county is extended through fiscal year 2025.

### **Chapter 203 Section 40 Laws 2023**

~~[SECTION 40. ALBUQUERQUE ROUTE 66 VISITORS CENTER CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the local government division project in Subsection 1 of Section 34 of Chapter 277 of Laws~~

~~2019 to acquire land for and to plan, design, construct, purchase and equip a route 66 visitors center in Albuquerque in Bernalillo county is extended through fiscal year 2025.]~~  
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### **Chapter 203 Section 41 Laws 2023**

SECTION 41. ALBUQUERQUE SOUTHWEST MESA STREET LIGHT CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 23 of Section 40 of Chapter 277 of Laws 2019 to plan, design, construct, equip and install street lights for the southwest mesa area in Albuquerque in Bernalillo county is extended through fiscal year 2025.

### **Chapter 203 Section 42 Laws 2023**

SECTION 42. ALBUQUERQUE ARTIFICIAL TURF PLAYING FIELDS ACQUISITION AND CONSTRUCTION--CHANGE TO IMPROVE PLAYING FIELDS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 24 of Section 29 of Chapter 138 of Laws 2021 to acquire property for and to plan, design and construct artificial turf playing fields at park and recreational facilities, including swimming pools, tennis courts, sports fields, open space, medians, bikeways, bosque lands and trails, in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to purchase, equip, install and make improvements to playing fields, including artificial turf, throughout Albuquerque in Bernalillo county.

### **Chapter 203 Section 43 Laws 2023**

SECTION 43. ALBUQUERQUE INDOOR ARENA IMPROVEMENTS--CHANGE TO IMPROVE ALBUQUERQUE PLAYING FIELDS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 73 of Section 30 of Chapter 53 of Laws 2022 to plan, design, construct, purchase, equip and install improvements to an indoor arena, including an artificial field and dasher setup, in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to purchase, equip, install and make improvements to playing fields, including artificial turf, throughout Albuquerque in Bernalillo county.

### **Chapter 203 Section 44 Laws 2023**

SECTION 44. BERNALILLO COUNTY HOMELESS FAMILY FACILITY CONSTRUCTION--CHANGE TO IMPROVE A FACILITY FOR UNHOUSED FAMILIES IN ALBUQUERQUE--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 147 of Section 30 of Chapter 53 of Laws 2022 to plan, design and construct a facility that serves children and families experiencing homelessness in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to plan, design, construct,

purchase, furnish, equip and improve a facility for children and families experiencing homelessness in Albuquerque in Bernalillo county.

### **Chapter 203 Section 45 Laws 2023**

SECTION 45. CHILDREN AND FAMILIES FACILITY IMPROVEMENTS--CHANGE TO IMPROVE ALBUQUERQUE FACILITY FOR UNHOUSED FAMILIES--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 117 of Section 29 of Chapter 138 of Laws 2021 to plan, design, construct, furnish and equip improvements to the Cuidando Los Ninos facility in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to plan, design, construct, purchase, furnish, equip and improve a facility for children and families experiencing homelessness in Albuquerque in Bernalillo county.

### **Chapter 203 Section 46 Laws 2023**

SECTION 46. ALBUQUERQUE CHILD CARE PROGRAM PLAYGROUND EQUIPMENT PURCHASE--CHANGE TO EQUIP AND IMPROVE A FACILITY FOR UNHOUSED FAMILIES--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 50 of Section 35 of Chapter 81 of Laws 2020 to plan, design, construct, purchase and install playground equipment for a child care program in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to plan, design, construct, purchase, furnish, equip and improve a facility for children and families experiencing homelessness in Albuquerque in Bernalillo county. The time of expenditure is extended through fiscal year 2025.

### **Chapter 203 Section 47 Laws 2023**

SECTION 47. ALBUQUERQUE HOMELESS CHILDREN FACILITY VEHICLE PURCHASE AND IMPROVEMENTS--CHANGE TO IMPROVE A FACILITY FOR UNHOUSED FAMILIES--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 67 of Section 34 of Chapter 277 of Laws 2019 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 shall not be expended for the original purpose but is changed to plan, design, construct, purchase, furnish, equip and improve a facility for children and families experiencing homelessness in Albuquerque in Bernalillo county. The time of expenditure is extended through fiscal year 2025.

### **Chapter 203 Section 48 Laws 2023**

SECTION 48. ALBUQUERQUE WESTSIDE ARTERIAL ROUTE IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the

department of transportation project in Subsection 24 of Section 40 of Chapter 277 of Laws 2019 to plan, design, construct and improve the Albuquerque westside arterial route in Albuquerque in Bernalillo county is extended through fiscal year 2025.

### **Chapter 203 Section 49 Laws 2023**

SECTION 49. ALBUQUERQUE-BERNALILLO COUNTY WATER UTILITY AUTHORITY WINROCK ON-SITE RESOURCE RECOVERY--CHANGE TO CONSTRUCT WINROCK SITE WASTEWATER REUSE SYSTEM--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of environment in Subsection 9 of Section 22 of Chapter 53 of Laws 2022 to plan, design, construct and equip wastewater system improvements, including permitting and a treatment plant to provide reclaimed water for the Winrock site and Albuquerque public parks, for the Albuquerque-Bernalillo county water utility authority in Bernalillo county shall not be expended for the original purpose but is changed to plan, design, construct, permit and equip a wastewater reuse system to provide reclaimed water to the Winrock site and to public parks in Albuquerque for the Albuquerque-Bernalillo county water utility authority in Bernalillo county.

### **Chapter 203 Section 50 Laws 2023**

SECTION 50. ALBUQUERQUE-BERNALILLO COUNTY WATER UTILITY AUTHORITY WASTEWATER PLANT CONSTRUCTION--CHANGE TO CONSTRUCT WINROCK WASTEWATER REUSE SYSTEM--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of the environment in Subsection 3 of Section 26 of Chapter 81 of Laws 2020 to plan, design, construct and equip a wastewater reclamation plant for the Albuquerque-Bernalillo county water utility authority to serve the Winrock site and public parks in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to plan, design, construct, permit and equip a wastewater reuse system for the Albuquerque-Bernalillo county water utility authority to provide reclaimed water to the Winrock site and to public parks in Albuquerque. The time of expenditure is extended through fiscal year 2025.

### **Chapter 203 Section 51 Laws 2023**

SECTION 51. ALBUQUERQUE-BERNALILLO COUNTY WATER UTILITY AUTHORITY WASTEWATER RECLAMATION PLANT CONSTRUCTION--CHANGE TO CONSTRUCT AND EQUIP A WASTEWATER REUSE SYSTEM--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the department of environment in Subsection 4 of Section 26 of Chapter 277 of Laws 2019 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 shall not be expended for the original purpose but is changed to plan, design, construct, permit and equip a wastewater reuse system for the Albuquerque-Bernalillo county water utility

authority to provide reclaimed water to the Winrock site and to public parks in Albuquerque. The time of expenditure is extended through fiscal year 2025.

### **Chapter 203 Section 52 Laws 2023**

SECTION 52. ARMIJO ROAD SW ROAD AND DRAINAGE IMPROVEMENT BERNALILLO COUNTY--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 4 of Section 40 of Chapter 277 of Laws 2019 to plan, design and construct road and drainage improvements to Armijo road SW in the South Valley area of Bernalillo county is extended through fiscal year 2025.

### **Chapter 203 Section 53 Laws 2023**

SECTION 53. BERNALILLO COUNTY COMMUNITY SERVICES FACILITY IMPROVEMENTS--EXPAND PURPOSE--SEVERANCE TAX BONDS.--The local government division project in Subsection 29 of Section 30 of Chapter 53 of Laws 2022 to plan, design, construct, furnish, equip, install and renovate a building for a community services facility in Bernalillo county may include the purchase of property and equipment.

### **Chapter 203 Section 54 Laws 2023**

SECTION 54. BERNALILLO COUNTY PARADISE HILLS COMMUNITY CENTER PHASE 2 IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the local government division project in Subsection 7 of Section 34 of Chapter 277 of Laws 2019 to plan, design, construct, equip and furnish phase 2 improvements in the Paradise Hills community center in Bernalillo county is extended through fiscal year 2025.

### **Chapter 203 Section 55 Laws 2023**

SECTION 55. BERNALILLO COUNTY PARADISE HILLS LITTLE LEAGUE PHASE 1 SITE IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the local government division project in Subsection 8 of Section 34 of Chapter 277 of Laws 2019 to plan, design, construct, equip and furnish phase 1 site improvements to the common areas between fields for the Paradise Hills little league in Bernalillo county is extended through fiscal year 2025.

### **Chapter 203 Section 56 Laws 2023**

SECTION 56. BERNALILLO COUNTY DISTRICT 2 TRAFFIC CALMING DEVICES INSTALLATION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 26 of Section 40 of Chapter 277 of Laws 2019 to plan, design, construct and install speed humps and

other traffic calming devices in county commission district 2 in Albuquerque in Bernalillo county is extended through fiscal year 2025.

### **Chapter 203 Section 57 Laws 2023**

~~[SECTION 57. BERNALILLO COUNTY TRANSITIONAL LIVING FACILITY IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the local government division project in Subsection 129 of Section 34 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.]~~ *LINE ITEM VETO*

### **Chapter 203 Section 58 Laws 2023**

SECTION 58. CULTURAL AFFAIRS DEPARTMENT MUSEUM OF NATURAL HISTORY FACILITIES AND EXHIBITS IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the cultural affairs department project in Subsection 2 of Section 9 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

### **Chapter 203 Section 59 Laws 2023**

SECTION 59. DR. MARTIN LUTHER KING, JR. AVENUE WELCOME SIGN CONSTRUCTION--CHANGE TO CONSTRUCT LIGHTING--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 36 of Section 29 of Chapter 138 of Laws 2021 to plan, design and construct a welcome sign for Dr. Martin Luther King, Jr. avenue in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to plan, design and construct lighting on Dr. Martin Luther King, Jr. avenue.

### **Chapter 203 Section 60 Laws 2023**

SECTION 60. EAGLE RANCH ROAD AND PASEO DEL NORTE INTERSECTION IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 30 of Section 40 of Chapter 277 of Laws 2019 to plan, design, construct and install improvements at the intersection of Eagle Ranch road and paseo del Norte in Albuquerque in Bernalillo county is extended through fiscal year 2025.

## **Chapter 203 Section 61 Laws 2023**

SECTION 61. EXPO NEW MEXICO AFRICAN AMERICAN PERFORMING ARTS CENTER KITCHEN ADDITION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the state fair commission project in Subsection 1 of Section 27 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

## **Chapter 203 Section 62 Laws 2023**

SECTION 62. MCMAHON BOULEVARD IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 32 of Section 40 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

## **Chapter 203 Section 63 Laws 2023**

SECTION 63. OURAY ROAD NW AND 57TH STREET NW MEDIAN CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 33 of Section 40 of Chapter 277 of Laws 2019 to plan, design and construct traffic control medians at Ouray road NW and 57th street in Albuquerque in Bernalillo county is extended through fiscal year 2025.

## **Chapter 203 Section 64 Laws 2023**

SECTION 64. PASEO DEL NORTE IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 35 of Section 40 of Chapter 277 of Laws 2019 to acquire rights of way for and to plan, design and construct improvements on paseo del Norte in Albuquerque in Bernalillo county is extended through fiscal year 2025.

## **Chapter 203 Section 65 Laws 2023**

SECTION 65. SOUTH VALLEY AQUATICS FACILITY BATH HOUSE AND LOCKER ROOM IMPROVEMENT--CHANGE TO IMPROVE RIO BRAVO PARK--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 18 of Section 34 of Chapter 277 of Laws 2019 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 shall not be expended for the original purpose but is changed to plan, design, purchase, construct, improve and equip a stage, a band shell, a portable stage, playing fields, trails, parking lots, access roads

and bridges, lighting, landscaping, drainage, site and infrastructure improvements at Rio Bravo park. The time of expenditure is extended through fiscal year 2025.

### **Chapter 203 Section 66 Laws 2023**

SECTION 66. SHARI VISTA ROAD IMPROVEMENT BERNALILLO COUNTY--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 36 of Section 40 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

### **Chapter 203 Section 67 Laws 2023**

SECTION 67. SOUTHWESTERN INDIAN POLYTECHNIC INSTITUTE SEWER INFRASTRUCTURE IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the higher education department project in Subsection 2 of Section 41 of Chapter 277 of Laws 2019 to plan, design, construct and upgrade sewer infrastructure campuswide at southwestern Indian polytechnic institute in Albuquerque in Bernalillo county is extended through fiscal year 2025.

### **Chapter 203 Section 68 Laws 2023**

SECTION 68. SOUTHWESTERN INDIAN POLYTECHNIC INSTITUTE WATER INFRASTRUCTURE IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the higher education department project in Subsection 3 of Section 41 of Chapter 277 of Laws 2019 to plan, design, construct and upgrade water infrastructure campuswide at southwestern Indian polytechnic institute in Albuquerque in Bernalillo county is extended through fiscal year 2025.

### **Chapter 203 Section 69 Laws 2023**

SECTION 69. SOUTH VALLEY PREPARATORY SCHOOL BUILDING AND FACILITIES IMPROVEMENTS--CHANGE TO PURCHASE LAND AND BUILDINGS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the public education department in Subsection 28 of Section 18 of Chapter 53 of Laws 2022 to plan, design, construct, improve and equip facilities for South Valley preparatory school in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to purchase land and buildings and to plan, design, construct, equip and improve facilities for South Valley preparatory school in Albuquerque in Bernalillo county.

## **Chapter 203 Section 70 Laws 2023**

SECTION 70. SUNSET ROAD DRAINAGE NEETSIE DRIVE IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 2 of Section 40 of Chapter 277 of Laws 2019 to plan, design and construct drainage improvements to Sunset road SW between Neetsie drive and Gonzales road in the south valley area of Bernalillo county is extended through fiscal year 2025.

## **Chapter 203 Section 71 Laws 2023**

SECTION 71. UNIVERSITY OF NEW MEXICO SCIENCE AND TECHNOLOGY INNOVATION CENTER RENOVATION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the economic development department project in Subsection 1 of Section 19 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

## **Chapter 203 Section 72 Laws 2023**

SECTION 72. ALBUQUERQUE YOUTH TEMPORARY LIVING FACILITY CONSTRUCTION--CHANGE TO PURCHASE YOUTH TRANSITIONAL LIVING FACILITY--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 126 of Section 34 of Chapter 277 of Laws 2019 to plan, design, construct and equip a living facility for youth in transition in Albuquerque in Bernalillo county shall not be expended for the original purpose but is changed to purchase a facility and to plan, design, construct, renovate, furnish and equip buildings and grounds, fencing and security infrastructure and to purchase and install information technology and related equipment at a youth transitional living facility in Albuquerque in Bernalillo county. The time of expenditure is extended through fiscal year 2025.

## **Chapter 203 Section 73 Laws 2023**

SECTION 73. PLEASANTON EASTSIDE DITCH ASSOCIATION IMPROVEMENTS--CHANGE TO PURCHASE AND REPAIR EQUIPMENT AND TO IMPROVE THE PLEASANTON EASTSIDE DITCH--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the interstate stream commission originally authorized in Subsection 1 of Section 28 of Chapter 138 of Laws 2021 to plan, design, construct, furnish and equip improvements for the Pleasanton eastside ditch association in Catron county shall not be expended for the original purpose but is changed to purchase and repair equipment and to plan, design and construct improvements to the Pleasanton eastside ditch for the Pleasanton eastside ditch association.

## **Chapter 203 Section 74 Laws 2023**

SECTION 74. FAMBROUGH MUTUAL DOMESTIC WATER CONSUMERS ASSOCIATION WATER METER SYSTEM IMPROVEMENTS--CHANGE TO WATER SYSTEM IMPROVEMENTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of environment in Subsection 8 of Section 26 of Chapter 81 of Laws 2020 to plan, design, construct and equip water meter system improvements for the Fambrough mutual domestic water consumers association in Chaves county shall not be expended for the original purpose but is changed to plan, design, construct and equip water system improvements for the Fambrough mutual domestic water consumers association.

## **Chapter 203 Section 75 Laws 2023**

SECTION 75. EASTERN NEW MEXICO UNIVERSITY ROSWELL BRANCH CAMPUS AVIATION MAINTENANCE TECHNOLOGY PROGRAM INSTRUCTIONAL EQUIPMENT--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the board of regents of eastern New Mexico university project in Subsection 2 of Section 40 of Chapter 81 of Laws 2020 to purchase and equip instructional equipment for the aviation maintenance technical program at the Roswell branch campus of eastern New Mexico university in Chaves county is extended through fiscal year 2025.

## **Chapter 203 Section 76 Laws 2023**

SECTION 76. ROSWELL MCBRIDE VETERANS CEMETERY IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the local government division project in Subsection 149 of Section 34 of Chapter 277 of Laws 2019 to plan, design, construct, purchase, renovate and improve the McBride veterans cemetery in Roswell in Chaves county is extended through fiscal year 2025.

## **Chapter 203 Section 77 Laws 2023**

SECTION 77. PUEBLO OF LAGUNA COMMUNITY CENTER CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 9 of Section 31 of Chapter 277 of Laws 2019 to plan, design, construct and equip the Laguna K'awaika community center in the Pueblo of Laguna in Cibola county is extended through fiscal year 2025.

## **Chapter 203 Section 78 Laws 2023**

SECTION 78. PUEBLO OF ACOMA NATURAL GAS DISTRIBUTION SYSTEM CONSTRUCTION--CHANGE TO EQUIP A NATURAL GAS DISTRIBUTION SYSTEM--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 5 of Section 31 of Chapter 277 of Laws 2019 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 shall not be expended for the original purpose but is changed to plan, design, construct and equip a natural gas distribution system, including distribution, connections and equipment conversions in homes, for the Pueblo of Acoma in Cibola county. The time of expenditure is extended through fiscal year 2025.

### **Chapter 203 Section 79 Laws 2023**

SECTION 79. PUEBLO OF ACOMA WASTEWATER TREATMENT FACILITY IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of environment project originally authorized in Subsection 6 of Section 18 of Chapter 81 of Laws 2016 and reauthorized in Laws 2020, Chapter 82, Section 31 and again reauthorized to the Indian affairs department in Laws 2021, Chapter 139, Section 22 to plan, design and construct expansions and upgrades to the North Acoma wastewater treatment facility at the Pueblo of Acoma in Cibola county is extended through fiscal year 2025.

### **Chapter 203 Section 80 Laws 2023**

SECTION 80. PUEBLO OF LAGUNA TRAIL CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 11 of Section 31 of Chapter 277 of Laws 2019 to plan, design and construct New Mexico highway 124 bike and pedestrian connector and safety enhancements in the Pueblo of Laguna in Cibola county is extended through fiscal year 2025.

### **Chapter 203 Section 81 Laws 2023**

SECTION 81. PUEBLO OF LAGUNA FIRE STATION CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 10 of Section 31 of Chapter 277 of Laws 2019 to plan, design and construct a fire station for the Pueblo of Laguna in Cibola county is extended through fiscal year 2025.

### **Chapter 203 Section 82 Laws 2023**

SECTION 82. CLOVIS COMMUNITY COLLEGE ELECTRICAL IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the higher education department project in Subsection 4 of Section 41 of Chapter 277 of Laws 2019 to plan, design and construct electrical improvements at Clovis community college in Clovis in Curry county is extended through fiscal year 2025.

## **Chapter 203 Section 83 Laws 2023**

~~[SECTION 83. CLOVIS EASTERN NEW MEXICO FOOD BANK LIGHTING IMPROVEMENTS--EXPAND PURPOSE--EXTEND TIME--GENERAL FUND.--The local government division project in Subsection 165 of Section 34 of Chapter 277 of Laws 2019 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 may include building and building system repairs and cold storage foundation repairs. The time of expenditure is extended through fiscal year 2025.]~~ *LINE ITEM VETO*

## **Chapter 203 Section 84 Laws 2023**

SECTION 84. CLOVIS MAINSTREET DISTRICT IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the local government division project in Subsection 168 of Section 34 of Chapter 277 of Laws 2019 to plan, design and construct mainstreet district site, lighting and sidewalk improvements, including the purchase and installation of public art, in downtown Clovis in Curry county is extended through fiscal year 2025.

## **Chapter 203 Section 85 Laws 2023**

SECTION 85. CLOVIS EASTERN NEW MEXICO FOOD BANK IMPROVE LIGHTING--EXPAND PURPOSE--EXTEND TIME--GENERAL FUND.--The local government division project in Subsection 164 of Section 34 of Chapter 277 of Laws 2019 to plan, design, construct and install improvements to lighting at a food bank for eastern New Mexico in Clovis in Curry county may include building and building system repairs and cold storage foundation repairs. The time of expenditure is extended through fiscal year 2025.

## **Chapter 203 Section 86 Laws 2023**

SECTION 86. CLOVIS EASTERN NEW MEXICO FOOD BANK ROOF IMPROVEMENTS--EXPAND PURPOSE--SEVERANCE TAX BONDS.--The local government division project in Subsection 147 of Section 29 of Chapter 138 of Laws 2021 to plan, design, construct, equip and install improvements, including roof and gutter replacement and parking lot paving, for the Clovis food bank of eastern New Mexico in Clovis in Curry county may include building and building system repairs and cold storage foundation repairs.

## **Chapter 203 Section 87 Laws 2023**

SECTION 87. TEXICO WATER TANK IMPROVEMENTS--EXPAND PURPOSE--EXTEND TIME--GENERAL FUND.--The department of environment project in Subsection 17 of Section 26 of Chapter 277 of Laws 2019 to plan, design, repair and rehabilitate a water tank in Texico in Curry county may include the repair and

rehabilitation of multiple water tanks. The time of expenditure is extended through fiscal year 2025.

### **Chapter 203 Section 88 Laws 2023**

SECTION 88. BORDER AUTHORITY SANTA TERESA TO SUNLAND PARK ROAD EXTENSION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the border authority project in Subsection 1 of Section 6 of Chapter 277 of Laws 2019 to plan, design and construct a road between Santa Teresa and Sunland Park in Dona Ana county is extended through fiscal year 2025.

### **Chapter 203 Section 89 Laws 2023**

SECTION 89. CHAPARRAL WASTEWATER TREATMENT PLANT FENCE CONSTRUCTION--CHANGE TO PURCHASE LAND AND IMPROVE EFFLUENT SYSTEM--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of environment in Subsection 17 of Section 26 of Chapter 81 of Laws 2020 to plan, design and construct fencing for the Chaparral wastewater treatment plant in Dona Ana county shall not be expended for the original purpose but is changed to purchase land and to plan, design and construct effluent disposal system improvements for the Chaparral wastewater treatment plant in Dona Ana county. The time of expenditure is extended through fiscal year 2025.

### **Chapter 203 Section 90 Laws 2023**

SECTION 90. DONA ANA COUNTY BRAHMAN DIVERSION CHANNEL CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the office of the state engineer project in Subsection 2 of Section 23 of Chapter 277 of Laws 2019 to acquire property for 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 is extended through fiscal year 2025.

### **Chapter 203 Section 91 Laws 2023**

SECTION 91. LAS CRUCES BEHAVIORAL HEALTH FACILITY CONSTRUCTION--CHANGE TO CONSTRUCT A HEALTH FACILITY IN DONA ANA COUNTY--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 193 of Section 34 of Chapter 277 of Laws 2019 to plan, design and construct a behavioral health facility in Las Cruces in Dona Ana county shall not be expended for the original purpose but is changed to plan, design and construct a collaborative health center facility in the University Park area of Dona Ana county. The time of expenditure is extended through fiscal year 2025.

## **Chapter 203 Section 92 Laws 2023**

SECTION 92. DONA ANA COUNTY PLACITAS LIGHTING IMPROVEMENTS--CHANGE TO IMPROVE DONA ANA COUNTY PLACITAS ROADS--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 161 of Section 29 of Chapter 138 of Laws 2021 to plan, design and construct lighting improvements in the Placitas area of 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 improvements, including drainage, in the Placitas area of Dona Ana county. The time of expenditure is extended through fiscal year 2025.

## **Chapter 203 Section 93 Laws 2023**

SECTION 93. DONA ANA COUNTY SPRING CANYON ARROYO FLOOD CONTROL DAM CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the office of the state engineer project in Subsection 3 of Section 23 of Chapter 277 of Laws 2019 to acquire property and to plan, design, construct and equip a flood control dam on the Spring Canyon arroyo in Dona Ana county is extended through fiscal year 2025.

## **Chapter 203 Section 94 Laws 2023**

SECTION 94. DONA ANA COUNTY SOUTH CENTRAL WASTEWATER TREATMENT PLANT IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of environment project in Subsection 28 of Section 26 of Chapter 277 of Laws 2019 to plan, design, construct and equip improvements to the South Central wastewater treatment plant in La Mesa in Dona Ana county is extended through fiscal year 2025.

## **Chapter 203 Section 95 Laws 2023**

~~[SECTION 95. LAS CRUCES PARKING GARAGE CONSTRUCTION--CHANGE TO AMADOR HOTEL IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--Two hundred thousand dollars (\$200,000) of the unexpended balance of the appropriation to the local government division in Subsection 203 of Section 34 of Chapter 277 of Laws 2019 to plan, design, construct and equip a parking garage in Las Cruces in Dona Ana county shall not be expended for the original purpose but is changed to plan, design, construct, furnish, equip and install improvements, including infrastructure, to the Amador hotel in Las Cruces. The time of expenditure is extended through fiscal year 2025.]~~ *LINE ITEM VETO*

## **Chapter 203 Section 96 Laws 2023**

~~SECTION 96. LAS CRUCES PARKING GARAGE CONSTRUCTION--CHANGE TO IMPROVE APODACA PARK--EXTEND TIME--GENERAL FUND.--Up to six hundred thirty-nine thousand seventy-three dollars (\$639,073) of the unexpended balance of the appropriation to the local government division in Subsection 203 of Section 34 of Chapter 277 of Laws 2019 to plan, design, construct and equip a parking garage in Las Cruces in Dona Ana county shall not be expended for the original purpose but is changed to plan, design, construct, furnish, equip and install improvements, including infrastructure and landscaping, at Apodaca park in Las Cruces. The time of expenditure is extended through fiscal year 2025.] LINE ITEM VETO~~

## **Chapter 203 Section 97 Laws 2023**

SECTION 97. LAS CRUCES ARTS AND CULTURAL DISTRICT IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the local government division project in Subsection 192 of Section 34 of Chapter 277 of Laws 2019 to acquire rights of way and to plan, design, construct, improve, purchase and install signage, street lighting and infrastructure in the arts and cultural district in Las Cruces in Dona Ana county is extended through fiscal year 2025.

## **Chapter 203 Section 98 Laws 2023**

SECTION 98. LAS CRUCES CHILDREN'S MUSEUM CONSTRUCTION--CHANGE TO IMPROVE FACILITIES FOR A CHILDREN'S MUSEUM--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 195 of Section 34 of Chapter 277 of Laws 2019 to plan, design, construct, furnish and equip a children's museum in Las Cruces in Dona Ana county shall not be expended for the original purpose but is changed to plan, design, construct, expand, renovate, improve, furnish and equip facilities for a children's museum in Las Cruces. The time of expenditure is extended through fiscal year 2025.

## **Chapter 203 Section 99 Laws 2023**

SECTION 99. LAS CRUCES COMMUNITY OF HOPE FLOORING SYSTEM--CHANGE TO IMPROVE BUILDING--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 197 of Section 34 of Chapter 277 of Laws 2019 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 shall not be expended for the original purpose but is changed to plan, design, construct, purchase, equip and furnish building improvements at the Mesilla Valley community of hope campus. The time of expenditure is extended through fiscal year 2025.

## **Chapter 203 Section 100 Laws 2023**

SECTION 100. LAS CRUCES INTERNATIONAL AIRPORT TAXI LANE RENOVATION--EXPAND PURPOSE--EXTEND TIME--SEVERANCE TAX BONDS.--The department of transportation project in Subsection 22 of Section 38 of Chapter 81 of Laws 2020 to plan, design, construct and renovate taxi lanes at the Las Cruces international airport in Las Cruces in Dona Ana county may include improvements to related infrastructure and utilities. The time of expenditure is extended through fiscal year 2025.

## **Chapter 203 Section 101 Laws 2023**

SECTION 101. LAS CRUCES SEPTIC SYSTEMS REPLACEMENT AND IMPROVEMENTS--EXPAND PURPOSE--EXTEND TIME--GENERAL FUND.--The department of environment project in Subsection 30 of Section 26 of Chapter 277 of Laws 2019 to plan, design and construct phase 2 and 3 septic systems replacements and improvements in Las Cruces in Dona Ana county may include improvements to related infrastructure and utilities. The time of expenditure is extended through fiscal year 2025.

## **Chapter 203 Section 102 Laws 2023**

SECTION 102. LAS CRUCES STREET MEDIAN IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of transportation project originally authorized in Subsection 29 of Section 32 of Chapter 80 of Laws 2018 and reauthorized in Laws 2021, Chapter 139, Section 31 to plan, design, construct, purchase and install park improvements, landscaping and drainage improvements to street medians in Las Cruces in Dona Ana county is extended through fiscal year 2025.

## **Chapter 203 Section 103 Laws 2023**

SECTION 103. LAS CRUCES VILLA MORA DAM AREA IMPROVEMENTS--CHANGE TO PARK IMPROVEMENTS--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the office of the state engineer originally authorized in Subsection 6 of Section 25 of Chapter 81 of Laws 2020 to plan, design, construct, equip, purchase and install improvements to the Villa Mora dam area, including trails, parking and lighting, in Las Cruces in Dona Ana county and reauthorized to the local government division in Laws 2021, Chapter 139, Section 32 for that purpose shall not be expended for the original purpose but is changed to plan, design, construct, equip, purchase and install improvements to the area surrounding Villa Mora dam, including trails, parking and lighting, for parks and open spaces in Las Cruces in Dona Ana county. The time of expenditure is extended through fiscal year 2025.

## **Chapter 203 Section 104 Laws 2023**

SECTION 104. DONA ANA COUNTY INTERNATIONAL JETPORT TAXILANE E IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 58 of Section 40 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

## **Chapter 203 Section 105 Laws 2023**

SECTION 105. CARLSBAD CANAL STREET STORM DRAIN EXTENSION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 79 of Section 40 of Chapter 277 of Laws 2019 to plan, design, construct and extend a storm drain from Canal street to west Fox street along west Green and south Halagueno streets in Carlsbad in Eddy county is extended through fiscal year 2025.

## **Chapter 203 Section 106 Laws 2023**

SECTION 106. NEW MEXICO STATE UNIVERSITY CARLSBAD BRANCH CAMPUS COMPUTER BUILDING ROOF CONSTRUCTION--CHANGE AGENCY--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the board of regents of New Mexico state university in Subsection 19 of Section 46 of Chapter 277 of Laws 2019 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 shall not be expended for the original purpose but is appropriated to the higher education department to plan, design, construct and renovate the roof of a computer building at southeast New Mexico college in Carlsbad in Eddy county. The time of expenditure is extended through fiscal year 2025.

## **Chapter 203 Section 107 Laws 2023**

SECTION 107. LOVING WATER SYSTEM IMPROVEMENT AND REPLACEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of environment project in Subsection 35 of Section 26 of Chapter 277 of Laws 2019 to plan, design, construct, improve and replace the water system in Loving in Eddy county is extended through fiscal year 2025.

## **Chapter 203 Section 108 Laws 2023**

SECTION 108. LOVING WASTEWATER SYSTEM IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of environment project in Subsection 36 of Section 26 of Chapter 277 of Laws 2019 to plan, design, construct, replace and improve wastewater systems, including manholes, sewer lines,

service connections, fences and gates, in Loving in Eddy county is extended through fiscal year 2025.

### **Chapter 203 Section 109 Laws 2023**

SECTION 109. CASAS ADOBES MUTUAL DOMESTIC WATER CONSUMERS ASSOCIATION WATER SYSTEM IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of environment project in Subsection 37 of Section 26 of Chapter 277 of Laws 2019 to plan, design, construct, equip and install improvements for the Casas Adobes mutual domestic water consumers association in Grant county is extended through fiscal year 2025.

### **Chapter 203 Section 110 Laws 2023**

SECTION 110. DEPARTMENT OF HEALTH FORT BAYARD WATER INFRASTRUCTURE IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the capital program fund project in Subsection 4 of Section 7 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

### **Chapter 203 Section 111 Laws 2023**

SECTION 111. LA LOMA SENIOR CENTER VEHICLE PURCHASE--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the aging and long-term services department project in Subsection 15 of Section 5 of Chapter 138 of Laws 2021 to purchase and equip vehicles for La Loma senior center in Anton Chico in Guadalupe county is extended through fiscal year 2025.

### **Chapter 203 Section 112 Laws 2023**

SECTION 112. HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT HIDALGO COUNTY EMERGENCY BROADCAST SYSTEM PURCHASE AND INSTALLATION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the homeland security and emergency management department project in Laws 2019, Chapter 277, Section 30 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 is extended through fiscal year 2025.

## **Chapter 203 Section 113 Laws 2023**

SECTION 113. LORDSBURG WATER SYSTEM IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of environment project in Subsection 44 of Section 26 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

## **Chapter 203 Section 114 Laws 2023**

SECTION 114. NEW MEXICO JUNIOR COLLEGE INFRASTRUCTURE AND AIR HANDLER UPGRADE--CHANGE TO RENOVATE MARY HAGELSTEIN INSTRUCTIONAL ARTS CENTER--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the higher education department in Subsection 5 of Section 39 of Chapter 81 of Laws 2020 to replace the air handlers and for infrastructure improvements in Heidel hall, Watson hall and Mary Hagelstein hall at New Mexico junior college in Lea county shall not be expended for the original purpose but is changed to plan, design, construct, renovate, repair and equip the Mary Hagelstein instructional arts center at New Mexico junior college.

## **Chapter 203 Section 115 Laws 2023**

SECTION 115. LEA COUNTY COURTHOUSE RENOVATION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the local government division project in Subsection 251 of Section 34 of Chapter 277 of Laws 2019 to plan, design, construct, renovate, furnish and equip the historic Lea county courthouse in Lovington in Lea county is extended through fiscal year 2025.

## **Chapter 203 Section 116 Laws 2023**

SECTION 116. LEA THEATRE RESTORATION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the local government division project in Subsection 254 of Section 34 of Chapter 277 of Laws 2019 to plan, design, construct, restore, remediate, purchase and equip the historic Lea theatre in Lovington in Lea county is extended through fiscal year 2025.

## **Chapter 203 Section 117 Laws 2023**

SECTION 117. LOVINGTON ANIMAL SHELTER CONSTRUCTION--CHANGE TO RENOVATE AND EQUIP A SHELTER--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation authorized to the local government division in Subsection 225 of Section 29 of Chapter 138 of Laws 2021 to plan, design, construct, purchase and equip a new animal services facility and shelter in Lovington in Lea county shall not be expended for the original purpose but is changed to plan, design,

construct, renovate, refurbish and equip an animal services facility and shelter in Lovington.

### **Chapter 203 Section 118 Laws 2023**

SECTION 118. LOVINGTON VETERANS' MEMORIAL AND PARK CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the local government division project in Subsection 257 of Section 34 of Chapter 277 of Laws 2019 to plan, design, purchase, construct and equip a veterans' memorial and park in Lovington in Lea county is extended through fiscal year 2025.

### **Chapter 203 Section 119 Laws 2023**

SECTION 119. LOVINGTON CITY HALL FIRE ALARM AND SECURITY IMPROVEMENTS--CHANGE TO PURCHASE OF UTILITY TRUCKS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 226 of Section 29 of Chapter 138 of Laws 2021 to plan, design, construct, purchase, install and equip a fire alarm system and security improvements at city hall in Lovington in Lea county shall not be expended for the original purpose but is changed to purchase and equip utility trucks for the water and wastewater department in Lovington in Lea county.

### **Chapter 203 Section 120 Laws 2023**

SECTION 120. PROVIDENCIA DITCH IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the interstate stream commission project in Subsection 6 of Section 33 of Chapter 277 of Laws 2019 to plan, design, construct, purchase and install improvements to the Providencia ditch, including a dam, culverts, sluice boxes and clean-outs, in Lincoln county is extended through fiscal year 2025.

### **Chapter 203 Section 121 Laws 2023**

SECTION 121. CARRIZOZO WELLS AND WELL HOUSES CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of environment project in Subsection 51 of Section 26 of Chapter 277 of Laws 2019 to plan, design, construct, purchase and equip wells and well houses for Carrizozo in Lincoln county is extended through fiscal year 2025.

### **Chapter 203 Section 122 Laws 2023**

SECTION 122. LOS ALAMOS COUNTY AFFORDABLE HOUSING INFRASTRUCTURE CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the local government division project in Subsection 273 of Section 34 of Chapter 277 of Laws 2019 to plan, design and construct affordable housing infrastructure in Los Alamos county is extended through fiscal year 2025.

## **Chapter 203 Section 123 Laws 2023**

SECTION 123. UNIVERSITY OF NEW MEXICO-LOS ALAMOS INFRASTRUCTURE IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the university of New Mexico project in Subsection 37 of Section 48 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

## **Chapter 203 Section 124 Laws 2023**

SECTION 124. LUNA COUNTY DOMESTIC VIOLENCE AND HOMELESS SHELTER CONSTRUCTION--EXPAND PURPOSE--SEVERANCE TAX BONDS.--The local government division project in Subsection 235 of Section 29 of Chapter 138 of Laws 2021 to plan, design, construct, equip and furnish a domestic violence and homeless shelter in Luna county may include acquisition of property.

## **Chapter 203 Section 125 Laws 2023**

SECTION 125. BORDER AUTHORITY COLUMBUS LAND PORT OF ENTRY FLOOD CONTROL CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the border authority project in Subsection 2 of Section 6 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

## **Chapter 203 Section 126 Laws 2023**

SECTION 126. LUNA COUNTY DISTRICT ATTORNEY'S OFFICE CONSTRUCTION--EXPAND PURPOSE--SEVERANCE TAX BONDS.--The local government division project in Subsection 282 of Section 30 of Chapter 53 of Laws 2022 to plan, design, construct, furnish and equip a district attorney's office for county court programs in Deming in Luna county may include acquiring property.

## **Chapter 203 Section 127 Laws 2023**

SECTION 127. ALLISON ROAD IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 94 of Section 40 of Chapter 277 of Laws 2019 to plan, design and construct improvements to Allison road in McKinley county is extended through fiscal year 2025.

## **Chapter 203 Section 128 Laws 2023**

SECTION 128. BACA/PREWITT CHAPTER BACKHOE AND EQUIPMENT PURCHASE--CHANGE TO HEAVY EQUIPMENT PURCHASE--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 21 of Section 31 of Chapter 277 of Laws 2019 and reauthorized in Laws 2021, Chapter 139, Section 43 to purchase and equip a maintenance backhoe for the Baca/Prewitt chapter of the Navajo Nation in McKinley county shall not be expended for the original purpose but is changed to purchase and equip heavy equipment for that chapter. The time of expenditure is extended through fiscal year 2025.

## **Chapter 203 Section 129 Laws 2023**

SECTION 129. FORT DEFIANCE CHAPTER POWER LINE EXTENSION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 14 of Section 31 of Chapter 277 of Laws 2019 to plan, design and construct power line extensions and house wiring to homes in the Coalmine area of the Fort Defiance chapter of the Navajo Nation in McKinley county is extended through fiscal year 2025.

## **Chapter 203 Section 130 Laws 2023**

SECTION 130. MCKINLEY COUNTY HOSPITAL CORONAVIRUS DISEASE 2019 SURVIVORS' CLINIC CONSTRUCTION--CHANGE TO CONSTRUCT AND EQUIP IMPROVEMENTS AT HOSPITAL, CLINICS AND CENTERS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 288 of Section 30 of Chapter 53 of Laws 2022 to plan, design, construct and equip a coronavirus disease 2019 survivors' clinic for the Rehoboth McKinley Christian hospital in McKinley county shall not be expended for the original purpose but is changed to plan, design, construct and equip building improvements and infrastructure at Rehoboth McKinley Christian hospital, emergency room entrance, clinics and centers, including the birthing unit, in McKinley county.

## **Chapter 203 Section 131 Laws 2023**

SECTION 131. MCKINLEY COUNTY CORONAVIRUS DISEASE 2019 SURVIVORS' CLINIC ACQUISITION AND CONSTRUCTION--CHANGE TO IMPROVE A HOSPITAL, CLINICS AND CENTERS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 244 of Section 29 of Chapter 138 of Laws 2021 to acquire property, easements and rights of way and to plan, design and construct a coronavirus disease 2019 survivors' clinic in McKinley county shall not be expended for the original purpose but is changed to design, construct and equip building improvements and infrastructure at Rehoboth McKinley Christian hospital, clinics and centers, including the birthing unit, in McKinley county.

## **Chapter 203 Section 132 Laws 2023**

SECTION 132. NAVAJO NATION CODE TALKERS MUSEUM AND VETERANS' CENTER--CHANGE TO CONSTRUCT CODE TALKERS MUSEUM--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 16 of Section 31 of Chapter 277 of Laws 2019 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 shall not be expended for the original purpose but is changed to plan, design, construct, furnish and equip a Navajo code talkers museum in the Tse Bonito area. The time of expenditure is extended through fiscal year 2025.

## **Chapter 203 Section 133 Laws 2023**

SECTION 133. OJO ENCINO CHAPTER HEAVY EQUIPMENT PURCHASE--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the Indian affairs department project in Subsection 29 of Section 25 of Chapter 138 of Laws 2021 to purchase and equip heavy equipment for the Ojo Encino chapter of the Navajo Nation in McKinley county is extended through fiscal year 2025.

## **Chapter 203 Section 134 Laws 2023**

SECTION 134. TSA-YA-TOH CHAPTER POWER LINE EXTENSION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 47 of Section 31 of Chapter 277 of Laws 2019 to plan, design and construct house wiring and power line extensions, including easements, rights of way and archaeological and environmental studies, in the Tsa-ya-toh chapter of the Navajo Nation in McKinley county is extended through fiscal year 2025.

## **Chapter 203 Section 135 Laws 2023**

SECTION 135. TSE BONITO JUDICIAL COMPLEX MASTER PLAN--CHANGE TO DEVELOP TSEHOOTSOOI JUSTICE CENTER MASTER PLAN AND EXTEND INFRASTRUCTURE--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 18 of Section 31 of Chapter 277 of Laws 2019 for a facility master plan for a judicial complex and for infrastructure extensions to the site in Tse Bonito in McKinley county shall not be expended for the original purpose but is changed for a facility master plan and design for the Tsehootsooi justice center and for infrastructure extensions to the site in the Fort Defiance chapter of the Navajo Nation in McKinley county. The time of expenditure is extended through fiscal year 2025.

## **Chapter 203 Section 136 Laws 2023**

SECTION 136. CASAMERO LAKE CHAPTER SENIOR CENTER CONSTRUCTION--CHANGE TO IMPROVE AND EQUIP A SENIOR CENTER--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the Indian affairs department originally authorized in Subsection 24 of Section 31 of Chapter 277 of Laws 2019 and reauthorized to the aging and long-term services department in Laws 2020, Chapter 82, Section 49 to plan, design and construct a senior center in the Casamero Lake chapter of the Navajo Nation shall not be expended for the original or reauthorized purpose but is changed to plan, design, construct, furnish and equip improvements to the senior center in the Casamero Lake chapter. The time of expenditure is extended through fiscal year 2025.

## **Chapter 203 Section 137 Laws 2023**

SECTION 137. NEW MEXICO HIGHWAY 118 IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 96 of Section 40 of Chapter 277 of Laws 2019 to plan, design and construct road improvements along New Mexico highway 118 for the Church Rock chapter of the Navajo Nation in McKinley county is extended through fiscal year 2025.

## **Chapter 203 Section 138 Laws 2023**

SECTION 138. DINE COLLEGE NAVAJO NATION LIVESTOCK, RESEARCH AND EXTENSION CENTER CONSTRUCTION--CHANGE AGENCY--EXTEND TIME--GENERAL FUND.--The agency for the project originally appropriated to the Indian affairs department in Subsection 28 of Section 31 of Chapter 277 of Laws 2019 to plan, design and construct the Navajo Nation livestock, research and extension center on the Crownpoint campus of Dine college in McKinley county is changed to the higher education department. The time of expenditure is extended through fiscal year 2025.

## **Chapter 203 Section 139 Laws 2023**

SECTION 139. BAAHAALI CHAPTER HOUSE IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 19 of Section 31 of Chapter 277 of Laws 2019 to plan, design, construct, purchase, renovate, furnish and equip improvements to the Baahaali chapter house in the Baahaali chapter of the Navajo Nation in McKinley county is extended through fiscal year 2025.

## **Chapter 203 Section 140 Laws 2023**

SECTION 140. CHICHILTAH CHAPTER BATHROOM ADDITION CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 25 of Section 31 of Chapter 277 of Laws

2019 to plan, design, construct, purchase, equip and install bathroom additions in the Chichiltah chapter of the Navajo Nation in McKinley county is extended through fiscal year 2025.

### **Chapter 203 Section 141 Laws 2023**

SECTION 141. MCKINLEY COUNTY DOMESTIC VIOLENCE SHELTER CONSTRUCTION--EXPAND PURPOSE--SEVERANCE TAX BONDS.--The local government division project in Subsection 295 of Section 30 of Chapter 53 of Laws 2022 to plan, design, equip and construct an emergency shelter for victims and refugees of domestic violence in Gallup in McKinley county may include renovation of an existing building.

### **Chapter 203 Section 142 Laws 2023**

SECTION 142. IYANBITO CHAPTER HOUSE FENCE CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 31 of Section 31 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

### **Chapter 203 Section 143 Laws 2023**

SECTION 143. MANUELITO CHAPTER VEHICLE PURCHASE--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project originally authorized in Subsection 34 of Section 31 of Chapter 277 of Laws 2019 and reauthorized in Laws 2021, Chapter 139, Section 95 to purchase and equip vehicles for the Manuelito chapter of the Navajo Nation in McKinley county is extended through fiscal year 2025.

### **Chapter 203 Section 144 Laws 2023**

SECTION 144. MEXICAN SPRINGS CHAPTER POWER LINE EXTENSION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 36 of Section 31 of Chapter 277 of Laws 2019 to plan, design, construct and equip power line/solar systems, including environmental assessments, rights of way and archaeological clearances, in the Mexican Springs chapter of the Navajo Nation in McKinley county is extended through fiscal year 2025.

### **Chapter 203 Section 145 Laws 2023**

SECTION 145. PINEDALE CHAPTER BATHROOMS CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 37 of Section 31 of Chapter 277 of Laws 2019 to plan,

design and construct bathroom additions in the Pinedale chapter of the Navajo Nation in McKinley county is extended through fiscal year 2025.

### **Chapter 203 Section 146 Laws 2023**

SECTION 146. CASAMERO LAKE CHAPTER CEMETERY CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 23 of Section 31 of Chapter 277 of Laws 2019 to plan, design and construct a community cemetery in the Casamero Lake chapter of the Navajo Nation in McKinley county is extended through fiscal year 2025.

### **Chapter 203 Section 147 Laws 2023**

SECTION 147. CASAMERO LAKE CHAPTER SENIOR CENTER CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the aging and long-term services department project in Subsection 30 of Section 4 of Chapter 277 of Laws 2019 to plan, design, construct, furnish and equip a senior center in the Casamero Lake chapter of the Navajo Nation in McKinley county is extended through fiscal year 2025.

### **Chapter 203 Section 148 Laws 2023**

SECTION 148. PREWITT SEEWALD ESTATES POWER LINE EXTENSION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 38 of Section 31 of Chapter 277 of Laws 2019 to plan, design and construct a power line extension to the Seewald estates area in Prewitt in the Navajo Nation in McKinley county is extended through fiscal year 2025.

### **Chapter 203 Section 149 Laws 2023**

SECTION 149. ROCK SPRINGS CHAPTER MULTIPURPOSE BUILDING AND VETERANS' FACILITY CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 97 of Section 31 of Chapter 277 of Laws 2019 to plan, design and construct a multipurpose building and veterans' facility in the Rock Springs chapter of the Navajo Nation in McKinley county is extended through fiscal year 2025.

### **Chapter 203 Section 150 Laws 2023**

SECTION 150. UNITED STATES HIGHWAY 491/CHEE DODGE ELEMENTARY SCHOOL ACCESS ROAD IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 104 of Section 40 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

### **Chapter 203 Section 151 Laws 2023**

SECTION 151. NAVAJO NATION SHIPROCK CHAPTER VETERANS' CENTER WASTEWATER LINE CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 90 of Section 31 of Chapter 277 of Laws 2019 to acquire easements and to plan, design and construct a wastewater line from the Navajo utility authority to a veterans' center in the Shiprock chapter of the Navajo Nation in San Juan county is extended through fiscal year 2025.

### **Chapter 203 Section 152 Laws 2023**

SECTION 152. SMITH LAKE CHAPTER PARKING LOT CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 43 of Section 31 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

### **Chapter 203 Section 153 Laws 2023**

SECTION 153. SMITH LAKE CHAPTER VETERANS CENTER IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 44 of Section 31 of Chapter 277 of Laws 2019 to plan, design, construct, renovate and improve the Smith Lake veterans center for the Smith Lake chapter of the Navajo Nation in McKinley county is extended through fiscal year 2025.

### **Chapter 203 Section 154 Laws 2023**

SECTION 154. NORTHWEST NEW MEXICO REGIONAL SOLID WASTE AUTHORITY TRANSFER STATION CONSTRUCTION--CHANGE TO PURCHASE TRANSPORT TRUCKS, TRAILERS AND CONTAINERS--SEVERANCE TAX BONDS.-  
-The unexpended balance of the appropriation to the department of environment in Subsection 53 of Section 22 of Chapter 53 of Laws 2022 to plan, design and construct a transfer station for the northwest New Mexico regional solid waste authority in McKinley county shall not be expended for the original purpose but is changed to purchase and equip solid waste transport trucks, trailers and containers for waste and recycling for that regional solid waste authority.

## **Chapter 203 Section 155 Laws 2023**

SECTION 155. TOHATCHI CHAPTER WAREHOUSE CONSTRUCTION--CHANGE TO CONSTRUCT A SAFETY COMPLEX--EXTEND TIME--GENERAL FUND.-- The unexpended balance of the appropriation to the Indian affairs department in Subsection 46 of Section 31 of Chapter 277 of Laws 2019 to plan, design, construct, furnish and equip a warehouse for heavy equipment storage in the Tohatchi chapter of the Navajo Nation in McKinley county shall not be expended for the original purpose but is changed to plan, design, construct, furnish and equip a safety complex in that chapter. The time of expenditure is extended through fiscal year 2025.

## **Chapter 203 Section 156 Laws 2023**

SECTION 156. BAHAST'LAH CHAPTER WATER LINE EXTENSION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 13 of Section 31 of Chapter 277 of Laws 2019 to plan, design, construct, purchase, equip and install water line extensions for the Bahast'lah chapter of the Navajo Nation in McKinley county is extended through fiscal year 2025.

## **Chapter 203 Section 157 Laws 2023**

SECTION 157. WHITEHORSE LAKE CHAPTER BATHROOM ADDITION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 50 of Section 31 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

## **Chapter 203 Section 158 Laws 2023**

SECTION 158. PUEBLO OF ZUNI WASTEWATER INFRASTRUCTURE CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 54 of Section 31 of Chapter 277 of Laws 2019 to plan, design and construct wastewater infrastructure for a commercial development area at the Pueblo of Zuni in McKinley county is extended through fiscal year 2025.

## **Chapter 203 Section 159 Laws 2023**

SECTION 159. MORA SENIOR CENTER BUS PURCHASE AND EQUIP--CHANGE TO VANS AND VEHICLES PURCHASE AND EQUIP--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the aging and long-term services department in Subsection 24 of Section 5 of Chapter 138 of Laws 2021 to purchase and equip buses with accessibility features for the Mora senior center in Mora county shall not be expended for the original purpose but is changed to

purchase and equip vans and vehicles with full accessibility features for that senior center. The time of expenditure is extended through fiscal year 2025.

### **Chapter 203 Section 160 Laws 2023**

SECTION 160. NORTH CENTRAL REGIONAL TRANSIT DISTRICT BUS PURCHASE AND EQUIPMENT--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 255 of Section 29 of Chapter 138 of Laws 2021 to purchase, replace and equip transit vehicles for the north central regional transit district in Rio Arriba, Santa Fe, Los Alamos and Taos counties is extended through fiscal year 2025.

### **Chapter 203 Section 161 Laws 2023**

SECTION 161. NAVAJO NATION RENEWABLE ENERGY SYSTEM CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 56 of Section 31 of Chapter 277 of Laws 2019 to plan, design, construct, purchase, equip and install renewable energy systems for the Navajo Nation in McKinley, San Juan and Sandoval counties is extended through fiscal year 2025.

### **Chapter 203 Section 162 Laws 2023**

SECTION 162. TIMBERON WATER AND SANITATION DISTRICT RESERVOIR CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of environment project in Subsection 66 of Section 26 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

### **Chapter 203 Section 163 Laws 2023**

SECTION 163. TIMBERON WATER AND SANITATION DISTRICT WATER SYSTEM IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of environment project in Subsection 67 of Section 26 of Chapter 277 of Laws 2019 to plan, design, purchase and construct improvements to the water system for the Timberon water and sanitation district in Otero county is extended through fiscal year 2025.

### **Chapter 203 Section 164 Laws 2023**

SECTION 164. ALAMOGORDO FIRE STATION 7 CONSTRUCTION--CHANGE TO RENOVATE ADMINISTRATIVE OFFICES AND AN OPERATIONS CENTER--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 259 of Section 29 of

Chapter 138 of Laws 2021 to plan, design, construct, renovate, purchase, furnish and equip fire station number seven in Alamogordo in Otero county shall not be expended for the original purpose but is changed to plan, design, renovate, purchase, furnish and equip a facility to house fire department administrative offices and an emergency operations center, including a gymnasium, in Alamogordo in Otero county.

### **Chapter 203 Section 165 Laws 2023**

SECTION 165. NEW MEXICO SCHOOL FOR THE BLIND AND VISUALLY IMPAIRED INFRASTRUCTURE AND PARKING IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the New Mexico school for the blind and visually impaired project in Subsection 1 of Section 51 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

### **Chapter 203 Section 166 Laws 2023**

SECTION 166. NEW MEXICO SCHOOL FOR THE BLIND AND VISUALLY IMPAIRED SUPERINTENDENT'S RESIDENCE CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the New Mexico school for the blind and visually impaired project in Subsection 2 of Section 51 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

### **Chapter 203 Section 167 Laws 2023**

SECTION 167. CLOUDCROFT WATER SYSTEM IMPROVEMENTS--CHANGE TO IMPROVE WATER SYSTEMS AND WASTEWATER TREATMENT PLANTS--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of up to one million five hundred thousand dollars (\$1,500,000) of the appropriation to the department of environment originally authorized in Subsection 56 of Section 26 of Chapter 81 of Laws 2020 and reauthorized in Laws 2022, Chapter 52, Section 83 to plan, design, construct and improve contaminated water systems in Cloudcroft in Otero county shall not be expended for the original or reauthorized purpose but is changed to plan, design and construct improvements to contaminated water systems, including the PURe water project and improvements to the wastewater treatment plant, in Cloudcroft in Otero county. The time of expenditure is extended through fiscal year 2025.

### **Chapter 203 Section 168 Laws 2023**

SECTION 168. CLOUDCROFT WASTEWATER TREATMENT FACILITY IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of environment project in Subsection 69 of Section 26 of Chapter 277 of

Laws 2019 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 is extended through fiscal year 2025.

### **Chapter 203 Section 169 Laws 2023**

SECTION 169. CLOUDCROFT WATER TREATMENT SYSTEM IMPROVEMENTS--CHANGE TO CONSTRUCT AND EQUIP IMPROVEMENTS TO A WASTEWATER TREATMENT FACILITY--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the department of environment in Subsection 68 of Section 26 of Chapter 277 of Laws 2019 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 shall not be expended for the original purpose but is changed to plan, design, construct, purchase, equip and install improvements, including an emergency generator and fan press, to a wastewater treatment facility in Cloudcroft. The time of expenditure for the project is extended through fiscal year 2025.

### **Chapter 203 Section 170 Laws 2023**

SECTION 170. TULAROSA WASTEWATER SYSTEM IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of environment project in Subsection 71 of Section 26 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

### **Chapter 203 Section 171 Laws 2023**

SECTION 171. MESALANDS COMMUNITY COLLEGE IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the higher education department project in Subsection 11 of Section 41 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

### **Chapter 203 Section 172 Laws 2023**

SECTION 172. ACEQUIA DE CHAMITA IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the interstate stream commission project in Subsection 28 of Section 33 of Chapter 277 of Laws 2019 to plan, design and construct improvements to the acequia de Chamita in Rio Arriba county is extended through fiscal year 2025.

## **Chapter 203 Section 173 Laws 2023**

SECTION 173. ACEQUIA DE LA OTRA VANDA IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the interstate stream commission project in Subsection 29 of Section 33 of Chapter 277 of Laws 2019 to plan, design and construct improvements to the acequia de la Otro Vanda in Rio Arriba county is extended through fiscal year 2025.

## **Chapter 203 Section 174 Laws 2023**

SECTION 174. ACEQUIA DEL MOLINO IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the interstate stream commission project in Subsection 19 of Section 33 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

## **Chapter 203 Section 175 Laws 2023**

SECTION 175. ACEQUIA MESA DEL MEDIO IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the interstate stream commission project in Subsection 20 of Section 33 of Chapter 277 of Laws 2019 to plan, design and construct improvements for the acequia Mesa del Medio in Rio Arriba county is extended through fiscal year 2025.

## **Chapter 203 Section 176 Laws 2023**

SECTION 176. CHAMA TO TIERRA AMARILLA GAS PIPELINE CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 111 of Section 40 of Chapter 277 of Laws 2019 to plan, design and construct a gas pipeline from Chama to the Chama independent school district facilities in Tierra Amarilla in Rio Arriba county is extended through fiscal year 2025.

## **Chapter 203 Section 177 Laws 2023**

SECTION 177. RIO ARRIBA COUNTY RESIDENTIAL RECOVERY FACILITY CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the local government division project originally authorized in Subsection 335 of Section 34 of Chapter 277 of Laws 2019 and reauthorized in Laws 2020, Chapter 82, Section 63 to purchase, engineer, construct, renovate, improve, equip and furnish facilities, property and roads for a women-and-children-focused residential recovery facility in Rio Arriba county is extended through fiscal year 2025.

## **Chapter 203 Section 178 Laws 2023**

SECTION 178. TIERRA AMARILLA LAND GRANT LAND ACQUISITION--CHANGE TO ACQUIRE LAND GRANT LAND AND WATER RIGHTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 276 of Section 29 of Chapter 138 of Laws 2021 to acquire property in accordance with a settlement agreement reached by the office of the New Mexico attorney general, including to pay back any loan, excluding interest, required to meet the settlement terms that are made prior to the release of funds, for the land grant-merced de los Pueblos de Tierra Amarilla in Rio Arriba county shall not be expended for the original purpose but is changed to acquire vacant land and water rights within the exterior boundaries of the land grant-merced de los Pueblos de Tierra Amarilla in Rio Arriba county.

## **Chapter 203 Section 179 Laws 2023**

SECTION 179. CHAMA SEWER LINE EXTENSION--CHANGE TO CONSTRUCT A WASTEWATER SYSTEM AND IMPROVE SEWER LINES--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of environment in Subsection 71 of Section 26 of Chapter 81 of Laws 2020 to plan, design and construct a sewer line extension for Chama in Rio Arriba county shall not be expended for the original purpose but is changed to plan, design and construct a wastewater system and sewer line improvements for Chama in Rio Arriba county. The time of expenditure is extended through fiscal year 2025.

## **Chapter 203 Section 180 Laws 2023**

SECTION 180. ACEQUIA SAN RAFAEL DEL GUIQUE IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the interstate stream commission project in Subsection 27 of Section 33 of Chapter 277 of Laws 2019 to plan, design and construct improvements to the acequia San Rafael del Guique in Rio Arriba county is extended through fiscal year 2025.

## **Chapter 203 Section 181 Laws 2023**

SECTION 181. RIO ARRIBA COUNTY COMMUNITY SERVICES DELIVERY CENTER AND BUSINESS DEVELOPMENT HUB FACILITY--EXTEND TIME--GENERAL FUND.--The time of expenditure for the local government division project in Subsection 326 of Section 34 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

## **Chapter 203 Section 182 Laws 2023**

SECTION 182. RIO ARRIBA COUNTY LOW RIDER MUSEUM CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the local government division project in Subsection 328 of Section 34 of Chapter 277 of Laws 2019 to plan, design, prepare the site, construct, renovate and equip a low rider museum in Espanola in Rio Arriba county is extended through fiscal year 2025.

## **Chapter 203 Section 183 Laws 2023**

SECTION 183. PIEDRA LUMBRE VISITORS CENTER PURCHASE AND RENOVATION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of finance and administration project originally authorized in Subsection 2 of Section 28 of Chapter 277 of Laws 2019 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 and reauthorized in Laws 2020, Chapter 82, Section 66 to include planning, designing, renovating, repairing, constructing, furnishing and equipping, abatement and removal of asbestos, lead-based paint and other hazardous materials and demolition and disposal of existing structures at the visitors center is extended through fiscal year 2025.

## **Chapter 203 Section 184 Laws 2023**

SECTION 184. OHKAY OWINGEH STORM WATER CONTROL SYSTEM CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 71 of Section 31 of Chapter 277 of Laws 2019 to plan, design and construct a storm water control system for Ohkay Owingeh in Rio Arriba county is extended through fiscal year 2025.

## **Chapter 203 Section 185 Laws 2023**

SECTION 185. BLOOMFIELD IRRIGATION DISTRICT IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the office of the state engineer project in Subsection 5 of Section 23 of Chapter 277 of Laws 2019 to plan, design and construct improvements to the district irrigation ditch, including the Blanco flume, for the Bloomfield irrigation district in San Juan county is extended through fiscal year 2025.

## **Chapter 203 Section 186 Laws 2023**

~~[SECTION 186. FARMERS MUTUAL DITCH IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the interstate stream commission project in Subsection 31 of Section 33 of Chapter 277 of Laws 2019 to plan, design, construct and equip phase 1 improvements to the Farmers mutual ditch in San Juan county is extended through fiscal year 2025.] LINE ITEM VETO~~

## **Chapter 203 Section 187 Laws 2023**

SECTION 187. NEW MEXICO HIGHWAY 371 AND NAVAJO ROUTE 36 TRAFFIC SIGNAL--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 116 of Section 40 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

## **Chapter 203 Section 188 Laws 2023**

SECTION 188. SAN JUAN COUNTY REGIONAL FILM STUDIO CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the local government division project in Subsection 340 of Section 34 of Chapter 277 of Laws 2019 to acquire land for and to plan, design, construct and equip a regional film studio in San Juan county is extended through fiscal year 2025.

## **Chapter 203 Section 189 Laws 2023**

SECTION 189. TSE'DAA'KAAN CHAPTER POWER LINE EXTENSIONS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 93 of Section 31 of Chapter 277 of Laws 2019 to plan, design and construct power line extensions in the Tse'Daa'Kaan chapter of the Navajo Nation in San Juan county is extended through fiscal year 2025.

## **Chapter 203 Section 190 Laws 2023**

SECTION 190. UPPER FRUITLAND CHAPTER SENIOR CENTER ADDITION PHASE 2--EXTEND TIME--GENERAL FUND.--The time of expenditure for the aging and long-term services department project in Subsection 48 of Section 4 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

## **Chapter 203 Section 191 Laws 2023**

SECTION 191. EAST AZTEC ARTERIAL ROUTE CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 117 of Section 40 of Chapter 277 of Laws 2019 to plan, design and construct the east Aztec arterial route in Aztec in San Juan county is extended through fiscal year 2025.

## **Chapter 203 Section 192 Laws 2023**

SECTION 192. EAST AZTEC ARTERIAL ROUTE CONSTRUCTION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the department of transportation project originally authorized in Subsection 54 of Section 33 of Chapter 3 of Laws 2015 (1st S.S.) and reauthorized in Laws 2019, Chapter 280, Section 77 to construct the east Aztec arterial route in Aztec in San Juan county and for which the time of expenditure was extended in Laws 2021, Chapter 139, Section 59 is extended through fiscal year 2025.

## **Chapter 203 Section 193 Laws 2023**

SECTION 193. BECLABITO CHAPTER HELIPAD CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 79 of Section 31 of Chapter 277 of Laws 2019 to plan, design and construct a helipad in the Beclabito chapter of the Navajo Nation in San Juan county is extended through fiscal year 2025.

## **Chapter 203 Section 194 Laws 2023**

SECTION 194. FARMINGTON LIONS POOL RENOVATIONS--CHANGE TO CONSTRUCT AND EQUIP A THERAPY POOL--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 293 of Section 29 of Chapter 138 of Laws 2021 to plan, design and construct renovations to the Lions pool in Farmington in San Juan county shall not be expended for the original purpose but is changed to plan, design, construct and equip a therapy pool in Farmington.

## **Chapter 203 Section 195 Laws 2023**

~~[SECTION 195. FARMINGTON VILLA VIEW FLOOD CONTROL FACILITY CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 119 of Section 40 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.]~~ *LINE ITEM VETO*

## **Chapter 203 Section 196 Laws 2023**

SECTION 196. SAN JUAN COUNTY REGIONAL REHABILITATION HOSPITAL RENOVATION--CHANGE TO IMPROVE THE SAN JUAN REGIONAL MEDICAL CENTER WOMEN'S INPATIENT AND CHILDBIRTH UNIT--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division authorized in Subsection 340 of Section 35 of Chapter 81 of Laws 2020 to plan, design, construct, renovate and remodel an existing hospital unit to house a rehabilitation facility

in the San Juan regional rehabilitation hospital in Farmington in San Juan county shall not be expended for the original purpose but is changed to plan, design, construct, renovate and equip the women's inpatient and childbirth unit, including room expansions and bathroom improvements, at the San Juan regional medical center in Farmington.

### **Chapter 203 Section 197 Laws 2023**

SECTION 197. SAN JUAN REGIONAL MEDICAL CENTER EQUIPMENT PURCHASE AND INSTALLATION--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the local government division project in Subsection 297 of Section 29 of Chapter 138 of Laws 2021 to purchase and install ultraviolet lights and air handling systems in the patient care tower of the main hospital at San Juan regional medical center in Farmington in San Juan county is extended through fiscal year 2025.

### **Chapter 203 Section 198 Laws 2023**

SECTION 198. SAN JUAN REGIONAL MEDICAL CENTER PEDIATRIC UNIT IMPROVEMENTS--CHANGE TO RENOVATE THE WOMEN'S INPATIENT AND CHILDBIRTH UNIT--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 342 of Section 34 of Chapter 277 of Laws 2019 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 shall not be expended for the original purpose but is changed to plan, design, construct, renovate and equip the women's inpatient and childbirth unit, including room expansions and bathroom facilities improvements, at the San Juan regional medical center in Farmington in San Juan county. The time of expenditure is extended through fiscal year 2025.

### **Chapter 203 Section 199 Laws 2023**

SECTION 199. GADII'AHI/TO'KOI CHAPTER GOVERNMENT COMPLEX CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 80 of Section 31 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

### **Chapter 203 Section 200 Laws 2023**

SECTION 200. UPPER LA PLATA DOMESTIC WATER CONSUMERS AND MUTUAL SEWAGE WATER COOPERATIVE TALLEY PARK RENOVATION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the local government division project in Subsection 343 of Section 34 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

### **Chapter 203 Section 201 Laws 2023**

SECTION 201. LAKE VALLEY CHAPTER POWER LINE EXTENSION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 83 of Section 31 of Chapter 277 of Laws 2019 to plan, design and construct power lines in the Lake Valley chapter of the Navajo Nation in San Juan county is extended through fiscal year 2025.

### **Chapter 203 Section 202 Laws 2023**

SECTION 202. RED VALLEY CHAPTER MITTEN ROCK POWER LINE CONSTRUCT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 87 of Section 31 of Chapter 277 of Laws 2019 to acquire easements and rights of way for and to plan, design and construct power lines 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 is extended through fiscal year 2025.

### **Chapter 203 Section 203 Laws 2023**

SECTION 203. SANOSTEE CHAPTER COMMUNITY CEMETERY CONSTRUCTION--CHANGE TO IMPROVE SANOSTEE VETERANS' GYMNASIUM--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the Indian affairs department in Subsection 88 of Section 31 of Chapter 277 of Laws 2019 to plan, design and construct a community cemetery in the Tse Alnaozt'ii, or Sanostee, chapter of the Navajo Nation in San Juan county shall not be expended for the original purpose but is changed to plan, design, construct, upgrade, equip, purchase and install improvements, including heating, ventilation and air conditioning systems, to the Sanostee veterans' center gymnasium in the Tse Alnaozt'ii chapter of the Navajo Nation in San Juan county. The time of expenditure is extended through fiscal year 2025.

### **Chapter 203 Section 204 Laws 2023**

SECTION 204. NASCHITTI CHAPTER POWER LINE INSTALL--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 85 of Section 31 of Chapter 277 of Laws 2019 to acquire rights of way and easements, to plan and design archaeological and environmental studies and to plan, design and construct power line extensions in the Naschitti chapter of the Navajo Nation in San Juan county is extended through fiscal year 2025.

## **Chapter 203 Section 205 Laws 2023**

SECTION 205. SHIPROCK POLICE DEPARTMENT JUDICIAL AND PUBLIC SAFETY COMPLEX CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 77 of Section 31 of Chapter 277 of Laws 2019 to demolish and remove an existing facility and to plan, design and construct a judicial and public safety complex for the police department in Shiprock in San Juan county is extended through fiscal year 2025.

## **Chapter 203 Section 206 Laws 2023**

SECTION 206. DINE COLLEGE SHIPROCK AGRICULTURAL MULTIPURPOSE CENTER CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the higher education department project in Subsection 14 of Section 41 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

## **Chapter 203 Section 207 Laws 2023**

SECTION 207. SHIPROCK CHAPTER COMPLEX COMPREHENSIVE PLAN--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 91 of Section 31 of Chapter 277 of Laws 2019 to develop a comprehensive plan for the chapter complex in the Shiprock chapter of the Navajo Nation in San Juan county is extended through fiscal year 2025.

## **Chapter 203 Section 208 Laws 2023**

SECTION 208. NAVAJO NATION SHIPROCK CHAPTER VETERANS' CENTER CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 89 of Section 31 of Chapter 277 of Laws 2019 to plan, design and construct a veterans' center in the Shiprock chapter of the Navajo Nation in San Juan county is extended through fiscal year 2025.

## **Chapter 203 Section 209 Laws 2023**

SECTION 209. TIIS TSOH SIKAAD CHAPTER POWER LINE EXTENSION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 92 of Section 31 of Chapter 277 of Laws 2019 to acquire easements and rights of way and to plan, design and construct a power line extension south of the Tiis Tsoh Sikaad chapter of the Navajo Nation in San Juan county is extended through fiscal year 2025.

## **Chapter 203 Section 210 Laws 2023**

SECTION 210. TOO H HALTSOOI CHAPTER POWER LINE EXTENSION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 78 of Section 31 of Chapter 277 of Laws 2019 to acquire rights of way for and to plan, design and construct power line extensions, including archaeological and environmental studies, for the Tooh Haltsooi chapter of the Navajo Nation in McKinley county is extended through fiscal year 2025.

## **Chapter 203 Section 211 Laws 2023**

SECTION 211. TSE'DAA'KAAN HOGBACK SENIOR CENTER IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the aging and long-term services department project in Subsection 46 of Section 4 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

## **Chapter 203 Section 212 Laws 2023**

SECTION 212. TOADLENA/TWO GREY HILLS CHAPTER COMPOUND IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 94 of Section 31 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

## **Chapter 203 Section 213 Laws 2023**

SECTION 213. TOADLENA/TWO GREY HILLS CHAPTER SENIOR CENTER IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the aging and long-term services department project in Subsection 47 of Section 4 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

## **Chapter 203 Section 214 Laws 2023**

SECTION 214. WHITE ROCK CHAPTER VETERANS BUILDING IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 96 of Section 31 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

### **Chapter 203 Section 215 Laws 2023**

SECTION 215. ACEQUIA DE LOS SEGURAS IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the interstate stream commission project in Subsection 35 of Section 33 of Chapter 277 of Laws 2019 to plan, design and construct improvements to the acequia de los Seguras in San Miguel county is extended through fiscal year 2025.

### **Chapter 203 Section 216 Laws 2023**

SECTION 216. EAST PECOS DITCH IMPROVEMENTS--TIME EXTEND--GENERAL FUND.--The time of expenditure for the interstate stream commission project in Subsection 37 of Section 33 of Chapter 277 of Laws 2019 to plan, design and construct improvements to the East Pecos ditch in San Miguel county is extended through fiscal year 2025.

### **Chapter 203 Section 217 Laws 2023**

SECTION 217. LOS TRIGOS DITCH IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the interstate stream commission project in Subsection 39 of Section 33 of Chapter 277 of Laws 2019 to plan, design and construct improvements to los Trigos ditch in San Miguel county is extended through fiscal year 2025.

### **Chapter 203 Section 218 Laws 2023**

SECTION 218. TECOLOTE ACEQUIA ASSOCIATION IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the interstate stream commission project in Subsection 41 of Section 33 of Chapter 277 of Laws 2019 to plan, design and construct improvements for the Tecolote acequia association in San Miguel county is extended through fiscal year 2025.

### **Chapter 203 Section 219 Laws 2023**

SECTION 219. TECOLOTITO MUTUAL DOMESTIC WATER CONSUMERS ASSOCIATION WATER SYSTEM IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of environment project in Subsection 92 of Section 26 of Chapter 277 of Laws 2019 to plan, design and construct water system improvements for the Tecolotito mutual domestic water consumers association in San Miguel county is extended through fiscal year 2025.

## **Chapter 203 Section 220 Laws 2023**

SECTION 220. LAS VEGAS RECREATION CENTER SOLAR PROJECT INSTALLATION--CHANGE TO INSTALL LIGHT-EMITTING DIODE LIGHTS--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 308 of Section 29 of Chapter 138 of Laws 2021 to plan, design, construct, purchase and equip a solar electric installation, including connective infrastructure, for a recreation center and administrative offices in Las Vegas in San Miguel county shall not be expended for the original purpose but is changed to plan, design, construct, purchase, equip and install light-emitting diode lighting, including connective infrastructure, for a recreation center and administrative offices in Las Vegas. The time of expenditure for the project is extended through fiscal year 2025.

## **Chapter 203 Section 221 Laws 2023**

SECTION 221. PECOS GEOGRAPHIC INFORMATION MAPPING SYSTEM PURCHASE--CHANGE TO PURCHASE VEHICLES AND EQUIPMENT--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation of the local government division in Subsection 349 of Section 30 of Chapter 53 of Laws 2022 to plan, design, purchase and implement a geographic information system mapping system for Pecos in San Miguel county shall not be expended for the original purpose but is changed to purchase vehicles, equipment and geographic information system equipment for mapping water and wastewater systems in Pecos. The time of expenditure is extended through fiscal year 2025.

## **Chapter 203 Section 222 Laws 2023**

SECTION 222. PECOS WATER AND WASTEWATER SYSTEMS IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of environment project in Subsection 95 of Section 26 of Chapter 277 of Laws 2019 to plan, design, construct, renovate, equip and improve water and wastewater systems in Pecos in San Miguel county is extended through fiscal year 2025.

## **Chapter 203 Section 223 Laws 2023**

SECTION 223. ACEQUIA DE LA AGUA CALIENTE SAN JOSE IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the interstate stream commission project in Subsection 43 of Section 33 of Chapter 277 of Laws 2019 to plan, design and construct improvements to the acequia de la Agua Caliente in and near San Jose in San Miguel county is extended through fiscal year 2025.

## **Chapter 203 Section 224 Laws 2023**

SECTION 224. COUNSELOR CHAPTER LYBROOK WATER SYSTEM IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 101 of Section 31 of Chapter 277 of Laws 2019 to plan, design and construct improvements to the Lybrook water system for the Counselor chapter of the Navajo Nation in Sandoval county is extended through fiscal year 2025.

## **Chapter 203 Section 225 Laws 2023**

SECTION 225. GARCIA LUCERO ACEQUIA ASSOCIATION HEAD GATES INSTALLATION--CHANGE TO IMPROVE GARCIA LUCERO ACEQUIA ASSOCIATION--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the interstate stream commission in Subsection 46 of Section 33 of Chapter 277 of Laws 2019 to plan, design, construct and install head gates for the Garcia Lucero acequia association in Sandoval county shall not be expended for the original purpose but is changed to plan, design, construct and equip improvements to the Garcia Lucero acequia association in Sandoval county. The time of expenditure is extended through fiscal year 2025.

## **Chapter 203 Section 226 Laws 2023**

SECTION 226. LAS ACEQUIAS DE PLACITAS WATER COOPERATIVE WATER SYSTEM IMPROVEMENTS--CHANGE TO IMPROVE ACEQUIAS AND IRRIGATION PONDS--CHANGE AGENCY--SEVERANCE TAX BONDS.--Up to one hundred thousand dollars (\$100,000) of the unexpended balance of the appropriation to the interstate stream commission in Subsection 38 of Section 29 of Chapter 53 of Laws 2022 to plan, design and construct water system improvements and remediation for las acequias de Placitas water cooperative in Sandoval county shall not be expended for the original purpose but is appropriated to the local government division to plan, design and construct acequia, drainage and irrigation improvements and to make improvements to irrigation ponds for las acequias de Placitas water cooperative.

## **Chapter 203 Section 227 Laws 2023**

SECTION 227. LAS ACEQUIAS DE PLACITAS COOPERATIVE WATER SYSTEM IMPROVEMENT AND REMEDIATION--CHANGE AGENCY--SEVERANCE TAX BONDS.--The agency for up to five hundred thousand dollars (\$500,000) of the unexpended balance of the interstate stream commission project in Subsection 38 of Section 29 of Chapter 53 of Laws 2022 to plan, design and construct water system improvements and remediation for las acequias de Placitas water cooperative in Sandoval county is changed to the department of the environment.

## **Chapter 203 Section 228 Laws 2023**

SECTION 228. SAN ANTONIO DE LAS HUERTAS RURAL HEALTH CLINIC RENOVATION--CHANGE TO RENOVATE A COMMUNITY BUILDING--EXTEND TIME--GENERAL FUND.--The unexpended balance of the local government division project originally appropriated in Subsection 380 of Section 34 of Chapter 277 of Laws 2019 and reauthorized in Laws 2021, Chapter 139, Section 67 to plan, design, construct, purchase, renovate, furnish and equip a community building for a rural health clinic for the San Antonio de las Huertas land grant-merced in Sandoval county shall not be expended for the original or reauthorized purpose but is changed to plan, design, construct, purchase, renovate, furnish and equip a community building for the San Antonio de las Huertas land grant-merced. The time of expenditure is extended through fiscal year 2025.

## **Chapter 203 Section 229 Laws 2023**

SECTION 229. CORRALES FLOOD CONTROL STRUCTURES CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 130 of Section 40 of Chapter 277 of Laws 2019 to plan, design and construct storm and flood control structures, including in the area west of Loma Larga, in Corrales in Sandoval county is extended through fiscal year 2025.

## **Chapter 203 Section 230 Laws 2023**

SECTION 230. CORRALES ROAD AND DRAIN INFRASTRUCTURE IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 131 of Section 40 of Chapter 277 of Laws 2019 to plan, design, construct, repair and improve the infrastructure for roads and storm drainage in Corrales in Sandoval county is extended through fiscal year 2025.

## **Chapter 203 Section 231 Laws 2023**

SECTION 231. RIO RANCHO VISTA GRANDE PARK IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the local government division project in Subsection 379 of Section 34 of Chapter 277 of Laws 2019 to replace playground systems and improve accessibility, surfacing and shade structures at Vista Grande park in Rio Rancho in Sandoval county is extended through fiscal year 2025.

## **Chapter 203 Section 232 Laws 2023**

SECTION 232. PUEBLO OF SAN FELIPE COMMUNITY CENTER AND TRIBAL COUNCIL CHAMBERS IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the local government division project in Subsection 381 of Section 34

of Chapter 277 of Laws 2019 to plan, design and construct improvements to the community center and tribal council chambers in the Pueblo of San Felipe in Sandoval county is extended through fiscal year 2025.

### **Chapter 203 Section 233 Laws 2023**

SECTION 233. PUEBLO OF SANTA ANA EDUCATION COMPLEX CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 113 of Section 31 of Chapter 277 of Laws 2019 to plan, design, construct, furnish and equip an education complex, including a library, for the Pueblo of Santa Ana in Sandoval county is extended through fiscal year 2025.

### **Chapter 203 Section 234 Laws 2023**

SECTION 234. ACEQUIA DE LA OTRA BANDA IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the interstate stream commission project in Subsection 54 of Section 33 of Chapter 277 of Laws 2019 to plan, design and construct improvements to the acequia de la Otra Banda in Santa Fe county is extended through fiscal year 2025.

### **Chapter 203 Section 235 Laws 2023**

SECTION 235. ACEQUIA DE SOMBRILLO IMPROVEMENTS--CHANGE TO EQUIP AND IMPROVE ACEQUIA DE SOMBRILLO--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the interstate stream commission in Subsection 51 of Section 33 of Chapter 277 of Laws 2019 to plan, design and construct improvements, including runoff diversion culverts, to acequia de Sombrillo in Santa Fe county shall not be expended for the original purpose but is changed to plan, design, construct, purchase and equip improvements to acequia de Sombrillo in Santa Fe county. The time of expenditure is extended through fiscal year 2025.

### **Chapter 203 Section 236 Laws 2023**

SECTION 236. ACEQUIA DEL BARRANCO ALTO IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the interstate stream commission project in Subsection 56 of Section 33 of Chapter 277 of Laws 2019 to plan, design and construct improvements to the acequia del Barranco Alto in Santa Fe county is extended through fiscal year 2025.

### **Chapter 203 Section 237 Laws 2023**

SECTION 237. ZAFARANO DRIVE CONSTRUCTION--CHANGE TO AGUA FRIA COMMUNITY WATER DISTRIBUTION SYSTEM CONSTRUCTION--CHANGE AGENCY--EXTEND TIME--GENERAL FUND.--The unexpended balance of the

appropriation to the department of transportation in Subsection 97 of Section 33 of Chapter 138 of Laws 2021 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 shall not be expended for the original purpose but is appropriated to the department of environment to acquire water rights, including applications and transfers, and to plan, design and construct improvements to water distribution systems, including well and water line extensions, for the Agua Fria community water system association in Santa Fe county. The time of expenditure is extended through fiscal year 2025.

### **Chapter 203 Section 238 Laws 2023**

SECTION 238. ZAFARANO DRIVE CONSTRUCTION--CHANGE TO AGUA FRIA COMMUNITY WATER DISTRIBUTION SYSTEM CONSTRUCTION--CHANGE AGENCY--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the department of transportation in Subsection 135 of Section 40 of Chapter 277 of Laws 2019 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 shall not be expended for the original purpose but is appropriated to the department of environment to acquire water rights, including applications and transfers, and to plan, design and construct improvements to water distribution systems, including well and water line extensions, for the Agua Fria community water system association in Santa Fe county. The time of expenditure is extended through fiscal year 2025.

### **Chapter 203 Section 239 Laws 2023**

SECTION 239. LA BAJADA COMMUNITY DITCH IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the interstate stream commission project in Subsection 59 of Section 33 of Chapter 277 of Laws 2019 to plan, design, construct, repair, rehabilitate and improve La Bajada community ditch in the La Bajada area of Santa Fe county is extended through fiscal year 2025.

### **Chapter 203 Section 240 Laws 2023**

SECTION 240. LA BAJADA MUTUAL DOMESTIC WATER CONSUMERS ASSOCIATION WATER SYSTEM IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of environment project in Subsection 120 of Section 26 of Chapter 277 of Laws 2019 to plan, design and construct water system improvements for La Bajada mutual domestic water consumers association in Santa Fe county is extended through fiscal year 2025.

### **Chapter 203 Section 241 Laws 2023**

SECTION 241. MADRID WATER MUTUAL DOMESTIC WATER CONSUMERS ASSOCIATION FIRE SUPPRESSION IMPROVEMENTS--CHANGE TO PURCHASE

AND INSTALL FIRE SUPPRESSION TANK--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 384 of Section 34 of Chapter 277 of Laws 2019 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 shall not be expended for the original purpose but is changed to plan, design, construct, purchase, equip and install a non-pressurized underground fire suppression tank for the Madrid water mutual domestic water consumers association in Santa Fe county. The time of expenditure is extended through fiscal year 2025.

### **Chapter 203 Section 242 Laws 2023**

SECTION 242. SANTA FE COUNTY ELDORADO FIRE STATION 4 DESIGN--CHANGE TO CONSTRUCT AND IMPROVE ELDORADO FIRE STATIONS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 332 of Section 29 of Chapter 138 of Laws 2021 to plan and design a fire station in the Eldorado fire district in Santa Fe county shall not be expended for the original purpose but is changed to plan, design, construct, furnish, equip and improve fire stations in the Eldorado fire district in Santa Fe county.

### **Chapter 203 Section 243 Laws 2023**

SECTION 243. TEODORO Y TEODORA DITCH IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the interstate stream commission project in Subsection 53 of Section 33 of Chapter 277 of Laws 2019 to plan, design and construct improvements to the Teodoro y Teodora ditch in Santa Fe county is extended through fiscal year 2025.

### **Chapter 203 Section 244 Laws 2023**

SECTION 244. ACEQUIA DE LOS TRUJILLOS IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the interstate stream commission project in Subsection 55 of Section 33 of Chapter 277 of Laws 2019 to plan, design, construct, equip, replace, repair and make improvements to the acequia de los Trujillos in Santa Fe county is extended through fiscal year 2025.

### **Chapter 203 Section 245 Laws 2023**

SECTION 245. EL GUICU COMMUNITY DITCH IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the interstate stream commission project in Subsection 58 of Section 33 of Chapter 277 of Laws 2019 to plan, design, construct, purchase, equip and make improvements, including watershed restoration and fire protection, to El Guicu community ditch in Santa Fe county is extended through fiscal year 2025.

## **Chapter 203 Section 246 Laws 2023**

SECTION 246. CHURCH STREET IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 136 of Section 40 of Chapter 277 of Laws 2019 to plan, design and construct improvements to Church street in Edgewood in Santa Fe county is extended through fiscal year 2025.

## **Chapter 203 Section 247 Laws 2023**

SECTION 247. EDGEWOOD FIRE STATION 1 APPARATUS BAY CONSTRUCTION--CHANGE TO IMPROVE EDGEWOOD FIRE DISTRICT FIRE STATIONS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 337 of Section 29 of Chapter 138 of Laws 2021 to plan, design and construct an additional apparatus bay at fire station 1 in Edgewood in Santa Fe county shall not be expended for the original purpose but is changed to plan, design, construct, furnish, equip and improve fire stations in the Edgewood fire district in Santa Fe county.

## **Chapter 203 Section 248 Laws 2023**

SECTION 248. EDGEWOOD WATER QUALITY FACILITY IMPROVEMENTS--CHANGE TO PLAN AND ACQUIRE WATER RIGHTS--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the department of environment in Subsection 116 of Section 22 of Chapter 53 of Laws 2022 to acquire rights of way and easements for and to plan, design, construct, equip and furnish a water treatment facility in Edgewood in Santa Fe county shall not be expended for the original purpose but is changed to develop a plan to improve drinking water quality, supply, storage and transmission and to implement recommendations from the plan to identify and acquire rights of way, easements and water rights and to plan, design and construct a water system and water system improvements for Edgewood in Santa Fe county.

## **Chapter 203 Section 249 Laws 2023**

SECTION 249. MADRID BALLPARK UPGRADE--EXTEND TIME--GENERAL FUND.--The time of expenditure for the local government division project in Subsection 399 of Section 34 of Chapter 277 of Laws 2019 to plan, design, construct, purchase, equip and upgrade the Oscar Huber memorial ballpark in Madrid in Santa Fe county is extended through fiscal year 2025.

## **Chapter 203 Section 250 Laws 2023**

SECTION 250. PUEBLO OF POJOAQUE TRIBAL ADMINISTRATION BUILDING CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 125 of Section 31 of

Chapter 277 of Laws 2019 to plan, design, construct, furnish and equip a tribal administration building for the Pueblo of Pojoaque in Santa Fe county is extended through fiscal year 2025.

### **Chapter 203 Section 251 Laws 2023**

SECTION 251. PUEBLO OF POJOAQUE CHILD DEVELOPMENT CENTER CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 126 of Section 31 of Chapter 277 of Laws 2019 to plan, design, construct, equip and furnish an early childhood development center in the Pueblo of Pojoaque in Santa Fe county is extended through fiscal year 2025.

### **Chapter 203 Section 252 Laws 2023**

SECTION 252. PUEBLO OF POJOAQUE POEH CENTER IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 127 of Section 31 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

### **Chapter 203 Section 253 Laws 2023**

SECTION 253. PUEBLO OF POJOAQUE WELLNESS CENTER IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 128 of Section 31 of Chapter 277 of Laws 2019 to plan, design, construct, equip, repair and upgrade the Pueblo of Pojoaque wellness center in Santa Fe county is extended through fiscal year 2025.

### **Chapter 203 Section 254 Laws 2023**

SECTION 254. PUEBLO OF POJOAQUE WASTEWATER TREATMENT FACILITY EXPANSION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 129 of Section 31 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

### **Chapter 203 Section 255 Laws 2023**

SECTION 255. SANTA FE DEVELOPMENT PROGRAM VEHICLE PURCHASE--CHANGE TO IMPROVE THE MUSEUM OF INTERNATIONAL FOLK ART--CHANGE AGENCY--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of

the appropriation to the local government division in Subsection 388 of Section 35 of Chapter 81 of Laws 2020 to purchase and equip vehicles for girls' development programs in Santa Fe in Santa Fe county shall not be expended for the original purpose but is appropriated to the cultural affairs department to plan, design, construct, repair, upgrade and improve exhibits and facilities at the museum of international folk art in Santa Fe in Santa Fe county. The time of expenditure is extended through fiscal year 2025.

### **Chapter 203 Section 256 Laws 2023**

SECTION 256. CHILDREN, YOUTH AND FAMILIES DEPARTMENT FIELD SERVICES BUILDING ACQUISITION--CHANGE TO PURCHASE AND IMPROVE A BUILDING--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the capital program fund in Subsection 6 of Section 8 of Chapter 53 of Laws 2022 to purchase a building for the children, youth and families department field services in Santa Fe in Santa Fe county shall not be expended for the original purpose but is changed to purchase, plan, design, construct, improve, remediate, furnish and equip a building for the children, youth and families department field services in Santa Fe in Santa Fe county. The time of expenditure is extended through fiscal year 2026.

### **Chapter 203 Section 257 Laws 2023**

SECTION 257. DEPARTMENT OF MILITARY AFFAIRS NEW MEXICO NATIONAL GUARD MILITARY MUSEUM ELECTRICAL SYSTEM AND INFRASTRUCTURE REPAIR--EXTEND TIME--CAPITOL BUILDINGS REPAIR FUND.-  
-The time of expenditure for the department of military affairs project in Laws 2019, Chapter 277, Section 63 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 is extended through fiscal year 2025.

### **Chapter 203 Section 258 Laws 2023**

SECTION 258. DEPARTMENT OF PUBLIC SAFETY EVIDENCE RECORDS AND CRIME LABORATORY CONSTRUCTION--EXTEND TIME--GENERAL FUND.--  
The time of expenditure for the capital program fund project in Subsection 12 of Section 7 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

### **Chapter 203 Section 259 Laws 2023**

SECTION 259. SANTA FE BUSINESS INCUBATOR IMPROVEMENTS--  
EXTEND TIME--GENERAL FUND.--The time of expenditure for the economic

development department project in Subsection 2 of Section 19 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

### **Chapter 203 Section 260 Laws 2023**

SECTION 260. SANTA FE EL MUSEO CULTURAL IMPROVEMENTS--EXPAND PURPOSE--EXTEND TIME--GENERAL FUND.--The local government division project in Subsection 401 of Section 34 of Chapter 277 of Laws 2019 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 may include interior and exterior modifications for improved accessibility. The time of expenditure is extended through fiscal year 2025.

### **Chapter 203 Section 261 Laws 2023**

SECTION 261. SANTA FE SOLACE CRISIS TREATMENT CENTER IMPROVEMENTS--CHANGE TO CONSTRUCT SOUTHWEST ACTIVITY NODE PARK--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 407 of Section 34 of Chapter 277 of Laws 2019 to plan, design, repair and make improvements to the city-owned facility occupied by the Solace crisis treatment center in Santa Fe in Santa Fe county shall not be expended for the original purpose but is changed to plan, design, construct, furnish and equip phase 2 improvements at Southwest Activity Node park in Santa Fe in Santa Fe county. The time of expenditure is extended through fiscal year 2025.

### **Chapter 203 Section 262 Laws 2023**

SECTION 262. SANTA FE COMMUNITY COLLEGE ROOF IMPROVEMENTS--CHANGE TO RENOVATE ROOF J--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the higher education department in Subsection 22 of Section 41 of Chapter 277 of Laws 2019 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 shall not be expended for the original purpose but is changed to plan, design, construct and renovate roof J of the east wing of the 500 building at Santa Fe community college in Santa Fe county. The time of expenditure is extended through fiscal year 2025.

### **Chapter 203 Section 263 Laws 2023**

SECTION 263. PUEBLO OF TESUQUE SEWER MAINTENANCE VEHICLE PURCHASE--EXTEND TIME--GENERAL FUND.--The time of expenditure for the

Indian affairs department project in Subsection 32 of Section 48 of Chapter 138 of Laws 2021 to purchase and equip a combination vactor and jetter truck to clean and maintain sewer mains in the Pueblo of Tesuque in Santa Fe county is extended through fiscal year 2025.

### **Chapter 203 Section 264 Laws 2023**

SECTION 264. PUEBLO OF TESUQUE STORM DRAINAGE SYSTEM CONSTRUCTION--CHANGE AGENCY--EXTEND TIME--GENERAL FUND.--The agency for the department of transportation project originally authorized in Subsection 140 of Section 40 of Chapter 277 of Laws 2019 to plan, design and construct a storm drainage system in the Pueblo of Tesuque in Santa Fe county is changed to the Indian affairs department. The time of expenditure is extended through fiscal year 2025.

### **Chapter 203 Section 265 Laws 2023**

SECTION 265. SAN MIGUEL COMMUNITY DITCH PIPE LINE CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the interstate stream commission project in Subsection 61 of Section 33 of Chapter 277 of Laws 2019 to plan, design, construct and install a pipeline for the San Miguel community ditch in Sierra county is extended through fiscal year 2025.

### **Chapter 203 Section 266 Laws 2023**

SECTION 266. SPACEPORT AMERICA IMPROVEMENT AND OPERATIONS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the spaceport authority project originally appropriated in Laws 2019, Chapter 277, Section 38 to plan, design, construct and make improvements at spaceport America in Sierra county and reauthorized in Laws 2021, Chapter 139, Section 79 to include funding for operating expenses of up to one million seven hundred fifty thousand dollars (\$1,750,000), notwithstanding any restrictions otherwise limiting the use of these funds for indirect costs, is extended through fiscal year 2025.

### **Chapter 203 Section 267 Laws 2023**

SECTION 267. SPACEPORT AMERICA IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the spaceport authority project in Laws 2019, Chapter 277, Section 69 to plan, design, construct and make improvements at spaceport America in Sierra county is extended through fiscal year 2025.

### **Chapter 203 Section 268 Laws 2023**

SECTION 268. SPACEPORT AMERICA MASTER PLAN AND CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the spaceport authority project originally authorized in Subsection 54 of Section 5 of

Chapter 73 of Laws 2018 and reauthorized in Item (64) of Section 5 of Chapter 271 of Laws 2019 and reauthorized in Laws 2020, Chapter 82, Section 95 for master planning and to plan, design, construct and equip a payload processing center, an information technology building and a visitor access control facility at spaceport America in Sierra county is extended through fiscal year 2025.

### **Chapter 203 Section 269 Laws 2023**

SECTION 269. NEW MEXICO STATE VETERANS' HOME SURVEILLANCE SYSTEM IMPROVEMENTS--CHANGE TO IMPROVE AND EQUIP INFRASTRUCTURE--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the veterans' services department in Subsection 1 of Section 50 of Chapter 277 of Laws 2019 and reauthorized to the capital program fund in Laws 2020, Chapter 82, Section 97 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 shall not be expended for the original purpose but is changed to plan, design, construct, improve, renovate, repair, remediate, furnish and equip infrastructure at the New Mexico state veterans' home in Truth or Consequences in Sierra county. The time of expenditure is extended through fiscal year 2025.

### **Chapter 203 Section 270 Laws 2023**

SECTION 270. ACEQUIA DE LA JOYA IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the interstate stream commission project in Subsection 62 of Section 33 of Chapter 277 of Laws 2019 to plan, design and construct improvements to the acequia de la Joya in Socorro county is extended through fiscal year 2025.

### **Chapter 203 Section 271 Laws 2023**

SECTION 271. NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY ELECTRONIC DOOR LOCK SYSTEM UPGRADE--EXTEND TIME--GENERAL FUND.-The time of expenditure for the New Mexico institute of mining and technology project in Subsection 1 of Section 45 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

### **Chapter 203 Section 272 Laws 2023**

SECTION 272. LA JOYA GYMNASIUM RENOVATION--CHANGE TO REPLACE WINDOWS ON SOCORRO COUNTY HISTORIC COURTHOUSE BUILDING--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 415 of Section 34 of Chapter 277 of Laws 2019 to plan, design, construct, renovate, furnish and equip a gymnasium in La Joya in Socorro county shall not be expended for the original purpose but is changed to plan, design,

construct, improve and replace windows at the historic courthouse in Socorro county. The time of expenditure is extended through fiscal year 2025.

### **Chapter 203 Section 273 Laws 2023**

SECTION 273. COMMISSION FOR THE BLIND APARTMENT COMPLEX IMPROVEMENTS--CHANGE TO IMPROVE FACILITIES STATEWIDE--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the capital program fund in Subsection 10 of Section 7 of Chapter 277 of Laws 2019 to plan, design, construct, improve, renovate, remediate, furnish and equip an apartment complex for the commission for the blind in Alamogordo in Otero county shall not be expended for the original purpose but is changed to plan, design, construct, improve, renovate, remediate, furnish and equip improvements and infrastructure upgrades to commission for the blind facilities statewide. The time of expenditure is extended through fiscal year 2025.

### **Chapter 203 Section 274 Laws 2023**

SECTION 274. COMMISSION FOR THE BLIND FACILITIES IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the capital program fund project in Subsection 14 of Section 7 of Chapter 277 of Laws 2019 to plan, design, construct, improve, renovate, remediate, furnish and equip improvements and infrastructure upgrades to commission for the blind facilities statewide is extended through fiscal year 2025.

### **Chapter 203 Section 275 Laws 2023**

SECTION 275. CHILDREN, YOUTH AND FAMILIES DEPARTMENT SUB-ACUTE RESIDENTIAL FACILITIES ACQUISITION AND CONSTRUCTION STATEWIDE--CHANGE TO ACQUIRE AND CONSTRUCT THERAPEUTIC GROUP HOMES--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the capital program fund in Subsection 14 of Section 8 of Chapter 53 of Laws 2022 to acquire, plan, design, construct, renovate, equip and furnish sub-acute residential facilities for the children, youth and families department statewide shall not be expended for the original purpose but is changed to acquire property and to plan, design, construct, renovate, equip and furnish therapeutic group homes for the children, youth and families department.

### **Chapter 203 Section 276 Laws 2023**

SECTION 276. CHILDREN, YOUTH AND FAMILIES DEPARTMENT YOUTH INTERMEDIATE CARE FACILITIES ACQUISITION AND CONSTRUCTION STATEWIDE--CHANGE TO ACQUIRE AND CONSTRUCT THERAPEUTIC GROUP HOMES--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the capital program fund in Subsection 16 of Section 8 of Chapter 53 of Laws 2022 to acquire, plan, design, construct, renovate, equip and furnish youth intermediate care

facilities for the children, youth and families department statewide shall not be expended for the original purpose but is changed to acquire property and to plan, design, construct, renovate, equip and furnish therapeutic group homes for the children, youth and families department.

### **Chapter 203 Section 277 Laws 2023**

SECTION 277. DEPARTMENT OF PUBLIC SAFETY FACILITIES IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the capital program fund project originally appropriated in Subsection 1 of Section 7 of Chapter 277 of Laws 2019 to plan, design, construct, purchase, equip and install improvements to the state police fleet warehouse in Albuquerque in Bernalillo county and reauthorized in Laws 2021, Chapter 139, Section 80 to include department of public safety facilities statewide is extended through fiscal year 2025.

### **Chapter 203 Section 278 Laws 2023**

SECTION 278. DEPARTMENT OF MILITARY AFFAIRS GALLUP ARMORY IMPROVEMENTS AND REPAIRS--CHANGE TO PURCHASE AND INSTALL EQUIPMENT AT MILITARY FITNESS CENTERS STATEWIDE--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the department of military affairs in Subsection 1 of Section 35 of Chapter 277 of Laws 2019 to plan, design, construct, renovate, purchase and install equipment, infrastructure improvements and repairs at the Gallup armory in Gallup in McKinley county shall not be expended for the original purpose but is changed to plan, design, furnish, purchase and install equipment at military fitness centers at New Mexico national guard military readiness centers statewide. The time of expenditure is extended through fiscal year 2025.

### **Chapter 203 Section 279 Laws 2023**

SECTION 279. DEPARTMENT OF INFORMATION TECHNOLOGY CENTRAL TELEPHONE SYSTEM UPGRADE--EXTEND TIME--EQUIPMENT REPLACEMENT REVOLVING FUNDS.--The time of expenditure for the department of information technology project in Laws 2019, Chapter 277, Section 61 to plan, design, purchase, install and implement infrastructure to improve or replace the central telephone system statewide is extended through fiscal year 2025.

### **Chapter 203 Section 280 Laws 2023**

SECTION 280. DEPARTMENT OF INFORMATION TECHNOLOGY RURAL BROADBAND INFRASTRUCTURE DEVELOPMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of information technology project in Subsection 4 of Section 32 of Chapter 277 of Laws 2019 for broadband expansion, including assessments and contracts, in rural areas statewide is extended through fiscal year 2025.

## **Chapter 203 Section 281 Laws 2023**

SECTION 281. INTERSTATE STREAM COMMISSION ACEQUIA GRANT PROGRAM--EXTEND TIME--GENERAL FUND.--The time of expenditure for the interstate stream commission project in Subsection 63 of Section 33 of Chapter 277 of Laws 2019 for grants to plan, design, renovate, construct and equip improvements to acequias statewide is extended through fiscal year 2025.

## **Chapter 203 Section 282 Laws 2023**

SECTION 282. MAINSTREET ARTS AND CULTURAL DISTRICTS INFRASTRUCTURE IMPROVEMENTS STATEWIDE--EXTEND TIME--GENERAL FUND.--The time of expenditure for the economic development department project in Subsection 3 of Section 19 of Chapter 277 of Laws 2019 to plan, design and construct infrastructure improvements in mainstreet districts and local arts and cultural districts statewide is extended through fiscal year 2025.

## **Chapter 203 Section 283 Laws 2023**

SECTION 283. PUBLIC EDUCATION DEPARTMENT SCHOOL BUS CAMERAS PURCHASE AND INSTALLATION STATEWIDE--EXTEND TIME--SEVERANCE TAX BONDS.--The time of expenditure for the public education department project in Subsection 172 of Section 17 of Chapter 138 of Laws 2021 to purchase, equip and install school bus cameras for school districts statewide is extended through fiscal year 2025.

## **Chapter 203 Section 284 Laws 2023**

SECTION 284. PUBLIC EDUCATION DEPARTMENT SCHOOL BUS REPLACEMENT--EXTEND TIME--PUBLIC SCHOOL CAPITAL OUTLAY FUND.--The time of expenditure for the public education department project in Laws 2021, Chapter 138, Section 54 to purchase, replace and equip school buses for school districts statewide is extended through fiscal year 2025.

## **Chapter 203 Section 285 Laws 2023**

SECTION 285. OFFICE OF THE STATE ENGINEER STATEWIDE DAM REHABILITATION--EXTEND TIME--WATER PROJECT FUND.--The time of expenditure for the office of the state engineer project in Subsection 2 of Section 54 of Chapter 277 of Laws 2019 to plan, design, construct, rehabilitate and make improvements to publicly owned dams statewide is extended through fiscal year 2025.

## **Chapter 203 Section 286 Laws 2023**

SECTION 286. DEPARTMENT OF INFORMATION TECHNOLOGY STATEWIDE LIBRARY BROADBAND EXPANSION AND IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of information technology project in Subsection 6 of Section 32 of Chapter 277 of Laws 2019 for statewide library broadband expansion and improvement, contingent upon the execution of a memorandum of understanding for use of the funds with the cultural affairs department, is extended through fiscal year 2025.

## **Chapter 203 Section 287 Laws 2023**

SECTION 287. GENERAL SERVICES DEPARTMENT STATE FACILITIES DEMOLITION AND DECOMMISSION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the capital program fund project in Subsection 21 of Section 7 of Chapter 277 of Laws 2019 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, is extended through fiscal year 2025.

## **Chapter 203 Section 288 Laws 2023**

SECTION 288. PILAR ACEQUIA ASSOCIATION IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the interstate stream commission project in Subsection 67 of Section 33 of Chapter 277 of Laws 2019 to plan, design, construct, furnish and equip ditch improvements for the Pilar acequia association in Taos county is extended through fiscal year 2025.

## **Chapter 203 Section 289 Laws 2023**

SECTION 289. TAOS COUNTY ECONOMIC DEVELOPMENT CORPORATION MOBILE MATANZA REPAIR--EXTEND TIME--GENERAL FUND.--The time of expenditure for the economic development department project in Subsection 4 of Section 19 of Chapter 277 of Laws 2019 for upgrades and repairs to the mobile livestock slaughter unit for the Taos county economic development corporation in Taos county is extended through fiscal year 2025.

## **Chapter 203 Section 290 Laws 2023**

SECTION 290. CRISTOBAL DE LA SERNA LAND GRANT-MERCED LAND ACQUISITION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the local government division project in Subsection 427 of Section 34 of Chapter 277 of Laws 2019 for the land grant council to acquire land within and for the Cristobal de la Serna land grant-merced in Taos county is extended through fiscal year 2025.

## **Chapter 203 Section 291 Laws 2023**

SECTION 291. DON FERNANDO DE TAOS LAND GRANT HEAVY EQUIPMENT PURCHASE--CHANGE TO ACQUIRE LAND AND BUILDINGS--EXTEND TIME--SEVERANCE TAX BONDS.--The unexpended balance of the appropriation to the local government division in Subsection 419 of Section 30 of Chapter 53 of Laws 2022 to purchase and equip heavy equipment, including a skid steer, a backhoe and a front-end loader, for the Don Fernando de Taos land grant-merced in Taos county shall not be expended for the original purpose but is changed to acquire land and buildings and to plan, design, construct, renovate, furnish and equip a multipurpose facility for the Don Fernando de Taos land grant-merced in Taos county. The time of expenditure is extended through fiscal year 2025.

## **Chapter 203 Section 292 Laws 2023**

SECTION 292. QUESTA ROAD IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 143 of Section 40 of Chapter 277 of Laws 2019 to plan, design and construct improvements to roads in Questa in Taos county is extended through fiscal year 2025.

## **Chapter 203 Section 293 Laws 2023**

SECTION 293. ROOTS AND WINGS COMMUNITY SCHOOL BUILDING AND GROUNDS ACQUISITION AND IMPROVEMENT--EXPAND PURPOSE--SEVERANCE TAX BONDS.--The public education department project in Subsection 214 of Section 18 of Chapter 53 of Laws 2022 to acquire land and to plan, design, construct, furnish and equip facilities for the Roots and Wings community school in Taos county may include the acquisition of buildings and property.

## **Chapter 203 Section 294 Laws 2023**

SECTION 294. TAOS COUNTY NEW MEXICO HIGHWAY 518 GAS PIPELINE CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 144 of Section 40 of Chapter 277 of Laws 2019 to plan, design and construct a gas pipeline on New Mexico highway 518 in Taos county is extended through fiscal year 2025.

## **Chapter 203 Section 295 Laws 2023**

SECTION 295. TAOS REGIONAL AIRPORT HANGAR CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 145 of Section 40 of Chapter 277 of Laws 2019 to plan, design, construct and equip a hangar at Taos regional airport in Taos county is extended through fiscal year 2025.

## **Chapter 203 Section 296 Laws 2023**

SECTION 296. UNIVERSITY OF NEW MEXICO-TAOS SITE AND INFRASTRUCTURE IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the board of regents of the university of New Mexico project in Subsection 41 of Section 48 of Chapter 277 of Laws 2019 to plan, design, construct, renovate and equip infrastructure improvements campuswide at the Taos branch campus of the university of New Mexico in Taos county is extended through fiscal year 2025.

## **Chapter 203 Section 297 Laws 2023**

SECTION 297. PUEBLO OF TAOS MULTIPURPOSE BUILDING CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the Indian affairs department project in Subsection 145 of Section 31 of Chapter 277 of Laws 2019 to plan, design, construct, furnish and equip a multipurpose tribal complex in the Pueblo of Taos in Taos county is extended through fiscal year 2025.

## **Chapter 203 Section 298 Laws 2023**

SECTION 298. PUEBLO OF TAOS SENIOR DAYCARE FACILITY CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the aging and long-term services department project in Subsection 69 of Section 4 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

## **Chapter 203 Section 299 Laws 2023**

SECTION 299. TAOS SKI VALLEY KACHINA WATER BOOSTER STATION CONSTRUCTION--CHANGE TO CONSTRUCT WATER BOOSTER STATION AND INSTALL DISTRIBUTION NETWORK INFRASTRUCTURE--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the department of environment originally authorized in Subsection 128 of Section 26 of Chapter 277 of Laws 2019 and reauthorized in Laws 2021, Chapter 139, Section 87 to plan, design, construct and equip a water booster station to provide water to the Kachina water tank for Taos Ski Valley in Taos county shall not be expended for the original or reauthorized purpose but is changed to plan, design, construct and equip a water booster station to provide water to the Kachina water tank and to install corresponding distribution network infrastructure to serve Taos Ski Valley in Taos county. The time of expenditure is extended through fiscal year 2025.

## **Chapter 203 Section 300 Laws 2023**

SECTION 300. TORREON ACEQUIA ASSOCIATION IMPROVEMENTS--EXTEND TIME--GENERAL FUND.--The time of expenditure for the interstate stream commission project in Subsection 69 of Section 33 of Chapter 277 of Laws 2019 to plan, design and construct improvements for the Torreon acequia association in Torrance county is extended through fiscal year 2025.

## **Chapter 203 Section 301 Laws 2023**

SECTION 301. BELEN FLOOD PROTECTION RETENTION POND CONSTRUCTION--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of transportation project in Subsection 148 of Section 40 of Chapter 277 of Laws 2019 to plan, design and construct a flood protection retention pond in Belen in Valencia county is extended through fiscal year 2025.

## **Chapter 203 Section 302 Laws 2023**

SECTION 302. BAYARD RECREATIONAL FACILITY IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the local government division project in Subsection 227 of Section 34 of Chapter 277 of Laws 2019 to plan, design, construct, purchase, equip and furnish recreational facility improvements, including site preparation, in Bayard in Grant county is extended through fiscal year 2025.

## **Chapter 203 Section 303 Laws 2023**

SECTION 303. BAYARD WASTEWATER TREATMENT SYSTEM IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the department of environment project in Subsection 39 of Section 26 of Chapter 277 of Laws 2019 to plan, design and construct wastewater system improvements, including the purchase of sludge dewatering equipment, in Bayard in Grant county is extended through fiscal year 2025.

## **Chapter 203 Section 304 Laws 2023**

SECTION 304. TAYLOR-BARELA-REYNOLDS-MESILLA HISTORIC SITE IMPROVEMENT--EXTEND TIME--GENERAL FUND.--The time of expenditure for the cultural affairs department project in Subsection 6 of Section 9 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

## **Chapter 203 Section 305 Laws 2023**

SECTION 305. EASTERN NEW MEXICO UNIVERSITY ROSWELL BRANCH CAMPUS ELECTRICAL SUPPLY LINE AND INFRASTRUCTURE IMPROVEMENT-- EXTEND TIME--GENERAL FUND.--The time of expenditure for the board of regents of eastern New Mexico university project in Subsection 1 of Section 42 of Chapter 277 of Laws 2019 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 is extended through fiscal year 2025.

## **Chapter 203 Section 306 Laws 2023**

SECTION 306. POJOAQUE FIRE STATION TWO CONSTRUCTION-- CHANGE TO IMPROVE FIRE STATIONS IN THE POJOAQUE FIRE DISTRICT--EXTEND TIME--GENERAL FUND.--The unexpended balance of the appropriation to the local government division in Subsection 393 of Section 34 of Chapter 277 of Laws 2019 to plan, design, construct, furnish and equip Pojoaque fire station two in the area of Jacona and El Rancho in Santa Fe county shall not be expended for the original purpose but is changed to plan, design, construct, improve, furnish and equip fire stations in the Pojoaque fire district in Santa Fe county. The time of expenditure is extended through fiscal year 2025.

## **Chapter 203 Section 307 Laws 2023**

SECTION 307. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

# **LAWS 2023, CHAPTER 204**

**SFC/Senate Bill 7**

**Approved April 7, 2023**

AN ACT

RELATING TO RURAL HEALTH CARE PROVIDERS; CREATING THE RURAL HEALTH CARE DELIVERY FUND TO PROVIDE GRANTS TO DEFRAY OPERATING LOSSES AND START-UP COSTS OF RURAL HEALTH CARE PROVIDERS AND FACILITIES THAT PROVIDE NEW OR EXPANDED HEALTH CARE SERVICES.

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

## **Chapter 204 Section 1 Laws 2023**

SECTION 1. RURAL HEALTH CARE DELIVERY FUND.--

A. The "rural health care delivery fund" is created as a nonreverting fund in the state treasury. The fund consists of appropriations, gifts, grants, donations, income from investment of the fund and any other revenue credited to the fund. The department shall administer the fund, and money in the fund is appropriated to the department to carry out the provisions of this section. Expenditures shall be by warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary of human services or the secretary's authorized representative.

B. A rural health care provider or rural health care facility may apply to the department for a grant to defray operating losses, including rural health care provider or rural health care facility start-up costs, incurred in providing inpatient, outpatient, primary, specialty or behavioral health services to New Mexico residents. The department may award a grant from the rural health care delivery fund to a rural health care provider or rural health care facility that is providing a new or expanded health care service as approved by the department that covers operating losses for the new or expanded health care service, subject to the following conditions and limitations:

(1) the rural health care provider or rural health care facility meets state licensing requirements to provide health care services and is an enrolled medicaid provider that actively serves medicaid recipients;

(2) grants are for one year and for no more than the first five years of operation as a newly constructed rural health care facility or the operation of a new or expanded health care service;

(3) grants are limited to covering operating losses for which recognized revenue is not sufficient;

(4) the rural health care provider or rural health care facility provides adequate cost data, as defined by rule of the department, based on financial and statistical records that can be verified by qualified auditors and which data are based on an approved method of cost finding and the accrual basis of accounting and can be confirmed as having been delivered through review of claims;

(5) grant award amounts shall be reconciled by the department to audited operating losses after the close of the grant period;

(6) in the case of a rural health care provider, the provider commits to:

(a) a period of operation equivalent to the number of years grants are awarded; and

(b) actively serve medicaid recipients throughout the duration of the grant period; and

(7) in prioritizing grant awards, the department shall consider the health needs of the state and the locality and the long-term sustainability of the new or expanded service.

C. As used in this section:

(1) "allowable costs" means necessary and proper costs defined by rule of the department based on medicare reimbursement principles, including reasonable direct expenses, but not including general overhead and management fees paid to a parent corporation;

(2) "department" means the human services department;

(3) "health care services" means services for the diagnosis, prevention, treatment, cure or relief of a physical, dental, behavioral or mental health condition, substance use disorder, illness, injury or disease and for medical or behavioral health ground transportation;

(4) "medicaid" means the medical assistance program established pursuant to Title 19 of the federal Social Security Act and regulations issued pursuant to that act;

(5) "medicaid provider" means a person that provides medicaid-related services to medicaid recipients;

(6) "medicaid recipient" means a person whom the department has determined to be eligible to receive medicaid-related services in the state;

(7) "operating losses" means the projected difference between recognized revenue and allowable costs for a grant request period;

(8) "recognized revenue" means operating revenue, including revenue directly related to the rendering of patient care services and revenue from nonpatient care services to patients and persons other than patients; the value of donated commodities; supplemental payments; distributions from the safety net care pool fund; and distributions of federal funds;

(9) "rural health care facility" means a health care facility licensed in the state that provides inpatient or outpatient physical or behavioral health services or programmatic services in a county that has a population of one hundred thousand or fewer according to the most recent federal decennial census;

(10) "rural health care provider" means an individual health professional licensed by the appropriate board, a medical or behavioral health ground transportation entity licensed by the public regulation commission or a health facility organization licensed by the department of health to provide health care diagnosis and treatment of

physical or behavioral health or programmatic services in a county that has a population of one hundred thousand or fewer according to the most recent federal decennial census; and

(11) "start-up costs" means the planning, development and operation of rural health care services, including legal fees; accounting fees; costs associated with leasing equipment, a location or property; depreciation of equipment costs; and staffing costs. "Start-up costs" does not mean the construction or purchase of land or buildings.

## **LAWS 2023, CHAPTER 205**

### **Senate Bill 16**

**Approved April 7, 2023**

#### AN ACT

RELATING TO EXECUTIVE REORGANIZATION; RENAMING THE HUMAN SERVICES DEPARTMENT AS THE HEALTH CARE AUTHORITY DEPARTMENT; CHANGING ITS POWERS AND DUTIES; PROVIDING FOR TRANSITION; TRANSFERRING FUNCTIONS, PERSONNEL, MONEY, APPROPRIATIONS, RECORDS, EQUIPMENT, SUPPLIES, OTHER PROPERTY, CONTRACTUAL OBLIGATIONS AND STATUTORY REFERENCES; AMENDING AND REPEALING SECTIONS OF THE NMSA 1978; RECONCILING CONFLICTING SECTIONS OF LAW IN LAWS 2019 BY REPEALING LAWS 2019, CHAPTER 211, SECTION 11.

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

### **Chapter 205 Section 1 Laws 2023**

SECTION 1. Section 9-8-1 NMSA 1978 (being Laws 1977, Chapter 252, Section 1, as amended) is amended to read:

"9-8-1. SHORT TITLE.--Chapter 9, Article 8 NMSA 1978 may be cited as the "Health Care Authority Department Act"."

### **Chapter 205 Section 2 Laws 2023**

SECTION 2. Section 9-8-2 NMSA 1978 (being Laws 1977, Chapter 252, Section 2) is amended to read:

"9-8-2. DEFINITIONS.--As used in the Health Care Authority Department Act:

A. "department" means the health care authority department; and

B. "secretary" means the secretary of health care authority."

### **Chapter 205 Section 3 Laws 2023**

SECTION 3. Section 9-8-3 NMSA 1978 (being Laws 1977, Chapter 252, Section 3, as amended) is amended to read:

"9-8-3. PURPOSE.--The purpose of the Health Care Authority Department Act is to establish a single, unified department to administer laws and exercise functions relating to health care purchasing and regulation."

### **Chapter 205 Section 4 Laws 2023**

SECTION 4. Section 9-8-4 NMSA 1978 (being Laws 1977, Chapter 252, Section 4, as amended) is amended to read:

"9-8-4. DEPARTMENT ESTABLISHED.--

A. The "health care authority department" is created in the executive branch. The department is a cabinet department and consists of:

- (1) the office of the secretary of health care authority;
- (2) the administrative services division;
- (3) the information technology division;
- (4) the behavioral health services division;
- (5) the developmental disabilities division;
- (6) the health improvement division;
- (7) the medical assistance division;
- (8) the state health benefits division;
- (9) the child support enforcement division; and
- (10) the income support division.

B. All references in the law to the behavioral health services division of the department of health or to the mental health division of the department of health in Sections 29-11-1 through 29-11-7 NMSA 1978 or to the department of health in Sections 43-2-1.1 through 43-2-23 NMSA 1978 shall be construed as referring to the health care authority department."

## **Chapter 205 Section 5 Laws 2023**

SECTION 5. Section 9-8-5 NMSA 1978 (being Laws 1977, Chapter 252, Section 6) is amended to read:

### **"9-8-5. SECRETARY OF HEALTH CARE AUTHORITY--APPOINTMENT.--**

A. The administrative head of the health care authority department is the "secretary of health care authority", who shall be appointed by the governor with the consent of the senate and who shall serve in the executive cabinet.

B. An appointed secretary shall serve and have all of the duties, responsibilities and authority of that office during the period of time prior to final action by the senate confirming or rejecting the appointed secretary's appointment."

## **Chapter 205 Section 6 Laws 2023**

SECTION 6. 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 Health Care Authority 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; and

(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.

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 205 Section 7 Laws 2023**

SECTION 7. Section 9-8-7 NMSA 1978 (being Laws 1977, Chapter 252, Section 8) is amended to read:

"9-8-7. ORGANIZATIONAL UNITS OF DEPARTMENT--POWERS AND DUTIES SPECIFIED BY LAW--ACCESS TO INFORMATION.--Those organizational units of the department and the officers of those units specified by law shall have all of the powers and duties enumerated in the specific laws involved. However, the carrying out of those

powers and duties shall be subject to the direction and supervision of the secretary, and the secretary shall retain the final decision-making authority and responsibility for the administration of any such laws as provided in Subsection B of Section 9-8-6 NMSA 1978. The department shall have access to all records, data and information of other state departments, agencies and institutions, including its own organizational units, not specifically held confidential by law."

## **Chapter 205 Section 8 Laws 2023**

SECTION 8. Section 9-8-7.1 NMSA 1978 (being Laws 2007, Chapter 325, Section 4, as amended by Laws 2019, Chapter 211, Section 1 and by Laws 2019, Chapter 222, Section 1) is amended to read:

"9-8-7.1. BEHAVIORAL HEALTH SERVICES DIVISION--POWERS AND DUTIES OF THE 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 persons 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 205 Section 9 Laws 2023**

SECTION 9. Section 9-8-7.2 NMSA 1978 (being Laws 2013, Chapter 54, Section 9) is amended to read:

"9-8-7.2. COOPERATION WITH THE NEW MEXICO HEALTH INSURANCE EXCHANGE.--The medical assistance division of the department shall cooperate with the New Mexico health insurance exchange to share information and facilitate transitions in enrollment between the exchange and medicaid."

## **Chapter 205 Section 10 Laws 2023**

SECTION 10. Section 9-8-7.3 NMSA 1978 (being Laws 2019, Chapter 222, Section 2) is amended to read:

"9-8-7.3. INCARCERATED PERSONS--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 persons 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."

## **Chapter 205 Section 11 Laws 2023**

SECTION 11. Section 9-8-7.4 NMSA 1978 (being Laws 2019, Chapter 211, Section 2) is amended to read:

"9-8-7.4. INCARCERATED PERSONS--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 persons 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 205 Section 12 Laws 2023**

SECTION 12. Section 9-8-8 NMSA 1978 (being Laws 1977, Chapter 252, Section 9, as amended by Laws 2004, Chapter 18, Section 16 and by Laws 2004, Chapter 23, Section 12 and also by Laws 2004, Chapter 24, Section 16) is amended to read:

"9-8-8. ADMINISTRATIVELY ATTACHED AGENCIES.--The following agencies are administratively attached to the department:

- A. the commission on the status of women;
- B. the group benefits committee; and
- C. the New Mexico health policy commission."

### **Chapter 205 Section 13 Laws 2023**

SECTION 13. Section 9-8-10 NMSA 1978 (being Laws 1977, Chapter 252, Section 11, as amended) is amended to read:

"9-8-10. BUREAUS--CHIEFS.--The secretary shall establish within each division such bureaus as the secretary deems necessary to carry out the provisions of the Health Care Authority Department Act. The secretary shall employ a chief to be

administrative head of any such bureau. The chief and all subsidiary employees of the department shall be covered by the Personnel Act unless otherwise provided by law."

## **Chapter 205 Section 14 Laws 2023**

SECTION 14. Section 9-8-11 NMSA 1978 (being Laws 1977, Chapter 252, Section 12, as amended) is amended to read:

"9-8-11. ADVISORY COMMITTEES.--

A. The governor shall appoint advisory committees to the department's income support division. Creation of the advisory committees shall be in accordance with the provisions of the Executive Reorganization Act. If the existence of a committee, representational membership requirements or other matters are required or specified under any federal law, regulation, rule or order as a condition of receiving federal funding for a particular program administered by the department, the governor shall comply with those requirements in the creation of the advisory committee.

B. All members of the advisory committees appointed under the authority of this section shall receive as their sole remuneration for service as a member those amounts authorized under the Per Diem and Mileage Act."

## **Chapter 205 Section 15 Laws 2023**

SECTION 15. Section 9-8-12 NMSA 1978 (being Laws 1977, Chapter 252, Section 13) is amended to read:

"9-8-12. COOPERATION WITH THE FEDERAL GOVERNMENT--AUTHORITY OF SECRETARY--SINGLE STATE AGENCY STATUS.--

A. The department is authorized to cooperate with the federal government in the administration of health care and human services programs in which financial or other participation by the federal government is authorized or mandated under federal laws, regulations, rules or orders. The secretary may enter into agreements with agencies of the federal government to implement these health care or human services programs subject to availability of appropriated state funds and any provisions of state laws applicable to such agreements or participation by the state.

B. The governor or the secretary may by appropriate order designate the department or any organizational unit of the department as the single state agency for the administration of any health care or human services program when such designation is a condition of federal financial or other participation in the program under applicable federal law, regulation, rule or order. Whether or not a federal condition exists, the governor may designate the department or any organizational unit of the department as the single state agency for the administration of any health care or

human services program. No designation of a single state agency under the authority granted in this section shall be made in contravention of state law."

## **Chapter 205 Section 16 Laws 2023**

### **SECTION 16. TEMPORARY PROVISION--TRANSFERS AND TRANSITION.--**

A. The governor may issue an executive order that further delineates the organizational structure, power and duties of the health care authority department and moves divisions and programs to or from other departments to accomplish the reorganizational goals of this act. The governor shall report the reorganizational changes and recommend statutory changes to the legislative health and human services committee and the legislative finance committee by November 1, 2023 and provide a final reorganization report to the legislature by January 1, 2024.

B. On July 1, 2023, statutory references to the human services department shall be deemed to be references to the health care authority department, and contractual obligations of the human services department shall be binding on the health care authority department. Rules of the human services department shall be the rules of the health care authority department until amended or repealed. As functions of government are transferred to the health care authority department as specified in Section 9-8-4 NMSA 1978, statutory references shall be deemed to be references to the health care authority department, contractual obligations shall be binding on the department and existing pertinent rules shall be the rules of the department until amended or repealed.

C. The department of finance and administration, the secretary of health care authority, the secretary of health, the secretary of general services, members of the governor's staff and other persons assigned by the governor shall develop a transition plan that includes:

(1) what units of the executive department shall be transferred to or from the health care authority department and working and final organizational charts for all affected units of the executive departments;

(2) how and when functions, personnel, money, appropriations, equipment, supplies and other property of the human services department, the department of health, the general services department and other units of the executive department shall be transferred to or from the health care authority department; and

(3) proposed statutory changes, including changes in Chapters 9, 10 and 24 NMSA 1978 and the creation of a new chapter of the NMSA 1978 to include sections of Chapters 9 and 24 NMSA 1978 and other provisions of law pertaining to health care purchasing and regulation.

## **Chapter 205 Section 17 Laws 2023**

SECTION 17. REPEAL.--

- A. Sections 9-8-13 and 9-8-14 NMSA 1978 (being Laws 1977, Chapter 252, Section 15 and Laws 1987, Chapter 31, Section 4, as amended) are repealed.
- B. Laws 2019, Chapter 211, Section 1 is repealed.

## **LAWS 2023, CHAPTER 206**

**STBTC/Senate Bill 51, aa, w/cc**  
**Approved April 7, 2023**

AN ACT

RELATING TO HEALTH CARE COVERAGE; CALCULATING COST-SHARING CONTRIBUTIONS FOR PRESCRIPTION DRUG COVERAGE; ENACTING A NEW SECTION OF THE NEW MEXICO INSURANCE CODE TO PROHIBIT DISCRIMINATION AGAINST ENTITIES PARTICIPATING IN THE FEDERAL 340B DRUG PRICING PROGRAM.

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

## **Chapter 206 Section 1 Laws 2023**

SECTION 1. A new section of the Health Care Purchasing Act is enacted to read:

"CALCULATING AN ENROLLEE'S COST-SHARING OBLIGATION FOR PRESCRIPTION DRUG COVERAGE.--

A. When calculating an enrollee's cost-sharing obligation for covered prescription drugs, pursuant to group health coverage, including any form of self-insurance, offered, issued or renewed under the Health Care Purchasing Act, the insurer shall credit the enrollee for the full value of any discounts provided or payments made by third parties at the time of the prescription drug claim.

B. Beginning on or after January 1, 2024, an insurer shall not charge a different cost-sharing amount for:

(1) prescription drugs or pharmacy services obtained at a non-affiliated pharmacy; or

(2) administration of prescription drugs at different infusion sites; provided that an insurer may communicate with an insured regarding lower-cost sites of service.

C. Beginning on or after January 1, 2024, an insurer shall not require an insured to make a payment at the point of sale for a covered prescription drug in an amount greater than the least of the:

(1) applicable cost-sharing amount for the prescription drug;

(2) amount an insured would pay for the prescription drug if the insured purchased the prescription drug without using a health benefits plan or any other source of prescription drug benefits or discounts;

(3) total amount the pharmacy will be reimbursed for the prescription drug from the insurer, including the cost-sharing amount paid by an insurer; or

(4) value of the rebate from the manufacturer provided to the insurer or its pharmacy benefits manager for the prescribed drug.

D. Beginning on or after January 1, 2024, if a prescription drug rebate is more than the amount needed to reduce the insured's copayment to zero on a particular drug, the remainder shall be credited to the insurer.

E. Beginning on or after January 1, 2024, any rebate amount shall be counted toward the insured's out-of-pocket prescription drug costs.

F. For purposes of this section, "cost sharing" means any:

(1) copayment;

(2) coinsurance;

(3) deductible;

(4) out-of-pocket maximum amount;

(5) other financial obligation, other than a premium or share of a premium; or

(6) combination thereof.

G. The provisions of this section do not apply to excepted benefit plans as provided pursuant to the Short-Term Health Plan and Excepted Benefit Act, catastrophic plans, tax-favored plans or high-deductible health plans with health savings

accounts until an eligible insured's deductible has been met, unless otherwise allowed pursuant to federal law."

## **Chapter 206 Section 2 Laws 2023**

SECTION 2. A new section of Chapter 59A, Article 16 NMSA 1978 is enacted to read:

"HEALTH BENEFITS PLAN DISCLOSURE.--Each producer, plan administrator or pharmacy benefits manager licensed in this state shall not produce a health benefits plan for sale or pharmacy benefits services for contract without prior disclosure to the purchaser of the plan or services of the option to contract for pharmaceutical drug cost-sharing protections."

## **Chapter 206 Section 3 Laws 2023**

SECTION 3. A new section of Chapter 59A, Article 22 NMSA 1978 is enacted to read:

"CALCULATING AN INSURED'S COST-SHARING OBLIGATION FOR PRESCRIPTION DRUG COVERAGE.--

A. When calculating an insured's cost-sharing obligation for covered prescription drugs, pursuant to 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, the insurer shall credit the insured for the full value of any discounts provided or payments made by third parties at the time of the prescription drug claim.

B. Beginning on or after January 1, 2024, an insurer shall not charge a different cost-sharing amount for:

(1) prescription drugs or pharmacy services obtained at a non-affiliated pharmacy; or

(2) administration of prescription drugs at different infusion sites; provided that an insurer may communicate with an insured regarding lower-cost sites of service.

C. Beginning on or after January 1, 2024, an insurer shall not require an insured to make a payment at the point of sale for a covered prescription drug in an amount greater than the least of the:

(1) applicable cost-sharing amount for the prescription drug;

(2) amount an insured would pay for the prescription drug if the insured purchased the prescription drug without using a health benefits plan or any other source of prescription drug benefits or discounts;

(3) total amount the pharmacy will be reimbursed for the prescription drug from the insurer, including the cost-sharing amount paid by an insurer; or

(4) value of the rebate from the manufacturer provided to the insurer or its pharmacy benefits manager for the prescribed drug.

D. Beginning on or after January 1, 2024, if a prescription drug rebate is more than the amount needed to reduce the insured's copayment to zero on a particular drug, the remainder shall be credited to the insurer.

E. Beginning on or after January 1, 2024, any rebate amount shall be counted toward the insured's out-of-pocket prescription drug costs.

F. For purposes of this section, "cost sharing" means any:

(1) copayment;

(2) coinsurance;

(3) deductible;

(4) out-of-pocket maximum;

(5) other financial obligation, other than a premium or share of a premium; or

(6) combination thereof.

G. The provisions of this section do not apply to excepted benefit plans as provided pursuant to the Short-Term Health Plan and Excepted Benefit Act, catastrophic plans, tax-favored plans or high-deductible health plans with health savings accounts until an eligible insured's deductible has been met, unless otherwise allowed pursuant to federal law."

## **Chapter 206 Section 4 Laws 2023**

SECTION 4. A new section of Chapter 59A, Article 23 NMSA 1978 is enacted to read:

"CALCULATING AN INSURED'S COST-SHARING OBLIGATION FOR PRESCRIPTION DRUG COVERAGE.--

A. When calculating an insured's cost-sharing obligation for covered prescription drugs, pursuant to a group health plan other than a small group health plan or a blanket health insurance policy or contract that is delivered, issued for delivery or renewed in this state, the insurer shall credit the insured for the full value of any discounts provided or payments made by third parties at the time of the prescription drug claim.

B. Beginning on or after January 1, 2024, an insurer shall not charge a different cost-sharing amount for:

(1) prescription drugs or pharmacy services obtained at a non-affiliated pharmacy; or

(2) administration of prescription drugs at different infusion sites; provided that an insurer may communicate with an insured regarding lower-cost sites of service.

C. Beginning on or after January 1, 2024, an insurer shall not require an insured to make a payment at the point of sale for a covered prescription drug in an amount greater than the least of the:

(1) applicable cost-sharing amount for the prescription drug;

(2) amount an insured would pay for the prescription drug if the insured purchased the prescription drug without using a health benefits plan or any other source of prescription drug benefits or discounts;

(3) total amount the pharmacy will be reimbursed for the prescription drug from the insurer, including the cost-sharing amount paid by an insurer; or

(4) value of the rebate from the manufacturer provided to the insurer or its pharmacy benefits manager for the prescribed drug.

D. Beginning on or after January 1, 2024, if a prescription drug rebate is more than the amount needed to reduce the insured's copayment to zero on a particular drug, the remainder shall be credited to the insurer.

E. Beginning on or after January 1, 2024, any rebate amount shall be counted toward the insured's out-of-pocket prescription drug costs.

F. For purposes of this section, "cost sharing" means any:

(1) copayment;

(2) coinsurance;

- (3) deductible;
- (4) out-of-pocket maximum;
- (5) other financial obligation, other than a premium or share of a premium; or
- (6) combination thereof.

G. The provisions of this section do not apply to excepted benefit plans as provided pursuant to the Short-Term Health Plan and Excepted Benefit Act, catastrophic plans, tax-favored plans or high-deductible health plans with health savings accounts until an eligible insured's deductible has been met, unless otherwise allowed pursuant to federal law."

## **Chapter 206 Section 5 Laws 2023**

SECTION 5. A new section of the Health Maintenance Organization Law is enacted to read:

### **"CALCULATING AN ENROLLEE'S COST-SHARING OBLIGATION FOR PRESCRIPTION DRUG COVERAGE.--**

A. When calculating an enrollee's cost-sharing obligation for covered prescription drugs, pursuant to an individual or group health maintenance organization contract that is delivered, issued for delivery or renewed in this state, the insurer shall credit the enrollee for the full value of any discounts provided or payments made by third parties at the time of the prescription drug claim.

B. Beginning on or after January 1, 2024, an insurer shall not charge a different cost-sharing amount for:

- (1) prescription drugs or pharmacy services obtained at a non-affiliated pharmacy; or
- (2) administration of prescription drugs at different infusion sites; provided that an insurer may communicate with an insured regarding lower-cost sites of service.

C. Beginning on or after January 1, 2024, an insurer shall not require an insured to make a payment at the point of sale for a covered prescription drug in an amount greater than the least of the:

- (1) applicable cost-sharing amount for the prescription drug;

(2) amount an insured would pay for the prescription drug if the insured purchased the prescription drug without using a health benefits plan or any other source of prescription drug benefits or discounts;

(3) total amount the pharmacy will be reimbursed for the prescription drug from the insurer, including the cost-sharing amount paid by an insurer; or

(4) value of the rebate from the manufacturer provided to the insurer or its pharmacy benefits manager for the prescribed drug.

D. Beginning on or after January 1, 2024, if a prescription drug rebate is more than the amount needed to reduce the insured's copayment to zero on a particular drug, the remainder shall be credited to the insurer.

E. Beginning on or after January 1, 2024, any rebate amount shall be counted toward the insured's out-of-pocket prescription drug costs.

F. For purposes of this section, "cost sharing" means any:

(1) copayment;

(2) coinsurance;

(3) deductible;

(4) out-of-pocket maximum;

(5) other financial obligation, other than a premium or share of a premium; or

(6) combination thereof.

G. The provisions of this section do not apply to excepted benefit plans as provided pursuant to the Short-Term Health Plan and Excepted Benefit Act, catastrophic plans, tax-favored plans or high-deductible health plans with health savings accounts until an eligible insured's deductible has been met, unless otherwise allowed pursuant to federal law."

## **Chapter 206 Section 6 Laws 2023**

SECTION 6. A new section of the Nonprofit Health Care Plan Law is enacted to read:

"CALCULATING A SUBSCRIBER'S COST-SHARING OBLIGATION FOR PRESCRIPTION DRUG COVERAGE.--

A. When calculating a subscriber's cost-sharing obligation for covered prescription drugs, pursuant to an individual or group health insurance policy, health care plan or certificate of health insurance issued for delivery or renewed in this state, the insurer shall credit the subscriber for the full value of any discounts provided or payments made by third parties at the time of the prescription drug claim.

B. Beginning on or after January 1, 2024, an insurer shall not charge a different cost-sharing amount for:

(1) prescription drugs or pharmacy services obtained at a non-affiliated pharmacy; or

(2) administration of prescription drugs at different infusion sites; provided that an insurer may communicate with an insured regarding lower-cost sites of service.

C. Beginning on or after January 1, 2024, an insurer shall not require an insured to make a payment at the point of sale for a covered prescription drug in an amount greater than the least of the:

(1) applicable cost-sharing amount for the prescription drug;

(2) amount an insured would pay for the prescription drug if the insured purchased the prescription drug without using a health benefits plan or any other source of prescription drug benefits or discounts;

(3) total amount the pharmacy will be reimbursed for the prescription drug from the insurer, including the cost-sharing amount paid by an insurer; or

(4) value of the rebate from the manufacturer provided to the insurer or its pharmacy benefits manager for the prescribed drug.

D. Beginning on or after January 1, 2024, if a prescription drug rebate is more than the amount needed to reduce the insured's copayment to zero on a particular drug, the remainder shall be credited to the insurer.

E. Beginning on or after January 1, 2024, any rebate amount shall be counted toward the insured's out-of-pocket prescription drug costs.

F. For purposes of this section, "cost sharing" means any:

(1) copayment;

(2) coinsurance;

(3) deductible;

- (4) out-of-pocket maximum;
- (5) other financial obligation, other than a premium or share of a premium; or
- (6) combination thereof.

G. The provisions of this section do not apply to excepted benefit plans as provided pursuant to the Short-Term Health Plan and Excepted Benefit Act, catastrophic plans, tax favored plans or high-deductible health plans with health savings accounts until an eligible insured's deductible has been met, unless otherwise allowed pursuant to federal law."

## **Chapter 206 Section 7 Laws 2023**

SECTION 7. A new section of the New Mexico Insurance Code is enacted to read:

### **"PROHIBITION ON DISCRIMINATION AGAINST A COVERED ENTITY.--**

A. As used in this section:

- (1) "340B drug" means a drug that is purchased at a discount in accordance with the 340B program requirements;
  - (2) "340B program" means the federal drug pricing program created pursuant to 42 U.S.C. Section 256b;
  - (3) "covered entity" means an entity participating in the 340B program;
- and
- (4) "pharmacy benefits manager" means an entity that provides pharmacy benefits management services.

B. A pharmacy benefits manager or a third party shall not discriminate against a covered entity on the basis of its participation in the 340B program by:

- (1) reimbursing a covered entity for a 340B drug at a rate lower than that paid for the same drug to pharmacies, similar in prescription volume, that are non-covered entities;
- (2) assessing a fee, chargeback or other adjustment to the covered entity that is not assessed to non-covered entities;
- (3) imposing a provision that prevents or interferes with a person's choice to receive 340B drugs from a covered entity; or

(4) imposing terms or conditions that differ from terms or conditions imposed on a non-covered entity, including:

- (a) restricting or requiring participation in a pharmacy network;
- (b) requiring more frequent auditing or a broader scope of audit for inventory management systems using generally accepted accounting principles;
- (c) requiring a covered entity to reverse, resubmit or clarify a claim after the initial adjudication, unless these actions are in the normal course of pharmacy business and not related to the 340B program; or
- (d) charging an additional fee or provision that prevents or interferes with an individual's choice to receive a 340B drug from a covered entity."

## **LAWS 2023, CHAPTER 207**

**STBTC/Senate Bill 523, aa**  
**Approved April 7, 2023**

### AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE; AMENDING THE MEDICAL MALPRACTICE ACT TO CHANGE THE LIMITATION OF RECOVERY FOR CERTAIN CLAIMS AGAINST FACILITIES THAT ARE NOT HOSPITAL-CONTROLLED; UPDATING REPORTING REQUIREMENTS.

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

### **Chapter 207 Section 1 Laws 2023**

SECTION 1. Section 41-5-3 NMSA 1978 (being Laws 1976, Chapter 2, Section 3, as amended) is amended to read:

"41-5-3. DEFINITIONS.--As used in the Medical Malpractice Act:

- A. "advisory board" means the patient's compensation fund advisory board;
- B. "control" means equity ownership in a business entity that:
  - (1) represents more than fifty percent of the total voting power of the business entity; or
  - (2) has a value of more than fifty percent of that business entity;

C. "fund" means the patient's compensation fund;

D. "health care provider" means a person, corporation, organization, facility or institution licensed or certified by this state to provide health care or professional services as a doctor of medicine, hospital, outpatient health care facility, doctor of osteopathy, chiropractor, podiatrist, nurse anesthetist, physician's assistant, certified nurse practitioner, clinical nurse specialist or certified nurse-midwife or a business entity that is organized, incorporated or formed pursuant to the laws of New Mexico that provides health care services primarily through natural persons identified in this subsection. "Health care provider" does not mean a person or entity protected pursuant to the Tort Claims Act or the Federal Tort Claims Act;

E. "hospital" means a facility licensed as a hospital in this state that offers in-patient services, nursing or overnight care on a twenty-four-hour basis for diagnosing, treating and providing medical, psychological or surgical care for three or more separate persons who have a physical or mental illness, disease, injury or rehabilitative condition or are pregnant and may offer emergency services. "Hospital" includes a hospital's parent corporation, subsidiary corporations or affiliates if incorporated or registered in New Mexico; employees and locum tenens providing services at the hospital; and agency nurses providing services at the hospital. "Hospital" does not mean a person or entity protected pursuant to the Tort Claims Act or the Federal Tort Claims Act;

F. "independent outpatient health care facility" means a health care facility that is an ambulatory surgical center, urgent care facility or free-standing emergency room that is not, directly or indirectly through one or more intermediaries, controlled or under common control with a hospital. "Independent outpatient health care facility" includes a facility's employees, locum tenens providers and agency nurses providing services at the facility. "Independent outpatient health care facility" does not mean a person or entity protected pursuant to the Tort Claims Act or the Federal Tort Claims Act;

G. "independent provider" means a doctor of medicine, doctor of osteopathy, chiropractor, podiatrist, nurse anesthetist, physician's assistant, certified nurse practitioner, clinical nurse specialist or certified nurse-midwife who is not an employee of a hospital or outpatient health care facility. "Independent provider" does not mean a person or entity protected pursuant to the Tort Claims Act or the Federal Tort Claims Act. "Independent provider" includes:

(1) a health care facility that is:

(a) licensed pursuant to the Public Health Act as an outpatient facility;

(b) not an ambulatory surgical center, urgent care facility or free-standing emergency room; and

(c) not hospital-controlled; and

(2) a business entity that is not a hospital or outpatient health care facility that employs or consists of members who are licensed or certified as doctors of medicine, doctors of osteopathy, chiropractors, podiatrists, nurse anesthetists, physician's assistants, certified nurse practitioners, clinical nurse specialists or certified nurse-midwives and the business entity's employees;

H. "insurer" means an insurance company engaged in writing health care provider malpractice liability insurance in this state;

I. "malpractice claim" includes any cause of action arising in this state against a health care provider for medical treatment, lack of medical treatment or other claimed departure from accepted standards of health care that proximately results in injury to the patient, whether the patient's claim or cause of action sounds in tort or contract, and includes but is not limited to actions based on battery or wrongful death; "malpractice claim" does not include a cause of action arising out of the driving, flying or nonmedical acts involved in the operation, use or maintenance of a vehicular or aircraft ambulance;

J. "medical care and related benefits" means all reasonable medical, surgical, physical rehabilitation and custodial services and includes drugs, prosthetic devices and other similar materials reasonably necessary in the provision of such services;

K. "occurrence" means all injuries to a patient caused by health care providers' successive acts or omissions that combined concurrently to create a malpractice claim;

L. "outpatient health care facility" means an entity that is hospital-controlled and is licensed pursuant to the Public Health Act as an outpatient facility, including ambulatory surgical centers, free-standing emergency rooms, urgent care clinics, acute care centers and intermediate care facilities and includes a facility's employees, locum tenens providers and agency nurses providing services at the facility. "Outpatient health care facility" does not include:

(1) independent providers;

(2) independent outpatient health care facilities; or

(3) individuals or entities protected pursuant to the Tort Claims Act or the Federal Tort Claims Act;

M. "patient" means a natural person who received or should have received health care from a health care provider, under a contract, express or implied; and

N. "superintendent" means the superintendent of insurance."

## **Chapter 207 Section 2 Laws 2023**

SECTION 2. Section 41-5-5 NMSA 1978 (being Laws 1992, Chapter 33, Section 2, as amended) is amended to read:

"41-5-5. QUALIFICATIONS.--

A. To be qualified under the provisions of the Medical Malpractice Act, a health care provider, except an independent outpatient health care facility, shall:

(1) establish its financial responsibility by filing proof with the superintendent that the health care provider is insured by a policy of malpractice liability insurance issued by an authorized insurer in the amount of at least two hundred fifty thousand dollars (\$250,000) per occurrence or by having continuously on deposit the sum of seven hundred fifty thousand dollars (\$750,000) in cash with the superintendent or such other like deposit as the superintendent may allow by rule; provided that hospitals and hospital-controlled outpatient health care facilities that establish financial responsibility through a policy of malpractice liability insurance may use any form of malpractice insurance; and provided further that for independent providers, in the absence of an additional deposit or policy as required by this subsection, the deposit or policy shall provide coverage for not more than three separate occurrences; and

(2) pay the surcharge assessed on health care providers by the superintendent pursuant to Section 41-5-25 NMSA 1978.

B. To be qualified under the provisions of the Medical Malpractice Act, an independent outpatient health care facility shall:

(1) establish its financial responsibility by filing proof with the superintendent that the health care provider is insured by a policy of malpractice liability insurance issued by an authorized insurer in the amount of at least five hundred thousand dollars (\$500,000) per occurrence or by having continuously on deposit the sum of one million five hundred thousand dollars (\$1,500,000) in cash with the superintendent or other like deposit as the superintendent may allow by rule; provided that for independent outpatient health care facilities, in the absence of an additional deposit or policy as required by this subsection, the deposit or policy shall provide coverage for not more than three separate occurrences; and

(2) pay the surcharge assessed on independent outpatient health care facilities by the superintendent pursuant to Section 41-5-25 NMSA 1978.

C. For hospitals or hospital-controlled outpatient health care facilities electing to be covered under the Medical Malpractice Act, the superintendent shall determine, based on a risk assessment of each hospital or hospital-controlled outpatient health

care facility, each hospital's or hospital-controlled outpatient health care facility's base coverage or deposit and additional charges for the fund. The superintendent shall arrange for an actuarial study before determining base coverage or deposit and surcharges.

D. A health care provider not qualifying under this section shall not have the benefit of any of the provisions of the Medical Malpractice Act in the event of a malpractice claim against it; provided that beginning July 1, 2021, hospitals and hospital-controlled outpatient health care facilities shall not participate in the medical review process, and beginning January 1, 2027, hospitals and hospital-controlled outpatient health care facilities shall have the benefits of the other provisions of the Medical Malpractice Act except participation in the fund."

### **Chapter 207 Section 3 Laws 2023**

SECTION 3. Section 41-5-6 NMSA 1978 (being Laws 1992, Chapter 33, Section 4, as amended) is amended to read:

#### "41-5-6. LIMITATION OF RECOVERY.--

A. Except for punitive damages and past and future medical care and related benefits, the aggregate dollar amount recoverable by all persons for or arising from any injury or death to a patient as a result of malpractice shall not exceed six hundred thousand dollars (\$600,000) per occurrence for malpractice claims brought against health care providers if the injury or death occurred prior to January 1, 2022. In jury cases, the jury shall not be given any instructions dealing with this limitation.

B. Except for punitive damages and past and future medical care and related benefits, the aggregate dollar amount recoverable by all persons for or arising from any injury or death to a patient as a result of malpractice shall not exceed seven hundred fifty thousand dollars (\$750,000) per occurrence for malpractice claims against independent providers; provided that, beginning January 1, 2023, the per occurrence limit on recovery shall be adjusted annually by the consumer price index for all urban consumers.

C. The aggregate dollar amount recoverable by all persons for or arising from any injury or death to a patient as a result of malpractice, except for punitive damages and past and future medical care and related benefits, shall not exceed seven hundred fifty thousand dollars (\$750,000) for claims brought against an independent outpatient health care facility for an injury or death that occurred in calendar years 2022 and 2023.

D. In calendar year 2024 and subsequent years, the aggregate dollar amount recoverable by all persons for or arising from an injury or death to a patient as a result of malpractice, except for punitive damages and past and future medical care and related benefits, shall not exceed the following amounts for claims brought against an independent outpatient health care facility:

(1) for an injury or death that occurred in calendar year 2024, one million dollars (\$1,000,000) per occurrence; and

(2) for an injury or death that occurred in calendar year 2025 and thereafter, the amount provided in Paragraph (1) of this subsection, adjusted annually by the prior three-year average consumer price index for all urban consumers, per occurrence.

E. In calendar year 2022 and subsequent calendar years, the aggregate dollar amount recoverable by all persons for or arising from any injury or death to a patient as a result of malpractice, except for punitive damages and past and future medical care and related benefits, shall not exceed the following amounts for claims brought against a hospital or a hospital-controlled outpatient health care facility:

(1) for an injury or death that occurred in calendar year 2022, four million dollars (\$4,000,000) per occurrence;

(2) for an injury or death that occurred in calendar year 2023, four million five hundred thousand dollars (\$4,500,000) per occurrence;

(3) for an injury or death that occurred in calendar year 2024, five million dollars (\$5,000,000) per occurrence;

(4) for an injury or death that occurred in calendar year 2025, five million five hundred thousand dollars (\$5,500,000) per occurrence;

(5) for an injury or death that occurred in calendar year 2026, six million dollars (\$6,000,000) per occurrence; and

(6) for an injury or death that occurred in calendar year 2027 and each calendar year thereafter, the amount provided in Paragraph (5) of this subsection, adjusted annually by the consumer price index for all urban consumers, per occurrence.

F. The aggregate dollar amounts provided in Subsections B through E of this section include payment to any person for any number of loss of consortium claims or other claims per occurrence that arise solely because of the injuries or death of the patient.

G. In jury cases, the jury shall not be given any instructions dealing with the limitations provided in this section.

H. The value of accrued medical care and related benefits shall not be subject to any limitation.

I. Except for an independent outpatient health care facility, a health care provider's personal liability is limited to two hundred fifty thousand dollars (\$250,000) for

monetary damages and medical care and related benefits as provided in Section 41-5-7 NMSA 1978. Any amount due from a judgment or settlement in excess of two hundred fifty thousand dollars (\$250,000) shall be paid from the fund, except as provided in Subsections J and K of this section.

J. An independent outpatient health care facility's personal liability is limited to five hundred thousand dollars (\$500,000) for monetary damages and medical care and related benefits as provided in Section 41-5-7 NMSA 1978. Any amount due from a judgment or settlement in excess of five hundred thousand dollars (\$500,000) shall be paid from the fund.

K. Until January 1, 2027, amounts due from a judgment or settlement against a hospital or hospital-controlled outpatient health care facility in excess of seven hundred fifty thousand dollars (\$750,000), excluding past and future medical expenses, shall be paid by the hospital or hospital-controlled outpatient health care facility and not by the fund. Beginning January 1, 2027, amounts due from a judgment or settlement against a hospital or hospital-controlled outpatient health care facility shall not be paid from the fund.

L. The term "occurrence" shall not be construed in such a way as to limit recovery to only one maximum statutory payment if separate acts or omissions cause additional or enhanced injury or harm as a result of the separate acts or omissions. A patient who suffers two or more distinct injuries as a result of two or more different acts or omissions that occur at different times by one or more health care providers is entitled to up to the maximum statutory recovery for each injury."

## **Chapter 207 Section 4 Laws 2023**

SECTION 4. Section 41-5-29 NMSA 1978 (being Laws 1992, Chapter 33, Section 10, as amended) is amended to read:

"41-5-29. FUND REPORTS.--

A. On January 31 of each year, the superintendent shall, upon request, provide a written report to all interested persons of the following information:

- (1) the beginning and ending calendar year balances in the fund;
- (2) an itemized accounting of the total amount of contributions to the fund;
- (3) all information regarding closed claims files, including an itemized accounting of all payments paid out; and
- (4) any other information regarding the fund that the superintendent or the legislature considers to be important.

B. The superintendent or the superintendent's designee shall track and make publicly available the following information regarding independent outpatient health care facilities:

(1) the total number of claims filed against independent outpatient health care facilities by year;

(2) the total number of settlements paid out on behalf of independent outpatient health care facilities by year; and

(3) the dollar amounts of settlements paid out by the fund on behalf of independent outpatient health care facilities by year."

## **LAWS 2023, CHAPTER 208**

**SFC/Senate Bill 192, aa, w/cc, partial veto**

**Approved April 7, 2023**

AN ACT

MAKING GENERAL APPROPRIATIONS AND AUTHORIZING EXPENDITURES;  
PROVIDING AN EXCEPTION TO LEGISLATIVE CONFIDENTIALITY.

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

### **Chapter 208 Section 1 Laws 2023**

SECTION 1. LEGISLATIVE FISCAL YEAR 2023 APPROPRIATIONS.--Five hundred seventy-five thousand dollars (\$575,000) is appropriated from the general fund to the legislative council service for expenditure in fiscal years 2023 and 2024 to contract for consulting and technical assistance to analyze key health cost drivers for the legislative health and human services committee. Any unexpended [~~or unencumbered~~] balance remaining at the end of fiscal year 2024 shall revert to the general fund. *LINE ITEM VETO*

### **Chapter 208 Section 2 Laws 2023**

SECTION 2. JUDICIAL FISCAL YEAR 2023 APPROPRIATIONS.--The appropriations in this section are from the general fund for the following agencies for expenditure in fiscal years 2023 and 2024 for the purposes specified and, unless otherwise indicated, the unexpended [~~or unencumbered~~] balance of an appropriation in this section at the end of fiscal year 2024 shall revert to the general fund: *LINE ITEM VETO*

A. three hundred seventy-five thousand dollars (\$375,000) is appropriated to the court of appeals to improve and enhance the timely processing of judicial appeals and to increase efficiency;

B. one hundred fifty thousand dollars (\$150,000) is appropriated to the supreme court for the supreme court building commission to purchase and install security cameras and equipment in the supreme court building;

C. to the administrative office of the courts, the following amounts are appropriated for the following purposes:

(1) seventy-five thousand dollars (\$75,000) for the Children's Code reform task force to assess and recommend changes;

(2) five hundred thousand dollars (\$500,000) for the judicial information division to improve online access to court records statewide;

(3) one hundred thousand dollars (\$100,000) for judicial education;

(4) one hundred thousand dollars (\$100,000) for operating costs of providing legal services through the modest means helpline; and

(5) one hundred fifty thousand dollars (\$150,000) for equipment and materials for the support of the volunteer attorney program;

D. one hundred fifty thousand dollars (\$150,000) is appropriated to the first judicial district court for courtroom technology;

E. one hundred thousand dollars (\$100,000) is appropriated to the third judicial district court for technology to accommodate remote hearings and trials;

F. two hundred thousand dollars (\$200,000) is appropriated to the fifth judicial district court in Chaves county for the court-appointed special advocate program for services, to contract for innovative trauma services and to purchase equipment;

G. seventy-five thousand dollars (\$75,000) is appropriated to the sixth judicial district court for programs, operations and equipment;

H. eighty-five thousand dollars (\$85,000) is appropriated to the eighth judicial district court for program management and to assist judges presiding over treatment courts, drug courts, domestic violence courts or mental health and wellness courts;

I. one hundred thousand dollars (\$100,000) is appropriated to the eleventh judicial district court [~~in Aztec~~] for upgrades to the court security system; *LINE ITEM VETO*

J. seventy-five thousand dollars (\$75,000) is appropriated to the district attorney of the eighth judicial district to hire or contract for services for the victim assistance programs, broadband services or case management upgrades;

K. to the district attorney of the eleventh judicial district division 2 in McKinley county, the following amounts are appropriated for the following purposes:

(1) one hundred thousand dollars (\$100,000) for contract prosecutors;  
and

(2) seventy-five thousand dollars (\$75,000) for information technology system upgrades; and

L. to the public defender department, the following amounts are appropriated for the following purposes:

(1) eighty thousand dollars (\$80,000) for services provided by the office of the public defender; and

(2) one hundred fifty thousand dollars (\$150,000) for transcription services.

### **Chapter 208 Section 3 Laws 2023**

SECTION 3. GENERAL CONTROL FISCAL YEAR 2023 APPROPRIATIONS.--  
The appropriations in this section are from the general fund for the following agencies for expenditure in fiscal years 2023 and 2024 for the purposes specified and, unless otherwise indicated, the unexpended [~~or unencumbered~~] balance of an appropriation in this section at the end of fiscal year 2024 shall revert to the general fund: *LINE ITEM VETO*

~~[A. two hundred thousand dollars (\$200,000) is appropriated to the office of the attorney general for additional full-time equivalent positions;] *LINE ITEM VETO*~~

B. to the department of finance and administration, the following amounts are appropriated for the following purposes:

(1) eighty thousand dollars (\$80,000) for the acequia commission to facilitate communication and cooperation between local acequia organizations and the state and federal governments;

(2) eighty-five thousand dollars (\$85,000) for the acequia and community ditch fund to provide legal and other experts involved in water adjudications;

(3) two hundred thirty thousand dollars (\$230,000) for the acequia and community ditch education program;

(4) seventy-five thousand dollars (\$75,000) for the land grant council to provide youth programming and financial, natural resources and management support to land grants;

~~[(5) seventy-five thousand dollars (\$75,000) for a statewide coordinator to organize and facilitate awareness and advocacy for environmental impacts for clean air, water and soil with local and statewide groups of interest for environmental justice;]~~  
*LINE ITEM VETO*

(6) one million one hundred twenty-five thousand dollars (\$1,125,000) for civil legal services;

(7) eighty thousand dollars (\$80,000) for civil legal services for immigrants;

(8) four hundred seventy-five thousand dollars (\$475,000) to provide wrap-around job-life skills programs, weekly seminars and life skills for incarcerated people and their families and juvenile offenders statewide;

(9) one hundred fifty thousand dollars (\$150,000) to contract for comprehensive services, housing options and resources for the homeless statewide;

(10) two hundred thirty-five thousand dollars (\$235,000) for the homeless management information system in additional agencies statewide and homeless services;

(11) three hundred seventy-five thousand dollars (\$375,000) for the eviction prevention and diversion program;

(12) seventy-five thousand dollars (\$75,000) for the middle Rio Grande conservancy district for education materials to support challenges of drought and decreased water supplies;

~~[(13) two hundred thousand dollars (\$200,000) to implement the provisions of the Corrections Advisory Board Act, contingent on House Judiciary Committee Substitute for House Bill 297 or similar legislation of the first session of the fifty-sixth legislature becoming law;]~~ *LINE ITEM VETO*

(14) for the mid-region council of governments, the following amounts are appropriated for the following purposes:

(a) one hundred fifty thousand dollars (\$150,000) to create classroom training programs to expand educational opportunities;

(b) seventy-five thousand dollars (\$75,000) to contract for job training skills and job placement support to south valley and west mesa communities of Bernalillo county; and

(c) one hundred fifty-five thousand dollars (\$155,000) to manage and operate the south valley economic development center in Bernalillo county;

(15) three hundred twenty-five thousand dollars (\$325,000) for the north central New Mexico economic development district to provide grant research, grant writing and technical assistance for communities within the district;

(16) one hundred seventy-five thousand dollars (\$175,000) for the southeastern New Mexico economic development district for expansion of operations, technical assistance, capacity building, fiscal agent services, grant writing and administration to local governments; [~~and~~

~~(17) one hundred thousand dollars (\$100,000) for the south central council of governments to improve the watershed district facilities for the La Union watershed district;] *LINE ITEM VETO*~~

C. to the local government division of the department of finance and administration, the following amounts are appropriated for the following purposes:

(1) in Bernalillo county:

(a) seventy-five thousand dollars (\$75,000) for the Albuquerque department of arts and culture to research the economic impact of arts and creativity in Albuquerque and Bernalillo county to support a broad arts engagement public campaign;

(b) seventy-five thousand dollars (\$75,000) for traditional Mexican and New Mexican arts, music and dance youth programs in Albuquerque and Bernalillo county;

(c) six hundred thousand dollars (\$600,000) for contractual services for location and funding options for a multipurpose event center in Albuquerque;

~~[(d) seventy-five thousand dollars (\$75,000) for the Afro-Latino mundial festival in Albuquerque;~~

~~(e) two hundred fifty thousand dollars (\$250,000) for parks and recreation improvements in Albuquerque, equally divided between improvements at Chantilly park and dog park; improvements, including playground renovation and a shade structure, at Hunter's Run park; and improvements, including playground renovation and a shade structure, at Richland Hills park;] *LINE ITEM VETO*~~

(f) two hundred thousand dollars (\$200,000) to train food manufacturers in low-income communities in Albuquerque;

(g) seventy-five thousand dollars (\$75,000) for science, technology, engineering, art and mathematics education outreach for young children and educators at a science center and children's museum in Albuquerque;

(h) seventy-five thousand dollars (\$75,000) for after-school community programming in Albuquerque;

(i) one hundred thousand dollars (\$100,000) for six-week summer and out-of-school-time programming for students from under-resourced families in Albuquerque;

(j) one hundred thousand dollars (\$100,000) for contractual services to review confidentiality and safety procedures relating to child fatality disclosure policies in Albuquerque;

(k) one hundred thousand dollars (\$100,000) to contract for services related to child maltreatment and children's exposure to violence through the trauma-informed model of handle with care in Albuquerque;

(l) one hundred twenty-five thousand dollars (\$125,000) for an Albuquerque violence intervention program;

(m) two hundred thousand dollars (\$200,000) for a pilot project at the Albuquerque Gateway center for medical sobering addiction treatment services as an alternative to jail or a hospital to allow persons who are intoxicated and nonviolent to recover from the effects of alcohol and drugs;

(n) eighty thousand dollars (\$80,000) for the lived experience group within the Albuquerque violence intervention program;

(o) one hundred thousand dollars (\$100,000) to purchase wrestling equipment for the northeast area of Albuquerque;

(p) seventy-five thousand dollars (\$75,000) for westside animal shelter daily operations in Albuquerque;

(q) three hundred thousand dollars (\$300,000) for a paid internship program for Atrisco Heritage high school students at the westside animal shelter in Albuquerque;

(r) eighty thousand dollars (\$80,000) for food programs serving diverse, low-income youth, adults and seniors that create long-term food security through a food pantry, urban garden and community hub on Albuquerque's west side;

(s) seventy-five thousand dollars (\$75,000) for culturally relevant and appropriate services for urban Indigenous populations in Albuquerque;

(t) eighty thousand dollars (\$80,000) to contract for services in southeast Albuquerque, including culturally and linguistically tailored care for Asian refugees, immigrants and multigenerational family programming;

(u) one hundred seventy thousand dollars (\$170,000) to contract for culturally sensitive programs, services and training supporting the pan-Asian community in Albuquerque;

(v) seventy-five thousand dollars (\$75,000) to contract for case management and other services for Asian communities in Bernalillo county;

(w) one hundred fifty thousand dollars (\$150,000) for implementation of the one hundred percent Bernalillo initiative to improve citizen access to services and address gaps in services and supports;

(x) one hundred thousand dollars (\$100,000) for flamenco educational services ~~[and to conduct a flamenco festival]~~; *LINE ITEM VETO*

(y) one hundred thousand dollars (\$100,000) for ~~[an operator-caretaker position for the New Mexico music hall of fame museum located at]~~ the Route 66 visitor center; *LINE ITEM VETO*

(z) one hundred fifty thousand dollars (\$150,000) for professional development toward licensure of bilingual behavioral health care professionals and culturally and linguistically specific trauma-informed mental health, case management and suicide prevention services for immigrant and refugee families;

(aa) seventy-five thousand dollars (\$75,000) to contract for out-of-school visual and performing arts; media arts; science, technology, engineering, arts and mathematics programs; and interactive murals for youth-focused arts, and to provide student internships;

(bb) two hundred thousand dollars (\$200,000) to contract for services to low-income senior citizens promoting aging in place;

(cc) seventy-five thousand dollars (\$75,000) for delivery of healthy meals to residents facing food insecurity, homebound seniors and people with chronic conditions;

(dd) two hundred thirty-five thousand dollars (\$235,000) for food pantry services in the ~~[east]~~ mountains; *LINE ITEM VETO*

(ee) seventy-five thousand dollars (\$75,000) for programs addressing children's exposure to violence;

(ff) seventy-five thousand dollars (\$75,000) to contract for job-life training and weekly life-skills seminars for incarcerated persons and their families;

(gg) seventy-five thousand dollars (\$75,000) for transformative investments in affordable housing;

~~[(hh) one hundred twenty-five thousand dollars (\$125,000) for improvements to Los Padillas community center;]~~ *LINE ITEM VETO*

(ii) one hundred thousand dollars (\$100,000) to provide training, supplies and uniforms to the Bernalillo county fire department volunteer chaplain unit; and

(jj) seventy-five thousand dollars (\$75,000) for racing exhibits;

(2) in Chaves county:

(a) four hundred eighty-five thousand dollars (\$485,000) to purchase and equip vehicles for the Roswell police department;

(b) one hundred thousand dollars (\$100,000) to purchase and equip law enforcement vehicles for the Chaves county sheriff's office;

(c) seventy-five thousand dollars (\$75,000) for a youth club; and

(d) one hundred thousand dollars (\$100,000) for one-to-one youth mentoring services;

(3) in Cibola county:

(a) one hundred thousand dollars (\$100,000) to purchase and equip police vehicles for the Pueblo of Acoma;

(b) seventy-five thousand dollars (\$75,000) for the purchase of a tractor in the Pueblo of Laguna;

~~[(c) one hundred thousand dollars (\$100,000) for Grant Memorial park improvements in Grants;]~~ *LINE ITEM VETO*

(d) three hundred fifty thousand dollars (\$350,000) to purchase and equip law enforcement vehicles in Grants;

(e) seventy-five thousand dollars (\$75,000) to purchase a loader and heavy equipment for Grants;

(f) two hundred thousand dollars (\$200,000) to purchase and equip public works vehicles, heavy equipment and accessories in Milan; and

(g) one hundred thousand dollars (\$100,000) to purchase uniforms, personal protective equipment and safety equipment for the Cibola county sheriff's office K-9 unit;

(4) in Colfax county, seventy-five thousand dollars (\$75,000) to purchase equipment for the public works department in Raton;

(5) in Curry county:

~~[(a) one hundred twenty-five thousand dollars (\$125,000) to renovate and repair the animal shelter building in Clovis;] *LINE ITEM VETO*~~

(b) one hundred thousand dollars (\$100,000) for ~~[improvements to] the [Hartley House]~~ domestic violence shelter in Clovis; *LINE ITEM VETO*

(c) one hundred sixty thousand dollars (\$160,000) to purchase and equip police vehicles for the Clovis police department; and

(d) seventy-five thousand dollars (\$75,000) to upgrade computer equipment in Curry county sheriff's office vehicles;

(6) in De Baca county:

(a) eighty thousand dollars (\$80,000) to purchase and equip police vehicles for the Fort Sumner police department; and

(b) eighty thousand dollars (\$80,000) to purchase and equip law enforcement vehicles for the De Baca county sheriff's department;

(7) in Dona Ana county:

(a) two hundred fifty thousand dollars (\$250,000) to purchase and equip law enforcement vehicles and install other equipment in Anthony;

~~[(b) seventy-five thousand dollars (\$75,000) to complete the sidewalk safety initiative in La Union;] *LINE ITEM VETO*~~

(c) one hundred twenty-five thousand dollars (\$125,000) to furnish and equip a four-chair dental suite and six offices in the behavioral health suite,

servicing persons with serious mental health issues and experiencing homelessness and other socially or economically disadvantaged residents in Las Cruces;

(d) two hundred twenty-five thousand dollars (\$225,000) for the expansion of mental health services and building equipment expenses for the supportive transitional housing for vulnerable, high-risk and high-need populations in Las Cruces;

(e) seventy-five thousand dollars (\$75,000) to purchase refrigerated vehicles to collect food to feed the homeless population in Las Cruces;

(f) one hundred thousand dollars (\$100,000) to contract for supportive housing for the homeless population with disabilities and their families in Las Cruces;

~~[(g) one hundred thousand dollars (\$100,000) to repair walking and bicycle trails in Las Cruces;]~~ *LINE ITEM VETO*

(h) one hundred seventy-five thousand dollars (\$175,000) for equipment and improvements to Veterans Memorial park in Las Cruces;

(i) seventy-five thousand dollars (\$75,000) to purchase body cameras for the Las Cruces police department;

(j) seventy-five thousand dollars (\$75,000) to upgrade radio transmission devices in Mesilla;

(k) seventy-five thousand dollars (\$75,000) to purchase and equip police vehicles and purchase other equipment for the Sunland Park police department;

(l) seventy-five thousand dollars (\$75,000) to purchase and equip wildland brush trucks for Dona Ana county;

(m) seventy-five thousand dollars (\$75,000) to purchase and replace handheld and mobile radio units and related infrastructure for the Dona Ana county public safety department;

(n) one hundred twenty-five thousand dollars (\$125,000) for housing programs;

(o) one hundred thousand dollars (\$100,000) for domestic violence victim assistance;

(p) seventy-five thousand dollars (\$75,000) to contract for homeless services; ~~and~~

~~(q) — seventy-five thousand dollars (\$75,000) for wastewater utility regionalization efforts by Dona Ana county;] LINE ITEM VETO~~

(8) in Eddy county:

(a) seventy-five thousand dollars (\$75,000) for training, equipment or operations at the Eddy county regional emergency dispatch services in Artesia;

(b) one hundred thousand dollars (\$100,000) to purchase and equip police vehicles for the Carlsbad police department;

(c) seventy-five thousand dollars (\$75,000) to purchase vehicles for Loving;

(d) one hundred fifty thousand dollars (\$150,000) to purchase a backhoe for the Malaga mutual domestic water consumers and sewage works association;

(e) seventy-five thousand dollars (\$75,000) for vehicles and equipment for the Otis mutual domestic water consumers and sewage works association;

(f) seventy-five thousand dollars (\$75,000) to provide services for survivors of sexual assault;

(g) two hundred fifty thousand dollars (\$250,000) to purchase ballistic-resistant safety gear body armor and related equipment for law enforcement officers;

(h) seventy-five thousand dollars (\$75,000) to purchase ballistic shields for the Eddy county sheriff's department;

(i) one hundred thousand dollars (\$100,000) to purchase and equip vehicles for the Eddy county sheriff's department; and

(j) two hundred thousand dollars (\$200,000) to purchase equipment for the Eddy county volunteer fire department;

(9) in Grant county:

~~[(a) — one hundred thousand dollars (\$100,000) for maintenance of Fort Bayard in Santa Clara;] LINE ITEM VETO~~

(b) one hundred thousand dollars (\$100,000) for irrigation improvements to the golf course in Silver City;

(c) one hundred thousand dollars (\$100,000) to contract for distribution of healthy, fresh foods to food pantries and schools in Silver City from local farmers and ranchers;

(d) eighty thousand dollars (\$80,000) for the Grant county community health council; and

(e) one hundred thousand dollars (\$100,000) for educational outreach in Grant county school districts to teach sustainable living practices;

(10) seventy-five thousand dollars (\$75,000) for youth service programs in the Anton Chico land grant-merced;

(11) one hundred thousand dollars (\$100,000) for public safety equipment in Guadalupe county;

(12) seventy-five thousand dollars (\$75,000) for mental health and substance abuse services in Hidalgo county;

(13) in Lea county:

~~[(a) seventy-five thousand dollars (\$75,000) for fencing around the animal shelter and solid waste convenience center in Eunice;]~~ *LINE ITEM VETO*

(b) one hundred fifty thousand dollars (\$150,000) for safety and security equipment for the animal shelter and solid waste convenience center in Eunice;

(c) four hundred thousand dollars (\$400,000) to purchase or equip ambulances in Hobbs;

(d) one hundred twenty-five thousand dollars (\$125,000) to purchase equipment or services supporting low-income housing in Hobbs;

(e) seventy-five thousand dollars (\$75,000) to contract for supportive housing to the homeless population in Hobbs;

(f) seventy-five thousand dollars (\$75,000) for youth mentoring services in Hobbs;

(g) seventy-five thousand dollars (\$75,000) to purchase a tractor rotary mower for Lovington;

(h) seventy-five thousand dollars (\$75,000) for disability program vehicles;

(i) seventy-five thousand dollars (\$75,000) to contract for training and support for at-risk youth mentoring; and

(j) seventy-five thousand dollars (\$75,000) to contract for support and educational services to families experiencing unplanned pregnancies;

(14) in Lincoln county:

(a) ninety-five thousand dollars (\$95,000) to update the 911 emergency system rural addressing in Ruidoso;

(b) one hundred thousand dollars (\$100,000) to contract for mentoring for at-risk youth experiencing homelessness at an overnight shelter in Ruidoso;

(c) eighty thousand dollars (\$80,000) to purchase emergency response vehicle and emergency equipment for Lincoln county;

(d) one hundred thousand dollars (\$100,000) to contract for youth mentoring and positive active programming; and

(15) in Luna county:

(a) seventy-five thousand dollars (\$75,000) for low-income food delivery programs in Columbus and throughout Luna county;

(b) one hundred thousand dollars (\$100,000) for support services for low-income adults and their children; and

(c) seventy-five thousand dollars (\$75,000) for the Luna county youth entrepreneurship program;

(16) in McKinley county:

(a) seventy-five thousand dollars (\$75,000) to contract for community health services in Gallup;

(b) one hundred thousand dollars (\$100,000) for industrial workforce programming in Gallup;

(c) seventy-five thousand dollars (\$75,000) to purchase and equip a vehicle for the Gallup police department;

(d) seventy-five thousand dollars (\$75,000) for arts programming and projects in Gallup and McKinley county;

(e) one hundred thousand dollars (\$100,000) for battered family services in Gallup and McKinley county;

(f) one hundred thousand dollars (\$100,000) for providing community health services, including payment for services, in Gallup and McKinley county;

(g) seventy-five thousand dollars (\$75,000) for McKinley county to develop a business leadership and training program;

(h) one hundred thousand dollars (\$100,000) to purchase a one-ton truck for water line work;

(i) one hundred thousand dollars (\$100,000) to purchase an emergency command vehicle and equipment; and

(j) one hundred thousand dollars (\$100,000) to purchase and equip emergency response vehicles and emergency equipment;

(17) seventy-five thousand dollars (\$75,000) for staffing positions directly related to service delivery and compliance reporting at the Mora county water alliance;

(18) seventy-five thousand dollars (\$75,000) for supportive services to families living in long-term fire recovery sites in Mora and San Miguel counties;

(19) in Otero county:

(a) seventy-five thousand dollars (\$75,000) for housing and shelter programs in Alamogordo;

(b) one hundred thousand dollars (\$100,000) to purchase and equip police vehicles for the Alamogordo police department;

(c) one hundred thousand dollars (\$100,000) for equipment for the parks and recreation department in Alamogordo; and

(d) seventy-five thousand dollars (\$75,000) to purchase and equip maintenance vehicles in Cloudcroft;

(20) in Roosevelt county:

(a) one hundred sixty thousand dollars (\$160,000) to purchase and equip police vehicles for the Portales police department;

(b) one hundred thousand dollars (\$100,000) to purchase or upgrade county road department vehicles; and

(c) one hundred sixty thousand dollars (\$160,000) to purchase and equip law enforcement vehicles for the Roosevelt county sheriff's department;

(21) in San Juan county:

(a) seventy-five thousand dollars (\$75,000) to purchase and equip vehicles for the Aztec police department;

(b) seventy-five thousand dollars (\$75,000) for a school ~~[resource officer]~~ in Aztec; *LINE ITEM VETO*

(c) seventy-five thousand dollars (\$75,000) to purchase irrigation vehicles for Bloomfield;

(d) seventy-five thousand dollars (\$75,000) to purchase and equip police vehicles for the Bloomfield police department;

(e) seventy-five thousand dollars (\$75,000) for radio and communication equipment for the Bloomfield police department;

(f) seventy-five thousand dollars (\$75,000) to purchase and equip police vehicles for the Farmington police department;

(g) five hundred sixty thousand dollars (\$560,000) for the alternative response unit in Farmington;

(h) seventy-five thousand dollars (\$75,000) for a youth instructional golf program ~~[in Kirtland that builds character, promotes healthy choices and instills life-enhancing values];~~ *LINE ITEM VETO*

~~[(i) seventy-five thousand dollars (\$75,000) for the sewer expansion project;]~~ and *LINE ITEM VETO*

(j) seventy-five thousand dollars (\$75,000) to purchase a forklift;

(22) in San Miguel county:

(a) one hundred thousand dollars (\$100,000) for meals, computers, books and sporting equipment at youth club programs in Las Vegas;

(b) seventy-five thousand dollars (\$75,000) for services and food distribution at El Valle community center and for the Villanueva library;

~~[(c) seventy-five thousand dollars (\$75,000) for exterior building maintenance and improvements to Los Pueblos community center;]~~ and *LINE ITEM VETO*

(d) ninety thousand dollars (\$90,000) for community and senior service public programming in the San Miguel del Bado land grant-merced;

(23) in Sandoval county:

~~[(a) seventy-five thousand dollars (\$75,000) for park improvements in Bernalillo;] *LINE ITEM VETO*~~

(b) one hundred twenty-five thousand dollars (\$125,000) for playground equipment ~~[and improvements]~~ in Bernalillo; *LINE ITEM VETO*

(c) one hundred fifty thousand dollars (\$150,000) to purchase and equip police vehicles and tasers for the Bernalillo police department;

(d) one hundred thousand dollars (\$100,000) for youth group mentoring and development in Bernalillo;

(e) seventy-five thousand dollars (\$75,000) for a fire-emergency management services vehicle and equipment in Cochiti Lake;

~~[(f) one hundred thousand dollars (\$100,000) to plan and design a performing arts center in Corrales;] *LINE ITEM VETO*~~

(g) seventy-five thousand dollars (\$75,000) to purchase a wood chipper for the Corrales fire department;

(h) one hundred thousand dollars (\$100,000) for a Jemez Springs police vehicle;

(i) one hundred thousand dollars (\$100,000) for programming, equipment or materials at the Placitas community library;

(j) one hundred seventy-five thousand dollars (\$175,000) ~~[for repairs to the fire station and]~~ to purchase and equip police vehicles in Rio Rancho; *LINE ITEM VETO*

(k) one hundred five thousand dollars (\$105,000) for firefighting equipment in Rio Rancho;

~~[(l) three hundred twenty thousand dollars (\$320,000) for pavement preservation, rehabilitation and reconstruction in house district 57 in Rio Rancho;] *LINE ITEM VETO*~~

(m) one hundred eighty thousand dollars (\$180,000) to purchase and equip Rio Rancho police department vehicles;

~~[(n) one hundred fifty thousand dollars (\$150,000) for street and road repairs in house district 60 in Rio Rancho;] LINE ITEM VETO~~

(o) eighty-five thousand dollars (\$85,000) to purchase a library sorter for Rio Rancho;

(p) seventy-five thousand dollars (\$75,000) for a therapeutic riding program that provides a retreat for veterans and first responders with posttraumatic stress disorder;

(q) seventy-five thousand dollars (\$75,000) for the community-based STEAM center of excellence to create pathways to careers in science, technology, robotics, engineering, arts and mathematics; and

(r) seventy-five thousand dollars (\$75,000) for costs of the southern Sandoval county arroyo flood control authority graduate student internship program;

(24) in Santa Fe county:

(a) one hundred thousand dollars (\$100,000) for programming, equipment and materials at the Edgewood community library;

~~[(b) seventy-five thousand dollars (\$75,000) for gymnasium floor resurfacing and soccer field grading at the Genevieve Chavez community center in Santa Fe;] LINE ITEM VETO~~

(c) ninety-five thousand dollars (\$95,000) to purchase security cameras and security systems at municipal parks for Santa Fe;

(d) one hundred thousand dollars (\$100,000) for programming, equipment and materials at the Vista Grande public library;

(e) one hundred twenty-five thousand dollars (\$125,000) to purchase equipment and to provide arson investigation training to fire department three in Santa Fe;

(f) seventy-five thousand dollars (\$75,000) for sanitization and deep cleaning of all municipal swimming pools in Santa Fe;

(g) one hundred thousand dollars (\$100,000) for the department of energy collaboration center in Santa Fe county; and

(h) seventy-five thousand dollars (\$75,000) for a life skills education program for incarcerated individuals and their families or juvenile offenders in Santa Fe county;

(25) in Sierra county:

(a) three hundred seventy-five thousand dollars (\$375,000) to purchase and equip vehicles and other equipment for the Sierra county sheriff's department; and

(b) seventy-five thousand dollars (\$75,000) for the Sierra and Caballo soil and water conservation districts to administer agricultural natural resource youth education;

(26) in Socorro county:

~~[(a) one hundred fifty thousand dollars (\$150,000) for improvements for the library, jail and rodeo grounds in Magdalena;~~

~~[(b) one hundred twenty-five thousand dollars (\$125,000) for planning and construction of the Sedillo park community multipurpose facility in Socorro;] *LINE ITEM VETO*~~

(c) seventy-five thousand dollars (\$75,000) to purchase and equip law enforcement vehicles for the Socorro police department;

~~[(d) seventy-five thousand dollars (\$75,000) for improvements to the Socorro county rodeo grounds;] *LINE ITEM VETO*~~

(e) one hundred thousand dollars (\$100,000) to purchase narcotics investigations equipment and provide deputy training for the Socorro county sheriff's office; and

(f) one hundred eighty thousand dollars (\$180,000) to purchase and equip vehicles for the Socorro county sheriff's office;

(27) one hundred thousand dollars (\$100,000) for county snow-clearing vehicles and equipment in Taos county;

(28) seventy-five thousand dollars (\$75,000) for operating expenses for a child care center in Des Moines in Union county;

(29) in Valencia county:

(a) one hundred fifty thousand dollars (\$150,000) to purchase and equip a bucket truck for Belen;

(b) one hundred twenty thousand dollars (\$120,000) to purchase and equip vehicles for the Belen police department;

(c) one hundred thousand dollars (\$100,000) for the Bosque Farms police department's canine detective unit;

(d) one hundred thousand dollars (\$100,000) to purchase fitness equipment for the Daniel Fernandez youth center in Los Lunas;

(e) one hundred thousand dollars (\$100,000) to purchase and equip vehicles, including a sport utility vehicle, and other equipment for the Los Lunas police department;

(f) seventy-five thousand dollars (\$75,000) for expenses of the homework diner and youth leadership program in Meadow Lake;

(g) one hundred fifty thousand dollars (\$150,000) to purchase and equip tools and heavy equipment for the public works department in Peralta; and

(h) two hundred thousand dollars (\$200,000) to purchase interoperable communication equipment for the Valencia county sheriff's department; and

(30) one hundred thousand dollars (\$100,000) to contract for sexual assault nurse examiner and child advocacy services in Valencia, Socorro, Catron and Torrance counties;

D. for the office of broadband access and expansion of the department of information technology, the following amounts are appropriated for the following purposes:

(1) one hundred twenty thousand dollars (\$120,000) to purchase a truck, safety equipment and broadband site survey equipment; and

(2) five hundred thousand dollars (\$500,000) to contract for geospatial information services and mapping analytics; and

E. seventy-five thousand dollars (\$75,000) is appropriated to the state treasurer ~~[for operational funding]~~ for the New Mexico work and save IRA program.  
*LINE ITEM VETO*

## **Chapter 208 Section 4 Laws 2023**

SECTION 4. COMMERCE AND INDUSTRY FISCAL YEAR 2023  
APPROPRIATIONS.--The appropriations in this section are from the general fund for the following agencies for expenditure in fiscal years 2023 and 2024 for the purposes specified and, unless otherwise indicated, the unexpended ~~[or unencumbered]~~ balance of an appropriation in this section at the end of fiscal year 2024 shall revert to the general fund: *LINE ITEM VETO*

A. two hundred fifty thousand dollars (\$250,000) is appropriated to the tourism department to contract for services for an athletic competition for people with disabilities;

B. to the economic development department, the following amounts are appropriated for the following purposes:

(1) seventy-five thousand dollars (\$75,000) for the small food business industry;

(2) one hundred seventy-five thousand dollars (\$175,000) to administer the healthy food financing initiative as part of the statewide hunger initiative;

(3) seventy-five thousand dollars (\$75,000) to develop an electronic application for the main street program to promote small businesses;

(4) seventy-five thousand dollars (\$75,000) [~~to contract~~] for a film on veteran heroes of the American southwest; *LINE ITEM VETO*

(5) seventy-five thousand dollars (\$75,000) for the outdoor equity grant program fund[, which shall not revert at the end of fiscal year 2024]; *LINE ITEM VETO*

(6) one hundred fifty thousand dollars (\$150,000) to contract for economic development along west Central avenue and Coors boulevard northwest in Bernalillo county;

(7) one hundred fifty thousand dollars (\$150,000) for projects pursuant to the Local Economic Development Act to support small businesses in Las Cruces;

(8) eighty thousand dollars (\$80,000) for tourism and outdoor recreation in Madrid in Santa Fe county and Pecos in San Miguel county; and

(9) one hundred thousand dollars (\$100,000) to contract for a bicycle race to promote outdoor recreation and tourism in Silver City;

C. two million dollars (\$2,000,000) is appropriated to the regulation and licensing department to administer the modernization of licensing software and information technology upgrades for the alcoholic beverage control division; and

D. to the office of superintendent of insurance, the following amounts are appropriated for the following purposes:

(1) seventy-five thousand dollars (\$75,000) for auditing commercial health insurance claims to identify compliance with New Mexico law and medical necessity standards and reporting to the legislative health and human services committee the findings of any audits, enforcement actions taken and recommendations;

(2) two hundred thousand dollars (\$200,000) to contract for audits of commercial health insurance claims to discover patterns of noncompliance, abuse and waste;

(3) seventy-five thousand dollars (\$75,000) for outreach related to the easy enrollment program;

(4) one hundred twenty thousand dollars (\$120,000) develop a provider network database; and

(5) fifteen million four hundred thousand dollars (\$15,400,000) to address the medical malpractice insurance subsidy cost for individual providers and independent group practices, and the office may use up to one and two-thirds' percent for administration.

## **Chapter 208 Section 5 Laws 2023**

SECTION 5. AGRICULTURE, ENERGY AND NATURAL RESOURCES FISCAL YEAR 2023 APPROPRIATIONS.--The appropriations in this section are from the general fund for the following agencies for expenditure in fiscal years 2023 and 2024 for the purposes specified and, unless otherwise indicated, the unexpended [~~or unencumbered~~] balance of an appropriation in this section at the end of fiscal year 2024 shall revert to the general fund: *LINE ITEM VETO*

A. to the cultural affairs department, the following amounts are appropriated for the following purposes:

(1) one hundred thousand dollars (\$100,000) for marketing and public relations for the museum of New Mexico;

(2) one hundred twenty-five thousand dollars (\$125,000) for exhibits, seasonal youth education activities and equipment to support cultural and dramatic presentations at the national Hispanic cultural center;

(3) seventy-five thousand dollars (\$75,000) for exhibits and educational programming for the New Mexico farm and ranch heritage museum;

(4) for the New Mexico museum of space history:

(a) one hundred thousand dollars (\$100,000) for programs and exhibits; and

(b) two hundred fifty thousand dollars (\$250,000) to improve and enhance exhibits;

(5) one hundred twenty-five thousand dollars (\$125,000) to contract for an economic development program at Los Luceros historic site;

(6) one hundred seventy-five thousand dollars (\$175,000) to contract for cultural programming and economic development opportunities at Los Luceros historic site;

(7) one hundred thousand dollars (\$100,000) to contract for music education, concerts and symphony performances for youth statewide;

(8) four hundred fifty thousand dollars (\$450,000) for a statewide youth film education and festival initiative for middle and high school students;

(9) three hundred ten thousand dollars (\$310,000) to contract with a nonprofit organization operating a museum and center that develops curriculum and provides outreach efforts to educate students about the Holocaust and other genocide events;

(10) seventy-five thousand dollars (\$75,000) [~~for youth programs and initiatives at a children's science museum and Albuquerque history museums; for youth to attend opera programs; and~~] for science, technology, engineering and mathematics programming; *LINE ITEM VETO*

(11) seventy-five thousand dollars (\$75,000) for support of a children's mobile museum in Las Cruces;

(12) seventy-five thousand dollars (\$75,000) for exhibits, seasonal youth education activities and equipment to support opportunities for play, interactive fun and learning and family engagement in Dona Ana county;

(13) one hundred thousand dollars (\$100,000) for library services in four communities in Lincoln county;

(14) one hundred thousand dollars (\$100,000) for the New Mexico arts division for programs within living history museums in northern New Mexico;

(15) one hundred thousand dollars (\$100,000) to contract with a wildlife rehabilitation center in northern New Mexico to provide enhanced quality of care and treatment of wildlife;

(16) one hundred thousand dollars (\$100,000) to support long-term sustainability of culturally appropriate economic development initiatives; and

(17) seventy-five thousand dollars (\$75,000) for museum exhibits, seasonal youth education activities and equipment to support cultural and dramatic

presentations dedicated to the preservation, promotion and advancement of Hispanic culture and the arts and humanities;

B. to the New Mexico livestock board, the following amounts are appropriated for the following purposes:

(1) seventy-five thousand dollars (\$75,000) for administration and rulemaking regarding free-roaming horses;

(2) one hundred fifty thousand dollars (\$150,000) for the horse shelter rescue fund, which shall not revert;

(3) one hundred thousand dollars (\$100,000) for sheltering and rescuing abandoned, stray and free-roaming horses; [and

~~(4) one hundred thousand dollars (\$100,000) to contract with free-roaming horse experts and an attorney to write rules regarding the approval of the qualifications of a horse expert, contingent on Senate Bill 301 of the first session of the fifty-sixth legislature becoming law;] *LINE ITEM VETO*~~

C. to the energy, minerals and natural resources department, the following amounts are appropriated for the following purposes:

(1) three hundred seventy-five thousand dollars (\$375,000) to plan, design, develop and implement an online portal for all tax credit programs for the energy conservation and management division;

(2) seventy-five thousand dollars (\$75,000) for the oil conservation division to use in reducing the backlog of legacy oil and gas spills and releases; and

(3) for the state parks division:

(a) seventy-five thousand dollars (\$75,000) to develop a feasibility study or implementation plan for a new state park at Broad canyon;

(b) seventy-five thousand dollars (\$75,000) to acquire transport vehicles, including trailers, at Living Desert zoo and gardens state park; and

(c) seventy-five thousand dollars (\$75,000) to acquire vehicles, including trailers, at Oliver Lee memorial state park; and

D. to the office of the state engineer, the following amounts are appropriated for the following purposes:

(1) seventy-five thousand dollars (\$75,000) for the forty-year water plan for Milan;

(2) one hundred fifty thousand dollars (\$150,000) to the strategic water reserve to purchase water rights to meet compact obligations, protect endangered species and maintain healthy rivers; and

(3) one hundred fifty thousand dollars (\$150,000) to ~~fund assistance with planning and improving~~ the east Puerto de Luna acequia. *LINE ITEM VETO*

## **Chapter 208 Section 6 Laws 2023**

SECTION 6. HEALTH AND HUMAN SERVICES FISCAL YEAR 2023  
APPROPRIATIONS.--The appropriations in this section are from the general fund for the following agencies for expenditure in fiscal years 2023 and 2024 for the purposes specified and, unless otherwise indicated, the unexpended [~~or unencumbered~~] balance of an appropriation in this section at the end of fiscal year 2024 shall revert to the general fund: *LINE ITEM VETO*

A. seventy-five thousand dollars (\$75,000) is appropriated to the commission on the status of women for workforce and education services and outreach support;

B. to the Indian affairs department, the following amounts are appropriated for the following purposes:

(1) one hundred seventy-five thousand dollars (\$175,000) to contract with an organization with a demonstrated history to convene communities on education, natural resources, youth and elders to define issues, develop policies and programs;

(2) one hundred fifty thousand dollars (\$150,000) to support a program in partnership with an experienced organization to support a Native American leadership program for high school students in partnership with a higher education institution on the history of policy;

(3) one hundred thousand dollars (\$100,000) to purchase motor vehicles, equipment and supplies for behavioral health services for the Jicarilla Apache Nation;

(4) one hundred thousand dollars (\$100,000) to purchase a skid steer for the Alamo chapter of the Navajo Nation;

(5) seventy-five thousand dollars (\$75,000) to purchase road equipment for the Churchrock chapter of the Navajo Nation;

(6) seventy-five thousand dollars (\$75,000) to purchase a vehicle, equipment and supplies for the Navajo preparatory school wellness program in Farmington;

(7) one hundred fifty thousand dollars (\$150,000) to contract for a comprehensive economic development master plan for the Pueblo of Jemez;

(8) for the Pueblo of Picuris:

(a) seventy-five thousand dollars (\$75,000) to contract for a comprehensive master plan for a recreation area; and

(b) two hundred thousand dollars (\$200,000) to purchase equipment for a water containment system;

(9) seventy-five thousand dollars (\$75,000) to purchase and equip a heavy duty vehicle for the Pueblo of Pojoaque's environmental department; and

(10) one hundred thousand dollars (\$100,000) to purchase and equip fire and emergency medical vehicles and other equipment for the Pueblo of Zuni;

C. eighty thousand dollars (\$80,000) is appropriated to the early childhood education and care department for science, technology, engineering, art and mathematics programs for children;

D. to the aging and long-term services department, the following amounts are appropriated for the following purposes:

(1) eighty thousand dollars (\$80,000) for the Anton Chico land grant-merced senior outreach program;

(2) one hundred thousand dollars (\$100,000) for Artesia senior center programs, operations or services;

(3) one hundred thousand dollars (\$100,000) to provide services and equipment for the two senior citizen programs in Carlsbad;

(4) seventy-five thousand dollars (\$75,000) for senior center programs, operations or equipment in Hobbs;

(5) seventy-five thousand dollars (\$75,000) for Lovington senior citizen center operations or equipment;

(6) seventy-five thousand dollars (\$75,000) to provide meals for senior centers and homebound seniors in Sandoval county;

(7) seventy-five thousand dollars (\$75,000) to purchase a handicapped-equipped van for the Tatum senior citizen program; and

(8) seventy-five thousand dollars (\$75,000) for Tularosa senior citizen programs, operations or services;

E. to the human services department, the following amounts are appropriated for the following purposes:

(1) one hundred thousand dollars (\$100,000) for ~~[a coordinator position in]~~ the behavioral health services division to work with state agencies, prevention and treatment providers and advocates throughout the state to assess needs and programs for alcohol harm alleviation; *LINE ITEM VETO*

(2) seventy-five thousand dollars (\$75,000) for behavioral health clinical supervision for behavioral health organizations;

(3) one hundred thousand dollars (\$100,000) to contract with a statewide organization to provide comprehensive services, housing options, resources, funding and advocacy to support homeless individuals and families;

(4) eighty thousand dollars (\$80,000) for food assistance to human trafficking victims;

(5) one hundred fifty thousand dollars (\$150,000) to develop a statewide substance abuse treatment plan;

(6) two hundred fifty thousand dollars (\$250,000) to contract for youth entrepreneurship and leadership development programs in Dona Ana county;

(7) one hundred eighty thousand dollars (\$180,000) to contract for a homeless shelter and supportive housing services in Santa Fe; and

(8) one hundred thousand dollars (\$100,000) to contract for rural outreach to homeless persons and persons with substance use or co-occurring disorders in Taos county;

F. to the workforce solutions department, the following amounts are appropriated for the following purposes:

(1) two hundred thousand dollars (\$200,000) for economic research and analysis related to the feasibility of extending state unemployment benefits to workers excluded from the federal unemployment insurance program or workers who have lost employment due to downsizing of an extractive industry;

(2) one hundred twenty-five thousand dollars (\$125,000) for a local news fellowship program;

(3) seventy-five thousand dollars (\$75,000) to provide workforce training to those re-entering society from prisons and returning to northern New Mexico; and

(4) fifteen million four hundred thousand dollars (\$15,400,000) to the energy transition displaced worker assistance fund to carry out the purposes of the fund, which shall not revert at the end of fiscal year 2024;

G. to the developmental disabilities council, the following amounts are appropriated for the following purposes:

(1) seventy-five thousand dollars (\$75,000) for the office of guardianship to support the expansion of programs for alternatives to guardianship; and

(2) seventy-five thousand dollars (\$75,000) to expand special education student advocacy services provided by the office of the special education ombud;

H. to the department of health, the following amounts are appropriated for the following purposes:

(1) seventy-five thousand dollars (\$75,000) for the office of primary care and rural health to contract for an evaluation of medical respite for the homeless population;

(2) one hundred fifty thousand dollars (\$150,000) for the office of school and adolescent health for a program that provides youth development in leadership skills and media production;

(3) seventy-five thousand dollars (\$75,000) to contract for services for victims of sexual assault in Eddy county;

(4) three hundred ninety-five thousand dollars (\$395,000) for services for individuals and families living with amyotrophic lateral sclerosis;

(5) two hundred seventy-five thousand dollars (\$275,000) to purchase traumatic brain injury screening equipment, software and a mobile unit;

(6) one hundred fifty thousand dollars (\$150,000) for youth and teen mental health education and awareness, suicide prevention classes and professional development training for adults working with children;

(7) one million seventy-five thousand dollars (\$1,075,000) for a dance program for low-income, at-risk youth in public schools statewide;

(8) eighty thousand dollars (\$80,000) for a statewide multicultural music and dance program for low-income or at-risk youth in public schools;

(9) two hundred thousand dollars (\$200,000) for the behavioral health services division to provide one hundred percent peer outpatient services for substance use disorders focusing on opiate addiction and recovery with Espanola and weekly homeless street outreach efforts;

(10) seventy-five thousand dollars (\$75,000) for a dance program for low-income, at-risk youth in public schools in Chaves county;

(11) seventy-five thousand dollars (\$75,000) for a dance programs for low-income, at-risk youth in public schools in Eddy county;

(12) seventy-five thousand dollars (\$75,000) for a dance program for low-income, at-risk youth in the Rio Rancho public school district; and

(13) seventy-five thousand dollars (\$75,000) for the Valencia county community wellness council;

I. to the department of environment, the following amounts are appropriated for the following purposes:

(1) two hundred fifty thousand dollars (\$250,000) for planning, administration and oversight of uranium mine remediation and cleanup;

(2) three hundred seventy-five thousand dollars (\$375,000) for enhancing compliance assurance activities to hold polluters accountable;

(3) one hundred fifty thousand dollars (\$150,000) for waste reduction efforts, including the reduction of litter and disposable single-use plastic products; and

(4) one hundred thousand dollars (\$100,000) to purchase a bulldozer and electric motor vehicles for the south central solid waste authority;

J. to the veterans' services department, the following amounts are appropriated for the following purposes:

(1) seventy-five thousand dollars (\$75,000) to provide services at Fort Stanton to heal combat veterans and active duty service members who suffer from posttraumatic stress disorder;

(2) seventy-five thousand dollars (\$75,000) for the electronic medical records system, tracking coordinated community cares model, that will enhance patient care tracking and allow medical providers to track services more efficiently; and

(3) one hundred fifty thousand dollars (\$150,000) to contract for homeless veterans services for veterans and their families; and

K. to the children, youth and families department, the following amounts are appropriated for the following purposes:

(1) one hundred fifty thousand dollars (\$150,000) to contract for domestic violence victims and associated companion animal rescue services;

(2) seventy-five thousand dollars (\$75,000) to contract for community education for law enforcement, first responders and the courts on domestic violence, sexual violence and child maltreatment;

(3) in Farmington:

(a) one hundred thousand dollars (\$100,000) for a program that addresses domestic violence through intervention, treatment and shelter services, as well as prevention and education efforts; and

(b) seventy-five thousand dollars (\$75,000) for a program that provides support services to abused, neglected and abandoned children;

(4) seventy-five thousand dollars (\$75,000) to the protective services division for contractual services for youth mentorship in Bernalillo county;

(5) seventy-five thousand dollars (\$75,000) to fund a program for a youth club in central New Mexico;

(6) one hundred thousand dollars (\$100,000) to contract for counseling services and shelter services in Otero county;

(7) one hundred thousand dollars (\$100,000) to contract for counseling and shelter services in Otero and Lincoln counties; and

(8) seventy-five thousand dollars (\$75,000) to contract for domestic abuse intervention to victims of domestic violence in Sierra county.

## **Chapter 208 Section 7 Laws 2023**

SECTION 7. PUBLIC SAFETY FISCAL YEAR 2023 APPROPRIATIONS.--The appropriations in this section are from the general fund for the following agencies for expenditure in fiscal years 2023 and 2024 for the purposes specified and, unless otherwise indicated, the unexpended [~~or unencumbered~~] balance of an appropriation in this section at the end of fiscal year 2024 shall revert to the general fund: *LINE ITEM VETO*

A. seventy-five thousand dollars (\$75,000) is appropriated to the department of military affairs to purchase and equip vehicles;

B. to the crime victims reparation commission, the following amounts are appropriated for the following purposes:

(1) seventy-five thousand dollars (\$75,000) for services to individuals and families affected by domestic violence, sexual assault, child abuse and human trafficking;

(2) seventy-five thousand dollars (\$75,000) to contract with providers working with victims of sexual assault;

(3) eighty thousand dollars (\$80,000) for law-enforcement-based advocates for victims of homicide and other violent crime;

(4) eight hundred twenty thousand dollars (\$820,000) for services to victims of sexual assault;

(5) eight hundred thousand dollars (\$800,000) for services to individuals and families affected by domestic violence, sexual assault, child abuse, human trafficking and missing and murdered people in northwestern New Mexico;

(6) seventy-five thousand dollars (\$75,000) for sexual assault services in Albuquerque;

(7) seventy-five thousand dollars (\$75,000) for sexual assault services in Bernalillo county; and

(8) seventy-five thousand dollars (\$75,000) for sexual assault services for Dona Ana county; and

C. to the department of public safety, the following amounts are appropriated for the following purposes:

(1) one hundred fifty thousand dollars (\$150,000) for advanced training courses for law enforcement officers at the New Mexico law enforcement academy; and

(2) three hundred twenty-five thousand dollars (\$325,000) for costs and equipment for basic or advanced training at the New Mexico law enforcement academy.

## **Chapter 208 Section 8 Laws 2023**

~~[SECTION 8. TRANSPORTATION FISCAL YEAR 2023 APPROPRIATION. One hundred twenty-five thousand dollars (\$125,000) is appropriated from the general fund to the department of transportation for expenditure in fiscal years 2023 and 2024 to~~

~~acquire rights of way or to plan, design and construct storm drainage improvements in the Mountain View community in Bernalillo county. Any unexpended or unencumbered balance remaining at the end of fiscal year 2024 shall revert to the general fund.] LINE ITEM VETO~~

## **Chapter 208 Section 9 Laws 2023**

SECTION 9. PUBLIC EDUCATION FISCAL YEAR 2023 APPROPRIATIONS.--  
The following appropriations to the public education department are from the general fund for expenditure in fiscal years 2023 and 2024 for the purposes specified and, unless otherwise indicated, the unexpended [~~or unencumbered~~] balance of an appropriation in this section at the end of fiscal year 2024 shall revert to the general fund: *LINE ITEM VETO*

A. for statewide projects:

(1) three hundred seventy-five thousand dollars (\$375,000) for school-based inclusion programs that foster one-to-one friendships between students with and without intellectual and developmental disabilities;

(2) one hundred twenty thousand dollars (\$120,000) for a brain education program;

(3) one hundred thousand dollars (\$100,000) for high school dropout prevention programs serving at-risk populations;

(4) one hundred fifty thousand dollars (\$150,000) to contract for statewide in-person and virtual training to community and youth groups and to provide media literacy and multi-room production studio equipment; and

(5) seventy-five thousand dollars (\$75,000) to contract for a school re-engagement program that helps at-risk high school students graduate and attend college;

B. one hundred thousand dollars (\$100,000) to purchase stadium equipment and crew lights for the Alamogordo public school district;

C. for the Albuquerque public school district:

(1) one hundred fifty thousand dollars (\$150,000) to provide enhanced six-week summer and other out-of-school-time programming that includes literacy and mathematics enrichment, social-emotional learning, physical wellness and swimming, life and career skills and individualized tutoring for kindergarten through twelfth grade students attending public schools in the Albuquerque metropolitan area who are from under-resourced families; [~~provided that a report to the legislative education study~~

~~committee by October 1, 2024 shall include the effect of the programs on academic achievement and student and family engagement;] *LINE ITEM VETO*~~

(2) one hundred fifty thousand dollars (\$150,000) for an in-school re-engagement program for at-risk, underserved or disadvantaged students in Albuquerque;

(3) one hundred thousand dollars (\$100,000) for Title 1 after-school programs that help families overcome poverty;

(4) seventy-five thousand dollars (\$75,000) to contract for services and education pertaining to financial literacy, work readiness and entrepreneurial skills for kindergarten through twelfth grade students;

(5) seventy-five thousand dollars (\$75,000) for ~~[interns and]~~ mental wellness rooms in high schools ~~[in house district 28];~~ *LINE ITEM VETO*

(6) seventy-five thousand dollars (\$75,000) for the Robert F. Kennedy charter school for career technical education; ~~[and~~

~~(7) seventy-five thousand dollars (\$75,000) for Cien Aguas international school building and grounds improvements;] *LINE ITEM VETO*~~

D. seventy-five thousand dollars (\$75,000) for ~~[facilities improvements and]~~ equipment at the South Valley preparatory school in Bernalillo county; *LINE ITEM VETO*

E. two hundred thousand dollars (\$200,000) to purchase and repair playground equipment at La Merced elementary school in the Belen consolidated school district;

F. seventy-five thousand dollars (\$75,000) to fund a shooting and firearm training program for the Corona public school district;

G. eighty-five thousand dollars (\$85,000) to install electronic vape detectors at Deming high school in the Deming public school district;

H. seventy-five thousand dollars (\$75,000) to purchase equipment for Middle College high school in Gallup, including intercom, fire alarm systems, kitchen equipment, technology infrastructure, furniture and fixture equipment;

~~[I. one hundred thousand dollars (\$100,000) for repairs and renovations of Tydings auditorium in the Hobbs municipal school district;] *LINE ITEM VETO*~~

J. one hundred thousand dollars (\$100,000) for classroom extension programs, including travel, materials, certifications, workshops, field trips and training for teachers and students in the Las Cruces public school district;

K. one hundred twenty-five thousand dollars (\$125,000) to fund programs at Aldo Leopold charter school in Silver City;

L. eighty-five thousand dollars (\$85,000) to purchase and equip school vehicles for the Lordsburg municipal school district;

M. seventy-five thousand dollars (\$75,000) for science, technology, engineering and mathematics support and equipment for the Los Alamos public school district robotics teams;

N. seventy-five thousand dollars (\$75,000) to expand career technical education in the Lovington municipal school district;

O. ninety thousand dollars (\$90,000) for security and gunshot detection in the Mountainair public school district;

P. one hundred fifteen thousand dollars (\$115,000) for equipment at the career technical center in the Rio Rancho public school district;

Q. two hundred ninety thousand dollars (\$290,000) for the purchase of artificial intelligence equipment and to contract with consultants at the ASK academy charter school in Sandoval county;

R. four hundred fifty thousand dollars (\$450,000) for vehicle, equipment and supplies for career technical education career pathways in the Rio Rancho public school district;

S. for the Santa Fe public school district:

(1) seventy-five thousand dollars (\$75,000) for child care materials and educational resources;

(2) seventy-five thousand dollars (\$75,000) for a child care program;  
and

(3) one hundred thousand dollars (\$100,000) to promote performance arts using performing arts venues to extend outreach to youth groups in Santa Fe;

T. one hundred thousand dollars (\$100,000) to purchase a school vehicle for the Truth or Consequences municipal school district; and

U. seventy-five thousand dollars (\$75,000) for sports and audio equipment for schools in the West Las Vegas public school district.

## **Chapter 208 Section 10 Laws 2023**

SECTION 10. HIGHER EDUCATION FISCAL YEAR 2023 APPROPRIATIONS.--  
The appropriations in this section are from the general fund for the following agencies for expenditure in fiscal years 2023 and 2024 for the purposes specified and, unless otherwise indicated, the unexpended [~~or unencumbered~~] balance of an appropriation in this section at the end of fiscal year 2024 shall revert to the general fund: *LINE ITEM VETO*

A. to the higher education department, the following amounts are appropriated for the following purposes:

(1) seventy-five thousand dollars (\$75,000) for furniture and equipment for the mathematics and science building at Dine college in Shiprock;

(2) at the Crownpoint campus of Navajo technical university:

(a) seventy-five thousand dollars (\$75,000) to purchase advanced computer software and hardware for cybersecurity and training in the science, technology, engineering and mathematics program; and

(b) seventy-five thousand dollars (\$75,000) to purchase information technology equipment;

(3) one hundred thousand dollars (\$100,000) for materials for career technical education at Luna community college, Santa Fe community college, the Valencia branch of the university of New Mexico and the Ruidoso branch of eastern New Mexico university;

(4) two hundred thousand dollars (\$200,000) for materials for nursing education at Luna community college, Santa Fe community college, the Valencia branch of the university of New Mexico and the Ruidoso branch of eastern New Mexico university;

(5) one hundred thousand dollars (\$100,000) to coordinate opportunities for scholarships for behavioral health graduate students;

(6) one hundred thousand dollars (\$100,000) to contract for services that promote additional behavioral health programs in community colleges statewide;

(7) seventy-five thousand dollars (\$75,000) for programs designed to develop space industry involvement in programs that promote interest in science, technology, engineering and mathematics education and space careers;

(8) for Santa Fe community college:

(a) seventy-five thousand dollars (\$75,000) for the first born home visiting program for training, technical assistance and research for the model program;

(b) seventy-five thousand dollars (\$75,000) to provide equipment and supplies for the nursing program; and

(c) seventy-five thousand dollars (\$75,000) for the science, technology, engineering and mathematics program to conduct summer camps and a conference for underrepresented middle and high school students;

(9) for central New Mexico community college:

(a) seventy-five thousand dollars (\$75,000) for apprenticeship programs;

(b) seventy-five thousand dollars (\$75,000) to expand student support services, including mental wellness and food security programs;

(c) eighty-five thousand dollars (\$85,000) for program development to recruit underrepresented populations in high-demand skilled trade fields;

(d) seventy-five thousand dollars (\$75,000) for the women in the trades program;

(e) one hundred fifty thousand dollars (\$150,000) for job training for the deep dive program; and

(f) three hundred fifteen thousand dollars (\$315,000) for the venture studio to provide program support and technical assistance to entrepreneurs;

(10) for Luna community college, seventy-five thousand dollars (\$75,000) to provide career technical education;

(11) for New Mexico junior college:

(a) seventy-five thousand dollars (\$75,000) for noncredit high skills workforce training;

(b) two hundred thousand dollars (\$200,000) for wrap-around services for students in the nursing program; and

(c) one hundred thousand dollars (\$100,000) for equipment and supplies for the women's athletic program;

(12) for San Juan college:

(a) two hundred thousand dollars (\$200,000) for software in the continuing education program;

(b) seven hundred seventy-five thousand dollars (\$775,000) to purchase equipment for the heavy equipment operator program; and

(c) four hundred seventy-five thousand dollars (\$475,000) for cyber equipment; and

(13) for southeast New Mexico college, seventy-five thousand dollars (\$75,000) to purchase vehicles;

B. to the board of regents of the university of New Mexico, the following amounts are appropriated for the following purposes:

(1) two hundred thousand dollars (\$200,000) to purchase and equip snow-clearing vehicles and equipment for the Los Alamos and Taos branches;

(2) for the Los Alamos branch:

(a) one hundred fifty thousand dollars (\$150,000) for planning and design of a parking lot, staircase and plaza; and

(b) seventy-five thousand dollars (\$75,000) to purchase a multipurpose vehicle;

(3) for the Valencia branch, one hundred thousand dollars (\$100,000) for operating expenses, supplies and materials for the career technical education, early college and dual credit programs;

(4) for the department of economics, two hundred thousand dollars (\$200,000) for economic policy research;

(5) for the school of architecture and planning, one hundred fifty thousand dollars (\$150,000) for the Indigenous planning institute to purchase, upgrade or operate new audio-visual equipment, computers and software for use in immersive exhibit and smart classroom environments;

(6) six hundred fifty thousand dollars (\$650,000) for program expansion and operating costs of the Chicana and Chicano studies department;

(7) eighty thousand dollars (\$80,000) to the African American student services to support students;

(8) ninety-five thousand dollars (\$95,000) to support the Asian American Pacific Islander resource center;

(9) seventy-five thousand dollars (\$75,000) for student mental health, well-being and counseling services;

(10) one hundred thousand dollars (\$100,000) to establish an open education resources pilot program, in which faculty may create or implement free, open-sourced textbooks and reduce the cost of course materials;

(11) seventy-five thousand dollars (\$75,000) to provide services to the Dona Ana and Gadsden early childhood coalitions for the family development program, also known as community-based education;

(12) four hundred thousand dollars (\$400,000) for the student mentoring program to provide government training for high school students and the minority student services office;

(13) for the law school:

(a) one hundred fifty thousand dollars (\$150,000) for equipment and furniture for common areas; and

(b) seventy-five thousand dollars (\$75,000) for recruitment and retention;

(14) one million one hundred seventy-five thousand dollars (\$1,175,000) for the academic needs of student athletes to offset costs associated with tuition and fees, cost of attendance and other academic-based opportunities with the focus on supporting recruitment, retention and graduation;

(15) seventy-five thousand dollars (\$75,000) for the graduate and professional student association, health sciences student grant account to support health sciences student expenses to serve clinical rotations in rural New Mexico;

(16) for the health sciences center:

(a) two hundred thousand dollars (\$200,000) for the anesthesia program, including equipment;

(b) three hundred five thousand dollars (\$305,000) for the cerebral cavernous angioma initiative;

(c) two hundred thousand dollars (\$200,000) for the college of pharmacy and medicine to create practice guidelines and protocols for clinical and general pharmacists to examine, test, diagnose and treat simple disorders;

(d) seventy-five thousand dollars (\$75,000) for a program that prepares medical students to practice in underserved communities; and

(e) one hundred thousand dollars (\$100,000) for clinical equipment and research laboratory support for the department of neurosurgery;

(17) one hundred fifty thousand dollars (\$150,000) for a family and community engagement program for a statewide collaborative for minority student access and success, family and community engagement, leadership, professional development and policy development;

(18) one hundred fifty thousand dollars (\$150,000) for a family and community engagement program to provide workforce training and development initiatives in minority communities; and

(19) seventy-five thousand dollars (\$75,000) for a family and community engagement program to provide workforce training and development initiatives in minority communities served by New Mexico highlands university;

C. to the board of regents of New Mexico state university, the following amounts are appropriated for the following purposes:

(1) for the college of engineering:

(a) one hundred thousand dollars (\$100,000) for research and technical assistance to colonias; and

(b) seventy-five thousand dollars (\$75,000) for the hypersonics program for laboratory and research equipment;

(2) seventy-five thousand dollars (\$75,000) for the New Mexico space grant consortium to sustain an experimental pathway for students in kindergarten through twelfth grade with a focus on space-related challenges;

(3) seventy-five thousand dollars (\$75,000) to purchase a potato harvester;

(4) eighty thousand dollars (\$80,000) to purchase a corn planter;

(5) eighty thousand dollars (\$80,000) to purchase a mini excavator;

(6) eighty thousand dollars (\$80,000) to purchase an alfalfa plot harvester;

(7) seventy-five thousand dollars (\$75,000) to purchase and equip vehicles for the New Mexico state university police department;

(8) for the Alamogordo branch:

(a) two hundred fifty thousand dollars (\$250,000) for nursing education, equipment and supplies; and

(b) one hundred thousand dollars (\$100,000) to create and develop a nursing associate's degree program and to purchase equipment;

(9) for the Grants branch:

(a) three hundred fifty thousand dollars (\$350,000) for commercial driver's license training equipment and a truck; and

(b) two hundred seventy-five thousand dollars (\$275,000) for career technical education programs;

(10) seventy-five thousand dollars (\$75,000) for agricultural youth leadership programs for students at Goddard and Roswell high schools and for cooperative extension service youth leadership programs in Chaves county;

(11) one hundred thousand dollars (\$100,000) for programs, services and travel costs of the Artesia and Carlsbad agricultural youth leadership and cooperative extension service youth leadership programs;

(12) one hundred forty thousand dollars (\$140,000) for agricultural youth leadership programs in the Cloudcroft, Capitan, Carrizozo, Mosquero, Hondo Valley and Tularosa public school districts and for the Corona public school district for cooperative extension service youth leadership programs in Lincoln and Otero counties, Cloudcroft and High Rolls;

(13) for the New Mexico department of agriculture:

(a) one hundred thousand dollars (\$100,000) for equipment and scales for inspections; and

(b) one hundred thousand dollars (\$100,000) for agricultural youth leadership development programs in Eddy, Socorro, Sierra and Catron counties;

(14) for the agricultural experiment station:

(a) seventy-five thousand dollars (\$75,000) for sustainability initiatives and planning, materials and equipment costs relating to providing agricultural programming for youth through heritage farm and farm of the future;

(b) one hundred seventy thousand dollars (\$170,000) to purchase livestock transportation and other vehicles and equipment for the Corona range livestock research center;

(c) seventy-five thousand dollars (\$75,000) to purchase farm equipment for the Clayton livestock research center;

(d) three hundred ninety thousand dollars (\$390,000) for equipment at the Clovis agricultural science center;

(e) one hundred thousand dollars (\$100,000) for a rack media filter at the John T. Harrington forestry center in Mora county; and

(f) two hundred fifty thousand dollars (\$250,000) for the Tucumcari agricultural science center to research and assist with water conservation practices;

(15) for the cooperative extension service:

(a) seventy-five thousand dollars (\$75,000) for the cooperative extension service to purchase vehicles and to increase participation in dairy consortium research and education and statewide youth programs;

(b) seventy-five thousand dollars (\$75,000) for supplies and replacement vehicles for the Luna county cooperative extension service;

(c) seventy-five thousand dollars (\$75,000) for vehicle or supply purchases for the Roosevelt county cooperative extension service;

(d) seventy-five thousand dollars (\$75,000) for cooperative extension service youth leadership and development in Chaves and Eddy counties;

(e) one hundred thousand dollars (\$100,000) for cooperative extension service youth leadership programs, services, operations or travel for Roswell, Dexter, Goddard, Lake Arthur and Artesia high schools;

(f) seventy-five thousand dollars (\$75,000) for shooting sports in Lea county, including expenditures for supplies, maintenance, equipment, transportation and travel; and

(g) one hundred thousand dollars (\$100,000) for youth leadership and skill development programs in Eddy, Sierra, Socorro and Catron counties;

(16) for the athletic department:

(a) one hundred fifty thousand dollars (\$150,000) for athletic department equipment and supplies; and

(b) two hundred seventy-five thousand dollars (\$275,000) for football equipment, including helmets and other equipment; and

(17) for the New Mexico water resources research institute:

(a) seventy-five thousand dollars (\$75,000) to develop watershed, restoration and monitoring projects to mitigate flooding and improve aquifer recharge and watershed health;

(b) two hundred thousand dollars (\$200,000) for alternative water source research, development and deployment; and

(c) two hundred thousand dollars (\$200,000) for monitoring design systems;

D. to the board of regents of New Mexico highlands university, the following amounts are appropriated for the following purposes:

(1) one hundred sixty-five thousand dollars (\$165,000) to purchase learning materials and related equipment for the Thomas C. Donnelly library and the athletic department;

(2) seventy-five thousand dollars (\$75,000) for a selective legislative leadership fellowship program in which undergraduate and graduate students learn leadership, state government and the legislative process through practical experience and engagement with elected officials and participation in the legislative process during committee hearings and meetings at the legislature; and

(3) seventy-five thousand dollars (\$75,000) for alumni outreach and educational projects;

E. to the board of regents of western New Mexico university, the following amounts are appropriated for the following purposes:

(1) one hundred fifty thousand dollars (\$150,000) for athletic operations and travel costs; and

(2) two hundred twenty-five thousand dollars (\$225,000) to the Mimbres press for publication of literature supporting New Mexico writers and photographers;

F. to the board of regents of eastern New Mexico university, the following amounts are appropriated for the following purposes:

(1) two hundred thousand dollars (\$200,000) for child maltreatment training for social work students;

(2) eighty-five thousand dollars (\$85,000) to purchase audio and video recording equipment for the digital film department;

(3) one hundred thousand dollars (\$100,000) for the early childhood program and campus child development program to purchase equipment and educational materials at the Roswell branch; and

(4) two hundred thousand dollars (\$200,000) for student sport and recreation equipment and instructional materials at the Ruidoso branch;

G. to the board of regents of the New Mexico institute of mining and technology, the following amounts are appropriated for the following purposes:

(1) eighty thousand dollars (\$80,000) for operating costs and laboratory equipment in the chemical engineering department;

(2) seventy-five thousand dollars (\$75,000) for the mechanical engineering department's robotic outreach program to deliver technical competition-based projects for middle and high school student groups in science, technology, engineering and mathematics learning activities;

(3) for the bureau of geology and mineral resources:

(a) two hundred seventy-five thousand dollars (\$275,000) for staff and consultants to begin a community-based phased approach toward hydrogeologic mapping and characterizing the aquifers and water resources in regions of Rio Arriba county; and

(b) one hundred twenty-five thousand dollars (\$125,000) to hold water education sessions;

(4) seventy-five thousand dollars (\$75,000) for instrumentation for high resolution water chemistry and equipment for ground water characterization;

(5) one hundred thousand dollars (\$100,000) for the homeland security system;

(6) one hundred thousand dollars (\$100,000) for homeland security training at the Playas training and research center; and

(7) two hundred seventy-five thousand dollars (\$275,000) to the institute of complex and additive systems analysis to support the data integration advisory committee that will establish a statewide plan for data integration and data governance;

H. to the board of regents of northern New Mexico state school, the following amounts are appropriated for the following purposes:

(1) seventy-five thousand dollars (\$75,000) for programmatic operational support and student outreach;

(2) one hundred fifty thousand dollars (\$150,000) for culturally and linguistically informed college access and career development programming;

(3) one hundred thousand dollars (\$100,000) for staff and consultants to provide recruitment and retention services; and

(4) one hundred thousand dollars (\$100,000) to contract for collaborative minority student access and success for education, employment, economic development and cultural celebration at high schools in the Espanola valley and the surrounding area; and

I. one hundred fifty thousand dollars (\$150,000) is appropriated to the board of regents of the New Mexico military institute to provide additional funding for the activity fund to be used for transportation, supplies or contracts.

## **Chapter 208 Section 11 Laws 2023**

SECTION 11. TRANSFERS TO APPROPRIATION ACCOUNT OF GENERAL FUND.--In addition to the transfer authority provided in Section 14 of the General Appropriation Act of 2022, if revenue and transfers to the general fund at the end of fiscal year 2023 are not sufficient to meet appropriations, the governor, with state board of finance approval, may transfer up to four hundred thirty million dollars (\$430,000,000) to the appropriation account of the general fund from the operating reserve.

## **Chapter 208 Section 12 Laws 2023**

SECTION 12. TEMPORARY PROVISION.--Notwithstanding the provisions of Section 2-3-13 NMSA 1978 and Legislative Joint Rule 12-1, the legislative council service shall publish on the legislative website a searchable list of the appropriations contained in this act as it passed the legislature, the name of each legislator who allocated a portion of the appropriation and the amount of the verified allocation. The list

shall be published thirty days after adjournment of the first session of the fifty-sixth legislature.

## **LAWS 2023, CHAPTER 209**

**Senate Bill 153, w/ec**  
**Approved April 7, 2023**

### AN ACT

RELATING TO THE LEGISLATIVE COUNCIL SERVICE; REQUIRING THE LEGISLATIVE COUNCIL SERVICE TO PUBLISH ON THE LEGISLATIVE WEBSITE A SEARCHABLE LIST OF APPROPRIATION ALLOCATIONS CONTAINED IN A SUPPLEMENTAL GENERAL APPROPRIATION ACT; DECLARING AN EMERGENCY.

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

### **Chapter 209 Section 1 Laws 2023**

SECTION 1. A new section of Chapter 2, Article 3 NMSA 1978 is enacted to read:

"REQUIRED PUBLICATION OF APPROPRIATION ALLOCATIONS IN A SUPPLEMENTAL GENERAL APPROPRIATION ACT.--

A. The legislative council service shall publish on the legislative website a searchable list of each appropriation contained in a supplemental general appropriation act that passes the legislature after January 17, 2023. The list shall include the name of each legislator who allocates a portion of each appropriation and the amount of the verified allocation. The list, including vetoes, shall be published thirty days after the adjournment of the legislative session in which the supplemental general appropriation act is approved by both chambers of the legislature.

B. For the purposes of this section, a "supplemental general appropriation act" is an act that includes appropriations:

(1) for the expense of the executive, legislative and judiciary departments that are supplemental to the appropriations contained in separate legislation specifically designated as the "general appropriation act" of the relevant calendar year; and

(2) that are comprised of allocations by each member of the legislature of specific sums to specific objects."

## **Chapter 209 Section 2 Laws 2023**

SECTION 2. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
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## LAWS 2023, CHAPTER 210

### H AFC/House Bills 2 & 3, aa, w/cc, partial veto Approved April 7, 2023

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 210 Section 1 Laws 2023

Section 1. SHORT TITLE.--This act may be cited as the "General Appropriation Act of 2023".

### Chapter 210 Section 2 Laws 2023

Section 2. DEFINITIONS.--As used in the General Appropriation Act of 2023:

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;

		Other	Intrnl Svc		
	General	State	Funds/Inter-	Federal	
<u>Item</u>	<u>Fund</u>	<u>Funds</u>	<u>Agency Trnsf</u>	<u>Funds</u>	<u>Total/Target</u>

E. "full-time equivalent" means one or more authorized positions that alone or together receives or receive compensation for not more than two thousand eighty-eight hours worked in fiscal year 2024. 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 2023;

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 2023;

(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;

		Other	Intrnl Svc		
	General	State	Funds/Inter-	Federal	
<u>Item</u>	<u>Fund</u>	<u>Funds</u>	<u>Agency Trnsf</u>	<u>Funds</u>	<u>Total/Target</u>

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 210 Section 3 Laws 2023

### 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 2023, or so much as may be necessary, are appropriated from the indicated source for expenditure in fiscal year 2024 for the objects expressed.

~~[D. By October 1, 2023, up to seventy-five million dollars (\$75,000,000) of total unexpended balances in agency accounts remaining at the end of fiscal year 2023 shall revert to the general fund and any additional amounts, excluding agency revenue accounts that would otherwise revert to the general fund, shall revert to the severance tax permanent fund unless otherwise indicated in the General Appropriation Act of 2023 or otherwise provided by law. If total general fund reversions, excluding agency revenue~~

		Other	Intrnl Svc		
	General	State	Funds/Inter-	Federal	
<u>Item</u>	<u>Fund</u>	<u>Funds</u>	<u>Agency Trnsf</u>	<u>Funds</u>	<u>Total/Target</u>

~~accounts that would otherwise revert to the general fund, exceed seventy-five million dollars (\$75,000,000) as calculated by the department of finance and administration, the excess amount should be transferred by the department to the severance tax permanent fund as soon as practical.~~

~~E. By October 1, 2024, up to seventy-five million dollars (\$75,000,000) of total unexpended balances in agency accounts remaining at the end of fiscal year 2024 shall revert to the general fund and any additional amounts, excluding agency revenue accounts that would otherwise revert to the general fund, shall revert to the severance tax permanent fund unless otherwise indicated in the General Appropriation Act of 2023 or otherwise provided by law. If total general fund reversions, excluding agency revenue accounts that would otherwise revert to the general fund, exceed seventy-five million dollars (\$75,000,000) as calculated by the department of finance and administration, the excess amount should be transferred by the department to the severance tax permanent fund as soon as practical.]~~ *LINE ITEM VETO*

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 2023, appropriations are made in this act for the expenditures of agencies and for other purposes as required by existing law for fiscal year 2024. If any other act of the first session of the fifty-sixth 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 2023 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 shall regularly consult with the legislative finance committee staff to compare fiscal year 2024 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

		Other	Intrnl Svc		
	General	State	Funds/Inter-	Federal	
<u>Item</u>	<u>Fund</u>	<u>Funds</u>	<u>Agency Trnsf</u>	<u>Funds</u>	<u>Total/Target</u>

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 2023 may be expended for payment of agency-issued credit card invoices.

K. For the purpose of administering the General Appropriation Act of 2023, 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 210 Section 4 Laws 2023

		Other	Intrnl Svc		
	General	State	Funds/Inter-	Federal	
<u>Item</u>	<u>Fund</u>	<u>Funds</u>	<u>Agency Trnsf</u>	<u>Funds</u>	<u>Total/Target</u>

Section 4. FISCAL YEAR 2024 APPROPRIATIONS.

### A. LEGISLATIVE

#### LEGISLATIVE COUNCIL SERVICE:

Legislative building services:

Appropriations:

(a) Personal services and employee benefits	3,835.9				3,835.9
(b) Contractual services	249.7				249.7
(c) Other	1,178.7				1,178.7

	General	Other	Intrnl Svc	Funds/Inter-	Federal	
Item	Fund	Funds	Agency Trnsf	Funds	Total/Target	
Subtotal					5,264.3	
TOTAL LEGISLATIVE	5,264.3					

## 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	429.9	688.3	400.0	1,518.2
Subtotal				1,518.2

### 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	1,041.9			1,041.9
Subtotal				1,041.9

### COURT OF APPEALS:

The purpose of the court of appeals 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

<u>Item</u>	<u>Fund</u>	<u>Funds</u>	<u>Agency Trnsf</u>	<u>Funds</u>	<u>Total/Target</u>
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independently protect the rights and liberties guaranteed by the constitutions of New Mexico and the United States.

Appropriations:

(a) Operations	8,389.4	1.0			8,390.4
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Performance measures:

(a) Outcome:	Age of active pending civil cases, in days				365
Subtotal					8,390.4

**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	7,755.4	1.5			7,756.9
Subtotal					7,756.9

**ADMINISTRATIVE OFFICE OF THE COURTS:**

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.

(1) Administrative support:

Appropriations:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(a) Personal services and employee benefits	7,145.2			404.9	7,550.1
(b) Contractual services	1,747.1	163.7		1,835.4	3,746.2
(c) Other	2,978.4	1,495.0	313.6	90.3	4,877.3

(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	6,178.9	1,345.4			7,524.3
(b) Contractual services	250.0	907.5			1,157.5
(c) Other	250.0	7,840.5			8,090.5

(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	1,431.6	1,263.2			2,694.8
(b) Contractual services	671.1	1,172.6			1,843.7
(c) Other	9,557.3	1,701.6			11,258.9

(4) Special court services:

Item	General Fund	Other	Intrnl Svc	Federal	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

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) Pre-trial services	1,693.0				1,693.0
(b) Court-appointed special advocate	1,408.6				1,408.6
(c) Supervised visitation	1,220.2				1,220.2
(d) Water rights		501.0	386.9		887.9
(e) Court-appointed attorneys	1,272.6				1,272.6
(f) Children's mediation	284.5				284.5
(g) Jury and witness program	1,141.1	4,750.0			5,891.1
(h) Judges pro tem	27.5	41.6			69.1
(i) Judicial education services	1,596.1				1,596.1
(j) Access to justice	244.7				244.7
(k) Statewide alternative dispute resolution	203.4				203.4
(l) Drug court	1,848.7				1,848.7
(m) Drug court fund		741.4	2,176.5		2,917.9
(n) Adult guardianship	338.0				338.0
Subtotal					68,619.1

**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.

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

Appropriations:

(a) Operations	12,426.0	475.9	837.3		13,739.2
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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	31,314.8	4,769.4	1,651.5		37,735.7
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The other state funds appropriation to the the second judicial district court includes seven hundred thirty-six thousand six hundred dollars (\$736,600) from the mortgage regulatory fund of the regulation and licensing department for foreclosure mediation. Any unexpended balances in the second judicial district court program from the appropriation made from the mortgage regulatory fund at the end of fiscal year 2024 shall revert to the mortgage regulatory fund.

(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	12,639.0	288.0	1,604.5	29.1	14,560.6
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Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

(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	5,071.3	48.3	705.8	5,825.4
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(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	12,694.9	352.4	648.7	13,696.0
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(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	6,869.7	75.4	539.3	7,484.4
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<u>Item</u>	<u>Fund</u>	<u>Funds</u>	<u>Agency Trnsf</u>	<u>Funds</u>	<u>Total/Target</u>
	General	Other State	Intrnl Svc Funds/Inter-	Federal	

(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	4,678.3	35.0	475.7	5,189.0
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(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:

(a) Operations	5,870.5	149.0	179.3	6,198.8
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(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	6,206.7	81.5	264.6	6,552.8
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Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter- Agency Trnsf	Federal Funds	Total/Target

(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	2,172.6	8.4			2,181.0
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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	13,278.4	409.0	997.6		14,685.0
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(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	6,356.1	137.0	126.8		6,619.9
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Item	Fund	Funds	Agency Trnsf	Funds	Total/Target
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(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	13,706.3	395.9	846.9		14,949.1
Subtotal					149,416.9

**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	28,827.0	2,993.5	553.6	389.3	32,763.4
Subtotal					32,763.4

**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.

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

Appropriations:

(a) Personal services and employee benefits	7,396.0		152.6	120.1	7,668.7
(b) Contractual services	97.8				97.8
(c) Other	611.0				611.0

Performance measures:

(a) Explanatory:	Percent of pretrial 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	25,713.2	547.5	513.0	395.6	27,169.3
(b) Contractual services	694.9		75.0	275.0	1,044.9
(c) Other	1,903.4	25.0	180.0		2,108.4

Performance measures:

(a) Explanatory:	Number of pretrial detention motions made
(b) Explanatory:	Percent of pretrial detention motions granted

(3) Third judicial district:

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	

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 employee benefits	6,066.1		77.6	340.9	6,484.6
(b) Contractual services	20.2				20.2
(c) Other	369.2				369.2

Performance measures:

(a) Explanatory:	Percent of pretrial 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	3,993.2				3,993.2
(b) Contractual services	78.8				78.8
(c) Other	248.5				248.5

Performance measures:

(a) Explanatory:	Number of pretrial detention motions made
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Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

(b) Explanatory: Percent of pretrial 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	6,547.4		287.7	6,835.1
(b) Contractual services	147.5			147.5
(c) Other	345.6			345.6

Performance measures:

(a) Explanatory: Percent of pretrial detention motions granted  
 (b) Explanatory: Number of pretrial detention motions made

(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	3,549.8	143.2	112.7	3,805.7
(b) Contractual services	14.2			14.2
(c) Other	279.1			279.1

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	

Performance measures:

- (a) Explanatory: Percent of pretrial detention motions granted
- (b) Explanatory: Number of pretrial detention motions made

(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	3,307.2	3,307.2
(b) Contractual services	15.3	15.3
(c) Other	185.7	185.7

Performance measures:

- (a) Explanatory: Number of pretrial detention motions made
- (b) Explanatory: Percent of pretrial detention motions granted

(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:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(a) Personal services and employee benefits	3,656.2				3,656.2
(b) Contractual services	146.1				146.1
(c) Other	237.5				237.5

Performance measures:

- (a) Explanatory: Number of pretrial detention motions made
- (b) Explanatory: Percent of pretrial detention motions granted

(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	3,979.6				3,979.6
(b) Contractual services	13.0				13.0
(c) Other	166.4				166.4

Performance measures:

- (a) Explanatory: Percent of pretrial 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

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

ensure the protection, safety, welfare and health of the citizens within Quay, Harding and De Baca counties.

Appropriations:

(a) Personal services and employee benefits	1,805.8				1,805.8
(b) Contractual services	25.0				25.0
(c) Other	163.9				163.9

Performance measures:

(a) Explanatory:	Number of pretrial detention motions made
(b) Explanatory:	Percent of pretrial detention motions granted

(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	5,779.8	135.0	234.3	6,149.1
(b) Contractual services	239.8			239.8
(c) Other	333.5	1.9		335.4

Performance measures:

(a) Explanatory:	Percent of pretrial detention motions granted
(b) Explanatory:	Number of pretrial detention motions made

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

(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 employee benefits	2,979.4	337.0			3,316.4
(b) Contractual services	155.9				155.9
(c) Other	175.5				175.5

Performance measures:

(a) Explanatory:	Number of pretrial detention motions made
(b) Explanatory:	Percent of pretrial 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	4,267.9		118.7	194.8	4,581.4
(b) Contractual services	101.3				101.3
(c) Other	319.0				319.0

Performance measures:

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	
(a) Explanatory:		Number of pretrial detention motions made			
(b) Explanatory:		Percent of pretrial 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	7,328.5	112.5			7,441.0
(b) Contractual services	150.0	25.0			175.0
(c) Other	469.0	10.0			479.0

Performance measures:

(a) Explanatory:	Number of pretrial detention motions made				
(b) Explanatory:	Percent of pretrial detention motions granted				
Subtotal					98,492.3

**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 they may obtain and access the necessary resources to effectively and efficiently carry out their prosecutorial, investigative and programmatic functions.

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
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Appropriations:

(a) Personal services and employee benefits	1,939.0				1,939.0
(b) Contractual services	370.4	16.9			387.3
(c) Other	886.1	96.4			982.5
Subtotal					3,308.8

**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	45,149.8				45,149.8
(b) Contractual services	18,227.9	453.6			18,681.5
(c) Other	6,131.7				6,131.7

Performance measures:

(a) Output:	Average cases assigned to attorneys yearly				330
Subtotal					69,963.0
TOTAL JUDICIAL	387,998.3	34,456.9	14,105.6	4,710.1	441,270.9

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

## 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	11,754.1		11,716.5	710.2	24,180.8
(b) Contractual services	564.5		524.3	50.7	1,139.5
(c) Other	2,726.8		2,468.4	448.5	5,643.7

The internal service funds/interagency transfers appropriation to the legal services program of the attorney general includes fourteen million seven hundred nine thousand two hundred dollars (\$14,709,200) from the consumer settlement fund of the office of the attorney general.

#### (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	782.1			2,346.2	3,128.3
(b) Contractual services	73.6			221.4	295.0
(c) Other	158.0			473.7	631.7
Subtotal					35,019.0

		Other	Intrnl Svc		
	General	State	Funds/Inter-	Federal	
<u>Item</u>	<u>Fund</u>	<u>Funds</u>	<u>Agency Trnsf</u>	<u>Funds</u>	<u>Total/Target</u>

### 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	3,273.7	791.7			4,065.4
(b) Contractual services	86.0				86.0
(c) Other	538.0				538.0
Subtotal					4,689.4

### 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	27,224.0	777.3		1,296.7	29,298.0
(b) Contractual services	945.2			28.2	973.4
(c) Other	6,562.4	429.7		281.3	7,273.4

#### Performance measures:

(a) Outcome:	Collections as a percent of collectible outstanding balances from the end of the prior fiscal year	20%
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Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(b) Outcome:	Collections as a percent of collectible audit assessments generated in the previous fiscal year				60%

(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	15,880.6	5,906.5		365.7	22,152.8
(b) Contractual services		7,485.1		140.0	7,625.1
(c) Other		12,566.2		88.0	12,654.2
(d) Other financing uses		10,094.5			10,094.5

The other state funds appropriations to the motor vehicle program of the taxation and revenue department include ten million dollars (\$10,000,000) 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	92%
(b) Efficiency:	Average call center wait time to reach an agent, in minutes	10
(c) Efficiency:	Average wait time in qmatic-equipped offices, in minutes	15

(3) Property tax:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

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		3,698.4			3,698.4
(b) Contractual services		1,219.4			1,219.4
(c) Other		1,392.0			1,392.0

Performance measures:

(a) Outcome:	Percent of total delinquent property taxes recovered	15%
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(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	1,656.0			1,656.0
(b) Contractual services	9.4			9.4
(c) Other	295.6			295.6

(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

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

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	15,502.4	673.5			16,175.9
(b) Contractual services	4,593.1				4,593.1
(c) Other	2,954.9				2,954.9
Subtotal					122,066.1

**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			4,893.8		4,893.8
(b) Contractual services			60,015.0		60,015.0
(c) Other			780.9		780.9

Performance measures:

(a) Outcome:	Five-year annualized investment returns to exceed internal benchmarks, in basis points	12.5
(b) Outcome:	Five-year annualized percentile performance ranking in endowment investment peer universe	49%
Subtotal		65,689.7

		Other	Intrnl Svc		
	General	State	Funds/Inter-	Federal	
Item	Fund	Funds	Agency Trnsf	Funds	Total/Target

**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	1,762.6	165.0			1,927.6
(b) Contractual services	18.4		55.0		73.4
(c) Other	260.8		12.7		273.5

The other state funds appropriation to the administrative hearings office includes one hundred sixty-five thousand dollars (\$165,000) from the motor vehicle suspense fund.

The internal service funds/interagency transfers appropriations to the administrative hearings office includes fifty thousand dollars (\$50,000) from the human services department to support medicaid hearing officers.

Performance measures:

(a) Outcome:	Percent of hearings for implied consent act cases not held within ninety days due to administrative hearings office error	0.5%
Subtotal		2,274.5

**DEPARTMENT OF FINANCE AND ADMINISTRATION:**

(1) Policy development, fiscal analysis, budget oversight and education accountability:

Item	General Fund	Other	Intrnl Svc	Federal	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

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	3,962.7				3,962.7
(b) Contractual services	774.5				774.5
(c) Other	965.8				965.8
(d) Other financing uses	22,566.8				22,566.8

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 four million dollars (\$4,000,000) in fiscal year 2024. Repayments of emergency 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.

The general fund appropriations to the policy development, fiscal analysis, budget oversight and education accountability program of the department of finance and administration include twenty million dollars (\$20,000,000) for transfer to the public education department to implement universal free meals, two million four hundred thousand dollars (\$2,400,000) for transfer to the public education department for food programs and one hundred sixty-six thousand eight hundred dollars (\$166,800) to support personnel and employee benefits [~~for the New Mexico department of agriculture~~] for food programs. *LINE ITEM VETO*

Performance measures:

(a) Outcome:	General fund reserves as a percent of recurring appropriations	30%
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Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(b) Outcome:	Error rate for the eighteen-month general fund revenue forecast, excluding oil and gas revenue and corporate income taxes				5%
(c) Outcome:	Error rate for the eighteen-month general fund revenue forecast, including oil and gas revenue and corporate income taxes				5%

(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 employee benefits	2,950.0	1,193.5		393.9	4,537.4
(b) Contractual services	4,187.0	1,057.3		11.0	5,255.3
(c) Other	183.8	33,018.4		21,350.3	54,552.5
(d) Other financing uses		550.0			550.0

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 eleven thousand three hundred dollars (\$12,411,300) from the enhanced 911 fund, twenty-two million three hundred seven thousand nine hundred dollars (\$22,307,900) from the local DWI grant fund and one million one hundred thousand dollars (\$1,100,000) from the civil legal services fund.

The general fund appropriations to the community development, local government assistance and fiscal oversight program of the department of finance and administration include eighty thousand dollars (\$80,000) for the town of Bernalillo for financial systems support.

(3) Fiscal management and oversight:

Item	General Fund	Other	Intrnl Svc	Federal	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

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.

Appropriations:

(a) Personal services and employee benefits	5,156.8				5,156.8
(b) Contractual services	1,338.7				1,338.7
(c) Other	417.1				417.1
(d) Other financing uses		78,077.0	16,250.0		94,327.0

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 sixteen million two hundred fifty thousand dollars (\$16,250,000) 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 sixteen million two hundred seventy-seven thousand dollars (\$16,277,000) 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 sixty-one million eight hundred thousand dollars (\$61,800,000) from the county-supported medicaid fund.

Performance measures:

(a) Efficiency:	Percent of correctly vouchered and approved vendor payments processed within two working days	100%
(b) Output:	Percent of bank accounts reconciled on an annual basis	100%

(4) Program support:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

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 employee benefits	2,083.6				2,083.6
(b) Contractual services	115.8				115.8
(c) Other	278.0				278.0

(5) Dues and membership fees/special appropriations:

Appropriations:

(a) Emergency water supply fund	109.9				109.9
(b) Fiscal agent contract	1,064.8				1,064.8
(c) State planning districts	693.0				693.0
(d) Statewide teen court	17.7	120.2			137.9
(e) Law enforcement protection fund		15,300.0			15,300.0
(f) Leasehold community assistance	180.0				180.0
(g) Acequia and community ditch education program	498.2				498.2
(h) New Mexico acequia commission	88.1				88.1
(i) Land grant council	626.9				626.9
(j) Membership and dues	148.0				148.0
(k) County detention of prisoners	5,000.0				5,000.0

Item	Fund	Other State Funds	Intrnl Svc Funds/Inter- Agency Trnsf	Federal Funds	Total/Target
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The department of finance and administration shall not distribute a general fund appropriation made in items (a) through (i) and item (k) to a New Mexico agency or local public body that is not current on its audit or financial reporting or otherwise not in compliance with the Audit Act.

Subtotal

220,728.8

### **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	370,984.4	370,984.4
(b) Other financing uses	791.0	791.0

~~[The other state funds appropriations to the benefits program of the public school insurance authority are contingent on the authority contracting with an independent third-party consultant to conduct a claims payment integrity review for claims filed in fiscal year 2022 and fiscal year 2023 by all health systems and hospitals.] LINE ITEM VETO~~

Performance measures:

(a) Outcome:	Percent change in per-member health claim costs	4.6%
(b) Outcome:	Percent change in medical premium as compared with industry average	4.5%

(2) Risk:

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	

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	100,043.3	100,043.3
(b) Other financing uses	790.1	790.1

Performance measures:

(a) Explanatory:	Total dollar amount of excess insurance claims for property, in thousands
(b) Explanatory:	Total dollar amount of excess insurance claims for liability, in thousands
(c) Explanatory:	Total dollar amount of excess insurance claims for workers' compensation, in thousands

(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	1,305.4	1,305.4
(b) Contractual services	90.4	90.4
(c) Other	185.3	185.3

Any unexpended balances in program support of the public school insurance authority remaining at the end of fiscal year 2024 shall revert in equal amounts to the benefits program and risk program.

Subtotal	474,189.9
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Item	Fund	Other	Intrnl Svc	Funds/Inter- Agency Trnsf	Federal	Total/Target
		State	Funds		Funds	

**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	390,376.7	390,376.7
(b) Other	45.0	45.0
(c) Other financing uses	3,781.3	3,781.3

~~[The other state funds appropriations to the healthcare benefits administration program of the retiree health care authority is contingent on the authority contracting with an independent third-party consultant to conduct a claims payment integrity review for claims filed in fiscal year 2022 and fiscal year 2023 by all health systems and hospitals for pre-medicare health plans.] LINE ITEM VETO~~

Performance measures:

(a) Output:	Minimum number of years of positive fund balance	30
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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:

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter- Agency Trnsf	Federal Funds	Total/Target
(a) Personal services and employee benefits			2,453.8		2,453.8
(b) Contractual services			702.3		702.3
(c) Other			625.2		625.2

Any unexpended balances in program support of the retiree health care authority remaining at the end of fiscal year 2024 shall revert to the healthcare benefits administration program.

Subtotal 397,984.3

### 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	30,703.3	30,703.3
(b) Other	332,438.9	332,438.9

Performance measures:

(a) Outcome:	Percent change in state employee medical premium	5%
(b) Outcome:	Percent change in the average per-member per-month total healthcare cost	5%
(c) Efficiency:	Annual loss ratio for the health benefits fund	98%
(d) Explanatory:	Projected year-end fund balance of the health benefits fund, in thousands	

(2) Risk management:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

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			5,066.0		5,066.0
(b) Contractual services			190.0		190.0
(c) Other			449.5		449.5
(d) Other financing uses			4,821.2		4,821.2

Any unexpended balances in the risk management program of the general services department remaining at the end of fiscal year 2024 shall revert to the public liability fund, public property rescue fund, workers' compensation retention fund, state unemployment compensation fund, local public body unemployment compensation fund and group self-insurance fund based on the proportion of each individual fund's assessment for the risk management program.

(3) Risk management funds:

The purpose of the risk management funds is to provide public liability, public property and workers' compensation coverage to state agencies and employees.

Appropriations:

(a) Contractual services		29,500.0		29,500.0
(b) Other		63,536.8		63,536.8
(c) Other financing uses		10,526.7		10,526.7

The other state funds appropriations to the risk management funds program include sufficient funding to pay costs of providing liability and workers' compensation insurance to members of the New Mexico mounted patrol.

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter- Agency Trnsf	Federal Funds	Total/Target

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	692.5	692.5
(b) Contractual services	100.0	100.0
(c) Other	1,841.1	1,841.1
(d) Other financing uses	60.0	60.0

Performance measures:

- (a) Output: Percent of state printing revenue exceeding expenditures 5%

(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:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(a) Personal services and employee benefits	10,730.0				10,730.0
(b) Contractual services	286.6				286.6
(c) Other	7,875.2				7,875.2

Performance measures:

(a) Outcome: Percent of new office space leases achieving adopted space standards 91%

(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	324.0	2,124.6		2,448.6
(b) Contractual services	2.5	199.5		202.0
(c) Other	230.3	8,065.5		8,295.8
(d) Other financing uses		410.0		410.0

Performance measures:

(a) Outcome: Percent of leased vehicles used daily or 750 miles per month 70%

(7) Procurement services:

Item	General Fund	Other	Intrnl Svc	Federal	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

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		2,399.5			2,399.5
(b) Contractual services		29.0			29.0
(c) Other		213.4			213.4
(d) Other financing uses		146.4			146.4

Performance measures:

(a) Output:	Average number of days for completion of contract review	5
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(8) Program support:

The purpose of program support is to provide leadership and policy direction, establish department procedures, manage program performance, oversee department human resources and finances and provide information technology business solutions.

Appropriations:

(a) Personal services and employee benefits		4,272.6			4,272.6
(b) Contractual services		354.5			354.5
(c) Other		810.5			810.5

Any unexpended balances in program support of the general services department remaining at the end of fiscal year 2024 shall revert to the procurement services, state printing services, risk management and

Item	General Fund	Other	Intrnl Svc	Federal	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

transportation services programs based on the proportion of each individual program's assessment for program support.

Subtotal 518,400.1

**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	9,731.8	9,731.8
(b) Contractual services	20,000.0	20,000.0
(c) Other	1,927.7	1,927.7

The other state funds appropriation to the educational retirement fund program of the educational retirement board in the personal services and employee benefits category includes sufficient funds for the educational retirement board to grant targeted pay increases and provide competitive salaries for investment staff.

Performance measures:

(a) Outcome:	Funding period of unfunded actuarial accrued liability, in years	30
(b) Explanatory:	Ten-year performance ranking in a national peer survey of public plans	
Subtotal		31,659.5

		Other	Intrnl Svc		
	General	State	Funds/Inter-	Federal	
<u>Item</u>	<u>Fund</u>	<u>Funds</u>	<u>Agency Trnsf</u>	<u>Funds</u>	<u>Total/Target</u>

### 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	1,052.7		52.0		1,104.7
(b) Other	335.9				335.9
Subtotal					1,440.6

### 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	5,400.8				5,400.8
(b) Contractual services	86.0				86.0
(c) Other	507.4				507.4
Subtotal					5,994.2

### LIEUTENANT GOVERNOR:

#### (1) State ombudsman:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

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	509.9				509.9
(b) Contractual services	36.9				36.9
(c) Other	92.3				92.3
Subtotal					639.1

**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	1,644.2	121.2			1,765.4
(b) Contractual services	3,000.0	1,021.5			4,021.5
(c) Other	1,000.0	130.8			1,130.8

Performance measures:

(a) Outcome:	Percent of information technology professional service contracts greater than one million dollars in value reviewed within seven business days	95%
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Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(b) Outcome:	Percent of information technology professional service contracts less than one million dollars in value reviewed within five business days				98%

(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		11,552.0			11,552.0
(b) Contractual services		5,587.4			5,587.4
(c) Other		33,933.3			33,933.3
(d) Other financing uses		9,458.0			9,458.0

Performance measures:

(a) Outcome:	Percent of service desk incidents resolved within the timeframe specified for their priority level	97%
(b) Output:	Number of independent vulnerability scans of information technology assets identifying potential cyber risks	4

(3) Equipment replacement revolving funds:

Appropriations:

(a) Other	3,251.1	9,458.0	12,709.1
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(4) Broadband access and expansion:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

Appropriations:

(a) Personal services and employee benefits	1,118.3				1,118.3
(b) Contractual services	125.0				125.0
(c) Other	79.3				79.3

(5) 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		3,839.9			3,839.9
(b) Contractual services		46.0			46.0
(c) Other		305.7			305.7

Performance measures:

(a) Output:	Percent difference between enterprise service revenues and expenditures for cost recovery of service delivery	10%
Subtotal		85,671.7

**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.

Item	General Fund	Other	Intrnl Svc	Federal	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

Appropriations:

(a) Personal services and employee benefits	52.8	9,318.2			9,371.0
(b) Contractual services		25,968.8			25,968.8
(c) Other		4,258.2			4,258.2

The other state funds appropriation to the pension administration program of the public employees retirement association in the personal services and employee benefits category includes sufficient funds for the retirement board of the public employees retirement association to grant targeted pay increases and provide competitive salaries for investment staff.

Performance measures:

(a) Outcome:	Funding period of unfunded actuarial accrued liability, in years	30
(b) Explanatory:	Average rate of net return over the last five years	
Subtotal		39,598.0

### 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	2,682.0			2,682.0
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Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(b) Contractual services	68.0				68.0
(c) Other	156.9	186.3		15.3	358.5
Subtotal					3,108.5

### 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	3,704.5				3,704.5
(b) Contractual services	177.9				177.9
(c) Other	644.5	78.1			722.6

#### (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	1,779.2				1,779.2
(b) Contractual services	1,438.8	25.5			1,464.3
(c) Other	8,167.8	525.8			8,693.6

#### Performance measures:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(a) Outcome:	Percent of eligible voters registered to vote				85%
(b) Outcome:	Percent of reporting individuals in compliance with campaign finance reporting requirements				97%
Subtotal					16,542.1

### PERSONNEL BOARD:

#### (1) Human resource management:

The purpose of the human resource management program is to provide a merit-based system in partnership with state agencies, 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	3,825.2	182.0	4,007.2
(b) Contractual services	76.0		76.0
(c) Other	216.4		216.4

#### Performance measures:

(a) Explanatory:	Average number of days to fill a position from the date of posting		
(b) Explanatory:	Classified service vacancy rate		
(c) Explanatory:	Number of salary increases awarded		
(d) Explanatory:	Average classified service employee total compensation		
(e) Explanatory:	Cost of overtime pay		
Subtotal	4,299.6		

Item	General Fund	Other	Intrnl Svc	Funds/Inter- Agency Trnsf	Federal	Total/Target
		State Funds			Funds	

**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 employer.

Appropriations:

(a) Personal services and employee benefits	191.5				191.5
(b) Contractual services	19.2				19.2
(c) Other	62.8				62.8
Subtotal					273.5

**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	3,086.6	361.0		2.0	3,449.6
(b) Contractual services	493.5	29.0			522.5
(c) Other	717.2				717.2

Performance measures:

(a) Outcome:	One-year annualized investment return on general fund core portfolio to exceed internal benchmarks, in basis points				10
Subtotal					4,689.3
TOTAL GENERAL CONTROL	213,027.5	1,665,972.0	127,735.3	28,223.1	2,034,957.9

		Other	Intrnl Svc		
	General	State	Funds/Inter-	Federal	
<u>Item</u>	<u>Fund</u>	<u>Funds</u>	<u>Agency Trnsf</u>	<u>Funds</u>	<u>Total/Target</u>

## 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		401.2		401.2
(b) Contractual services		46.7		46.7
(c) Other		83.3		83.3
Subtotal				531.2

### STATE ETHICS COMMISSION:

The purpose of the New Mexico state ethics commission is to receive, investigate and adjudicate complaints against public officials, public employees, candidates, those subject to the Campaign Reporting Act, government contractors, lobbyists and lobbyists' employers and to ensure that public ethics laws are clear, comprehensive and effective.

#### Appropriations:

(a) Personal services and employee benefits	1,122.7		1,122.7
(b) Contractual services	200.0		200.0
(c) Other	137.5		137.5
Subtotal			1,460.2

Item	General Fund	Other	Intrnl Svc	Funds/Inter- Agency Trnsf	Federal	Total/Target
		State Funds			Funds	

**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	432.6				432.6
(b) Contractual services	9.4	34.4			43.8
(c) Other	26.9	74.3			101.2

Performance measures:

(a) Outcome:	Annual trade share of New Mexico ports within the west Texas and New Mexico region	35%
(b) Outcome:	Number of commercial and noncommercial vehicles passing through New Mexico ports	2,100,000
Subtotal		577.6

**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:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(a) Personal services and employee benefits	1,238.8				1,238.8
(b) Contractual services	1,387.2				1,387.2
(c) Other	18,126.1	530.0			18,656.1

Performance measures:

(a) Outcome:	Percent change in New Mexico leisure and hospitality employment	3%
(b) Output:	Percent change in year-over-year visitor spending	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	1,094.8	82.3	1,177.1
(b) Contractual services	4.0	1.2	5.2
(c) Other	460.4	1,363.4	1,823.8

Performance measures:

(a) Output:	Number of entities participating in collaborative applications for the cooperative marketing grant program	60
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(3) New Mexico magazine:

Item	General Fund	Other	Intrnl Svc	Federal	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

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		993.2			993.2
(b) Contractual services		830.0			830.0
(c) Other		1,419.2			1,419.2

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	1,754.4	1,754.4
(b) Contractual services	32.5	32.5
(c) Other	142.5	142.5
Subtotal		29,460.0

**ECONOMIC DEVELOPMENT DEPARTMENT:**

(1) Economic development:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

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	2,527.1			200.0	2,727.1
(b) Contractual services	1,709.0				1,709.0
(c) Other	8,502.7				8,502.7

Performance measures:

(a) Outcome:	Number of workers trained by the job training incentive program	2,000
(b) Outcome:	Number of rural jobs created	1,500
(c) Output:	Number of jobs created through the use of Local Economic Development Act funds	3,000
(d) 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	829.5				829.5
(b) Contractual services	753.4				753.4
(c) Other	78.9				78.9

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	

Performance measures:

(a) Outcome:	Direct spending by film industry productions, in millions	\$580
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(3) Outdoor recreation:

Appropriations:

(a) Personal services and employee benefits	337.4	337.4
(b) Contractual services	125.0	125.0
(c) Other	692.0	692.0

(4) 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	2,262.4	2,262.4
(b) Contractual services	1,023.3	1,023.3
(c) Other	682.0	682.0

The general fund appropriation to program support of the economic development department in the other category includes two hundred thousand dollars (\$200,000) for entrepreneurship and business incubator programs.

Subtotal		19,722.7
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Item	Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
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**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. *LINE ITEM VETO*

Appropriations:

(a) Personal services and employee benefits	9,988.1				9,988.1
(b) Contractual services	467.0				467.0
(c) Other	747.2	366.6	200.0		1,313.8
(d) Other financing uses	147.2				147.2

Performance measures:

(a) Outcome:	Percent of commercial plans reviewed within ten working days	92%
(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; enforce laws, rules and regulations; and promote investor protection and confidence so capital formation is maximized and a secure financial infrastructure is available to support economic development.

Item	General Fund	Other	Intrnl Svc	Federal	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

Appropriations:

(a) Personal services and employee benefits	89.4	1,315.7	2,190.2		3,595.3
(b) Contractual services		142.2			142.2
(c) Other		559.9			559.9
(d) Other financing uses		261.5			261.5

The internal service funds/interagency transfers appropriation to the financial institutions program of the regulation and licensing department includes two million one hundred ninety thousand two hundred dollars (\$2,190,200) from the mortgage regulatory fund for the general operations of the financial institutions program.

Performance measures:

(a) Outcome:	Percent of completed applications processed within ninety days by type of application	97%
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(3) Alcoholic beverage control:

The purpose of the alcoholic beverage control program is to issue, deny, suspend or revoke licenses allowed under 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	1,011.6	224.7			1,236.3
(b) Contractual services			13.3		13.3
(c) Other	76.2	75.3	0.6		152.1

Performance measures:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(a) Output:		Number of days to resolve an administrative citation that does not require a hearing			120
(b) Outcome:		Number of days to issue a restaurant beer and wine liquor license			115

(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	81.7	1,306.4			1,388.1
(b) Contractual services	4.0	70.0			74.0
(c) Other	54.0	252.4	77.0		383.4
(d) Other financing uses		252.2			252.2

Notwithstanding the provisions of Section 58-13C-601 NMSA 1978 or other substantive law, the other state funds appropriations to the securities program of the regulation and licensing department include one million five hundred thirty-one thousand eight hundred dollars (\$1,531,800) from the securities enforcement and investor education fund.

(5) Boards and commissions:

The purpose of the boards and commissions program is to provide efficient licensing, compliance and regulatory services to protect the public by ensuring licensing professionals are qualified to practice.

Appropriations:

(a) Personal services and employee benefits	33.1	6,432.3			6,465.4
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Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(b) Contractual services		547.7			547.7
(c) Other		1,631.0			1,631.0
(d) Other financing uses		1,929.3	6,513.6		8,442.9

(6) Cannabis control:

The purpose of the cannabis control program is to regulate and license cannabis producers, manufacturers, retailers, couriers, testing and research laboratories operating in the medical and adult-use markets to ensure public health and safety.

Appropriations:

(a) Personal services and employee benefits	2,713.2				2,713.2
(b) Contractual services	621.7	33.5			655.2
(c) Other		650.0			650.0
(d) Other financing uses		2,516.5			2,516.5

The other state funds appropriation to the cannabis control division of the regulation and licensing department in the other financing uses category includes two million five hundred sixteen thousand five hundred dollars (\$2,516,500) from cannabis licensing fees for the operations of the medical cannabis program of the department of health.

(7) Manufactured housing program:

The purpose of the 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 manufactured housing standards.

Appropriations:

(a) Personal services and employee benefits	87.7	1,202.5		25.0	1,315.2
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Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(b) Contractual services		82.5			82.5
(c) Other	125.0		62.8		187.8

(8) 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	730.6		2,236.5		2,967.1
(b) Contractual services	139.4		401.3		540.7
(c) Other	189.6		544.1		733.7
Subtotal					49,423.3

**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 provisions 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	7,375.6	634.0		761.4	8,771.0
(b) Contractual services	455.5	69.4			524.9
(c) Other	658.2	80.7		188.4	927.3

Item	General Fund	Other	Intrnl Svc	Federal	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

Performance measures:

(a) Output: Number of total carrier inspections (household goods, bus, taxi, ambulance, tow and rail) performed by staff 400

(2) 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	2,921.0	495.0		3,416.0
(b) Contractual services	100.0			100.0
(c) Other	470.0			470.0
Subtotal				14,209.2

**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		1,308.8	8,299.5	9,608.3
(b) Contractual services		2,515.7	1,207.8	3,723.5

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(c) Other		79,385.3	1,639.0		81,024.3
(d) Other financing uses			205.6		205.6

The [~~other state funds~~] appropriation to the insurance policy program of the office of superintendent of insurance in the contractual services category includes three hundred fifty thousand dollars (\$350,000) to conduct compliance audits of health care insurers and enforce coverage of diabetes medication and diabetes durable medical equipment. *LINE ITEM VETO*

The [~~other state funds~~] appropriations to the insurance policy program of the office of superintendent of insurance include five hundred thousand dollars (\$500,000) in the personal services and employee benefits category and five hundred thousand dollars (\$500,000) in the contractual services category to regulate mental health parity of insurance products contingent on enactment of Senate Bill 273 or similar legislation of the first session of the fifty-sixth legislature. *LINE ITEM VETO*

(2) Patient's compensation fund:

Appropriations:

(a) Personal services and employee benefits		38.4			38.4
(b) Contractual services		2,292.7			2,292.7
(c) Other		27,852.6			27,852.6
(d) Other financing uses			272.2		272.2

(3) Insurance fraud and auto theft:

Appropriations:

(a) Personal services and employee benefits		1,697.3			1,697.3
(b) Contractual services		145.1			145.1
(c) Other		625.3			625.3
(d) Other financing uses			411.0		411.0

Item	General Fund	Other	Intrnl Svc	Federal	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

(4) Special revenues:

Appropriations:

(a) Other financing uses	10,254.4	10,254.4
Subtotal		138,150.7

**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	1,657.2	1,657.2
(b) Contractual services	974.8	974.8
(c) Other	604.1	604.1

Performance measures:

(a) Output:	Number of biennial physician assistant licenses issued or renewed	550
(b) Outcome:	Number of days to issue a physician license	55
Subtotal		3,236.1

**BOARD OF NURSING:**

(1) Licensing and certification:

Item	General Fund	Other	Intrnl Svc	Federal	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

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		2,593.9			2,593.9
(b) Contractual services		84.4			84.4
(c) Other		751.3	201.5		952.8
(d) Other financing uses		250.0			250.0

Performance measures:

(a) Explanatory:	Number of certified registered nurse anesthetist licenses active on June 30				
(b) Output:	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				300
Subtotal					3,881.1

**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		7,798.1			7,798.1
(b) Contractual services	275.0	3,160.0			3,435.0
(c) Other	100.0	3,430.0			3,530.0

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

The general fund appropriations to the New Mexico state fair include three hundred seventy-five thousand dollars (\$375,000) for the African American performing arts center operations [~~and staffing~~]. *LINE ITEM VETO*

Performance measures:

(a) Output:	Number of paid attendees at annual state fair event	430,000
Subtotal		14,763.1

**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	666.4	0.8	667.2
(b) Contractual services	331.1		331.1
(c) Other	363.9		363.9
Subtotal			1,362.2

**GAMING CONTROL BOARD:**

(1) Gaming control:

The purpose of the gaming control program 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.

Item	General Fund	Other	Intrnl Svc	Federal	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

Appropriations:

(a) Personal services and employee benefits	4,610.6				4,610.6
(b) Contractual services	88.2				88.2
(c) Other	1,712.4				1,712.4
Subtotal					6,411.2

**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 pari-mutuel 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	1,902.4				1,902.4
(b) Contractual services	539.9	1,000.0			1,539.9
(c) Other	323.6				323.6

Performance measures:

(a) Outcome:	Percent of equine samples testing positive for illegal substances				1%
(b) Explanatory:	Amount collected from pari-mutuel revenues, in millions				
(c) Explanatory:	Number of horse fatalities per one thousand starts				
Subtotal					3,765.9

Item	General Fund	Other	Intrnl Svc	Funds/Inter- Agency Trnsf	Federal Funds	Total/Target
		State Funds				

**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		273.9			273.9
(b) Contractual services		146.0			146.0
(c) Other		49.6			49.6
Subtotal					469.5

**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	117.8				117.8
(b) Contractual services	138.6	5,967.0			6,105.6
(c) Other	106.4				106.4

Performance measures:

(a) Outcome:	Total number of passengers				60,000
Subtotal					6,329.8

Item	General Fund	Other	Intrnl Svc	Funds/Inter- Agency Trnsf	Federal Funds	Total/Target
		State Funds				

### 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 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	187.0					187.0
(b) Contractual services	79.2					79.2
(c) Other	30.0					30.0
Subtotal						296.2

### 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	3,386.6					3,386.6
(b) Contractual services	711.8	4,943.6				5,655.4
(c) Other		2,384.2				2,384.2

#### Performance measures:

(a) Output:	Number of aerospace customers and tenants				20
Subtotal					11,426.2
TOTAL COMMERCE AND INDUSTRY	89,289.0	190,535.6	24,476.8	1,174.8	305,476.2

Item	Fund	Funds	Agency Trnsf	Funds	Total/Target
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**E. AGRICULTURE, ENERGY AND NATURAL RESOURCES**

**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 monuments 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	22,545.0	2,466.6		63.6	25,075.2
(b) Contractual services	512.9	572.0			1,084.9
(c) Other	4,761.3	2,213.0			6,974.3

Performance measures:

(a) Outcome:	Number of people served through programs and services offered by museums and historic sites	1,450,000
(b) Outcome:	Amount of earned revenue from admissions, rentals and other activity	\$2,000,000

(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:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(a) Personal services and employee benefits	978.8	813.9	78.5	825.8	2,697.0
(b) Contractual services		73.1	50.9	462.5	586.5
(c) Other	79.3	119.7	4.6	225.3	428.9

(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	2,350.5			870.0	3,220.5
(b) Contractual services	80.8			7.8	88.6
(c) Other	1,975.6	30.0	649.5	825.5	3,480.6

The general fund appropriations to the library services program of the cultural affairs department include two hundred thousand dollars (\$200,000) to support schools that support participation in the national history day program.

Performance measures:

(a) Output:	Number of library transactions using electronic resources funded by the New Mexico state library	2,700,000
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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:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(a) Personal services and employee benefits	818.4			185.0	1,003.4
(b) Contractual services	765.0			412.0	1,177.0
(c) Other	134.7			48.0	182.7

(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	4,032.5				4,032.5
(b) Contractual services	378.2	37.7			415.9
(c) Other	280.0				280.0
Subtotal					50,728.0

**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	1,835.0	4,625.0			6,460.0
(b) Contractual services	139.6	163.3			302.9
(c) Other	1,371.6	576.9			1,948.5

(2) Meat inspection:

Item	General Fund	Other	Intrnl Svc	Federal	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

Appropriations:

(a) Personal services and employee benefits	795.5				795.5
(b) Contractual services	8.4				8.4
(c) Other	241.7				241.7
Subtotal					9,757.0

**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		8,604.4		312.4	8,916.8
(b) Contractual services		98.7			98.7
(c) Other		2,422.9			2,422.9

Performance measures:

(a) Output:	Number of conservation officer hours spent in the field checking for compliance	56,000
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(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.

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

Appropriations:

(a) Personal services and employee benefits		5,668.8		8,259.7	13,928.5
(b) Contractual services		1,059.3		2,354.0	3,413.3
(c) Other		5,473.1		3,650.8	9,123.9
(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 the fiscal year 2024 from this appropriation shall revert to the game protection fund.

~~[The department of game and fish shall not acquire private land without explicit approval by the legislature contingent on enactment of Senate Bill 439 or similar legislation of the first session of the fifty-sixth legislature requiring legislative approval of department of game and fish land purchases.]~~ *LINE ITEM VETO*

Performance measures:

(a) Outcome:	Number of elk licenses offered on an annual basis in New Mexico	35,000
(b) Outcome:	Percent of public hunting licenses drawn by New Mexico resident hunters	84%
(c) Output:	Annual output of fish from the department's hatchery system, in pounds	660,000

(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

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

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		366.2			366.2
(b) Contractual services		156.7			156.7
(c) Other		612.1			612.1

Performance measures:

(a) Outcome:	Percent of depredation complaints resolved within the mandated one-year timeframe	96%
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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	4,924.6	154.3	5,078.9
(b) Contractual services	612.0		612.0
(c) Other	3,034.6	244.9	3,279.5
Subtotal			48,191.8

**ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT:**

(1) Energy conservation and management:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

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	1,807.1			1,223.3	3,030.4
(b) Contractual services	289.7	247.9		999.2	1,536.8
(c) Other	82.2			1,067.4	1,149.6

(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	5,535.4	297.8		7,700.0	13,533.2
(b) Contractual services	48.3	1,295.0	1,250.0	2,510.0	5,103.3
(c) Other	988.0	283.6	750.0	8,170.1	10,191.7
(d) Other financing uses		56.2			56.2

Performance measures:

(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	14,750

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

(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	7,152.6	5,978.3		665.2	13,796.1
(b) Contractual services	61.1	1,834.1		1,375.0	3,270.2
(c) Other	3,232.6	9,914.8	1,044.0	7,196.5	21,387.9
(d) Other financing uses	412.1	743.0			1,155.1

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	985.0	573.7	79.2	2,314.4	3,952.3
(b) Contractual services	67.5	31.4		8,538.9	8,637.8
(c) Other	96.4	116.6	17.9	443.5	674.4
(d) Other financing uses		48.2			48.2

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

(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	7,648.4	194.1		241.9	8,084.4
(b) Contractual services	465.4	17,889.4		25,476.5	43,831.3
(c) Other	722.8	2,545.7		121.3	3,389.8
(d) Other financing uses		299.7			299.7

Performance measures:

(a) Output:	Number of inspections of oil and gas wells and associated facilities	31,000
(b) Output:	Number of abandoned wells properly plugged	70

(6) Program leadership and support:

The purpose of the program leadership and support program is to provide leadership, set policy and provide support for every division in achieving their goals.

Appropriations:

(a) Personal services and employee benefits	3,787.3		945.8	710.9	5,444.0
(b) Contractual services	163.9		25.6	7.0	196.5
(c) Other	117.4		168.8	149.6	435.8
Subtotal					149,204.7

Item	General Fund	Other	Intrnl Svc	Funds/Inter- Agency Trnsf	Federal Funds	Total/Target
		State Funds				

### 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	265.0	265.0
(b) Contractual services	5,400.0	5,400.0
(c) Other	95.3	95.3
(d) Other financing uses	125.0	125.0

#### Performance measures:

(a) Output:	Number of youth employed annually	840
Subtotal		5,885.3

### 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	17,473.4	17,473.4
(b) Contractual services	2,877.9	2,877.9

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(c) Other		3,166.2			3,166.2

The commissioner of public lands is authorized to hold in suspense amounts eligible, because of the sale of state royalty interests, for tax credits under Section 29 of the 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 balances, as is necessary to repurchase the royalty interests pursuant to the agreements.

Performance measures:

(a) Outcome:	Dollars generated through oil and natural gas audit activities, in millions	\$2
(b) Output:	Average income per acre from oil, natural gas and mining activities, in dollars	\$500
(c) Output:	Number of acres treated to achieve desired conditions for future sustainability	30,000
Subtotal		23,517.5

**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	15,126.8	691.0		15,817.8
(b) Contractual services	220.5		406.0	626.5

Item	General	Other	Intrnl Svc	Federal	Total/Target
	Fund	Funds	Funds/Inter- Agency Trnsf	Funds	
(c) Other	1,168.8	126.2	317.9		1,612.9

The internal service funds/interagency transfers appropriations to the water resource allocation program of the state engineer include seven hundred twenty-three thousand nine hundred dollars (\$723,900) from the improvement of the Rio Grande income fund.

The general fund appropriation to the water resource allocation program of the state engineer in the personal services and employee benefits category includes one hundred and fifty thousand dollars (\$150,000) to support the addition of two new cannabis permitting positions.

Performance measures:

(a) Output:	Average number of unprotested new and pending applications processed per month	35
(b) Outcome:	Number of transactions abstracted annually into the water administration technical engineering resource system database	21,000

(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	3,324.1	9.5	2,958.3	6,291.9
(b) Contractual services	285.0		4,478.7	4,763.7
(c) Other	421.6	889.3	1,465.7	2,776.6

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

The internal service funds/interagency transfer appropriations to the interstate stream compact compliance and water development program include six hundred fifty-two thousand two hundred dollars (\$652,200) from the New Mexico unit fund.

The internal service funds/interagency transfer appropriations to the interstate stream compact compliance and water development program of the state engineer include seven million three hundred fifty-five thousand dollars (\$7,355,000) from the New Mexico irrigation works construction fund, seven hundred thirteen thousand two hundred dollars (\$713,200) from the improvement of the Rio Grande income fund, one hundred thousand dollars (\$100,000) from the game protection fund for Ute dam operations, 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 2024 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 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 interstate stream commission's authority to make loans for irrigation improvements includes 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.

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	161,600
(b) Outcome:	Cumulative state-line delivery credit per the Rio Grande compact at the end of the calendar year, in acre-feet	-150,000

(3) Litigation and adjudication:

Item	General	Other	Intrnl Svc	Federal	Total/Target
	Fund	Funds	Funds/Inter-	Funds	
			Agency Trnsf		

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	2,183.8	2,260.7	1,501.8		5,946.3
(b) Contractual services	568.3		1,067.5		1,635.8
(c) Other	436.1				436.1
(d) Other financing uses		80.0			80.0

The internal service funds/interagency transfers appropriations to the litigation and adjudication program include one million five hundred one thousand eight hundred dollars (\$1,501,800) from the irrigation works construction fund and one million sixty-seven thousand five hundred dollars (\$1,067,500) from the improvement of the Rio Grande income fund.

The other state funds appropriations to the litigation and adjudication program of the state engineer include two million three hundred forty thousand seven hundred dollars (\$2,340,700) from the water project fund pursuant to Section 72-4A-9 NMSA 1978.

Performance measures:

(a) Outcome:	Number of offers to defendants in adjudications	300
(b) Outcome:	Percent of all water rights claims with judicial determinations	76%

(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:

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
(a) Personal services and employee benefits	4,572.6				4,572.6
(b) Contractual services	219.7				219.7
(c) Other	817.4				817.4
Subtotal					45,597.3
TOTAL AGRICULTURE, ENERGY AND NATURAL RESOURCES	107,092.7	120,715.9	17,260.7	87,812.3	332,881.6

## F. HEALTH, HOSPITALS AND HUMAN SERVICES

### COMMISSION ON STATUS OF WOMEN:

(1) Status of women:

The purpose of the status of women program is to provide information, public events, leadership, support services and career development to individuals, agencies and women's organizations so they can improve the economic, health and social status of women in New Mexico.

Appropriations:

(a) Personal services and employee benefits	124.2	124.2
(b) Contractual services	81.5	81.5
(c) Other	89.3	89.3
Subtotal		295.0

### 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.

Item	General Fund	Other	Intrnl Svc	Federal	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

Appropriations:

(a) Personal services and employee benefits	704.9				704.9
(b) Contractual services	215.0				215.0
(c) Other	121.4				121.4
Subtotal					1,041.3

**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	829.0		724.7		1,553.7
(b) Contractual services	797.2		432.1		1,229.3
(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 in the contractual services category includes four hundred fifty-six thousand four hundred dollars (\$456,400) 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

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	

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		3,181.6

**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	212.0	212.0
(b) Contractual services	27.8	27.8
(c) Other	116.9	116.9
Subtotal		356.7

**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.

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

Appropriations:

(a) Personal services and employee benefits	1,489.5	201.2	200.0	4,364.0	6,254.7
(b) Contractual services	38.1			98.4	136.5
(c) Other	801.2	7,951.4	61.0	1,495.8	10,309.4
(d) Other financing uses	107.1				107.1

The general fund appropriation to the blind services program of the commission for the blind in the other financing uses category includes up to one hundred thousand dollars (\$100,000) to transfer to the rehabilitation services program of the division of vocational rehabilitation to match with federal funds to provide rehabilitation services to blind or visually impaired New Mexicans.

The general fund appropriation to the blind services program of the commission for the blind in the other financing uses category includes seven thousand one hundred dollars (\$7,100) to transfer to the independent living services program of the division of vocational rehabilitation to match with federal funds to provide independent living services to blind or visually impaired New Mexicans.

The internal service funds/interagency transfers appropriations to the blind services program of the commission for the blind include sixty-one thousand dollars (\$61,000) from the division of vocational rehabilitation to provide services to blind or visually impaired New Mexicans.

The internal service funds/interagency transfers appropriations to the blind services program of the commission for the blind include up to two hundred thousand dollars (\$200,000) from the division of vocational rehabilitation to provide services to blind or visually impaired New Mexicans.

Any unexpended balances in the commission for the blind remaining at the end of fiscal year 2024 from appropriations made from the general fund shall not revert.

Performance measures:

(a) Outcome:	Average hourly wage for the blind or visually impaired person	\$19
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Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	
(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				100
Subtotal					16,807.7

### 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	2,644.7				2,644.7
(b) Contractual services	630.1				630.1
(c) Other	1,247.7		249.3		1,497.0

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					4,771.8
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### EARLY CHILDHOOD EDUCATION AND CARE DEPARTMENT:

(1) Support and intervention:

The purpose of the family support and early intervention program is to provide early childhood education through a comprehensive system of supports for families and young children, including home visiting and early intervention services through the family infant toddler program. The program also provides a

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

perinatal case management program through families first. All of these programs provide culturally sensitive and comprehensive services to families across New Mexico.

Appropriations:

(a) Personal services and employee benefits	1,373.4	507.0	1,157.5	964.4	4,002.3
(b) Contractual services	25,893.3	58.9	4,000.0	6,490.4	36,442.6
(c) Other	21,381.4	1,390.1	2,256.7	805.7	25,833.9
(d) Other financing uses	10,901.6				10,901.6

The internal service funds/interagency transfers appropriations to the support and intervention program of the early childhood education and care department include two million five hundred thirteen thousand seven hundred dollars (\$2,513,700) from the early childhood education and care fund: eight hundred thousand dollars (\$800,000) for rate increases for the family infant toddler program, one million dollars (\$1,000,000) for a home visiting marketing campaign and seven hundred thirteen thousand seven hundred dollars (\$713,700) for the families first and family infant toddler program contingent on enactment of House Bill 191 or similar legislation of the first session of the fifty-sixth legislature.

The general fund appropriations to the support and intervention program of the early childhood education and care department shall be ~~reduced by~~ eight million dollars (\$8,000,000) ~~[and an equal amount transferred from the permanent school fund to the common school current fund]~~ authorized by the 2022 amendment in Paragraph (2) of Subsection H of Article 12, Section 7 of the constitution of New Mexico for early childhood education ~~[is appropriated in lieu thereof]~~ for home visiting services. *LINE ITEM VETO*

~~[Any unexpended balance from the early childhood education and care program fund shall revert to the early childhood education and care fund.]~~ *LINE ITEM VETO*

Performance measures:

(a) Output: Average annual number of home visits per family 12

(2) Early childhood education and care:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

The purpose of the early childhood education and care program is to ensure New Mexicans have access to high-quality, healthy, safe and supportive early childhood education environments for children and their families, as well as access to healthy meals.

Appropriations:

(a) Personal services and employee benefits	1,337.2			8,458.3	9,795.5
(b) Contractual services	555.4			2,934.4	3,489.8
(c) Other	38,496.9	1,100.0	135,127.5	134,173.4	308,897.8

The internal service funds/interagency transfers appropriation to the early childhood education and care program of the early childhood education and care department include thirty-one million five hundred twenty-seven thousand five hundred dollars (\$31,527,500) from the federal temporary assistance for needy families block grant for the childcare assistance program.

The early childhood education and care program of the early childhood education and care department appropriations include five million dollars (\$5,000,000) to expand infant and toddler care in the childcare assistance program.

The internal service funds/interagency transfers appropriation to the early childhood education and care program of the early childhood education and care department includes seventy-eight million two hundred thousand dollars (\$78,200,000) from the early childhood education and care fund for childcare assistance, contingent on enactment of House Bill 191 or similar legislation of the first session of the fifty-sixth legislature.

~~[Any unexpended balance from the early childhood education and care program fund remaining at the end of fiscal year 2024 shall revert to the early childhood education and care fund.] LINE ITEM VETO~~

Performance measures:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter-Agency Trnsf		
(a) Outcome:	Percent of infants and toddlers participating in the childcare assistance program enrolled in childcare programs with four or five stars				60%

(3) Policy research and quality initiatives:

The purpose of the policy, research and quality initiatives program is to oversee the early childhood education and care department's quality initiatives, including workforce development, coaching and consultation, infant early childhood mental health consultation, data analysis and reporting, including tracking program performance measures and the annual outcomes report. The program also conducts internal audits to ensure program integrity for the childcare assistance program.

Appropriations:

(a) Personal services and employee benefits	1,236.4			1,426.0	2,662.4
(b) Contractual services	11,312.9		5,000.0	2,686.8	18,999.7
(c) Other	1,096.8		600.0		1,696.8

~~[Any unexpended balance from the early childhood education and care program fund remaining at the end of fiscal year 2024 shall revert to the early childhood education and care fund.] LINE ITEM VETO~~

Performance measures:

(a) Output:	Percent of early childhood professionals, including tribal educators, with degrees and/or credentials	50%
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(4) Prekindergarten:

The purpose of the prekindergarten program is to ensure New Mexicans have access to a high-quality mixed-delivery early childhood education system. The program oversees the administration, monitoring, quality supports and technical assistance for prekindergarten in traditional public schools, charter schools and community-based organizations. In collaboration with the public education department, the program

Item	General Fund	Other	Intrnl Svc	Funds/Inter- Agency Trnsf	Federal Funds	Total/Target
		State Funds				

administers prekindergarten funding and ensures all prekindergarten children with special education needs receive the services and supports they need.

Appropriations:

(a) Personal services and employee benefits	1,207.8
(b) Contractual services	102,896.0
(c) Other	16,649.5
(d) Other financing uses	84,076.2

The prekindergarten program of the early childhood education and care department shall coordinate with the public education department to prioritize awards of prekindergarten programs at school districts and charter schools that also provide K-12 plus programs approved by the public education department.

The general fund appropriations to the prekindergarten program of the early childhood education and care department shall be ~~[reduced by]~~ one hundred thirty-two million dollars (\$132,000,000) ~~[and an equal amount transferred from the permanent school fund to the common school current fund]~~ authorized by the 2022 amendment in Paragraph (2) of Subsection H of Article 12, Section 7 of the constitution of New Mexico for early childhood education ~~[is appropriated in lieu thereof]~~ for prekindergarten programs. *LINE ITEM VETO*

~~[Any unexpended balance from the school permanent fund in the prekindergarten program remaining at the end of fiscal year 2024 shall revert to the school permanent fund.]~~

~~Any unexpended balance from the early childhood education and care program fund remaining at the end of fiscal year 2024 shall revert to the early childhood education and care fund.]~~ *LINE ITEM VETO*

Performance measures:

(a) Outcome:	Percent of children who participated in a New Mexico prekindergarten program for at least nine months who are proficient in math in kindergarten	75%
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Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter- Agency Trnsf	Federal Funds	Total/Target
(b) Outcome:	Percent of children who participated in a New Mexico prekindergarten program for at least nine months, who are proficient in literacy in kindergarten				75%
(c) Outcome:	Percent of children enrolled for at least six months in the state-funded New Mexico prekindergarten program who score at first step for kindergarten or higher on the fall observation kindergarten observation tool				75%

(5) Program support:

The purpose of program support is to provide leadership and support for the early childhood education and care department through strategic planning, legal services, information and technology services, financial services and budget, human resources and background checks.

Appropriations:

(a) Personal services and employee benefits	6,080.7		471.9	1,777.6	8,330.2
(b) Contractual services	1,325.4	144.0	3,075.0	2,440.1	6,984.5
(c) Other	1,791.5	58.5	1,836.0	333.5	4,019.5
(d) Other financing uses			12,500.0		12,500.0

The internal service funds/interagency transfers appropriations to program support of the early childhood education and care department include two million one hundred eighty-six thousand three hundred dollars (\$2,186,300) from the early childhood education and care fund: seven hundred fifty thousand dollars (\$750,000) for tribal early childhood services, one million dollars (\$1,000,000) for early childhood coalitions, one hundred thousand dollars (\$100,000) for the family success laboratory and three hundred thirty-six thousand three hundred dollars (\$336,300) for personnel, contingent on enactment of House Bill 191 or similar legislation of the first session of the fifty-sixth legislature.

The internal service funds/interagency transfers appropriations to program support of the early childhood education and care department include twelve million dollars (\$12,000,000) for transfer to the

Item	General Fund	Other	Intrnl Svc	Funds/Inter- Agency Trnsf	Federal	Total/Target
		State Funds			Funds	

medical assistance program of the human services department: six million six hundred forty-three thousand six hundred dollars (\$6,643,600) to support provider rate increases for infant and maternal health services and five million three hundred fifty-six thousand four hundred dollars (\$5,356,400) for managed care infant and toddler medical services including continuous enrollment.

Any unexpended balance from the early childhood education and care program fund remaining at the end of fiscal year 2024 shall revert to the early childhood education and care fund.

Subtotal	675,090.2
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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	1,707.2	1,300.0	1,032.7	4,039.9
(b) Contractual services	10.0		490.8	500.8
(c) Other	244.6		460.4	705.0

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%

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

(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	943.8	34.5		555.3	1,533.6
(b) Contractual services	1,410.7	10.0			1,420.7
(c) Other	38,576.9	71.3		11,142.5	49,790.7

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 fiscal year 2024.

Any unexpended balances remaining in the aging network from the conference on aging at the end of fiscal year 2024 from appropriations made from other state funds for the conference on aging shall not revert to the general fund.

Any unexpended balances remaining in the aging network from the tax refund contribution senior fund, which provides for the provision of the supplemental senior services throughout the state, at the end of fiscal year 2024 shall not revert to the general fund.

Performance measures:

(a) Outcome:	Number of hours of caregiver support provided	167,000
(b) Output:	Number of hours of service provided by senior volunteers, statewide	745,000

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	

(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	8,068.8		2,200.0		10,268.8
(b) Contractual services	6,242.3		2,176.3		8,418.6
(c) Other	721.4				721.4

Performance measures:

(a) 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	100%
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(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	4,407.0			121.9	4,528.9
(b) Contractual services	290.2	3,747.0			4,037.2
(c) Other	1,868.1				1,868.1
Subtotal					87,833.7

		Other	Intrnl Svc		
	General	State	Funds/Inter-	Federal	
Item	Fund	Funds	Agency Trnsf	Funds	Total/Target

### 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	6,291.9			9,955.9	16,247.8
(b) Contractual services	32,880.7	1,727.4	942.8	95,551.6	131,102.5
(c) Other	1,245,581.9	100,537.0	338,658.0	6,330,624.9	8,015,401.8

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 expansion adult category through fiscal year 2024 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 appropriation to the medical assistance program of the human services department in the other category includes 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, seven million five hundred ninety thousand nine hundred dollars (\$7,590,900) from the tobacco settlement program fund for medicaid programs and fourteen million dollars (\$14,000,000) from tobacco settlement program fund balances for medicaid programs.

The internal service funds/interagency transfers appropriations to the medical assistance program of the human services department include fifty-seven million one hundred thirty-eight thousand dollars (\$57,138,000) from the county-supported medicaid fund.

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

The other state funds appropriations to the medical assistance program of the human services department include thirty-five million four hundred sixty-five thousand dollars (\$35,465,000) from the health care facility fund.

The general fund appropriation to the medical assistance program of the human services department in the other category includes forty-nine million six hundred forty-five thousand nine hundred dollars (\$49,645,900) for provider rate increases and includes funds to raise rates for primary care and maternal and child health services to one hundred twenty percent of medicare rates or equivalent levels based on the human services department's comprehensive rate review but excludes funds for nonmedical costs.

The general fund appropriation to the medical assistance program of the human services department in the other category includes twenty-three million five hundred ninety-five thousand two hundred dollars (\$23,595,200) for facility rate increases and includes funds to raise rates for rural hospitals, hospitals and nursing facilities up to one hundred percent of medicare rates or equivalent rates based on the human services department's comprehensive rate review but excludes funds for nonmedical costs. The funding shall prioritize rate increases for rural hospitals with the allocations implemented through managed care directed payments and upper payment limit payments to sustain the economic viability of rural hospitals, hospitals and nursing facilities, with the nursing facility rate increase contingent on meeting quality of care performance measures in the value-based purchasing program.

The general fund appropriation to the medical assistance program of the human services department in the other category includes one million dollars (\$1,000,000) for rural health and hospital supplemental or contracted payments to underserved areas and one million dollars (\$1,000,000) for rural and tribal serving critical access inpatient and outpatient hospital service rate increases.

Medicaid managed care organization contractors may negotiate different reimbursement amounts for different specialties or for different practitioners in the same specialty but shall not negotiate less than the medicaid fee-for-service rate. The human services department will monitor implementation of the rate increases and share ~~[any]~~ reports or monitoring information quarterly with the legislative finance committee. ~~[The human services department will not expand medicaid eligibility without prior approval of the legislature.]~~ *LINE ITEM VETO*

Item	General	Other	Intrnl Svc	Federal	Total/Target
	Fund	Funds	Funds/Inter-Agency Trnsf	Funds	

The general fund appropriation to the medical assistance program of the human services department in the other category includes two million dollars (\$2,000,000) for a six percent or greater rate increase for rural primary care clinics and federally qualified health centers.

The internal service funds/interagency transfers appropriations to the medical assistance program of the human services department include five million three hundred fifty-six thousand four hundred dollars (\$5,356,400) from the early childhood education and care fund for infant and toddler medical services and continuous enrollment and six million six hundred forty-three thousand six hundred dollars (\$6,643,600) from the early childhood education and care fund to support provider rate increases for maternal ~~and child~~ health services but excludes funds for nonmedical costs. *LINE ITEM VETO*

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                          | 68% |
| (b) Explanatory: | Percent of infants and children in medicaid managed care who had six or more well-child visits in the first fifteen months of life                                    |     |
| (c) Outcome:     | Percent of children and adolescents in medicaid managed care ages three to twenty-one years who had one or more well-care visits during the measurement year          | 60% |
| (d) Outcome:     | Percent of members eighteen to seventy-five years of age in medicaid managed care with diabetes, types 1 and 2, whose HbA1c was 9 percent during the measurement year | 65% |
| (e) Outcome:     | Percent of adults in medicaid managed care age eighteen and over readmitted to a hospital within thirty days of discharge   | 8%  |
| (f) Outcome:     | Percent of medicaid managed care member deliveries who received a prenatal care visit in the first trimester or within forty-two days of eligibility                  | 80% |

(2) Medicaid behavioral health:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

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	169,772.5	498.2	653,227.0	823,497.7
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The general fund appropriation to the medicaid behavioral health program of the human services department in the other category includes seven million one hundred twenty thousand one hundred dollars (\$7,120,100) for behavioral health provider rate increases up to one hundred twenty percent of medicare rates or equivalent levels based on the human services department's comprehensive rate review, excluding nonmedical costs, and five hundred thousand dollars (\$500,000) for comprehensive behavioral health residential crisis management and transition services.

The general fund appropriation to the medicaid behavioral health program of the human services department includes fifty thousand dollars (\$50,000) to transfer to the administrative hearings office to support medicaid hearing officers.

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 use or mental health programs administered through the behavioral health collaborative and medicaid programs	210,000

(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.

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

Appropriations:

(a) Personal services and employee benefits	24,756.3			49,100.3	73,856.6
(b) Contractual services	12,471.3			27,802.3	40,273.6
(c) Other	22,784.4	60.8		1,187,455.9	1,210,301.1

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 federal funds appropriations to the income support program of the human services department include ten million dollars (\$10,000,000) from the federal temporary assistance for needy families block grant for increasing the temporary assistance for needy families maximum benefit.

The appropriations to the income support program of the human services department include one million nine hundred seventy-two thousand two hundred dollars (\$1,972,200) from the general fund and fifty-seven million nine hundred fifty-two thousand two hundred dollars (\$57,952,200) 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, transitions, 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 sixteen million six hundred forty-eight thousand three hundred dollars (\$16,648,300) 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-one million five hundred twenty-seven thousand five hundred dollars (\$31,527,500) from the federal temporary assistance for needy families block grant for transfer to the early childhood education and care department for childcare programs.

		Other	Intrnl Svc		
	General	State	Funds/Inter-	Federal	
<u>Item</u>	<u>Fund</u>	<u>Funds</u>	<u>Agency Trnsf</u>	<u>Funds</u>	<u>Total/Target</u>

The federal funds appropriation to the income support program of the human services department includes fifteen million eight hundred ninety-eight thousand six hundred dollars (\$15,898,600) from the federal temporary assistance for needy families block grant for transfer to the children, youth and families department for supportive housing, adoption services, foster care services, multilevel response system implementation as outlined in Section 32A-4-4.1 NMSA 1978, services for youth aging out of foster care, family support services, family preservation services, evidence-based prevention and intervention services, home services for children with behavioral health challenges preventing placement, kinship support and recruitment and retention of foster families.

The federal funds appropriations to the income support program of the human services department include five hundred thousand dollars (\$500,000) from the federal temporary assistance for needy families block grant for transfer to the public education department for the graduation, reality and dual-role skills program to expand services and implement mentorship programs for teenage fathers.

The federal funds appropriations to the income support program of the human services department include two million dollars (\$2,000,000) from the federal temporary assistance for needy families block grant for transfer to the higher education department for adult basic education and one million dollars (\$1,000,000) for integrated education and training programs, including integrated basic education and skills training programs.

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 one million four hundred thousand dollars (\$1,400,000) from federal funds for general assistance.

Any unexpended balances remaining at the end of fiscal year 2024 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:

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	
(a) Outcome:	Percent of all parent participants who meet temporary assistance for needy families federal work participation requirements				45%
(b) Outcome:	Percent of temporary assistance for needy families two-parent recipients meeting federal work participation requirements				60%

(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 the program fosters recovery and supports the health and resilience of all New Mexicans.

Appropriations:

(a) Personal services and employee benefits	3,048.0			1,919.8	4,967.8
(b) Contractual services	54,546.5			25,648.4	80,194.9
(c) Other	1,141.7			1,538.5	2,680.2

~~[The general fund appropriation to the behavioral health services program of the human services department in the contractual services category includes sufficient funding to maintain the reach, intervene, support and engage program and the alternative sentencing axis program used to treat substance use disorders in San Juan county.] LINE ITEM VETO~~

Performance measures:

(a) Outcome:	Percent of individuals discharged from inpatient facilities who receive follow-up services at thirty days			60%
(b) Outcome:	Percent of adults diagnosed with major depression who remained on an antidepressant medication for at least one hundred eighty days			42%

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(c) Outcome:	Percent of medicaid members released from inpatient psychiatric hospitalization stays of four or more days who receive seven-day follow-up visits into community-based behavioral health				51%

(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	8,852.3	211.7		14,814.6	23,878.6
(b) Contractual services	1,928.6	20.5		6,315.3	8,264.4
(c) Other	1,454.8	34.8		3,167.4	4,657.0

Performance measures:

(a) Outcome:	Amount of child support collected, in millions	\$147
(b) Outcome:	Percent of current support owed that is collected	63%
(c) Outcome:	Percent of cases with support orders	85%
(d) Explanatory:	Percent of noncustodial parents paying support to total cases with support orders	

(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:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(a) Personal services and employee benefits	5,735.1	992.5		13,020.1	19,747.7
(b) Contractual services	11,983.2	39.7	2,300.0	26,583.7	40,906.6
(c) Other	5,259.7	179.2		9,677.8	15,116.7
Subtotal					10,511,095.0

### 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	1,139.5		796.8	10,940.1	12,876.4
(b) Contractual services			21.4	1,233.6	1,255.0
(c) Other				2,045.8	2,045.8

Performance measures:

(a) Output:	Percent of eligible unemployment insurance claims issued a determination within twenty-one days from the date of claim	80%
(b) Output:	Average wait time to speak to a customer service agent in the unemployment insurance operation center to file a new unemployment insurance claim, in minutes	9:0
(c) Output:	Average wait time to speak to a customer service agent in the unemployment insurance operation center to file a weekly certification, in minutes	11:0

(2) Labor relations:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

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	3,096.3		170.0	213.6	3,479.9
(b) Contractual services	68.1			76.7	144.8
(c) Other	25.0		229.5	197.9	452.4

(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	899.4		67.0	4,316.7	5,283.1
(b) Contractual services	3,137.9		1,651.9	7,875.2	12,665.0
(c) Other	1,691.4		665.5	6,802.6	9,159.5

Performance measures:

(a) Outcome:	Percent of time the unemployment framework for automated claims and tax services are 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.

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

Appropriations:

(a) Personal services and employee benefits	358.1		7,179.0	8,165.7	15,702.8
(b) Contractual services	9.1		190.1	1,558.2	1,757.4
(c) Other	155.7		8,197.3	5,897.5	14,250.5

The internal service funds/interagency transfers appropriations to the employment services program of the workforce solutions department include one million dollars (\$1,000,000) from the workers' compensation administration fund of the workers' compensation administration.

Performance measures:

(a) Outcome:	Percent of unemployed individuals employed after receiving employment services in a connections office	60%
(b) Outcome:	Average six-month earnings of individuals entering employment after receiving employment services in a connections office	\$16,000
(c) Output:	Percent of audited apprenticeship programs deemed compliant	75%

(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	268.5	975.9	7,595.2	8,839.6
(b) Contractual services		91.4	1,088.2	1,179.6
(c) Other		209.6	33,594.6	33,804.2
Subtotal				122,896.0

Item	General Fund	Other	Intrnl Svc	Federal	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

### 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	9,434.4	9,434.4
(b) Contractual services	275.0	275.0
(c) Other	1,428.3	1,428.3
(d) Other financing uses	1,000.0	1,000.0

The other state funds appropriation to the workers' compensation administration program of the workers' compensation administration in the other financing uses category includes one million dollars (\$1,000,000) from the workers' compensation administration fund for the employment services program of the workforce solutions department.

Performance measures:

(a) Outcome:	Rate of serious injuries and illnesses caused by workplace conditions per one hundred workers	0.5
(b) Outcome:	Percent of employers determined to be in compliance with insurance requirements of the Workers' Compensation Act after initial investigations	97%

(2) Uninsured employers' fund:

Appropriations:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(a) Personal services and employee benefits		383.2			383.2
(b) Contractual services		70.0			70.0
(c) Other		500.0			500.0
Subtotal					13,090.9

### 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				13,913.6	13,913.6
(b) Contractual services				3,389.3	3,389.3
(c) Other	5,966.0		191.5	7,283.0	13,440.5
(d) Other financing uses				200.0	200.0

The general fund appropriation to the rehabilitation services program of the division of vocational rehabilitation in the other category includes five hundred thousand dollars (\$500,000) to provide adult vocational rehabilitation services.

The internal service funds/interagency transfers appropriation to the rehabilitation services program of the division of vocational rehabilitation in the other category includes up to one hundred thousand dollars (\$100,000) from the commission for the blind to match with federal funds to provide rehabilitation services to blind or visually impaired 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

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

hundred dollars (\$91,500) to match with federal funds to support and enhance deaf and hard-of-hearing rehabilitation services.

The federal funds appropriations to the rehabilitation services program of the division of vocational rehabilitation include up to two hundred thousand dollars (\$200,000) to 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	700
(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	642.2	7.1	780.2	1,429.5
(c) Other financing uses			61.0	61.0

The internal service funds/interagency transfers appropriation to the independent living services program of the division of vocational rehabilitation in the other category includes seven thousand one hundred dollars (\$7,100) from the commission for the blind to match with federal funds to provide independent living services to blind or visually impaired New Mexicans.

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

The federal funds appropriation to the independent living services program of the division of vocational rehabilitation in the other financing uses category includes sixty-one thousand dollars (\$61,000) for the blind services program of 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	750
(b) Output:	Number of individuals served for independent living	765

(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	8,518.7	8,518.7
(b) Contractual services	4,097.0	4,097.0
(c) Other	4,897.0	4,897.0

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

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

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				1,770.6	1,770.6
(b) Contractual services				235.9	235.9
(c) Other				1,025.9	1,025.9

Any unexpended balances in the division of vocational rehabilitation remaining at the end of fiscal year 2024 from appropriations made from the general fund shall not revert and may be expended in fiscal year 2025.

Subtotal					53,030.5
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**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 federal 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	800.7			321.3	1,122.0
(b) Contractual services	51.7			95.5	147.2
(c) Other	393.7	100.0		96.3	590.0

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	

Performance measures:

(a) Outcome: Percent of requested architectural plan reviews and site inspections completed 98%

(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	81.8				81.8
(b) Contractual services	57.1				57.1
(c) Other	74.7				74.7
Subtotal					2,072.8

**DEVELOPMENTAL DISABILITIES COUNCIL:**

(1) Developmental disabilities council:

The purpose of the developmental disabilities 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	955.6			173.5	1,129.1
(b) Contractual services	160.7				160.7
(c) Other	217.6		75.0	356.7	649.3

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	

(2) Office of guardianship:

The purpose of the office of guardianship 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	805.5				805.5
(b) Contractual services	6,642.9		550.0		7,192.9
(c) Other	141.2				141.2

Performance measures:

(a) Outcome:	Number of guardianship investigations completed	5
(b) Outcome:	Average amount of time spent on wait list, in months	9
Subtotal		10,078.7

**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	10,544.8	5,337.8	8,756.4	24,639.0
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Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(b) Contractual services		5,429.1	2,748.2	4,508.7	12,686.0
(c) Other		3,584.1	1,814.0	2,976.9	8,375.0

The internal service funds/interagency transfers appropriations to the healthcare program of miners' hospital of New Mexico include nine million nine hundred thousand dollars (\$9,900,000) from the miners' trust fund.

Performance measures:

(a) Outcome:	Percent of occupancy at nursing home based on licensed beds	50%
(b) Quality:	Percent of patients readmitted to the hospital within thirty days with the same or similar diagnosis	2%
Subtotal		45,700.0

**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	26,729.4	2,345.7	3,573.3	35,101.3	67,749.7
(b) Contractual services	30,496.6	6,785.6	16,431.4	25,894.8	79,608.4
(c) Other	15,255.2	37,440.4	287.1	47,023.7	100,006.4
(d) Other financing uses	462.3				462.3

Item	General	Other	Intrnl Svc	Federal	Total/Target
	Fund	Funds	Funds/Inter-Agency Trnsf	Funds	

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 human immunodeficiency virus/acquired immune deficiency syndrome prevention services and medicine and one hundred twenty-eight thousand six hundred dollars (\$128,600) from the tobacco settlement program fund for breast and cervical cancer screening.

The internal service funds/interagency transfers appropriations to the public health program of the department of health include one hundred thousand dollars (\$100,000) for the family success lab.

Performance measures:

(a) Quality:	Percent of female New Mexico department of health's public health office family planning clients, ages fifteen to nineteen, who were provided most or moderately effective contraceptives	88%
(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	66%

(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:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(a) Personal services and employee benefits	5,735.4	299.7	467.5	29,414.1	35,916.7
(b) Contractual services	2,697.2	185.8	478.3	16,907.7	20,269.0
(c) Other	5,380.5	185.7	27.2	2,477.0	8,070.4

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 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 and to provide timely identification of threats to the health of New Mexicans.

Appropriations:

(a) Personal services and employee benefits	6,400.0	1,323.0	129.5	3,016.1	10,868.6
(b) Contractual services	462.0	30.0	33.5	336.2	861.7
(c) Other	2,209.1	473.0	624.4	1,791.4	5,097.9

(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.

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

Appropriations:

(a) Personal services and employee benefits	60,315.9	68,304.6	2,659.0	8,264.9	139,544.4
(b) Contractual services	3,154.2	10,972.6	1,658.6	1,187.2	16,972.6
(c) Other	12,951.5	14,285.1	1,840.1	2,859.3	31,936.0

Performance measures:

(a) Efficiency:	Percent of eligible third-party revenue collected at all agency facilities	93%
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(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	8,791.3		6,762.5		15,553.8
(b) Contractual services	10,356.3	65.0	2,167.6		12,588.9
(c) Other	7,551.9	119.6	808.0		8,479.5
(d) Other financing uses	167,058.4				167,058.4

Performance measures:

(a) Explanatory:	Number of individuals receiving developmental disabilities waiver services
(b) Explanatory:	Number of individuals on the developmental disabilities waiver waiting list

Item	General Fund	Other	Intrnl Svc	Funds/Inter- Agency Trnsf	Federal Funds	Total/Target
		State Funds				

(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	8,268.7	1,788.0	4,846.9	2,143.8	17,047.4
(b) Contractual services	650.0	10.0	151.5	111.0	922.5
(c) Other	797.6	115.0	500.0	621.6	2,034.2

Performance measures:

(a) Quality:	Percent of abuse, neglect and exploitation investigations completed according to established timelines	95%
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(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	1,572.3	1,572.3
(b) Contractual services	570.5	570.5
(c) Other	373.7	373.7

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

(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	7,200.3			8,014.0	15,214.3
(b) Contractual services	134.3		564.3	809.2	1,507.8
(c) Other	458.7			1,086.6	1,545.3
Subtotal					761,832.7

**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	2,104.0		8,078.8	3,248.3	13,431.1
(b) Contractual services	300.3		1,515.5	1,621.5	3,437.3
(c) Other	77.0		729.0	393.1	1,199.1

Performance measures:

(a) Outcome:	Percent of hazardous waste facilities in compliance	90%
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Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	
(b) Outcome:	Percent of solid and infectious waste management facilities in compliance				90%

(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	4,507.2	100.0	5,896.6	8,441.3	18,945.1
(b) Contractual services	1,510.9		4,039.9	6,565.4	12,116.2
(c) Other	303.9		1,309.5	2,505.2	4,118.6
(d) Other financing uses				142.5	142.5

Performance measures:

(a) Output:	Number of nonpoint source impaired waterbodies restored by the department relative to the number of impaired water bodies	1:377
(b) Outcome:	Percent of groundwater permittees in compliance	92%

(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 technologists certification and to ensure every employee has safe and healthful working conditions.

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

Appropriations:

(a) Personal services and employee benefits	7,151.8		15,118.3	2,485.3	24,755.4
(b) Contractual services	279.2		1,054.4	384.4	1,718.0
(c) Other	1,736.4		2,025.1	2,501.6	6,263.1

Performance measures:

(a) Outcome:	Percent of the population breathing air meeting federal health standards	95%
(b) Outcome:	Percent of employers inspected that did not meet occupational health and safety requirements for at least one standard	55%

(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	3,858.3	88.4	2,600.2	1,892.2	8,439.1
(b) Contractual services	771.6	28.5	35.8	319.3	1,155.2
(c) Other	408.6	83.1	688.0	248.9	1,428.6

(5) Special revenue funds:

Appropriations:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(a) Contractual services		4,990.0			4,990.0
(b) Other		11,338.0		4,262.0	15,600.0
(c) Other financing uses		41,888.9			41,888.9
Subtotal					159,628.2

**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	624.3	5.0			629.3
(b) Contractual services		4,500.0			4,500.0
(c) Other	41.0				41.0
Subtotal					5,170.3

**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	5,270.3			429.7	5,700.0
(b) Contractual services	742.1	240.0		203.0	1,185.1

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(c) Other	881.0	110.0		151.3	1,142.3

The other state funds appropriation to the veterans' services program of the veterans' services department in the contractual services category includes one hundred thousand dollars (\$100,000) for veterans' suicide prevention services.

Performance measures:

(a) Quality:	Percent of veterans surveyed who rate the services provided by the agency as satisfactory or above	95%
(b) Explanatory:	Number of veterans and families of veterans served by veterans' services department field offices	
Subtotal		8,027.4

**FAMILY REPRESENTATION AND ADVOCACY:**

(1) Family representation and advocacy:

Appropriations:

(a) Personal services and employee benefits	3,194.0	1,500.0	1,500.0	6,194.0
(b) Contractual services	3,891.7			3,891.7
(c) Other	444.3			444.3
Subtotal				10,530.0

**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.

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

Appropriations:

(a) Personal services and employee benefits	50,729.5	5,418.3			56,147.8
(b) Contractual services	10,947.0	1,431.9	1,323.1	501.5	14,203.5
(c) Other	7,768.6	32.0		52.4	7,853.0

Performance measures:

(a) Outcome:	Percent of youth discharged from active field supervision who did not recidivate in the following two-year time period	88%
(b) Outcome:	Percent of youth discharged from a secure facility who did not recidivate in the following two-year time period	70%

(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	58,879.5		8,050.2	21,130.3	88,060.0
(b) Contractual services	32,504.4	323.4	9,900.0	13,966.3	56,694.1
(c) Other	25,264.2	1,645.2	237.8	50,565.9	77,713.1

The internal service funds/interagency transfers appropriations to the protective services program of the children, youth and families department include fifteen million eight hundred ninety-eight thousand six hundred dollars (\$15,898,600) from the federal temporary assistance for needy families block grant to New Mexico for supportive housing, adoption services, foster care services, multilevel response system implementation as outlined in Section 32A-4-4.1 NMSA 1978, services for youth aging out of foster care,

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

family support services, family preservation services, evidence-based prevention and intervention services, home services for children with behavioral health challenges preventing placement, kinship support and recruitment and retention of foster families.

The general fund appropriations to the protective services program of the children, youth and families department include seven million six hundred sixty-two thousand dollars (\$7,662,000) to match with federal revenue for well-supported, supported or promising programming as included on the clearinghouse website for the Family First Prevention Services Act or on the website for the California evidence-based clearinghouse for child welfare.

Performance measures:

(a) Output:	Turnover rate for protective service workers	25%
(b) 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	50%

(3) 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	10,687.4		1,294.2	89.2	12,070.8
(b) Contractual services	34,706.5	600.0	31.7	5,521.0	40,859.2
(c) Other	1,068.1			35.0	1,103.1

(4) Program support:

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter- Agency Trnsf	Federal Funds	Total/Target

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	9,098.7	204.0		5,618.5	14,921.2
(b) Contractual services	3,020.8				3,020.8
(c) Other	2,927.5	229.4	204.0		3,360.9
Subtotal					376,007.5
TOTAL HEALTH, HOSPITALS AND HUMAN SERVICES	2,707,927.2	369,811.3	675,198.0	9,115,601.5	12,868,538.0

## 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	5,189.3			8,497.5	13,686.8
(b) Contractual services	482.4	10.9	146.9	2,773.1	3,413.3
(c) Other	3,200.5	124.3		10,330.4	13,655.2

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

The general fund appropriation to the national guard support program of the department of military affairs in the personal services and employee benefits category includes seven hundred fifty thousand dollars (\$750,000) for state active duty operations.

The general fund appropriation to the national guard support program of the department of military affairs in the personal services and employee benefits category includes funding for the adjutant general position not to exceed the 2023 amount prescribed by federal law and regulations for members of the active military in the grade of major general and for the deputy adjutant general position not to exceed the 2023 amount prescribed by federal law and regulations for members of the active military in the grade of brigadier general.

Performance measures:

(a) Outcome:	Percent strength of the New Mexico national guard	98%
(b) Outcome:	Percent of New Mexico national guard youth challenge academy graduates who earn a high school equivalency credential	72%
Subtotal		30,755.3

**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	566.0	566.0
(b) Contractual services	9.0	9.0
(c) Other	150.1	150.1

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter- Agency Trnsf	Federal Funds	Total/Target

Performance measures:

(a) Efficiency:	Percent of revocation hearings held within thirty days of a parolee's return to the corrections department	95%
Subtotal		725.1

**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 revictimizing the community.

Appropriations:

(a) Other	7.6	7.6
Subtotal		7.6

**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	108,412.8	1,611.5	18,896.0	17.5	128,937.8
(b) Contractual services	68,288.0				68,288.0
(c) Other	89,006.1	295.6			89,301.7

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

Performance measures:

(a) Outcome:	Average number of female inmates on in-house parole	5
(b) Outcome:	Average number of male inmates on in-house parole	65
(c) Outcome:	Vacancy rate of correctional officers in public facilities	20%
(d) Outcome:	Vacancy rate of correctional officers in private facilities	20%
(e) Output:	Number of inmate-on-inmate assaults resulting in injury requiring off-site medical treatment	12
(f) Output:	Number of inmate-on-staff assaults resulting in injury requiring off-site medical treatment	3

(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	1,969.0	1,969.0
(b) Contractual services	51.4	51.4
(c) Other	3,726.9	3,726.9

Performance measures:

(a) Output:	Percent of inmates receiving vocational or educational training assigned to corrections industries	25%
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(3) Community offender management:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

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	25,284.0	1,976.4			27,260.4
(b) Contractual services	2,419.7	920.0			3,339.7
(c) Other	5,632.3				5,632.3

Performance measures:

(a) Outcome:	Percent of contacts per month made with high-risk offenders in the community	95%
(b) Quality:	Average standard caseload per probation and parole officer	88
(c) Outcome:	Vacancy rate of probation and parole officers	15%

(4) Reentry:

The purpose of the reentry program is to facilitate the rehabilitative process by providing programming options and services to promote the successful reintegration of incarcerated individuals into the community. By building educational, cognitive, life skills, vocational programs and pre- and post-release services around sound research into best correctional practices and incorporating community stakeholders throughout the effort, the reentry program removes or reduces barriers to incarcerated persons living productively in society, thereby reducing recidivism and furthering the public safety mission of the New Mexico corrections department.

Appropriations:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(a) Personal services and employee benefits	9,260.9	301.5	368.2		9,930.6
(b) Contractual services	11,979.6				11,979.6
(c) Other	745.3				745.3

Performance measures:

(a) Outcome:	Percent of prisoners reincarcerated within thirty-six months due to technical parole violations	20%
(b) Output:	Percent of eligible inmates who earn a high school equivalency credential	80%
(c) Output:	Percent of graduates from the men's recovery center who are reincarcerated within thirty-six months	20%
(d) Explanatory:	Percent of participating inmates who have completed adult basic education	
(e) Outcome:	Percent of prisoners reincarcerated within thirty-six months due to new charges or pending charges	14%
(f) Output:	Percent of graduates from the women's recovery center who are reincarcerated within thirty-six months	20%
(g) Explanatory:	Percent of residential drug abuse program graduates reincarcerated within thirty-six months of release	
(h) Outcome:	Percent of sex offenders reincarcerated on a new sex offense conviction within thirty-six months of release on the previous sex offense conviction	3%
(i) Outcome:	Percent of prisoners reincarcerated within thirty-six months	35%
(j) Outcome:	Percent of eligible inmates enrolled in educational, cognitive, vocational and college programs	60%
(k) Output:	Number of inmates who earn a high school equivalency credential	145

(5) Program support:

Item	General Fund	Other	Intrnl Svc	Funds/Inter- Agency Trnsf	Federal Funds	Total/Target
		State Funds				

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	12,219.1					12,219.1
(b) Contractual services	186.2	22.0				208.2
(c) Other	2,581.1	132.8	78.6			2,792.5
Subtotal						366,382.5

**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	1,541.7			137.9		1,679.6
(b) Contractual services	59.7			3.1		62.8
(c) Other	926.8	956.0		1,018.7		2,901.5

The other state funds appropriation to the victim compensation program of the crime victims reparation commission [~~in the other category~~] includes nine hundred fifty-six thousand dollars (\$956,000) [~~for care and support~~]. *LINE ITEM VETO*

Performance measures:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter-Agency Trnsf		
(a) Explanatory:	Average compensation paid to individual victims using federal funding				
(b) Explanatory:	Average compensation paid to individual victims using state funding				

(2) Grant administration:

The purpose of the 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	94.3			612.1	706.4
(b) Contractual services	8,924.0			39.4	8,963.4
(c) Other	140.8			11,929.5	12,070.3

The general fund appropriation to the grant administration program of the crime victims reparation commission in the other category includes one hundred forty thousand dollars (\$140,000) for victim advocates.

Performance measures:

(a) Explanatory:	Number of sexual assault service provider programs receiving state funding statewide				
(b) Efficiency:	Percent of state-funded subgrantees that received site visits			40%	
(c) Explanatory:	Number of sexual assault survivors who received services through state-funded victim services provider programs statewide				
Subtotal					26,384.0

Item	General Fund	Other	Intrnl Svc	Funds/Inter- Agency Trnsf	Federal Funds	Total/Target
		State Funds				

**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	106,533.8	885.0	3,761.0	5,845.1	117,024.9
(b) Contractual services	1,423.4		100.0	820.5	2,343.9
(c) Other	24,295.2	1,430.0	2,697.3	2,451.8	30,874.3

The general fund appropriation to the law enforcement program of the department of public safety in the personal services and employee benefits category includes one million two hundred eleven thousand two hundred dollars (\$1,211,200) to provide pay increases for public safety telecommunicators or dispatchers.

The general fund appropriation to the law enforcement program of the department of public safety in the personal services and employee benefits category includes four hundred fifteen thousand dollars (\$415,000) to support the addition of five new victim advocate positions.

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 2024 from appropriations made from the weight distance tax identification permit fund shall revert to the weight distance tax identification permit fund.

Performance measures:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(a) Explanatory:	Number of proactive special investigations unit operations to reduce driving while intoxicated and alcohol-related crime				
(b) Explanatory:	Percent of total crime scenes processed for other law enforcement agencies				
(c) Explanatory:	Graduation rate of the New Mexico state police recruit school				
(d) Output:	Number of driving-while-intoxicated saturation patrols conducted				3,000
(e) Explanatory:	Turnover rate of commissioned state police officers				
(f) Explanatory:	Number of drug-related investigations conducted by narcotics agents				
(g) Explanatory:	Vacancy rate of commissioned state police officers				
(h) Output:	Number of commercial motor vehicle safety inspections conducted				90,000

(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	15,195.4	3,357.6	446.5	754.8	19,754.3
(b) Contractual services	579.8	1,262.0	130.0	814.3	2,786.1
(c) Other	5,336.3	2,879.6	386.0	674.0	9,275.9

The general fund appropriations to the statewide law enforcement support program of the department of public safety include two million seventy-five thousand six hundred dollars (\$2,075,600) for costs related to the operation and activities of the law enforcement academy board or other primary entity responsible for law enforcement officer certification: one million five hundred eighty-six thousand one hundred dollars (\$1,586,100) in the personal services and employee benefits category, five thousand dollars (\$5,000) in the

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

contractual services category and four hundred eighty-four thousand five hundred dollars (\$484,500) in the other category.

The general fund appropriations to the statewide law enforcement support program of the department of public safety include one million three hundred twenty-five thousand one hundred dollars (\$1,325,100) for costs related to the operation and activities of the law enforcement academy or other primary entity responsible for law enforcement officer standards and training.

Performance measures:

(a) Explanatory:	Number of expungements processed	
(b) Outcome:	Percent of forensic evidence cases completed	100%
(c) Outcome:	Number of sexual assault examination kits not completed within one hundred eighty days of receipt of the kits by the forensic laboratory	0

(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	5,205.6	25.0	20.0	524.4	5,775.0
(b) Contractual services	149.2	50.0	5.0	150.0	354.2
(c) Other	526.6	2,925.0	5.0	2,853.6	6,310.2
Subtotal					194,498.8

**HOMELAND SECURITY AND EMERGENCY MANAGEMENT DEPARTMENT:**

(1) Homeland security and emergency management program:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

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	2,657.2	19.7	118.7	4,025.2	6,820.8
(b) Contractual services	296.4			1,328.1	1,624.5
(c) Other	491.3	35.3	40.4	20,578.6	21,145.6

Performance measures:

(a) Outcome:	Number of recommendations from federal grant monitoring visits older than six months unresolved at the close of the fiscal year	2
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(2) State fire marshal's office:

The purpose of the state fire marshal's office program is to provide services and resources to the appropriate entities to enhance their ability to protect the public from fire hazards.

Appropriations:

(a) Personal services and employee benefits		4,699.5		4,699.5
(b) Contractual services		505.1		505.1
(c) Other		104,852.0		104,852.0

Notwithstanding the provisions of Section 59A-53-5.2 NMSA 1978, or other substantive law, the other state funds appropriations to the state fire marshal's office program of the homeland security and emergency management department include six million three hundred nineteen thousand dollars (\$6,319,000) from the fire protection fund. Any unexpended balances from the fire protection fund in the state fire marshal's

Item	General Fund	Other	Intrnl Svc	Federal	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

office program of the homeland security and emergency management department at the end of fiscal year 2024 shall revert to the fire protection fund.

Performance measures:

(a) Outcome:	Percent of local government recipients that receive their fire protection fund distributions on schedule	100%
(b) Outcome:	Average statewide fire district insurance service office rating	4
Subtotal		139,647.5
TOTAL PUBLIC SAFETY	519,997.5      135,024.1      27,199.6	76,179.6      758,400.8

## 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	28,825.0	1,873.3	30,698.3
(b) Contractual services	115,263.9	367,231.0	482,494.9
(c) Other	158,180.3	126,615.7	284,796.0

Performance measures:

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter- Agency Trnsf	Federal Funds	Total/Target
(a) Outcome:	Percent of projects in production let to bid as scheduled				75%
(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 highway operations program is responsible for maintaining and providing improvements to the state's highway infrastructure that serve the interest of the general public. The maintenance and improvements include those activities directly related to preserving roadway integrity and maintaining open highway access throughout the state system. Some examples include bridge maintenance and inspection, snow removal, chip sealing, erosion repair, right-of-way mowing and litter pick up, among numerous other activities.

Appropriations:

(a) Personal services and employee benefits	128,831.9	3,000.0	131,831.9
(b) Contractual services	78,319.4		78,319.4
(c) Other	110,870.2		110,870.2

Performance measures:

(a) Output:	Number of statewide pavement lane miles preserved	3,500
(b) Outcome:	Percent of interstate lane miles rated fair or better	91%
(c) Outcome:	Number of combined systemwide lane miles in poor condition	4,000
(d) Outcome:	Percent of bridges in fair, or better, condition based on deck area	95%

(3) Program support:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

The purpose of program support is to provide management and administration of financial and human resources, custody and maintenance of information and property and the management of construction and maintenance projects.

Appropriations:

(a) Personal services and employee benefits	29,759.2				29,759.2
(b) Contractual services	10,440.7				10,440.7
(c) Other	16,447.5				16,447.5

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	4,509.0	5,880.0		1,613.3	12,002.3
(b) Contractual services	23,047.0	2,030.1		11,527.3	36,604.4
(c) Other	11,674.9	2,389.9		22,116.0	36,180.8

The internal service funds/interagency transfers appropriations to the modal program of the department of transportation include ten million dollars (\$10,000,000) from the weight distance tax identification permit fund.

Performance measures:

Item	General Fund	Other	Intrnl Svc	Federal	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(a) Outcome:		Number of traffic fatalities			400
(b) Outcome:		Number of alcohol-related traffic fatalities			140
Subtotal					1,260,445.6
TOTAL TRANSPORTATION		716,169.0	10,300.0	533,976.6	1,260,445.6

## 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	17,316.0	3,710.2	45.0	7,902.1	28,973.3
(b) Contractual services	3,737.7	2,180.4		19,631.9	25,550.0
(c) Other	1,535.3	846.8		3,572.1	5,954.2

#### Performance measures:

(a) Outcome:	Number of local education agencies and charter schools audited for funding formula components and program compliance annually	30
(b) Explanatory:	Number of eligible children served in state-funded prekindergarten	
Subtotal		60,477.5

### REGIONAL EDUCATION COOPERATIVES:

#### Appropriations:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(a) Northwest	135.0	3,932.0	14.0	325.6	4,406.6
(b) Northeast	135.0	56.0		821.2	1,012.2
(c) Lea county	135.0	3,860.0		5,562.0	9,557.0
(d) Pecos valley	135.0	3,675.0	115.0		3,925.0
(e) Southwest	135.0	16,550.0	38.0	225.0	16,948.0
(f) Central	135.0	8,176.8	47.3	8,176.8	16,535.9
(g) High plains	135.0	9,510.8		797.4	10,443.2
(h) Clovis	135.0	1,000.0		3,250.0	4,385.0
(i) Ruidoso	135.0	1,385.8		11.9	1,532.7
(j) Four corners	135.0				135.0
Subtotal					68,880.6

**PUBLIC EDUCATION DEPARTMENT SPECIAL APPROPRIATIONS:**

Appropriations:

(a) Early literacy and reading support	11,500.0	2,000.0			13,500.0
(b) School leader professional development	5,000.0				5,000.0
(c) Teacher professional development	3,000.0				3,000.0
(d) Graduation, reality and dual-role skills program	750.0		500.0		1,250.0
(e) National board certification assistance		500.0			500.0
(f) Advanced placement and international baccalaureate test assistance	1,250.0				1,250.0
(g) Science, technology, engineering, arts and math initiative	3,096.6				3,096.6
(h) Teacher residency program		2,000.0			2,000.0

		Other	Intrnl Svc		
	General	State	Funds/Inter-	Federal	
<u>Item</u>	<u>Fund</u>	<u>Funds</u>	<u>Agency Trnsf</u>	<u>Funds</u>	<u>Total/Target</u>

The public education department shall prioritize special appropriation awards to school districts or charter schools that implement K-12 plus programs for all eligible students.

The other state funds appropriation to the public education department for early literacy and reading support is from the public education reform fund.

~~[A school district or charter school may submit an application] to the public education department for [an allocation from the] teacher professional development [appropriation to support mentorship and professional development for teachers. The public education department shall prioritize awards to school districts or charter schools that budget the portion of the state equalization guarantee distribution attributable to meeting requirements of Section 22-10A-9 NMSA 1978 and providing targeted and ongoing professional development for purposes of new teacher mentorship, case management, tutoring, data-guided instruction, coaching or other evidence-based practices that improve student outcomes. The public education department shall not make an award to a school district or charter school that does not submit an approved educational plan pursuant to Section 22-8-6 NMSA 1978 or an approved teacher mentorship program pursuant to Section 22-10A-9 NMSA 1978].~~ *LINE ITEM VETO*

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 other state funds appropriation to the public education department for national board certification assistance is from the national board certification scholarship fund.

The other state funds appropriation to the public education department for the teacher residency program is from the educator licensure fund.

Any unexpended balances in special appropriations to the public education department remaining at the end of fiscal year 2024 from appropriations made from the general fund shall revert to the general fund.

	General	Other	Intrnl Svc	Federal	
Item	Fund	Funds	Agency Trnsf	Funds	Total/Target

Any unexpended balances in special appropriations to the public education department remaining at the end of fiscal year 2024 from appropriations made from the public education reform fund shall revert to the public education reform fund.

Subtotal					29,596.6
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**PUBLIC SCHOOL FACILITIES AUTHORITY:**

The purpose of the public school facilities oversight program is to oversee public school facilities in all eighty-nine school districts, ensuring correct and prudent planning, building and maintenance using state funds and ensuring adequacy of all facilities in accordance with public education department approved educational programs.

Appropriations:

(a) Personal services and employee benefits		5,446.9			5,446.9
(b) Contractual services		150.0			150.0
(c) Other		1,272.9			1,272.9

Performance measures:

(a) Explanatory:	Statewide public school facility condition index measured on December 31 of prior calendar year				
(b) Explanatory:	Statewide public school facility maintenance assessment report score measured on December 31 of prior calendar year				
Subtotal					6,869.8
TOTAL OTHER EDUCATION		48,535.6	66,253.6	759.3	50,276.0
					165,824.5

		Other	Intrnl Svc		
	General	State	Funds/Inter-	Federal	
Item	Fund	Funds	Agency Trnsf	Funds	Total/Target

## 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 whose other state funds exceed amounts specified, with the exception of the policy development and institutional financial oversight program of the higher education department. 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.

On approval of the higher education department and in consultation with the legislative finance committee, the state budget division of the department of finance and administration may reduce general fund appropriations, up to three percent, to institutions whose lower level common courses are not completely transferrable or accepted among public colleges and universities in New Mexico.

The secretary of higher education shall work with institutions whose enrollment has declined by more than fifty percent within the past five academic years on a plan to improve enrollment, collaborate or merge with other institutions, and reduce expenditures accordingly [~~and submit an annual report to the legislative finance committee~~]. *LINE ITEM VETO*

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 2024 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 2024 shall not revert to the general fund.

		Other	Intrnl Svc		
	General	State	Funds/Inter-	Federal	
Item	Fund	Funds	Agency Trnsf	Funds	Total/Target

### 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	4,133.5	339.5	43.3	1,245.0	5,761.3
(b) Contractual services	660.0	50.0		950.0	1,660.0
(c) Other	10,116.7	160.0	3,000.0	9,305.0	22,581.7

The internal service funds/interagency transfers appropriations to the policy development and institutional financial oversight program of the higher education department include two million dollars (\$2,000,000) from the temporary assistance for needy families block grant for adult basic education.

The internal service funds/interagency transfers appropriations to the policy development and institutional financial oversight program of the higher education department include one million dollars (\$1,000,000) from the temporary assistance for needy families block grant for adult basic education for integrated education and training programs, including integrated basic education and skills training programs.

The general fund appropriation to the policy development and institutional financial oversight program of the higher education department in the other category includes six million seven hundred thousand dollars (\$6,700,000) to provide adults with education services and materials and access to high school equivalency tests, one hundred twenty-six thousand one hundred dollars (\$126,100) for workforce development programs at community colleges that primarily educate and retrain recently displaced workers, seven hundred sixty-one thousand one hundred dollars (\$761,100) for the high skills program, eighty-four thousand five

Item	General	Other	Intrnl Svc	Federal	Total/Target
	Fund	Funds	Funds/Inter-Agency Trnsf	Funds	

hundred dollars (\$84,500) for English-learner teacher preparation and four hundred sixty-three thousand nine hundred dollars (\$463,900) 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 seven hundred fifty thousand dollars (\$750,000) for an adult literacy program.

Any unexpended balances in the policy development and institutional financial oversight program of the higher education department remaining at the end of fiscal year 2024 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	23%
(b) Outcome:	Percent of adult education high school equivalency test-takers who earn a high school equivalency credential	75%
(c) Outcome:	Percent of high school equivalency graduates entering postsecondary degree or certificate programs	44%

(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 all New Mexicans may benefit from postsecondary education and training beyond high school.

Appropriations:

(a) Contractual services	70.0				70.0
(b) Other	24,009.5	10,000.0	43,050.0	300.0	77,359.5

Item	General Fund	Other	Intrnl Svc	Funds/Inter- Agency Trnsf	Federal Funds	Total/Target
		State Funds				

The other state funds appropriation to the student financial aid program of the higher education department in the other category includes five million dollars (\$5,000,000) from the teacher preparation affordability scholarship fund and five million dollars (\$5,000,000) from the teacher loan repayment fund.

(3) The opportunity scholarship:

The purpose of the opportunity scholarship program is to provide tuition and fee assistance for New Mexico higher education to students so New Mexicans may benefit from postsecondary education and training beyond high school.

Appropriations:

(a) Other	146,000.0	146,000.0
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The general fund appropriation to the opportunity scholarship program of the higher education department in the other category includes one hundred forty-six million dollars (\$146,000,000) for an opportunity scholarship program in fiscal year 2024 for students attending a public postsecondary educational institution or tribal college. The higher education department shall provide a written report summarizing the opportunity scholarship's finances, student participation and sustainability to the department of finance and administration [~~and the legislative finance committee by November 1, 2023. Any unexpended balances remaining at the end of fiscal year 2024 from appropriations made from the general fund shall revert to the general fund.~~] *LINE ITEM VETO*

Subtotal		253,432.5
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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.

Item	General	Other	Intrnl Svc	Federal	Total/Target
	Fund	State	Funds/Inter-	Funds	
	Fund	Funds	Agency Trnsf	Funds	

Appropriations:

(a) Other		159,403.3		137,778.4	297,181.7
(b) Instruction and general purposes	229,235.5	188,474.7		3,807.0	421,517.2
(c) Athletics	8,227.8	26,453.2		30.6	34,711.6
(d) Educational television	1,051.8	6,320.2		3,030.9	10,402.9
(e) Tribal education initiatives	1,050.0				1,050.0
(f) Teacher pipeline initiatives	100.0				100.0

Performance measures:

(a) Output:	Number of students enrolled, by headcount	25,000
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	2,400
(c) Output:	Number of credit hours completed	550,000
(d) Output:	Number of unduplicated degree awards in the most recent academic year	5,500
(e) 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	60%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	83%

(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:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(a) Other		1,740.0		1,325.0	3,065.0
(b) Instruction and general purposes	9,910.9	4,951.0		73.0	14,934.9
(c) Tribal education initiatives	100.0				100.0

Performance measures:

(a) Output:	Number of students enrolled, by headcount	2,454
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	189
(c) Output:	Number of credit hours completed	30,000
(d) Output:	Number of unduplicated awards conferred in the most recent academic year	260
(e) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	60%
(f) Outcome:	Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time	35%

(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) Other		381.0		856.0	1,237.0
(b) Instruction and general purposes	2,181.5	2,717.0		481.0	5,379.5

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	

Performance measures:

(a) Output:	Number of students enrolled, by headcount	2,047
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	123
(c) Output:	Number of credit hours completed	12,484
(d) Output:	Number of unduplicated awards conferred in the most recent academic year	141
(e) Outcome:	Percent of a cohort of first-time, full-time, degree-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time	35%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	60%

(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) Other		614.7	2,227.5	2,842.2
(b) Instruction and general purposes	6,583.4	4,793.4	897.2	12,274.0

Performance measures:

(a) Output:	Number of students enrolled, by headcount	3,700
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	183
(c) Output:	Number of credit hours completed	22,500

Item	General Fund	Other	Intrnl Svc	Federal	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(d) Output:		Number of unduplicated awards conferred in the most recent academic year			170
(e) Outcome:		Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time			35%
(f) Outcome:		Percent of first-time, full-time freshmen retained to the third semester			60%

(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) Other		1,370.0	2,580.9	3,950.9
(b) Instruction and general purposes	4,375.4	3,955.0	33.7	8,364.1

Performance measures:

(a) Output:	Number of students enrolled, by headcount	2,100
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	133
(c) Output:	Number of credit hours completed	14,422
(d) Output:	Number of unduplicated awards conferred in the most recent academic year	165
(e) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	60%
(f) Outcome:	Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college	35%

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	

students who complete an academic program within one hundred fifty percent of standard graduation time

(6) Research and public service projects:

Appropriations:

(a) Graduation, reality and dual-role skills program	150.0				150.0
(b) Chicano and chicana studies studies	588.4				588.4
(c) Veterans student services	228.0				228.0
(d) African American student services	173.1				173.1
(e) Native American studies	252.9				252.9
(f) Judicial selection	50.1				50.1
(g) Southwest research center	773.9				773.9
(h) Substance abuse program	68.6				68.6
(i) Resource geographic information system	62.3				62.3
(j) Southwest Indian law clinic	196.1				196.1
(k) Geospatial and population studies/bureau of business and economic research	370.4				370.4
(l) New Mexico historical review	43.6				43.6
(m) Ibero-American education	82.3				82.3
(n) Manufacturing engineering program	517.0				517.0
(o) Wildlife law education	91.2				91.2
(p) Africana studies	288.0				288.0

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(q) Disabled student services	160.6				160.6
(r) Community-based education	523.1				523.1
(s) Corrine Wolfe children's law center	159.6				159.6
(t) Mock trial program and high school forensics	411.6				411.6
(u) Utton transboundary resources center	415.3				415.3
(v) Student mentoring program	162.3				162.3
(w) Land grant studies	121.6				121.6
(x) Gallup branch - nurse expansion	803.5				803.5
(y) Valencia branch - nurse expansion	427.2				427.2
(z) Taos branch - nurse expansion	884.6				884.6
(aa) Gallup branch - workforce development programs	182.4				182.4
(bb) University of New Mexico press	445.6				445.6
(cc) New Mexico bioscience authority	297.4				297.4
(dd) American Indian summer bridge program	250.0				250.0
(ee) Economics department	125.0				125.0
(ff) Natural heritage New Mexico database	50.0				50.0
(gg) Border justice initiative	180.0				180.0
(hh) ROTC program	50.0				50.0
(ii) Wild friends program	75.0				75.0
(jj) School of public administration	100.0				100.0

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(kk) Indigenous design and planning institute	130.0				130.0
(ll) Minority student services	950.6				950.6
(mm) Taos - career services and workforce development programs	150.0				150.0
(nn) Teacher education at branch colleges	60.0				60.0

(7) Health sciences center:

The purpose of the institution and general program of the university of New Mexico health sciences center is to provide educational, clinical and research support for the advancement of the health of all New Mexicans.

Appropriations:

(a) Other		522,423.3		154,806.4	677,229.7
(b) Instruction and general purposes	77,847.2	73,630.6	581.5	4,000.0	156,059.3

The internal service funds/interagency transfers 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	80%

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

(8) Health sciences center research and public service projects:

Appropriations:

(a) ENLACE	971.0				971.0
(b) Graduate medical education/residencies	2,243.7				2,243.7
(c) Office of medical investigator	9,840.8	6,893.6		50.0	16,784.4
(d) Native American suicide prevention	90.2				90.2
(e) Children's psychiatric hospital	8,927.7	12,900.0			21,827.7
(f) Carrie Tingley hospital	7,084.4	16,501.4			23,585.8
(g) Newborn intensive care	3,217.3	200.9		190.3	3,608.5
(h) Pediatric oncology	1,255.9	250.0			1,505.9
(i) Poison and drug information center	1,891.4	594.0		842.8	3,328.2
(j) Cancer center	6,355.9	5,767.0	2,277.6	13,900.0	28,300.5
(k) Genomics, biocomputing and environmental health research		1,115.6		10,326.2	11,441.8
(l) Trauma specialty education		250.0			250.0
(m) Pediatrics specialty education		250.0			250.0
(n) Native American health center	312.1				312.1
(o) Nurse expansion	951.6				951.6
(p) Graduate nurse education	1,653.1				1,653.1
(q) Child abuse evaluation center	147.0				147.0
(r) Hepatitis community health outcomes	6,645.3				6,645.3
(s) Comprehensive movement disorders clinic	409.7				409.7

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(t) Office of the medical investigator grief services	312.5				312.5
(u) Physician assistant program and nurse practitioners	2,650.0				2,650.0
(v) Office of diversity, equity and inclusion	175.6				175.6
(w) Native American health student success program	60.0				60.0
(x) Undergraduate nursing education	1,174.1				1,174.1
(y) Minority student services	166.8				166.8
(z) Rural and urban underserved program	200.0				200.0

The internal service funds/interagency transfers appropriation to the health sciences center research and public service projects of the university of New Mexico includes two million two hundred seventy-seven thousand six hundred dollars (\$2,277,600) from the tobacco settlement program fund.

Subtotal 1,790,496.8

### 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:

(a) Other	83,000.0	110,000.0	193,000.0
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Item	Other		Intrnl Svc		Total/Target
	General Fund	State Funds	Funds/Inter-Agency Trnsf	Federal Funds	
(b) Instruction and general purposes	144,235.1	126,000.0		5,000.0	275,235.1
(c) Athletics	7,517.9	13,600.0		100.0	21,217.9
(d) Educational television	1,174.2	1,100.0			2,274.2
(e) Tribal education initiatives	200.0				200.0
(f) Teacher pipeline initiatives	250.0				250.0

Performance measures:

(a) Output:	Number of students enrolled, by headcount	16,250
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	1,500
(c) Output:	Number of credit hours completed	360,000
(d) Output:	Number of unduplicated degree awards in the most recent academic year	3,225
(e) 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	60%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	83%

(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) Other	900.0	2,900.0	3,800.0
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Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(b) Instruction and general purposes	8,231.8	3,000.0		300.0	11,531.8

Performance measures:

(a) Output:	Number of students enrolled, by headcount	2,000
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	100
(c) Output:	Number of credit hours completed	14,500
(d) Output:	Number of unduplicated awards conferred in the most recent academic year	130
(e) Outcome:	Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time	35%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	60%

(3) 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) Other		6,200.0	17,000.0	23,200.0
(b) Instruction and general purposes	26,954.2	19,200.0	3,900.0	50,054.2

Performance measures:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(a) Output:	Number of students enrolled, by headcount				8,700
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount				1,100
(c) Output:	Number of credit hours completed				114,000
(d) Output:	Number of unduplicated awards conferred in the most recent academic year				1,150
(e) Outcome:	Percent of a cohort of first-time, part-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time				35%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester				60%

(4) 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) Other		2,200.0		2,100.0	4,300.0
(b) Instruction and general purposes	4,031.7	1,700.0		1,200.0	6,931.7
(c) Tribal education initiatives	100.0				100.0

Performance measures:

(a) Output:	Number of students enrolled, by headcount				1,200
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount				105

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter- Agency Trnsf	Federal Funds	Total/Target
(c) Output:	Number of credit hours completed				8,600
(d) Output:	Number of unduplicated awards conferred in the most recent academic year				75
(e) Outcome:	Percent of a cohort of first-time, full-time, degree- or certificate- seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time				35%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester				60%

(5) Department of agriculture:

Appropriations:

(a) Department of agriculture	14,777.3	6,700.0		4,300.0	25,777.3
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(6) Agricultural experiment station:

Appropriations:

(a) Agricultural experiment station	18,053.6	8,000.0		20,000.0	46,053.6
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(7) Cooperative extension service:

Appropriations:

(a) Cooperative extension service	15,537.2	5,000.0		7,500.0	28,037.2
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(8) Research and public service projects:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
Appropriations:					
(a) Nurse expansion	2,081.2				2,081.2
(b) Autism program	1,100.0				1,100.0
(c) Sunspot solar observatory consortium	367.5			400.0	767.5
(d) STEM alliance for minority participation	357.9			1,500.0	1,857.9
(e) Mental health nurse practitioner	1,315.0				1,315.0
(f) Water resource research institute	1,141.3	700.0		700.0	2,541.3
(g) Indian resources development	265.9			100.0	365.9
(h) Manufacturing sector development program	647.8				647.8
(i) Arrowhead center for business development	355.1	1,000.0		900.0	2,255.1
(j) Alliance teaching and learning advancement	211.4				211.4
(k) College assistance migrant program	297.9			600.0	897.9
(l) Grants branch - veterans center	45.6				45.6
(m) Dona Ana branch - dental hygiene program	429.0				429.0
(n) Dona Ana branch - nurse expansion	928.9				928.9
(o) Sustainable agriculture center of excellence	500.0				500.0
(p) Anna age eight institute	2,077.0				2,077.0
(q) New Mexico produced water consortium	130.0				130.0
(r) Career path training and STEM outreach for K-12	100.0				100.0
(s) Nurse anesthesiology	500.0				500.0
Subtotal					710,714.5

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

### 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) Other		13,500.0		9,500.0	23,000.0
(b) Instruction and general purposes	33,619.2	12,216.7		172.5	46,008.4
(c) Athletics	3,089.3	500.0			3,589.3
(d) Tribal education initiatives	200.0				200.0
(e) Teacher pipeline initiatives	250.0				250.0

Performance measures:

(a) Output:	Number of students enrolled, by headcount	6,500
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	110
(c) Output:	Number of credit hours completed	62,500
(d) Output:	Number of unduplicated degree awards in the most recent academic year	800
(e) 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	40%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	65%

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

(2) Research and public service projects:

Appropriations:

(a) Advanced placement and international baccalaureate test assistance	199.7				199.7
(b) Nurse expansion	212.6				212.6
(c) Native American social work institute	225.0				225.0
(d) Forest and watershed institute	524.6				524.6
(e) Acequia and land grant education	46.5				46.5
(f) Doctor of nurse practitioner expansion	155.3				155.3
(g) Center for professional development and career readiness	164.2				164.2
(h) Center for excellence in social work	500.0				500.0
(i) Improve retention and completion of underserved students	50.0				50.0
(j) Minority student services	503.7				503.7
(k) Social work grant funds	125.0				125.0
Subtotal					75,754.3

**WESTERN NEW MEXICO UNIVERSITY:**

(1) Main campus:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

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) Other		5,800.0		6,300.0	12,100.0
(b) Instruction and general purposes	23,958.5	13,650.0		200.0	37,808.5
(c) Athletics	3,063.9	1,100.0			4,163.9
(d) Teacher pipeline initiatives	250.0				250.0

Performance measures:

(a) Output:	Number of students enrolled, by headcount	4,100
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	225
(c) Output:	Number of credit hours completed	63,000
(d) Output:	Number of unduplicated degree awards in the most recent academic year	800
(e) 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	40%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	65%

(2) Research and public service projects:

Appropriations:

(a) Nurse expansion	1,550.3	1,550.3
(b) Instructional television	66.0	66.0

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(c) Truth or Consequences and Deming nurse expansion	282.0				282.0
(d) Pharmacy and phlebotomy programs	98.0				98.0
(e) Web-based teacher licensure	117.8				117.8
(f) Early childhood center	292.8				292.8
(g) Early childhood center of excellence	500.0				500.0
(h) Early childhood mental health program	150.0				150.0
(i) Veterans center	100.0				100.0
Subtotal					57,479.3

### 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) Other		13,000.0		25,000.0	38,000.0
(b) Instruction and general purposes	37,923.5	21,500.0		1,500.0	60,923.5
(c) Athletics	3,321.1	2,700.0		23.0	6,044.1
(d) Educational television	1,088.5	1,350.0		10.0	2,448.5
(e) Teacher pipeline initiatives	250.0				250.0

Performance measures:

(a) Output:	Number of students enrolled, by headcount	7,100
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Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter- Agency Trnsf	Federal Funds	Total/Target
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount				350
(c) Output:	Number of credit hours completed				100,500
(d) Output:	Number of unduplicated degree awards in the most recent academic year				1,350
(e) 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				40%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester				65%

(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) Other		1,642.5		4,500.0	6,142.5
(b) Instruction and general purposes	13,543.5	3,240.5		2,500.0	19,284.0

Performance measures:

(a) Output:	Number of students enrolled, by headcount				2,650
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount				350
(c) Output:	Number of credit hours completed				31,000
(d) Output:	Number of unduplicated awards conferred in the most recent academic year				450

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	
(e) Outcome:		Percent of a cohort of first-time, full-time, degree-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time			35%
(f) Outcome:		Percent of first-time, full-time freshmen retained to the third semester			60%

(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) Other		300.0		200.0	500.0
(b) Instruction and general purposes	2,294.8	2,000.0		3,000.0	7,294.8

Performance measures:

(a) Output:	Number of students enrolled, by headcount	1,000
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	75
(c) Output:	Number of credit hours completed	9,500
(d) Output:	Number of unduplicated awards conferred in the most recent academic year	100
(e) Outcome:	Percent of a cohort of first-time, full-time, degree-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time	35%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	60%

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	

(4) Research and public service projects:

Appropriations:

(a) Nurse expansion	323.7				323.7
(b) Blackwater draw site and museum	87.8	40.0			127.8
(c) Student success programs	399.2				399.2
(d) At-risk student tutoring	215.0				215.0
(e) Allied health	136.3				136.3
(f) Roswell branch - nurse expansion	350.0				350.0
(g) Roswell branch - airframe mechanics	68.5				68.5
(h) Roswell branch - special services program	108.1				108.1
(i) Teacher education preparation program	182.4				182.4
(j) Greyhound promise	91.2				91.2
(k) Youth challenge	91.2				91.2
(l) Nursing program	178.6				178.6
(m) Roswell branch - veterans center	60.0				60.0
Subtotal					143,219.4

**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:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(a) Other		18,000.0		14,000.0	32,000.0
(b) Instruction and general purposes	33,951.8	14,000.0			47,951.8
(c) Teacher pipeline initiatives	50.0				50.0

Performance measures:

(a) Output:	Number of students enrolled, by headcount	1,800
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	280
(c) Output:	Number of credit hours completed	43,000
(d) Output:	Number of unduplicated awards conferred in the most recent academic year	335
(e) 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	60%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	83%

(2) Bureau of mine safety:

Appropriations:

(a) Bureau of mine safety	365.6		300.0	665.6
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(3) Bureau of geology and mineral resources:

Appropriations:

(a) Bureau of geology and mineral resources	4,603.8	735.0	1,900.0	7,238.8
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Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(4) Petroleum recovery research center:					
Appropriations:					
(a) Petroleum recovery research center	1,917.5	636.0		7,400.0	9,953.5
(5) Geophysical research center:					
Appropriations:					
(a) Geophysical research center	1,402.0	500.0		2,500.0	4,402.0
(6) Research and public service projects:					
Appropriations:					
(a) Energetic materials research center	1,000.0	3,600.0		28,500.0	33,100.0
(b) Science and engineering fair	198.2				198.2
(c) Institute for complex additive systems analysis	1,173.7	1,000.0		12,000.0	14,173.7
(d) Cave and karst research	398.4	62.0		584.0	1,044.4
(e) Homeland security center	610.9			3,300.0	3,910.9
(f) Cybersecurity center of excellence	500.0	310.0		440.0	1,250.0
(g) Rural economic development	32.8				32.8
(h) Chemical engineering student assistanceships	199.3				199.3
(i) New Mexico mathematics, engineering and science achievement	1,088.7				1,088.7

	General	Other	Intrnl Svc	Federal	
Item	Fund	Funds	Agency Trnsf	Funds	Total/Target
Subtotal					157,259.7

### 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) Other		5,600.0		6,700.0	12,300.0
(b) Instruction and general purposes	11,636.5	6,800.0		6,800.0	25,236.5
(c) Athletics	543.9	200.0			743.9
(d) Teacher pipeline initiatives	250.0				250.0

Performance measures:

(a) Output:	Number of students enrolled, by headcount	1,600
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	231
(c) Output:	Number of credit hours completed	23,700
(d) Output:	Number of unduplicated awards conferred in the most recent academic year	225
(e) 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	40%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	65%

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	

(2) Research and public service projects:

Appropriations:

(a) Science, technology, engineering, arts and math initiative	125.2				125.2
(b) Nurse expansion	947.0				947.0
(c) Academic program evaluation	45.6				45.6
(d) Native American student center	150.0				150.0
(e) Veterans center	120.2				120.2
(f) Demonstration farm	50.0				50.0
(g) Arts, cultural engagement and sustainable agriculture	50.0				50.0
(h) Center for the arts	200.0				200.0
Subtotal					40,218.4

**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) Other		1,374.0		15,477.0	16,851.0
(b) Instruction and general purposes	12,482.7	26,473.0		3,300.0	42,255.7

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

Performance measures:

(a) Output:	Number of students enrolled, by headcount	5,800
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	169
(c) Output:	Number of credit hours completed	53,400
(d) Output:	Number of unduplicated awards conferred in the most recent academic year	574
(e) Outcome:	Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time	35%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	60%

(2) Research and public service projects:

Appropriations:

(a) Nurse expansion	439.4	439.4
(b) First born, home visiting and technical assistance	435.0	435.0
(c) Teacher education expansion	136.8	136.8
(d) Small business development centers	4,312.7	1,646.0
(e) EMS mental health resiliency pilot	91.2	91.2
(f) Employment preparation	60.0	60.0
Subtotal		66,227.8

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	

**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) Other		10,000.0		18,400.0	28,400.0
(b) Instruction and general purposes	71,403.1	90,000.0		3,900.0	165,303.1

Performance measures:

(a) Output:	Number of students enrolled, by headcount	32,500
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	2,100
(c) Output:	Number of credit hours completed	340,000
(d) Output:	Number of unduplicated awards conferred in the most recent academic year	6,000
(e) Outcome:	Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time	35%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	60%

(2) Research and public service projects:

Appropriations:

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(a) Nurse expansion	1,400.0				1,400.0
(b) Workforce development	70.0				70.0
Subtotal					195,173.1

### 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) Other		449.4		3,555.7	4,005.1
(b) Instruction and general purposes	7,589.6	142.1		61.5	7,793.2
(c) Athletics	479.7				479.7

Performance measures:

(a) Output:	Number of students enrolled, by headcount	1,536
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	120
(c) Output:	Number of credit hours completed	14,000
(d) Output:	Number of unduplicated awards conferred in the most recent academic year	160
(e) Outcome:	Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time	35%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	60%

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	

(2) Research and public service projects:

Appropriations:

(a) Nurse expansion	267.0				267.0
(b) Student retention and completion	483.8				483.8
(c) Rough rider student support services	150.0				150.0
(d) Fire resiliency	75.0				75.0
(e) Year-round mentorship	100.0				100.0
Subtotal					13,353.8

**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) Other		242.2		842.9	1,085.1
(b) Instruction and general purposes	4,677.1	116.4		87.9	4,881.4
(c) Athletics	212.8				212.8

Performance measures:

(a) Output:	Number of students enrolled, by headcount	1,350
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	110

Item	Fund	Other	Intrnl Svc	Funds	Total/Target
		General	State		
(c) Output:		Number of credit hours completed			9,000
(d) Output:		Number of unduplicated awards conferred in the most recent academic year			445
(e) Outcome:		Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time			35%
(f) Outcome:		Percent of first-time, full-time freshmen retained to the third semester			60%

(2) Research and public service projects:

Appropriations:

(a) Wind training center	115.0				115.0
Subtotal					6,294.3

**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) Other		3,600.0		2,000.0	5,600.0
(b) Instruction and general purposes	6,874.3	19,000.0		450.0	26,324.3
(c) Athletics	558.6				558.6

Performance measures:

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	
(a) Output:		Number of students enrolled, by headcount			3,250
(b) Output:		Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount			500
(c) Output:		Number of credit hours completed			43,000
(d) Output:		Number of unduplicated awards conferred in the most recent academic year			350
(e) Outcome:		Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time			35%
(f) Outcome:		Percent of first-time, full-time freshmen retained to the third semester			60%

(2) Research and public service projects:

Appropriations:

(a) Nurse expansion	581.9				581.9
(b) Oil and gas management program	156.2				156.2
(c) Lea county distance education consortium	26.6				26.6
(d) Student support services	150.0				150.0
Subtotal					33,397.6

**SOUTHEAST NEW MEXICO 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.

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

Appropriations:

(a) Other		1,000.0		1,500.0	2,500.0
(b) Instruction and general purposes	4,804.2	14,000.0		2,000.0	20,804.2

Performance measures:

(a) Output:	Number of students enrolled, by headcount				2,500
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount				197
(c) Output:	Number of credit hours completed				16,500
(d) Output:	Number of unduplicated awards conferred in the most recent academic year				160
(e) Outcome:	Percent of a cohort of first-time, full-time, degree- or certificate- seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time				35%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester				60%

(2) Research and public service projects:

Appropriations:

(a) Carlsbad branch - manufacturing sector development program	223.8				223.8
(b) Carlsbad branch - nurse expansion	398.6				398.6
Subtotal					23,926.6

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	

**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) Other		14,000.0		22,000.0	36,000.0
(b) Instruction and general purposes	28,148.7	34,000.0		6,000.0	68,148.7
(c) Tribal education initiatives	100.0				100.0

Performance measures:

(a) Output:	Number of students enrolled, by headcount	8,600
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	300
(c) Output:	Number of credit hours completed	106,000
(d) Output:	Number of unduplicated awards conferred in the most recent academic year	1,200
(e) Outcome:	Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time	35%
(f) Outcome:	Percent of first-time, full-time freshmen retained to the third semester	60%

(2) Research and public service projects:

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
	General	Funds	Agency Trnsf	Funds	

Appropriations:

(a) Nurse expansion	1,116.0				1,116.0
(b) Dental hygiene program	175.0				175.0
(c) Renewable energy center of excellence	500.0				500.0
(d) Food hub	150.0				150.0
(e) Health center	60.0				60.0
Subtotal					106,249.7

**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) Other		500.0		5,900.0	6,400.0
(b) Instruction and general purposes	11,353.4	5,500.0		1,200.0	18,053.4

Performance measures:

(a) Output:	Number of students enrolled, by headcount	3,500
(b) Output:	Number of first-time freshmen enrolled who graduated from a New Mexico high school, by headcount	130
(c) Output:	Number of credit hours completed	35,000
(d) Output:	Number of unduplicated awards conferred in the most recent academic year	450

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	
(e) Outcome:		Percent of a cohort of first-time, full-time, degree- or certificate-seeking community college students who complete an academic program within one hundred fifty percent of standard graduation time			35%
(f) Outcome:		Percent of first-time, full-time freshmen retained to the third semester			60%

(2) Research and public service projects:

Appropriations:

(a) Nurse expansion	356.5				356.5
(b) Welding program	180.0				180.0
(c) HVAC program	100.0				100.0
Subtotal					25,089.9

**NEW MEXICO MILITARY INSTITUTE:**

(1) Main campus:

The purpose of the New Mexico military institute program is to provide college-preparatory instruction for students in a residential, military environment culminating in a high school diploma or associates degree.

Appropriations:

(a) Other		9,473.0			9,473.0
(b) Instruction and general purposes	2,604.8	34,682.0		322.5	37,609.3
(c) Athletics	327.7	435.0			762.7

Performance measures:

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	
(a) Outcome:		Average American college testing composite score for graduating high school seniors			20
(b) Outcome:		Proficiency profile reading scores for graduating college sophomores			115
(c) Output:		Percent of third Friday high school seniors and junior college sophomore students graduating with a high school diploma or associate degree			80%

(2) Research and public service projects:

Appropriations:

(a) Knowles legislative scholarship program	1,353.7				1,353.7
Subtotal					49,198.7

**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	1,686.4	24,729.0		313.9	26,729.3
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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			12
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Item	Fund	Other State Funds	Intrnl Svc Funds/Inter- Agency Trnsf	Federal Funds	Total/Target
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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					27,202.3

**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	4,839.2	25,136.9			29,976.1
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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	100%
(b) Outcome:	Percent of first-year signers who demonstrate improvement in American sign language based on fall or spring assessments	100%

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

(2) Research and public service projects:

Appropriations:

(a) Statewide outreach services	215.7				215.7
Subtotal					30,191.8
TOTAL HIGHER EDUCATION	1,212,469.2	1,789,635.1	48,952.4	753,823.8	3,804,880.5

### 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 2024.

#### 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:

(a) Other	3,969,002.1	7,000.0			3,976,002.1
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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 2023-2024 school year and then, on verification of the number of units statewide for fiscal year 2024 but no later than January 31, 2024, the secretary of public education may adjust the program unit value. In setting the preliminary unit value and the final unit value

Item	General	Other	Intrnl Svc	Federal	Total/Target
	Fund	Funds	Agency Trnsf	Funds	

in January, the public education department shall consult with the department of finance and administration[, legislative finance committee and legislative education study committee]. *LINE ITEM VETO*

The state equalization guarantee distribution includes thirty-one million nine hundred twenty-six thousand two hundred dollars (\$31,926,200) from the general fund contingent on enactment of a bill in the first session of the fifty-sixth legislature amending the Public School Code to increase the at-risk index multiplier to thirty-three hundredths and two million dollars (\$2,000,000) from the general fund and one million dollars (\$1,000,000) from the public education reform fund to require free menstrual products in public schools.

The state equalization guarantee distribution includes two hundred fifty-two million three hundred thirty-three thousand five hundred dollars (\$252,333,500) from the general fund for distribution to school districts and charter schools for extended learning programs. The general fund appropriation includes ninety-four million dollars (\$94,000,000) from the additional annual distribution of the permanent school fund as authorized by the 2022 amendment to Article 12, Section 7 of the constitution of New Mexico.

The public education department shall not approve the operating budget of any school district or charter school that provides fewer instructional hours to students in the 2023-2024 school year than instructional hours provided to students in the 2022-2023 school year.

The general fund appropriation to the state equalization guarantee distribution includes sufficient funding to provide all affected employees an hourly salary of at least fifteen dollars (\$15.00).

The general fund appropriation to the state equalization guarantee distribution includes one hundred thirty-nine million one hundred fifty-seven thousand five hundred dollars (\$139,157,500) to provide a [~~an~~ ~~average~~] five percent salary increase to all public school personnel. The secretary of public education shall not approve the operating budget of a school district or charter school that does not provide a [~~an~~ ~~average~~] five percent salary increase for all public school personnel. *LINE ITEM VETO*

The general fund appropriation to the state equalization guarantee distribution includes twenty-seven million eight hundred thirty-one thousand five hundred dollars (\$27,831,500) to provide a one percent salary increase to all public school personnel to address inflation and health premium costs.

<u>Item</u>	<u>General</u> Fund	<u>Other</u> State Funds	<u>Intrnl Svc</u> Funds/Inter- Agency Trnsf	<u>Federal</u> Funds	<u>Total/Target</u>
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The general fund appropriation to the state equalization guarantee distribution includes seven million nine hundred sixty-two thousand four hundred dollars (\$7,962,400) contingent on enactment of a bill in the first session of the fifty-sixth legislature amending the School Personnel Act raising the responsibility factors for principals and assistant principals.

The general fund appropriation to the state equalization guarantee distribution includes fourteen million five hundred thousand dollars (\$14,500,000) contingent on enactment of a bill in the first session of the fifty-sixth legislature amending the School Personnel Act raising the minimum annual salary for licensed educational assistants to twenty-five thousand dollars (\$25,000).

The general fund appropriation to the state equalization guarantee distribution includes thirty-one million nine hundred seventy-nine thousand five hundred dollars (\$31,979,500) contingent on enactment of a bill in the first session of the fifty-sixth legislature amending the Public School Insurance Authority Act to increase the minimum employer contributions for employee group health benefits.

For fiscal year 2024, 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 and state equalization guarantee distribution appropriation in an amount sufficient to cover the projected shortfall and distribute that amount to school districts and charter schools in proportion to each school district's and charter school's share of the total statewide program cost to meet the level of support required by Part B of the federal Individuals with Disabilities Education Act for fiscal year 2024. The public education department shall reset the final unit value and recalculate each school district's and charter school's program cost for fiscal year 2024.

The general fund appropriation to the state equalization guarantee distribution includes fifty-five million dollars (\$55,000,000) for school districts and charter schools to purchase culturally and linguistically appropriate instructional materials for eligible students, including dual-credit instructional materials and educational technology.

The general fund appropriation to the state equalization guarantee distribution includes twenty-one million dollars (\$21,000,000) for school districts and charter schools to meet requirements of Section 22-

		Other	Intrnl Svc		
	General	State	Funds/Inter-	Federal	
<u>Item</u>	<u>Fund</u>	<u>Funds</u>	<u>Agency Trnsf</u>	<u>Funds</u>	<u>Total/Target</u>

10A-9 NMSA 1978, create an educational plan pursuant to Section 22-8-6 NMSA 1978 and provide targeted and ongoing professional development focused on case management, tutoring, data-guided instruction, coaching or other evidence-based practices that improve student outcomes.

The general fund appropriation to the state equalization guarantee distribution includes eight million dollars (\$8,000,000) for school districts and charter schools to provide evidence-based structured literacy interventions and develop literacy collaborative models that lead to improved reading and writing achievement of students in kindergarten through fifth grade.

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 2023-2024 school year that did not provide a four-day school week during the 2021-2022 school year.

The public education department shall monitor and review the operating budgets of school districts and charter schools to ensure the school district or charter school is prioritizing available funds to those functions most likely to improve student outcomes. If a school district or charter school submits a fiscal year 2024 operating budget that, in the opinion of the secretary of public education, fails to prioritize funds as described in this paragraph, the secretary of public education shall, prior to approving the school district's or charter school's fiscal year 2024 budget, direct the school district or charter school to revise its submitted budget or shall make such revisions as required to meet the requirements of this paragraph.

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 other state funds appropriation to the state equalization guarantee distribution includes balances received by the public education department pursuant to Section 66-5-44 NMSA 1978.

Any unexpended balances in the authorized distributions remaining at the end of fiscal year 2024 from appropriations made from the general fund shall revert to the general fund.

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	

Performance measures:

(a) Outcome:	Eighth-grade math achievement gap between economically disadvantaged students and all other students, in percentage points				5%
(b) Outcome:	Fourth-grade reading achievement gap between economically disadvantaged students and all other students, in percentage points				5%
(c) Outcome:	Percent of fourth-grade students who achieve proficiency or above on the standards-based assessment in reading				37%
(d) Outcome:	Percent of fourth-grade students who achieve proficiency or above on the standards-based assessment in mathematics				37%
(e) Outcome:	Percent of eighth-grade students who achieve proficiency or above on the standards-based assessment in reading				37%
(f) Outcome:	Percent of eighth-grade students who achieve proficiency or above on the standards-based assessment in mathematics				37%
(g) Quality:	Current four-year cohort graduation rate using shared accountability				80%
(h) Explanatory:	Percent of dollars budgeted by districts with fewer than 750 members for instructional support, budget categories 1000, 2100 and 2200				
(i) Explanatory:	Percent of dollars budgeted by districts with 750 members or greater for instructional support, budget categories 1000, 2100 and 2200				
(j) Explanatory:	Percent of dollars budgeted by charter schools for instructional support, budget categories 1000, 2100 and 2200				
(k) Outcome:	Percent of economically disadvantaged eighth-grade students who achieve proficiency or above on the standards-based assessment in mathematics				37%
(l) Outcome:	Percent of economically disadvantaged eighth-grade students who achieve proficiency or above on the standards-based assessment in reading				37%

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
(m) Outcome:	Percent of economically disadvantaged fourth-grade students who achieve proficiency or above on the standards-based assessment in reading				37%
(n) Outcome:	Percent of economically disadvantaged fourth-grade students who achieve proficiency or above on the standards-based assessment in mathematics				37%
(o) Outcome:	Percent of recent New Mexico high school graduates who take remedial courses in higher education at two-year and four-year schools				30%
(p) Explanatory:	Percent of funds generated by the at-risk index associated with at-risk services				
(q) Outcome:	Chronic absenteeism rate among students in middle school				10%
(r) Outcome:	Chronic absenteeism rate among students in high school				10%
(s) Outcome:	Chronic absenteeism rate among students in elementary school				10%

(2) Transportation distribution:

Appropriations:

(a) Other	126,821.8	126,821.8
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The general fund appropriation to the transportation distribution includes two million two hundred eleven thousand five hundred dollars (\$2,211,500) to provide a ~~an average~~ five percent salary increase to all public school transportation personnel. The secretary of public education shall not approve the operating budget of a school district or charter school that does not provide a ~~an average~~ five percent salary increase for all public school transportation personnel. *LINE ITEM VETO*

The general fund appropriation to the transportation distribution includes four hundred forty-two thousand three hundred dollars (\$442,300) to provide a one percent salary increase to all public school transportation personnel to address inflation and health premium costs.

Item	General	Other	Intrnl Svc	Federal	Total/Target
	Fund	Funds	Funds/Inter-Agency Trnsf	Funds	

~~[For fiscal year 2024, the public education department shall not include any variables within the calculation of the transportation distribution that adjust the allocation to each school district and state-chartered charter school based on district population densities.] LINE ITEM VETO~~

(3) Supplemental distribution:

Appropriations:

(a) Out-of-state tuition	362.0				362.0
(b) Emergency supplemental	2,000.0				2,000.0

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, 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 2024 from appropriations made from the general fund shall revert to the general fund.

(4) Federal flow through:

Appropriations:

(a) Other				548,500.0	548,500.0
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(5) Indian education fund:

Appropriations:

(a) Other	20,000.0				20,000.0
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Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
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The secretary of public education, in collaboration with the assistant secretary for Indian education, shall develop a methodology to allocate the twenty million dollar (\$20,000,000) general fund appropriation [~~to tribal education departments, tribal libraries, Native American language programs, school districts and charter schools~~] based on operational needs and student enrollment for expenditure in fiscal year 2024 and fiscal year 2025. Any unexpended balances remaining at the end of fiscal year 2025 shall revert to the Indian education fund. The public education department shall begin distribution of awards from this appropriation no later than September 1, 2023. *LINE ITEM VETO*

(6) Standards-based assessments:

Appropriations:

(a) Other	8,000.0				8,000.0
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Any unexpended balances in the standards-based assessments appropriation remaining at the end of fiscal year 2024 from appropriations made from the general fund shall revert to the general fund.

Subtotal					4,681,685.9
TOTAL PUBLIC SCHOOL SUPPORT	4,126,185.9	7,000.0		548,500.0	4,681,685.9

GRAND TOTAL FISCAL YEAR 2024

APPROPRIATIONS	9,417,787.2	5,095,573.5	945,987.7	11,200,277.8	26,659,626.2
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## Chapter 210 Section 5 Laws 2023

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
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Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

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 2023 and 2024. Unless otherwise indicated, any unexpended balances of the appropriations remaining at the end of fiscal year 2024 shall revert to the appropriate fund.

(1)	LEGISLATIVE COUNCIL SERVICE	3,000.0	3,000.0		6,000.0
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For equipment, upgrades and repairs for the state capitol complex. The other state funds appropriation includes one million dollars (\$1,000,000) from the state capitol maintenance fund and two million dollars (\$2,000,000) from legislative cash balances. Any unexpended balances remaining at the end of fiscal year 2024 from this appropriation shall not revert and may be expended through fiscal year 2026.

(2)	LEGISLATIVE FINANCE COMMITTEE	1,200.0			1,200.0
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For a joint study with the department of finance and administration, in consultation with appropriate stakeholders, on the State Personnel Act and the state's system of classification and compensation.

(3)	COURT OF APPEALS	130.0			130.0
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For technology upgrades, including replacement computers, updated software and internet connectivity and building access system and building improvements.

(4)	SUPREME COURT	975.0			975.0
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To purchase and install a backup generator for the New Mexico supreme court building.

(5)	SUPREME COURT	100.0			100.0
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For pro tem judges to address court backlog.

(6)	SUPREME COURT	2,000.0			2,000.0
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Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	

For security upgrades, including replacing outdated security camera and access control systems, at the New Mexico supreme court. Any unexpended funds remaining at the end of fiscal year 2024 from this appropriation shall not revert and may be expended through fiscal year 2025.

(7)	SUPREME COURT	135.0			135.0
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To replace the existing video conferencing solution at the New Mexico supreme court courtroom with new hybrid video streaming technology equipment.

(8)	ADMINISTRATIVE OFFICE OF THE COURTS	1,060.0			1,060.0
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For technology projects subject to review by the judicial technology council.

(9)	ADMINISTRATIVE OFFICE OF THE COURTS				
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The period of time for expending the five hundred sixty-four thousand dollars (\$564,000) appropriated from the general fund and the nine hundred thirty-four thousand dollars (\$934,000) appropriated from the consumer settlement fund in Subsection 13 of Section 5 of Chapter 83 of Laws 2020 for the administrative office of the courts moving and related costs is extended through fiscal year 2024.

(10)	ADMINISTRATIVE OFFICE OF THE COURTS	16,000.0			16,000.0
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To purchase hardware, software, equipment and project management services to upgrade remote and hybrid judicial proceedings across the state.

(11)	ADMINISTRATIVE OFFICE OF THE COURTS	3,000.0			3,000.0
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Item	Fund	Other	Intrnl Svc	Funds	Total/Target
		State	Funds/Inter-		

To plan, design, construct, renovate, furnish and equip district court improvements statewide, contingent upon county match of at least fifty percent of project costs, and requiring the administrative office of the courts to prioritize projects based on critical need and county financial capacity.

(12) ADMINISTRATIVE OFFICE OF THE COURTS

The period of time for expending the five hundred thousand dollars (\$500,000) appropriated from the general fund in Subsection C of Section 2 of Chapter 1 of Laws 2021 for expungement of arrest and conviction records for certain cannabis-related offenses is extended through fiscal year 2024.

(13)	ADMINISTRATIVE OFFICE OF THE COURTS	2,000.0			2,000.0
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For judicial district court and magistrate court security, technology and connectivity upgrades.

(14)	ADMINISTRATIVE OFFICE OF THE COURTS	4,000.0			4,000.0
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To pilot universal needs and risk screening, including for treatment court placement at courts, pilot professional peer support for pretrial services and at courts, provide grants for other pilot programs to improve pretrial services and behavioral health services and evaluate the effectiveness of all funded programs. No funds may be used to purchase, use, license or lease any pretrial risk assessment instrument until the supreme court and the administrative office of the courts certify that such instruments will be validated by July 1, 2024, and on a regular basis thereafter, but no less frequently than once every two years. As used in this Subsection, "validated risk assessment" means using scientifically accepted methods based on the most recent data collected by the pretrial services agency within the judicial district, or, if that data is unavailable, using the most recent data collected by a pretrial services agency in a similar judicial district within the state to measure the accuracy and reliability of the risk assessment instrument in assessing the risk that an assessed person will fail to appear in court as required and the risk to public safety due to the commission of a new criminal offense if the person is released before the adjudication of the current criminal offense for which they have been charged. Any unexpended balances

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	

remaining at the end of fiscal year 2024 from this appropriation shall not revert and may be expended through fiscal year 2026.

(15) ADMINISTRATIVE OFFICE OF THE COURTS

The period of time for expending six hundred forty-eight thousand dollars (\$648,000) appropriated from the general fund in Subsection 16 of Section 5 of Chapter 54 of Laws 2022 to develop and provide training to pretrial programs, courts and staff is extended through fiscal year 2024.

(16)	ADMINISTRATIVE OFFICE OF THE COURTS	2,000.0			2,000.0
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For a two-year pilot program to create judicial clerkships for district court judges in rural areas. Any unexpended balances remaining at the end of fiscal year 2024 shall not revert and may be expended through fiscal year 2025.

(17) ADMINISTRATIVE OFFICE OF THE COURTS

The period of time for expending the one million two hundred thousand dollars (\$1,200,000) appropriated from the general fund in Subsection 5 of Section 5 of Chapter 54 of Laws 2022 to provide for magistrate security equipment is extended through fiscal year 2024.

(18) ADMINISTRATIVE OFFICE OF THE COURTS

The period of time for expending the four hundred thousand dollars (\$400,000) appropriated from the general fund in Subsection 10 of Section 5 of Chapter 83 of Laws 2020 for a statewide information management system for problem-solving courts is extended through fiscal year 2024.

<del>(19)</del>	<del>ADMINISTRATIVE OFFICE OF THE COURTS</del>	<del>200.0</del>			<del>200.0</del>
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Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	
<del>For the substitute care advisory council, contingent on enactment of legislation of the first session of the fifty-sixth legislature transferring the substitute care advisory council to the administrative office of the courts.] LINE ITEM VETO</del>					
(20)	BERNALILLO COUNTY METROPOLITAN COURT	197.5			197.5
To address the case backlog.					
(21)	BERNALILLO COUNTY METROPOLITAN COURT	368.5			368.5
For facilities improvements.					
(22)	FIRST JUDICIAL DISTRICT ATTORNEY	360.0			360.0
For <del>special</del> prosecution expenses. LINE ITEM VETO					
(23)	ADMINISTRATIVE OFFICE OF THE DISTRICT ATTORNEYS	250.0			250.0
To the district attorney fund.					
(24)	ADMINISTRATIVE OFFICE OF THE DISTRICT ATTORNEYS				

Any unexpended balances remaining at the end of fiscal year 2023 from revenues received in fiscal year 2023 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 2024. Prior to November 1, 2023, the administrative office of the district attorneys shall provide to the department of finance and administration and the legislative finance committee a detailed report

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	

documenting the amount of all southwest border prosecution initiative funds that do not revert at the end of fiscal year 2023 for each of the district attorneys and the administrative office of the district attorneys.

(25) ADMINISTRATIVE OFFICE OF THE  
DISTRICT ATTORNEYS

Any unexpended balances remaining at the end of fiscal year 2023 from revenues received in fiscal year 2023 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 2024. Prior to November 1, 2023, the administrative office of the district attorneys shall provide 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 2023 for each of the district attorneys and the administrative office of the district attorneys.

(26)	ADMINISTRATIVE OFFICE OF THE DISTRICT ATTORNEYS	2,000.0	1,000.0		3,000.0
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To support workforce capacity building for prosecutors, including a workload study. The general fund appropriation is for the public attorney workforce capacity building fund contingent on enactment of House Bill 357 or similar legislation of the first session of the fifty-sixth legislature creating the fund. The other state funds appropriation is from the public attorney workforce capacity building fund to carry out the purposes of the fund contingent on enactment of House Bill 357 or similar legislation of the first session of the fifty-sixth legislature creating the fund. Any unexpended balances from the general fund appropriation to the public attorney workforce capacity building fund remaining at the end of fiscal year 2024 shall not revert and shall remain in the fund through fiscal year 2025.

(27)	PUBLIC DEFENDER DEPARTMENT	2,000.0	1,000.0		3,000.0
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Item	General Fund	Other	Intrnl Svc	Funds/Inter- Agency Trnsf	Federal Funds	Total/Target
		State Funds				

To support workforce capacity building for public defenders. The general fund appropriation is for the public attorney workforce capacity building fund contingent on enactment of House Bill 357 or similar legislation of the first session of the fifty-sixth legislature creating the fund. The other state funds appropriation is from the public attorney workforce capacity building fund to carry out the purposes of the fund contingent on enactment of House Bill 357 or similar legislation of the first session of the fifty-sixth legislature creating the fund. Any unexpended balances from the general fund appropriation to the public attorney workforce capacity building fund remaining at the end of fiscal year 2024 shall not revert and shall remain in the fund through fiscal year 2025.

(28)	ATTORNEY GENERAL			8,000.0		8,000.0
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To address harms to the state and its communities resulting from the Gold King mine release. The internal service funds/interagency transfers appropriation is from the consumer settlement fund.

(29)	ATTORNEY GENERAL					
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The period of time for expending the two million dollars (\$2,000,000) appropriated from the general fund and the two million dollars (\$2,000,000) appropriated from the consumer settlement fund in Subsection 27 of Section 5 of Chapter 54 of Laws 2022 for litigation of the Rio Grande compact is extended through fiscal year 2024.

(30)	ATTORNEY GENERAL	800.0				800.0
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For litigation of the tobacco master settlement agreement.

(31)	ATTORNEY GENERAL					
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The period of time for expending the six million four hundred thousand dollars (\$6,400,000) appropriated from the consumer settlement fund in Subsection 23 of Section 5 of Chapter 137 of Laws 2021 as extended in Subsection 24 of Section 5 of Chapter 54 of Laws 2022 for interstate water litigation costs is extended through fiscal year 2024.

		General	Other	Intrnl Svc	Federal	
Item	Fund	Funds	Funds	Agency Trnsf	Funds	Total/Target
(32)	STATE AUDITOR	500.0				500.0
To bring noncompliant small political subdivision entities into compliance through a phased approach.						
(33)	STATE AUDITOR	100.0				100.0
For a study to implement a single state audit.						
(34)	TAXATION AND REVENUE DEPARTMENT	5,000.0				5,000.0
To implement tax and motor vehicle code changes mandated in legislation [ <del>contingent on approval of an expenditure plan by the state board of finance</del> ]. <i>LINE ITEM VETO</i>						
(35)	TAXATION AND REVENUE DEPARTMENT	2,843.2				2,843.2
To develop, enhance and maintain the systems of record.						
(36)	TAXATION AND REVENUE DEPARTMENT	531.0				531.0
For tax scanning equipment and services and to replace extraction desks.						
(37)	ADMINISTRATIVE HEARINGS OFFICE					
The period of time for expending the one hundred fifty thousand dollars (\$150,000) appropriated from the general fund in Subsection 29 of Section 5 of Chapter 54 of Laws 2022 for a case management system is extended through fiscal year 2024.						
(38)	DEPARTMENT OF FINANCE AND ADMINISTRATION	2,000.0				2,000.0

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
For capacity building grants to councils of government [ <del>technical assistance providers</del> ] and local governments. <i>LINE ITEM VETO</i>					
(39)	DEPARTMENT OF FINANCE AND ADMINISTRATION	1,000.0			1,000.0
To the civil legal services fund.					
(40)	DEPARTMENT OF FINANCE AND ADMINISTRATION	8,000.0			8,000.0
For cost overruns for local capital outlay projects.					
(41)	DEPARTMENT OF FINANCE AND ADMINISTRATION	11,165.0			11,165.0
For community food, local agriculture and supply chain programs to improve food security in New Mexico. The general fund appropriation includes seven million five hundred thousand dollars (\$7,500,000) from amounts transferred to the appropriation contingency fund of the general fund in Section 1 of Chapter 4 of Laws 2021 (2nd S.S.).					
(42)	DEPARTMENT OF FINANCE AND ADMINISTRATION	7,500.0			7,500.0
For water supply infrastructure in Gallup, including repairing and replacing lead pipes.					
(43)	DEPARTMENT OF FINANCE AND ADMINISTRATION	20,000.0			20,000.0
For rental assistance and other housing initiatives.					
(44)	DEPARTMENT OF FINANCE AND ADMINISTRATION	10,000.0			10,000.0

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
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To the local government division to provide grants to local governments to support housing infrastructure. The general fund appropriation is from amounts transferred to the appropriation contingency fund of the general fund in Section 1 of Chapter 4 of Laws 2021 (2nd S.S.).

~~[-(45) DEPARTMENT OF FINANCE AND ADMINISTRATION 2,000.0 2,000.0]~~

~~For operating costs of the infrastructure planning and development office, contingent on enactment of Senate Bill 197 or similar legislation of the first session of the fifty-sixth legislature creating a centralized infrastructure planning office.] LINE ITEM VETO~~

(46) DEPARTMENT OF FINANCE AND ADMINISTRATION 328.0 328.0

To the local government division for the intertribal ceremonial association for expenditure in fiscal year 2024.

(47) DEPARTMENT OF FINANCE AND ADMINISTRATION 500.0 2,000.0 2,500.0

For a comprehensive landlord support program. The other state funds appropriation is from the mortgage regulatory fund of the regulation and licensing department. Any unexpended balances from the appropriation from the mortgage regulatory fund at the end of fiscal year 2024 shall revert to the mortgage regulatory fund.

(48) DEPARTMENT OF FINANCE AND ADMINISTRATION 100,000.0 6,500.0 106,500.0

For law enforcement programs. The general fund appropriation includes thirty-two million five hundred thousand dollars (\$32,500,000) for the law enforcement workforce capacity building fund through fiscal year 2028, contingent on enactment of House Bill 357 or similar legislation of the first session of the fifty-sixth legislature creating the fund. The general fund appropriation also includes fifty-seven million dollars (\$57,000,000) for state and local law enforcement agencies for commissioned law enforcement

Item	General Fund	Other	Intrnl Svc	Funds/Inter- Agency Trnsf	Federal	Total/Target
		State Funds			Funds	

officers and civilian personnel whose positions directly support commissioned law enforcement officers and crime reduction efforts, ten million dollars (\$10,000,000) for felony warrant enforcement statewide and five hundred thousand dollars (\$500,000) for the department of public safety for enforcement projects related to fentanyl, heroin and illegal cannabis through fiscal year 2026. The other state funds appropriation is from the law enforcement workforce capacity building fund to carry out the purposes of the fund through fiscal year 2024, contingent on enactment of House Bill 357 or similar legislation of the first session of the fifty-sixth legislature. ~~[Any distributions from these appropriations shall only be made to law enforcement agencies in compliance with statutory reporting requirements. Any unexpended balances from the general fund appropriations remaining at the end of the specified fiscal years shall revert to the general fund.]~~ *LINE ITEM VETO*

(49)	DEPARTMENT OF FINANCE AND ADMINISTRATION	8,200.0				8,200.0
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To the law enforcement protection fund.

(50)	DEPARTMENT OF FINANCE AND ADMINISTRATION	10,000.0				10,000.0
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For state and local match assistance for federal grants.

(51)	DEPARTMENT OF FINANCE AND ADMINISTRATION	5,000.0				5,000.0
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For infrastructure upgrades in response to the McBride fire in Ruidoso and Lincoln county.

(52)	DEPARTMENT OF FINANCE AND ADMINISTRATION	300.0				300.0
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For information technology infrastructure upgrades.

(53)	DEPARTMENT OF FINANCE AND ADMINISTRATION	40,000.0				40,000.0
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Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	

For regional recreation centers and quality of life grants statewide. The general fund appropriation is from amounts transferred to the appropriation contingency fund of the general fund in Section 1 of Chapter 4 of Laws 2021 (2nd S.S.).

(54)	DEPARTMENT OF FINANCE AND ADMINISTRATION	1,000.0			1,000.0
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For rental assistance and eviction prevention through fiscal year 2025. The general fund appropriation is from amounts transferred to the appropriation contingency fund of the general fund in Section 1 of Chapter 4 of Laws 2021 (2nd S.S.).

(55)	DEPARTMENT OF FINANCE AND ADMINISTRATION	10,000.0			10,000.0
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For San Juan county energy transition.

(56)	DEPARTMENT OF FINANCE AND ADMINISTRATION				
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~~[The appropriation contained in Subsection 34 of Section 5 of Chapter 54 of Laws 2022 is from the appropriation contingency fund of the general fund and not the general fund, and]~~ the balance of the general fund appropriation contained in Subsection I of Section 2 of Chapter 4 of Laws 2021 (2<sup>nd</sup> S.S.) for the department of finance and administration to plan, design, construct, equip and furnish an acute care hospital in a county with a population of less than one hundred thousand, according to the most recent federal decennial census, may also be used for operations up to five percent of the appropriation through the end of fiscal year 2026. *LINE ITEM VETO*

(57)	DEPARTMENT OF FINANCE AND ADMINISTRATION	15,000.0			15,000.0
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To the venture capital fund.

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
(58) DEPARTMENT OF FINANCE AND ADMINISTRATION	308.0				308.0

To reimburse state agencies for funding the state's obligations in its contract with the Wyoming energy authority.

(59) GENERAL SERVICES DEPARTMENT

The general services department may expend up to nine hundred thousand dollars (\$900,000) of the general fund appropriation contained in Subsection 18 of Section 10 of Chapter 54 of Laws 2022 in fiscal years 2023 and 2024 for building rental and relocation expenses for a state agency that must relocate to a new facility to enable the construction of an executive office building in Santa Fe.

(60) GENERAL SERVICES DEPARTMENT	1,200.0				1,200.0
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For overhauling or replacing both engines on the state-owned aircraft.

(61) GENERAL SERVICES DEPARTMENT	400.0	600.0			1,000.0
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To purchase vehicles. The other state funds appropriation is from the state transportation pool fund balance.

(62) NEW MEXICO SENTENCING COMMISSION

The period of time for expending the five hundred thousand dollars (\$500,000) appropriated from the consumer settlement fund in Subsection 38 of Section 5 of Chapter 137 of Laws 2021 to study and redraft the Criminal Code and other criminal statutes is extended through fiscal year 2024.

(63) NEW MEXICO SENTENCING COMMISSION

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	

The period of time for expending the two million dollars (\$2,000,000) appropriated from the general fund in Subsection 39 of Section 5 of Chapter 54 of Laws 2022 for grants awarded under the Crime Reduction Grant Act is extended through fiscal year 2024.

(64)	NEW MEXICO SENTENCING COMMISSION	4,000.0			4,000.0
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For grants awarded under the Crime Reduction Grant Act, including grants for projects supporting data analytics on frequent criminal justice system users and technical assistance on evidence-based local solution implementation and one million dollars (\$1,000,000) for a data integration project [~~at the New Mexico institute of mining and technology~~]. The New Mexico sentencing commission may use up to three percent of the appropriation for administration and may use up to two percent of the appropriation to evaluate the effectiveness of grant recipient projects, including those awarded in prior years. Any unexpended balances remaining at the end of fiscal year 2024 from this appropriation shall not revert and may be expended through fiscal year 2025. *LINE ITEM VETO*

(65)	DEPARTMENT OF INFORMATION TECHNOLOGY	10,000.0			10,000.0
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To improve cybersecurity statewide, including up to three million dollars (\$3,000,000) for incident response at the regulation and licensing department.

(66)	DEPARTMENT OF INFORMATION TECHNOLOGY	3,000.0			3,000.0
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To improve cybersecurity at higher education institutions, including the consortium of higher education computing communication services.

(67)	DEPARTMENT OF INFORMATION TECHNOLOGY	2,500.0			2,500.0
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To improve cybersecurity for schools and school districts statewide.

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	
(68) DEPARTMENT OF INFORMATION TECHNOLOGY	25,000.0	99,000.0			124,000.0

To fund grant programs established under department rules and administered by the office of broadband access and expansion to support implementation of the statewide broadband plan. The other state funds appropriation includes twenty five million dollars (\$25,000,000) for public school projects and five million dollars (\$5,000,000) for tribal projects. Up to five percent of the general fund appropriation and the other state funds appropriation may be used for administration and operational expenses for the office of broadband access and expansion and related grant programs. The other state funds appropriation is from the connect New Mexico fund. Any unexpended balances remaining at the end of fiscal year 2024 from this appropriation shall not revert and may be expended in fiscal year 2025.

(69) STATE COMMISSION OF PUBLIC RECORDS	66.6				66.6
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To upgrade information technology equipment and software.

(70) SECRETARY OF STATE	15,000.0				15,000.0
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To the election fund for conducting and administering elections.

(71) PUBLIC EMPLOYEE LABOR RELATIONS BOARD					
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The period of time for expending the twenty-five thousand dollars (\$25,000) appropriated from the general fund in Subsection 46 of Section 5 of Chapter 54 of Laws 2022 for website, telecommunications costs, furniture and information technology needs is extended through fiscal year 2024 and can be used for personal services and employee benefits.

(72) STATE TREASURER					
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The period of time for expending the four hundred thousand dollars (\$400,000) appropriated from the general fund contained in Subsection 47 of Section 5 of Chapter 54 of Laws 2022 for the work and save program is

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	

extended through fiscal year 2024. The balance of the general fund appropriation contained in Subsection 47 of Section 5 of Chapter 54 of Laws 2022 to the state treasurer for the work and save program shall not be expended for the original purpose but is appropriated to the state treasurer for contractual services.

(73)	BORDER AUTHORITY	50.0			50.0
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For meetings of the New Mexico-Chihuahua commission and the New Mexico-Sonora commission.

(74)	BORDER AUTHORITY	150.0			150.0
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For the southwest border regional commissions.

(75)	TOURISM DEPARTMENT	15,000.0			15,000.0
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For marketing and advertising. The general fund appropriation includes eleven million dollars (\$11,000,000) from amounts transferred to the appropriation contingency fund of the general fund in Section 1 of Chapter 4 of Laws 2021 (2nd S.S.).

(76)	TOURISM DEPARTMENT	3,500.0			3,500.0
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To the tourism enterprise fund for local and regional tourism development. The general fund appropriation is from amounts transferred to the appropriation contingency fund of the general fund in Section 1 of Chapter 4 of Laws 2021 (2nd S.S.).

(77)	ECONOMIC DEVELOPMENT DEPARTMENT	50,000.0			50,000.0
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For economic development projects, including border planning and infrastructure projects, advanced energy projects, economic transition initiatives, program administration and staffing through fiscal year 2027. The general fund appropriation includes up to five million four hundred eighty thousand dollars (\$5,480,000) for the energy, minerals and natural resources department, up to one million three hundred thirty thousand dollars (\$1,330,000) for the department of environment, up to one million three hundred thirty thousand dollars (\$1,330,000) for the New Mexico finance authority and up to seven hundred fifty

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

thousand dollars (\$750,000) for the department of workforce solutions for these purposes. The general fund appropriation also includes one million five hundred thousand dollars (\$1,500,000) for the energy, minerals and natural resources department and one million five hundred thousand dollars (\$1,500,000) for the department of environment for monitoring and enforcement activities in conjunction with these purposes through fiscal year 2027. The general fund appropriation also includes five hundred thousand dollars (\$500,000) for the energy, minerals and natural resources department to independently analyze the remediation plan and progress associated with the San Juan coal mine, including staffing through 2027, and eight hundred sixty thousand dollars (\$860,000) for the department of environment for staffing to independently analyze the San Juan generating facility and coal mine restoration and remediation plan for environmental contamination and impacts to groundwater and human health through fiscal year 2027. The economic development department shall report quarterly [~~to the legislative finance committee~~] on the use of these funds, including administration costs, border infrastructure projects in progress and completed, grants and loans provided to companies and resulting benefits to the state. Any unexpended balances remaining at the end of fiscal year 2027 from this appropriation shall revert to the general fund. *LINE ITEM VETO*

(78)	ECONOMIC DEVELOPMENT DEPARTMENT	3,000.0			3,000.0
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For the expansion and maintenance of the business incubator program through fiscal year 2026. The general fund appropriation includes three hundred thousand dollars (\$300,000) to support entrepreneurship and innovation in New Mexico.

(79)	ECONOMIC DEVELOPMENT DEPARTMENT	2,000.0			2,000.0
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To promote creative industries, contingent on enactment of House Bill 8 or similar legislation of the first session of the fifty-sixth legislature.

(80)	ECONOMIC DEVELOPMENT DEPARTMENT		5,900.0		5,900.0
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Item	General Fund	Other	Intrnl Svc	Funds/Inter- Agency Trnsf	Federal Funds	Total/Target
		State Funds				

To the economic development department to assist in diversifying and promoting the economy of communities affected by the closure of fossil fuel plants by fostering economic development opportunities unrelated to fossil fuel development or use. The other state funds appropriation is from the energy transition economic development assistance fund and includes five million dollars (\$5,000,000) [~~for San Juan county~~] for energy transition assistance. *LINE ITEM VETO*

(81)	ECONOMIC DEVELOPMENT DEPARTMENT	500.0				500.0
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~~[To contract with higher education institutions]~~ for the management of the next generation film academy.  
*LINE ITEM VETO*

(82)	ECONOMIC DEVELOPMENT DEPARTMENT	3,000.0				3,000.0
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To the development training fund for the job training incentive program. Any unexpended balances remaining at the end of fiscal year 2024 shall not revert and may be expended in future fiscal years.

(83)	ECONOMIC DEVELOPMENT DEPARTMENT	13,000.0				13,000.0
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To the local economic development act fund for economic development projects [~~, including energy transition assistance,~~] pursuant to the Local Economic Development Act. Six million five hundred thousand dollars (\$6,500,000) of the general fund appropriation is from amounts transferred to the appropriation contingency fund of the general fund in Section 1 of Chapter 4 of Laws 2021 (2nd S.S.). Any unexpended balances remaining at the end of fiscal year 2024 from this appropriation shall not revert and may be expended in future fiscal years. *LINE ITEM VETO*

(84)	ECONOMIC DEVELOPMENT DEPARTMENT	500.0				500.0
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For an economic development marketing campaign.

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter-Agency Trnsf		
(85)	ECONOMIC DEVELOPMENT DEPARTMENT	1,000.0			1,000.0

For the outdoor equity grant fund to provide outdoor recreation opportunities to underserved low-income communities.

(86)	ECONOMIC DEVELOPMENT DEPARTMENT	10,000.0			10,000.0
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For trail and outdoor infrastructure grants. The general fund appropriation is from amounts transferred to the appropriation contingency fund of the general fund in Section 1 of Chapter 4 of Laws 2021 (2nd S.S.).

(87)	REGULATION AND LICENSING DEPARTMENT		5,000.0		5,000.0
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For a professional licensing modernization project for all boards and commissions. The other state funds appropriation is from funds administered by the boards and commissions program of the regulation and licensing department.

(88)	REGULATION AND LICENSING DEPARTMENT	785.0			785.0
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For replacement vehicles and field information technology equipment for construction industries division inspection programs.

(89)	PUBLIC REGULATION COMMISSION			240.0	240.0
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To purchase vehicles for the pipeline safety division.

(90)	OFFICE OF THE SUPERINTENDENT OF INSURANCE	750.0	750.0		1,500.0
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Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	

To reimburse the New Mexico medical insurance pool for lost premiums. The other state funds appropriation is from the health care affordability fund.

(91)	OFFICE OF THE SUPERINTENDENT OF INSURANCE	32,500.0			32,500.0
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~~For the elimination of the existing deficit in the patient's compensation fund and to reduce the rate impact of non-deficient-related rate increases[, contingent on the office of the superintendent of insurance and the patient's compensation fund administrator taking action to ensure that future medical payments are paid as incurred and based on actual cost of services and settlement amounts are based on what has been paid by or on behalf of an injured patient and accepted by a healthcare provider]. LINE ITEM VETO~~

(92)	STATE RACING COMMISSION				
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The period of time for expending the five hundred thousand dollars (\$500,000) appropriated from the general fund in Subsection 60 of Section 5 of Chapter 54 of Laws 2022 for the payment of charges associated with the federal Horseracing Integrity and Safety Act is extended through fiscal year 2024 and may be expended for other purposes.

(93)	CULTURAL AFFAIRS DEPARTMENT	6,000.0			6,000.0
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For exhibit development.

(94)	CULTURAL AFFAIRS DEPARTMENT	15,000.0			15,000.0
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For the rural libraries endowment fund.

(95)	NEW MEXICO LIVESTOCK BOARD	340.4			340.4
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To replace end user devices.

(96)	DEPARTMENT OF GAME AND FISH	7,000.0			7,000.0
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Item	Fund	General	Other	Intrnl Svc	Funds/Inter-	Federal	Total/Target
			Funds		Agency Trnsf	Funds	
For the department of game and fish including two million dollars (\$2,000,000) [ <del>for efforts</del> ] for [ <del>species of greatest</del> ] conservation [ <del>need</del> ]. <i>LINE ITEM VETO</i>							
(97)	ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT	2,000.0					2,000.0
For response and restoration to the Black Range fire.							
(98)	ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT	1,813.4					1,813.4
To meet federal matching requirements at the energy conservation management division.							
(99)	ENERGY, MINERALS AND NATURAL RESOURCES DEPARTMENT	7,500.0					7,500.0
For the state forestry division to replace fire engines, crew carriers, high mileage fleet vehicles, trailers and other equipment used for wildland fire suppression and to purchase property to relocate the wildfire response program base camp.							
(100)	STATE ENGINEER	1,000.0					1,000.0
To plan, design and construct shoreline improvements at Ute reservoir and construct needed repairs to Ute dam, for expenditure in fiscal years 2023 through 2025.							
(101)	STATE ENGINEER	2,000.0					2,000.0
To the acequia and community ditch infrastructure fund for the planning, engineering design or construction of irrigation works of acequias or community ditches.							
(102)	STATE ENGINEER	10,000.0					10,000.0

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

For critical dam maintenance and improvement projects statewide, including two million five hundred thousand dollars (\$2,500,000) for improvements for flood control near Hatch. Any unexpended balances remaining at the end of fiscal year 2024 shall not revert and may be expended in fiscal year 2025.

(103) STATE ENGINEER

The three million four hundred thousand dollars (\$3,400,000) appropriated to the state engineer in Subsection 31 of Section 10 Chapter 54 of Laws 2022 for distribution to Dona Ana county for the Gardner dam project is reappropriated to the state engineer for dam rehabilitation statewide.

(104) STATE ENGINEER

The purpose of the fifteen million dollar (\$15,000,000) appropriation to the state engineer contained in Subsection 32 of Section 10 Chapter 54 of Laws 2022 for middle Rio Grande dynamic following is expanded to include improvements to the low flow conveyance channel.

(105) STATE ENGINEER 35,000.0 35,000.0

To augment the water supply on the lower Rio Grande, including through possible brackish water treatment and aquifer recharge projects, and for continued support of the attorney general in interstate water litigation and settlement under the Colorado river and Rio Grande compacts.

(106) STATE ENGINEER 10,000.0 10,000.0

For river channel maintenance to improve river flows into Elephant Butte and for habitat restoration, low flow conveyance channel maintenance and flood control projects related to the San Acacia reach of the Rio Grande.

(107) STATE ENGINEER 2,000.0 2,000.0

For compliance with the 2003 Pecos settlement agreement, including required augmentation pumping, and to support other drought relief activities on the lower Pecos river.

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
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(108) STATE ENGINEER

The period of time for expending the seven million dollars (\$7,000,000) from the general fund appropriation in Subsection 67 of Section 5 of Chapter 83 of Laws 2020 as modified by Subsection 15 of Section 7 of Chapter 5 of Laws 2020 (1st S.S.) is extended through fiscal year 2024.

(109) STATE ENGINEER 500.0 500.0

To implement 50-year water plan recommendations and develop the next state water plan update.

(110) STATE ENGINEER 7,500.0 7,500.0

For the strategic water reserve to lease San Juan river water rights from the Jicarilla Apache nation and to obtain other water rights.

(111) COMMISSION ON THE STATUS OF WOMEN 125.0 125.0

For website updates, data collection and reporting, mailing list development, communications and outreach.

(112) INDIAN AFFAIRS DEPARTMENT 2,500.0 2,500.0

To assist tribal and native people in the affected communities pursuant to Section 62-18-16 NMSA 1978. The other state funds appropriation is from the energy transition Indian affairs fund.

(113) INDIAN AFFAIRS DEPARTMENT 25,000.0 25,000.0

For tribal projects, including twelve million five hundred thousand dollars (\$12,500,000) for matching funds for federal infrastructure grants, two million five hundred thousand dollars (\$2,500,000) for Native American [~~studies faculty and~~] teaching [~~endowments~~] statewide, and ten million dollars (\$10,000,000) [~~for coordination with the human services department for startup costs~~] to expand tribal-serving healthcare and behavioral health services, including three million dollars (\$3,000,000) for transition costs to create a

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter- Agency Trnsf	Federal Funds	Total/Target

critical access hospital in a tribal-serving community and one million dollars (\$1,000,000) for expanding a tribal-serving behavioral health clinic in Zuni. *LINE ITEM VETO*

(114)	EARLY CHILDHOOD EDUCATION AND CARE DEPARTMENT	2,000.0			2,000.0
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To develop a coordinated intake and referral system accessible to internal and external parties linking and connecting New Mexico families to home visiting services.

(115)	AGING AND LONG-TERM SERVICES DEPARTMENT	600.0			600.0
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To provide funding for emergencies, disaster preparedness and planning to serve seniors, including those not currently enrolled in senior programs.

(116)	AGING AND LONG-TERM SERVICES DEPARTMENT	8,000.0	6,000.0		14,000.0
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For services and projects authorized for the Kiki Saavedra senior dignity fund, including one million nine hundred thousand dollars (\$1,900,000) for nutrition security programs for seniors statewide. The other state funds appropriation is from balances in the Kiki Saavedra senior dignity fund. Any unexpended balances remaining at the end of fiscal year 2024 from the general fund and Kiki Saavedra senior dignity fund from these appropriations shall revert to the Kiki Saavedra senior dignity fund.

(117)	HUMAN SERVICES DEPARTMENT	4,100.1			4,100.1
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For the supplemental nutrition assistance program's settlement agreement for the federal overpayment claim and the reinvestment plan to improve the administrative efficiency of the program.

(118)	HUMAN SERVICES DEPARTMENT	1,000.0			1,000.0
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For the linkages program.

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter-Agency Trnsf		

(119)	HUMAN SERVICES DEPARTMENT		21,300.0		21,300.0
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For services for the medicaid expansion adult population in the medical assistance program of the human services department in fiscal year 2024. The other state funds appropriation is from the health care affordability fund.

(120)	HUMAN SERVICES DEPARTMENT	500.0			500.0
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For a study to analyze the financial, provider and marketplace impacts of expanding medicaid eligibility.

(121)	HUMAN SERVICES DEPARTMENT	1,428.2		8,092.9	9,521.1
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To ensure effective deployment and utilization of 988 crisis now mobile crisis teams. The appropriation is contingent on receipt of eight million ninety-two thousand nine hundred dollars (\$8,092,900) in federal matching funds.

(122)	HUMAN SERVICES DEPARTMENT	1,020.2		3,060.6	4,080.8
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For public assistance report information services that determine if medicaid and supplemental nutrition assistance program clients are receiving assistance from other state government agencies.

(123)	HUMAN SERVICES DEPARTMENT	15,000.0			15,000.0
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For relief payments for low-income New Mexico resident adults who are not dependents as defined in the Income Tax Act and will not receive a rebate pursuant to House Bill 547 or similar legislation, contingent on enactment of House Bill 547 or similar legislation of the first session of the fifty-sixth legislature.

(124)	HUMAN SERVICES DEPARTMENT	2,500.0			2,500.0
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To establish a comprehensive reentry support pilot program to provide individuals reentering the community from incarceration with pre-release medicaid capacity, connection to services and housing support, including a pilot alternative parole revocation process, in coordination with the corrections department.

Item	General Fund	Other	Intrnl Svc	Funds/Inter- Agency Trnsf	Federal	Total/Target
		State Funds			Funds	

Target populations include, but are not limited to, individuals on in-house parole and those eligible for geriatric parole.

(125)	HUMAN SERVICES DEPARTMENT	60,000.0	20,000.0		72,800.0	152,800.0
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To contract with rural regional hospitals, health clinics, providers and federally qualified health centers to develop and expand primary care, maternal and child health and behavioral health services capacity in rural medically underserved areas. The contracted entities must be enrolled medicaid providers and propose to deliver services which are eligible for medicaid and medicare reimbursement. The human services department shall ensure the contracted amounts for new or expanded healthcare services do not duplicate existing services, are sufficient to cover start-up costs except for land and construction costs, require coordination of care, are reconciled and audited and meet performance standards and metrics established by the department. Any unexpended balances remaining at the end of fiscal year 2024 from this appropriation shall not revert and may be expended through fiscal year 2026. The department is directed to require managed care organizations to pay for department-defined critical access hospital services, including the administration and developmental costs of building service delivery satellite sites in rural underserved areas. The other state funds appropriation is from the health care affordability fund.

(126)	HUMAN SERVICES DEPARTMENT					
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Any unexpended balances attributable to the federal matching increase from section 9817 of the American Rescue Plan Act of 2021 accrued by the medical assistance program of the human services department remaining at the end of fiscal year 2021, fiscal year 2022 and fiscal year 2023 from appropriations made from the general fund shall not revert and may be expended in fiscal year 2023 through fiscal year 2025 to support reinvestment in the expansion, enhancement or strengthening of home- and community-based services as required in section 9817 of the American Rescue Plan Act of 2021, including eliminating the wait list for the 1915(c) developmental disabilities medicaid waivers and implementing the temporary home- and community-based services provider economic recovery payments.

(127)	HUMAN SERVICES DEPARTMENT					
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Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
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The period of time for expending the eight million four hundred fifty-three thousand nine hundred dollars (\$8,453,900) appropriated from the general fund in Subsection 81 of Section 5 of Chapter 54 of Laws 2022 for the supplemental nutrition assistance program's settlement payment of the federal overpayment claim is extended through fiscal year 2024.

(128)	WORKFORCE SOLUTIONS DEPARTMENT		14,500.0		14,500.0
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To assist displaced workers in affected communities pursuant to Section 62-18-16 NMSA 1978, including five million dollars (\$5,000,000) [~~for San Juan county~~] for energy transition. The other state funds appropriation is from the energy transition displaced worker assistance fund. *LINE ITEM VETO*

<del>(129)</del>	<del>WORKFORCE SOLUTIONS DEPARTMENT</del>		<del>36,000.0</del>		<del>36,000.0</del>
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~~To implement the Paid Family Leave Act, contingent on enactment of Senate Bill 11 or similar legislation of the first session of the fifty-sixth legislature.] *LINE ITEM VETO*~~

(130)	DEVELOPMENTAL DISABILITIES COUNCIL	250.0			250.0
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To reduce the waiting list in the office of guardianship.

(131)	DEPARTMENT OF HEALTH				
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Any unexpended fund balances in the developmental disabilities support program of the department of health from appropriations made from the general fund for fiscal year 2019, fiscal year 2020 and fiscal 2021 shall not revert and shall be expended in fiscal year 2023 through fiscal year 2025 to eliminate the waiting list for the home- and community-based waiver services 1915(C) developmental disability waivers and other expenditures in the developmental disabilities medicaid waiver program of the department of health.

(132)	DEPARTMENT OF HEALTH	4,000.0			4,000.0
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Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
	General	Funds	Agency Trnsf	Funds	

For mobile homelessness response.

(133)	DEPARTMENT OF HEALTH	825.5			825.5
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To provide base increases and adjust pay bands to retain and recruit direct care staff for all department of health facilities.

(134)	DEPARTMENT OF HEALTH				
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The period of time for expending the forty million dollars (\$40,000,000) appropriated from Subsection 83 of Section 5 of Chapter 54 of Laws 2022 to plan, design, furnish and upgrade a new veterans' home on the New Mexico veterans' home campus in Truth or Consequences, contingent on the department of health submitting an application for a match from the federal department of veterans' affairs and agreement to reimburse operating reserves on receipt of federal funds, is extended through fiscal year 2024.

(135)	DEPARTMENT OF HEALTH				
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The period of time for expending the four million dollars (\$4,000,000) appropriated from Subsection 82 of Section 5 of Chapter 54 of Laws 2022 for operational and maintenance needs in all facilities is extended through fiscal year 2024.

(136)	DEPARTMENT OF HEALTH	250.0			250.0
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To purchase two vans to provide accessible transportation for New Mexico veterans' home residents.

(137)	DEPARTMENT OF HEALTH	150.0			150.0
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To revise, repeal and replace sections of the New Mexico administrative code.

(138)	DEPARTMENT OF HEALTH	1,500.0			1,500.0
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For startup costs and to purchase mobile clinics for school-based health centers.

		General	Other	Intrnl Svc	Federal	
Item	Fund	Funds	Funds	Agency Trnsf	Funds	Total/Target
(139)	DEPARTMENT OF ENVIRONMENT	150.0				150.0
To support and improve financial services.						
(140)	DEPARTMENT OF ENVIRONMENT	10,000.0				10,000.0
For emergency drinking water programs, including five million dollars (\$5,000,000) for upgrades to drinking water systems in Grants [ <del>and five million dollars (\$5,000,000) to the emergency drinking water fund, contingent on enactment of House Bill 453 or similar legislation of the first session of the fifty-sixth legislature</del> ]. <i>LINE ITEM VETO</i>						
(141)	DEPARTMENT OF ENVIRONMENT	4,000.0				4,000.0
To develop and implement actions related to climate change.						
(142)	DEPARTMENT OF ENVIRONMENT	2,000.0				2,000.0
To meet national ozone standards.						
(143)	DEPARTMENT OF ENVIRONMENT	600.0				600.0
To assure compliance of facilities managing radioactive materials.						
(144)	DEPARTMENT OF ENVIRONMENT	1,350.0				1,350.0
To improve core business operations. Any unexpended balances remaining at the end of fiscal year 2024 from this appropriation shall not revert and may be expended in subsequent fiscal years.						
(145)	DEPARTMENT OF ENVIRONMENT	10,000.0				10,000.0
To the rural infrastructure revolving loan fund to provide gap funding for water projects in rural communities.						

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter-Agency Trnsf		
(146)	DEPARTMENT OF ENVIRONMENT	15,000.0			15,000.0

For the eastern New Mexico water utility authority for the eastern New Mexico rural water system, including two hundred thousand dollars (\$200,000) to the environment department for administrative costs.

(147) DEPARTMENT OF ENVIRONMENT

The period of time for expending the two million five hundred thousand dollars (\$2,500,000) appropriated from Gold King mine settlement funds in Subsection 78 of Section 5 of Chapter 137 of Laws 2021 for protection and restoration of the environment is extended through fiscal year 2024.

(148) DEPARTMENT OF ENVIRONMENT

The period of time for expending the one hundred fifty thousand dollars (\$150,000) appropriated in Subsection 89 of Section 5 of Chapter 54 of Laws 2022 for the state's twenty percent cost share for cleanup of the Pecos mine and the El Molino operable units is extended through fiscal year 2024.

(149)	DEPARTMENT OF ENVIRONMENT	1,000.0			1,000.0
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For the water protection division to support the regionalization of small water systems, contingent on enactment of Senate Bill 1 or similar legislation of the first session of the fifty-sixth legislature authorizing the creation of regional utility authorities.

(150)	DEPARTMENT OF ENVIRONMENT	839.7	2,000.0		2,839.7
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To match federal funds for cleanup of superfund hazardous waste sites in New Mexico. The other state funds appropriation includes one million dollars (\$1,000,000) from the corrective action fund and one million dollars (\$1,000,000) from the consumer settlement fund.

~~[-(151) DEPARTMENT OF ENVIRONMENT~~

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
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~~The period of time for expending the six hundred twenty-nine thousand five hundred dollars (\$629,500) appropriated from the general fund and the six hundred twenty-nine thousand five hundred dollars (\$629,500) appropriated from the corrective action fund in Subsection 89 of Section 5 of Chapter 271 of Laws 2019 to clean up and to match federal funds for cleanup of superfund hazardous waste sites in New Mexico is extended through fiscal year 2024.] LINE ITEM VETO~~

(152) DEPARTMENT OF ENVIRONMENT

The period of time for expending the one million four hundred sixteen thousand dollars (\$1,416,000) appropriated from the general fund in Subsection 77 of Section 5 of Chapter 137 of Laws 2021 for federal match and clean-up of superfund hazardous waste sites is extended through fiscal year 2024.

(153) DEPARTMENT OF ENVIRONMENT 680.0 680.0

To develop a surface water discharge permitting program.

(154) DEPARTMENT OF ENVIRONMENT

The period of time for expending the two hundred fifty thousand dollars (\$250,000) appropriated from the general fund in Subsection 88 of Section 5 of Chapter 54 of Laws 2022 to develop a surface water discharge permitting program and to cover costs for computer-based examinations for water utility operators is extended through fiscal year 2024.

(155) DEPARTMENT OF ENVIRONMENT

The period of time for expending the two hundred and fifty thousand dollars (\$250,000) appropriated from the general fund in Subsection 90 of Section 5 of Chapter 54 of Laws 2022 for uranium mine remediation and cleanup is extended through fiscal year 2024.

(156) DEPARTMENT OF ENVIRONMENT 2,900.0 2,900.0

To conduct activities to advance water reuse.

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	
(157)	OFFICE OF THE NATURAL RESOURCES TRUSTEE		1,000.0		1,000.0

To increase the damage assessment and restoration revolving fund to pursue emerging natural resource injury claims against responsible parties. The other state funds appropriation is from the consumer settlement fund.

(158)	VETERANS' SERVICES DEPARTMENT	800.0			800.0
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To expand outreach programs for veterans and their dependents [~~, including sufficient funding to provide services for the Albuquerque veterans reintegration center~~]. *LINE ITEM VETO*

(159)	OFFICE OF FAMILY REPRESENTATION AND ADVOCACY	300.0			300.0
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To purchase furniture and equipment.

(160)	CHILDREN, YOUTH AND FAMILIES DEPARTMENT		500.0		500.0
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For a community collaborative to support juvenile justice reform. The other state funds appropriation is from the juvenile continuum grant fund.

(161)	CHILDREN, YOUTH AND FAMILIES DEPARTMENT	3,000.0			3,000.0
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To support the children, youth and families department's workforce development plan, including secondary trauma self-care support, training and professional development support, local recruitment campaigns, recruitment incentives for licensed social work graduates in New Mexico and other states to work for protective services, caseload improvement cross-training, evidence-based core competency model development, mentorship program development and leadership development.

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
	General	Funds	Agency Trnsf	Funds	
(162)	CHILDREN, YOUTH AND FAMILIES DEPARTMENT	500.0			500.0

For collaborative support to incentivize maintaining cultural connections between Native American children in state custody and their tribes, pueblos and sovereign nations.

(163) DEPARTMENT OF MILITARY AFFAIRS

The period of time for expending the two hundred fifty thousand dollars (\$250,000) appropriated from the general fund and the seven hundred fifty thousand dollars (\$750,000) appropriated from federal funds in Subsection 94 of Section 5 of Chapter 54 of Laws 2022 for building repair needs and other program start-up costs related to the initiation of a job challenge academy program is extended through fiscal year 2024.

(164)	DEPARTMENT OF MILITARY AFFAIRS	2,000.0			2,000.0
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For the national guard death benefit fund.

(165)	DEPARTMENT OF MILITARY AFFAIRS	102.8			102.8
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To purchase cabinetry, shelving and compressed shelving to preserve and safely house the New Mexico military museum collection.

(166)	DEPARTMENT OF MILITARY AFFAIRS	718.0			718.0
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To purchase vehicles.

(167)	CORRECTIONS DEPARTMENT	20,000.0	7,000.0		27,000.0
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Item	Fund	Other	Intrnl Svc	Funds	Total/Target
		State	Funds/Inter-		

To continue hepatitis c treatment and planning. The corrections department shall report to [~~the legislative finance committee and~~] the department of finance and administration quarterly on the number of inmates infected with and treated for hepatitis c, the rate of treatment success, expenditures from all funding sources for hepatitis c drugs and other treatment costs and anticipated future hepatitis c treatment needs. The corrections department shall coordinate with the human services department to prioritize medicaid-funded treatment for individuals incarcerated in county jails likely to enter the prison system. The other state funds appropriation is from the penitentiary income fund. Any unexpended balances from this appropriation remaining at the end of fiscal year 2024 shall not revert and may be expended through fiscal year 2026. *LINE ITEM VETO*

(168)	CORRECTIONS DEPARTMENT	1,000.0			1,000.0
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To convert paper offender files to electronic records.

(169)	DEPARTMENT OF PUBLIC SAFETY	1,461.8			1,461.8
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To purchase equipment for the New Mexico state police, including ballistic shields and plates, tasers and ammunition.

(170)	DEPARTMENT OF PUBLIC SAFETY				
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The period of time for expending the eight hundred ninety-two thousand eight hundred dollars (\$892,800) appropriated from the general fund in Subsection 98 of Section 5 of Chapter 54 of Laws 2022 for advanced training initiatives for commissioned New Mexico state police officers is extended through fiscal year 2024.

(171)	DEPARTMENT OF PUBLIC SAFETY				
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The period of time for expending the three hundred fifty thousand dollars (\$350,000) appropriated from the general fund in Subsection 111 of Section 5 of Chapter 83 of Laws 2020 for a data-sharing project with the administrative office of the courts is extended through fiscal year 2024.

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

(172) DEPARTMENT OF PUBLIC SAFETY

The period of time for expending the nine million dollars (\$9,000,000) appropriated from the general fund in Subsection 104 of Section 5 of Chapter 54 of Laws 2022 to purchase and equip law enforcement vehicles is extended through fiscal year 2024.

(173) DEPARTMENT OF PUBLIC SAFETY

The period of time for expending the four hundred thousand dollars (\$400,000) appropriated from the general fund in Subsection 101 of Section 5 of Chapter 54 of Laws 2022 for license plate readers and mobile units for the New Mexico state police is extended through fiscal year 2024.

(174) DEPARTMENT OF PUBLIC SAFETY 500.0 500.0

For the honor guard equipment distribution program.

(175) DEPARTMENT OF PUBLIC SAFETY 250.0 250.0

To purchase a machine to assist with violent gun crime investigations.

(176) DEPARTMENT OF PUBLIC SAFETY 150.0 150.0

To purchase and replace crime scene investigation equipment.

(177) DEPARTMENT OF PUBLIC SAFETY 500.0 500.0

To conduct a police officer job task analysis for the New Mexico law enforcement academy board or other primary entity responsible for police officer training. The department of public safety shall report the results of the job task analysis to the department of finance and administration and the legislative finance committee by September 1, 2024.

(178) DEPARTMENT OF PUBLIC SAFETY 4,000.0 4,000.0

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter-Agency Trnsf		
For the peace officers', New Mexico mounted patrol members' and reserve police officers' survivors fund.					
(179)	HOMELAND SECURITY AND EMERGENCY MANAGEMENT	300.0			300.0
For operations including grants management.					
(180)	HOMELAND SECURITY AND EMERGENCY MANAGEMENT	550.0			550.0
For non-disaster grant matching to support operations and federal projects.					
(181)	HOMELAND SECURITY AND EMERGENCY MANAGEMENT	4,000.0			4,000.0
For the firefighters' survivors fund.					
(182)	DEPARTMENT OF TRANSPORTATION				
Any encumbered balances in the project design and construction program, the highway operations program and the modal program of the department of transportation at the end of fiscal year 2023 from appropriations made from other state funds and federal funds shall not revert and may be expended in fiscal year 2024.					
(183)	PUBLIC EDUCATION DEPARTMENT	5,000.0			5,000.0
For attendance success initiatives.					
(184)	PUBLIC EDUCATION DEPARTMENT	5,000.0			5,000.0
For behavioral health supports.					
(185)	PUBLIC EDUCATION DEPARTMENT		5,000.0		5,000.0

Item	General Fund	Other	Intrnl Svc	Funds/Inter- Agency Trnsf	Federal Funds	Total/Target
		State Funds				

To support teachers in bilingual multicultural education programs and implement provisions of the Bilingual Multicultural Education Act, including seven hundred fifty thousand dollars (\$750,000) to update the Prueba de Espanol para la Certificacion Bilingue Spanish language proficiency exams and other language proficiency exams for licensure endorsement. The other state funds appropriation is from the public education reform fund.

(186) PUBLIC EDUCATION DEPARTMENT 20,000.0 20,000.0 40,000.0

For career technical education innovation zones and work-based learning initiatives and equipment. The other state funds appropriation is from the public education reform fund. Any unexpended balances remaining at the end of fiscal year 2024 from this appropriation shall revert to the career technical education fund.

(187) PUBLIC EDUCATION DEPARTMENT 10,000.0 10,000.0

For community school and family engagement initiatives. The other state funds appropriation is from the public education reform fund. Any unexpended balances remaining at the end of fiscal year 2024 from this appropriation shall revert to the community schools fund.

(188) PUBLIC EDUCATION DEPARTMENT 15,000.0 15,000.0

To support schools with the highest ranked family income index pursuant to Section 22-8F-3 NMSA 1978 in providing supplemental services to at-risk students. The other state funds appropriation is from the public education reform fund.

(189) PUBLIC EDUCATION DEPARTMENT 1,000.0 1,000.0

To ~~[support educators with teaching English to speakers of other languages endorsements and to]~~ implement provisions of the Hispanic Education Act. The other state funds appropriation is from the public education reform fund. *LINE ITEM VETO*

(190) PUBLIC EDUCATION DEPARTMENT 5,000.0 5,000.0

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	

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. The other state funds appropriation is from the public education reform fund.

(191)	PUBLIC EDUCATION DEPARTMENT	5,000.0			5,000.0
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For school districts and charter schools to support math achievement. The other state funds appropriation is from the public education reform fund.

(192)	PUBLIC EDUCATION DEPARTMENT	1,100.0			1,100.0
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For educator advancement through micro credentials.

(193)	PUBLIC EDUCATION DEPARTMENT	250.0			250.0
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For outdoor classroom initiatives. The other state funds appropriation is from the public education reform fund.

(194)	PUBLIC EDUCATION DEPARTMENT	20,000.0			20,000.0
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For out-of-school learning, summer enrichment, tutoring and programs to address learning gaps. The other state funds appropriation is from the public education reform fund.

(195)	PUBLIC EDUCATION DEPARTMENT	6,500.0			6,500.0
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For stipends to student teachers for time spent teaching in a New Mexico public school as required by Subsection C of Section 22-10A-6 NMSA 1978 [~~and for waivers for fees associated with teaching license exams~~]. The other state funds appropriation is from the public education reform fund. *LINE ITEM VETO*

(196)	PUBLIC EDUCATION DEPARTMENT	1,000.0			1,000.0
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<u>Item</u>	<u>Fund</u>	<u>Other State Funds</u>	<u>Intrnl Svc Funds/Inter- Agency Trnsf</u>	<u>Federal Funds</u>	<u>Total/Target</u>
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For safety and statewide deployment of mobile panic buttons at public schools. The other state funds appropriation is from the public education reform fund.

(197)	PUBLIC EDUCATION DEPARTMENT	500.0			500.0
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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.

(198)	PUBLIC EDUCATION DEPARTMENT		2,000.0		2,000.0
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For pilot residency programs for principals, school counselors and school social workers. The other state funds appropriation is from the public education reform fund.

(199)	PUBLIC EDUCATION DEPARTMENT		200.0		200.0
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For regional and statewide school safety summits. The other state funds appropriation is from the public school capital outlay fund.

(200)	PUBLIC EDUCATION DEPARTMENT	5,000.0			5,000.0
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For special education initiatives.

(201)	PUBLIC EDUCATION DEPARTMENT		2,000.0		2,000.0
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To support educators in gaining or furthering special education trainings and credentials, including stipends for student teaching in special education classrooms for students pursuing a special education license [~~and creation of a special education credential~~]. The other state funds appropriation is from the public education reform fund. *LINE ITEM VETO*

(202)	PUBLIC EDUCATION DEPARTMENT		2,000.0		2,000.0
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Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

To educator preparation programs to develop and implement programs that provide training and professional development for current teachers, comprehensive financial aid including stipends for students in teacher preparation programs and licensing opportunities for educational assistants. The other state funds appropriation is from the public education reform fund.

(204) PUBLIC EDUCATION DEPARTMENT 13,000.0 13,000.0

For an educator evaluation system. The other state funds appropriation is from the public education reform fund.

(203) PUBLIC EDUCATION DEPARTMENT 2,000.0 2,000.0

For teacher residency programs pursuant to the Teacher Residency Act, including one million dollars (\$1,000,000) for teacher recruitment pilots and programs to improve the teacher workforce pipeline. The other state funds appropriation is from the public education reform fund.

(205) PUBLIC EDUCATION DEPARTMENT

The period of time for expending the thirteen million three hundred ten thousand three hundred dollars (\$13,310,300) from the public education reform fund in Subsection 123 of Section 5 of Chapter 54 of Laws 2022 for tribal and rural community-based extended learning programs is extended through fiscal year 2024.

(206) PUBLIC EDUCATION DEPARTMENT

The period of time for expending the ten million dollars (\$10,000,000) appropriated from the public education reform fund in Subsection 110 of Section 5 of Chapter 54 of Laws 2022 for emergency educational technology and information technology staffing needs at New Mexico public schools is extended through fiscal year 2024.

(207) PUBLIC EDUCATION DEPARTMENT

Item	Fund	Other	Intrnl Svc	Funds	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf		

The period of time for expending the one million five hundred thousand dollars (\$1,500,000) appropriated from the public education reform fund in Subsection 118 of Section 5 of Chapter 54 of Laws 2022 to assist school districts and charter schools in performing risk-based vulnerability management and penetration testing to identify, deter, protect against, detect, remediate and respond to cyber threats and ransomware is extended through fiscal year 2024.

(208)	PUBLIC EDUCATION DEPARTMENT		60,000.0		60,000.0
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For K-12 plus programs. The other state funds appropriation is from the public education reform fund.

(209)	PUBLIC SCHOOL FACILITIES AUTHORITY		214.5		214.5
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To purchase vehicles. The other state funds appropriation is from the public school capital outlay fund.

(210)	HIGHER EDUCATION DEPARTMENT	20,000.0			20,000.0
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For distribution to the higher education institutions of New Mexico for building renewal and replacement and facility demolition. A report of building renewal and replacement transfers must be submitted to the higher education department before funding is released. In the event of a transfer of building renewal and replacement funding to cover institutional salaries, or any other ineligible purpose as defined in the New Mexico higher education department space policy, funding shall not be released to the higher education institutions. Up to five million dollars (\$5,000,000) may be distributed to higher education institutions for facility demolition. [~~Distributions from this appropriation shall be made to eligible higher education institutions no later than July 15, 2023.~~] The general fund appropriation is from amounts transferred to the appropriation contingency fund of the general fund in Section 1 of Chapter 4 of Laws 2021 (2nd S.S.).

*LINE ITEM VETO*

(211)	HIGHER EDUCATION DEPARTMENT	1,000.0			1,000.0
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For the Burrell college of osteopathic medicine for outreach, minority student services and to assist with enhancing and expanding graduate medical education programs. For expenditure in fiscal years 2023 through 2026.

Item	General Fund	Other	Intrnl Svc	Funds/Inter- Agency Trnsf	Federal	Total/Target
		State Funds			Funds	
(212)	HIGHER EDUCATION DEPARTMENT	3,000.0				3,000.0

For distribution to the higher education institutions of New Mexico for equipment renewal and replacement. A report of equipment renewal and replacement transfers must be submitted to the higher education department before funding is released. In the event of a transfer of equipment renewal and replacement funding to cover institutional salaries, funding shall not be released to the higher education institution. ~~[Distributions from this appropriation shall be made to eligible higher education institutions no later than July 15, 2023.]~~ The general fund appropriation includes one million dollars (\$1,000,000) from amounts transferred to the appropriation contingency fund of the general fund in Section 1 of Chapter 4 of Laws 2021 (2nd S.S.). *LINE ITEM VETO*

(213)	HIGHER EDUCATION DEPARTMENT	10,000.0				10,000.0
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To provide scholarships to graduates of New Mexico high schools who are enrolled full-time in a master's or doctoral degree program at a graduate-degree-granting state university in New Mexico in a science, technology, engineering, or mathematics program provided that no student shall receive an award amount greater than seven thousand two hundred dollars (\$7,200) per academic year. Any unexpended balances remaining at the end of fiscal year 2024 from this appropriation shall not revert and may be expended through fiscal year 2026. The general fund appropriation is from amounts transferred to the appropriation contingency fund of the general fund in Section 1 of Chapter 4 of Laws 2021 (2nd S.S.).

(214)	HIGHER EDUCATION DEPARTMENT	10,000.0				10,000.0
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For the health professional loan repayment fund.

(215)	HIGHER EDUCATION DEPARTMENT	200.0				200.0
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For a study of instruction and general base funding and research and public service projects.

(216)	HIGHER EDUCATION DEPARTMENT	2,250.0				2,250.0
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For operational costs at mesalands community college. Up to two hundred thousand dollars (\$200,000) may be used by the higher education department to cover costs associated with a special audit by the office of the

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

state auditor, up to two hundred fifty thousand dollars (\$250,000) may be used by the higher education department to gather community feedback, study the college's fiscal condition and make recommendations to the interim legislative finance committee on solvency measures undertaken and governance changes. The higher education department may also authorize mesalands community college to enter into an agreement to allow mesalands administrative operations to be managed by another institution. The higher education department may use this appropriation to reimburse the additional costs of the managing institution.

(217) HIGHER EDUCATION DEPARTMENT 10,000.0 10,000.0

For endowed faculty teaching positions in undergraduate- and graduate-level nursing programs at New Mexico public and tribal institutions of higher education to expand enrollment and the number of graduates able to work as nurses or nurse practitioners. The higher education department must obtain certification from each higher education institution that the endowment revenue will supplement and not supplant spending at the institution's nursing program before making an endowment award.

(218) HIGHER EDUCATION DEPARTMENT

The appropriations contained in Subsection 42, Subsection 43 and Subsection 46 of Section 10 of Chapter 54 of Laws 2022 are from the general fund and not the appropriation contingency fund of the general fund.

(219) HIGHER EDUCATION DEPARTMENT 1,000.0 1,000.0

For the public service law loan repayment fund.

(220) HIGHER EDUCATION DEPARTMENT 5,000.0 5,000.0

To support public health programs at the university of New Mexico and New Mexico state university. The funding shall be distributed to each institution by the higher education department based on proposals for expenditure, including endowments, submitted by the institutions.

(221) HIGHER EDUCATION DEPARTMENT

Item	General Fund	Other	Intrnl Svc	Funds/Inter- Agency Trnsf	Federal Funds	Total/Target
		State Funds				

The fifty million dollars (\$50,000,000) appropriated in Subsection 43 of Section 10 of Chapter 54 of Laws 2022 for social worker faculty endowments may be expended to create endowments supporting student financial aid, including scholarships and paid practicums, for graduates of a New Mexico high school who are current residents of New Mexico enrolled in a master's-level social work program at a state institution of higher education as enumerated in Article 12 Section 11 of the constitution of New Mexico. The higher education department must obtain certification from each higher education institution that the awards from this appropriation will supplement and not supplant spending at the institution's social worker program before making an endowment award.

(222)	HIGHER EDUCATION DEPARTMENT	20,000.0				20,000.0
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For endowments to support financial aid, including scholarships and paid practicums, for New Mexico residents who are graduates of a New Mexico high school currently enrolled in a master's level social work program at a state institution of higher education as enumerated in Article 12 Section 11 of the constitution of New Mexico and for clinical supervision services for licensed social workers post-graduation. The higher education department must obtain certification from each higher education institution that the awards from this appropriation will supplement and not supplant spending at the institution's social worker program before making an endowment award. Any unexpended balances remaining at the end of fiscal year 2024 from this appropriation shall not revert to the general fund and may be expended through fiscal year 2026.

(223)	HIGHER EDUCATION DEPARTMENT	30,000.0	25,000.0			55,000.0
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To provide matching funds to state research universities to support innovative applied research that advances knowledge and creates new products and production processes in the fields of agriculture, biotechnology, biomedicine, energy, materials science, microelectronics, water resources, aerospace, telecommunications, manufacturing science and similar research areas. The other state funds appropriation is from the technology enhancement fund. ~~[The funds shall be distributed as follows: four million dollars (\$4,000,000) for the New Mexico established program to stimulate competitive research, one million dollars (\$1,000,000) for matching grants for comprehensive universities to be distributed on application by the higher education department, twenty-six million six hundred ninety-six thousand four hundred dollars (\$26,696,400) for the university of New Mexico, thirteen million nine hundred twenty-eight thousand six~~

Item	Fund	Other	Intrnl Svc	Funds/Inter-	Federal	Total/Target
		State	Agency Trnsf			

~~hundred dollars (\$13,928,600) for New Mexico state university and nine million three hundred seventy-five thousand dollars (\$9,375,000) for the New Mexico institute of mining and technology.] LINE ITEM VETO~~

(224) HIGHER EDUCATION DEPARTMENT

The balance of the general fund appropriation contained in Subsection 45 of Section 10 of Chapter 54 of Laws 2022 for work study students in high-demand degree fields as determined by the department may also be used for community colleges and regional universities to provide workforce training that results in an industry-recognized credential, endorsement or support, including apprenticeships or internships.

~~[-(225) UNIVERSITY OF NEW MEXICO 25,000.0 25,000.0~~

~~For the bioscience authority, contingent on enactment of Senate Bill 382 or similar legislation of the first session of the fifty-sixth legislature.] LINE ITEM VETO~~

(226) UNIVERSITY OF NEW MEXICO 500.0 500.0

To support infrastructure for the statewide human papillomavirus pap registry.

(227) UNIVERSITY OF NEW MEXICO 2,500.0 2,500.0

For endowments for Native American studies.

(228) UNIVERSITY OF NEW MEXICO 1,000.0 1,000.0

For a telescope at the Taos branch campus.

(229) NEW MEXICO STATE UNIVERSITY 1,500.0 1,500.0

To furnish and equip the agricultural modernization facility in Las Cruces.

(230) NEW MEXICO STATE UNIVERSITY 1,000.0 1,000.0

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	
For endowed faculty positions in educator preparation at the Dona Ana branch community college.					
(231)	NEW MEXICO STATE UNIVERSITY	10,500.0			10,500.0
To the board of regents at New Mexico state university to expand online degrees and programs.					
(232)	NEW MEXICO STATE UNIVERSITY	10,000.0			10,000.0
For land acquisition, planning, design and construction of the New Mexico reforestation center.					
(233)	WESTERN NEW MEXICO UNIVERSITY	1,000.0			1,000.0
For experiential learning supports. [ <del>Any unexpended balances remaining at the end of fiscal year 2024 shall not revert and may be expended through fiscal year 2025.</del> ] <i>LINE ITEM VETO</i>					
(234)	NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY	400.0			400.0
For innovation and expansion of geothermal energy.					
(235)	NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY	250.0			250.0
For the New Mexico bureau of geology and mineral resources to reach the standards expected of modern data management in the Water Data Act statute of 2019.					
(236)	NEW MEXICO INSTITUTE OF MINING AND TECHNOLOGY	200.0			200.0
For the bureau of geology and mineral resources to hold water education sessions.					

		General	Other	Intrnl Svc	Federal	
Item	Fund	Funds	Funds	Agency Trnsf	Funds	Total/Target
(237)	CENTRAL NEW MEXICO COMMUNITY COLLEGE	500.0				500.0
For intensive short-term boot camp training programs for high-skills, high-demand workforce training.						
(238)	LUNA COMMUNITY COLLEGE	250.0				250.0
To purchase information technology equipment for computer labs.						
(239)	LUNA COMMUNITY COLLEGE	483.5				483.5
To expand workforce training opportunities.						
(240)	COMPUTER SYSTEMS ENHANCEMENT FUND	71,636.4				71,636.4
For transfer to the computer systems enhancement fund for system replacements or enhancements.						
TOTAL SPECIAL APPROPRIATIONS		1,136,277.8	394,714.5	8,000.0	84,193.5	1,623,185.8

## Chapter 210 Section 6 Laws 2023

	General	Other	Intrnl Svc	Federal	
Item	Fund	Funds	Funds/Inter-Agency Trnsf	Funds	Total/Target

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 2023 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 2023 for the purpose specified and approval by the department of finance and administration. Any unexpended balances remaining at the end of fiscal year 2023 shall revert to the appropriate fund.

		General	Other State	Intrnl Svc Funds/Inter-	Federal	
Item	Fund	Funds	Agency Trnsf	Funds	Funds	Total/Target
(1)	COURT OF APPEALS	107.1				107.1
To address a projected shortfall in personal services and employee benefits.						
(2)	SECOND JUDICIAL DISTRICT COURT	331.3				331.3
For personal services and employee benefits to support a judge and staff.						
(3)	THIRD JUDICIAL DISTRICT COURT	63.4				63.4
For shortfalls in the contractual services category for security.						
(4)	THIRD JUDICIAL DISTRICT COURT	92.2				92.2
For magistrate judge salaries.						
(5)	FOURTH JUDICIAL DISTRICT COURT	50.8				50.8
For magistrate judge salaries.						
(6)	SIXTH JUDICIAL DISTRICT COURT	52.9				52.9
For magistrate judge salaries.						
(7)	EIGHTH JUDICIAL DISTRICT COURT	42.3				42.3
For magistrate judge salaries.						

		General	Other	Intrnl Svc	Federal	
	Item	Fund	State	Funds/Inter-	Funds	Total/Target
			Funds	Agency Trnsf		
(8)	TENTH JUDICIAL DISTRICT COURT	39.6				39.6
	For magistrate judge salaries.					
(9)	ELEVENTH JUDICIAL DISTRICT COURT	60.5				60.5
	For magistrate judge salaries.					
(10)	TWELFTH JUDICIAL DISTRICT COURT	51.7				51.7
	For magistrate judge salaries.					
(11)	THIRTEENTH JUDICIAL DISTRICT COURT	101.5				101.5
	For magistrate judge salaries.					
(12)	SIXTH JUDICIAL DISTRICT ATTORNEY	90.0				90.0
	For personal services and employee benefits to fully staff the office.					
(13)	ELEVENTH JUDICIAL DISTRICT ATTORNEY, DIVISION I	60.0				60.0
	For staffing related to victim and witness support.					
(14)	DEPARTMENT OF FINANCE AND ADMINISTRATION	300.0				300.0

Item	General Fund	Other	Intrnl Svc	Funds/Inter- Agency Trnsf	Federal Funds	Total/Target
		State Funds				

For shortfalls in the fiscal agent contract special appropriation.

(15)	GENERAL SERVICES DEPARTMENT	23,650.0	41,456.0			65,106.0
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For prior-year shortfalls in the employee group health benefits fund, contingent on implementing a plan for a one-time, employer-only assessment, with matching funds from local governments and higher education institutions of twenty-two million one hundred six thousand dollars (\$22,106,000) [~~and further contingent on the general services department increasing health benefit premiums in fiscal year 2024, and further contingent on the department contracting with an independent third-party consultant to conduct a claims payment integrity review for claims filed in fiscal year 2022 and fiscal year 2023 by all health systems and hospitals~~]. For those state employees whose salaries are referenced in or received as a result of nongeneral fund appropriations in the General Appropriation Act of 2022 or General Appropriation Act of 2023, the department of finance and administration shall transfer from the appropriate fund to the appropriate agency the amount required for the special assessment provided for in this item. [~~The general fund appropriation includes twenty-three million dollars (\$23,000,000) from amounts transferred to the appropriation contingency fund of the general fund in Section 1 of Chapter 4 of Laws 2021 (2nd S.S.).~~] *LINE ITEM VETO*

(16)	GENERAL SERVICES DEPARTMENT	10,890.0	19,110.0			30,000.0
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For a projected shortfall in the employee group health benefits fund, contingent on implementing a plan for a one-time, employer-only assessment with matching funds from local governments and higher education institutions of ten million two hundred thousand dollars (\$10,200,000) [~~and further contingent on the general services department increasing health benefit premiums in fiscal year 2024~~]. For those state employees whose salaries are referenced in or received as a result of nongeneral fund appropriations in the General Appropriation Act of 2022 or General Appropriation Act of 2023, the department of finance and administration shall transfer from the appropriate fund to the appropriate agency the amount required for the special assessment provided for in this item. *LINE ITEM VETO*

(17)	GENERAL SERVICES DEPARTMENT	319.3	560.4			879.7
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Item	General Fund	Other	Intrnl Svc	Funds/Inter- Agency Trnsf	Federal	Total/Target
		State Funds			Funds	

For shortfalls in the contractual services category for life insurance premiums in the risk management division, contingent on implementing a plan for a one-time, employer-only assessment with matching funds from local governments and higher education institutions of two hundred ninety-nine thousand one hundred dollars (\$299,100) [~~and further contingent on the general services department increasing life insurance premiums in fiscal year 2024~~]. For those state employees whose salaries are referenced in or received as a result of nongeneral fund appropriations in the General Appropriation Act of 2022 or General Appropriation Act of 2023, the department of finance and administration shall transfer from the appropriate fund to the appropriate agency the amount required for the special assessment provided for in this item. *LINE ITEM VETO*

(18)	SECRETARY OF STATE	160.0				160.0
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To upgrade end-user hardware.

(19)	OFFICE OF THE SUPERINTENDENT OF INSURANCE		2,300.0			2,300.0
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For the small business health insurance premium relief initiative. The other state funds appropriation is from the health care affordability fund.

(20)	NEW MEXICO STATE FAIR	1,250.0				1,250.0
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For a projected shortfall due to the coronavirus disease 2019.

(21)	STATE RACING COMMISSION	250.0				250.0
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For litigation expenses.

(22)	PUBLIC EDUCATION DEPARTMENT		7,500.0			7,500.0
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For school bus replacement. The other state funds appropriation is from the public school capital outlay fund.

		Other	Intrnl Svc		
	General	State	Funds/Inter-	Federal	
Item	Fund	Funds	Agency Trnsf	Funds	Total/Target
(23)	HIGHER EDUCATION DEPARTMENT	45,000.0			45,000.0

For the opportunity scholarship. The general fund appropriation includes forty million dollars (\$40,000,000) from amounts transferred to the appropriation contingency fund of the general fund in Section 1 of Chapter 4 of Laws 2021 (2<sup>nd</sup> S.S.).

TOTAL SUPPLEMENTAL AND DEFICIENCY APPROPRIATIONS	82,962.6	70,926.4			153,889.0
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## Chapter 210 Section 7 Laws 2023

		Other	Intrnl Svc		
	General	State	Funds/Inter-	Federal	
Item	Fund	Funds	Agency Trnsf	Funds	Total/Target

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 2023, 2024 and 2025. Unless otherwise indicated, any unexpended balances remaining at the end of fiscal year 2025 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 sixty-nine million one hundred forty-six thousand four hundred dollars (\$69,146,400) 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.

(1)	ADMINISTRATIVE OFFICE OF THE COURTS				
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Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

The period of time for expending the one hundred twelve thousand six hundred dollars (\$112,600) appropriated from the computer systems enhancement fund in Subsection 2 of Section 7 of Chapter 83 of Laws 2020 as extended in Subsection 1 of Section 7 of Chapter 54 of Laws 2022 to implement an integrated electronic court notices solution for the court's case management system is extended through fiscal year 2024.

(2)	PUBLIC DEFENDER DEPARTMENT		1,250.0		1,250.0
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For initiation and planning for the microsoft balancing project.

(3)	PUBLIC DEFENDER DEPARTMENT		1,240.0		1,240.0
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To implement the attorney tools project, including workflow and production enhancements.

(4)	TAXATION AND REVENUE DEPARTMENT		772.3		772.3
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To enhance the protest case management system by implementing protest case functionality in Gentax.

(5)	DEPARTMENT OF FINANCE AND ADMINISTRATION				
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The period of time for expending the one million two hundred fifty thousand dollars (\$1,250,000) appropriated from the computer systems enhancement fund in Subsection 8 of Section 7 of Chapter 73 of Laws 2018 as extended in Subsection 8 of Section 7 of Chapter 83 of Laws 2020 as extended in Subsection 5 of Section 7 of Chapter 137 of Laws 2021 and as extended in Subsection 9 of Section 7 of Chapter 54 of Laws 2022 for the implementation of an enterprise budget system is extended through fiscal year 2024.

(6)	DEPARTMENT OF FINANCE AND ADMINISTRATION				
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The period of time for expending the four million dollars (\$4,000,000) appropriated from the computer systems enhancement fund in Subsection 10 of Section 7 of Chapter 271 of Laws 2019 as extended in

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		
Subsection 4 of Section 7 of Chapter 137 of Laws 2021 and as extended in Subsection 10 of Section 7 of Chapter 54 of Laws 2022 for the implementation of an enterprise budget system is extended through fiscal year 2024.					
(7)	EDUCATIONAL RETIREMENT BOARD		30,500.0		30,500.0
To modernize the pension administration system. The other state funds appropriation is from educational retirement fund balances.					
(8)	DEPARTMENT OF INFORMATION TECHNOLOGY			2,000.0	2,000.0
To develop and implement an integrated system for the enterprise project management office documents and services.					
(9)	SECRETARY OF STATE			1,953.6	1,953.6
To implement a commercial off-the-shelf business filing software solution.					
(10)	REGULATION AND LICENSING DEPARTMENT		750.0		750.0
To implement cannabis licensing platform enhancements. The other state funds appropriation is from cannabis control division fund balances.					
(11)	GAMING CONTROL BOARD			1,500.0	1,500.0
For the planning and initiation phase to modernize licensing software.					
(12)	STATE ENGINEER			1,695.2	1,695.2
To modernize and replace the existing water rights adjudication tracking system.					

	General	Other	Intrnl Svc	Federal	
Item	Fund	Funds	Agency Trnsf	Funds	Total/Target
(13)	EARLY CHILDHOOD EDUCATION AND CARE DEPARTMENT		500.0	500.0	1,000.0

To continue the implementation of an enterprise content management system for the child care services bureau. The other state funds appropriation is from the early childhood education and care fund balances.

(14) EARLY CHILDHOOD EDUCATION  
AND CARE DEPARTMENT

The period of time for expending the forty-nine thousand five hundred dollars (\$49,500) appropriated from the computer systems enhancement fund and the four hundred forty-five thousand five hundred dollars (\$445,500) appropriated from federal funds in Subsection 12 of Section 7 of Chapter 137 of Laws 2021 to integrate functionality between the enterprise provider information and constituent services system and the medicaid management information system applications is extended through fiscal year 2024.

(15) AGING AND LONG-TERM SERVICES  
DEPARTMENT

The period of time for expending the two hundred eighty thousand three hundred dollars (\$280,300) appropriated from the computer systems enhancement fund and the two million two hundred ninety-one thousand six hundred dollars (\$2,291,600) appropriated from federal funds in Subsection 21 of Section 7 of Chapter 83 of Laws 2020 as extended in Subsection 21 of Section 7 of Chapter 54 of Laws 2022 to continue the implementation of the medicaid management information system replacement project is extended through fiscal year 2024.

(16)	HUMAN SERVICES DEPARTMENT		7,425.9	67,507.8	74,933.7
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To continue the implementation phase of the medicaid management information system replacement project. The human services department shall report to [~~the legislative finance committee,~~] the department of information technology and the department of finance and administration on the status of the project on a quarterly basis. *LINE ITEM VETO*

(17) HUMAN SERVICES DEPARTMENT

Item	General Fund	Other	Intrnl Svc	Funds/Inter- Agency Trnsf	Federal Funds	Total/Target
		State Funds				

The period of time for expending the six million eight hundred one thousand nine hundred dollars (\$6,801,900) appropriated from the computer systems enhancement fund in Subsection 21 of Section 7 of Chapter 73 of Laws 2018 as extended in Subsection 26 of Section 7 of Chapter 83 of Laws 2020 as extended in Subsection 15 of Section 7 of Chapter 137 of Laws 2021 and as extended in Subsection 25 of Section 7 of Chapter 54 of Laws 2022 to continue the implementation of the medicaid management information system replacement project is extended through fiscal year 2024.

(18) HUMAN SERVICES DEPARTMENT

The period of time for expending the one million seven hundred eighty-three thousand six hundred dollars (\$1,783,600) appropriated from the computer systems enhancement fund in Subsection 21 of Section 7 of Chapter 271 of Laws 2019 as extended in Subsection 13 of Section 7 of Chapter 137 of Laws 2021 and as extended in Subsection 24 of Section 7 of Chapter 54 of Laws 2022 to continue the implementation of the child support system enforcement replacement project is extended through fiscal year 2024.

(19) HUMAN SERVICES DEPARTMENT

The period of time for expending the one million two hundred fifty-five thousand six hundred dollars (\$1,255,600) appropriated from the computer systems enhancement fund and the eleven million three hundred thousand five hundred dollars (\$11,300,500) appropriated from federal funds in Subsection 22 of Section 7 of Chapter 271 of Laws 2019 as extended in Subsection 14 of Section 7 of Chapter 137 of Laws 2021 as extended in Subsection 25 of Section 7 of Chapter 54 of Laws 2022 to continue the implementation of the medicaid management information system replacement project is extended through fiscal year 2024.

(20) HUMAN SERVICES DEPARTMENT

The period of time for expending the two million eight hundred thirty-two thousand five hundred dollars (\$2,832,500) appropriated from the computer systems enhancement fund and the five million four hundred ninety-eight thousand four hundred dollars (\$5,498,400) appropriated from federal funds in Subsection 22 of Section 7 of Chapter 83 of Laws 2020 as extended in Subsection 26 of Section 7 of Chapter 54 of Laws 2022 to continue the implementation of the child support enforcement replacement project is extended through fiscal year 2024.

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

(21) HUMAN SERVICES DEPARTMENT

The period of time for expending the four million one hundred four thousand one hundred dollars (\$4,104,100) appropriated from the computer systems enhancement fund in Subsection 23 of Section 7 of Chapter 83 of Laws 2020 as extended in Subsection 27 of Section 7 of Chapter 54 of Laws 2022 to continue the implementation of the medicaid management information system replacement project is extended through fiscal year 2024.

(22) HUMAN SERVICES DEPARTMENT

The period of time for expending the one million two hundred eight thousand nine hundred dollars (\$1,208,900) appropriated from the computer systems enhancement fund and the ten million eight hundred twelve thousand eight hundred dollars (\$10,812,800) appropriated from federal funds in Subsection 17 of Section 7 of Chapter 137 of Laws 2021 to continue the implementation of the medicaid management information system replacement project is extended through fiscal year 2024.

(23) WORKERS' COMPENSATION  
ADMINISTRATION

The period of time for expending the two million dollars (\$2,000,000) appropriated from the worker's compensation fund in Subsection 18 of Section 7 of Chapter 137 of Laws 2021 to modernize information technology systems and applications is extended through fiscal year 2024.

(24) 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 as extended in Subsection 25 of Section 7 of Chapter 271 of Laws 2019 as extended in Subsection 33 of Chapter 83 of Laws 2020 as extended in Subsection 26 of Section 7 of Chapter 137 of Laws 2021 and as extended in Subsection 33 of Section 7 of Chapter 54 of Laws 2022 to continue the implementation of the developmental disabilities client management support system is extended through fiscal year 2024.

(25) DEPARTMENT OF HEALTH 500.0 500.0

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	

For infrastructure hardware upgrades to support expanded data needs of the department.

(26)	DEPARTMENT OF HEALTH		1,840.0		1,840.0
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To continue the implementation of an integrated document management system and upgrade the vital records database.

(27)	DEPARTMENT OF HEALTH		950.0		950.0
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To implement enhancements or modifications to the existing death records component of the database application for vital events.

(28)	DEPARTMENT OF HEALTH				
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The period of time for expending the five hundred thousand dollars (\$500,000) appropriated from the computer systems enhancement fund and the four million five hundred thousand dollars (\$4,500,000) appropriated from federal funds in Subsection 29 of Section 7 of Chapter 173 of Laws 2021 for implementing a comprehensive care management system for the developmental disabilities supports division is extended through fiscal year 2024.

(29)	DEPARTMENT OF HEALTH				
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The period of time for expending the two million seven hundred fifty thousand dollars (\$2,750,000) appropriated from the computer systems enhancement fund in Subsection 26 of Section 7 of Chapter 73 of Laws 2018 as extended in Subsection 34 of Section 7 of Chapter 83 of Laws 2020 as extended in Subsection 28 of Section 7 of Chapter 137 of Laws 2021 as extended in Subsection 34 of Section 7 of Chapter 54 of Laws 2022 to purchase and implement an integrated document management system and upgrade the vital records database is extended through fiscal year 2024.

(30)	DEPARTMENT OF HEALTH				
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		Other	Intrnl Svc		
	General	State	Funds/Inter-	Federal	
<u>Item</u>	<u>Fund</u>	<u>Funds</u>	<u>Agency Trnsf</u>	<u>Funds</u>	<u>Total/Target</u>

The period of time for expending the four million dollars (\$4,000,000) appropriated from the computer systems enhancement fund in Subsection 24 of Section 7 of Chapter 271 of Laws 2019 as extended in Subsection 21 of Section 7 of Chapter 137 of Laws 2021 as extended in Subsection 40 of Section 7 of Chapter 54 of Laws 2022 to purchase and implement an enterprise electronic healthcare records system for public health offices is extended through fiscal year 2024.

(31) DEPARTMENT OF HEALTH

The period of time for expending the two million one hundred thousand dollars (\$2,100,000) appropriated from the computer systems enhancement fund in Subsection 27 of Section 7 of Chapter 271 of Laws 2019 as extended in Subsection 27 of Section 7 of Chapter 137 of Laws 2021 as extended in Subsection 32 of Section 7 of Chapter 54 of Laws 2022 to continue the implementation of an integrated document management system and upgrade the vital records database is extended through fiscal year 2024.

(32) DEPARTMENT OF HEALTH

The period of time for expending the nine hundred thousand dollars (\$900,000) appropriated from the computer systems enhancement fund in Subsection 27 of Section 7 of Chapter 83 of Laws 2020 as extended in Subsection 42 of Section 7 of Chapter 54 of Laws 2022 for the initiation and planning phase to implement a database for healthcare cost data is extended through fiscal year 2024.

(33) DEPARTMENT OF HEALTH

The period of time for expending the three million five hundred thousand dollars (\$3,500,000) appropriated from the computer systems enhancement fund in Subsection 28 of Section 7 of Chapter 83 of Laws 2020 as extended in Subsection 37 of Section 7 of Chapter 54 of Laws 2022 to purchase and implement an enterprise electronic healthcare records system for public health offices is extended through fiscal year 2024.

(34) DEPARTMENT OF HEALTH

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

The period of time for expending the five hundred thousand dollars (\$500,000) appropriated from the computer systems enhancement fund in Subsection 19 of Section 7 of Chapter 137 of Laws 2021 for an all payer claims database is extended through fiscal year 2024.

(35) DEPARTMENT OF HEALTH

The period of time for expending the three million seven hundred fifty thousand dollars (\$3,750,000) appropriated from the computer systems enhancement fund in Subsection 31 of Section 7 of Chapter 137 of Laws 2021 to continue the implementation of an enterprise electronic health records system is extended through fiscal year 2024.

(36) DEPARTMENT OF ENVIRONMENT 1,600.0 1,600.0

To implement an enterprise environmental information system for the department of environment programs.

(37) DEPARTMENT OF ENVIRONMENT

The period of time for expending the one million five hundred eighty thousand six hundred dollars (\$1,580,600) appropriated from the computer systems enhancement fund in Subsection 32 of Section 7 of Chapter 137 of Laws 2021 to continue the implementation of an enterprise environmental information system for department of environment programs is extended through fiscal year 2024.

(38) CHILDREN, YOUTH AND FAMILIES 21,439.4 11,044.6 32,484.0  
DEPARTMENT

To continue the modernization of the comprehensive child welfare information system. The internal service funds/inter-agency transfer appropriation includes three million dollars (\$3,000,000) from the human services department. The children, youth and families department shall report to [~~the legislative finance committee,~~] the department of information technology and the department of finance and administration on the status of the project on a quarterly basis. *LINE ITEM VETO*

(39) CHILDREN, YOUTH AND FAMILIES  
DEPARTMENT

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

The period of time for expending the seven million dollars (\$7,000,000) appropriated from the computer systems enhancement fund and the ten million nine hundred thousand dollars (\$10,900,000) appropriated from federal funds in Subsection 37 of Section 7 of Chapter 83 of Laws 2020 as extended in Subsection 44 of Section 7 of Chapter 54 of Laws 2022 to continue the modernization of the comprehensive child welfare information system is extended through fiscal year 2024.

(40) CHILDREN, YOUTH AND FAMILIES  
DEPARTMENT

The period of time for expending the three million five hundred twenty-three thousand seven hundred dollars (\$3,523,700) appropriated from the computer systems enhancement fund and the seventeen million ninety-five thousand nine hundred dollars (\$17,095,900) appropriated from federal funds in Subsection 33 of Section 7 of Chapter 137 of Laws 2021 to continue the modernization of the comprehensive child welfare information system is extended through fiscal year 2024.

(41) CORRECTIONS DEPARTMENT

The period of time for expending the five hundred thousand dollars (\$500,000) appropriated from the computer systems enhancement fund in Subsection 36 of Section 7 of Chapter 137 of Laws 2021 to continue the implementation of an electronic health records system with a commercial off-the-shelf solution is extended through fiscal year 2024.

(42) DEPARTMENT OF PUBLIC SAFETY 2,205.0 2,205.0

To continue the implementation of an intelligence-led policing and public safety system.

(43) DEPARTMENT OF PUBLIC SAFETY 1,800.0 1,800.0

To configure the Las Cruces data center as a backup site to enhance business continuity.

(44) DEPARTMENT OF PUBLIC SAFETY 16,000.0 16,000.0

To modernize the criminal justice information system and other critical public safety data systems.

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	
(45)	DEPARTMENT OF PUBLIC SAFETY		810.0		810.0
To implement an asset management system.					
(46)	DEPARTMENT OF PUBLIC SAFETY				
The period of time for expending the three million dollars (\$3,000,000) appropriated from the computer systems enhancement fund in Subsection 41 of Section 7 of Chapter 83 of Laws 2020 as extended in Subsection 49 of Section 7 of Chapter 54 of Laws 2022 to upgrade the computer-aided dispatch system is extended through fiscal year 2024.					
(47)	DEPARTMENT OF PUBLIC SAFETY				
The period of time for expending the five million four hundred sixty-five thousand dollars (\$5,465,000) appropriated from the computer systems enhancement fund in Subsection 43 of Section 7 of Chapter 83 of Laws 2020 as extended in Subsection 48 of Section 7 of Chapter 54 of Laws 2022 to continue the implementation of a commercial off-the-shelf records management system is extended through fiscal year 2024.					
(48)	PUBLIC EDUCATION DEPARTMENT		750.0		750.0
For security enhancements and to reduce the dependence of social security numbers as unique identifiers for school staff.					
(49)	PUBLIC EDUCATION DEPARTMENT		1,405.0		1,405.0
To replace the attendance improvement plan application.					
(50)	PUBLIC EDUCATION DEPARTMENT				
The period of time for expending the two hundred fifty-four thousand three hundred dollars (\$254,300) appropriated from the public education reform fund in Subsection 45 of Section 7 of Chapter 83 of Laws 2020					

<u>Item</u>	<u>General</u> <u>Fund</u>	<u>Other</u> <u>State</u> <u>Funds</u>	<u>Intrnl Svc</u> <u>Funds/Inter-</u> <u>Agency Trnsf</u>	<u>Federal</u> <u>Funds</u>	<u>Total/Target</u>
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as extended in Subsection 50 of Section 7 of Chapter 54 of Laws 2022 to continue to develop and implement an integrated data exchange system for educator preparation programs is extended through fiscal year 2024.

(51) PUBLIC EDUCATION DEPARTMENT

The period of time for expending the one million five hundred fifty-eight thousand four hundred dollars (\$1,558,400) appropriated from the public education reform fund in Subsection 46 of Section 7 of Chapter 83 of Laws 2020 as extended in Subsection 51 of Section 7 of Chapter 54 of Laws 2022 to develop and implement a consolidated grant management system is extended through fiscal year 2024.

(52) PUBLIC EDUCATION DEPARTMENT

The period of time for expending the six hundred seven thousand seven hundred dollars (\$607,700) appropriated from the public education reform fund and the six hundred seven thousand seven hundred dollars (\$607,700) appropriated from the computer systems enhancement fund in Subsection 38 of Section 7 of Chapter 137 of Laws 2021 for the business intelligence, integration and reporting system is extended through fiscal year 2024.

(53)	HIGHER EDUCATION DEPARTMENT		2,500.0		2,500.0
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To continue the longitudinal data system project.

(54)	HIGHER EDUCATION DEPARTMENT		7,000.0		7,000.0
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For a shared services enterprise resource planning system.

TOTAL INFORMATION TECHNOLOGY APPROPRIATIONS		31,750.0		74,636.4	81,052.4
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## Chapter 210 Section 8 Laws 2023

Section 8. COMPENSATION APPROPRIATIONS.--

Item	General Fund	Other	Intrnl Svc	Funds/Inter- Agency Trnsf	Federal Funds	Total/Target
		State Funds				

A. Nineteen million one hundred forty-nine thousand seven hundred dollars (\$19,149,700) is appropriated from the general fund to the department of finance and administration for fiscal year 2024 to pay all costs attributable to the general fund of providing a salary increase of one percent to employees in budgeted positions who have completed their probationary period subject to satisfactory job performance for inflation and health care premium costs. The salary increases shall be effective the first full pay period after July 1, 2023, and distributed as follows:

(1) one hundred fifty-seven thousand eight hundred dollars (\$157,800) for permanent legislative employees, including permanent employees of the legislative council service, legislative finance committee, legislative education study committee, legislative building services, house and senate, house and senate chief clerks' offices and house and senate leadership;

(2) two million four hundred seventy-one thousand seven hundred dollars (\$2,471,700) for judicial permanent employees, including magistrate judges, elected district attorneys, district attorney permanent employees, public defender department permanent employees, judicial hearing officers and judicial special commissioners, supreme court justices, court of appeals judges, district court judges and metropolitan court judges;

(3) seven million fifty-four thousand eight hundred dollars (\$7,054,800) for 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; and

(4) nine million four hundred sixty-five thousand four hundred dollars (\$9,465,400) to the higher education department for nonstudent 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.

B. Ninety-five million seven hundred forty-eight thousand nine hundred dollars (\$95,748,900) is appropriated from the general fund to the department of finance and administration for fiscal year 2024 to pay all costs attributable to the general fund of providing a [~~n-average~~] salary increase of five percent to employees in budgeted positions who have completed their probationary period subject to satisfactory job performance. This appropriation includes sufficient funding to provide all affected employees an hourly salary of at least fifteen dollars (\$15.00). 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, 2023, and distributed as follows: *LINE ITEM VETO*

Item	General Fund	Other	Intrnl Svc	Federal	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

(1) seven hundred eighty-nine thousand dollars (\$789,000) for permanent legislative employees, including permanent employees of the legislative council service, legislative finance committee, legislative education study committee, legislative building services, house and senate, house and senate chief clerks' offices and house and senate leadership;

(2) twelve million three hundred fifty-eight thousand seven hundred dollars (\$12,358,700) for judicial permanent employees, including magistrate judges, elected district attorneys, district attorney permanent employees, public defender department permanent employees, judicial hearing officers and judicial special commissioners, supreme court justices, court of appeals judges, district court judges and metropolitan court judges;

(3) thirty-five million two hundred seventy-three thousand nine hundred dollars (\$35,273,900) for 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; and

(4) forty-seven million three hundred twenty-seven thousand two hundred dollars (\$47,327,200) to the higher education department for nonstudent 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.

C. Eight million four hundred seventy-two thousand nine hundred dollars (\$8,472,900) is appropriated from the general fund to the department of finance and administration for fiscal year 2024 for the general fund share of a [~~ten percent~~] medical insurance premium [~~rate increase~~] paid by employers on behalf of state employees covered by health plans managed by the general services department. *LINE ITEM VETO*

D. 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 2023. Any unexpended balances remaining at the end of fiscal year 2024 shall revert to the general fund.

E. Except for the department of the environment, for those state employees whose salaries are referenced in or received as a result of nongeneral fund appropriations in the General Appropriation Act of 2023, 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 2024. Any unexpended balances remaining at the end of fiscal year 2024 shall revert to the appropriate fund.

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
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F. One million six hundred ninety-six thousand one hundred forty-five dollars (\$1,696,145) is appropriated from the general fund to the department of the environment in fiscal year 2024 for personal services and employee benefits. Any unexpended balances remaining at the end of fiscal year 2024 shall revert to the general fund.

G. The aggregate amount of two million thirty-five thousand three hundred dollars (\$2,035,300) appropriated in the personal services and employee benefits categories to district courts, the supreme court, court of appeals and Bernalillo county metropolitan court in Section 4 of this act to provide supreme court justices, court of appeals judges, district court judges and metropolitan court judges a salary increase of eight percent is contingent on enactment of Senate Bill 2 or similar legislation of the first session of the fifty-sixth legislature removing salary formulas that tie magistrate judge salaries to metropolitan court judge salaries.

H. Four hundred forty-one thousand seven hundred dollars (\$441,700) appropriated in Paragraph 2 of Subsection B of this Section to provide magistrate court judges with a ~~an average~~ five percent salary increase is removed upon enactment of Senate Bill 2 or similar legislation of the first session of the fifty-sixth legislature removing salary formulas that tie magistrate judge salaries to metropolitan court judge salaries. *LINE ITEM VETO*

## Chapter 210 Section 9 Laws 2023

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
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Section 9. SPECIAL TRANSPORTATION APPROPRIATIONS.--The following amounts are appropriated from the general fund and other state funds to the department of transportation for the purposes specified. Unless otherwise indicated, the appropriation may be expended in fiscal year 2023 and subsequent fiscal years. Unexpended balances of the appropriations remaining at the end of fiscal year 2026 shall revert to the appropriate fund.

(1)	DEPARTMENT OF TRANSPORTATION	55,000.0		55,000.0
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To plan, design, construct, renovate and equip upgrades to regional airports statewide.

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
		Funds	Agency Trnsf	Funds	
(2)	DEPARTMENT OF TRANSPORTATION		7,000.0		7,000.0

For ports of entry statewide. The internal service funds/interagency transfers appropriation is from the weight distance tax identification permit fund.

(3) DEPARTMENT OF TRANSPORTATION

The appropriation contained in Subsection 7 of Section 9 of Chapter 54 of Laws 2022 for statewide rest area improvements is from the appropriation contingency fund of the general fund and not from the general fund.

(4)	DEPARTMENT OF TRANSPORTATION	232,000.0	[74,000.0]		306,000.0
			LINE ITEM		
			VETO		

For acquisition of rights-of-way, planning, design and construction, field supplies, roadway preservation, roadway rehabilitation, preventive maintenance, roadway maintenance, reconstruction or new construction for state-, tribal- and local-owned roads. Funds appropriated in this section may be used to match other state funds or federal funds and may be used for projects including New Mexico highway 213 in Dona Ana county; New Mexico highway 31 in transportation district two; county road 605; U.S. Refinery road, known as the Carlsbad southeast loop, in Eddy county in transportation district two; Atrisco Vista boulevard in Bernalillo county in transportation district three; Isleta boulevard in Bernalillo county in transportation district three; Rio Bravo boulevard in transportation district three; Paseo del Norte between Kinnock road and Rainbow road in transportation district three; interchange reconstruction and bridge replacement or rehabilitation and other improvements on interstate 25 between Comanche road and Montgomery boulevard in transportation district three; Los Lunas east/west corridor in transportation district three; New Mexico highway 94 from the intersection with New Mexico highway 518 for three-fourths of a mile in transportation district four; United States highway 550 in transportation district five and New Mexico highway 602 in transportation district six. [~~The other state funds appropriation is from the state road fund for roadway maintenance projects to be split evenly between the six transportation districts and is contingent on enactment of House Bill 547 of the first session of the fifty-sixth legislature.~~] LINE ITEM VETO

(5)	DEPARTMENT OF TRANSPORTATION	5,000.0			5,000.0
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		Other	Intrnl Svc		
	General	State	Funds/Inter-	Federal	
Item	Fund	Funds	Agency Trnsf	Funds	Total/Target

For design and construction of wildlife corridors to mitigate wildlife-vehicle collisions on state-managed roads.

TOTAL SPECIAL TRANSPORTATION APPROPRIATIONS	292,000.0	74,000.0	7,000.0		373,000.0
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### Chapter 210 Section 10 Laws 2023

		Other	Intrnl Svc		
	General	State	Funds/Inter-	Federal	
Item	Fund	Funds	Agency Trnsf	Funds	Total/Target

Section 10. FUND TRANSFERS.--The following amounts are transferred in fiscal year 2024 from the general fund or other funds as indicated for the purposes specified.

(1)	CONSERVATION LEGACY PERMANENT FUND	50,000.0			50,000.0
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The general fund transfer is contingent on enactment of Senate Bill 9 or similar legislation of the first session of the fifty-sixth legislature creating the fund.

(2)	LAND OF ENCHANTMENT LEGACY FUND	50,000.0			50,000.0
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The general fund transfer is contingent on enactment of Senate Bill 9 or similar legislation of the first session of the fifty-sixth legislature creating the fund.

(3)	APPROPRIATION CONTINGENCY FUND				
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Fifty million dollars (\$50,000,000) is transferred to the appropriation contingency fund of the general fund from the general fund operating reserve.

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
(4) SEVERANCE TAX PERMANENT FUND	475,000.0				475,000.0
(5) WATER TRUST FUND	100,000.0				100,000.0
(6) TOBACCO SETTLEMENT PERMANENT FUND	50,000.0	8,000.0			58,000.0

This transfer is contingent on enactment of Senate Bill 178 or similar legislation amending Section 6-4-9 NMSA 1978 to remove the tobacco settlement permanent fund as a reserve fund of the state. The other state funds transfer is from the tobacco settlement program fund.

(7) RURAL LIBRARY ENDOWMENT FUND

The transfer to the rural library endowment fund contained in Subsection 2 of Section 11 of Chapter 54 of Laws 2022 is from the general fund and not the appropriation contingency fund of the general fund.

(8) TEACHER LOAN REPAYMENT FUND		2,500.0			2,500.0
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The other state funds transfer is from the public education reform fund.

(9) TEACHER PREPARATION AFFORDABILITY FUND		8,000.0			8,000.0
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The other state funds transfer is from the public education reform fund.

TOTAL FUND TRANSFERS	725,000.0	18,500.0			743,500.0
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## Chapter 210 Section 11 Laws 2023

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
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Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

Section 11. ADDITIONAL SUPPLEMENTAL HEALTH AND HUMAN SERVICES APPROPRIATIONS.--Unless otherwise indicated, the following amounts are appropriated from the consumer settlement fund, or any such other fund created by enactment of legislation of the first session of the fifty-sixth legislature, from monies from settlements, judgments, verdicts and other court orders relating to claims regarding the manufacturing, marketing, distribution or sale of opioids. Unless otherwise indicated, the appropriation may be expended in fiscal year 2024. Any unexpended balances from any of the following appropriations of opioid revenues from the consumer settlement fund, or any such other fund created by enactment of legislation of the first session of the fifty-sixth legislature from opioid revenues, shall revert to the consumer settlement fund, or any such other fund for opioid revenues created by enactment of legislation of the first session of the fifty-sixth legislature.

(1)	EARLY CHILDHOOD EDUCATION AND CARE DEPARTMENT	5,000.0		5,000.0
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For childcare assistance.

(2)	EARLY CHILDHOOD EDUCATION AND CARE DEPARTMENT	1,000.0		1,000.0
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For infant mental health.

(3)	HUMAN SERVICES DEPARTMENT	1,500.0		1,500.0
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For start-up and expansion of certified community behavioral health clinics.

(4)	HUMAN SERVICES DEPARTMENT	2,000.0		2,000.0
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For housing assistance for people affected by opioid use disorder.

(5)	HUMAN SERVICES DEPARTMENT	2,000.0		2,000.0
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To expand screening, brief intervention and referral to treatment programs.

(6)	HUMAN SERVICES DEPARTMENT	1,000.0		1,000.0
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Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
	General	Funds	Agency Trnsf	Funds	
To expand telehealth services for people affected by opioid use disorder.					
(7)	DEPARTMENT OF HEALTH		2,500.0		2,500.0
For medication-assisted treatment related to opioid use disorder.					
(8)	DEPARTMENT OF HEALTH		1,000.0		1,000.0
For medication-assisted treatment for tribal members related to opioid use disorder.					
(9)	CHILDREN, YOUTH AND FAMILIES DEPARTMENT		1,000.0		1,000.0
[ <del>For grants to hospitals</del> ] to improve reporting and adherence to plans of safe care as outlined in Section 32A-3A-13 NMSA 1978. <i>LINE ITEM VETO</i>					
(10)	CHILDREN, YOUTH AND FAMILIES DEPARTMENT		1,000.0		1,000.0
To expand and build capacity for the safecare in-home parent skills-based program rated as supported on the clearinghouse website for the federal Family First Prevention Services Act.					
(11)	CORRECTIONS DEPARTMENT		1,000.0		1,000.0
For medication-assisted treatment in prisons.					
(12)	PUBLIC EDUCATION DEPARTMENT		200.0		200.0
To pilot wellness rooms in public and charter schools.					
(13)	UNIVERSITY OF NEW MEXICO		1,000.0		1,000.0

Item	Fund	Other	Intrnl Svc	Federal	Total/Target
		State	Funds/Inter-		
	General	Funds	Agency Trnsf	Funds	

For the children's psychiatric hospital for services for children and families affected by opioid use disorder.

(14)	UNIVERSITY OF NEW MEXICO		800.0		800.0
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For the hepatitis community health outcomes program to provide training and consultation related to opioid treatment.

TOTAL ADDITIONAL SUPPLEMENTAL HEALTH AND HUMAN SERVICES APPROPRIATIONS		21,000.0			21,000.0
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## Chapter 210 Section 12 Laws 2023

Section 12. ADDITIONAL FISCAL YEAR 2023 BUDGET ADJUSTMENT AUTHORITY.--During fiscal year 2023, 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 2022:

A. the judicial district courts may request budget increases up to twenty thousand dollars (\$20,000) from internal service funds/interagency transfers for the court-appointed special advocate program;

B. the fourth judicial district court may request budget increases up to twenty-five thousand dollars (\$25,000) from other state funds from alternative dispute resolution fees for operating expenses;

C. the fourth judicial district court may request budget increases up to fifteen thousand dollars (\$15,000) from other state funds from copy fees for operating expenses;

D. the fourth judicial district court may request budget increases up to ten thousand dollars (\$10,000) from other state funds from mediation fees for operating expenses;

Item	General	Other	Intrnl Svc	Federal	Total/Target
	Fund	Funds	Funds/Inter-Agency Trnsf	Funds	

E. the thirteenth judicial district court may request budget increases up to seventy-five thousand dollars (\$75,000) from internal service funds/interagency transfers and other state funds for case management for adult drug court;

F. the thirteenth judicial district court may request budget increases up to thirty thousand dollars (\$30,000) from internal service funds/interagency transfers and other state funds for pretrial services operations;

G. the state printing services program of the general services department may request budget increases up to two hundred thousand dollars (\$200,000) from other state funds for operating expenses;

H. 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;

I. the state personnel office may request budget increases up to one hundred seventy-eight thousand dollars (\$178,000) from other state funds from revenue received for human resources shared services;

J. the spaceport authority may request budget increases up to one million dollars (\$1,000,000) from other state funds and fund balances for planning, designing, constructing and improving infrastructure and security, for marketing expenses and for spaceport events;

K. the livestock board may request program transfers up to one million dollars (\$1,000,000) between programs;

L. the oil and gas conservation program of the energy, minerals and natural resources department may request budget increases from the oil conservation division systems and hearing fund to support the construction of the hearing room at the Wendell Chino building, the healthy forests program of the energy, minerals and natural resources department may request budget increases up to fifty thousand dollars (\$50,000) from other state funds for the inmate work camp program and the forest land protection fund to support watershed restoration work statewide, the energy conservation and management program of the energy, minerals and natural resources department may request budget increases from the community efficiency development block grant fund and the mining and minerals program of the energy, minerals and natural resources department may request budget increases up to one hundred thousand dollars (\$100,000) from other state funds in the surface mining permit fee fund and Mining Act fund;

Item	General Fund	Other	Intrnl Svc	Federal Funds	Total/Target
		State Funds	Funds/Inter- Agency Trnsf		

M. the commissioner of public lands may request increases up to three million dollars (\$3,000,000) from other state funds or federal funds received from other state agencies for fire-related prevention and response activities;

N. the division of vocational rehabilitation may request program transfers up to one million dollars (\$1,000,000) in federal funds and other state funds between the administrative services program and the rehabilitation services program;

O. the laboratory services program of the department of health may request budget increases from internal service funds/interagency transfers and other state funds from the regulation and licensing department for cannabis testing;

P. 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 technical or community services, may request budget increases from other state funds and internal service funds/interagency transfers up to the available balance from the wastewater facility construction loan fund and may request budget increases from other state funds and internal service funds/interagency transfers up to the available balance from the rural infrastructure revolving loan fund;

Q. the victim compensation program of the crime victims reparation commission may request budget increases up to two hundred thousand dollars (\$200,000) from other state funds for care and support;

R. 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 services and related costs and for intergovernmental agreements, lawsuits and construction- and maintenance-related costs;

S. 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; and

T. the student financial aid program of the higher education department may request budget increases up to twenty-four million dollars (\$24,000,000) from other state funds to the legislative lottery tuition fund.

		Other	Intrnl Svc		
	General	State	Funds/Inter-	Federal	
<u>Item</u>	<u>Fund</u>	<u>Funds</u>	<u>Agency Trnsf</u>	<u>Funds</u>	<u>Total/Target</u>

## Chapter 210 Section 13 Laws 2023

Section 13. CERTAIN FISCAL YEAR 2024 BUDGET ADJUSTMENTS AUTHORIZED.--

A. As used in this section and Section 12 of the General Appropriation Act of 2023:

(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 2024.

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 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, and a program with other state funds that collects money in excess of those appropriated may request budget increases in an amount not to exceed five percent of its other state funds contained in Section 4 of the General Appropriation Act of 2023. To track the five percent transfer limitation, agencies shall report cumulative budget adjustment request totals on each budget request

<u>Item</u>	<u>General Fund</u>	<u>Other State Funds</u>	<u>Intrnl Svc Funds/Inter- Agency Trnsf</u>	<u>Federal Funds</u>	<u>Total/Target</u>
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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 2023, 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 administrative office of the courts may request budget transfers to and from the other financing uses category of the court-appointed special advocate fund;

(3) the judicial district courts may request budget increases up to twenty thousand dollars (\$20,000) from internal service funds/interagency transfers for the court-appointed special advocate program;

(4) the administrative office of the courts may request budget increases up to one million dollars (\$1,000,000) from other state funds in the electronic services fund;

(5) the second judicial district court may request budget increases up to four hundred thousand dollars (\$400,000) from other state funds received from Bernalillo county;

(6) the ninth judicial district court may request budget increases up to one hundred sixty-one thousand four hundred dollars (\$161,400) from federal contract funds/interagency transfers and other services funds/interagency transfers to fund child support hearing officer program costs;

(7) the administration services division of the taxation and revenue department may request program to program transfers up to two million dollars (\$2,000,000) from other programs for operating expenses;

(8) 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;

Item	General	Other	Intrnl Svc	Federal	Total/Target
	Fund	Funds	Funds/Inter- Agency Trnsf	Funds	

(9) the administrative hearings office may request budget increases from other funds received from conducting and adjudicating administrative hearings for other state agencies in amounts not to exceed the amounts actually received from those agencies;

(10) 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;

(11) the healthcare benefits administration program of the retiree health care authority may request budget increases from other state funds for claims;

(12) the state printing services program of the general services department may request budget increases up to two hundred thousand dollars (\$200,000) from other state funds for operating expenses;

(13) the employee group benefits program of the general services department may request budget increases from other state funds in the amount of any additional revenue raised pursuant to a net increase in the number of individuals receiving group health insurance from the program;

(14) the employee benefits program of the general services department may request budget increases from other state funds in the amount of any additional revenue raised pursuant to a premium rate increase for group health benefits or group life insurance benefits;

(15) the educational retirement board may request budget increases from other state funds for investment-related asset management fees, pension administration system program updates, a shortfall in the development of a new office complex and to meet emergencies or unexpected physical plant failures that might impact the health and safety of workers or visitors to the agency;

(16) 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 for operating expenses;

(17) the department of information technology may request budget increases up to two million dollars (\$2,000,000) from other state funds 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

Item	General	Other	Intrnl Svc	Federal	Total/Target
	Fund	Funds	Funds/Inter-Agency Trnsf	Funds	

appropriated in Section 4 of the General Appropriation Act of 2023 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 ending June 30, 2023, to acquire and replace capital equipment and associated software used to provide enterprise services;

(18) the public employees retirement association may request budget increases from other state funds to pay 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 an agency;

(19) the state ethics commission may request budget increases up to thirty thousand dollars (\$30,000) from other state funds received from court-ordered judgments or sanctions and settlement payments related to commission-authorized civil actions for operating expenses;

(20) the border authority may request budget increases up to one hundred thousand dollars (\$100,000) from internal service/interagency transfers, other state funds, grants, local governments and federal agencies for the purpose of border activities and related support services;

(21) the marketing and promotion program of the tourism department may request budget increases up to five million dollars (\$5,000,000) from other state funds from cooperative marketing grant matches and other cooperative opportunities;

(22) the economic development department may request budget increases up to five million dollars (\$5,000,000) from internal service/interagency transfers, other state funds from grants, local governments and federal agencies for the purpose of economic growth and related support services;

(23) the boards and commissions program of the regulation and licensing department may request additional budget increases in excess of those allowed under Paragraph D of this section, up to five percent from fees associated with various boards and commissions for operating expenses;

(24) the public regulation commission may request budget increases up to two hundred eighty-three thousand four hundred dollars (\$283,400) from other state funds collected under the Community Solar Act for the administration of the community solar program;

Item	General	Other	Intrnl Svc	Federal	Total/Target
	Fund	Funds	Funds/Inter-	Funds	
			Agency Trnsf		

(25) the patient's compensation fund program of the office of superintendent of insurance may request budget increases from patient's compensation fund balances for patient compensation settlements and court-ordered payments;

(26) the New Mexico medical board may request budget increases up to one hundred thousand dollars (\$100,000) from other state funds for the administrative hearing and litigation process;

(27) the racing commission may request budget increases up to six hundred thousand dollars (\$600,000) from the equine testing fund balance for the enhancement of the equine testing program;

(28) the board of veterinary medicine may request budget increases up to nine hundred thousand dollars (\$900,000) from the animal care and facility fund for statewide spay and neuter programs;

(29) the spaceport authority may request budget increases up to one million dollars (\$1,000,000) from other state funds and fund balances for planning, designing, constructing and improving infrastructure and security, for marketing expenses and for spaceport events;

(30) the cultural affairs department may request budget increases up to seven hundred fifty thousand dollars (\$750,000) from other state funds from the cultural affairs department enterprise fund, the museum and historic sites program of the cultural affairs department may request budget increases up to one million dollars (\$1,000,000) from other state funds, the library services program of the cultural affairs department may request budget increases from other state funds in the rural libraries program fund for rural library grants and the preservation program of the cultural affairs department may request budget increases up to five hundred thousand dollars (\$500,000) from other state funds for archaeological services or historic preservation services;

(31) the livestock board may request program transfers up to one million dollars (\$1,000,000) between programs;

(32) the department of game and fish may request up to five hundred thousand dollars (\$500,000) in other state funds from the game protection fund for emergencies and may request budget increases as a result of revenue received from other agencies for operating and capital expenses;

(33) 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

Item	General	Other	Intrnl Svc	Federal	Total/Target
	Fund	Funds	Funds/Inter- Agency Trnsf	Funds	

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 of the energy, minerals and natural resources department may request budget increases from internal service 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 of the energy, minerals and natural resources department 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 and may request budget increases from the oil conservation division systems and hearing fund to support the construction of the hearing room at the Wendell Chino building, the healthy forests program of the energy, minerals and natural resources department 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, may request budget increases up to fifty thousand dollars (\$50,000) from other state funds for the inmate work camp program, and the forest land protection fund to support watershed restoration work statewide, the energy conservation and management program of the energy, minerals and natural resources department may request budget increases from internal service funds/interagency transfers and other state funds for project implementation from the energy efficiency assessment revolving fund and the community efficiency development block grant fund and the mining and minerals program of the energy, minerals and natural resources department may request budget increases up to one hundred thousand dollars (\$100,000) from other state funds in the surface mining permit fee fund and Mining Act fund;

(34) the commissioner of public lands may request budget increases from other state funds to utilize bond recovery proceeds held in suspense to perform related remediation and reclamation work, 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 land and may request up to three million dollars (\$3,000,000) from other state funds or federal funds received from other state agencies for fire-related prevention and response activities;

(35) the interstate stream compact compliance and water development program of the office of the state engineer may request budget increases up to five hundred thousand dollars (\$500,000) from the irrigation works construction fund for operational and maintenance costs associated with the Pecos river settlement agreement, may request budget increases up to one million five hundred thousand dollars (\$1,500,000) 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, evaluating and aiding development of potential shovel-ready non-New Mexico unit projects and supporting the ongoing shovel-ready non-New Mexico

Item	General	Other	Intrnl Svc	Federal	Total/Target
	Fund	Funds	Agency Trnsf	Funds	

unit projects that have previously been approved and funded by the interstate stream commission pursuant to the 2004 Arizona Water Settlement Act and may request budget increases up to two hundred fifty thousand dollars (\$250,000) from the Ute construction fund for operational and maintenance requirements at the Ute reservoir;

(36) the commission for the blind may request transfers between the other category and the other financing uses category contingent on the inability of the division of vocational rehabilitation to match federal funds, 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, 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 and Kirtland air force base and may request budget increases up to four hundred thousand dollars (\$400,000) from other state funds;

(37) the early childhood education and care department may request program transfers up to one million dollars (\$1,000,000) between programs and may request category transfers between the other category and other financing uses category for the support and intervention program, family infant toddler program, medicaid home visiting program and prekindergarten program;

(38) the aging and long-term services department may request increases up to one million dollars (\$1,000,000) from the Kiki Saavedra dignity fund balance for the purpose of providing high-priority services for senior citizens in New Mexico, including transportation, food insecurity, physical and behavioral health, case management and caregiving;

(39) the human services department may request program transfers between the medical assistance program and the medicaid behavioral health program;

(40) the division of vocational rehabilitation may request transfers up to two hundred thousand dollars (\$200,000) between the other category and other financing uses category contingent on the inability of the commission for the blind to use federal program income;

(41) the division of vocational rehabilitation may request program transfers between the rehabilitation services program and the independent living services program;

(42) the developmental disabilities council may request program transfers up to two hundred thousand dollars (\$200,000) between programs for budget shortfalls;

Item	General Fund	Other State Funds	Intrnl Svc Funds/Inter-Agency Trnsf	Federal Funds	Total/Target
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(43) the miners' hospital of New Mexico may request budget increases from other state funds from fees from patient revenues for operating expenses;

(44) the developmental disabilities support division of the department of health may request budget increases from other state funds from private insurer payments, may request category transfers between all categories for the supports waiver and may request category transfers between all categories for developmental disabilities waiver services and the facilities management department of the department of health may request budget increases from other state funds from fees from patient revenue;

(45) the laboratory services program of the department of health may request budget increases from internal service funds/interagency transfers and other state funds from the regulation and licensing department for cannabis testing;

(46) the department of environment may request program transfers between programs up to one million dollars (\$1,000,000) and may request budget increases from other state funds and internal service funds/interagency transfers up to the available balance from the corrective action fund, 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 technical or community services, may request budget increases from other state funds and internal service funds/interagency transfers up to the available balance from the wastewater facility construction loan fund and may request budget increases from other state funds and internal service funds/interagency transfers up to the available balance from the rural infrastructure revolving loan fund and the resource protection program of the department of environment may request budget increases from other state funds and internal service funds/interagency transfers up to the available balance from the hazardous waste emergency fund for emergencies;

(47) the office of family representation and advocacy may request budget increases up to one million dollars (\$1,000,000) from internal service funds/interagency transfers from revenue from federal Title IV-E of the Social Security Act reimbursements transferred from the children, youth and families department;

(48) the juvenile justice facilities program of the children, youth and families department may request budget increases up to six hundred thousand dollars (\$600,000) from other state funds from the juvenile continuum grant fund and the juvenile justice facilities program may request budget increases up to four hundred thousand dollars (\$400,000) from other state funds for the juvenile community corrections grant fund;

Item	General Fund	Other	Intrnl Svc	Funds/Inter- Agency Trnsf	Federal	Total/Target
		State Funds			Funds	

(49) 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 revenue, gifts or grants for support of national guard facility operations, maintenance and repair of the New Mexico youth challenge academy and the New Mexico national guard members family assistance fund;

(50) the inmate management and control program of the corrections department may request budget increases up to one million dollars (\$1,000,000) from internal service funds/interagency transfers and other state funds from inmate work crew program income for operating expenses and the corrections industries program may request budget increases up to one million dollars (\$1,000,000) from internal service funds/interagency transfers and other state funds from sales, fund balances and inmate canteen commission for operating expenses;

(51) the department of transportation may request program transfers between the project design and construction program, the highway operations program, business support program and modal program for costs related to engineering, construction, maintenance services and grant agreements, may request program transfers into the personnel services and employee benefits category for the prospective salary increase and the employer's share of applicable taxes and retirement benefits, may request budget increases up to eighty-five million dollars (\$85,000,000) from other state funds and fund balances to meet federal matching requirements, for debt services and related costs, intergovernmental agreements, lawsuits and construction and maintenance related costs and may request budget increases up to fifty million dollars (\$50,000,000) from fund balances to mitigate emergency road conditions in transportation district two; and

(52) 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.

## Chapter 210 Section 14 Laws 2023

### Section 14. TRANSFER AUTHORITY.--

A. In addition to the transfer authority provided in Section 14 of Chapter 54 of Laws 2022, if revenues and transfers to the general fund at the end of fiscal year 2023 are not sufficient to meet appropriations, the governor, with 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 tax

		Other	Intrnl Svc		
	General	State	Funds/Inter-	Federal	
<u>Item</u>	<u>Fund</u>	<u>Funds</u>	<u>Agency Trnsf</u>	<u>Funds</u>	<u>Total/Target</u>

stabilization reserve pursuant to Subsection E of Section 6-4-2.2 NMSA 1978, provided that the total transferred pursuant to this subsection shall not exceed sixty-five million dollars (\$65,000,000).

B. If revenue and transfers to the general fund at the end of fiscal year 2024 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 210 Section 15 Laws 2023**

Section 15. 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.

# LAWS 2023, CHAPTER 211

HTRC/House Bill 547, aa, w/cc, partial veto

Approved April 7, 2023

## AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE; [~~AMENDING INCOME TAX BRACKETS PURSUANT TO THE INCOME TAX ACT; PROVIDING FOR THE INDEXING OF MODIFIED GROSS INCOME FOR PURPOSES OF DETERMINING THE AMOUNT OF THE LOW-INCOME COMPREHENSIVE TAX REBATE; EXTENDING THE SUNSET DATE FOR AN INCOME TAX EXEMPTION FOR ARMED FORCES RETIREMENT PAY AND EXTENDING THE EXEMPTION TO SURVIVING SPOUSES OF ARMED FORCES RETIREES; AMENDING PROVISIONS OF THE RURAL HEALTH CARE PRACTITIONER TAX CREDIT;~~] INCREASING AND INDEXING THE AMOUNT OF THE CHILD INCOME TAX CREDIT FOR CERTAIN TAXPAYERS; [~~LIMITING THE CAPITAL GAINS DEDUCTION FROM NET INCOME;~~] PROVIDING ADDITIONAL 2021 INCOME TAX REBATES; [~~CREATING THE ELECTRIC VEHICLE INCOME TAX CREDIT; CREATING THE ELECTRIC VEHICLE CHARGING UNIT INCOME TAX CREDIT; CREATING THE ENERGY STORAGE SYSTEM INCOME TAX CREDIT; CREATING A FLAT CORPORATE INCOME TAX RATE; REDUCING THE RATES OF THE GROSS RECEIPTS TAX AND THE COMPENSATING TAX; CREATING GROSS RECEIPTS TAX DEDUCTIONS FOR THE SALE OF CHILD CARE ASSISTANCE THROUGH A LICENSED CHILD CARE ASSISTANCE PROGRAM AND PRE-KINDERGARTEN SERVICES BY FOR-PROFIT PRE-KINDERGARTEN PROVIDERS; CREATING A GROSS RECEIPTS TAX DEDUCTION FOR ENVIRONMENTAL MODIFICATION SERVICES MADE TO THE HOMES OF MEDICAID RECIPIENTS; AMENDING THE INDUSTRIAL REVENUE BOND ACT AND THE COUNTY INDUSTRIAL REVENUE BOND ACT TO INCLUDE CERTAIN ELECTRIC ENERGY STORAGE FACILITIES AS ELIGIBLE PROJECTS; REQUIRING MUNICIPALITIES AND COUNTIES THAT ACQUIRE ENERGY STORAGE FACILITY PROJECTS TO PROVIDE PAYMENT-IN-LIEU-OF TAXES PAYMENTS TO SCHOOL DISTRICTS; AMENDING DISTRIBUTIONS OF THE MOTOR VEHICLE EXCISE TAX; INCREASING THE LIQUOR EXCISE TAX RATE ON CERTAIN ALCOHOLIC BEVERAGES; DISTRIBUTING A PORTION OF THE REVENUE FROM THE LIQUOR EXCISE TAX TO A NEW ALCOHOL HARMS ALLEVIATION FUND; PROVIDING FOR THE INDEXING OF ADJUSTED GROSS INCOME FOR A SOCIAL SECURITY INCOME TAX EXEMPTION PURSUANT TO THE INCOME TAX ACT; INCREASING THE AMOUNT OF THE SPECIAL NEEDS ADOPTED CHILD TAX CREDIT; PROVIDING AN INCOME TAX DEDUCTION FOR SCHOOL SUPPLIES PURCHASED BY A PUBLIC SCHOOL TEACHER; CREATING THE GEOTHERMAL ELECTRICITY~~

~~GENERATION INCOME TAX CREDIT, THE GEOTHERMAL ELECTRICITY GENERATION CORPORATE INCOME TAX CREDIT AND GROSS RECEIPTS TAX AND COMPENSATING TAX DEDUCTIONS FOR GEOTHERMAL ELECTRICITY GENERATION FACILITY CONSTRUCTION COSTS; EXTENDING THE GEOTHERMAL GROUND-COUPLED HEAT PUMP TAX CREDITS PURSUANT TO THE INCOME TAX ACT AND THE CORPORATE INCOME AND FRANCHISE TAX ACT, INCREASING THE ANNUAL AGGREGATE CAPS OF THE CREDITS, MAKING THE CREDIT PURSUANT TO THE INCOME TAX ACT REFUNDABLE AND AMENDING THE DEFINITION OF "GEOTHERMAL GROUND-COUPLED HEAT PUMP" FOR THE CREDIT PURSUANT TO THE CORPORATE INCOME AND FRANCHISE TAX ACT;] INCREASING THE ANNUAL AGGREGATE CAP AND ADDITIONAL AMOUNTS OF TAX CREDITS PURSUANT TO THE FILM PRODUCTION TAX CREDIT ACT; AMENDING CERTAIN REQUIREMENTS TO BE ELIGIBLE FOR THE CREDITS; EXPANDING A GROSS RECEIPTS TAX DEDUCTION FOR HEALTH CARE PRACTITIONERS AND ASSOCIATIONS OF HEALTH CARE PRACTITIONERS TO INCLUDE RECEIPTS FOR THE PAYMENT OF COPAYMENTS AND DEDUCTIBLES; [PROVIDING GROSS RECEIPTS AND COMPENSATING TAX DEDUCTIONS FOR DYED DIESEL USED FOR AGRICULTURAL PURPOSES; INCREASING THE RATE OF TAX ON TOBACCO PRODUCTS ON CIGARS, AMENDING DEFINITIONS IN THE TOBACCO PRODUCTS TAX ACT AND DISTRIBUTING A PORTION OF THE TAX TO THE TOBACCO SETTLEMENT PERMANENT FUND; REQUIRING THE BUSINESS INCOME OF MOST CORPORATIONS TO BE APPORTIONED TO THIS STATE BY THE SALES FACTOR BUT PROVIDING A TEMPORARY EXCEPTION]. *LINE ITEM VETO*~~

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

## **Chapter 211 Section 1 Laws 2023**

[SECTION 1. Section 3-32-1 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-31-1, as amended) is amended to read:

~~"3-32-1. INDUSTRIAL REVENUE BOND ACT--DEFINITIONS.-- Wherever used in the Industrial Revenue Bond Act unless a different meaning clearly appears in the context, the following terms whether used in the singular or plural shall be given the following respective interpretations:~~

~~A. "municipality" means a city, town or village in New Mexico;~~

~~B. "project" means any land and building or other improvements thereon, the acquisition by or for a New Mexico corporation of the assets or stock of an existing business or corporation located outside the state to be relocated within or near the municipality in the state and all real and personal properties deemed necessary in~~

connection therewith, whether or not now in existence, which shall be suitable for use by the following or by any combination of two or more thereof:

(1) — an industry for the manufacturing, processing or assembling of agricultural or manufactured products;

(2) — a commercial enterprise in storing, warehousing, distributing or selling products of agriculture, mining or industry but does not include a facility designed for the sale of goods or commodities at retail or distribution to the public of electricity, gas, water or telephone or other services commonly classified as public utilities;

(3) — a business in which all or part of the activities of the business involve the supplying of services to the general public or to governmental agencies or to a specific industry or customer but does not include an establishment primarily engaged in the sale of goods or commodities at retail;

(4) — a water distribution or irrigation system, including without limitation, pumps, distribution lines, transmission lines, towers, dams and similar facilities and equipment, designed to provide water to a vineyard or winery;

(5) — an electric generation or transmission facility, other than one for which both location approval and a certificate of convenience and necessity are required prior to commencing construction or operation of the facility, pursuant to the Public Utility Act;

(6) — an energy storage facility, which is a facility that uses mechanical, chemical, thermal, kinetic or other processes to store energy from a zero carbon emission resource for release at a later time; and

(7) — a 501(c)(3) corporation;

C. — "governing body" means the board or body in which the legislative powers of the municipality are vested;

D. — "property" means any land, improvements thereon, buildings and any improvements thereto, machinery and equipment of any and all kinds necessary to the project, operating capital and any other personal properties deemed necessary in connection with the project;

E. — "mortgage" means a mortgage or a mortgage and deed of trust or the pledge and hypothecation of any assets as collateral security;

F. — "health care service" means the diagnosis or treatment of sick or injured persons or medical research and includes the ownership, operation, maintenance, leasing and disposition of health care facilities such as hospitals, clinics, laboratories, x-

ray centers and pharmacies and, for any small municipality only, office facilities for physicians;

~~G. — "refinance a hospital or 501(c)(3) corporation project" means the issuance of bonds by a municipality and the use of all or substantially all of the proceeds to liquidate any obligations previously incurred to finance or aid in financing a project of a nonprofit corporation engaged in health care services, including nursing homes, or of a 501(c)(3) corporation, which would constitute a project under the Industrial Revenue Bond Act had it been originally undertaken and financed by a municipality pursuant to the Industrial Revenue Bond Act; and~~

~~H. — "501(c)(3) corporation" means a corporation 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." *LINE ITEM VETO*~~

## **Chapter 211 Section 2 Laws 2023**

~~[SECTION 2. Section 3-32-6 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-31-3, as amended) is amended to read:~~

~~"3-32-6. ADDITIONAL POWERS CONFERRED ON MUNICIPALITIES.—In addition to any other powers that it may now have, a municipality shall have the following powers:~~

~~A. — to acquire, whether by construction, purchase, gift or lease, one or more projects that shall be located within this state and may be located within or without the municipality or partially within or partially without the municipality, but which shall not be located more than fifteen miles outside of the corporate limits of the municipality; provided that:~~

~~(1) — urban transit buses qualifying as a project pursuant to Subsection B of Section 3-32-3 NMSA 1978 need not be continuously located within this state, but the commercial enterprise using the urban transit buses for leasing shall meet the location requirement of this subsection; and~~

~~(2) — a municipality shall not acquire any electricity generation, transmission or energy storage facility project unless the school districts within the municipality in which the project is located receive annual in-lieu tax payments; provided that the annual in-lieu tax payments required by this paragraph shall be:~~

~~(a) — payable to the school districts for the period the municipality owns and leases the project;~~

~~(b) — in an aggregate amount equal to the amount received by the municipality multiplied by the percentage determined by dividing the average of the~~

~~operating, capital improvement and bond mills imposed by the school districts in the municipality and state debt service mills as of the date of issuance of the bonds by the average of the mills imposed by all entities levying taxes on property in the municipality as of such date;~~

~~(c) — shared among the school districts located within the municipality equally, if there is more than one school district in such municipality; and~~

~~(d) — not be less than the amount due to the school districts in the tax year immediately preceding the issuance of the bonds from the property included in a project, had such project not been created;~~

~~B. — to sell or lease or otherwise dispose of any or all of its projects upon such terms and conditions as the governing body may deem advisable and as shall not conflict with the provisions of the Industrial Revenue Bond Act;~~

~~C. — to issue revenue bonds for the purpose of defraying the cost of acquiring by construction and purchase, or either, any project and to secure the payment of such bonds, all as provided in the Industrial Revenue Bond Act. No municipality shall have the power to operate any project as a business or in any manner except as lessor;~~

~~D. — to refinance one or more hospital or 501(c)(3) corporation projects and to acquire any such hospital or 501(c)(3) corporation project whether by construction, purchase, gift or lease, which hospital or 501(c)(3) corporation project shall be located within this state and may be located within or without the municipality or partially within or partially without the municipality, but which shall not be located more than fifteen miles outside of the corporate limits of the municipality, and to issue revenue bonds to refinance and acquire a hospital or 501(c)(3) corporation project and to secure the payment of such bonds, all as provided in the Industrial Revenue Bond Act. A municipality shall not have the power to operate a hospital or 501(c)(3) corporation project as a business or in any manner except as lessor; and~~

~~E. — to refinance one or more projects of any private institution of higher education and to acquire any such project, whether by construction, purchase, gift or lease; provided that the project shall be located within this state and may be located within or without the municipality or partially within or partially without the municipality, but the project shall not be located more than fifteen miles outside of the corporate limits of the municipality, and to issue revenue bonds to refinance and acquire any project of any private institution of higher education and to secure the payment of such bonds. A municipality shall not have the power to operate a project of a private institution of higher education as a business or in any manner except as lessor." ] *LINE ITEM VETO*~~

## **Chapter 211 Section 3 Laws 2023**

[SECTION 3. Section 4-59-2 NMSA 1978 (being Laws 1975, Chapter 286, Section 2, as amended) is amended to read:

~~"4-59-2. DEFINITIONS.—As used in the County Industrial Revenue Bond Act, unless the context clearly indicates otherwise:~~

~~A.—"commission" means the governing body of a county;~~

~~B.—"county" means a county organized or incorporated in New Mexico;~~

~~C.—"501(c)(3) corporation" means a corporation 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;~~

~~D.—"health care service" means the diagnosis or treatment of sick or injured persons or medical research and includes the ownership, operation, maintenance, leasing and disposition of health care facilities, such as hospitals, clinics, laboratories, x-ray centers and pharmacies;~~

~~E.—"mortgage" means a mortgage or a mortgage and deed of trust or the pledge and hypothecation of any assets as collateral security;~~

~~F.—"project" means any land and building or other improvements thereon, the acquisition by or for a New Mexico corporation of the assets or stock of an existing business or corporation located outside the state to be relocated within a county but, except as provided in Paragraph (1) of Subsection A of Section 4-59-4 NMSA 1978, not within the boundaries of any incorporated municipality in the state, and all real and personal properties deemed necessary in connection therewith, whether or not now in existence, that shall be suitable for use by the following or by any combination of two or more thereof:~~

~~(1)—an industry for the manufacturing, processing or assembling of agricultural or manufactured products;~~

~~(2)—a commercial enterprise that has received a permit from the energy, minerals and natural resources department for a mine that has not been in operation prior to the issuance of bonds for the project for which the enterprise will be involved;~~

~~(3)—a commercial enterprise that has received any necessary state permit for a refinery, treatment plant or processing plant of energy products that was not in operation prior to the issuance of bonds for the project for which the enterprise will be involved;~~

~~(4)—a commercial enterprise in storing, warehousing, distributing or selling products of agriculture, mining or industry, but does not include a facility designed for the sale or distribution to the public of electricity, gas, telephone or other services commonly classified as public utilities, except for:~~

~~(a) — water utilities;~~

~~(b) — an electric generation or transmission facility, other than one for which both location approval and a certificate of convenience and necessity are required prior to commencing construction or operation of the facility, pursuant to the Public Utility Act; and~~

~~(c) — an energy storage facility, which is a facility that uses mechanical, chemical, thermal, kinetic or other processes to store energy from a zero carbon emission resource for release at a later time;~~

~~(5) — a business in which all or part of the activities of the business involve the supplying of services to the general public or to governmental agencies or to a specific industry or customer;~~

~~(6) — a nonprofit corporation engaged in health care services;~~

~~(7) — a mass transit or other transportation activity involving the movement of passengers, an industrial park, an office headquarters and a research facility;~~

~~(8) — a water distribution or irrigation system, including without limitation, pumps, distribution lines, transmission lines, towers, dams and similar facilities and equipment; and~~

~~(9) — a 501(c)(3) corporation; and~~

~~G. — "property" means any land, improvements thereon, buildings and any improvements thereto, machinery and equipment of any and all kinds necessary to the project, operating capital and any other personal properties deemed necessary in connection with the project." ] *LINE ITEM VETO*~~

## **Chapter 211 Section 4 Laws 2023**

~~[SECTION 4. Section 4-59-4 NMSA 1978 (being Laws 1975, Chapter 286, Section 4, as amended) is amended to read:~~

~~"4-59-4. ADDITIONAL POWERS CONFERRED ON COUNTIES.—In addition to any other powers that it may now have, each county shall have the following powers:~~

~~A. — to acquire, whether by construction, purchase, gift or lease, one or more projects, which shall be located within this state and shall be located within the county outside the boundaries of any incorporated municipality; provided, however, that:~~

~~(1) — a class A county with a population of more than three hundred thousand may acquire projects located anywhere in the county; and~~

~~(2) — a county shall not acquire any electricity generation, transmission or energy storage facility project unless the school districts within the county in which the project is located receive annual in-lieu tax payments; provided that the annual in-lieu tax payments required by this paragraph shall be:~~

~~(a) — payable to the school districts for the period the county owns and leases the project;~~

~~(b) — in an aggregate amount equal to the amount received by the county multiplied by the percentage determined by dividing the average of the operating, capital improvement and bond mills imposed by the school districts in the county and state debt service mills as of the date of issuance of the bonds by the average of the mills imposed by all entities levying taxes on property in the county as of such date;~~

~~(c) — shared among the school districts located within the county equally; and~~

~~(d) — not be less than the amount due to the school districts in the tax year immediately preceding the issuance of the bonds from the property included in a project, had such project not been created;~~

~~B. — to sell or lease or otherwise dispose of any or all of its projects upon such terms and conditions as the commission may deem advisable and as shall not conflict with the provisions of the County Industrial Revenue Bond Act; and~~

~~C. — to issue revenue bonds for the purpose of defraying the cost of acquiring, by construction and purchase or either, any project and to secure the payment of such bonds, all as provided in the County Industrial Revenue Bond Act. No county shall have the power to operate any project as a business or in any manner except as lessor thereof." ] *LINE ITEM VETO*~~

## **Chapter 211 Section 5 Laws 2023**

~~[SECTION 5. Section 7-2-5.13 NMSA 1978 (being Laws 2022, Chapter 47, Section 6) is amended to read:~~

### ~~"7-2-5.13. EXEMPTION--ARMED FORCES RETIREMENT PAY.--~~

~~A. — An individual who is an armed forces retiree or the surviving spouse of an armed forces retiree may claim an exemption in the following amounts of military retirement pay includable, except for this exemption, in net income:~~

~~(1) — for taxable year 2022, ten thousand dollars (\$10,000);~~

~~(2) — for taxable year 2023, twenty thousand dollars (\$20,000); and~~

(3) — for taxable years 2024 and thereafter, thirty thousand dollars (\$30,000).

B. — As used in this section, "armed forces retiree" means a former member of the armed forces of the United States who has qualified by years of service or disability to separate from military service with lifetime benefits." ] *LINE ITEM VETO*

## Chapter 211 Section 6 Laws 2023

[SECTION 6. Section 7-2-7 NMSA 1978 (being Laws 2005, Chapter 104, Section 4, as amended) 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, 2024:

A. — For married individuals filing joint returns, heads of household and surviving spouses:

For taxable income:	The tax shall be:
Not over \$8,000	1.5% of taxable income
Over \$8,000 but not over \$25,000	\$120 plus 3.2% of excess over \$8,000
Over \$25,000 but not over \$50,000	\$664 plus 4.3% of excess over \$25,000
Over \$50,000 but not over \$100,000	\$1,739 plus 4.7% of excess over \$50,000
Over \$100,000 but not over \$315,000	\$4,089 plus 4.9% of excess over \$100,000
Over \$315,000	\$14,624 plus 5.9% of excess over \$315,000.

B. — For single individuals and for estates and trusts:

For taxable income:	The tax shall be:
Not over \$5,500	1.5% of taxable income
Over \$5,500 but not over \$16,500	\$82.50 plus 3.2% of excess over \$5,500
Over \$16,500 but not over \$33,500	\$434.50 plus 4.3% of excess over \$16,500
Over \$33,500 but not over \$66,500	\$1,165.50 plus 4.7% of excess over \$33,500
Over \$66,500 but not over \$210,000	\$2,716.50 plus 4.9% of excess over \$66,500
Over \$210,000	\$9,748 plus 5.9% of excess over \$210,000.

C. For married individuals filing separate returns:

For taxable income:	The tax shall be:
Not over \$4,000	1.5% of taxable income
Over \$4,000 but not over \$12,500	\$60.00 plus 3.2% of excess over \$4,000
Over \$12,500 but not over \$25,000	\$332 plus 4.3% of excess over \$12,500
Over \$25,000 but not over \$50,000	\$869.50 plus 4.7% of excess over \$25,000
Over \$50,000 but not over \$157,500	\$2,044.50 plus 4.9% of excess over \$50,000
Over \$157,500	\$7,312 plus 5.9% of excess over \$157,500.

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."] *LINE ITEM VETO*

## Chapter 211 Section 7 Laws 2023

[SECTION 7. Section 7-2-14 NMSA 1978 (being Laws 1972, Chapter 20, Section 2, as amended) is amended to read:

### "7-2-14. LOW-INCOME COMPREHENSIVE TAX REBATE.--

A. Except as otherwise provided in Subsection B of this section, any resident who files an individual New Mexico income tax return and who is not a dependent of another individual may claim a tax rebate for a portion of state and local taxes to which the resident has been subject during the taxable year for which the return is filed. The tax rebate may be claimed even though the resident has no income taxable under the Income Tax Act. 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 tax rebate that would have been allowed on a joint return.

B. No claim for the tax rebate provided in this section shall be filed by a resident who was an inmate of a public institution for more than six months during the taxable year for which the tax rebate could be claimed or who was not physically present in New Mexico for at least six months during the taxable year for which the tax rebate could be claimed.

C.—For the purposes of this section, the total number of exemptions for which a tax rebate may be claimed or allowed is determined by adding the number of federal exemptions allowable for federal income tax purposes for each individual included in the return who is domiciled in New Mexico plus two additional exemptions for each individual domiciled in New Mexico included in the return who is sixty-five years of age or older plus one additional exemption for each individual domiciled in New Mexico included in the return who, for federal income tax purposes, is blind plus one exemption for each minor child or stepchild of the resident who would be a dependent for federal income tax purposes if the public assistance contributing to the support of the child or stepchild was considered to have been contributed by the resident.

D.—Except as provided in Subsections F and G of this section, the tax rebate provided for in this section may be claimed in the amount shown in the following table:

Modified gross income is:		And the total number of exemptions is:					
Over	But Not Over	1	2	3	4	5	6 or More
\$ 0	\$ 1,000	\$ 210	\$ 280	\$ 350	\$ 420	\$ 490	\$ 560
1,000	1,500	240	340	435	545	615	730
1,500	2,500	240	340	435	545	615	760
2,500	8,000	240	340	435	545	615	790
8,000	8,500	220	335	420	535	620	790
8,500	9,500	200	310	405	520	620	755
9,500	11,000	185	270	365	460	550	720
11,000	12,500	155	225	295	390	480	650
12,500	14,000	140	200	255	320	395	520
14,000	15,500	125	185	240	295	340	420
15,500	18,000	115	165	200	255	310	360
18,000	19,500	110	140	180	225	270	325
19,500	21,000	95	125	155	195	240	280
21,000	22,500	85	115	150	180	200	250
22,500	25,000	85	115	150	180	200	250
25,000	26,500	80	110	130	155	185	210
26,500	28,000	70	95	125	150	165	195
28,000	29,500	60	85	115	140	150	185
29,500	32,000	55	80	110	125	140	165
32,000	33,500	45	60	85	110	125	140
33,500	35,000	40	55	70	85	110	115
35,000	36,500	25	45	55	70	85	95
36,500	39,000	15	40	45	60	70	80.

E.—If a taxpayer's modified gross income is zero, the taxpayer may claim a credit in the amount shown in the first row of the table appropriate for the taxpayer's number of exemptions as adjusted by the provisions of Subsection F of this section.

~~F. — For the 2024 taxable year and each subsequent taxable year, the amount of rebate shown in the table in Subsection D of this section shall be adjusted to account for inflation. The department shall make the adjustment by multiplying each amount of rebate by a fraction, the numerator of which is the consumer price index ending during the prior taxable year and the denominator of which is the consumer price index ending in tax year 2022. The result of the multiplication shall be rounded down to the nearest one dollar (\$1.00), except that if the result would be an amount less than the corresponding amount for the preceding taxable year, then no adjustment shall be made.~~

~~G. — For the 2024 taxable year and each subsequent taxable year, the amount of modified gross income shown in the table in Subsection D of this section shall be adjusted to account for inflation. The department shall make the adjustment by multiplying each amount of modified gross income by a fraction, the numerator of which is the consumer price index ending during the prior taxable year and the denominator of which is the consumer price index ending in tax year 2022. 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 taxable year, then no adjustment shall be made.~~

~~H. — The tax rebates provided for in this section may be deducted from the taxpayer's New Mexico income tax liability for the taxable year. If the tax rebates exceed the taxpayer's income tax liability, the excess shall be refunded to the taxpayer.~~

~~I. — For purposes of 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; and~~

~~(2) — "dependent" means "dependent" as defined by Section 152 of the Internal Revenue Code of 1986, as that section may be amended or renumbered, but also includes any minor child or stepchild of the resident who would be a dependent for federal income tax purposes if the public assistance contributing to the support of the child or stepchild was considered to have been contributed by the resident." ] *LINE ITEM VETO*~~

## **Chapter 211 Section 8 Laws 2023**

[SECTION 8. Section 7-2-18.22 NMSA 1978 (being Laws 2007, Chapter 361, Section 2) is amended to read:

~~"7-2-18.22. RURAL HEALTH CARE PRACTITIONER TAX CREDIT.--~~

~~A. — A taxpayer who files an individual New Mexico tax return, who is not a dependent of another individual, who is an eligible health care practitioner and who has~~

~~provided health care services in New Mexico in a rural health care underserved area in a taxable year may claim a credit against the tax liability imposed by the Income Tax Act. The credit provided in this section may be referred to as the "rural health care practitioner tax credit".~~

~~B.— The rural health care practitioner tax credit may be claimed and allowed in an amount that shall not exceed:~~

~~(1) — five thousand dollars (\$5,000) for eligible health care practitioners who are physicians, osteopathic physicians, dentists, clinical psychologists, podiatrists and optometrists who qualify pursuant to the provisions of this section; and~~

~~(2) — three thousand dollars (\$3,000) for eligible health care practitioners who are pharmacists, dental hygienists, physician assistants, certified registered nurse anesthetists, certified nurse practitioners, clinical nurse specialists, registered nurses, midwives, licensed clinical social workers, licensed independent social workers, professional mental health counselors, professional clinical mental health counselors, marriage and family therapists, professional art therapists, alcohol and drug abuse counselors and physical therapists who qualify pursuant to the provisions of this section.~~

~~C.— To qualify for the rural health care practitioner tax credit, an eligible health care practitioner shall have provided health care during the taxable year for which the credit is claimed for at least one thousand five hundred eighty-four hours at a practice site located in an approved rural health care underserved area. An eligible rural health care practitioner who provided health care services for at least seven hundred ninety-two hours but less than one thousand five hundred eighty-four hours at a practice site located in an approved rural health care underserved area during the taxable year for which the credit is claimed is eligible for one-half of the credit amount.~~

~~D.— Before an eligible health care practitioner may claim the rural health care practitioner tax credit, the practitioner shall submit an application to the department of health that describes the practitioner's clinical practice and contains additional information that the department of health may require. The department of health shall determine whether an eligible health care practitioner qualifies for the rural health care practitioner tax credit and shall issue a certificate to each qualifying eligible health care practitioner. The department of health shall provide the taxation and revenue department appropriate information for all eligible health care practitioners to whom certificates are issued.~~

~~E.— A taxpayer claiming the credit provided by this section shall submit a copy of the certificate issued by the department of health with the taxpayer's New Mexico income tax return for the taxable year. If the amount of the credit claimed exceeds a taxpayer's tax liability for the taxable year in which the credit is being claimed, the excess may be carried forward for three consecutive taxable years.~~

~~F. — A taxpayer allowed a tax credit pursuant to this section shall report the amount of the credit to the department in a manner required by the department.~~

~~G. — The department shall compile an annual report on the tax credit provided by this section that shall include the number of taxpayers approved by the department to receive the credit, the aggregate amount of credits approved and any other information necessary to evaluate the credit. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the tax credit.~~

~~H. — As used in this section:~~

~~(1) — "eligible health care practitioner" means:~~

~~(a) — a dentist or dental hygienist licensed pursuant to the Dental Health Care Act;~~

~~(b) — a midwife licensed by the department of health;~~

~~(c) — an optometrist licensed pursuant to the provisions of the Optometry Act;~~

~~(d) — an osteopathic physician or an osteopathic physician assistant licensed pursuant to the provisions of the Medical Practice Act;~~

~~(e) — a physician or physician assistant licensed pursuant to the provisions of the Medical Practice Act;~~

~~(f) — a podiatrist licensed pursuant to the provisions of the Podiatry Act;~~

~~(g) — a clinical psychologist licensed pursuant to the provisions of the Professional Psychologist Act;~~

~~(h) — a registered nurse licensed pursuant to the provisions of the Nursing Practice Act;~~

~~(i) — a pharmacist licensed pursuant to the provisions of the Pharmacy Act;~~

~~(j) — a licensed clinical social worker or a licensed independent social worker licensed pursuant to the provisions of the Social Work Practice Act;~~

~~(k) — a professional mental health counselor, a professional clinical mental health counselor, a marriage and family therapist, an alcohol and drug abuse~~

~~counselor or a professional art therapist licensed pursuant to the provisions of the Counseling and Therapy Practice Act; and~~

~~(1) a physical therapist licensed pursuant to the provisions of the Physical Therapy Act;~~

~~(2) "health care underserved area" means a geographic area or practice location in which it has been determined by the department of health, through the use of indices and other standards set by the department of health, that sufficient health care services are not being provided;~~

~~(3) "practice site" means a private practice, public health clinic, hospital, public or private nonprofit primary care clinic or other health care service location in a health care underserved area; and~~

~~(4) "rural" means a rural county or an unincorporated area of a partially rural county, as designated by the health resources and services administration of the United States department of health and human services." ] *LINE ITEM VETO*~~

## **Chapter 211 Section 9 Laws 2023**

SECTION 9. Section 7-2-18.34 NMSA 1978 (being Laws 2022, Chapter 47, Section 5) is amended to read:

### **"7-2-18.34. CHILD INCOME TAX CREDIT.--**

A. For taxable years prior to January 1, 2032, a taxpayer who is a resident and is not a dependent of another individual may apply for, and the department may allow, a credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act for each qualifying child of the taxpayer. The tax credit provided by this section may be referred to as the "child income tax credit".

B. Except as provided in Subsection D of this section, the child income tax credit may be claimed as shown in the following table:

Adjusted gross income is		Amount of credit per
Over	But not over	qualifying child is
\$ 0	\$ 25,000	\$600
25,000	50,000	400
50,000	75,000	200
75,000	100,000	100
100,000	200,000	75
200,000	350,000	50
350,000		25.

C. If a taxpayer's adjusted gross income is less than zero, the taxpayer may claim a tax credit in the amount shown in the first row of the table provided in Subsection B of this section.

D. For the 2024 taxable year and each subsequent taxable year, the amount of credit shown in the table in Subsection B of this section shall be adjusted to account for inflation. The department shall make the adjustment by multiplying each amount of credit by a fraction, the numerator of which is the consumer price index ending during the prior taxable year and the denominator of which is the consumer price index ending in tax year 2022. The result of the multiplication shall be rounded down to the nearest one dollar (\$1.00), except that if the result would be an amount less than the corresponding amount for the preceding taxable year, then no adjustment shall be made.

E. To receive a child income tax credit, a taxpayer shall apply to the department on forms and in the manner prescribed by the department.

F. That portion of a child income tax credit that exceeds a taxpayer's tax liability in the taxable year in which the credit is claimed shall be refunded.

G. Married individuals filing separate returns for a taxable year for which they could have filed a joint return may each claim only one-half of the child income tax credit that would have been claimed on a joint return.

H. A taxpayer allowed a tax credit pursuant to this section shall report the amount of the credit to the department in a manner required by the department.

I. The department shall compile an annual report on the child income tax credit that shall include the number of taxpayers approved by the department to receive the credit, the aggregate amount of credits approved and any other information necessary to evaluate the effectiveness of the credit. The department shall compile and 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 tax credit.

J. 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; and

(2) "qualifying child" means "qualifying child" as defined by Section 152(c) of the Internal Revenue Code, as that section may be amended or renumbered, but includes any minor child or stepchild of the taxpayer who would be a qualifying child for federal income tax purposes if the public assistance contributing to the support of the child or stepchild was considered to have been contributed by the taxpayer."

## Chapter 211 Section 10 Laws 2023

[SECTION 10. 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 two thousand five hundred dollars (\$2,500); or~~

~~(2)—— forty percent of up to one million dollars (\$1,000,000) of the taxpayer's net capital gain income from the sale of a business that is allocated or apportioned to New Mexico pursuant to Section 7-2-11 NMSA 1978 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.]" LINE ITEM VETO~~

## Chapter 211 Section 11 Laws 2023

SECTION 11. A new section of the Income Tax Act is enacted to read:

"ADDITIONAL 2021 INCOME TAX REBATES.--

A. A resident who files an individual New Mexico income tax return for taxable year 2021 and who is not a dependent of another individual is eligible for a tax rebate pursuant to this section in the following amounts:

(1) one thousand dollars (\$1,000) for heads of household, surviving spouses and married individuals filing joint returns; and

(2) five hundred dollars (\$500) for single individuals and married individuals filing separate returns.

B. The rebates shall be made as soon as practicable after a return is received; provided that a rebate shall not be allowed for a return filed after May 31, 2024.

C. The rebates provided by this section may be deducted from the taxpayer's New Mexico income tax liability for taxable year 2021. If the amount of rebate exceeds the taxpayer's income tax liability, the excess shall be refunded to the taxpayer.

D. The department may require a taxpayer to claim a rebate provided by this section on forms and in a manner required by the department."

## Chapter 211 Section 12 Laws 2023

[SECTION 12. A new section of the Income Tax Act is enacted to read:

~~"ELECTRIC VEHICLE INCOME TAX CREDIT.--~~

~~A.— A taxpayer who is not a dependent of another individual and who, beginning on the effective date of this section and prior to January 1, 2028, purchases an electric vehicle or enters into a new lease of at least three years for an electric vehicle may claim a credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act in an amount provided in Subsection B of this section. The tax credit provided by this section may be referred to as the "electric vehicle income tax credit".~~

~~B.— The electric vehicle income tax credit shall be in an amount equal to two thousand five hundred dollars (\$2,500), except that the amount of credit shall be in an amount equal to four thousand dollars (\$4,000) for a taxpayer with an annual household adjusted gross income equal to or less than two hundred percent of the federal poverty level guidelines published by the United States department of health and human services.~~

~~C.— A taxpayer shall apply for certification of eligibility for the electric vehicle income tax credit from the department on forms and in the manner prescribed by the department. Except as provided in Subsection H of this section, only one electric vehicle income tax credit shall be allowed for each electric vehicle purchased or leased. The application shall include proof of purchase or lease, the electric vehicle's registration or application for registration and any additional information that the department may require to determine eligibility for the credit. The department shall issue a dated certificate of eligibility to the taxpayer providing the amount of the electric vehicle income tax credit for which the taxpayer is eligible and the taxable year in which the credit may be claimed for an electric vehicle that was purchased or leased.~~

~~D.— The aggregate amount of electric vehicle income tax credit claims that may be authorized for payment in any calendar year is ten million dollars (\$10,000,000). If a taxpayer submits a claim for a tax credit but is unable to receive the tax credit because the claims for the calendar year exceed the limitation provided in this~~

~~subsection, the taxpayer's claim shall be placed at the front of a queue of credit claimants for the subsequent calendar year in the order of the date on which the credit was authorized for payment. Completed applications for the tax credit shall be considered in the order received by the department.~~

~~E. Applications for certification of an electric vehicle income tax credit shall be made no later than one calendar year from the date in which the electric vehicle is purchased or the lease is entered into.~~

~~F. A certificate of eligibility for an electric vehicle income tax credit may be sold, exchanged or otherwise transferred to another taxpayer for the full value of the credit. The parties to such a transaction shall notify the department of the sale, exchange or transfer within ten days of the sale, exchange or transfer.~~

~~G. That portion of an approved electric vehicle income tax credit claimed by a taxpayer that exceeds the taxpayer's income tax liability in the taxable year in which an electric vehicle income tax credit is claimed shall be refunded to the taxpayer.~~

~~H. Married individuals filing separate returns for a taxable year for which they could have filed a joint return may each claim only one-half of the electric vehicle income tax credit that would have been claimed on a joint return.~~

~~I. A taxpayer may be allocated the right to claim the electric vehicle income tax credit in proportion to the taxpayer's ownership interest if the taxpayer owns an interest in a business entity that is taxed for federal income tax purposes as a partnership or limited liability company and that business entity has met all of the requirements to be eligible for the credit. The total credit claimed by all members of the partnership or limited liability company shall not exceed the allowable credit pursuant to this section.~~

~~J. A taxpayer shall submit to the department information required by the department with respect to the purchase or lease of an electric vehicle by the taxpayer during the taxable year for which the electric vehicle income tax credit is claimed.~~

~~K. The department shall compile an annual report on the electric vehicle income tax credit that shall include the number of taxpayers approved by the department to receive the tax credit, the aggregate amount of tax credits approved and any other information necessary to evaluate the tax credit. The department shall compile and 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 tax credit.~~

~~L. As used in this section:~~

~~(1) "electric vehicle" means a new motor vehicle registered or purchased in New Mexico that derives all or part of the vehicle's power from electricity stored in a battery that:~~

- ~~(a) has a capacity of not less than six kilowatt-hours;~~
- ~~(b) is capable of powering the vehicle for a range of at least thirty miles; and~~
- ~~(c) is capable of being recharged from an external source of electricity; and~~

~~(2) "motor vehicle" means a vehicle with four wheels that:~~

- ~~(a) is required under the Motor Vehicle Code to be registered in this state;~~
- ~~(b) is made by a manufacturer;~~
- ~~(c) has a base manufacturer suggested retail price, before options and destination charges, of fifty five thousand dollars (\$55,000) or less, before any taxes are imposed;~~
- ~~(d) is manufactured primarily for use on public streets, roads or highways;~~
- ~~(e) has not been modified from the original manufacturer specifications;~~
- ~~(f) is rated at not less than two thousand two hundred pounds unloaded base weight and not more than nine thousand seven hundred fifty pounds unloaded base weight; and~~
- ~~(g) has a maximum speed capability of at least sixty-five miles per hour.]"~~ *LINE ITEM VETO*

## **Chapter 211 Section 13 Laws 2023**

~~[SECTION 13. A new section of the Income Tax Act is enacted to read:~~

~~"ELECTRIC VEHICLE CHARGING UNIT INCOME TAX CREDIT.--~~

~~A. A taxpayer who is not a dependent of another individual and who, beginning on the effective date of this section and prior to January 1, 2028, purchases and installs an electric vehicle charging unit may claim a credit against the taxpayer's~~

tax liability imposed pursuant to the Income Tax Act. The tax credit provided by this section may be referred to as the "electric vehicle charging unit income tax credit".

B.—The electric vehicle charging unit income tax credit shall not exceed three hundred dollars (\$300) or the cost to purchase and install an electric vehicle charging unit, whichever is less.

C.—A taxpayer shall apply for certification of eligibility for the electric vehicle charging unit income tax credit from the department on forms and in the manner prescribed by the department. The aggregate amount of electric vehicle charging unit income tax credits that may be certified as eligible in any calendar year is one million dollars (\$1,000,000). Completed applications shall be considered in the order received. If a taxpayer submits a claim for a tax credit but is unable to receive the tax credit because the claims for the calendar year exceed the limitation provided in this subsection, the taxpayer's claim shall be placed at the front of a queue of credit claimants for the subsequent calendar year in the order of the date on which the credit was authorized for payment.

D.—An application for certification of eligibility shall include a receipt for the purchase of the electric vehicle charging unit, a copy of the data sheet that specifies the connector type, plug type, voltage and current of the electric vehicle charging unit and any additional information that the department may require to determine eligibility for the credit. The department shall issue a dated certificate of eligibility to the taxpayer providing the amount of the electric vehicle charging unit income tax credit for which the taxpayer is eligible and the taxable year in which the credit may be claimed.

E.—Applications for certification of an electric vehicle charging unit income tax credit shall be made no later than one calendar year from the date in which the electric vehicle charging unit for which the credit is claimed is purchased and installed.

F.—That portion of an electric vehicle charging unit income tax credit that exceeds a taxpayer's income tax liability in the taxable year in which an electric vehicle charging unit income tax credit is claimed shall be refunded to the taxpayer.

G.—Married individuals filing separate returns for a taxable year for which they could have filed a joint return may each claim only one-half of the electric vehicle charging unit income tax credit that would have been claimed on a joint return.

H.—A taxpayer may be allocated the right to claim the electric vehicle charging unit income tax credit in proportion to the taxpayer's ownership interest if the taxpayer owns an interest in a business entity that is taxed for federal income tax purposes as a partnership or limited liability company and that business entity has met all of the requirements to be eligible for the credit. The total credit claimed by all members of the partnership or limited liability company shall not exceed the allowable credit pursuant to this section.

~~I. — A taxpayer allowed a tax credit pursuant to this section shall report the amount of the tax credit to the department in a manner required by the department.~~

~~J. — The department shall compile an annual report on the electric vehicle charging unit income tax credit that shall include the number of taxpayers approved by the department to receive the tax credit, the aggregate amount of tax credits approved and any other information necessary to evaluate the effectiveness of the tax credit. 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 effectiveness and cost of the tax credit and whether the tax credit is performing the purpose for which it was created.~~

~~K. — As used in this section:~~

~~(1) — "electric vehicle" means a motor vehicle subject to the registration fee pursuant to Section 66-6-2 or 66-6-4 NMSA 1978 that derives all or part of the vehicle's power from electricity stored in a battery that:~~

~~(a) — has a capacity of not less than six kilowatt-hours;~~

~~(b) — is capable of powering the vehicle for a range of at least thirty miles; and~~

~~(c) — is capable of being recharged from an external source of electricity; and~~

~~(2) — "electric vehicle charging unit" means a device that:~~

~~(a) — is used to provide electricity to an electric vehicle;~~

~~(b) — is designed to create a connection between an electricity source and the electric vehicle;~~

~~(c) — uses the electric vehicle's control system to ensure that electricity flows at an appropriate voltage and current level; and~~

~~(d) — is installed on residential property located in the state." ] LINE~~

*ITEM VETO*

## **Chapter 211 Section 14 Laws 2023**

[SECTION 14. A new section of the Income Tax Act is enacted to read:

~~"ENERGY STORAGE SYSTEM INCOME TAX CREDIT.--~~

~~A.— For taxable years prior to January 1, 2028, a taxpayer who is not a dependent of another individual and who, on or after March 1, 2023, purchases and installs an energy storage system on the taxpayer's residence or commercial or agricultural property in New Mexico may apply for, and the department may allow, a credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act. The tax credit provided by this section may be referred to as the "energy storage system income tax credit".~~

~~B.— The department may allow an energy storage system income tax credit of forty percent of the purchase and installation costs of an energy storage system certified pursuant to Subsection C of this section, up to a maximum amount of credit of five thousand dollars (\$5,000) for a system installed on residential property and one hundred fifty thousand dollars (\$150,000) for a system installed on commercial or agricultural property; provided that no more than one system per property shall be eligible for the credit. Costs related to equipment or installation costs for energy generation shall not be eligible.~~

~~C.— A taxpayer shall apply for certification of eligibility for an energy storage system income tax credit from the energy, minerals and natural resources department on forms and in the manner prescribed by that department. The aggregate amount of credits that may be certified as eligible in any calendar year is four million dollars (\$4,000,000). Completed applications shall be considered in the order received. If the annual aggregate amount has been met before certification of a taxpayer's application can be made, the application shall be placed in a queue to be issued in a subsequent calendar year. The application shall include proof of purchase and installation of an energy storage system, that the system meets technical specifications and requirements relating to safety, code and standards compliance, lists of eligible components and any additional information that the energy, minerals and natural resources department may require to determine eligibility for the credit. A dated certificate of eligibility shall be issued to the taxpayer providing the amount of credit for which the taxpayer is eligible and the taxable year in which the credit may be claimed. A certificate of eligibility for the credit may be sold, exchanged or otherwise transferred to another taxpayer for the full value of the credit. The parties to such a transaction shall notify the department of the sale, exchange or transfer within ten days of the sale, exchange or transfer.~~

~~D.— A taxpayer may claim an energy storage system income tax credit for the taxable year in which the taxpayer purchases and installs the system. To receive the tax credit, a taxpayer shall apply to the department on forms and in the manner prescribed by the department within twelve months following the calendar year in which the system was installed. The application shall include a certification made pursuant to Subsection C of this section.~~

~~E.— For that portion of an energy storage system income tax credit that exceeds a taxpayer's tax liability in the taxable year in which the credit is claimed, the~~

~~excess shall not be refunded to the taxpayer but may be carried forward for five consecutive years until the credit amount is expired.~~

~~F. — Married individuals filing separate returns for a taxable year for which they could have filed a joint return may each claim only one half of the energy storage system income tax credit that would have been claimed on a joint return.~~

~~G. — A taxpayer may be allocated the right to claim an energy storage system income tax credit in proportion to the taxpayer's ownership interest if the taxpayer owns an interest in a business entity that is taxed for federal income tax purposes as a partnership or limited liability company and that business entity has met all of the requirements to be eligible for the credit. The total credit claimed by all members of the partnership or limited liability company shall not exceed the allowable credit pursuant to this section.~~

~~H. — A taxpayer allowed a tax credit pursuant to this section shall report the amount of the credit to the taxation and revenue department in a manner required by that department.~~

~~I. — The taxation and revenue department shall compile an annual report on the energy storage system income tax credit that shall include the number of taxpayers approved by the department to receive the credit, the aggregate amount of credits approved and any other information necessary to evaluate the credit. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the tax credit.~~

~~J. — As used in this section, "energy storage system" means a stationary, commercially available, customer-sited system, including a battery and a battery paired with on-site generation, that is capable of retaining, storing and delivering electrical energy by chemical, thermal, mechanical or other means and:~~

~~(1) — is installed as a stand-alone energy storage system or is grid-tied; provided that if the system is grid-tied, the system has the capability to provide grid services and control and communication infrastructure exists with the service provider;~~

~~(2) — has been tested and certified by a nationally recognized testing laboratory;~~

~~(3) — has a rating of four kilowatts or greater with a minimum of two hours of storage; and~~

~~(4) — is installed for use with a new or existing photovoltaic system." ]~~

*LINE ITEM VETO*

## Chapter 211 Section 15 Laws 2023

[SECTION 15. 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 RATE.--The corporate income tax imposed on corporations by Section 7-2A-3 NMSA 1978 shall be five and nine-tenths percent of taxable income."~~ ] *LINE ITEM VETO*

## Chapter 211 Section 16 Laws 2023

[SECTION 16. Section 7-9-4 NMSA 1978 (being Laws 1966, Chapter 47, Section 4, as amended) is amended to read:

~~"7-9-4. IMPOSITION AND RATE OF TAX--DENOMINATION AS "GROSS RECEIPTS TAX"--~~

A. ~~For the privilege of engaging in business, an excise tax equal to the following percentages of gross receipts is imposed on any person engaging in business in New Mexico:~~

~~(1) — prior to July 1, 2024, four and three-fourths percent;~~

~~(2) — beginning July 1, 2024 and prior to July 1, 2025, four and five-eighths percent;~~

~~(3) — beginning July 1, 2025 and prior to July 1, 2026, four and one-half percent; and~~

~~(4) — beginning July 1, 2026, four and three-eighths percent, except as provided in Subsection C of this section.~~

B. ~~The tax imposed by this section shall be referred to as the "gross receipts tax".~~

C. ~~If, for any single fiscal year occurring after fiscal year 2027 and prior to fiscal year 2037, gross receipts tax revenues are less than ninety-five percent of the gross receipts tax revenues for the previous fiscal year, as determined by the secretary of finance and administration, the rate of the gross receipts tax shall be four and seven-eighths percent beginning on the July 1 following the determination made by the secretary of finance and administration.~~

D. ~~On or before February 1 of each year, until the rate of the gross receipts tax is adjusted to four and seven-eighths percent pursuant to Subsection C of this section, the secretary of finance and administration shall make a determination for the purposes of Subsection C of this section. If the rate of tax is adjusted pursuant to that~~

subsection, the secretary shall certify to the secretary of taxation and revenue that the rate of the gross receipts tax shall be four and seven-eighths percent, effective on the following July 1.

E. ~~As used in this section, "gross receipts tax revenues" means the net receipts attributable to the gross receipts tax and distributed to the general fund."] *LINE ITEM VETO*~~

## Chapter 211 Section 17 Laws 2023

[SECTION 17. 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 making taxable use of tangible personal property in New Mexico, there is imposed on the person using the property an excise tax equal to four and three-fourths percent prior to July 1, 2024; beginning July 1, 2024 and prior to July 1, 2025, four and five-eighths percent; beginning July 1, 2025 and prior to July 1, 2026, four and one-half percent; and beginning July 1, 2026, four and three-eighths percent, except as provided in Subsection G of this section, of the value of tangible property that was:~~

~~(1) — manufactured by the person using the property in the state; or~~

~~(2) — acquired in a transaction for which the seller's receipts were not subject to the gross receipts tax.~~

B. ~~For the purpose of Subsection A of this section, 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 of the property to taxable 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 making taxable use of 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 or G of this section, as applicable, 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. The tax shall apply only to the value of a license or franchise used in New Mexico where the license or franchise was acquired in a transaction the receipts from which were not subject to the gross receipts tax.~~

~~D.— For the privilege of making taxable use of services in New Mexico, there is imposed on the person using the services an excise tax equal to the rate provided in Subsection A or G of this section, as applicable, against the value of the services at the time the services were performed or the product of the service was acquired. For use of services to be a taxable use pursuant to this subsection, the services shall have been acquired in a transaction the receipts from which were not subject to the gross receipts tax.~~

~~E.— For purposes of this section, receipts are not subject to the gross receipts tax if the person responsible for the gross receipts tax on those receipts lacked nexus in New Mexico or the receipts were exempt or allowed to be deducted pursuant to the Gross Receipts and Compensating Tax Act.~~

~~F.— The tax imposed by this section shall be referred to as the "compensating tax".~~

~~G.— If the gross receipts tax is increased to four and seven eighths percent pursuant to Subsection C of Section 7-9-4 NMSA 1978, the rate of the compensating tax shall be four and seven eighths percent.~~

~~H.— As used in this section, "taxable use" means use by a person who acquires tangible personal property, a license, a franchise or a service, and the use of which would not have qualified for an exemption or deduction pursuant to the Gross Receipts and Compensating Tax Act."] *LINE ITEM VETO*~~

## **Chapter 211 Section 18 Laws 2023**

~~[SECTION 18. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:~~

~~"DEDUCTIONS--GROSS RECEIPTS--CHILD CARE ASSISTANCE THROUGH A LICENSED CHILD CARE ASSISTANCE PROGRAM--PRE-KINDERGARTEN SERVICES BY FOR-PROFIT PRE-KINDERGARTEN PROVIDERS.--~~

~~A.— Prior to July 1, 2033, receipts from the sale of child care assistance services by a taxpayer pursuant to a contract or grant with the early childhood education and care department to provide such services through a licensed child care assistance program may be deducted from gross receipts.~~

~~B.— Prior to July 1, 2033, receipts of for-profit pre-kindergarten providers for the sale of pre-kindergarten services pursuant to the Pre-Kindergarten Act may be deducted from gross receipts.~~

~~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 deductions provided by this section that shall include the number of taxpayers that claimed each deduction, the aggregate amount of deductions claimed and any other information necessary to evaluate the effectiveness of the deductions. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the deductions.~~

~~E.—As used in this section:~~

~~(1)—"child care assistance" means "child care assistance" or "early childhood care assistance", as those terms are defined in the Early Childhood Care Accountability Act; and~~

~~(2)—"licensed child care assistance program" means "licensed child care program", "licensed early childhood care program" or "licensed exempt child care program", as those terms are defined in the Early Childhood Care Accountability Act."]~~  
*LINE ITEM VETO*

## **Chapter 211 Section 19 Laws 2023**

~~[SECTION 19. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:~~

~~"DEDUCTION--GROSS RECEIPTS TAX--ENVIRONMENTAL MODIFICATIONS FOR MEDICAID RECIPIENTS.--~~

~~A.—Prior to July 1, 2033, receipts of an eligible provider for environmental modification services reimbursed by the medical assistance division may be deducted from gross receipts.~~

~~B.—A taxpayer allowed a deduction pursuant to this section shall report the amount of the deduction separately in a manner required by the department.~~

~~C.—The department shall compile an annual report on the deductions provided by this section that shall include the number of taxpayers that claimed each deduction, the aggregate amount of deductions claimed and any other information necessary to evaluate the effectiveness of the deductions. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the deductions.~~

~~D.—As used in this section:~~

~~(1)—"eligible provider" means a provider who meets requirements of the medical assistance division to provide environmental modifications pursuant to a waiver granted by the federal department of health and human services to provide home and community-based services to recipients;~~

~~(2) — "environmental modifications" include the purchasing and installing of equipment or making physical adaptations to a recipient's residence that are necessary to ensure the health, welfare and safety of the recipient or enhance the recipient's access to the home environment and increase the recipient's ability to act independently;~~

~~(3) — "medicaid" means the medical assistance program established pursuant to Title 19 of the federal Social Security Act and regulations issued pursuant to that act;~~

~~(4) — "medical assistance division" means the medical assistance division of the human services department; and~~

~~(5) — "recipient" means a person whom the department has determined to be eligible to receive medicaid-related services and who meets the financial and medical level of care criteria to receive medical assistance division services through one of the division's waiver programs granted by the federal department of health and human services." ] *LINE ITEM VETO*~~

## **Chapter 211 Section 20 Laws 2023**

### ~~[SECTION 20. ALCOHOL HARMS ALLEVIATION FUND.—~~

~~A.— The "alcohol harms alleviation fund" is created as a reverting fund in the state treasury. The fund consists of appropriations, distributions, gifts, grants, donations and bequests made to the fund and income from investment of the fund. The department of finance and administration shall administer the fund, and money in the fund is subject to appropriation by the legislature to the human services department, department of health, early childhood education and care department, public education department and higher education department for:~~

~~(1) — alcohol harms prevention, treatment and recovery services;~~

~~(2) — behavioral health treatment for justice-involved populations and others not covered by the state medicaid program or other health insurance;~~

~~(3) — addressing social determinants of health related to alcohol misuse;~~

~~(4) — support for victims of alcohol-related crimes, including domestic violence and sexual assault; and~~

~~(5) — prevention and reduction of alcohol harms on lands of Indian nations, tribes and pueblos.~~

~~B.—— Money in the fund shall be expended by warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary or the secretary's authorized representative.] *LINE ITEM VETO*~~

## **Chapter 211 Section 21 Laws 2023**

~~[SECTION 21. Section 7-1-6.40 NMSA 1978 (being Laws 1997, Chapter 182, Section 1, as amended) is amended to read:~~

~~"7-1-6.40. DISTRIBUTION OF LIQUOR EXCISE TAX--LOCAL DWI GRANT FUND--CERTAIN MUNICIPALITIES--DRUG COURT FUND--ALCOHOL HARMS ALLEVIATION FUND.--~~

~~A.—— A distribution pursuant to Section 7-1-6.1 NMSA 1978 in an amount equal to forty percent of the net receipts attributable to the liquor excise tax shall be made to the local DWI grant fund.~~

~~B.—— A distribution pursuant to Section 7-1-6.1 NMSA 1978 in an amount equal to one percent of the net receipts attributable to the liquor excise tax shall be made to a municipality that is located in a class A county and that has a population according to the most recent federal decennial census of more than thirty thousand but less than sixty thousand and shall be used by the municipality only for the provision of alcohol treatment and rehabilitation services for street inebriates.~~

~~C.—— A distribution pursuant to Section 7-1-6.1 NMSA 1978 in an amount equal to six percent of the net receipts attributable to the liquor excise tax shall be made to the drug court fund.~~

~~D.—— A distribution pursuant to Section 7-1-6.1 NMSA 1978 in an amount equal to fifty-three percent of the net receipts attributable to the liquor excise tax shall be made to the alcohol harms alleviation fund." ] *LINE ITEM VETO*~~

## **Chapter 211 Section 22 Laws 2023**

~~[SECTION 22. Section 7-17-5 NMSA 1978 (being Laws 1993, Chapter 65, Section 8, as amended) 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 rates provided in Subsections B through F of this section on alcoholic beverages sold.~~

~~B.—— The liquor excise tax imposed on spirituous liquors is:~~

~~(1) — if 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:~~

~~(a) — for products up to ten percent alcohol by volume: 1) eight cents (\$.08) per liter for the first two hundred fifty thousand liters sold; and 2) twenty-eight cents (\$.28) per liter over two hundred fifty thousand liters sold; and~~

~~(b) — for products over ten percent alcohol by volume: 1) thirty-two cents (\$.32) per liter on the first one hundred seventy five thousand liters sold; and 2) sixty-five cents (\$.65) per liter over two hundred thousand liters sold; and~~

~~(2) — for all other manufacturers and producers, one dollar ninety-two cents (\$1.92) per liter sold.~~

~~C. — The liquor excise tax imposed on beer is:~~

~~(1) — if 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:~~

~~(a) — eight cents (\$.08) per gallon on the first thirty thousand barrels sold;~~

~~(b) — twenty-eight cents (\$.28) per gallon for all barrels sold over thirty thousand barrels but less than sixty thousand barrels sold; and~~

~~(c) — forty-one cents (\$.41) per gallon for sixty thousand or more barrels sold; and~~

~~(2) — for all other manufacturers or producers, forty-nine cents (\$.49) per gallon sold.~~

~~D. — The liquor excise tax imposed on cider is:~~

~~(1) — if 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:~~

~~(a) — eight cents (\$.08) per gallon on the first thirty thousand barrels sold;~~

~~(b) — twenty-eight cents (\$.28) per gallon for all barrels sold over thirty thousand barrels but less than sixty thousand barrels sold; and~~

~~(c) — forty one cents (\$.41) per gallon for sixty thousand or more barrels sold; and~~

~~(2) — for all other manufacturers and producers, forty nine cents (\$.49) per gallon sold.~~

~~E. — The liquor excise tax imposed on wine is:~~

~~(1) — if 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 sold; 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 sold; and~~

~~(2) — for all other manufacturers and producers, fifty four cents (\$.54) per liter sold.~~

~~F. — The liquor excise tax imposed on fortified wine is one dollar eighty cents (\$1.80) per liter sold.~~

~~G. — 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.~~

~~H. — 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." ] *LINE ITEM VETO*~~

## **Chapter 211 Section 23 Laws 2023**

~~[SECTION 23. Section 7-2-5.14 NMSA 1978 (being Laws 2022, Chapter 47, Section 7) is amended to read:~~

~~"7-2-5.14. EXEMPTION--SOCIAL SECURITY INCOME.--~~

~~A.—— An individual may claim an exemption in an amount equal to the amount included in adjusted gross income pursuant to Section 86 of the Internal Revenue Code, as that section may be amended or renumbered, of income includable except for this exemption in net income; provided that the individual's adjusted gross income shall not exceed the following amounts, except as provided in Subsection B of this section:~~

~~(1)—— seventy five thousand dollars (\$75,000) for married individuals filing separate returns;~~

~~(2)—— one hundred fifty thousand dollars (\$150,000) for heads of household, surviving spouses and married individuals filing joint returns; and~~

~~(3)—— one hundred thousand dollars (\$100,000) for single individuals.~~

~~B.—— For the 2024 taxable year and each subsequent taxable year, the amounts of adjusted gross income provided in Subsection A of this section shall be adjusted to account for inflation. The department shall make the adjustment by multiplying each amount of adjusted gross income by a fraction, the numerator of which is the consumer price index ending during the prior taxable year and the denominator of which is the consumer price index ending in taxable year 2022. 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 taxable year, then no adjustment shall be made.~~

~~C.—— For purposes of this section, "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."]~~ *LINE ITEM VETO*

## **Chapter 211 Section 24 Laws 2023**

[SECTION 24. Section 7-2-18.16 NMSA 1978 (being Laws 2007, Chapter 45, Section 10) is amended to read:

~~"7-2-18.16. CREDIT--SPECIAL NEEDS ADOPTED CHILD TAX CREDIT--  
CREATED--QUALIFICATIONS--DURATION OF CREDIT.--~~

~~A.—— A taxpayer who files an individual New Mexico income tax return, who is not a dependent of another individual and who adopts a special needs child on or after January 1, 2007 or has adopted a special needs child prior to January 1, 2007, may claim a credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act. The credit authorized pursuant to this section may be referred to as the "special needs adopted child tax credit".~~

~~B.—— A taxpayer may claim and the department may allow a special needs adopted child tax credit in the amount of one thousand five hundred dollars (\$1,500) to~~

~~be claimed against the taxpayer's tax liability for the taxable year imposed pursuant to the Income Tax Act.~~

~~C.— A taxpayer may claim a special needs adopted child tax credit for each year that the child may be claimed as a dependent for federal taxation purposes by the taxpayer.~~

~~D.— If the amount of the special needs adopted child tax credit due to the taxpayer exceeds the taxpayer's individual income tax liability, the excess shall be refunded.~~

~~E.— 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 special needs adopted child tax credit provided in this section that would have been allowed on a joint return.~~

~~F.— A taxpayer allowed a tax credit pursuant to this section shall report the amount of the credit to the department in a manner required by the department.~~

~~G.— The department shall compile an annual report on the credit provided by this section that shall include the number of taxpayers approved by the department to receive the credit, the aggregate amount of credits approved and any other information necessary to evaluate the credit. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the tax credit.~~

~~H.— As used in this section, "special needs adopted child" means an individual who may be over eighteen years of age and who is certified by the children, youth and families department or a licensed child placement agency as meeting the definition of a "difficult to place child" pursuant to the Adoption Act; provided, however, if the classification as a "difficult to place child" is based on a physical or mental impairment or an emotional disturbance the physical or mental impairment or emotional disturbance shall be at least moderately disabling."] *LINE ITEM VETO*~~

## **Chapter 211 Section 25 Laws 2023**

[SECTION 25. A new section of the Income Tax Act is enacted to read:

~~"DEDUCTION--SCHOOL SUPPLIES PURCHASED BY A PUBLIC SCHOOL TEACHER.--~~

~~A.— A taxpayer who is not a dependent of another individual and is a public school teacher may claim a deduction from net income in an amount equal to the costs of school supplies purchased by the public school teacher in a taxable year, not to exceed:~~

~~(1) — for a taxable year beginning on January 1, 2023 and prior to January 1, 2024, five hundred dollars (\$500); and~~

~~(2) — for a taxable year beginning on January 1, 2024 and prior to January 1, 2028, one thousand dollars (\$1,000).~~

~~B. — To claim a deduction pursuant to this section, a taxpayer shall submit to the department information required by the secretary establishing that the taxpayer is eligible to claim a deduction pursuant to this section.~~

~~C. — 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.~~

~~D. — The department shall compile an annual report on the deduction provided by this section that shall include the number of taxpayers approved by the department to receive the deduction, the aggregate amount of deductions approved and any other information necessary to evaluate the deduction. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the deduction.~~

~~E. — As used in this section:~~

~~(1) — "public school teacher" means a person who is licensed as a teacher pursuant to the Public School Code and who teaches at a public school; and~~

~~(2) — "school supplies" means items purchased by a public school teacher and used by the students of the teacher in the teacher's classroom for educational purposes, including notebooks, paper, writing instruments, crayons, art supplies, rulers, maps and globes, but not including computers or other similar digital devices, watches, radios, digital music players, headphones, sporting equipment, portable or desktop telephones, cellular telephones or other electronic communication devices, copiers, office equipment, furniture or fixtures." ] *LINE ITEM VETO*~~

## **Chapter 211 Section 26 Laws 2023**

~~[SECTION 26. A new section of the Income Tax Act is enacted to read:~~

~~"GEOTHERMAL ELECTRICITY GENERATION INCOME TAX CREDIT.--~~

~~A. — For taxable years prior to January 1, 2028, a taxpayer who is not a dependent of another individual and who holds an interest in a geothermal electricity generation facility may apply for, and the department may allow, a credit against the taxpayer's tax liability imposed pursuant to the Income Tax Act. The tax credit provided by this section may be referred to as the "geothermal electricity generation income tax credit".~~

~~B.— The amount of a tax credit allowed pursuant to this section shall be an amount equal to one and one-half cents (\$.015) per kilowatt-hour of electricity generated in New Mexico in a taxable year by the geothermal electricity generation facility for which the taxpayer holds an interest.~~

~~C.— A taxpayer shall apply for certification of eligibility for the credit provided by this section from the energy, minerals and natural resources department on forms and in the manner prescribed by that department. The aggregate amount of credits that may be certified pursuant to this section and Section 27 of this 2023 act in any calendar year is five million dollars (\$5,000,000). Completed applications shall be considered in the order received. Applications for certification received after this limitation has been met in a calendar year shall not be approved. For taxpayers eligible to receive the credit, the energy, minerals and natural resources department shall issue a certificate of eligibility stating the amount of credit to which the taxpayer is entitled for the taxable year. The certificate of eligibility shall be numbered for identification and declare the date of issuance and the amount of the tax credit allowed.~~

~~D.— To receive the credit provided by this section, a taxpayer shall apply to the department on forms and in the manner prescribed by the department. The application shall include a certification made pursuant to Subsection C of this section.~~

~~E.— That portion of a credit that exceeds a taxpayer's tax liability in the taxable year in which the credit is claimed may be carried forward for up to seven consecutive years; provided the total credits claimed pursuant to this section shall not exceed the annual aggregate amount pursuant to Subsection C of this section.~~

~~F.— Married individuals filing separate returns for a taxable year for which they could have filed a joint return may each claim only one-half of the credit that would have been claimed on a joint return.~~

~~G.— A taxpayer may be allocated the right to claim a credit provided by this section in proportion to the taxpayer's ownership interest if the taxpayer owns an interest in a business entity that is taxed for federal income tax purposes as a partnership or limited liability company and that business entity has met all of the requirements to be eligible for the credit. The total credit claimed by all members of the partnership or limited liability company shall not exceed the maximum amount of the credit allowed pursuant to this section.~~

~~H.— A taxpayer allowed a tax credit pursuant to this section shall report the amount of the credit to the department in a manner required by the department.~~

~~I.— The department shall compile an annual report on the credit provided by this section that shall include the number of taxpayers approved by the department to receive the credit, the aggregate amount of credits approved and any other information necessary to evaluate the credit. The department shall present the report to the revenue~~

stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the tax credit.

J. — As used in this section:

(1) — "geothermal electricity generation facility" means a facility located in New Mexico that generates electricity from geothermal resources and:

(a) — for new facilities, begins construction on or after July 1, 2023;  
or

(b) — for existing facilities, on or after July 1, 2023, increases the amount of electricity generated from geothermal resources the facility generated prior to that date by at least one hundred percent;

(2) — "geothermal resources" means the natural heat of the earth in excess of two hundred fifty degrees Fahrenheit or the energy, in whatever form, below the surface of the earth present in, resulting from, created by or that may be extracted from this natural heat in excess of two hundred fifty degrees Fahrenheit and all minerals in solution or other products obtained from naturally heated fluids, brines, associated gases and steam, in whatever form, found below the surface of the earth, but excluding oil, hydrocarbon gas and other hydrocarbon substances and excluding the heating and cooling capacity of the earth not resulting from the natural heat of the earth in excess of two hundred fifty degrees Fahrenheit as may be used for the heating and cooling of buildings through an on-site geexchange heat pump or similar on-site system; and

(3) — "interest in a geothermal electricity generation facility" means title to a geothermal electricity generation facility; a leasehold interest in such facility; an ownership interest in a business or entity that is taxed for federal income tax purposes as a partnership that holds title to or a leasehold interest in such facility; or an ownership interest, through one or more intermediate entities that are each taxed for federal income tax purposes as a partnership, in a business that holds title to or a leasehold interest in such facility.—] *LINE ITEM VETO*

## Chapter 211 Section 27 Laws 2023

[SECTION 27. A new section of the Corporate Income and Franchise Tax Act is enacted to read:

~~"GEOHERMAL ELECTRICITY GENERATION CORPORATE INCOME TAX CREDIT.—~~

A. — For taxable years prior to January 1, 2028, a taxpayer that holds an interest in a geothermal electricity generation facility may apply for, and the department may allow, a credit against the taxpayer's tax liability imposed pursuant to the Corporate

Income and Franchise Tax Act. The tax credit provided by this section may be referred to as the "geothermal electricity generation corporate income tax credit".

~~B.—The amount of a tax credit allowed pursuant to this section shall be an amount equal to one and one-half cents (\$0.015) per kilowatt-hour of electricity generated in New Mexico in a taxable year by the geothermal electricity generation facility for which the taxpayer holds an interest.~~

~~C.—A taxpayer shall apply for certification of eligibility for the credit provided by this section from the energy, minerals and natural resources department on forms and in the manner prescribed by that department. The aggregate amount of credits that may be certified pursuant to this section and Section 26 of this 2023 act in any calendar year is five million dollars (\$5,000,000). Completed applications shall be considered in the order received. Applications for certification received after this limitation has been met in a calendar year shall not be approved. For taxpayers eligible to receive the credit, the energy, minerals and natural resources department shall issue a certificate of eligibility stating the amount of credit to which the taxpayer is entitled for the taxable year. The certificate of eligibility shall be numbered for identification and declare the date of issuance and the amount of the tax credit allowed.~~

~~D.—To receive the credit provided by this section, a taxpayer shall apply to the department on forms and in the manner prescribed by the department. The application shall include a certification made pursuant to Subsection C of this section.~~

~~E.—That portion of a credit that exceeds a taxpayer's tax liability in the taxable year in which the credit is claimed may be carried forward for up to seven consecutive years; provided the total credits claimed pursuant to this section shall not exceed the annual aggregate amount pursuant to Subsection C of this section.~~

~~F.—A taxpayer allowed a tax credit pursuant to this section shall report the amount of the credit to the department in a manner required by that department.~~

~~G.—The department shall compile an annual report on the credit provided by this section that shall include the number of taxpayers approved by the department to receive the credit, the aggregate amount of credits approved and any other information necessary to evaluate the credit. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the tax credit.~~

~~H.—As used in this section:~~

~~(1)—"geothermal electricity generation facility" means a facility located in New Mexico that generates electricity from geothermal resources and:~~

~~(a)—for new facilities, begins construction on or after July 1, 2023;~~

or

(b) — for existing facilities, on or after July 1, 2023, increases the amount of electricity generated from geothermal resources the facility generated prior to that date by at least one hundred percent;

(2) — "geothermal resources" means the natural heat of the earth in excess of two hundred fifty degrees Fahrenheit or the energy, in whatever form, below the surface of the earth present in, resulting from, created by or that may be extracted from this natural heat in excess of two hundred fifty degrees Fahrenheit and all minerals in solution or other products obtained from naturally heated fluids, brines, associated gases and steam, in whatever form, found below the surface of the earth, but excluding oil, hydrocarbon gas and other hydrocarbon substances and excluding the heating and cooling capacity of the earth not resulting from the natural heat of the earth in excess of two hundred fifty degrees Fahrenheit as may be used for the heating and cooling of buildings through an on-site geoechange heat pump or similar on-site system; and

(3) — "interest in a geothermal electricity generation facility" means title to a geothermal electricity generation facility; a leasehold interest in such facility; an ownership interest in a business or entity that is taxed for federal income tax purposes as a partnership that holds title to or a leasehold interest in such facility; or an ownership interest, through one or more intermediate entities that are each taxed for federal income tax purposes as a partnership, in a business that holds title to or a leasehold interest in such facility." ] *LINE ITEM VETO*

## Chapter 211 Section 28 Laws 2023

[SECTION 28. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

~~"DEDUCTIONS--GROSS RECEIPTS TAX--COMPENSATING TAX--  
GEOHERMAL ELECTRICITY GENERATION-RELATED SALES AND USE.--~~

A. — Prior to July 1, 2028, receipts from:

(1) — ~~selling tangible personal property installed as part of, or services rendered in connection with, constructing and equipping a geothermal electricity generation facility may be deducted from gross receipts;~~

(2) — ~~selling tangible personal property installed as part of a system used for the distribution of electricity generated from a geothermal electricity generation facility may be deducted from gross receipts; and~~

(3) — ~~selling or leasing tangible personal property or selling services that are construction plant costs to a person who holds an interest in a geothermal electricity generation facility may be deducted from gross receipts if the holder of the interest delivers an appropriate nontaxable transaction certificate to the seller or lessor or provides alternative evidence pursuant to Section 7-9-43 NMSA 1978.~~

B. — Prior to July 1, 2028, the value of:

(1) — tangible personal property installed as part of, or services rendered in connection with, constructing and equipping a geothermal electricity generation facility may be deducted in computing compensating tax due;

(2) — tangible personal property installed as part of a system used for the distribution of electricity generated from a geothermal electricity generation facility may be deducted in computing compensating tax due; and

(3) — construction plant costs purchased by a person who holds an interest in a geothermal electricity generation facility may be deducted in computing the compensating tax due.

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 and the energy, minerals and natural resources department shall compile an annual report on the deductions provided by this section that shall include the number of taxpayers that claimed the deductions, the aggregate amount of deductions claimed and any other information necessary to evaluate the effectiveness of the deductions. The departments 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 deductions.

E. — As used in this section:

(1) — "construction plant costs" means actual expenditures for the development and construction of a geothermal electricity generation facility, including the drilling of wells to at least twelve thousand feet; permitting; site characterization and assessment; engineering; design; site and equipment acquisition; raw materials; and fuel supply development used directly and exclusively in the facility;

(2) — "geothermal electricity generation facility" means a facility located in New Mexico that generates electricity from geothermal resources and:

(a) — for a new facility, begins construction on or after July 1, 2023;  
or

(b) — for an existing facility, on or after July 1, 2023, increases the amount of electricity generated from geothermal resources the facility generated prior to that date by at least one hundred percent;

(3) — "geothermal resources" means the natural heat of the earth in excess of two hundred fifty degrees Fahrenheit or the energy, in whatever form, below the surface of the earth present in, resulting from, created by or that may be extracted

~~from this natural heat in excess of two hundred fifty degrees Fahrenheit and all minerals in solution or other products obtained from naturally heated fluids, brines, associated gases and steam, in whatever form, found below the surface of the earth, but excluding oil, hydrocarbon gas and other hydrocarbon substances and excluding the heating and cooling capacity of the earth not resulting from the natural heat of the earth in excess of two hundred fifty degrees Fahrenheit as may be used for the heating and cooling of buildings through an on-site geexchange heat pump or similar on-site system; and~~

~~(4) — "interest in a geothermal electricity generation facility" means title to a geothermal electricity generation facility; a leasehold interest in such facility; an ownership interest in a business or entity that is taxed for federal income tax purposes as a partnership that holds title to or a leasehold interest in such facility; or an ownership interest, through one or more intermediate entities that are each taxed for federal income tax purposes as a partnership, in a business that holds title to or a leasehold interest in such facility."~~

## **Chapter 211 Section 29 Laws 2023**

~~[SECTION 29. Section 7-2-18.24 NMSA 1978 (being Laws 2009, Chapter 271, Section 1) is amended to read:~~

### ~~"7-2-18.24. GEOTHERMAL GROUND-COUPLED HEAT PUMP TAX CREDIT.--~~

~~A. — A taxpayer who files an individual New Mexico income tax return for a taxable year beginning on or after January 1, 2023 and who purchases and installs after January 1, 2023 but before December 31, 2028 a geothermal ground-coupled heat pump in a residence, business or agricultural enterprise in New Mexico owned by that taxpayer may apply for, and the department may allow, a tax credit of up to thirty percent of the purchase and installation costs of the system. The credit provided in this section may be referred to as the "geothermal ground-coupled heat pump tax credit". The total geothermal ground-coupled heat pump tax credit allowed to a taxpayer shall not exceed nine thousand dollars (\$9,000). The department shall allow a geothermal ground-coupled heat pump tax credit only for geothermal ground-coupled heat pumps certified by the energy, minerals and natural resources department.~~

~~B. — That portion of a geothermal ground-coupled heat pump tax credit that exceeds a taxpayer's tax liability in the taxable year in which the credit is claimed shall be refunded to the taxpayer.~~

~~C. — The energy, minerals and natural resources department shall adopt rules establishing procedures to provide certification of geothermal ground-coupled heat pumps for purposes of obtaining a geothermal ground-coupled heat pump tax credit. The rules shall address technical specifications and requirements relating to safety, building code and standards compliance, minimum system sizes, system applications and lists of eligible components. The energy, minerals and natural resources~~

department may modify the specifications and requirements as necessary to maintain a high level of system quality and performance.

~~D.—The department may allow a maximum annual aggregate of four million dollars (\$4,000,000) in geothermal ground-coupled heat pump tax credits. Applications for the credit shall be considered in the order received by the department.~~

~~E.—A taxpayer who otherwise qualifies and claims a geothermal ground-coupled heat pump tax credit with respect to property owned by a partnership or other business association of which the taxpayer is a member may claim a credit only in proportion to that taxpayer's interest in the partnership or association. The total credit claimed in the aggregate by all members of the partnership or association with respect to the property shall not exceed the amount of the credit that could have been claimed by a sole owner of the property.~~

~~F.—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 credit that would have been allowed on a joint return.~~

~~G.—A taxpayer allowed a tax credit pursuant to this section shall report the amount of the credit to the department in a manner required by the department.~~

~~H.—The department shall compile an annual report on the tax credit provided by this section that shall include the number of taxpayers approved by the department to receive the credit, the aggregate amount of credits approved and any other information necessary to evaluate the credit. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the tax credit.~~

~~I.—As used in this section, "geothermal ground-coupled heat pump" means a system that uses energy from the ground, water or, ultimately, the sun for distribution of heating, cooling or domestic hot water; that has either a minimum coefficient of performance of three and four-tenths or an efficiency ratio of sixteen or greater; and that is installed by an accredited installer certified by the international ground source heat pump association."]~~

## **Chapter 211 Section 30 Laws 2023**

[SECTION 30. Section 7-2A-24 NMSA 1978 (being Laws 2009, Chapter 271, Section 2) is amended to read:

### ~~"7-2A-24. GEOTHERMAL GROUND-COUPLED HEAT PUMP TAX CREDIT.--~~

~~A.—A taxpayer that files a New Mexico corporate income tax return for a taxable year beginning on or after January 1, 2023 and that purchases and installs after January 1, 2023 but before December 31, 2028 a geothermal ground-coupled heat~~

~~pump in a property owned by the taxpayer may claim against the taxpayer's corporate income tax liability, and the department may allow, a tax credit of up to thirty percent of the purchase and installation costs of the system. The credit provided in this section may be referred to as the "geothermal ground-coupled heat pump tax credit". The total geothermal ground-coupled heat pump tax credit allowed to a taxpayer shall not exceed nine thousand dollars (\$9,000). The department shall allow a geothermal ground-coupled heat pump tax credit only for geothermal ground-coupled heat pumps certified by the energy, minerals and natural resources department.~~

~~B.—— A portion of the geothermal ground-coupled heat pump tax credit that remains unused in a taxable year may be carried forward for a maximum of ten consecutive taxable years following the taxable year in which the credit originates until the credit is fully expended.~~

~~C.—— The energy, minerals and natural resources department shall adopt rules establishing procedures to provide certification of geothermal ground-coupled heat pumps for purposes of obtaining a geothermal ground-coupled heat pump tax credit. The rules shall address technical specifications and requirements relating to safety, building code and standards compliance, minimum system sizes, system applications and lists of eligible components. The energy, minerals and natural resources department may modify the specifications and requirements as necessary to maintain a high level of system quality and performance.~~

~~D.—— The department may allow a maximum annual aggregate of four million dollars (\$4,000,000) in geothermal ground-coupled heat pump tax credits. Applications for the credit shall be considered in the order received by the department.~~

~~E.—— A taxpayer allowed a tax credit pursuant to this section shall report the amount of the credit to the department in a manner required by the department.~~

~~F.—— The department shall compile an annual report on the tax credit provided by this section that shall include the number of taxpayers approved by the department to receive the credit, the aggregate amount of credits approved and any other information necessary to evaluate the credit. The department shall present the report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the tax credit.~~

~~G.—— As used in this section, "geothermal ground-coupled heat pump" means a refrigeration system that provides space heating, space cooling, domestic hot water, processed hot water, processed chilled water or any other application where hot air, cool air, hot water or chilled water is required and that utilizes the ground or water circulating through pipes buried in the ground as a condenser in the cooling mode or an evaporator in the heating mode."] *LINE ITEM VETO*~~

## Chapter 211 Section 31 Laws 2023

SECTION 31. 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 Section 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 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;

L. "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;

M. "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;

N. "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;

O. "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;

P. "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;

Q. "principal photography" means the production of a film during which the main visual elements are created;

R. "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

S. "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 211 Section 32 Laws 2023**

SECTION 32. Section 7-2F-12 NMSA 1978 (being Laws 2019, Chapter 87, Section 6) is amended 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 Laws 2019, Chapter 87, Section 10, the aggregate amount of claims for a credit provided by the Film Production Tax Credit Act that may be authorized in any fiscal year with respect to the direct production expenditures or postproduction expenditures made on film or commercial audiovisual products shall be in the following amounts; 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:

(1) prior to fiscal year 2024, one hundred ten million dollars (\$110,000,000);

(2) from fiscal year 2024 through fiscal year 2028, the amount provided in Paragraph (1) of this subsection shall be increased by ten million dollars (\$10,000,000) in each of those fiscal years; and

(3) for fiscal year 2029 and subsequent fiscal years, one hundred sixty million dollars (\$160,000,000).

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. 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."

## **Chapter 211 Section 33 Laws 2023**

SECTION 33. Section 7-2F-13 NMSA 1978 (being Laws 2019, Chapter 87, Section 7) is amended to read:

"7-2F-13. 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. Except as provided in Subsection M of this section, 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 in a production. This limitation shall not apply to the services of background artists or resident performing artists cast in industry standard feature performing roles.

M. In addition to the amount of payments allowed pursuant to Subsection L of this section, that amount of a new film production tax credit for total payments as applied to direct production expenditures made by a New Mexico film partner for the services of nonresident performing artists, directors, producers, screenwriters and editors shall not exceed ten million dollars (\$10,000,000) for services rendered for each production; provided that the total payments allowed pursuant to this subsection shall not exceed an annual aggregate maximum of forty million dollars (\$40,000,000) for all productions in a fiscal year. If the aggregate amount of payments made in a fiscal year is less than the annual aggregate maximum, then the difference in that fiscal year shall be added to the annual aggregate maximum allowed in the following fiscal year."

## **Chapter 211 Section 34 Laws 2023**

SECTION 34. Section 7-2F-14 NMSA 1978 (being Laws 2019, Chapter 87, Section 8) is amended to read:

"7-2F-14. 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 7-2F-13 NMSA 1978, an additional percentage shall be applied for payments for direct production expenditures and postproduction expenditures, as follows:

(1) ten percent for work, services or items provided on location for a production of a film or commercial audiovisual product that is located in New Mexico at least sixty miles from the city hall of the county seat of certain counties; and

(2) five percent 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" means class A counties with a net taxable value of property for property taxation purposes of greater than seven billion five hundred million dollars (\$7,500,000,000)."

## **Chapter 211 Section 35 Laws 2023**

SECTION 35. Section 7-2F-15 NMSA 1978 (being Laws 2019, Chapter 87, Section 9) is amended to read:

"7-2F-15. NONRESIDENT BELOW-THE-LINE CREW CREDIT.--A film production company may apply for, and the taxation and revenue department may allow, a tax credit, which may be referred to as the "nonresident below-the-line crew 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:

A. the service for which payment is made is rendered in New Mexico;

B. the payment of wages excludes payments:

(1) for below-the-line crew who are producers, directors, screenwriters, cast and production assistants; and

(2) made to a personal services business;

C. prior to July 1, 2028, for a film production company that is a New Mexico film partner, the total amount of wages applied toward the additional credit allowed pursuant to this section may be up to one hundred percent of the amount of wages of resident below-the-line wages claimed; provided that the film production company provides a seventy-two-hour notice of the opportunity to be hired to resident below-the-line crew, which may be through a collective bargaining unit that represents resident below-the-line crew; and

D. for a film production company that is not a New Mexico film partner and, beginning July 1, 2028, for a film production company that is a New Mexico film partner:

(1) the total eligible wages for below-the-line crew who are not New Mexico residents are not more than fifteen percent of the production's total New Mexico budget for below-the-line crew wages; and

(2) the film production company may claim the nonresident below-the-line crew credit for employing up to the following numbers of nonresident below-the-line crew in New Mexico and shall be as calculated by the division upon application for certification pursuant to Subsection A of Section 7-2F-12 NMSA 1978; provided that the total number shall not exceed twenty positions:

(a) five positions if the production's final New Mexico budget is up to two million seven hundred fifty thousand dollars (\$2,750,000);

(b) ten positions if the production's final New Mexico budget is greater than two million seven hundred fifty thousand dollars (\$2,750,000) and up to seven million five hundred thousand dollars (\$7,500,000);

(c) fifteen positions if the production's final New Mexico budget is greater than seven million five hundred thousand dollars (\$7,500,000) and up to eleven million dollars (\$11,000,000);

(d) one position in addition to the number of positions provided in Subparagraph (c) of this paragraph for every ten million dollars (\$10,000,000) over eleven million dollars (\$11,000,000) of the production's final New Mexico budget; and

(e) five positions in addition to the number of positions provided in Subparagraphs (a) through (d) of this paragraph for a television pilot episode that has been ordered to series; provided that the film production company certifies to the division that the series is intended to be produced in New Mexico."

## **Chapter 211 Section 36 Laws 2023**

SECTION 36. Section 7-9-93 NMSA 1978 (being Laws 2004, Chapter 116, Section 6, as amended) is amended to read:

"7-9-93. DEDUCTION--GROSS RECEIPTS--CERTAIN RECEIPTS FOR SERVICES PROVIDED BY HEALTH CARE PRACTITIONER OR ASSOCIATION OF HEALTH CARE PRACTITIONERS.--

A. Receipts of a health care practitioner or an association of health care practitioners for commercial contract services or medicare part C services paid by a managed care organization or health care insurer may be deducted from gross receipts if the services are within the scope of practice of the health care practitioner providing the service. Receipts from fee-for-service payments by a health care insurer may not be deducted from gross receipts.

B. Prior to July 1, 2028, receipts from a copayment or deductible paid by an insured or enrollee to a health care practitioner or an association of health care practitioners for commercial contract services pursuant to the terms of the insured's health insurance plan or enrollee's managed care health plan may be deducted from gross receipts.

C. The deductions provided by this section shall be applied only to gross receipts remaining after all other allowable deductions available under the Gross Receipts and Compensating Tax Act have been taken.

D. A taxpayer allowed a deduction pursuant to this section shall report the amount of the deduction separately in a manner required by the department.

E. The department shall compile an annual report on the deductions provided by this section that shall include the number of taxpayers that claimed the deductions, the aggregate amount of deductions claimed and any other information necessary to evaluate the effectiveness of the deductions. The department shall present the report to

the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the deductions.

F. As used in this section:

(1) "association of health care practitioners" means a corporation, unincorporated business entity or other legal entity organized by, owned by or employing one or more health care practitioners; provided that the entity is not:

(a) an organization 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; or

(b) a health maintenance organization, hospital, hospice, nursing home or an entity that is solely an outpatient facility or intermediate care facility licensed pursuant to the Public Health Act;

(2) "commercial contract services" means health care services performed by a health care practitioner pursuant to a contract with a managed care organization or health care insurer other than those health care services provided for medicare patients pursuant to Title 18 of the federal Social Security Act or for medicaid patients pursuant to Title 19 or Title 21 of the federal Social Security Act;

(3) "copayment or deductible" means the amount of covered charges an insured or enrollee is required to pay in a plan year for commercial contract services before the insured's health insurance plan or enrollee's managed care health plan begins to pay for applicable covered charges;

(4) "fee-for-service" means payment for health care services by a health care insurer for covered charges under an indemnity insurance plan;

(5) "health care insurer" means a person that:

(a) has a valid certificate of authority in good standing pursuant to the New Mexico Insurance Code to act as an insurer, health maintenance organization or nonprofit health care plan or prepaid dental plan; and

(b) contracts to reimburse licensed health care practitioners for providing basic health services to enrollees at negotiated fee rates;

(6) "health care practitioner" means:

(a) a chiropractic physician licensed pursuant to the provisions of the Chiropractic Physician Practice Act;

- (b) a dentist or dental hygienist licensed pursuant to the Dental Health Care Act;
- (c) a doctor of oriental medicine licensed pursuant to the provisions of the Acupuncture and Oriental Medicine Practice Act;
- (d) an optometrist licensed pursuant to the provisions of the Optometry Act;
- (e) an osteopathic physician licensed pursuant to the provisions of the Medical Practice Act;
- (f) a physical therapist licensed pursuant to the provisions of the Physical Therapy Act;
- (g) a physician or physician assistant licensed pursuant to the provisions of the Medical Practice Act;
- (h) a podiatrist licensed pursuant to the provisions of the Podiatry Act;
- (i) a psychologist licensed pursuant to the provisions of the Professional Psychologist Act;
- (j) a registered lay midwife registered by the department of health;
- (k) a registered nurse or licensed practical nurse licensed pursuant to the provisions of the Nursing Practice Act;
- (l) a registered occupational therapist licensed pursuant to the provisions of the Occupational Therapy Act;
- (m) a respiratory care practitioner licensed pursuant to the provisions of the Respiratory Care Act;
- (n) a speech-language pathologist or audiologist licensed pursuant to the Speech-Language Pathology, Audiology and Hearing Aid Dispensing Practices Act;
- (o) a professional clinical mental health counselor, marriage and family therapist or professional art therapist licensed pursuant to the provisions of the Counseling and Therapy Practice Act who has obtained a master's degree or a doctorate;

(p) an independent social worker licensed pursuant to the provisions of the Social Work Practice Act; and

(q) a clinical laboratory that is accredited pursuant to 42 U.S.C. Section 263a but that is not a laboratory in a physician's office or in a hospital defined pursuant to 42 U.S.C. Section 1395x;

(7) "managed care health plan" means a health care plan offered by a managed care organization that provides for the delivery of comprehensive basic health care services and medically necessary services to individuals enrolled in the plan other than those services provided to medicare patients pursuant to Title 18 of the federal Social Security Act or to medicaid patients pursuant to Title 19 or Title 21 of the federal Social Security Act;

(8) "managed care organization" means a person that provides for the delivery of comprehensive basic health care services and medically necessary services to individuals enrolled in a plan through its own employed health care providers or by contracting with selected or participating health care providers. "Managed care organization" includes only those persons that provide comprehensive basic health care services to enrollees on a contract basis, including the following:

- (a) health maintenance organizations;
- (b) preferred provider organizations;
- (c) individual practice associations;
- (d) competitive medical plans;
- (e) exclusive provider organizations;
- (f) integrated delivery systems;
- (g) independent physician-provider organizations;
- (h) physician hospital-provider organizations; and
- (i) managed care services organizations; and

(9) "medicare part C services" means services performed pursuant to a contract with a managed health care provider for medicare patients pursuant to Title 18 of the federal Social Security Act."

## Chapter 211 Section 37 Laws 2023

~~[SECTION 37. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:~~

~~"DEDUCTION--GROSS RECEIPTS TAX--COMPENSATING TAX--DYED DIESEL USED FOR AGRICULTURAL PURPOSES.--~~

~~A.—— Prior to July 1, 2028, receipts from selling and the use of special fuel dyed in accordance with federal regulations and used for agricultural purposes may be deducted from gross receipts.~~

~~B.—— A taxpayer allowed a deduction pursuant to this section shall report the amount of the deduction separately 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 report to the revenue stabilization and tax policy committee and the legislative finance committee with an analysis of the cost of the deduction." ] *LINE ITEM VETO*~~

## Chapter 211 Section 38 Laws 2023

~~[SECTION 38. 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 device that can be used to deliver aerosolized or vaporized nicotine to the person inhaling from the device and includes any component, part or accessory of such a device that is used during the operation of the device but does not include a battery or battery charger;~~

F. ~~"e-liquid" means liquid or other substance intended for use in an e-cigarette;~~

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":~~

(1) ~~means:~~

(a) ~~any product, other than cigarettes, made from or containing tobacco or nicotine, whether natural or synthetic, that is intended for human consumption or is likely to be consumed, whether smoked, heated, chewed, absorbed, dissolved or inhaled;~~

(b) ~~e-liquid;~~

(c) ~~e-cigarettes; and~~

(d) ~~closed system cartridges; and~~

(2) ~~does not mean any product regulated as a drug or device by the United States food and drug administration pursuant to the Federal Food, Drug, and Cosmetic Act."] *LINE ITEM VETO*~~

## Chapter 211 Section 39 Laws 2023

[SECTION 39. 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 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 following rates:~~

~~(1) for cigars, twenty-five percent of the product value of the cigar;~~

~~(2) for little cigars, a rate equal to the rate imposed on cigarettes pursuant to Section 7-12-3 NMSA 1978 per package of little cigars;~~

~~(3) for e-liquid, twelve and one-half percent of the product value of the e-liquid;~~

~~(4) for closed system cartridges, fifty cents (\$.50) per closed system cartridge; and~~

~~(5) for all other tobacco products, twenty-five percent of the product value of the tobacco product.~~

~~B. The taxes imposed by this section may be referred to as the "tobacco products tax".~~

~~C. 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." ] *LINE ITEM VETO*~~

## Chapter 211 Section 40 Laws 2023

[SECTION 40. A new section of the Tax Administration Act is enacted to read:

~~"DISTRIBUTION--TOBACCO PRODUCTS TAX--TOBACCO SETTLEMENT PERMANENT FUND.--A distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be made to the tobacco settlement permanent fund in an amount equal to thirteen percent of the net receipts attributable to the tobacco products tax." ] *LINE ITEM VETO*~~

## Chapter 211 Section 41 Laws 2023

[SECTION 41. 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.--~~

~~A.—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:~~

~~(1) — beginning July 1, 2023 and prior to July 1, 2025:~~

~~(a) — thirty-two percent to the general fund;~~

~~(b) — forty-nine and one-fourth percent to the state road fund; and~~

~~(c) — eighteen and three-fourths percent to the transportation project fund;~~

~~(2) — beginning July 1, 2025, except as provided in Paragraph (3) of this subsection:~~

~~(a) — seventy-five percent to the state road fund; and~~

~~(b) — twenty-five percent to the transportation project fund; and~~

~~(3) — if, for any single fiscal year occurring after fiscal year 2027 and prior to fiscal year 2037, gross receipts tax revenues are less than ninety-five percent of the gross receipts tax revenues for the previous fiscal year, as determined by the secretary of finance and administration, beginning on the July 1 following the determination made by the secretary of finance and administration:~~

~~(a) — fifty-nine and thirty-nine hundredths percent to the general fund;~~

~~(b) — twenty-one and eighty-six hundredths percent to the state road fund; and~~

~~(c) — eighteen and seventy-five hundredths percent to the transportation project fund.~~

~~B.—Between fifty and seventy-five percent of the amount distributed to the state road fund pursuant to this section shall be used for maintenance of transportation infrastructure."]~~

## Chapter 211 Section 42 Laws 2023

[SECTION 42. 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 the sales factor.~~

~~B.— For a taxable year prior to January 1, 2027, all business income of a taxpayer that is a railroad 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.~~

~~C.— Except as provided in Subsection D of this section, the business income of a qualifying entity shall be apportioned 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.~~

~~D.— A qualifying entity may elect to have business income apportioned by multiplying the income by the sales factor; provided that, once the election is made, the qualifying entity shall apportion business income in that manner for each taxable year thereafter; and provided further that, for taxable years beginning on or after January 1, 2029, the qualifying entity shall apportion business income by the single sales factor pursuant to Subsection A of this section.~~

~~E.— To elect the method of apportionment provided by Subsection D of this section, a qualifying entity shall notify the department of the election, in writing, no later than the date on which the qualifying entity files the return for the first taxable year to which the election will apply.~~

~~F.— For purposes of this section:~~

~~(1) — "filing group" means "filing group" as that term is defined in the Corporate Income and Franchise Tax Act; and~~

~~(2) — "qualifying entity" means the presence of a business unit of a corporation or a group of corporations in a combined filing group:~~

~~(a) — with one hundred or more employees for whom wages are withheld pursuant to the Withholding Tax Act. The employee measurement date is the first day of the taxable year immediately prior to the taxable year for which the election is made, and shall be certified by audit; and~~

~~(b) with a cumulative investment in property in New Mexico exceeding fifty million dollars (\$50,000,000). Property owned by the qualifying entity shall be valued at the property's original cost, which shall be deemed to be the basis of the property for federal income tax purposes, prior to any federal adjustments, at the time of acquisition by the qualifying entity and adjusted by subsequent capital additions or improvements thereto and partial disposition thereof, by reason of sale, exchange or abandonment. For purposes of this subparagraph, "cumulative investment in property in New Mexico" means the average value of the taxpayer's real and tangible personal property owned or rented and used in New Mexico during the tax period.]~~ *LINE ITEM VETO*

## **Chapter 211 Section 43 Laws 2023**

### **SECTION 43. APPLICABILITY.--**

A. The provisions of Section~~s 5, 7 through~~ 9~~, 12 through 14, 23 through 27, 29 and 30~~ of this act apply to taxable years beginning on or after January 1, 2023. *LINE ITEM VETO*

B. The provisions of Sections 31 through 35 of this act apply to film production companies that commence principal photography for a film or commercial audiovisual product on or after July 1, 2023.

~~[C. The provisions of Sections 6, 10, 15 and 42 of this act apply to taxable years beginning on or after January 1, 2024.]~~ *LINE ITEM VETO*

## **Chapter 211 Section 44 Laws 2023**

### **SECTION 44. EFFECTIVE DATE.--**

A. The effective date of the provisions of Section 11 of this act is April 1, 2023.

B. The effective date of the provisions of Section~~s 1 through 4, 16 through 19, 28 and~~ 36 ~~[through 41]~~ of this act is July 1, 2023. *LINE ITEM VETO*

~~[C. The effective date of the provisions of Sections 6, 10, 15, 20 through 22 and 42 of this act is January 1, 2024.]~~

# LAWS OF 2023, SENATE JOINT RESOLUTION 12

## A JOINT RESOLUTION

RATIFYING AND APPROVING A TRANSFER OF REAL PROPERTY FROM THE GENERAL SERVICES DEPARTMENT TO THE ADMINISTRATIVE OFFICE OF THE COURTS FOR A FUTURE MAGISTRATE COURT FACILITY.

WHEREAS, Section 13-6-2 NMSA 1978 provides that a state agency may sell or otherwise dispose of real property by negotiated sale or donation to a state agency; and

WHEREAS, the general services department, in 2006, acquired certain undeveloped real property in the county of Santa Fe, state of New Mexico, described as Lot 5A as shown on plat entitled "Lot Line Adjustment Plat Prepared for Santa Fe Business Park, LLC adjusting the line between Lots 1 and 5 Joseph E. Valdez Industrial Park...", recorded in the office of the County Clerk, Santa Fe County, New Mexico on May 3, 2002 in Plat Book 501, Page 016 as Document No. 1204685, and Lots 2, 3 and 4 of Joseph E. Valdez Industrial Park Subdivision, as shown on plat recorded in the office of the County Clerk, Santa Fe County, New Mexico on July 16, 1999 in Plat Book 419, Page 026 as Document No. 1082596, all of said lots being more particularly described as follows:

"beginning at a point on the northerly boundary of the tract herein described, said point being marked by a U.S.G.L.O. Brass Cap, marking the point common to PC 6025, T2 and PC 689, Section 6 and Section 7, T16N, R9E, NMPM, thence from said point of beginning; N 51° 07' 46" E, 82.38 feet, to a U.S.G.L.O. Brass Cap, marking the point common to the Southwest corner of PC 1181 and PC 602, Section 6 and Section 7, T16N, R9E, NMPM, thence; N 51° 24' 13" E, 470.30 feet, thence; S 71° 29' 35" E, 130.77 feet, thence along a curve to the left, Delta = 18° 28' 58", Radius = 622.96 feet, Arc Length = 200.96 feet, Chord Bearing S 08° 11' 14" W, Chord Length 200.09 feet, thence along a curve to the left; Delta = 27° 29' 43", Radius = 622.96 feet, Arc Length = 121.92 feet, Chord Bearing S 22° 56' 27" E, Chord Length 121.72 feet, thence along a curve to the right; Delta = 72° 34' 03", Radius = 221.53 feet, Arc Length = 280.58 feet, Chord Bearing S 07° 44' 10" W, Chord Length 262.20 feet, thence; S 44° 01' 12" W, 157.52 feet, thence; N 51° 03' 37" W, 180.84 feet, thence; N 25° 10' 50" W, 437.72 feet, thence; S 69° 18' 47" W, 147.01 feet, thence; N 19° 49' 45" W, 74.57 feet, thence; N 50° 55' 34" E, 40.78 feet, to the point and place of beginning"; and

WHEREAS, the general services department has determined that there is no present use for the property in the state master plan and, in consultation with the administrative office of the courts, has determined that the best use of the value of the property is as a future building site for a magistrate court facility;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the proposed transfer of the property from the general services department to the administrative office of the courts be hereby ratified and approved by the legislature; and

BE IT FURTHER RESOLVED that the legislative authorization as set forth herein is not self-executing and shall be contingent upon agreement as set forth in the conveyance document and as expressly set forth herein; and

BE IT FURTHER RESOLVED that the authorization be contingent upon agreement by the parties in the conveyance document that if the administrative office of the courts ever decides that the property is no longer needed for the magistrate court facility and should be disposed of, at the option of the general services department and at no cost to the department, the property shall be reconveyed by the administrative office of the courts to the general services department; and

BE IT FURTHER RESOLVED that the property shall not be sold, conveyed or transferred until the proposed conveyance document has been reviewed and approved by the capitol buildings planning commission; and

BE IT FURTHER RESOLVED that copies of this resolution be transmitted to the secretary of general services, the director of the administrative office of the courts and the director of the legislative council service on behalf of the capitol buildings planning commission.

## **LAWS OF 2023, SENATE JOINT RESOLUTION 13**

### A JOINT RESOLUTION

RATIFYING AND APPROVING THE SALE BY THE GENERAL SERVICES DEPARTMENT TO BERNALILLO COUNTY OF REAL PROPERTY LOCATED AT 4003 EDITH BOULEVARD NORTHEAST, ALBUQUERQUE, 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 facilities management division of the general services department owns real property located at 4003 Edith boulevard northeast, Albuquerque, New Mexico ("Edith boulevard property"); and

WHEREAS, the general services department holds the title to the Edith boulevard property, containing four and four-tenths acres, more or less, but is not using or planning a use for it; and

WHEREAS, the real property proposed for sale is described as follows:

A certain parcel of land situate within projected Section 4, Township 10 North, Range 3 East, New Mexico principle Meridian, Town of Albuquerque grant, county of Bernalillo, New Mexico, comprising a portion of Parcel C, New Mexico Girl's School, As shown and designated on the plat entitled "Amend plat of land of New Mexican Girl's School" Filed for record in the office of the county clerk of Bernalillo County on September 23rd, 1974, in Volume C10, Folio 39, and being more particularly described by metes and bounds as follows:

Beginning at the southwest corner of the parcel herein described, said point on the northerly tract line of Tract A-1, Lands of Cox and Oldaker, as the same is shown and designated on the plat entitled "Replat tracts A&B, Lands of Cox and Oldaker, and Lots 2, 13, 14 and 15, Block 4, Graceland acres Addition" Filed for record in the office of the county clerk of Bernalillo County on June 14, 1989 in Volume C39, Folio 85, monumented with a set NO. 5 rebar and plastic cap stamped "PLS space 12804", and from whence Albuquerque control station (ACS) "6\_G15", having the New Mexico State plane coordinates, NAD 1983 Central Zone, of N=1,498,622.035 and E=1,524,070.574, bears S59°22'16"W. a distance of 1,252.52 feet; thence from said point of Beginning,

N17°05'48"E, leaving said northerly tract line of Tract A-1, a distance of 459.17 feet to the northwest corner of the parcel herein described monumented with a set No.5 rebar plastic cap stamped "PLS 12804"; Thence,

S72°34'14"E a distance of 422.45 feet to the northeast corner of the parcel herein described monumented with a found No.4 rebar (no cap) on the westerly Right-of-Way line of Edith Boulevard NE.; Thence,

S10°09'23"W. along said westerly Right-of-Way line of Edith Boulevard NE., a distance of 303.94 feet to a set No.5 rebar and plastic cap stamped "PLS 12804"; Thence

N75°42'44"W, leaving said westerly Right-of-Way line a distance of 129.64 feet to a set No.5 rebar and plastic cap stamped "PLS 12804"; Thence

S23°47'31"W, a distance of 201.31 feet to the southeast corner of the parcel herein described monumented with a set No.5 Rebar and plastic cap stamped "PLS 12804"; Said point being on the northerly tract line of tract 48-B-2, M. R. G. C. D. Map No.33, as the same is shown and designated on the plat entitled "Boundary survey plat for Christian Cervantes & Adele Cervantes, Portion of tract 48-B-2, M. R. G. C. D. Map No.33" Filed for record In the office of the county clerk of Bernalillo County on March 2nd 1999 in Book 99S; Thence,

N63°23'47"W, along said northerly tract line of Tract 48-B-2, Continuing along the said northerly tract line of Tract A-1, a distance of 310.48 feet to the point of beginning of the parcel here and described, containing 4.4033 acres (191,806 Sq. Ft) more or less; and

WHEREAS, the appraised value of the Edith boulevard property is one million three hundred sixty thousand dollars (\$1,360,000); and

WHEREAS, Bernalillo county has agreed to purchase the Edith boulevard property for four hundred seventy-nine thousand five hundred fifteen dollars (\$479,515);

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the sale of the Edith boulevard property as described above from the general services department to Bernalillo county for the sale price of four hundred seventy-nine thousand five hundred fifteen dollars (\$479,515), between public entities for county purposes, be hereby ratified and approved by the legislature; and

BE IT FURTHER RESOLVED that the ratification and approval of the sale of the Edith boulevard property to Bernalillo county shall be contingent upon agreement by the parties that if Bernalillo county ever decides by and through exercise of proper authority that the Edith boulevard property is no longer needed for any county purpose and should be disposed of, at the option of the state and at no cost to the state, the real property shall be reconveyed by Bernalillo county to the state; and

BE IT FURTHER RESOLVED that copies of this resolution be transmitted to the secretary of general services, the manager of Bernalillo county and the Bernalillo county board of county commissioners.

## **LAWS OF 2023, SENATE JOINT RESOLUTION 14**

### A JOINT RESOLUTION

RATIFYING AND APPROVING THE EXCHANGE OF REAL PROPERTY BY THE FACILITIES MANAGEMENT DIVISION OF THE GENERAL SERVICES DEPARTMENT WITH THE CITY OF ALBUQUERQUE AND THE METROPOLITAN REDEVELOPMENT AGENCY OF TWO STATE-OWNED REAL PROPERTIES LOCATED WITHIN THE CITY OF ALBUQUERQUE FOR TWO PARCELS OF CITY-OWNED PROPERTIES LOCATED WITHIN THE CITY OF ALBUQUERQUE.

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 facilities management division of the general services department owns real property located at 401 Commercial Street, Northeast, Albuquerque, New Mexico ("401 Commercial Street property"), containing seventy-three hundredths of an acre, more or less, but is not using or planning a use for it; and

WHEREAS, the appraised value of the 401 Commercial Street property is two hundred seventy thousand dollars (\$270,000); and

WHEREAS, the 401 Commercial Street property is described as follows:

A certain tract or parcel of land lying and being situate within Block 1, Commercial Addition, City of Albuquerque, County of Bernalillo, State of New Mexico, and being more particularly described as follows:

BEGINNING at the Northwesterly corner of Tract herein described, which is the point of intersection of the Easterly right of way line of the AT&SF RR and the Southerly right of way line of Marquette Avenue, whence the Albuquerque triangulation point 9-K14 (Brass Cap) bears S. 46° 11' 50" W. 198.68' distant, said brass cap possessing New Mexico State Plane Coordinates of X=381,496.594 and Y=1,487,176.469;

Thence, from said point of beginning running along said Southerly right of way line S. 89° 47' 07" E. 138.01' to a point, whence the Albuquerque Triangulation point 7-K14 (Brass Cap) bears S. 86° 13' 25" E. 609.80' distant, said Brass Cap possessing New Mexico State Plane coordinates (Central Zone) of X=382,384.418 and Y=1,487,251.703;

Thence, from said point leaving said right of way line running around a curve to the right with Delta=80° 56' 28", R=12.00', T=11.99', L=18.84' (Cord: S. 35° 48' 53" E. 16.96') to a point on the westerly right of way line of Commercial Street;

Thence, running along said Westerly right of way line S. 09° 09' 21" W. 211.45' to the point of intersection of the Westerly right of way line with the Northerly right of way line of the Grand Avenue Overpass;

Thence, running along said Northerly right of way line around a curve to the right with: Delta=09° 26' 26", R=927.93, T=76.62', L=152.89' (Chord: N. 69° 51' 08" W. 152.73') to the point of intersection of said Northerly right of way line with the aforesaid Easterly right of way line:

Thence, running along said Easterly right of way line N. 09° 07' 58" E. 194.47' to the point and place of beginning; containing 0.726 Acres, more or less; and

WHEREAS, the facilities management division of the general services department owns real property located at 3401 Pan American Freeway, Northeast, Albuquerque, New Mexico ("3401 Pan American Freeway property"), containing twelve acres, more or less, but is not using or planning a use for it; and

WHEREAS, the assessed value of the 3401 Pan American Freeway property is four million three hundred fifty-five thousand three hundred ninety-seven dollars fifty-three cents (\$4,355,397.53); and

WHEREAS, the 3401 Pan American Freeway property is described as follows:

A TRACT OF LAND LYING AND SITUATE WITHIN THE TOWN OF ALBUQUERQUE GRANT PROJECTED SECTION 4, TOWNSHIP 10 NORTH, RANGE 3 EAST, N.M.P.M., BERNALILLO COUNTY, NEW MEXICO, COMPRISING OF PARCELS A-1 AND B-2-A, LAND OF NEW MEXICO GIRLS SCHOOL, AS THE SAME IS SHOWN AND DESIGNATED ON THE SUBDIVISION PLAT THEREOF FILED IN THE OFFICE OF THE COUNTY CLERK OF BERNALILLO COUNTY ON NOVEMBER 23, 2020 IN BOOK 2020C, PAGE 113, WHICH INCLUDES A PORTION PREVIOUSLY CONVEYED TO THE STATE HIGHWAY DEPARTMENT OF TRANSPORTATION BY WARRANTY DEED FILED ON DECEMBER 26, 1984 IN BOOK D228A, PAGES 538-539, AS DOCUMENT NO. 84-97499, SAID TRACT BEING MORE PARTICULARLY DESCRIBED BY NEW MEXICO STATE PLANE COORDINATE SYSTEM GRID BEARINGS (NAD 83-CENTRAL ZONE) AND GROUND DISTANCES (US SURVEY FEET) AS FOLLOWS;

BEGINNING AT A POINT LYING ON THE WEST RIGHT OF WAY LINE OF PAN AMERICAN FREEWAY, N.E., BEING THE SOUTHEAST CORNER OF DESCRIBED TRACT, FROM WHENCE A TIE TO FOUND A.G.R.S. MONUMENT "CANDELARIA" BEARS S 28°16'44" E, A DISTANCE OF 1,493.43 FEET;

THENCE FROM SAID POINT OF BEGINNING, LEAVING SAID WEST RIGHT OF WAY LINE, N 73°40'30" W A DISTANCE OF 265.48 FEET TO AN ANGLE POINT;

THENCE S 30°39'58" W, A DISTANCE OF 32.97 FEET TO AN ANGLE POINT;

THENCE N 73°40'30" W, A DISTANCE OF 207.92 FEET TO AN ANGLE POINT;

THENCE N 16°44'38" E, A DISTANCE OF 265.89 FEET TO AN ANGLE POINT;

THENCE N 73°15'22" W, A DISTANCE OF 569.30 FEET TO THE SOUTHWEST CORNER OF DESCRIBED TRACT;

THENCE N 16°44'38" E, A DISTANCE OF 385.13 FEET TO THE NORTHWEST CORNER OF DESCRIBED TRACT;

THENCE S 73°15'22" E, A DISTANCE OF 1,050.34 FEET TO THE NORTHEAST CORNER OF DESCRIBED TRACT LYING ON SAID WEST RIGHT OF WAY LINE;

THENCE S 16°43'06" W, ALONG SAID WEST RIGHT OF WAY LINE, A DISTANCE OF 615.55 FEET TO THE POINT OF BEGINNING, HAVING AN AREA OF 12.0000 ACRES, MORE OR LESS; and

WHEREAS, the city of Albuquerque and the metropolitan redevelopment agency own real property located at 1250 Menaul Boulevard, Northeast, Albuquerque, New Mexico ("Tract 1"), containing three and eight hundred eighty-nine thousandths acres; and

WHEREAS, the assessed value of the Tract 1 property is one million two hundred seventy-two thousand four hundred dollars (\$1,272,400); and

WHEREAS, Tract 1 is described as follows:

TRACT 1 OF THE PLAT OF TRACT 1, LANDS OF M-T INVESTMENT COMPANY, ALBUQUERQUE, NEW MEXICO, AS THE SAME IS SHOWN AND DESIGNATED ON THE PLAT, RECORDED IN THE OFFICE OF THE COUNTY CLERK OF BERNALILLO COUNTY, NEW MEXICO, ON JANUARY 8, 1881, IN VOLUME 91C, FOLIO 9 (containing 3.89 acres, more or less); and

WHEREAS, the city of Albuquerque and the metropolitan redevelopment agency own real property located at 1250 Menaul Boulevard, Northeast, Albuquerque, New Mexico ("Tract A-1"), containing eleven and seven thousand two hundred sixty-three ten-thousandths acres; and

WHEREAS, the assessed value of Tract A-1 is three million sixty-one thousand one hundred dollars (\$3,061,100); and

WHEREAS, Tract A-1 is described as follows:

A PARCEL OF LAND LOCATED IN THE TOWN OF ALBUQUERQUE GRANT, PROJECTED SECTION 9, T.10 N., R.3 E., N.M.P.M., BERNALILLO COUNTY, WITH REFERENCE TO FHWA REGION NO. 6,

NEW MEXICO PROJECT NO. CN0586 AC-MIP(IM)(TPU)-025-4(78)227, PAGE 5, AND BEING A PORTION OF TRACT A-1 OF THE SPRINGER-SPEECHLY PLAT FILED IN PLAT BOOK B19, PAGE 86, IN THE OFFICE OF THE BERNALILLO COUNTY RECORDER ON NOVEMBER 24, 1981, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A #5 REBAR AND ALUMINUM CAP MARKED "NMSH&TD" FOR THE SOUTHWEST CORNER OF THIS TRACT AND BEING A POINT ON THE

NORTHWESTERLY RIGHT OF WAY AND ACCESS CONTROL LINE OF THE I-40/I-25 INTERCHANGE WITH REFERENCE TO SAID NEW MEXICO PROJECT NO. CN 0586, AC-MIP-(IM)-(TPU)-025-4 (78)227 FROM WHENCE A FOUND BRASS CAP "CA-26 1958" BEARS S. 68 DEG. 48' 00" W. 1,267.41 FEET;

THENCE, S. 89 DEG. 58' 48" E., 2.97 FEET ALONG SAID SOUTHERLY RIGHT OF WAY LINE OF MENAUL BLVD. TO A #5 REBAR AND ALUMINUM CAP MARKED "NMSH&TD";

THENCE S. 03 DEG. 49' 11" W., 1.14 FEET LEAVING SAID MENAUL BLVD. RIGHT OF WAY LINE AND ALONG THE I-25/I-40 RIGHT OF WAY OF N.M.P. CN 0586 AC-MIP-(IM)-(TPU)-025-4(78)227 TO A #5 REBAR AND ALUMINUM CAP MARKED "NMSH&TD";

THENCE, S. 86 DEG. 10' 35" E., 225.60 FEET CONTINUING ALONG SAID I-25/I-40 RIGHT OF WAY OF N.M.P. CN 0586 AC-MIP-(IM)-(TPU)-025-4(78)227 TO A #5 REBAR AND ALUMINUM CAP MARKED "NMSH&TD";

THENCE, S. 89 DEG. 58' 56" E., 10.57 FEET ALONG THE I-25/I-40 RIGHT OF WAY AND ACCESS CONTROL (NO ACCESS) LINE OF N.M.P. CN 0586, AC-MIP-(IM)-(TPU)-25-4(78)227 TO A #5 REBAR AND ALUMINUM CAP MARKED "NMSH&TD";

THENCE, S. 28 DEG 58' 11" E., 21.98 FEET ALONG SAID RIGHT OF WAY AND ACCESS CONTROL (NO ACCESS) LINE OF THE I-25/I-40 OF N.M.P. CN 0586 AC-MIP-(IM)-(TPU)-025-4(78)227 TO A FOUND CHISELED "X";

THENCE, SOUTHWESTERLY, 398.40 FEET ON THE ARC OF A CURVE BEARING TO THE RIGHT AND HAVING A DELTA OF 21 DEG. 24' 29", A RADIUS OF 1,066.27 FEET AND A CHORD BEARING AND DISTANCE OF S. 39 DEG. 02' 51" W., 396.09 FEET ALONG SAID RIGHT OF WAY AND ACCESS CONTROL (NO ACCESS) LINE OF THE I-25/I-40 OF N.M.P. CN 0586 AC-MIP-(IM)-(TPU)-025-4(78)227 TO A #5 REBAR AND ALUMINUM CAP MARKED "NMSH&TD";

THENCE, S. 49 DEG. 45' 06" W., 364.98 FEET ALONG SAID RIGHT OF WAY AND ACCESS CONTROL (NO ACCESS) LINE OF THE I-25/I-40 OF N.M.P. CN 0586 AC-MIP-(IM)(TPU)-025-4(78)227 TO A #5 REBAR AND ALUMINUM CAP MARKED "NMSH&TD";

THENCE, SOUTHWESTERLY, 378.84 FEET ON THE ARC OF A CURVE BEARING TO THE LEFT AND HAVING A DELTA OF 15 DEG.12' 34", A RADIUS OF 1,427.16 FEET AND A CHORD BEARING AND DISTANCE OF S. 42 DEG. 08' 49" W., 377.74 FEET ALONG SAID RIGHT OF WAY AND ACCESS CONTROL (NO ACCESS) LINE OF THE I-25/I-40 OF N.M.P. CN 0586 AC-MIP-(IM)-(TPU)-025-4(78)227 TO A #5 REBAR AND ALUMINUM CAP MARKED "NMSH&TD";

THENCE, SOUTHWESTERLY, 207.93 FEET ON THE ARC OF A CURVE BEARING TO THE LEFT AND HAVING A DELTA OF 6 DEG. 55' 00", A RADIUS OF 1,722.44 FEET AND A CHORD BEARING AND DISTANCE OF S 31 DEG. 05' 02" W., 207.80 FEET ALONG SAID RIGHT OF WAY AND N. 10 DEG. 07 '35" E. 721.85 FEET LEAVING SAID NORTHWESTERLY RIGHT OF WAY AND ACCESS CONTROL LINE OF N.M.P. CN 0586 AC-MIP-(IM)-(TPU)-025-4(78)227 AND ALONG THE MOST WESTERLY LINE OF THE PARCEL HEREIN DESCRIBED TO A POINT;

THENCE, N. 83 DEG. 53' 01" E., 946.81 FEET ALONG THE NORTHERLY LINE OF THE PARCEL HEREIN DESCRIBED TO A POINT;

THENCE, N. 07 DEG. 40' 41" E., 271.68 FEET ALONG THE WESTERLY LINE OF THE PARCEL HEREIN DESCRIBED TO A POINT;

THENCE, N. 00 DEG. 04' 59" E., 56.02 FEET ALONG THE WESTERLY LINE OF THE PARCEL HEREIN DESCRIBED TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF MENAUL BLVD. NE;

THENCE, ACCESS CONTROL (NO ACCESS) LINE OF THE I-25/I-40 OF N.M.P. CN 0586 AC-MIP-(IM)-(TPU)-025-4(78)227 TO A #5 REBAR AND ALUMINUM CAP MARKED "NMSH&TD";

THENCE, SOUTHWESTERLY 59.48 FEET ON THE ARC OF A CURVE BEARING TO THE RIGHT AND HAVING A DELTA OF 51 DEG. 55' 04", A RADIUS OF 65.62 FEET AND A CHORD BEARING AND DISTANCE OF S. 53 DEG. 35' 05" W., 57.44 FEET ALONG SAID RIGHT OF WAY AND ACCESS CONTROL (NO ACCESS) LINE OF THE I-25/I-40 OF N.M.P. CN 0586 AC-MIP-(IM)-(TPU)-025-4(78)227 TO A #5 REBAR AND ALUMINUM CAP MARKED "NMSH&TD";

THENCE, S. 79 DEG. 32' 40" W., 166.54 FEET ALONG SAID RIGHT OF WAY AND ACCESS CONTROL (NO ACCESS) LINE OF THE I-25/I-40 OF N.M.P. CN 0586 AC-MIP-(IM)-(TPU)-025-4(78)227 TO A #5 REBAR AND ALUMINUM CAP MARKED "NMSH&TD";

THENCE, SOUTHWESTERLY, 266.07 FEET ON THE ARC OF A CURVE BEARING TO THE RIGHT AND HAVING A DELTA OF 02 DEG. 44' 00", A RADIUS OF 5,577.42 FEET AND A CHORD BEARING AND DISTANCE OF S. 80 DEG. 54' 40" W., 266.05 FEET ALONG SAID RIGHT OF WAY AND ACCESS CONTROL (NO ACCESS) LINE OF THE I-25/I-40 OF N.M.P. CN 0586 AC-MIP-(IM)-(TPU)-025-4(78)227 TO THE POINT OF BEGINNING (containing 11.7263 acres, more or less); and

WHEREAS, the facilities management division of the general services department, the city of Albuquerque and the metropolitan redevelopment agency have agreed to an even exchange of the 401 Commercial Street property and the 3401 Pan American Freeway property for the 1250 Menaul Boulevard properties referred above as Tract 1 and Tract A-1;

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO that the proposed exchange of the 401 Commercial Street property and 3401 Pan American Freeway property from the facilities management division of the general services department to the city of Albuquerque and the metropolitan redevelopment agency in return for 1250 Menaul Boulevard properties referred to above as Tract 1 and Tract A-1 be and is hereby ratified and approved by the legislature; and

BE IT FURTHER RESOLVED that copies of this resolution be transmitted to the secretary of general services, the mayor of the city of Albuquerque, the president of the Albuquerque city council and the director of the Albuquerque metropolitan redevelopment agency.

# 2023 OFFICIAL ROSTER OF THE STATE OF NEW MEXICO

## LAWS of the State of New Mexico

Passed by the

FIRST SESSION

of the

FIFTY-SIXTH 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 17<sup>th</sup> day of January 2023, and adjourned on the 18<sup>th</sup> day of March 2023.

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  
Ben R. Lujan, Democrat, Santa Fe

### UNITED STATES REPRESENTATIVES

Melanie A. Stansbury, Democrat, 1<sup>st</sup> Congressional District – Albuquerque  
Gabriel Vasquez, Democrat, 2<sup>nd</sup> Congressional District – Las Cruces  
Teresa Leger Fernandez, Democrat, 3<sup>rd</sup> Congressional District – Santa Fe

### STATE OFFICIALS

Michelle Lujan Grisham, Democrat  
Howie C. Morales, Democrat  
Maggie Toulouse Oliver, Democrat  
Joseph M. Maestas, Democrat  
Laura M. Montoya, Democrat  
Raul Torrez, Democrat

Governor  
Lieutenant Governor  
Secretary of State  
State Auditor  
State Treasurer  
Attorney General

Stephanie Garcia Richard, Democrat  
Gabriel Aguilera  
James Ellison  
Pat O'Connell

Commissioner of Public Lands  
Public Regulation Commissioner  
Public Regulation Commissioner  
Public Regulation Commissioner

### **JUSTICES OF THE SUPREME COURT**

C. Shannon Bacon, Chief Justice  
Justice Michael E. Vigil  
David K. Thomson  
Julie J. Vargas  
Briana H. Zamora

### **JUDGES OF THE COURT OF APPEALS**

Jennifer L. Attrep, Chief Judge  
Kristina Bogardus  
Jacqueline R. Medina  
Megan P. Duffy  
J. Miles Hanisee  
Zachary A. Ives  
Shammara H. Henderson  
Jane B. Yohalem  
Gerald E. Baca  
Katherine Anne Wray

### **DISTRICT COURTS DISTRICT JUDGES**

#### **FIRST JUDICIAL DISTRICT Santa Fe, Los Alamos and Rio Arriba Counties**

Division I	Francis J. Mathew	Santa Fe
Division II	Maria E. Sanchez-Gagne	Santa Fe
Division III	Shannon Broderick Bulman	Santa Fe
Division IV	Sylvia F. LaMar	Santa Fe
Division V	Jason C. Lidyard	Santa Fe
Division VI	Bryan Biedscheid	Santa Fe
Division VII	T. Glenn Ellington	Santa Fe
Division VIII	Mary L. Marlowe Sommer	Santa Fe
Division IX	Matthew J. Wilson	Santa Fe
Division X	Kathleen McGarry	Santa Fe
	Ellenwood	

**SECOND JUDICIAL DISTRICT  
Bernalillo County**

Division I	William Parnall	Albuquerque
Division II	Stan Whitaker	Albuquerque
Division III	Brett R. Loveless	Albuquerque
Division IV	Beatrice J. Brickhouse	Albuquerque
Division V	Nancy J. Franchini	Albuquerque
Division VI	Daniel E. Ramczyk	Albuquerque
Division VII	Alma C. Roberson	Albuquerque
Division VIII	Catherine Begaye	Albuquerque
Division IX	Cindy Leos	Albuquerque
Division X	Bruce Fox	Albuquerque
Division XI	Gerard Lavelle	Albuquerque
Division XII	Elaine P. Lujan	Albuquerque
Division XIII	Lisa Chavez Ortega	Albuquerque
Division XIV	Marie Ward	Albuquerque
Division XV	Courtney B. Weeks	Albuquerque
Division XVI	Jennifer J. Wernersbach	Albuquerque
Division XVII	Erin B. O'Connell	Albuquerque
Division XVIII	Denise Barela-Shepherd	Albuquerque
Division XIX	Benjamin Chavez	Albuquerque
Division XX	Britt M. Baca-Miller	Albuquerque
Division XXI	Emeterio L. Rudolfo	Albuquerque
Division XXII	Amber Chavez Baker	Albuquerque
Division XXIII	Joshua A. Allison	Albuquerque
Division XXIV	Debra Ramirez	Albuquerque
Division XXV	Jane Levy	Albuquerque
Division XXVI	Joseph Montano	Albuquerque
Division XXVII	Victor Lopez	Albuquerque
Division XXVIII	Clara Moran	Albuquerque
Division XXIX	Lucy Solimon	Albuquerque
Division XXX	David Murphy	Albuquerque

**THIRD JUDICIAL DISTRICT  
Doña Ana County**

Division I	Manuel I. Arrieta	Las Cruces
Division II	Robert Lara	Las Cruces
Division III	Conrad F. Perea	Las Cruces
Division IV	Vacant	Las Cruces
Division V	Casey Fitch	Las Cruces
Division VI	James T. Martin	Las Cruces
Division VII	Douglas R. Driggers	Las Cruces

Division VIII	Grace B. Duran	Las Cruces
Division IX	Richard M. Jacquez	Las Cruces

**FOURTH JUDICIAL DISTRICT**  
**Guadalupe, Mora and San Miguel Counties**

Division I	Michael A. Aragon	Las Vegas
Division II	Abigail P. Aragon	Las Vegas
Division III	Flora Gallegos	Las Vegas

**FIFTH JUDICIAL DISTRICT**  
**Lea, Eddy and Chaves Counties**

Division I	Eileen Riordan	Eddy
Division II	Thomas E. Lilley	Chaves
Division III	William G.W. Shoobridge	Lea
Division IV	Mark Sanchez	Lea
Division V	Jane Shuler Gray	Eddy
Division VI	James M. Hudson	Chaves
Division VII	Michael H. Stone	Lea
Division VIII	Jared G. Kallunki	Chaves
Division IX	Lisa Riley	Eddy
Division X	Dustin K. Hunter	Chaves
Division XI	Lee A. Kirksey	Lea
Division XII	Anne Marie Lewis	Eddy

**SIXTH JUDICIAL DISTRICT**  
**Grant, Hidalgo and Luna Counties**

Division I	Thomas F. Stewart	Silver City
Division II	Jennifer E. DeLaney	Deming
Division III	James B. Foy	Silver City
Division IV	Jarod K. Hofacket	Deming

**SEVENTH JUDICIAL DISTRICT**  
**Catron, Sierra, Socorro and Torrance Counties**

Division I	Mercedes C. Murphy	Socorro
Division II	Roscoe A. Woods	Sierra
Division III	Shannon Murdock	Torrance

**EIGHTH JUDICIAL DISTRICT**  
**Colfax, Union and Taos Counties**

Division I	Emilio J. Chavez	Raton
Division II	Melissa Kennelly	Taos
Division III	Jeffrey A. Shannon	Taos

**NINTH JUDICIAL DISTRICT**  
**Curry and Roosevelt Counties**

Division I	Benjamin S. Cross	Clovis
Division II	Drew D. Tatum	Clovis
Division III	Fred T. Van Soelen	Clovis
Division IV	Donna J. Mowrer	Portales
Division V	David P. Reeb	Clovis

**TENTH JUDICIAL DISTRICT**  
**Quay, DeBaca, and Harding Counties**

Division I	Albert J. Mitchell, Jr.	Tucumcari
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**ELEVENTH JUDICIAL DISTRICT**  
**McKinley and San Juan Counties**

Division I	Bradford J. Dalley	Farmington
Division II	Louis E. DePauli, Jr.	Gallup
Division III	Sarah V. Weaver	Farmington
Division IV	Curtis R. Gurley	Aztec
Division V	R. David Pederson	Gallup
Division VI	Daylene A. Marsh	Aztec
Division VII	Robert A. Aragon	Gallup
Division VIII	Karen L. Townsend	Aztec

**TWELFTH JUDICIAL DISTRICT**  
**Lincoln and Otero Counties**

Division I	Steven Blankinship	Alamogordo
Division II	Ellen R. Jessen	Alamogordo
Division III	Daniel A. Bryant	Alamogordo
Division IV	Angie K. Schneider	Alamogordo
Division V	John P. Sugg	Carrizozo

**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	Amanda Sanchez	Grants
Division V	James A. Noel	Bernalillo
Division VI	Cindy M. Mercer	Los Lunas
Division VII	Christopher G. Perez	Bernalillo
Division VIII	Cheryl H. Johnston	Bernalillo
Division IX	Allison P. Martinez	Bernalillo

**DISTRICT ATTORNEYS**

First Judicial District	Mary V. Carmack-Altwies	Santa Fe, Los Alamos & Rio Arriba
Second Judicial District	Sam Bregman	Bernalillo
Third Judicial District	Gerald Milton Byers	Doña Ana
Fourth Judicial District	Thomas A. Clayton	San Miguel, Mora & Guadalupe
Fifth Judicial District	Dianna Luce	Eddy, Chaves & Lea
Sixth Judicial District	Michael R. Renteria	Grant, Luna & Hidalgo
Seventh Judicial District	Clint Wellborn	Socorro, Torrance & Sierra
Eighth Judicial District	Marcus J. Montoya	Taos, Colfax & Union
Ninth Judicial District	Quentin Ray	Curry & Roosevelt
Tenth Judicial District	Timothy Rose	Quay, Harding & DeBaca
Eleventh Judicial District	Rick Tedrow	San Juan
	Bernadine Martin	McKinley
Twelfth Judicial District	Scot D. Key	Otero & Lincoln
Thirteenth Judicial District	Barbara Romo	Cibola, Sandoval & Valencia

**STATE SENATORS SERVING IN THE FIFTY-SIXTH LEGISLATURE  
STATE OF NEW MEXICO  
FIRST SESSION  
CONVENED JANUARY 17, 2023**

<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 and San Juan	Shannon D. Pinto	Tohatchi
4	Cibola, McKinley and San Juan	George K. Muñoz	Gallup

5	Los Alamos, Rio Arriba, Sandoval and Santa Fe	Leo Jaramillo	Española
6	Los Alamos, Rio Arriba, Santa Fe and Taos	Roberto "Bobby" Gonzales	Ranchos de Taos
7	Curry, Quay and Union	Pat Woods	Broadview
8	Colfax, Guadalupe, Harding, Mora, Quay, San Miguel & Taos	Pete Campos	Las Vegas
9	Bernalillo and Sandoval	Brenda Grace McKenna	Corrales
10	Bernalillo and Sandoval	Katy M. Duhigg	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 Tallman	Albuquerque
19	Bernalillo, Sandoval, Santa Fe and Torrance	Gregg W. Schmedes	Albuquerque
20	Bernalillo	Martin E. Hickey	Albuquerque
21	Bernalillo	Mark Moores	Albuquerque
22	Bernalillo, McKinley, Rio Arriba, San Juan and Sandoval	Benny Shendo Jr.	Jemez Pueblo
23	Bernalillo	Harold J. Pope Jr.	Albuquerque
24	Santa Fe	Nancy Rodriguez	Santa Fe
25	Santa Fe	Peter Wirth	Santa Fe
26	Bernalillo	Antonio Maestas	Albuquerque
27	Chaves, Curry, De Baca, Lea and Roosevelt	Stuart Ingle	Portales
28	Catron, Grant and Socorro	Siah Correa Hemphill	Silver City
29	Bernalillo and Valencia	Gregory A. Baca	Belen
30	Cibola, Socorro, McKinley and Valencia	Joshua A. Sanchez	Bosque
31	Doña Ana	Joseph Cervantes	Las Cruces
32	Chaves, Eddy and Otero	Cliff R. Pirtle	Roswell
33	Chaves, Lincoln and Otero	William F. Burt	Alamogordo
34	Doña Ana, Eddy and Otero	Ron Griggs	Alamogordo
35	Doña Ana, Hidalgo, Luna and Sierra	Crystal R. Diamond	Elephant Butte

36	Doña Ana	Jeff Steinborn	Las Cruces
37	Doña Ana	William P. Soules	Las Cruces
38	Doña Ana	Carrie Hamblen	Las Cruces
39	Bernalillo, Lincoln, San Miguel, Santa Fe, Torrance and Valencia	Elizabeth "Liz" Stefanics	Cerrillos
40	Sandoval	Craig W. Brandt	Rio Rancho
41	Eddy and Lea	David M. Gallegos	Eunice
42	Chaves, Eddy and Lea	Gay G. Kernan	Hobbs

**STATE REPRESENTATIVES SERVING IN THE FIFTY-SIXTH LEGISLATURE  
STATE OF NEW MEXICO  
FIRST SESSION  
CONVENED JANUARY 17, 2023**

<u>District</u>	<u>County</u>	<u>Name</u>	<u>City</u>
1	San Juan	Rod Montoya	Farmington
2	San Juan	P. Mark Duncan	Farmington
3	San Juan	T. Ryan Lane	Aztec
4	San Juan	Anthony Allison	Fruitland
5	McKinley and San Juan	D. Wonda Johnson	Rehoboth
6	Cibola and McKinley	Eliseo Lee Alcon	Milan
7	Valencia	Tanya R. Mirabal Moya	Los Lunas
8	Valencia	Brian Baca	Los Lunas
9	McKinley	Patricia A. Lundstrom	Gallup
10	Bernalillo	G. Andrés Romero	Albuquerque
11	Bernalillo	Javier Martínez	Albuquerque
12	Bernalillo	Art De La Cruz	Albuquerque
13	Bernalillo	Patricia Roybal Caballero	Albuquerque
14	Bernalillo	Miguel P. Garcia	Albuquerque
15	Bernalillo	Dayan Hochman-Vigil	Albuquerque
16	Bernalillo	Yanira Gurrola	Albuquerque
17	Bernalillo	Cynthia D. Borrego	Albuquerque
18	Bernalillo	Gail Chasey	Albuquerque
19	Bernalillo	Janelle Anyanonu	Albuquerque
20	Bernalillo	Meredith A. Dixon	Albuquerque
21	Bernalillo	Debra M. Sariñana	Albuquerque
22	Bernalillo, and Torrance	Stefani Lord	Sandia Park
23	Sandoval	Alan T. Martinez	Corrales
24	Bernalillo	Elizabeth "Liz" Thomson	Albuquerque
25	Bernalillo	Christine Trujillo	Albuquerque
26	Bernalillo	Eleanor Chavez	Albuquerque

27	Bernalillo	Marian Matthews	Albuquerque
28	Bernalillo	Pamelya Herndon	Albuquerque
29	Bernalillo	Joy Garratt	Albuquerque
30	Bernalillo	Natalie Figueroa	Albuquerque
31	Bernalillo	William "Bill" R. Rehm	Albuquerque
32	Doña Ana, Hidalgo and Luna	Jenifer Marie Jones	Deming
33	Doña Ana	Micaela Lara Cadena	Mesilla
34	Doña Ana	Raymundo Lara	Chamberino
35	Doña Ana	Angelica Rubio	Las Cruces
36	Doña Ana	Nathan P. Small	Las Cruces
37	Doña Ana	Joanne J. Ferrary	Las Cruces
38	Doña Ana, Sierra and Socorro	Tara Jaramillo	Truth or Consequences
39	Doña Ana, Grant and Hidalgo	Luis M. Terrazas	Santa Clara
40	Colfax, Mora, Rio Arriba San Miguel and Taos	Joseph L. Sanchez	Alcalde
41	Rio Arriba, Sandoval, Santa Fe and Taos	Susan K. Herrera	Española
42	Taos	Kristina Ortez	Taos
43	Los Alamos, Sandoval and Santa Fe	Christine Chandler	Los Alamos
44	Bernalillo and Sandoval	Kathleen M. Cates	Corrales
45	Santa Fe	Linda Michelle Serrato	Santa Fe
46	Santa Fe	Andrea Romero	Santa Fe
47	Santa Fe	Reena C. Szczepanski	Santa Fe
48	Santa Fe	Tara L. Lujan	Santa Fe
49	Catron, Sierra, Socorro and Valencia	Gail Armstrong	Magdalena
50	Sandoval and Santa Fe	Matthew McQueen	Santa Fe
51	Otero	John Block	Alamogordo
52	Doña Ana	Doreen Y. Gallegos	Las Cruces
53	Doña Ana and Otero	Willie D. Madrid	Chaparral
54	Chaves, Eddy and Otero	James G. Townsend	Artesia
55	Eddy and Lea	Cathrynn N. Brown	Carlsbad
56	Lincoln and Otero	Harlan H. Vincent	Ruidoso Downs
57	Sandoval	Jason C. Harper	Rio Rancho
58	Chaves	Candy Spence Ezzell	Roswell
59	Chaves	Greg Nibert	Roswell
60	Sandoval	Joshua N. Hernandez	Rio Rancho
61	Lea	Randall T. Pettigrew	Lovington
62	Lea	Larry R. Scott	Hobbs
63	Curry, DeBaca, Guadalupe,	Martin R. Zamora	Clovis

	Roosevelt and San Miguel		
64	Chaves, Curry and Roosevelt	Andrea R. Reeb	Clovis
65	Rio Arriba, Sandoval and San Juan	Derrick J. Lente	Sandia Pueblo
66	Chaves, Eddy and Lea	Jimmy G. Mason	Roswell
67	Colfax, Curry, Harding, Quay, San Miguel and Union	Jack Chatfield	Mosquero
68	Bernalillo	Charlotte L. Little	Albuquerque
69	Bernalillo, Cibola, McKinley, San Juan, Socorro and Valencia	Harry Garcia	Grants
70	San Miguel and Torrance	Ambrose M. Castellano	Serafina